

Baugus, Brian; Bose, Feler; Jacob, Jeffrey

Article

Preference alignment or executive predominance: The rise of states' rulemaking provisions in the U.S.

Journal of Government and Economics (JGE)

Provided in Cooperation with:

Elsevier

Suggested Citation: Baugus, Brian; Bose, Feler; Jacob, Jeffrey (2024) : Preference alignment or executive predominance: The rise of states' rulemaking provisions in the U.S., Journal of Government and Economics (JGE), ISSN 2667-3193, Elsevier, Amsterdam, Vol. 14, pp. 1-10, <https://doi.org/10.1016/j.jge.2024.100110>

This Version is available at:

<https://hdl.handle.net/10419/340735>

Standard-Nutzungsbedingungen:

Die Dokumente auf EconStor dürfen zu eigenen wissenschaftlichen Zwecken und zum Privatgebrauch gespeichert und kopiert werden.

Sie dürfen die Dokumente nicht für öffentliche oder kommerzielle Zwecke vervielfältigen, öffentlich ausstellen, öffentlich zugänglich machen, vertreiben oder anderweitig nutzen.

Sofern die Verfasser die Dokumente unter Open-Content-Lizenzen (insbesondere CC-Lizenzen) zur Verfügung gestellt haben sollten, gelten abweichend von diesen Nutzungsbedingungen die in der dort genannten Lizenz gewährten Nutzungsrechte.

Terms of use:

Documents in EconStor may be saved and copied for your personal and scholarly purposes.

You are not to copy documents for public or commercial purposes, to exhibit the documents publicly, to make them publicly available on the internet, or to distribute or otherwise use the documents in public.

If the documents have been made available under an Open Content Licence (especially Creative Commons Licences), you may exercise further usage rights as specified in the indicated licence.



<https://creativecommons.org/licenses/by/4.0/>



Preference alignment or executive predominance: The rise of states' rulemaking provisions in the U.S.

Brian Baugus^a, Feler Bose^{b,*}, Jeffrey Jacob^c

^a Regent University, Virginia Beach, VA 23464, USA

^b School of Business and Economics, Indiana University, East, Richmond, IN 47374, USA

^c Department of Business, Bethel University St. Paul, MN 55112, USA

ARTICLE INFO

JEL Code:

H70
H73
H79
L51

Keywords:

Restrictiveness index
Preference alignment theory
Delegation
Administrative procedures act
Index of Ease of Agency burden
Executive Predominance

ABSTRACT

Before 1941, U.S. regulatory bodies were unrestricted. By 1946, several states and the federal government had imposed restrictions. It further took 40 years for every state to enact an Administrative Procedures Act (APA), a law that dictates how regulatory agencies promulgate regulations. Despite being overlooked, APAs significantly impact states in often missed or ignored ways. We analyzed each state's rulemaking procedures at four different points in time to see if they've increased or decreased restrictions on regulatory agencies. We created two indexes: a Restrictiveness index, a summative index, and another derived from multiple correspondence analysis. We studied how legislative professionalism, interest group constraint, citizen ideology, and government partisanship affect APA restrictions.

1. Introduction

Papers by Baugus and Bose (2015) and Baugus and Bose and Jacob (2021) have argued that state legislatures, especially hybrid legislatures, use various policy tools to balance the political and policy power advantages that the governor naturally has in the state government. In those papers, they proposed and found that sunset legislation is a quasi-bargaining tool and a way to keep the regulatory agencies from policy drift towards the executive (preference alignment theory). This is important because most state legislatures are part-time or hybrid and hence much of the running of the state governments in the United States is done by the executive branch. Their model was built based on Congleton's King and Council template (2001) where one branch has agenda control and the other has veto authority. The King and Council template can be used to explain changes in power structure between competing power centers through negotiation instead of revolution. The King and Council template has been expanded and applied to various other circumstances from Germanic governance during Caesar's time (Young, 2015), bargaining between the legislature and supreme court in the evolution of the Indian constitution (Bose, 2010), lack of credible bargaining resulting in persistent authoritarianism in Islamic societies

(Hillman, 2007; Abghari, 2007), and in contemporary socialist political systems in China with bargaining between party chief and the mayor and their confidants (Zhou, 2020).

This paper assumes that legislatures are very interested in ensuring administrative agencies are sensitive and responsive to legislative goals. If so, we would expect to see efforts to influence or even control the administrative and regulatory state in other areas of the law besides sunset provisions (Baugus et al., 2021), which are interesting but only one among many tools available for the legislature. This paper examines the state Administrative Procedures Acts (APAs) for the same tendencies and explores the question as to whether the APAs are used to keep agencies from drifting towards the executive and ensuring legislative priorities get equal consideration in regulatory administration. We do know that agencies can drift from both the executive and the legislature and follow their own preferences, we do not explore that here but our model could be modified to do so. In this paper, we hypothesize that part-time legislatures will impose more restrictions on administrative agencies.

Until 1941, no state legislature in the United States had placed any restrictions on regulatory agencies, at least not in a formal way. However, even before 1941 many legislatures recognized the need for rules

* Corresponding author.

E-mail address: bosef@iu.edu (F. Bose).

<https://doi.org/10.1016/j.jge.2024.100110>

Received 4 November 2023; Received in revised form 20 June 2024; Accepted 20 June 2024

Available online 20 June 2024

2667-3193/© 2024 The Authors. Published by Elsevier B.V. on behalf of The Academic Center for Chinese Economic Practice and Thinking, Tsinghua University and the Society for the Analysis of Government and Economics. This is an open access article under the CC BY license (<http://creativecommons.org/licenses/by/4.0/>).

and procedures in administering regulations and used legislation to impose procedural constraints or judicial oversight on administrative agencies (Harris, 1953). But this *ad hoc* approach meant that each agency in any state could and frequently did promulgate rules as they saw fit with little to no consideration or consistency among agencies.

In 1941 North Dakota became the first state to systematize and bring consistency to the way its regulatory agencies promulgated rules. Several states followed North Dakota’s lead and by 1946 the federal government had established its own APA; however, it was not until 1984 when the last states, Kansas and Kentucky established their APA (see Table 1 for when states adopted the APA).

The passage of APAs in the states did not seem to follow much of a pattern other than the first few states being mid-western or plains states. However, there is significant variation in the state APAs. Some are very strict and require numerous analyses and reports with several entities capable of stopping rule promulgation during the process and some states have minimal procedures and few possible stopping points and all sorts of combinations in between. We assume these differences are intentional as different legislatures pursue different goals or the same goals in different ways. This paper explores the different APAs and looks at other features of the states to determine if APAs or at least aspects of the APAs may be part of the broader political power struggle between the executive and the legislature.

We see this pattern played out in the international setting as well. Interestingly, despite being relatively young, the United States seems to be at the forefront of regulatory agency management. While the European Union has discussed it and mentioned it in various treaties and agreements, there was no real movement on the issue until relatively recently. “Calls for the codification of administrative procedure in Europe predated the Treaty of Lisbon, but with little practical result. The situation changed following the 2007 adoption of the treaty, which updated the powers of the European Parliament and its policymaking process. The Treaty of Lisbon revised the Treaty on the Functioning of the European Union (TFEU), establishing a new constitutional duty to regulate the conduct of EU administrative authorities and introducing a new policy concerning administrative cooperation” (Cananea, 2022). A few European countries adopted administrative procedure legislation before World War II and EU formation but most did not do so until after the U.S. adoption in 1946 with some adopting legislation very recently such as France in 2015 and with three EU countries not adopting any such legislation. The research shows that the motivations for the adoption of administrative procedure law vary “...the purposes behind administrative procedure legislation have varied. Some legislators intended to strengthen the protection of the individual’s rights, while others tried to improve administrative efficiency. Still others sought to increase the political control of bureaucracy.”, which of course is the same as we see in the individual U.S. states. Researchers in Europe face the same challenge as we do and find “it is necessary both to consider the

contents of administrative procedure legislation and to conduct a factual analysis.” This applies to the U.S. states as well and that is what we set out to do.

