

Political Insulation and Legislative Interventions: The Impact of Rule Review

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ABSTRACT

While previous work suggests that enacting coalitions' use of *ex ante* control devices shapes future legislatures' incentives to intervene in the bureaucracy, it is less clear how such insulation motivates individual legislators. We advance an individual-level account of how legislative rule review, a control device that structures an agency's insulation from political interference, differentially shapes legislators' preferences for direct and statutory intervention tactics. Using an original survey of U.S. state legislators, we find that insulation reduces the expected policy benefits of direct interventions, making these tactics less attractive to legislators. Moreover, to capitalize on more permeable agency design, legislators must have access to key resources. For statutory tactics, insulation has no effect on legislators' intervention preferences. Our findings suggest that insulation is a durable control device that casts a long shadow in protecting an enacting coalition's interest in agency affairs.

INTRODUCTION

WHEN ENACTING COALITIONS set up agencies, what consequences do their design choices have for the oversight performed by later generations of legislators? Previous research has shown that enacting coalitions use agency design to protect their policies from bureaucratic obstruction and future political interference. Either by hardwiring specific policy choices into the agency's standard operating procedures (McCubbins, Noll, and Weingast 1987, 1989) or by insulating the agency from future political interventions (de Figueiredo 2002, de Figueiredo and Vanden Bergh 2004; Moe 1989, 1990), enacting coalitions attempt to protect their policies prior to the agency presenting them with a *fait accompli*. Such *ex ante* control devices can structure an agency's policy outputs (Potoski 2002), the perceived influence of political actors

(Gerber, Maestas, and Dometrius 2005; Potoski and Woods 2000; Woods 2005), and the activities of interest groups within a policy domain (Reenock and Gerber 2008). Yet little is known about how such design choices affect current legislators' preferences toward bureaucratic intervention. In this article, we focus on a specific *ex ante* control device that shapes an agency's political insulation—legislative review of agency rulemaking—and ask what impact this design choice has on contemporary legislators' preferences for bureaucratic interventions.¹

Manipulating an agency's insulation from political interference has important consequences for both legislatures and democratic government. By shaping access to an agency, insulation alters administrators' incentives to consider the preferences of elected officials and organized interests (Moe 1989). As a result, when facing a more insulated agency, state legislatures and governors are perceived to be less influential (Gerber, Maestas, and Dometrius 2005), while interest groups are perceived to have greater influence (Woods 2005). Moreover, in the face of greater insulation, organized interests' access to regulators is biased toward larger, more professional groups (Reenock and Gerber 2008). In this respect, greater insulation appears to perform as enacting coalitions intended, reducing political influence over the bureaucracy while increasing access for certain organized interests (Macey 1992).

Given reduced influence, individual legislators might have little incentive to intervene in bureaucratic affairs. In addition, to the extent that insulation biases group access, fire alarm oversight itself could be biased and less effective. As a result, democratic control of insulated agencies might rely on select legislative entrepreneurs with sufficient political or policy incentives to engage in oversight. Such 'selective' oversight, however, might result in uneven bureaucratic accountability across legislative contexts. To better appreciate these potential implications, we must understand precisely how insulation devices shape legislators' incentives to engage in bureaucratic interventions.

After all, whether or not insulation affects legislators' intervention preferences is an open question. One possibility is that when confronting a more insulated agency, legislators might have few attractive oversight options. Absent formal review powers and effective fire alarm oversight, concerned legislators would need to pursue either costly police patrol oversight or a resource-intensive agency restructuring. For some select legislators, sufficient political or policy incentives might offset such costs. For others, however, the costs can be too high, inhibiting their intervention. Another possibility is that such insulation could motivate legislators to pay even more attention to an agency. More insulated agencies might actually become politi-

cal targets of latter-generation legislators, who use their resources either to actively monitor or undo insulation put in place by previous coalitions. In any case, whether and how insulation devices shape legislative interventions has important implications for the effectiveness of a widely accepted control device in delegation theory.

In this article, we advance an individual-level account of how insulation shapes legislators' preferences for different bureaucratic intervention tactics. We suggest that after the agency has been installed, legislators have two ongoing tactics with which to pursue their goals vis-à-vis the bureaucracy: direct and statutory interventions. Moreover, we argue that variation in legislators' preferences over these intervention tactics is explained, in part, by their concern over an agency's policy divergence and political insulation. Specifically, we argue that legislators have incentive to intervene in an agency's affairs when they believe that agency's decisions are likely to diverge from their policy preferences. But their preferences for these intervention tactics are shaped by the agency's political insulation from the legislature. When agencies are designed to be politically permeable, motivated legislators have the incentive to engage in direct interventions as a means of signaling their preferences to the agency but have little incentive to pursue statutory interventions. When agencies are designed to be politically insulated, legislators have less incentive to engage in interventions of any kind.

The strongest test of our theory requires variation in legislators' motivations and legislative context. Accordingly, we exploit the comparative context of the U.S. states. Using original data from a survey of more than 2,500 state legislators in 24 states along with data on state institutional characteristics, we model legislators' preferences for direct and statutory tactics of bureaucratic intervention. In addition to exploring the influence of *ex ante* controls on legislators' intervention preferences, our study also addresses the relative attractiveness of statutory and direct tactics and suggests implications for democratic accountability of the bureaucracy.

ENACTING COALITIONS AND INSULATION DEVICES

When setting up or redesigning an agency, enacting coalitions can use *ex ante* control devices to automatically influence policy and to insulate it from future shifts. Such devices are also believed to shape the intervention opportunities of later generation legislators (McCubbins, Noll, and Weingast 1987, 1989). Of course, not all insulation devices operate in precisely the same manner. Rather, enacting coalitions have a variety of devices that vary in their ability to influence an agency's policy activities and the costs associated with their use.

So-called “hardwiring devices” provide automatic, policy-specific influence over a particular agency’s affairs. Such devices are designed to institutionalize policy preferences automatically in the operation of the agency in order to preserve policy delivery for specific enacting coalitions (McCubbins, Noll, and Weingast 1987, 1989). Examples of such design choices include cost benefit requirements (Potoski 2002) and burden of proof requirements (McCubbins, Noll, and Weingast 1987, 1989) for a specific agency. Each of these devices has the potential to bias an agency’s policy delivery automatically, without the need for further interventions from either the enacting coalition or later generations of legislators. Hardwiring devices, however, are not costless. To the extent that hardwiring devices significantly reduce agency discretion, enacting coalitions can face costs in the form of inefficient policy delivery (de Figueiredo 2002). With hardwiring, more insulated agencies might be unable to capitalize on their policy expertise, delivering rather unappealing policy losses to their original sponsors.

Compared to the more focused effects of hardwiring, other insulation devices shape the level of political insulation with which agencies operate more broadly. These broad *ex ante* control devices can be used to insulate agencies from future legislative interference, offering enacting coalitions a more defensive offensive form of policy preservation. With greater insulation, future coalitions are prevented from pursuing their policies once in office, allowing enacting coalitions to minimize their maximum regret—a highly permeable agency whose policies vary widely with each newly-elected coalition. Such broad insulation devices differ from hardwiring in two important ways. First, broad insulation devices do not necessarily automatically proscribe policy options, but rather limit legislative involvement in agency affairs. Second, broad *ex ante* devices might impact a wide array of agencies rather than just one. For example, broad *ex ante* control devices like legislative review powers or civil service coverage—Moe (1990) notes several others—might apply to many or all agencies within a state and affect a state’s entire bureaucracy.² Moreover, the costs associated with broad insulation devices differ from the costs associated with hardwiring. Enacting coalitions pursuing broad insulation devices face a tradeoff between bureaucratic and coalitional drift (Shepsle 1992). Greater insulation can exacerbate policy costs for enacting coalitions by permitting bureaucratic drift or an agency moving policy away from the enacting coalition’s preferences (McCubbins, Noll, and Weingast 1987, 1989). Alternatively, enacting coalitions also face potential policy costs if they design an agency to be more permeable. With a permeable agency, enacting coalitions could have their policies undone by new or changing political coalitions, so-called coalitional drift (Horn and Shepsle 1989).

In sum, the attractiveness of insulation is conditioned on the expected policy costs that the enacting coalition is willing to bear (de Figueiredo 2002). The implication from prior research is clear. Because of the specific costs that different insulation devices present, there are not necessarily preferred outcomes for all enacting coalitions. Rather, their attractiveness is conditioned by the political environment in which enacting coalitions make their choices. As a result, we would expect contemporary legislators in different institutions to confront policy domains with varying degrees of political insulation. In this study, we focus on how a particular broad insulation device—the legislature’s power to review agency rulemaking, *ex ante*—influences the intervention preferences of latter generations of legislators.