Our paper innovates in multiple ways. First, we put together a panel data set over four years that looks at how the Restrictiveness Index (Renfrow et al., 1986) evolved. Second, we use an aggregated legislative professionalism index (Squire Index) and compare results where we disaggregate the index. Third, we have a measure of restrictions on interest groups. Fourth, we create an index of APA restrictions using two approaches- additive index and multiple correspondence analysis to create an index of the ease of agency burden as a dependent variable. Fifth, we use a dynamic approach, examining trends and changes over time, which are, or at least can be, independent of the political conditions of any given moment. As the literature review section will demonstrate this is different than earlier studies which are reliant on surveys and interviews, research instruments we did not use. These reports have value, after all, we reference several, but they are static in nature, focusing on the conditions of a given point in time, which can be influenced by short-term political trends.

Section 2 provides the literature review. Section 3 looks at the preference alignment model and alternate theories. Section 4 provides details about our data collection. Section 5 presents our empirical analysis and Section 6 concludes.

2. Literature review

What follows is a brief description of the literature tied primarily to state APAs grouped in broad categories. The data that is used to write papers about state APAs or the federal APA have varied degrees of quality and strength of empirical analysis as well.

2.1. Participants

Regardless of how free or constrained regulatory agencies may be, they have quite a bit of power to implement regulations and legislative initiatives and such power attracts attention. Furlong and Kerwin (2005) found, based on survey data of different organizations and their participation in the rule-making process, that at least at the federal level interest groups seek to and actively participate in rulemaking and find participation valuable for achieving their goals (Furlong and Kerwin, 2005; Woods, 2015). Woods (2015) uses time-series cross-section data on legislative and gubernatorial rule review powers and how they impact environmental compliance costs. Yackee and Yackee (2006) examined 40 rules collected at the federal level and tracked how rules changed from the proposed rule to the final rule and found that promulgating agencies do change rules in response to comments through the public comment process, but the changes seem biased favoring businesses (Yackee and Yackee, 2006). However, West (2004), studying 42 federal rules, concluded that public comment does not provide enough incentive for federal agencies to change rules.

Cole and Caputo (1984), consistent with West, concluded that participation mechanisms are ineffective in making changes and that citizen participation largely only serves to legitimize predetermined rules, however, whether the broad application of this finding is questionable since the data was limited to general revenue sharing programs from the federal government to states and localities. This is a narrow scope of activity and specialized since it is government-to-government transfers and has a very different focus and purpose than occupation and business regulations. Moreover, and more consistent with Yackee and Yackee, Woods (2009) found that public notification and public access do benefit organized interests, and also increase the participation of other relevant actors such as the courts, other agencies, and the executive branch in influencing the content of proposed rules. Woods used data from a unique survey sent to 991 agency directors in fifteen states with an overall 44 % response rate.

Overall, according to Desai (1989), who studied data from several

Table 1
APA Adoption Year by State.

State	Year Adopted	State	Year Adopted	State	Year Adopted	State	Year Adopted
ND	1941	AZ	1952	OK	1963	NC	1973
MI	1943	MA	1954	GA	1964	UT	1973
OH	1943	RI	1956	WV	1964	TN	1974
WI	1943	MD	1957	ID	1965	IL	1975
CT	1945	OR	1957	NV	1965	NY	1975
IN	1945	WY	1957	LA	1966	TX	1975
MO	1945	AK	1959	SD	1966	VA	1975
NE	1945	CO	1959	AR	1967	MS	1976
PA	1945	WA	1959	VT	1967	SC	1977
MN	1946	DE	1960	NJ	1968	AL	1981
US	1946	FL	1961	NM	1969	KS	1984
CA	1947	HI	1961	MT	1971	KY	1984
IA	1951	ME	1961	NH	1973		

Source: de Figueiredo & Vanden Bergh (2004).

states on the regulations used to enforce the Surface Mining Control and Reclamation Act, public involvement in rulemaking was small when compared to industry or environmental groups.

2.2. Legislature impact

In a recent study, [Vakilifathi \(2019\)](#) found that time-limited legislatures, use *ex-ante* means to provide less discretion for bureaucracies. Vakilifathi finds evidence by analyzing 354 enactments tied to charter school “authorization, renewal, and revocation enactments” between 1991 and 2013. In addition, some studies have found that citizen legislatures pass legislation that is vaguer, allowing the agency bureaucrats to fill in implementation details using the rulemaking process. These conclusions are consistent with [Boushey and Grath’s \(2017\)](#) article that stated that part-time citizen legislatures result in more policymaking occurring in the executive branches as agencies engage in more rule-making and risk going rogue vis-à-vis legislative intent. Boushey and Grath’s key variable is the proposed and adopted regulations at the state level for the years 1990 to 2010.

[Huber, Shipan, and Pfahler \(2001\)](#) also made similar conclusions that part-time and relatively low-paid legislators who are dependent on other sources of income, thus have their time divided, have a high opportunity cost to micro-managing agencies, and should be less inclined to do so. It is full-time professional legislatures with large staffs and extensive committee structures that will be more able and willing to draft detailed legislation to tightly control what an agency does and how.

However, this looser approach to legislating by the part-time legislatures runs the risk of an agency going rogue or drifting away from the legislature’s desired policy goals. The risk of an agency going rogue is taken seriously by legislatures and [Poggione and Reenock \(2009\)](#) argue that legislative rule review acts as a substitute for statutory control of administrative agencies. This allows for legislative preferences to be translated into policy outcomes and results in reduced compliance costs regardless of party control. They reached this conclusion by looking at data from a survey of 2500 state legislators in twenty-four states. Legislatures have many tools when performing their oversight activities including the legislative veto, statutory oversight, sunset laws, rule-making review, and agency design ([Berry, 2020](#); [Baugus et al., 2021](#)), the APA is the part of the law that contains many of these legislative tools.

Shapiro and Borie-Holtz created a data set covering twenty-eight states looking at legislative review, executive review, and impact analysis. In each category a state can get a maximum score of 10 which would mean the state has placed numerous restrictions on the agencies’ ability to promulgate new rules, however, the weighting method used is a bit subjective. With this data, the authors find that requiring legislative review and impact analysis does not impact the number of regulations passed. However, executive review dampens the number of regulations but only if the governor is a Republican ([Shapiro and Borie-Holtz, 2015](#)). Further, the requirement for agencies to complete rulemaking within a certain period seems to impact the amount of rulemaking that occurs in states.

2.3. Structure and process

One of the more significant parts of the review process is the various analyses or statements that are required. The type of analyses required varies from state to state as we discuss below; some states require several and some require none. Some of the most common are cost-benefit analysis and economic impact statements. An empirical study by [Woods \(2018\)](#) using a unique survey of state administrators suggests that requiring such analysis reduces the influence of external political actors but in an earlier study, [Posner \(2001\)](#) poses an important question about the purpose of cost-benefit analyses implying that they may have different outcomes depending on whether they are conducted for

efficiency evaluation or as a political power move to control agencies.

Analytical justification, especially if the analysis is conducted by the agency promulgating the rule, may increase the power and influence of the agency with the legislature. The agency has an information advantage and can craft the analysis, within limits, towards the agency’s institutional preference. Most of these analyses go through several layers of review and are not the opinion of one analyst but an agency position. On the other hand, the analysis may provide the legislature with the vital information it needs to make an informed decision and possibly hold the agency accountable to legislative intent. These are some of the discussions in the literature (see e.g., ([Moe, 1989](#); [Wood and Bohte, 2004](#); [Adler and Posner, 2006](#))). These questions are even more important and agency analysis is potentially greater in states with legislative term limits, where most legislators do not have incentives or the time to develop independent expertise. Further, under united governments or when the executive branch is fragmented, perceived bureaucratic influence is greater ([Nicholson-Crotty and Miller, 2011](#)). Nicholson-Crotty and Miller use data from the 2002 State Legislative Survey ([Carey et al., 2008](#)) to run their empirical analysis for the 50 states. In support of the idea that agencies can exert considerable influence, [Boushey and McGrath \(2015\)](#) find that in times of divided government, either the legislature and executive are controlled by different parties or the two chambers of the legislature are, what is frequently referred to as gridlock, is an opportunity for agencies to act on their own. “[I]nstitutional gridlock empowers bureaucrats, who exploit disagreement among competing principals to pursue policy-goals through rule-making.”

[Sobel and Dove \(2014\)](#) used data from all 50 states and found that sunset provisions and fiscal impact statements on the cost of administering a regulation are associated with lower levels of regulation in a state. Their paper uses several measures tied to capturing the number of rules in a state which was the dependent variable and the independent variables included who does the review, what type of review, and if a cost-benefit analysis is part of the review. They also used data from [Schwartz \(2010\)](#) one of the data sets we use as well.

[Hahn \(2000\)](#) uses survey data from the National Association on Administrative Rules Review (NAARR), as well as interviews and information from administrative procedure acts, executive orders, and state reports to conduct an analysis of regulatory oversight procedures in the states. Hahn finds that several states have taken steps to improve regulations by creating oversight mechanisms like the federal Office of Management and Budget’s regulatory review process, or by requiring cost-benefit analysis for regulations. However, that study also found that due to a lack of proper funding and guidance, some of the reform efforts appear to be more symbolic than substantive. This is an important caveat with the current dataset as well. [Grady and Simon \(2002\)](#), also using NAARR survey data, found that the 1994 elections which shifted power to Republicans at the federal and state level, resulted in more restrictions placed on bureaucracies in many state legislatures.

3. Preference alignment vs. executive predominance

There are two strands of literature when discussing the interactions between legislatures and executive branches. One strand deals with preference alignment and the other with executive predominance due primarily to legislative delegation.¹

3.1. Preference alignment

As discussed above, [Baugus and Bose \(2015\)](#) hypothesized that sunset provisions in state APAs are tools state legislatures use to counter the natural tendency of regulatory agencies to drift towards the executive’s preferences both in policy and administration of policy. They

¹ Either the executive or the legislature can delegate duties to an agency.

referred to this as the preference alignment theory of sunset legislation. Sunset provisions and the threat that an agency could be eliminated, restructured, merged with another agency, or any of several other options provide the agency with strong incentives to keep the legislature's goals and preferences in mind as it goes about its daily business of delivering government services.

In the delegation literature, we find that legislatures can use monitoring and sanctions of bureaucratic agencies that drift but these *ex-post* actions are cumbersome processes. However, administrative procedures are an *ex-ante* way to restrain and direct agencies, reduce informational disadvantages that legislatures have, and further, empower constituents. "[B]ecause policy is controlled by participants in administrative processes, political officials can use procedures to control policy without bearing costs themselves, or even having to know what policy is likely to emerge" (McCubbins et al., 1987). Further, bureaucratic oversight is given over to the affected parties. The literature is clear that legislatures are concerned about agency capture (Stigler, 1971) and have two ways to address it; a strict but predictable *ex-ante* approach and a flexible but unpredictable *ex-post* approach (Bawn, 1997). The literature does seem to conclude that there is a trade-off between these two approaches, that different legislatures have differing preferences, and that the use of *ex-post* methods does lead to legislatures writing less detailed (more flexible) statutes (Huber and Shipan, 2011).

Legislatures have a significant principal-agent problem; they must fund and empower an agency to deliver the government services they want to provide. However the agency is part of and administered by the executive branch and often has an information advantage over the legislature, its staff are the specialists and experts in their agency and its activities. This means the legislature runs the very real risk of losing control of the agency either to the executive or even to the agency's agenda. The legislature wants agency compliance with the legislature's preferences but does not want to constrain the agency so much that it cannot deal with new circumstances effectively. However, the APA provides a third option that avoids preset statutory restrictive rules and avoids the cumbersome and reactive review and punishment/reward after-the-fact approach. The APA allows the legislature to set up a road map for promulgating rules which means the legislature can write itself into the process to whatever extent it prefers. If it does this, then it can decide to review every proposed rule, stop ones it does not like, fast-track ones it does, and essentially serve as a traffic cop in the rule-making process.

3.2. Executive predominance

Another line in the literature suggests that there has been a rising imbalance of power between the legislative and executive branches of government over the twentieth century. Administrative reforms have made state executive branches dominant over legislatures especially part-time legislatures. Further, interest groups lobby for term limits and for limiting the amount of time legislatures are in session as this increases interest group strength (Miller et al., 2011). Term limits also make it difficult for lobbyists to develop relationships with legislators and results in more work to get things done. Term-limited legislators may defer to the executive branch and administrators to get things done (Moncrief and Thompson, 2001).

The weakening of legislatures leaves a power and policy vacuum in state governments which might be assumed to make government smaller, after all, if a large part of government is not present surely the government cannot and will not do much governing. But instead of making government smaller, the nexus of policy-making and government action just shifts to the executive agencies. This was a concern expressed about agencies, that were filling legislative and judicial roles with little to no oversight and an original reason for the APA. "In fact, this effect appears strongest in states with citizen legislatures" (Boushey and McGrath, 2017). Weaker legislatures mean lesser expertise, which results in legislatures outsourcing or delegating to expert bureaucracies

to deal with policy changes (Huber and Shipan, 2002). Further, state bureaucracies can get more autonomy as gaps in expertise grow. If this holds, then less professional legislatures will have fewer restrictions on the bureaucracy promulgating rules.

4. The data

To test our preference alignment hypothesis, we constructed a 4-year panel data set covering the years 1986, 1996, 2010, and 2020 for the 50 U.S. states creating a sample size of approximately 200 state observations. Data was also compiled from other online resources provided by websites representing government agencies, as well as relevant third-party sources. We also created an index of ease of agency burden using multiple correspondence analysis.

4.1. Dependent variable

Our first dependent variable captures the extent of APA restrictiveness across various states and over time. In 1952, Heady conducted an APA review in only six states as most states did not have any APA mechanisms. Since then, there have only been four large-scale reviews. The first was done by Renfrow, West, and Houston (1986) of a 49-state APA review (Kansas, one of the last states to enact an APA was omitted) examining the restrictions placed on rulemaking. They created a data set, and it is the first one, chronologically, of the four we use in this paper. Their paper analyzed a dozen variables and created a Restrictiveness Index which serves as something of a model and launchpad for our work. The Index measures how much or little each state's APA restricts the agencies' ability to promulgate rules and reduces the array of variables into a single digestible number.