Legislative Rule Review as a Broad Insulation Device

In the course of implementing their policy mandates, agencies not only engage in service delivery and adjudication but also in rulemaking (West 1982). As a result, political actors external to the agency have an incentive to influence agency activity in each of these areas. However, agency structures and procedures vary in the degree to which they are insulated from such external pressures (de Figueiredo 2002; de Figueiredo and Vanden Bergh 2004; McCubbins, Noll, and Weingast 1987, 1989; Moe 1989, 1990). Indeed, various institutional devices shape an agency’s insulation from external political interference (Kerwin 2003; West 1985). While not operating in precisely the same way, devices such as civil service coverage (Moe 1989), notice and comment procedures (Balla 1998; Potoski 1999; Potoski and Woods 2000), and legislative rule review powers (Gerber, Maestas, and Dometrius 2005; Grady and Simon 2002; Reenock and Gerber 2008; West and Cooper 1983; Woods 2004, 2005) nevertheless structure an agency’s insulation from outside actors. And all have received considerable attention from scholars investigating the structure and process thesis. However, as Kerwin (2003) notes when referencing the legislative veto, the Congressional power to veto agency rules was the “most aggressive, intrusive, and potentially effective means of holding rule makers accountable” (220). Given its potential weight among the various devices used to shape agency insulation as well as the attention it has received in recent scholarship (Gerber, Maestas, and Dometrius 2005; Grady and Simon 2002; Reenock and Gerber 2008; West and Cooper 1983; Woods 2004, 2005), we focus on legislative rule review here.

Although ruled unconstitutional at the federal level, the majority of U.S. state legislatures continue to possess a formal role in the review and veto of proposed agency rules. Originally appearing in most states’ Administrative Procedure Acts, adopted in the mid 20th century, rule review authority pro-

vides the legislature or the relevant oversight committee a formal position in the review of proposed agency rules. Over the following decades, several states revised their rule review procedures, resulting in wide variation in the current rule review powers of state legislatures (Gerber, Maestas, and Dometrius 2005; Grady and Simon 2002). Critical for our purposes here, the variation in rule review power across the states suggests that contemporary legislators in different states face agencies with varying levels of political insulation.³

Rule review is an important indicator of an agency's political insulation from legislative interference. In the absence of strong rule review powers, an agency is more insulated from legislative interference in rule promulgation, *ceteris paribus*. In 16 states, the legislature has no formal power to review proposed agency rules (Gerber, Maestas, and Dometrius 2005), reducing the potential for legislative influence over agency policy.⁴ In the remaining states, the legislatures have a range of formal powers to review and veto agency rules. In 13 states, legislatures provide limited authority to rule review committees to consider and report on proposed agency rules (Gerber, Maestas, and Dometrius 2005). In these states, rule review committees can advise the legislature to veto proposed rules, but they cannot stop or amend these rules themselves; only an act of the full legislature can veto or amend proposed rules. Compared to states with no formal powers, states with these advisory review powers represent a reduction in agency insulation. Moreover, in two of these 13 states, the governor's approval is not required for the legislature to veto an agency rule, further diluting agency insulation. In the remaining 21 states, the legislature empowers review committees with full sanction authority to suspend or reject a proposed rule without any action from the full legislature. For these states, agencies have very little insulation from legislative interference on rule promulgation. Furthermore, in seven of these states, gubernatorial approval is not required for the committee to amend or veto agency rules. On rule promulgation, these seven states represent the least amount of political insulation from the legislature.

As an *ex ante* control device, legislative rule review provides legislators with the opportunity to review rules prior to their enactment, signal their preferences to the implementing agency during the review process, and avoid being presented with a *fait accompli* by the agency. Given the legislature's effective veto, legislative rule review induces agency officials to consider the preferences of the legislature when adopting new rules to avoid legislative punishment (Gerber, Maestas, and Dometrius 2005). In this respect, rule review enhances the permeability of the agency to legislative intervention, but not necessarily automatically. Rather, it might require individual legisla-

tors to take some action to signal their preferences to the agency. Absent rule review, however, the agency is more insulated from such interventions and, as a result, has less incentive to accommodate the legislature. With insulation, the agency might propose rules closer to its ideal preference. With no formal review power, a legislature facing a more insulated agency would have to be willing and able to bear the costs of police patrol monitoring and *ex post* punishment to track and counter an agency's activities. Absent such motivations and resources, the legislature might simply defer to the expertise of the agency. To explore how this insulation device shapes legislators' intervention preferences, we first consider what tactics of bureaucratic intervention current legislators have at their disposal.

THE TOOLS OF ONGOING OVERSIGHT

We are interested in explaining an individual legislator's preferences toward ongoing bureaucratic oversight after an agency has been installed. As a result, we focus on the set of intervention tactics available to such a legislator. By bureaucratic intervention, we mean any action taken by a legislator that is designed to influence an existing agency's activities. We assume that legislators can intervene in an existing agency's affairs via two tactics: direct and statutory. Consistent with previous work, we assume that the cost of using each tactic varies across both individuals and institutions (Aberbach 1990; Bawn 1995; Huber and Shipan 2002). Moreover, we assume that these tactics are not equally effective in helping legislators achieve their goals in ongoing oversight. Instead, the benefit that each tactic provides a legislator is tied to the institutional context of the policy domain.

Direct intervention tactics include such activities as participation in oversight hearings, direct monitoring of, or intervention in, agency affairs, and participation in budgetary debates over agency authorizations (Aberbach 1990). This set of tactics requires legislators to expend resources, including time and staff, to monitor, evaluate, and eventually reward or punish agency behavior (Calvert and Weingast 1982; Weingast and Moran 1983). Individual legislators can, and do, engage in these activities at their own discretion (Elling 1979; Freeman and Richardson 1996; Goodman et al. 1986). It is important to note that in an ongoing setting, direct intervention tactics can be used in either an *ex post* or *ex ante* fashion.

With *ex post* direct intervention, legislators can wait until a problem has been brought to their attention and use direct tactics to seek a correction. Such direct interventions are the more costly types of intervention

often referred to in the design literature, requiring both monitoring and punishment after the legislature has suffered ill effects from the agency's policy deviation. With *ex ante* direct intervention, legislators can use direct tactics in conjunction with a particular insulation device, such as agency rule review provisions, to encourage policy changes *ex ante*, before the agency acts. Agency rule review provisions institutionalize legislative review prior to the rule being issued but require some direct intervention on the behalf of individual legislators to express their preferences to the agency. This is consistent with previous research that found that *ex ante* control devices function more effectively when accompanied with direct interventions (Hill and Brazier 1991). While similarly costly in the form of member and staff resources, such *ex ante* direct interventions are more effective than *ex post* direct interventions due to the possibility of avoiding a political fait accompli from the agency.

On the other hand, statutory intervention tactics refer to any actions that seek to alter, via legislation, an agency's structure and procedures for the purpose of securing greater levels of "automatic" influence over an agency's decisionmaking (McCubbins, Noll, and Weingast 1987; 1989). These tactics would include, for example, legislative attempts to alter either an agency's screening and selection processes or procedural requirements that guide agency decision-making (McCubbins 1985). As with direct intervention, statutory intervention also presents legislators with non-trivial costs in the form of drafting legislation and shepherding bills through the legislative process. However, while statutory interventions are a necessity at an agency's creation (Bawn 1995), legislators can pursue these tactics at their own discretion afterward (McCubbins, Noll, and Weingast 1987; 1989).

After an agency has been created, such statutory interventions effectively operate as *ex post* tactics that are used to correct deviant agency activity. This is because, for ongoing oversight, statutory interventions are actions that legislators who are unhappy with the current agency's policies or institutional configuration can use to redesign it. Of course, opportunities to engage in such statutory interventions after an agency has been installed can present themselves infrequently over the course of a legislator's career (Arnold 1987; Berkman and Reenock 2004; Reenock and Poggione 2004; Robinson 1989; Spence 1997). Moreover, collective action problems might inhibit the use of statutory tactics even in the presence of sufficient incentive to use them (Spence 1997). Although not probable, such interventions are nevertheless possible tactics for any legislator seeking more influence over an existing agency.

INSULATION DEVICES AND LEGISLATIVE PREFERENCES FOR BUREAUCRATIC INTERVENTION

In this section, we present our theoretical framework for understanding how the level of political insulation influences legislators' preferences for direct and statutory tactics of ongoing bureaucratic intervention. We argue that the policy benefits legislators expect to receive from both these intervention tactics are conditioned by the institutional context of an agency's political insulation. We begin by offering a general account of legislators' preferences for bureaucratic intervention.