Our second data point comes from the 1996 NAARR (National Association on Administrative Rules Review) survey in which they compiled a comprehensive database from 49 states (Rhode Island was omitted for unknown reasons) (NAARR, 1996). The survey asked twenty-six yes or no questions, with numerous sub-questions, of state legislatures in three broad categories.

Our third data point comes from Schwartz (2010). His study differs from previous efforts in significant ways. He not only assembles a large data set he also evaluates the states and gives each a letter grade, no previous study used both a positive and normative approach.

The fourth and final data point comes from Baugus, Bose, and Broughel (2022). In a comprehensive review for the Mercatus Center, Baugus, Bose, and Broughel compiled a large comprehensive database and a written summary of each state's APA procedures. This can be thought of as an update of all that has come before but minus the normative grading aspect of Schwartz.

Using the 12 variables of the Restrictiveness Index from the first dataset (Renfrow et al., 1986), we pulled the same or similar variables out of the three other data sets. Later data sets do not have all 12 variables but all have at least 9 items consistent across the years. We use these nine variables in the construction of our restrictiveness index. Table 2 below shows what the key variables are, and which data sets evaluate them resulting in the Index of APA Restrictions. Thus, we compile a measure of APA restrictions over time. One drawback of having these nine categorical measures is that these individual measures do not lend themselves to a dynamic panel data method. These measures can however be combined into a quantitative measure that can be used as a dependent variable in an econometric study examining determinants of overall APA restrictions. The first approach we follow is from Renfrow et al.'s paper (1986) where we add all the binary variables to create the Index of APA restrictions. Hence, we use an equal weighting scheme, a method that is common in the creation of composite indicators. This allows for simplicity and there is no need to theoretically justify a different weighting scheme, but it comes at a cost of oversimplification. The higher the index number the more restrictive that state's APA is on the agencies, that is more steps are required to

Table 2

The variables making the Index of APA Restrictions taken from the Restrictiveness Index found in [Renfrow et al.'s paper \(1986\)](#) and the years the data was available.

Procedure	Definition: Does the APA require/ allow...	In 1986	In 1997	In 2010	In 2020
Express Terms (<i>exp_term</i>)	the proposed rule explained in plain language for public understanding	Y	N	Y	N
Public Comment (<i>pub_comment</i>)	the agency to allow for the public to comment before the rule is promulgated	Y	Y	Y	Y
Petition (<i>petition</i>)	the public to petition the agency for a rule change	Y	Y	Y	Y
Statutory Authority (<i>stat_author</i>)	the agency to provide and document the statutory authority for promulgating the rule	Y	Y	Y	Y
Register (<i>register</i>)	The proposed rule to published in the public register	Y	N	N	Y
Leg-Exec Review (<i>legis_exec_review</i>)	the proposed rule to be subject to review by either the legislature or the executive or both	Y	Y	Y	Y
Leg-Exec Veto (<i>legis_exec_veto</i>)	the proposed rule to be subject to a veto by either the legislature or the executive or both	Y	Y	Y	Y
Economic Analysis (<i>eco_analysis</i>)	the agency or some other entity to conduct an economic analysis of the potential impact of the proposed rule	Y	Y	Y	Y
Rules Review (<i>rules_review</i>)	rules to go through a periodic review to determine if they need changes or eliminated	Y	Y	Y	Y
Calendar (<i>calendar</i>)	agencies to have a public calendar of their rule promulgation and review process	Y	N	Y	N
Substantial Evidence (<i>subst_evidence</i>)	agencies, primarily in a review/court procedures, to produce substantial evidence of the need for the rule	Y	Y	Y	Y
Cross Examination (<i>cross_exam</i>)	challengers to the rule to call witnesses and cross examine the agency	Y	Y	Y	Y

promulgate a rule. But this is a review of written procedures, we have no way of measuring how difficult the promulgation process is, how many of these steps are regularly used, and how many may have teeth or maybe mere formalities. A drawback of the data collection process that studies in this literature, including ours, is that these dependent variables are available only once every eight to ten years due to the dearth of previous studies. We do not know when a state may have changed its APA regulations in the intervening period.

4.2. Use of multiple correspondence analysis to create an index of ease of agency burden (second dependent variable)

The approach of creating a restriction index by adding all the individual components, while used in the literature, has a major drawback; all the components are given equal weight. An underlying assumption of this approach is that the individual items have one factor in common and each component is an equally good representation of the underlying phenomena ([Kim and Rabjohn, 1980](#)). There are two commonly used

methods of combining multiple variables into a summary measure, where the weights are driven by data. One is Principal Component Analysis (which is the more commonly used method in social sciences) which combines continuous variables into fewer variables of the dataset which are a linear combination of the original variables, with the weights being determined by variances. For categorical (or ordered qualitative) variables, a similar approach is Multiple Correspondence Analysis (MCA), where the weights are based on covariances. Thus, rather than assigning equal weights to all nine individual components in the construction of an additive index, MCA enables the weights to be driven by the data. [Asselin \(2002\)](#) provides a detailed explanation of the MCA methodology.

Given the longitudinal nature of our data, the choice we faced was whether to construct a separate index for each period or to pool the variables across all periods and then construct the index spanning the four years. In creating an index of health from a set of self-reported qualitative health variables, [Kohn \(2012\)](#) argues that creating an index from pooled data is more appropriate if there are dynamics involved in the modeling process and if the sample size is small. Since MCA maximizes the correlation of the variables within the sample, outliers and small sample sizes can reduce the precision of the index. Pooling the data for four years increases are sample size substantially. The default output of MCA produces two dimensions (comparable to the factors in principal component analysis) though as many dimensions as the number of underlying variables are created. Each dimension is orthogonal to the other, capturing a distinct set of features. Ideally, the first component can capture most of the information from the data and can be used as the index. In our dataset, however, the first component only captured 21 % of the variation, while the second component captured an additional 17 %. This suggests that it is difficult to reduce these nine variables into a single measure using this statistical transformation, which is not completely unexpected since these variables, while all related to restricting agency rulemaking, are assessing very different things, from executive involvement to agency analysis requirements to citizen input.

A second interpretation of the dimensions is to observe what specific factors go into the construction of that dimension. A closer examination of the MCA components does reveal some interesting patterns. [Fig. 1](#) presents the loading of the variables into the first two dimensions of the MCA.

Four variables; Statutory Authority, Rules Review, Economic Analysis, and Cross-Examination load heavily on the first dimension. Executive review loads on both dimensions. Since these are categorical variables, we need to see if the presence (coded as 1) or absence (coded as 0) of these measures impacts dimension 1. [Fig. 2](#) shows the top five contributors to dimension 1.

As seen in [Fig. 2](#), it is the absence of these measures that goes into the first dimension of MCA. These variables can collectively be seen to capture Agency Burden. Thus, we call the first dimension of the MCA an Index of the Ease of Agency Burden. We use this measure as our second dependent variable. This measure is, in a sense, the opposite of a restrictions index. It captures the lack of restrictions on the regulatory authorities. In [Fig. 3](#), we plot the location of various states along the first two dimensions of the MCA. We see that AR, SD, RI, WY, MS, UT, and WV are represented in the coordinate capturing the index of the ease of agency burden.