Overall, legislators are motivated to pursue bureaucratic interventions in order to maximize "their expected net political benefits" (Bawn 1997, 105). We assume that bureaucratic intervention provides legislators with two types of benefits: furthering their reelection efforts and advancing their policy goals (Bawn 1997; Elling 1979; Evans 1994; Fiorina 1989; Freeman and Richardson 1996; Goodman et al. 1986; Mayhew 1974). Moreover, interventions are costly with legislators having to expend finite resources to pursue different interventions. As a result, we believe that legislators' preferences for a specific intervention tactic are structured by the expected benefits and relative costs of using the tactic. In addition, we also assume that different intervention tactics can provide legislators with distinct benefits and that legislators' preferences for each tactic are structured solely by the set of exogenous variables that affect the relative costs and benefits of each tactic (Bawn 1997). In other words, using one tactic does not affect the use of the other at a given point in time. Given differential expected benefits, the two tactics are not substitutes for each other.⁵ Rather, the two are only related because some exogenous factors make one tactic relatively more attractive and the other relatively less attractive (Bawn 1997).⁶ In addition, we assume that legislators are efficient in their use of bureaucratic interventions, preferring interventions that simultaneously deliver the largest net political benefit at the lowest cost.

With respect to reelection goals, legislators will expect greater electoral benefits from bureaucratic interventions when a policy area provides greater opportunities for credit claiming.⁷ Policy domains that are salient, or attract wide public attention (Gormley 1986; Ringquist, Worsham, and Eisner 2003), as well as policy domains that are of particular interest to members' constituents, afford members greater opportunity to claim credit for their activities, thereby enhancing their reelection prospects (Aberbach 1990; Evans 1994; Freeman and Richardson 1996; Goodman et al. 1986; Mayhew 1974). Legislators can enhance their electoral prospects by pursuing either statutory

interventions (e.g., sponsoring a bill that reorganizes an existing agency), direct interventions (e.g., contacting and negotiating with agency officials), or both. The electoral benefits that legislators accrue from direct or statutory interventions are largely unrelated to policy outcomes. Legislators can, and do, claim credit for their interventions even if their efforts are unsuccessful in shifting policy (Mayhew 1974). They do this because constituents hold legislators accountable for their individual behavior and not for collective legislative outcomes (Arnold 1990; Fiorina 1989; Mayhew 1974).

With respect to policy goals, legislators will pursue intervention tactics that offer the greatest expected policy benefit. This expected benefit is a function of a legislator's concern about agency policy deviations both now and in the future and the likelihood that a specific type of intervention will succeed in preventing them. A legislator who believes that agency policy is likely to diverge from his or her preferences has a greater incentive to intervene than a colleague who shares policy preferences with the agency. For example, the prior literature has suggested that legislators facing an executive of the opposite party expect that agency policy will diverge from their preferences (Epstein and O'Halloran 1994, 1999; McCubbins, Noll, and Weingast 1987; Shepsle 1992) and, as a result, will be more inclined to intervene in bureaucratic affairs. In the absence of such policy differences, there is little incentive, from a policy perspective, for a legislator to intervene. A legislator's expected policy benefit, however, also depends on the likelihood of an intervention delivering the desired policy outcome. Legislators will expect a lower benefit if a tactic is likely to fail. In the next section, we consider how an agency's level of political insulation shapes a legislator's expected policy benefit.

Insulation and Expected Policy Benefits

As noted, reducing insulation by enabling stronger legislative rule review encourages interest group access to the bureaucracy and affords the legislature a stronger oversight role. This greater permeability benefits legislators in two ways. Not only does it increase information provided by interest groups about agency activities, thereby enhancing fire alarm oversight, but it also provides an institutional mechanism for legislators to stop policy deviations *ex ante*. As a result, in the presence of a chief executive who is likely to move policy away from their preferred position, legislators facing a more permeable agency are better equipped to discover and pursue policy corrections. By contrast, legislators facing more insulated agencies will have lower fire alarm capacity to detect agency deviations and will lack institutional mechanisms to stop such deviations *ex ante*. With more insulation, legislators seeking to

intervene in an agency's affairs would have to be willing to bear the costs of such interventions directly. What does this mean for legislators' preferences over different intervention tactics?

With reduced insulation, statutory tactics have little appeal. With a more permeable design, an agency is already more open and responsive to legislative preferences. As a result, redesigning a permeable agency would entail costs that a legislator does not need to pay. Legislators would need to bear costs of shepherding bills through the legislative process and overcome the collective action problem of passing legislation, all to provide a marginal improvement to an already responsive agency. Direct tactics in this case have more appeal. Knowing that the legislature has stronger rule review authority, a more permeable agency has an incentive to adjust its policy proposal *ex ante* to the preferences of the legislature, or to some active coalition within the legislature. In this way, the agency can avoid legislative punishment by identifying these preferences prior to rule promulgation (Gerber, Maestas, and Dometrius 2005). But it is precisely the agency's search to identify legislative preferences that empowers legislators concerned about policy divergence and, perhaps counterintuitively, necessitates their active involvement in direct oversight. Concerned legislators now have incentive to signal their preferences to the agency via direct intervention tactics, such as budget and oversight hearings or contacting agency officials directly, which attract the attention of agency officials and move agency policy (Carpenter 1996). As a result, a concerned legislator must be seen by agency officials to be actively engaged in current oversight. Accordingly, we would expect that when facing a more permeable agency, concerned members will be more likely to prefer direct intervention tactics than their less concerned colleagues.

Now consider a legislator who is concerned about policy divergence but faces a more insulated agency. Recall that weaker legislative review powers increase agency insulation from the legislature, bias group access to the agency, and weaken fire alarm capacity. In this context, legislators have less ability to detect agency deviations and have no formal mechanism to stop such deviations, *ex ante*. When agencies are more insulated from the legislature, direct tactics are likely to be ineffective in influencing agency policy. As a result, direct interventions will have little appeal to concerned and unconcerned legislators alike when facing a more insulated agency. Alternatively, a concerned legislator would have incentive to consider statutory intervention to strip away an agency's insulation, inducing it to produce policy that is more responsive. However, due to collective action problems, a legislator is likely to assign a rather low likelihood to this tactic producing the desired policy change. While design choices put in place by an enacting coalition

are not permanent fixtures of a policy domain, they are difficult to change. Any legislative reform initiative seeking to redesign an agency would require the support of both legislative houses and the chief executive. Indeed, de Figueiredo (2002) and others (McCubbins, Noll, and Weingast 1987, 1989; Moe 1989) have argued that enacting coalitions are able to preserve their policies well into the future precisely because these design choices are durable. In other words, for most occasions the collective action dilemma is simply too sizeable to overcome. This logic coincides with work suggesting that opportunities to redesign agencies via statute are relatively rare (Arnold 1987; Berkman and Reenock 2004; Robinson 1989; Spence 1997). In total, despite their incentive, given the low probability of success, legislators will expect low policy benefits of statutory intervention when facing a more insulated agency.⁸ As a result, we expect that in the face of greater insulation, concerned and unconcerned legislators alike will view statutory interventions as less attractive.

The above logic suggests two testable implications:

H1: When facing a more permeable agency, legislators concerned about policy divergence will be more likely than unconcerned members to prefer direct intervention tactics. However, at sufficiently high levels of insulation, concern over policy divergence will have no effect on preferences for direct tactics.

H2: Legislators concerned about policy divergence will be no more likely to prefer statutory intervention tactics compared to unconcerned members, regardless of the level of insulation.

RESEARCH DESIGN

To test our expectations, we require information on legislators' preferences for both direct and statutory intervention tactics as well as individual and institutional-level factors that shape these preferences. Given the variation in these factors across the U.S. states, state legislators offer the best test of our hypotheses. Accordingly, we collected data on legislators' preferences for both intervention tactics as well as factors affecting the expected benefits and costs of intervention using a mail survey of 2,526 legislators in 24 states.⁹ We grouped state legislatures by party control of the chamber and legislative professionalism and selected states randomly from these subgroups to ensure variation in the resulting sample of state legislators. The survey had a response rate of approximately 21 percent that did not vary significantly across subgroups of legislators based on legislative professionalism, seniority, and party. These individual-level data were then combined with state-level

data on the rules and procedures of state legislatures and state bureaucratic agencies. We assessed legislator preferences for bureaucratic intervention across three policy areas: environment, welfare, and transportation. Therefore, the unit of analysis is the legislator-policy area.¹⁰

Measuring Preferences for Intervention Tactics

To investigate legislators' preferences for direct and statutory intervention tactics, we create indices from survey items that reflect the activities generally associated with statutory and direct intervention. To determine members' preferences toward statutory intervention tactics, we asked legislators how likely they were to alter the organization of the agency, change the method of selecting its head, alter the agency's scope of authority, and change its decisionmaking procedures in order to influence each of the three bureaucratic agencies. To determine members' preferences toward tactics of direct intervention, we asked members how likely they were to alter the number of staff working for an agency, alter the agency's budget, assign staff to monitor agency activities, personally contact agency officials, and alter the agency's reporting requirements.¹¹ For each item, respondents who indicated that they were very likely to engage in a particular activity for a given agency scored two points, somewhat likely scored one point, and not very likely scored zero points.

To measure preferences toward statutory and direct intervention, we constructed additive scales, weighting each of the constituent items equally. The statutory tactics index ranges from zero, indicating that the member does not prefer statutory tactics, to a high of eight, indicating that the member strongly prefers these tactics. The statutory tactics index has a mean of 2.43 with a standard deviation of 1.94. The direct tactics index ranges from zero to 10 and has a mean of 5.88 and a standard deviation of 2.22.¹² Based on these descriptive statistics, legislators appear to prefer direct intervention tactics to statutory tactics when trying to influence agencies.

Independent Variables

Our independent variables of interest include the policy preference divergence between a legislator and a given agency and the insulation of agencies from legislative interference. To assess the conditional effect of preference divergence in a policy area for a given level of agency insulation, we also include the multiplicative interaction of preference divergence and agency insulation. In the following section, we discuss the measures of these concepts as well as measures of relevant control variables.

Preference Divergence and Agency Insulation. We expect that as the distance between legislators' policy preferences and agency policy diverges, legislators will be more likely to prefer bureaucratic interventions. When members face a chief executive of the opposite party, they are more likely to believe that an agency will drift from their policy preferences (Epstein and O'Halloran 1994, 1999). Therefore, to assess whether legislators are concerned about agency policy deviating from their preferences, we use a dichotomous measure of whether the legislator is the *opposite party of the governor* (1) or not (0). We expect that legislators facing a governor of the opposite party are more likely to expect bureaucratic agencies to deliver policy that diverges from their preferences than legislators who share the same party as the governor. This variable had nearly maximum variance with approximately 49 percent of the sample facing a governor of the opposite party.

To measure the level of insulation from the legislature in agency rule promulgations, we use a measure from Gerber, Maestas, and Dometrius (2005). This variable codes the legislative authority to review and veto proposed agency rules for each state. In states where legislatures have weaker review powers, agencies are more insulated from legislative interference. Moreover, this measure also includes the governor's role in the review process, noting whether gubernatorial approval is required for legislative action. When gubernatorial approval is required, the governor can serve as a check upon the legislature's authority, further insulating the agency from the legislature. We reverse the direction of the Gerber, Maestas, and Dometrius (2005) measure so that higher values correspond to greater insulation rather than legislative power to review rules. As a result, our variable ranges from zero to four.

The variable is coded zero when the legislature has granted veto authority to the review committee, without gubernatorial approval. A "0" indicates the lowest level of agency insulation from the legislature (and alternately the greatest level of agency permeability). A coding of "1" represents veto authority with committee sanction powers, with gubernatorial approval. The variable is coded "2" when the legislature has veto authority but has restricted the review committee to an advisory role only and does not require gubernatorial approval. A coding of "3" represents veto authority with committee advisory powers, with the governor's approval. Last, a coding of "4" represents legislatures with no review authority, or an institutional context in which agencies are the most insulated from legislature interference. For our sample, the mean value of this variable was 1.85 with a standard deviation of 1.40.

Control Variables. In addition to our variables of interest, we also include control variables that measure the electoral benefits of intervening in bureaucratic affairs as well as the costs associated with different intervention tactics. To control for the electoral benefits associated with intervention, we include several variables. We expect the salience and technical complexity of the policy area to influence the attractiveness of bureaucratic intervention for legislators (Gormley 1986; Ringquist, Worsham, and Eisner 2003). In particular, salient policy areas, or domains with greater potential for political conflict, are attractive opportunities for legislators to claim credit for their activities (Gormley 1986). Therefore, we would expect that, given their relatively higher salience, environmental and welfare policy will increase the incentive for legislators to intervene relative to transportation policy. However, a policy domain's technical complexity, or the degree to which "specialized technical knowledge is necessary to craft effective policy solutions" (Ringquist, Worsham, and Eisner 2003, 145), conditions the effect of salience on legislative attractiveness. Facing policy domains of similar salience, legislators would be less enthusiastic about intervening in the more technically complex domain. Among the more salient domains in our analysis, we expect that environmental policy will be less attractive than welfare policy, given the former's relatively high technical complexity compared to the latter (Gormley 1986). Accordingly, we control for shifts in intervention preferences across the policy areas by including two dummy variables, *environmental policy* and *welfare policy*, with transportation policy excluded as the reference category.

To control for whether a policy is of particular interest to a members' constituents, we include a legislator's perception of *constituency interest* in the policy area. Again, with high constituent interest in a policy area, legislators will recognize the potential electoral benefits to be derived from claiming credit for intervention activities. We assess constituency interest using a survey question that asked members to rate their constituents' interest in each policy area.¹³ This four-category variable ranges from zero, indicating little interest in the policy, to a high of three, indicating greater interest, and has a mean of 2.06 and a standard deviation of .67.

Last, district-level electoral prospects have also been shown to influence a variety of legislative behaviors (see e.g., Barrilleaux, Holbrook, and Langer 2002; Erikson and Wright 2000; Goodman et al. 1986). As the uncertainty around reelection increases, legislators might expect greater electoral benefits for actively intervening in an agency. Alternatively, electorally vulnerable legislators might show little interest in intervention, preferring instead to dedicate scarce resources to other reelection efforts. To control for these possibilities, we include *electoral security*, which is measured using the mar-

gin of victory for each legislator's most recent election (Berry and Carsey 2004). Electoral security ranges from .04 to 100 and has a mean of 43.03 and a standard deviation of 38.95.

To control for the costs associated with different intervention tactics, we include several variables. Using information from the survey, we create two variables that measure key resources that influence the costs that members face when pursuing direct interventions, *staff* and *oversight committee service*. To engage in direct intervention, members must bear the costs of both lost time and energy. Access to certain institutional resources, however, such as legislative staff and service on relevant oversight committees can provide legislators with additional resources and experience in a given policy domain, thereby lowering the costs associated with direct interventions (Aberbach 1990; Bawn 1997). Unlike the U.S. Congress, state legislators vary in their access to professional and personal staffs that can carry out individualized duties.

Staff is a five-category variable that ranges from zero, indicating that members have no full-time staff in their capitol offices, to a high of four, indicating that members have 10 or more staff members in their capitol offices. This variable has a mean of .72 and a standard deviation of .92. We also include a dichotomous measure of *oversight committee service*, which indicates if the member serves on the committee that oversees the policy area. In about 16 percent of the sample, the member serves on the relevant oversight committee.

In order to assess the costs of pursuing statutory interventions, we include two measures of a legislator's political environment, *majority party status* and *political uncertainty*. Drafting a bill and shepherding legislation through the legislative process requires members to engage in a host of activities that consume political resources. Majority party members face lower costs in moving statutory provisions through the process (Aberbach 1990; Bawn 1997; Huber, Shipan, and Pfhaler 2001). To measure the costs of shepherding legislation we use *majority party status*, a dichotomous indicator of whether the legislator is a member of the majority party in the chamber. In about 55 percent of the cases, the member serves in the majority party.

While statutory interventions have the potential to provide legislators with durable, automatic influence over bureaucratic policies well into the future (McCubbins, Noll, and Weingast 1987, 1989), contemporary legislators only receive this benefit if their statutory provisions remain in place. If new political coalitions overturn these statutory interventions, then legislators will have to pay the additional costs associated with pursuing statutory interventions again. In the presence of political uncertainty, or a greater probability

of new political coalitions coming to power, legislators will assign higher costs to participating in statutory interventions.¹⁴

To measure the recurring costs that legislators would expect to pay if their interventions are overturned by future political coalitions, we use *political uncertainty*, measured with the Ranney index of party competition in states between 1994 and 1998 (Bibby and Holbrook 1999). The Ranney competition index indicates the degree of competition in the state political institutions, ranging from .5 for no competition, to 1.0 for perfect competition. In our data, this variable ranges from .70 to .99 with a mean of .85 and a standard deviation of .09.