4.3. Independent and control variables

Our first independent variable is the Squire Index. The Squire Index utilizes three variables to measure the professionalization of legislatures: length of the legislative session, staff resources, and member pay. The states are ranked on a scale of zero to one, with one indicating that a state completely resembles the US Congress (long sessions, significant resources, high pay) and zero indicating no resemblance whatsoever (short sessions, minimal resources, and low or no pay). We obtained the

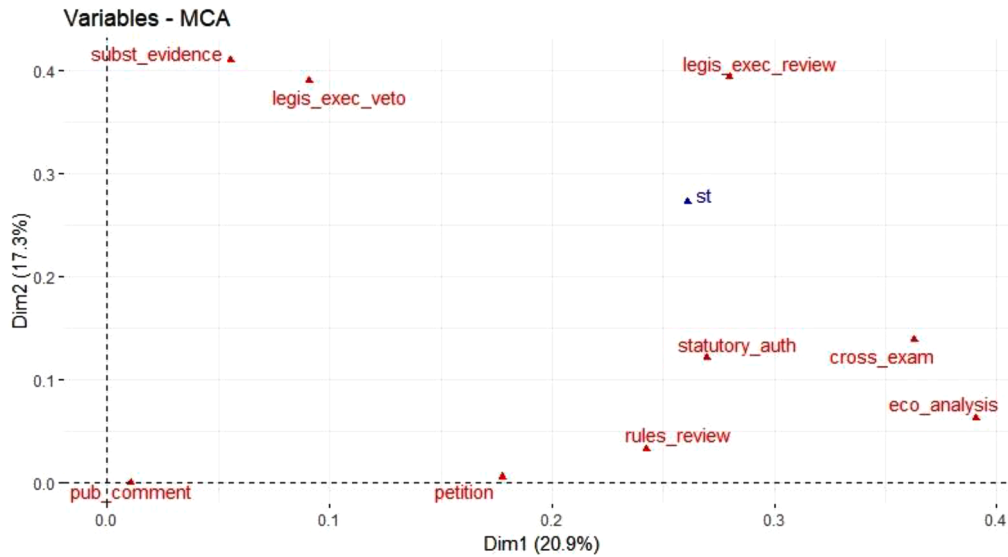


Fig. 1. Representation of restrictiveness variables on the first two dimensions of MCA.

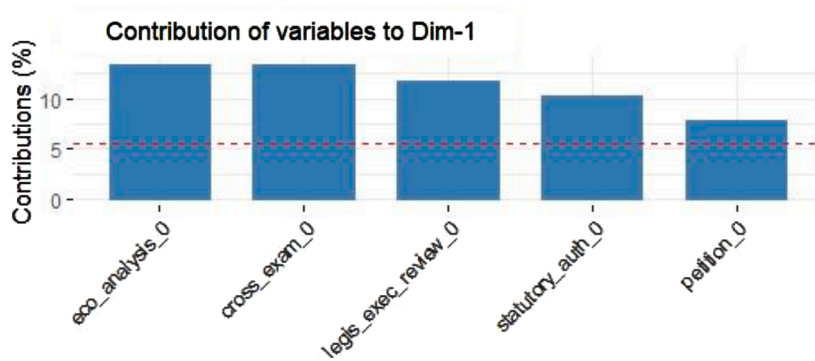


Fig. 2. Top five contributors to Index of Ease of Agency Burden.

data for 1986, 1996, 2009, and 2015 (Squire, 2007; Squire, 2017; Squire, 2012).

We also wanted to account for partisan control and prevailing political ideology. We have a measure of Democrat control of the state government through the modified Ranney Index.² The index measures the average percentage of Democrats in the House and Senate, and the percent vote for the Democrat’s gubernatorial candidate, accounting further for whether they control all three institutions. A Ranney Index value closer to one indicates Democrat control. The data was collected from the Book of the States provided by The Council of State Governments for all the years, except for 2020 for which we used Ballotpedia.³

We use one ideology variable: citizen ideology. Citizen ideology data

² The Ranney Index formula is shown below. We obtained the data to create the Ranney Index from Klarner, 2013. Other Scholars’ Competitiveness Measures. Harvard Dataverse. and stateminder website (<http://stateminder.org/variables/> accessed March 1, 2015) and used current year information instead of running averages over many years. Ranney Index = [(Percent Vote for Democrat’s Candidate for Governor) + (Percent Democrats in House) + (Percent Democrats in Senate) + (Control Variable)] / 4 Control Variable: If democrats control house, senate, and governorship: = 1 (100 %), Otherwise = 0 (0 %). If democrats have control of only some branches: = .5 (50 %)

³ https://ballotpedia.org/Gubernatorial_elections,_2020 (accessed Dec 3, 2021).

was obtained from Richard Fording’s website⁴ and is the “revised 1960–2016 citizen ideology series” (Berry et al., 1998). The larger the ideology value, the more liberal or leftwing the state.

Interest group constraints are based on the data dealing with registration and reporting requirements in five categories. Lobbyists must usually register with an agency of the state and provide regular reports of their activities. The five categories are: Total Expenditures, Expenditures by category, Sources of income, Monies or gifts to individual officials, and Legislation supported/opposed by lobbyists. Each category is given a one or zero, with five being the highest score and indicative of having the most reporting and regulatory burdens with which lobbyists must comply. We obtained this data from the Book of the States for 1986, 1994, and 2005 (TheCouncilofStateGovernments, 1987, 1995, 2005). The data from 2018 came from the National Conference of State Legislators website,⁵ as did the lobbyist registration data from 2021.⁶

Finally, we also obtain data on some of the individual components of the Squire Index. These include the categorical variables of the full-time legislature, hybrid legislature, and citizen legislature. Data were

⁴ <http://rcfording.wordpress.com/state-ideology-data/> (accessed December 1, 2021).

⁵ <https://www.ncsl.org/research/ethics/50-state-chart-lobbyist-report-requirements.aspx> (accessed December 15, 2021).

⁶ <https://www.ncsl.org/research/ethics/50-state-chart-lobbyist-registration-requirements.aspx> (accessed December 15, 2021).

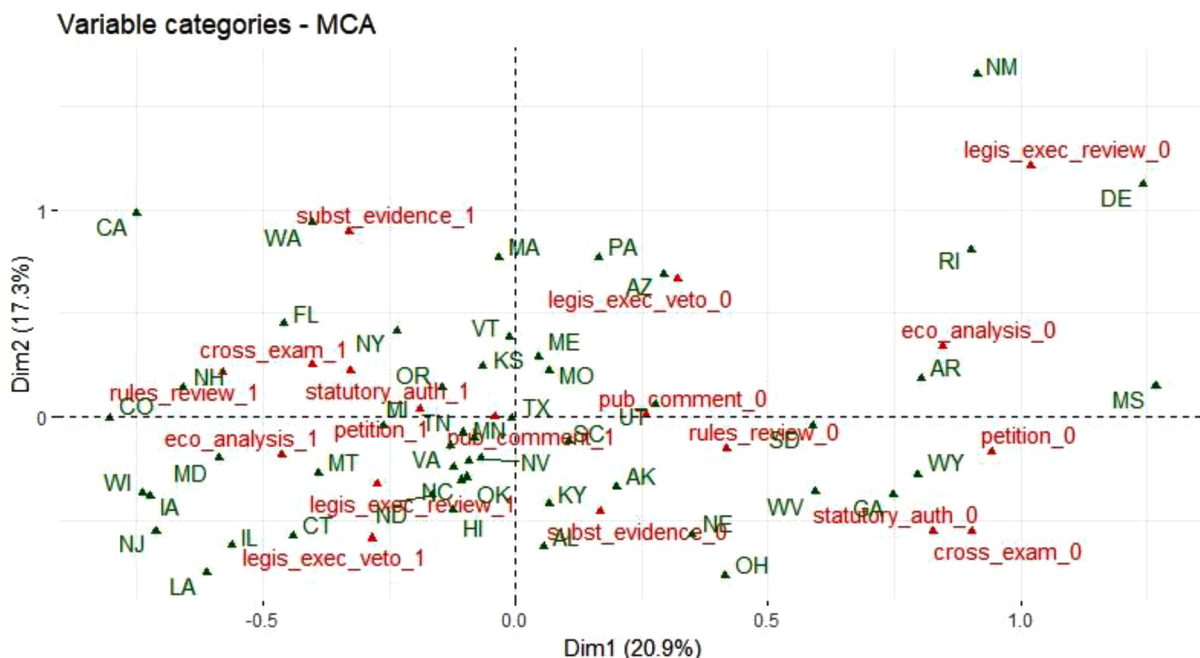


Fig. 3. Location of States along the first two dimensions of MCA.