Analysis

Our theory argues that direct and statutory tactics provide legislators with unique policy benefits under different institutional conditions. As a result, we do not believe that legislators consider these tactics as substitutes in their pursuit of bureaucratic influence. In other words, engaging in direct intervention should not make a legislator any more or less likely to engage in statutory intervention and vice versa, controlling for the effects of other independent variables.¹⁵ Accordingly, we model legislators' preferences for direct and statutory tactics of intervention using separate OLS regressions with robust standard errors corrected for clustering on states to account for the dependence of observations within states.

RESULTS

Model 1 in Table 1 displays the results for the test of H1. The results support the hypothesis that agency insulation conditions the effect of policy divergence on preferences for direct tactics. The coefficient for opposite party of the governor is significant and positive and the coefficient of its interaction with agency insulation is negative and significant. As expected, concern over policy divergence does lead to greater preferences for direct intervention at the lowest levels of agency insulation. Given that both the marginal effect of opposite party governor and its associated standard error vary over levels of agency insulation, we calculate the marginal effect of facing a governor of the opposite party along with its standard error for each value of agency insulation to determine at precisely what level of insulation policy divergence influences preferences for direct tactics (Brambor, Clark, and Golder 2006).

Table 2 presents the marginal effect of policy divergence on members' preferences for direct intervention tactics over the full range of agency insulation. At higher levels of agency insulation (2, 3, and 4), the marginal effect of

Table 1. Legislators' Preferences for Direct and Statutory Intervention Tactics

	Model 1 Direct Tactics		Model 2 Statutory Tactics	
	b	se(b)	b	se(b)
Preference Divergence and Agency Insulation				
Opposite party of governor	0.593*	(0.306)	0.431	(0.415)
Agency insulation	-0.007	(0.111)	0.077	(0.085)
Opposite governor * insulation	-0.228	(0.130)	-0.198	(0.165)
Control Variables				
Expected Electoral Benefits				
Environmental policy	0.363**	(0.068)	0.432**	(0.097)
Welfare policy	0.551**	(0.102)	0.606**	(0.127)
Constituency interest	0.165*	(0.080)	0.205*	(0.094)
Electoral security	-0.002	(0.002)	0.002	(0.002)
Relative Costs				
Staff	0.320**	(0.112)	0.000	(0.096)
Oversight committee service	0.079	(0.140)	-0.040	(0.156)
Majority party status	-0.095	(0.229)	-0.406*	(0.215)
Political uncertainty	1.152	(1.120)	-1.615*	(0.941)
Constant	4.109***	(1.070)	3.023***	(0.873)
F (11, 22)	8.27**		6.13**	
R ²	0.045		0.041	
N	1375		1356	

*p<0.05; **p<0.01; ***p<0.001, one-tailed tests

Note: Results generated using OLS with robust standard errors corrected for clustering on states in parentheses.

Table 2. The Effect of Policy Divergence on Direct Tactics over Insulation

Agency Insulation	Direct Tactics	
	Marginal Effect	Standard Error
0	0.593*	(0.300)
1	0.365*	(0.214)
2	0.137	(0.184)
3	-0.091	(0.232)
4	-0.319	(0.326)

*p<0.05, one-tailed tests

Note: Cell entries are marginal effects of opposite party governor for given levels of agency insulation with standard errors in parentheses. The marginal effects and standard errors are calculated using procedures outlined by Brambor, Clark, and Golder (2006).

policy divergence is not statistically significant. But at lower levels of insulation (0 and 1), policy divergence has a significant and positive marginal effect on legislators' preferences for direct tactics. When facing highly insulated agencies, where the legislature lacks strong veto authority over agency rule promulgation, legislators who are concerned about policy deviating from their preferences are no more likely to prefer direct intervention tactics than are unconcerned legislators. However, when dealing with more permeable

agencies, where the legislature possesses a stronger rule review power, legislators who are concerned about policy divergence prefer direct intervention more than unconcerned legislators do.¹⁶

Model 2 in Table 1 presents the findings for our second hypothesis for statutory intervention tactics. The results reported here also are consistent with our expectations. The coefficient on the interaction of agency insulation and policy divergence is not significant. Regardless of the level of agency insulation, legislators who are concerned about agency policy deviating from their preferences are no more likely than unconcerned legislators to pursue statutory intervention tactics. As Table 3 demonstrates, the marginal effect of policy divergence is not statistically significant over the entire range of agency insulation. Although agency insulation renders direct tactics ineffective and therefore less attractive, it does not make statutory tactics any more attractive. While statutory tactics might allow a legislator concerned about agency deviations to strip an unresponsive agency of its political insulation, the collective action problems inherent in redesigning agencies appear to be too great for legislators to see much of a policy benefit in statutory tactics. Even when the agency is likely to diverge from their preferences, concerned members do not prefer statutory tactics as a means of gaining influence over existing agencies.

The findings for the control variables also merit attention. Unlike their concerns over policy divergence, electoral concerns motivate legislators to pursue direct and statutory intervention tactics. Policy domains that afford legislators greater opportunity for claiming credit affect legislators' incentives to pursue both direct and statutory tactics. The coefficients for both the welfare and environmental policy variables are significant and positive. This finding indicates that legislators are more likely to intervene in bureaucratic agencies using both direct and statutory tactics in salient policy areas

Table 3. The Effect of Policy Divergence on Statutory Tactics over Insulation

Agency Insulation	Statutory Tactics	
	Marginal Effect	Standard Error
0	0.431	(0.415)
1	0.231	(0.286)
2	0.031	(0.228)
3	-0.169	(0.286)
4	-0.369	(0.415)

* $p < 0.05$, one-tailed tests

Note: Cell entries are marginal effects of opposite party governor for given levels of agency insulation with standard errors in parentheses. The marginal effects and standard errors are calculated using procedures outlined by Brambor, Clark, and Golder (2006).

like welfare and environment compared to the less salient transportation domain. In addition, F-tests for linear restrictions in parameters reveal that the coefficients for welfare policy are significantly larger than the coefficients for environmental policy in both the direct and statutory tactics models. As expected, legislators are more likely to pursue intervention in welfare policy, a salient but less technically complex policy area, compared to environmental policy, which is salient but more complex. These results are consistent with the argument that salient but less complex policy domains are attractive targets for legislative initiatives compared to salient but more complex domains (Ringquist, Worsham, and Eisner 2003). Moreover, our findings extend those of Ringquist, Worsham, and Eisner (2003) by demonstrating that policy domain characteristics shape not only legislative initiatives but also individual legislators' "general propensity to exercise political control" (161) or their interest in pursuing bureaucratic interventions more broadly.

In addition, while electoral security has no effect on legislators' preferences for either direct or statutory intervention, constituency interest has a positive and significant effect on both direct and statutory tactics. Legislators who perceive their constituents to be more interested in a policy area are more likely to prefer both direct and statutory tactics in that policy area. Both direct and statutory interventions provide members the opportunity to engage in casework and credit-claiming and allow them the potential to reap electoral benefits (Evans 1994; Freeman and Richardson 1996; Goodman et al. 1986; Mayhew 1974). Compared to pursuing policy goals, legislators consider both direct and statutory tactics useful tools in promoting their reelection goals.

Moreover, of the two resources thought to reduce the costs of direct intervention—staff and oversight committee service—only staff has a significant effect on members' preferences for direct tactics. Legislators with more staff in their capital offices can engage in a host of activities related to direct intervention at lower costs and, as a result, prefer direct tactics compared to those with fewer available staff. Service on the oversight committee, a resource commonly thought to lower the costs of direct oversight (see Bawn 1997), appears to have no influence on members' preferences for direct tactics.¹⁷ As expected, neither staff nor oversight committee service influence preferences for statutory tactics.

Of the variables we expected to influence the costs of statutory interventions, both have significant effects. As expected, political uncertainty has a significant, negative effect. When legislators face uncertain political environments, they must pay recurring costs if they pursue statutory interventions, making such interventions less attractive. Members who view the political

environment as more stable and expect to pay the costs of a statutory intervention only once are more likely to pursue statutory interventions. Contrary to our expectations, majority party status has a significant, negative effect on preferences for statutory tactics. Being in the majority party does not sufficiently reduce the costs of statutory intervention to make them attractive. In fact, majority party members are significantly less likely to prefer statutory tactics compared to their minority party colleagues. It could be that minority party members, unable to secure influence over bureaucratic agencies via their party leaders or control over the committee system, are more likely to resort to costly statutory corrections.