obtained from various sources (Moncrief et al., 1992; Kousser, 2004), the Wayback Machine, and the National Council of State Legislature website.⁷ We obtained staff information from the National Council of State Legislatures website⁸ and legislator information from the Book of the States website for various years.⁹ For term limits, we again used the National Council of State Legislatures website and coded for when term limits were in effect.¹⁰ Summary statistics are given below in Tables 3 and 4.

We do see a very high correlation between the two indices. The Squire Index, Interest Group Constraints, and Citizen Ideology are positively correlated with the Index of APA restrictions. We also see that

Table 3
Descriptive Statistics.

Variables	Obs	Mean	Std. dev.	Min	Max
Index of APA Restrictions	198	5.83	1.78	0.00	9.00
Index of Ease of Agency Burden	198	-1.55E-09	0.46	-0.70	1.39
Squire Index	200	0.21	0.12	0.03	0.66
Interest Group Constraint	200	3.39	1.45	0.00	5.00
Citizen Ideology	200	48.23	15.82	9.25	97.00
Ranney Index	200	0.50	0.19	0.06	0.88
Staff per Legislator	200	4.65	4.05	0.27	24.82
Full-Time Legislature	200	0.19	0.39	0.00	1.00
Hybrid Legislature	200	0.51	0.50	0.00	1.00
Part-Time Legislature	200	0.30	0.46	0.00	1.00
Term Limits Present	200	0.16	0.37	0.00	1.00

⁷ <https://www.ncsl.org/research/about-state-legislatures/full-and-part-time-legislatures.aspx> (accessed November 24, 2021).

⁸ <https://www.ncsl.org/research/about-state-legislatures/staff-change-chart-1979-1988-1996-2003-2009.aspx> (accessed December 8, 2021).

⁹ <https://knowledgecenter.csg.org/kc/category/content-type/content-type/book-states> (accessed December 8, 2021).

¹⁰ <https://www.ncsl.org/research/about-state-legislatures/chart-of-term-limits-states.aspx#3> (accessed December 9, 2021).

the Squire Index is positively correlated with the presence of Full-Time and staff per legislator, while negatively correlated with hybrid or part-time legislature.

5. Empirical analysis

In this paper, we attempt to study the impact of the professionalism of the legislature, constraints on interest groups, and ideologies of citizens and government on the formulation of APA restriction. We start with static estimation and Table 5 presents the results using pooled OLS and fixed effects panel data regression. In column 1, the Squire Index is not statistically significant, while Interest group constraints have a positive effect on restrictions. The two ideology variables are added in column 2 and the more progressive the government, the less are the APA restrictions. Interest group constraint continues to be positive and significant (i.e., more APA restrictions). Columns 3 and 4 present the results using the fixed effects panel data estimation. The results are qualitatively similar to the pooled OLS case. In column 4, only interest group constraint and Ranney index are statistically significant and with the same signs as before. However, the magnitude of the estimates is greater.

In Table 6, we examine the relationship between the independent variables and our Index of the Ease of Agency Burden.

Unsurprisingly, the results are very similar to those in Table 5. The Squire Index is not statistically significant. Interest group constraints have a negative and statistically significant impact on the ease of agency burden while the Ranney index has a positive impact on the Index of ease of agency burden. In both these tables, the Squire Index is not statistically significant. One drawback with the above estimation though is that it does not control for any dynamics within the model and also assumes exogeneity of the independent variables. A violation of this assumption leads to biased estimates. In the presence of endogeneity, the standard approach is to use instrumental variable estimation methods, which require the existence of external instruments that are correlated with the endogenous variables while at the same time being uncorrelated with the dependent variable. In the context of the study, it will be difficult to find such variables.

In the next set of results, we relax these assumptions and examine these relationships in a dynamic panel data model, which allows for

Table 4
Correlation Matrix.

	Index of APA Restr.	Index of Ease of Agency Burden	Squire Index	Interest Group Const.	Citizen Ideol.	Ranney Index	Staff per Legis.	Full Time Legis.	Hybrid Legis.	Part Time Legis.	Term Limits Present
Index of APA Restr.	1.00										
Index of Ease of Agency Burden	-0.97	1.00									
Squire Index	0.15	-0.15	1.00								
Interest Group Const.	0.25	-0.29	0.24	1.00							
Citizen Ideol.	0.07	-0.11	0.39	0.29	1.00						
Ranney Index	-0.11	0.12	0.17	0.01	0.43	1.00					
Staff per Legis.	0.16	-0.15	0.73	0.22	0.21	0.14	1.00				
Full Time Legis.	0.11	-0.14	0.75	0.17	0.31	0.08	0.55	1.00			
Hybrid Legis.	0.05	-0.04	-0.13	0.02	-0.14	0.05	-0.03	-0.49	1.00		
Part Time Legis.	-0.15	0.17	-0.50	-0.17	-0.11	-0.13	-0.43	-0.32	-0.67	1.00	
Term Limits Present	0.13	-0.19	0.14	0.13	-0.08	-0.16	0.10	0.06	0.00	-0.05	1.00

Table 5
Effect of political variables on APA restrictions, Pooled OLS and Fixed Effects Estimation.

Dependent Variable:	Index of APA Restrictions			
	Pooled OLS		Panel Fixed Effects	
	(1)	(2)	(3)	(4)
Squire Index	1.386 (1.009)	1.626 (1.070)	-1.747 (3.003)	-2.146 (3.074)
Interest Group Constraint	0.280*** (0.087)	0.267*** (0.089)	0.414*** (0.118)	0.369*** (0.119)
Citizen Ideology		0.003 (0.009)		0.001 (0.019)
Ranney Index		-1.372* (0.713)		-2.060** (0.934)
Observations	198	198	198	198
Number of States			50	50

Standard errors in parentheses.

*** $p < 0.01$.

** $p < 0.05$.

* $p < 0.1$.

Table 6
Effect of political variables on Ease of Burden, Pooled OLS and fixed effects estimation.

Dependent Variable:	Index of Ease of Agency Burden			
	Pooled OLS		Panel Fixed Effects	
	(1)	(2)	(3)	(4)
Squire Index	-0.318 (0.258)	-0.338 (0.272)	0.354 (0.762)	0.604 (0.778)
Interest Group Constraint	-0.085*** (0.022)	-0.078*** (0.023)	-0.119*** (0.030)	-0.105*** (0.030)
Citizen Ideology		-0.002 (0.002)		-0.004 (0.005)
Ranney Index		0.407** (0.182)		0.565** (0.236)
Observations	198	198	198	198
Number of States			50	50

Standard errors in parentheses.