CONCLUSION

We began this research by asking: What are the implications of previous agency design choices for later generation legislators? We now have an answer. Our focus on micro-level decisionmaking provides a better understanding of precisely how insulation alters incentives for individual legislators. Our results suggest that *ex ante* control devices that increase an agency's insulation from future legislative intervention have precisely this effect. For direct tactics, insulation reduces the expected policy benefits of intervention, making these tactics less attractive to individual legislators. As a result, regardless of their concerns over policy divergence, legislators are less likely to prefer direct intervention with more insulated agencies. With more permeable agencies, however, concerned legislators are more likely to pursue direct interventions as a means of signaling their policy preferences to the agency. With regard to statutory tactics, insulation has no effect on legislators' preferences. Due to inherent collective action problems, statutory tactics are unappealing to legislators motivated by policy concerns. These findings have important implications for delegation theory as well as normative theories of democratic control.

Scholars have argued that insulation is a durable control device that has the potential to cast a long shadow in protecting an enacting coalition's interests (de Figuierido 2002; Moe 1989). Our analysis offers the first micro-level evidence that such insulation devices do indeed shape individual legislators' incentives to engage in bureaucratic interventions. In this respect, those who have questioned whether such design choices can lock out competing interests over the long run have their answer. Control devices that afford greater agency insulation, many put in place in the mid-twentieth century, continue to deter legislators' intervention efforts. While our work investigated the effects of a broad *ex ante* insulation device on legislators' preferences for

bureaucratic interventions, future work should consider the effects of other insulation devices like hardwiring, which prescribe specific policy outcomes. For example, cost-benefit analysis requirements, hardwiring devices that automatically induce the agency to produce specific policy outputs, present asymmetric policy costs to different legislators. This suggests that the means by which hardwiring devices insulate agencies from legislative intervention might differ from broad *ex ante* control devices.

Our findings also have implications for theories of *ex ante* control that offer statutory intervention as an attractive ongoing oversight tool. Our results echo previous scholars who have questioned the appeal of statutory interventions as ongoing oversight tactics (Arnold 1987; Reenock and Poggione 2004; Robinson 1989; Spence 1997). Our findings suggest that ongoing statutory interventions appear to be more of a political tool than a device to gain policy advantage. Even when legislators have policy incentive to redesign an agency to be more insulated from the legislature, they do not prefer statutory tactics. Given collective action problems, statutory interventions are simply not attractive devices for legislators to pursue ongoing bureaucratic oversight.

Instead, statutory interventions appear to be used to hone constituency relations, affording legislators a stage upon which they can seek credit for their noble yet potentially futile efforts. Legislators prefer statutory tactics when dealing with policy areas that are important to their constituents, politically salient, and less technically complex. In addition, minority party members and those who foresee little change in the political landscape also prefer statutory tactics. This suggests that while some legislators would be willing to engage in these tactics, it is likely that they are primarily trying to gain their constituents' attention, rather than pursuing a meaningful policy change. Combined with the fact that greater insulation casts durable protections over policies, this finding suggests the critical importance of design choices. Whether at an agency's initial creation or during a policy window opened by a crisis event, (re)structuring moments have long enduring consequences for legislative control of the bureaucracy.

Not all of our findings, however, are disheartening for normative concerns over ongoing bureaucratic accountability. Individual legislators are motivated to pursue ongoing oversight by select incentives. In particular, certain policy areas will always attract more legislative attention from the political opportunities that they offer members to credit claim. Moreover, certain personal characteristics, such as constituency interest and access to particular resources, will enhance a member's likelihood of engaging in oversight. In fact, these particular motivations and resources are likely to supply

the specific entrepreneurs who would be involved in oversight even in the face of greater insulation. Such reliance upon specific subsets of legislators, however, could lead to an uneven application of democratic control within a given state legislature. Depending upon the distribution of policy motivations and resources, in some states, few legislators possess sufficient motivation to exert any oversight effort, particularly when facing an insulated agency. This suggests that future aggregate-level work on legislative control of the bureaucracy should consider whether the variance of these motivations and resources within legislatures affects the eventual flavor of legislative control over the bureaucracy.

On the other hand, when enacting coalitions design agencies to be more permeable, contemporary legislators have greater opportunities to influence agency policymaking. Yet, legislators must play an active role in this process (Hill and Brazier 1991). Rule review, for example, requires legislators to engage in direct intervention to make their preferences clear to agency officials. Given that engaging in direct intervention requires legislators to bear certain costs, resources like staff and oversight committee service, which vary considerably across state legislatures, could be important to ensure that legislators can, and do, engage in direct oversight. In other words, legislators must have access to key resources to capitalize on favorable agency design choices.

ENDNOTES

1. Consistent with previous work (Moe 1989, 1990; de Figueiredo 2002), by “insulation device” we mean any design choice that alters or shapes an agency’s permeability to external political interference. While enacting coalitions have generally used rule review to reduce agency insulation, making agencies more responsive to the legislature, they have done so to different degrees. Weaker rule review provisions produce a more insulated bureaucracy compared to states that have enacted stronger provisions (Gerber, Maestas, and Dometrius 2005; Potoski and Woods 2000; Woods 2005). The end result is that rule review powers and levels of agency insulation vary widely across the states (Gerber, Maestas, and Dometrius 2005; Grady and Simon 2002).

2. The specific manner by which different *ex ante* devices shape agency insulation depends on the actual device. Rule review limits external political interference by structuring the role of the legislature in the promulgation of new agency rules. Among others, civil service coverage limits external political interference by determining the role of the legislature in appointment review of agency officials. The important feature of any broad *ex ante* devices is that they structure the ease with which future legislators can intervene in an agency’s affairs.

3. It is important to note that for those states in our analysis with high levels of agency insulation (i.e., states that currently have no rule review), two historical paths are possible. Where legislative rule review is absent and agency insulation is high, a previous legislative

coalition might have either explicitly considered rule review and rejected it, preferring a more insulated bureaucracy, or simply never took up the issue of rule review. While the question of why some states pursue rule review and succeed while others never do so is interesting, it is beyond the scope of this paper and not pertinent to our analysis. We only highlight legislatures' intentional use of design choices to shape insulation for the purpose of framing our research in the larger literature, which presumes that such designs are the product of strategic choice. For our analysis, the key explanatory concept of interest is the current level of political insulation between the legislature and bureaucracy not previous legislatures' intentions regarding insulation. As a result, legislative review power is a valid and appropriate measure of insulation that we use to explain contemporary legislative behavior. Simply put, the legislators in our sample live and interact with the institutions that their state currently has and not the ones that might have been or the ones that some preferred but were not adopted.

4. Of course, these legislatures still retain the possibility of influencing agency policy via more standard channels including oversight hearings, budgetary allocations, and legislative initiatives.

5. For example, legislators might pursue direct intervention if they prefer an immediate but temporary correction to an agency deviation. They might pursue statutory intervention if they prefer a more durable correction to current or potential agency deviations. Last they might pursue both of these tactics if they desire short-term and long-term responsiveness. Because these intervention tactics can provide different benefits to legislators, they cannot necessarily be used interchangeably when dealing with an existing agency.

6. Our model suggests that, at time t , legislators consider the expected costs and benefits of engaging in direct and/or statutory interventions as a function of the level of bureaucratic insulation that they face and a set of exogenous covariates and then they express a preference. In our model, we do not suppose or observe the eventual success or failure of these intervention efforts. In other words, we only know that, at time t , legislators face a choice: given some level of insulation and a set of covariates, they can pursue direct intervention and/or statutory intervention. They do so based upon their expectations about the costs of pursuing each and their expectations about the benefits likely to be accrued (at some later point in time) by pursuing them. But that is all that our legislators observe at time t . Our legislators do not know whether their efforts will be successful; they merely have expectations about this. Even if they did know with certainty the likelihood of their success, that success would not condition their preferences for direct intervention tactics at time t , it would only condition their preference for it at time $t+\Delta t$, after an intervention has either succeeded or failed (Bawn 1997). This does not suggest that legislators' preferences for statutory tactics condition their preferences for direct tactics at time t . Rather, it suggests that the successful statutory intervention (e.g., the new institutional setting or insulation at $t+\Delta t$) conditions their preference for intervention tactics. At any time t , a legislator's preference for direct intervention is conditioned by the way in which previous successful statutory interventions have shaped or reshaped agency insulation. So after an agency has been installed, it is the case that at some point in time t , legislators' preferences for one tactic versus another are related, but only through the independent variables that affect them. This assumption is entirely consistent with Bawn (1997).

7. Of course legislators could pursue a number of activities other than bureaucratic interventions to strengthen their relationship with constituents and ultimately enhance

their reelection prospects (Cain, Ferejohn, and Fiorina 1987; Fenno 1978; Fiorina 1989; Mayhew 1974; Parker and Davidson 1979). We do not claim that bureaucratic interventions are the only, or even the most important, constituency service activities in which legislators can engage. Given that we are interested in explaining legislators' preferences for bureaucratic interventions, we recognize the importance of oversight activity as a useful credit-claiming device to enhance reelection prospects (Aberbach 1990; Evans 1994; Freeman and Richardson 1996; Goodman et al. 1986; Mayhew 1974).

8. While the literature has suggested that large-scale statutory interventions are rarer than the original structure and process literature suggested (Berkman and Reenock 2004; Robinson 1989; Spence 1997), policy windows that can lower the costs of engaging in such interventions open occasionally. For example, a change in federal law that creates or substantially changes an existing program, such as the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 that reformed welfare, or events, like September 11, can create demand and opportunity for large-scale administrative reforms. Nonetheless, our theoretical framework is designed to account for the general oversight activities of the typical legislator during a typical session, rather than those legislators presented with a rare opportunity or dealing with a crisis event.

9. The survey, conducted in 2000, included all legislators from the lower houses of the following states: AR, CA, CO, CT, DE, ID, IL, LA, ME, MI, MO, MT, NE, NJ, ND, OH, PA, SC, SD, TN, TX, VT, WV, and WY. In order to increase the response rate, legislators were given advance notice of the survey. One week later they were mailed the questionnaire and a cover letter. Two weeks later, non-respondents were mailed a reminder postcard. After an additional two weeks, non-respondents were mailed a second letter and questionnaire.

10. Given our theoretical interests and our desire to speak broadly across policy areas, we believe that pooling across policy areas is appropriate. The majority of legislators expressed different preferences for tactics of bureaucratic intervention across the three policy areas. About 64 percent of the legislators had different preferences for direct intervention tactics across all three policy areas, and 55 percent had different preferences for statutory tactics across all three areas. However, in doing so we possibly introduce autocorrelation into the error structure. As a result, we must be careful that such autocorrelation has not resulted in our wrongly rejecting the null hypothesis (i.e., inflated t-tests lead us to wrongly infer that our key variable has an effect statistically different from zero). To assess this possibility, we also estimated separate regressions for each policy area for the direct intervention analysis, the dependent variables for which we predict and find a significant effect for our key independent variables of interest. These results are reported in an online Appendix. The non-pooled results analysis is consistent with those results reported in Table 1 (all the interaction terms between preference divergence and agency insulation are negative and statistically significant and have the same general substantive effects).

11. Legislators were asked, "We are interested in the techniques that you use to ensure that state government agencies do what you want them to do. For each of the three state government agencies listed below, please circle a (1) if you are not likely, a (2) if you are somewhat likely, or a (3) if you are very likely to use the following techniques to keep that agency in check."

12. For each index, the positive inter-item correlations and scale-item correlations in conjunction with the coefficients of reliability ($\alpha=.68$ for statutory and $\alpha=.61$ for direct) suggest that these constituent items reflect a common underlying dimension.

13. As a check on the validity of this subjective measure, we conducted auxiliary analyses

that revealed that district level demographics related to each policy area, taken from Lilley, DeFranco, and Bernstein (1998), were significant predictors of legislators' perceptions of constituency interest. At the district-level, average household income, the percent African-American, and the unemployment rate are all significantly related to legislators' perceptions of constituency interest in welfare policy. The percent of the district with a college education and whether the district is urban are significantly related to constituent interest in environmental policy, and whether the district is suburban or rural is significantly related to constituency interest in transportation policy.

14. Other scholars have acknowledged the relationship between political uncertainty and legislative oversight (de Figueiredo 2002; Moe 1989). De Figueiredo (2002) suggests that in the presence of political uncertainty and low policy costs, an enacting coalition will seek to insulate the bureaucracy from external political oversight via statutory revisions to the agency's mandate. He develops a theory about how enacting coalitions, once formed, respond to political uncertainty. Our theory is not concerned with enacting coalitions but rather, specifies the conditions under which an individual legislator prefers statutory tactics once the agency has been installed, a process wholly distinct from that which Moe and de Figueiredo have addressed.

15. To test the assumption that preferences for one tactic do not have an independent effect on preferences for the other tactic, we used 2SLS and modeled each tactic as a function of the other. We selected staff and committee service as instruments for direct intervention because previous research at the aggregate level has noted the strong theoretical relationship between direct oversight and these resources and does not suggest a similar connection to statutory interventions (Aberbach 1990). Members who want to engage in direct oversight find it easier to do so when they serve on the relevant oversight committee and/or have personal staff available in the capitol. We use majority party status and political uncertainty (based on the Ranney index) to serve as instruments for statutory oversight because these factors influence the likelihood of passing the legislation needed for statutory interventions but have little influence on whether or not a legislator can engage in the individual-level activities involved in direct intervention (Aberbach 1990; Bawn 1997; Huber, Shipan, and Pfhaler 2001). In the 2SLS models, the coefficient of direct tactics is not significant in the model predicting preferences for statutory tactics, and neither is the coefficient of statutory tactics in the direct model. Furthermore, the inclusion of alternative tactics as explanatory variables does not alter the substantive findings presented in Table 1. The results of the 2SLS analysis suggest that direct and statutory tactics are not correlated with each other, above and beyond the correlations that they share with other exogenous variables. These findings are consistent with our assumption that these tactics are not substitutes for each other. As a result, we report the results generated using OLS.

16. As a check on the robustness of our findings, we also considered Grady and Simon's (2002) measure of legislative restraint as an alternate measure of agency insulation. Their measure is coded from zero to eight, with higher values indicating greater levels of legislative restraint (greater agency insulation), and had a mean of 3.82 and a standard deviation of 1.97. The results using the Grady and Simon measure are similar to those obtained using the measure from Gerber, Maestas, and Dometrius (2005). For both dependent variables (direct and statutory), all the independent variables have the same signs and are similarly statistically significant. The results for our main variables of interest are also consistent. Members facing an opposite party governor prefer direct tactics when legisla-

tive restraint is sufficiently low; there is no effect of legislative restraint on preferences for statutory tactics.

17. This finding might be due to differences in the committee systems among states (Rosenthal 1998). In some states, legislators serve on five or more standing committees. Because of the additional demands on their time, such members have less opportunity to develop policy expertise and networks with agency officials, organized interests and other relevant actors. These members simply might not reap the same benefits of specialization as members serving on fewer committees. To test this assertion, we added two variables, whether or not members served on five or more committees and its interaction with oversight committee service. We find that oversight committee service has a positive and statistically significant effect on preferences for direct tactics only when a member serves on relatively few committees. When members serve on a higher number of committees, five or more, their oversight committee service actually leads to a reduction in their preferences for direct interventions.

REFERENCES

- Aberbach, Joel. 1990. *Keeping a Watchful Eye: The Politics of Congressional Oversight*. Washington, DC: Brookings Institution.
- Arnold, R. Douglas. 1987. "Political Control of Administrative Officials." *Journal of Law, Economics, and Organization* 3:219–86.
- Arnold, R. Douglas. 1990. *The Logic of Congressional Action*. New Haven, CT: Yale University Press.
- Balla, Steven J. 1998. "Administrative Procedures and Political Control of the Bureaucracy." *American Political Science Review* 92:663–73.
- Barrilleaux, Charles, Thomas Holbrook, and Laura Langer. 2002. "Electoral Competition, Legislative Balance, and American State Welfare Policy." *American Journal of Political Science* 46:415–27.
- Bawn, Kathleen. 1995. "Political Control versus Expertise: Congressional Choice about Administration Procedures." *American Political Science Review* 89:62–73.
- Bawn, Kathleen. 1997. "Choosing Strategies to Control the Bureaucracy: Statutory Constraints, Oversight, and the Committee System." *Journal of Law, Economics, and Organization* 13:101–26.
- Berkman, Michael, and Christopher Reenock. 2004. "Incremental Consolidation and Comprehensive Reorganization of American State Executive Branches." *American Journal of Political Science* 48:796–812.
- Berry, William D., and Thomas M. Carsey. 2004. Revised Candidate-Level State Legislative Returns with Adjusted Candidate Names, 1968–1989 [Computer file]. ICPSR03938–v1. Tallahassee, FL: Florida State University [producer], 2004. Ann Arbor, MI: Inter-university Consortium for Political and Social Research [distributor], 2004.
- Bibby, John F., and Thomas M. Holbrook. "Parties and Elections." 1999. In *Politics in the American States*, 7th ed. Eds. Virginia Gray, Russell Hanson, and Herbert Jacob. Washington, DC: CQ Press.
- Brambor, Thomas, William Clark, and Matt Golder. 2006. "Understanding Interaction Models: Improving Empirical Analyses." *Political Analysis* 14:63–82.