*** $p < 0.01$.

** $p < 0.05$.

* $p < 0.1$.

feedback from past realizations of the dependent variable and can also control for endogeneity in the model, that is feedback from the dependent variable to the independent variables. We treat the two ideology

measures as endogenous. The typical approach to deal with endogeneity is to find external instruments. It is however hard to find external instruments for our ideology variables. The GMM-based dynamic panel data models proposed by [Arellano and Bond \(1991\)](#) get around these issues by exploiting moment conditions resulting from the past values of the variables. It has been shown however that for finite samples (moderate N and small T), as is the case in our study, these estimators may be biased ([Bun and Kiviet, 2006](#); [Alonso-Borrego and Arellano, 1999](#)). [Moral-Benito \(2013\)](#) developed an alternative likelihood-based, called a subsystem limited information maximum likelihood (ssLIML) estimator that does not require some of the assumptions of the [Arellano-Bond \(1991\)](#) estimator. We use this estimator in this paper. The results are in [Table 7](#).

In the complete model specification, allowing for dynamic effects and endogeneity of ideology variables, we find that the Squire Index has a statistically significant and positive impact on the Index of APA Restrictions suggesting more professional legislatures support restrictions on bureaucracy. This is a surprising finding to us and goes against our preference alignment hypothesis. However, this might be due to the aggregate nature of the Squire Index, and in the next set of runs, we disaggregate the index to understand the issue better. The Ranney Index seems to have a statistically significant and negative impact on APA

Table 7
Effect of political variables on APA restrictions, Dynamic Models[†].

VARIABLES	Index of APA Restrictions	Index of Ease of Agency Burden
Lag APA Restriction	-0.035 (0.102)	
Lag Ease of Agency Burden		-0.058 (0.098)
Squire Index	5.896* (3.540)	-1.129 (0.840)
Interest Group Constraint	-0.300* (0.156)	0.058 (0.037)
Citizen Ideology	-0.024 (0.036)	0.010 (0.009)
Ranney Index	-3.352** (1.354)	0.729** (0.332)
Number of groups	48	48

Standard errors in parentheses.

*** $p < 0.01$.

** $p < 0.05$.

* $p < 0.1$.

[†] Estimation was done using subsystem limited information maximum likelihood dynamic panel data estimator ([Moral-Benito, 2013](#)).

suggesting that the more Democrat control of the legislature and executive branch, the fewer restrictions are put on agencies. This conclusion is consistent with popular perceptions of the two major political parties; that the Democratic party tends to favor government regulation more than the Republican party. However, political parties are not monolithic, there is ideological diversity within political parties; a Texas Democrat is not the same thing as an Oregon Democrat. However, research shows that in any given state or region, the median Democrat consistently has a more favorable attitude toward government regulation than the median Republican. A 2017 nationwide survey by the Pew Research Center highlights this fact; “Two-thirds of Democrats (66 %) say government regulation of business is necessary to protect the public interest. That is comparable to the shares of Democrats who said this in 2016 (63 %) and 2014 (66 %). However, Democratic support for regulation of business is now higher than it was during much of the 1990s and 2000s. For example, in 2008, fewer than half of Democrats said government regulation of business was necessary to protect the public interest.

Just 31 % of Republicans say government regulation of business is needed; about twice as many say such regulation “usually does more harm than good.” These views have changed little over the past eight years” (Center, 2017).

The results are quite different for the Index of Ease of Agency Burden. None of the previously significant variables have an impact on this index, except the Ranney Index. A higher value of the Ranney index (more Democrat control) is associated with greater ease of agency burden.

The Squire Index is an aggregate measure capturing the extent of professionalism of the legislator. However, this comes with limitations as professionalism is a heterogenous concept with many states professionalizing in some areas but not others. Therefore we can get varied effects on state politics. Nearly, all “work on professionalism has utilized an aggregate index, disaggregation provides an underutilized and promising avenue for future research” (Bowen and Greene, 2014). For this reason, we disaggregate the index. In the next set of regressions, we replace the Squire Index with the type of legislature, staff per legislature, and whether there are term limits to the legislature. This allows for more meaningful results as information is added. We also focus on the Index of APA Restrictions as the dependent variable.¹¹ Results are reported in Table 8. The omitted category is the Part-Time Legislature.

The results for the static model (Cols. 1–4) are consistent with the findings in Table 5. The legislative variables have no impact on APA restrictions while Interest Group Constraints have a positive impact on APA restrictions. Like before, the statistical significance and sign of the Ranney Index suggest that a stronger Democrat control of the government is associated with fewer restrictions on the agency.

Column 5 reports the findings from the dynamic panel data estimation. In this, model, Interest group constraints have no impact on APA restrictiveness while the Ranney Index continues to be significant and negative.

The results for the legislative variables are interesting and are in alignment with our hypothesis. The more resources the legislature has, as measured by the number of staff per legislator, the fewer agency restrictions as more oversight is possible. More interestingly, compared to part-time legislatures, both full-time and hybrid legislatures are associated with a negative impact on APA restrictions. Together, these results do imply that more professional legislatures have fewer restrictions on regulatory agencies, supporting our hypothesis based on the preference alignment theory.

¹¹ Our results from the Index of Ease of Agency Burden did not converge and hence we do not have anything to present.

Table 8
Effect of political variables on APA restrictions, static and dynamic panel data.

Dependent Variable VARIABLES	Index of APA Restrictions				
	Pooled OLS		Fixed Effects		Dynamic Panel
	(1)	(2)	(3)	(4)	
Lag APA Restrictions					0.073 (0.470) -0.133***
Staff per Legislator	0.026 (0.038)	0.033 (0.038)	0.083 (0.124)	0.045 (0.124)	(0.043) -2.254***
Full-Time Legislature	0.370 (0.452)	0.356 (0.457)	-1.113 (1.161)	-1.348 (1.157)	(0.176) -2.166***
Hybrid Legislature	0.324 (0.297)	0.383 (0.298)	-0.665 (0.688)	-0.767 (0.684)	(0.124) 0.412
Term Limits Present	0.430 (0.336)	0.341 (0.340)	0.487 (0.469)	0.341 (0.473)	(0.374) -0.024
Interest Group Constraint	0.259*** (0.087)	0.237*** (0.091)	0.395*** (0.124)	0.371*** (0.124)	(0.190) 0.026
Citizen Ideology		0.007 (0.009)		-0.004 (0.019)	(0.032) -3.120***
Ranney Index		-1.439** (0.728)		-1.967** (0.960)	(0.346)
Observations	198	198	198	198	
R-squared	0.089	0.107	0.092	0.120	
Number of stid			50	50	48

Standard errors in parentheses.

*** $p < 0.01$.

** $p < 0.05$.

* $p < 0.1$.

6. Conclusion

The work of government has to be delegated and the legislature and the executive have principal-agent problems that can be statutorily controlled, for which the APA is one solution. Our results do show support for our hypothesis based on preference alignment. That is part-time legislatures impose more restrictions on administrative agencies to ensure those agencies are sensitive and responsive to legislative goals. Administrative procedure restrictions are used as a way to control what a bureaucracy does and are an effective and low-cost way to control policy without needing detailed policy information (McCubbins et al., 1987). Our findings temper the conclusions of those who suggest that executive predominance is occurring such as Boushey and Grath's (2017) article that stated that part-time citizen legislatures result in more policymaking occurring in the executive branches as agencies engage in more rulemaking and risk going rogue vis-à-vis legislative intent.