- Cain, Bruce, John Ferejohn, and Morris Fiorina. 1987. *The Personal Vote: Constituency Service and Electoral Independence*. Cambridge, MA: Harvard University Press.
- Calvert, Randall, and Barry Weingast. 1982. "Runaway Bureaucracy and Congressional Oversight: Why Reforms Fail." *Policy Studies Review* 1:557-64.
- Carpenter, Daniel. 1996. "Adaptive Signal Processing, Hierarchy, and Budgetary Control in Federal Regulation." *American Political Science Review* 90:283-302.
- de Figueiredo, Rui J. P. 2002. "Electoral Competition, Political Uncertainty, and Policy Insulation." *American Political Science Review* 96:321-33.
- de Figueiredo, Rui J. P. and Richard G. Vanden Bergh. 2004. "The Political Economy of State-Level Administrative Procedure Acts." *Journal of Law and Economics* 47:569-88.
- Elling, Richard C. 1979. "The Utility of State Legislative Casework as a Means of Oversight." *Legislative Studies Quarterly* 4:353-79.
- Epstein, David, and Sharyn O'Halloran. 1994. "Administrative Procedures, Information, and Agency Discretion." *American Journal of Political Science* 38:697-722.
- Epstein, David, and Sharyn O'Halloran. 1999. *Delegating Powers: A Transaction Cost Politics Approach to Policy Making under Separate Powers*. Cambridge, UK: Cambridge University Press.
- Erikson, Robert S., and Gerald C. Wright. 2000. "Representation of Constituency Ideology in Congress." In *Change and Continuity in House Elections*, eds. David W. Brady, John F. Cogan, and Morris P. Fiorina. Stanford, CA: Stanford University Press.
- Evans, Diana. 1994. "Congressional Oversight and the Diversity of Members' Goals." *Political Science Quarterly* 109:669-87.
- Fenno, Richard F., Jr. 1978. *Home Style: House Members in Their Districts*. Boston, MA: Little Brown.
- Fiorina, Morris P. 1989. *Congress, Keystone of the Washington Establishment*. New Haven, CT: Yale University Press.
- Freeman, Patricia K., and Lilliard E. Richardson, Jr. 1996. "Explaining Variation in Casework Among State Legislators." *Legislative Studies Quarterly* 21:41-56.
- Gerber, Brian J., Cherie D. Maestas, and Nelson C. Dometrius. 2005. "State Legislative Influence over Agency Rulemaking: The Utility of *Ex ante* Review Procedures." *State Politics and Policy Quarterly* 5:24-46.
- Goodman, Marshall R., Debra S. Gross, Thomas A. Boyd, and Herbert F. Weisberg. 1986. "State Legislator Goals Orientations: An Examination." *Polity* 18:707-19.
- Gormley Jr., William T. 1986. "Regulatory Issue Networks in a Federal System." *Polity* 18:595-620.
- Grady, Dennis O., and Kathleen M. Simon. 2002. "Political Restraints and Bureaucratic Discretion: The Case of State Government Rule Making." *Politics & Policy* 30:646-79.
- Hill, Jeffery, and James Brazier. 1991. "Constraining Administrative Decisions: A Critical Examination of the Structure and Process Hypothesis." *Journal of Law, Economics, and Organization* 7:373-400.
- Horn, Murray J., and Kenneth A. Shepsle. 1989. "Commentary on 'Administrative Arrangements and the Political Control of Agencies': Administrative Process and Organizational Form as Legislative Responses to Agency Costs." *Virginia Law Review* 75:431-82.
- Huber, John D., and Charles R. Shipan. 2002. *Deliberate Discretion: The Institution-*

- al Foundations of Bureaucratic Autonomy*. New York, NY: Cambridge University Press.
- Huber, John D., Charles R. Shipan, and Madelaine Pfhaler. 2001. "Legislatures and Statutory Control of Bureaucracy." *American Journal of Political Science* 45:330–45.
- Kerwin, Cornelius M. 2003. *Rulemaking: How Government Agencies Write Law and Make Policy*. Washington, DC: CQ Press.
- Lilley, William, Laurence DeFranco, and Mark Bernstein. 1998. *The Almanac of State Legislatures: Changing Patterns 1990–1997*. Washington, DC: CQ Press.
- Macey, Jonathan R. 1992. "Organizational Design and Political Control of Administrative Agencies." *Journal of Law, Economics, and Organization* 8:93–125.
- Mayhew, David. 1974. *Congress: The Electoral Connection*. New Haven, CT: Yale University Press.
- McCubbins, Mathew D. 1985. "Legislative Design of Regulatory Structure." *American Journal of Political Science* 29:721–48.
- McCubbins, Mathew D., Roger G. Noll, and Barry R. Weingast. 1987. "Administrative Procedures as Instruments of Political Control." *Journal of Law, Economics, and Organization* 3:243–77.
- McCubbins, Mathew D., Roger G. Noll, and Barry R. Weingast. 1989. "Structure and Process, Politics and Policy: Administrative Arrangements and the Political Control of Agencies." *Virginia Law Review* 75:431–82.
- Moe, Terry. 1989. "The Politics of Bureaucratic Structure." In *Can the Government Govern?*, eds., John Chubb and Paul Peterson. Washington, DC: Brookings.
- Moe, Terry. 1990. "Political Institutions: The Neglected Side of the Story." *Journal of Law, Economics, and Organization* 6:213–53.
- Parker, Glenn R., and Roger H. Davidson. 1979. "Why Do Americans Love Their Congressmen so Much More than Their Congress?" *Legislative Studies Quarterly* 4:53–61.
- Potoski, Matthew. 1999. "Managing Uncertainty through Bureaucratic Design: Administrative Procedures and State Air Pollution Control Agencies." *Journal of Public Administration Research and Theory* 4:623–39.
- Potoski, Matthew. 2002. "Designing Bureaucratic Responsiveness: Administrative Procedures and Agency Choice in State Environmental Policy." *State Politics and Policy Quarterly* 2:1–23.
- Potoski, Matthew, and Neal Woods. 2000. "Designing State Clean Air Agencies: Administrative Procedures and Bureaucratic Autonomy." *Journal of Public Administration Research and Theory* 11:203–21.
- Reenock, Christopher, and Brian Gerber. 2008. "Political Insulation, Information Exchange, and Interest Group Access to the Bureaucracy." *Journal of Public Administration Research and Theory* 18:415–40.
- Reenock, Christopher, and Sarah Poggione. 2004. "Bureaucratic Control by Design: Explaining State Legislators' Willingness to Use *Ex ante* Tactics in Air Pollution Control." *Legislative Studies Quarterly* 29:383–406.
- Ringquist, Evan J., Jeff Worsham, and Marc Allen Eisner. 2003. "Salience, Complexity, and the Legislative Direction of Regulatory Bureaucracies." *Journal of Public Administration Research and Theory* 13:141–64.
- Robinson, Glen O. 1989. "Commentary on 'Administrative Arrangements and the Political Control of Agencies': Political Uses of Structure and Process." *Virginia Law Review* 75:483–98.

- Rosenthal, Alan. 1998. *The Decline of Representative Democracy: Process, Participation, and Power in State Legislatures*. Washington, DC: Congressional Quarterly Press.
- Shepsle, Kenneth A. 1992. "Bureaucratic Drift, Coalitional Drift, and Time Consistency: A Comment on Macey." *The Journal of Law, Economics & Organization* 8:111–25.
- Spence David B. 1997. "Agency Policy Making and Political Control: Modeling Away the Delegation Problem." *Journal of Public Administration Research and Theory* 7:199–219.
- Weingast, Barry R., and Mark J. Moran. 1983. "Bureaucratic Discretion or Congressional Control? Regulatory Policymaking by the Federal Trade Commission." *Journal of Political Economy* 91:765–800.
- West, William. 1982. "The Politics of Administrative Rulemaking." *Public Administration Review* 42:420–6.
- West, William. 1985. *Administrative Rulemaking: Politics and Processes*. New York, NY: Greenwood Press.
- West, William, and Joseph Cooper. 1983. "The Congressional Veto and Administrative Rulemaking." *Political Science Quarterly* 98:285–304.
- Woods, Neal. 2004. "Political Influence on Agency Rule Making: Examining the Effects of Legislative and Gubernatorial Rule Review Powers." *State and Local Government Review* 36:174–85.
- Woods, Neal. 2005. "Interest Group Influence on State Administrative Rule Making." *American Review of Public Administration* 35:402–13.