Our interest group variable is also not significant in our analysis. Further, the finding about partisan differences indicates that Democrats are more willing to use regulatory agencies to reach their goals, which is consistent with certain prevailing assumptions about differences between the parties and the research in this area.

Declarations

- The authors have no relevant financial or non-financial interests to disclose.
- The authors did not receive support from any organization for the submitted work.
- This article does not contain any studies with human participants or animals performed by any of the authors.

- The data that support the findings of this study are available from the corresponding author, FB, upon reasonable request.
- All authors have equally contributed to this paper.

CRedit authorship contribution statement

Brian Baugus: Conceptualization, Writing – original draft, Writing – review & editing. **Feler Bose:** Conceptualization, Data curation, Writing – original draft, Writing – review & editing. **Jeffrey Jacob:** Investigation, Methodology, Visualization, Writing – original draft, Writing – review & editing.

Declaration of competing interest

The authors declare that they have no known competing financial interests or personal relationships that could have appeared to influence the work reported in this paper.

Acknowledgement

We are thankful for the useful comments we received from the participants of the Public Choice conference.

References

- Abghari, S., 2007. Political economy of political power of the Islamic regime in Iran. *J. Third. World Stud.* 24, 247–266.
- Adler, M.D., Posner, E.A., 2006. *New foundations of cost-benefit analysis*. Harvard University Press, Cambridge, Mass.
- Alonso-Borrego, C., Arellano, M., 1999. Symmetrically normalized instrumental-variable estimation using panel data. *J. Bus. Econ. Stat.* 17, 36–49.
- Arellano, M., Bond, S., 1991. Some tests of specification for panel data: monte carlo evidence and an application to employment equations. *Rev. Econ. Stud.* 58, 277–297.
- Asselin, L.M., 2002. Composite indicator of multidimensional poverty. Institut de Mathématique Gauss, Levis, Quebec.
- Baugus, B. & Bose, F. 2015. *Sunset Legislation in the States: balancing the Legislature and the Executive*. *Mercatus Research Paper*.
- Baugus, B., Bose, F., Broughel, J., 2022. A 50 state review of regulatory procedures. Mercatus Center at George Mason University, Arlington, VA.
- Baugus, B., Bose, F., Jacob, J., 2021. Get in line: do part-time legislatures use sunset laws to keep executive agencies in check. *Regul. Gov.* 15, 185–199.
- Bawn, K., 1997. Choosing strategies to control the bureaucracy: statutory constraints, oversight, and the committee system. *J. Law, Econ., Organizat.* 13, 101–126.
- Berry, M., 2020. Empowering legislatures: the politics of legislative veto oversight among the U.S. states. *J. Legislat. Stud.* 1–18.
- Berry, W.D., Ringquist, E.J., Fording, R.C., Hanson, R.L., 1998. Measuring citizen and government ideology in the American states, 1960–93. *Am. J. Pol. Sci.* 42.
- Bose, F., 2010. Parliament vs. Supreme court: a veto player framework of the Indian constitutional experiment in the area of economic and civil rights. *Constitut. Politic. Econ.* 21, 336–359.
- Boushey, G., Mcgrath, R.J., 2015. *The Gift of gridlock: Divided government, Bureaucratic autonomy, and the Politics of Rulemaking in the American sta.* American Political Science Association, San Francisco, CA.
- Boushey, G.T., Mcgrath, R.J., 2017. Experts, Amateurs, and bureaucratic influence in the American states. *J. Public Administrat. Res. Theory* 27, 85–103.
- Bowen, D.C., Greene, Z., 2014. Should we measure professionalism with an index? a note on theory and practice in state legislative professionalism research. *State Polit. Policy. Q.* 14, 277–296.
- Bun, M.J.G., Kiviet, J.F., 2006. The effects of dynamic feedbacks on LS and MM estimator accuracy in panel data models. *J. Econom.* 132, 409–444.
- Cananea, G.D. 2022. *Administrative procedure in Europe. The regulatory review. Penn program of regulation.*
- Carey, J.M., Niemi, R.G., Powell, L.W., Moncrief, G., 2008. 2002 state legislative survey. *Inter-University Consort. Politic. Soc. Res.* [distributor].
- Center, P.R. 2017. *The Partisan Divide on Political Values Grows Even Wider: sharp shifts among Democrats on aid to needy, race, immigration.*
- Cole, R.L., Caputo, D.A., 1984. The public hearing as an effective citizen participation mechanism: a case study of the general revenue sharing program. *Am. Polit. Sci. Rev.* 78, 404–416.
- Congleton, R.D., 2001. On the durability of king and council: the continuum between dictatorship and democracy. *Constitut. Politic. Econ.* 12, 193–215.
- de Figueiredo, Rui J.P., Vanden Bergh, Richard G., 2004. *The Political Economy of State-Level Administrative Procedure Acts*. *J. Law Econ.* 47, 569–588.
- Desai, U., 1989. Public participation in environmental policy implementation: case of the surface mining control and reclamation act. *Am. Rev. Public Administrat.* 19, 49–65.
- Furlong, S.R., Kerwin, C.M., 2005. Interest group participation in rule making: a decade of change. *J-PART* 15, 353–370.
- Governments, T.C.O.S., 1995. *The Book of the States. The council of state governments*, Lexington, KY.
- Governments, T.C.O.S., 2005. *The Book of the States. The council of state governments*, Lexington, KY.
- Grady, D.O., Simon, K.M., 2002. Political restraints and bureaucratic discretion: the case of state government rule making. *Politics & Policy* 30, 646–679.
- Hahn, Robert W., 2000. State and federal regulatory reform: a comparative analysis. *J. Legal. Stud.* 29, 873–912.
- Harris, W.R., 1953. *Administrative practice and procedure: comparative state legislation*. *Oklahoma Law Review* 6, 29–64.
- Hillman, A.L., 2007. Economic and security consequences of supreme values. *Public Choice* 131, 259–280.
- Huber, J.D., Shipan, C.R., 2002. *Deliberate discretion? The institutional foundations of bureaucratic autonomy*. Cambridge University Press, Cambridge.
- Huber, J.D., Shipan, C.R., 2011. Politics, delegation, and bureaucracy. In: GOODIN, R. (Ed.), *The Oxford handbook of political science*. Oxford University Press.
- Huber, J.D., Shipan, C.R., Pfahler, M., 2001. Legislatures and statutory control of bureaucracy. *Am. J. Pol. Sci.* 45, 330–345.
- Kim, J.O., Rabjohn, J.N., 1980. Binary variables and index construction. *Sociol. Methodol.* 11, 120.
- Klarner, C., 2013. Other scholars' competitiveness measures. *Harvard Dataverse*.
- Kohn, J.L., 2012. What is health? A multiple correspondence health index. *East. Econ. J.* 38, 223–250.
- Kousser, T., 2004. *Term limits and the dismantling of state legislative professionalism*. Cambridge University Press, Cambridge.
- Mccubbins, M.D., Noll, R.G., Weingast, B.R., 1987. Administrative procedures as instruments of political control. *J. Law Econ. Organ.* 3, 243–277.
- Miller, S.M., Nicholson-Crotty, J., Nicholson-Crotty, S., 2011. Reexamining the institutional effects of term limits in U.S. state legislatures. *Legislat. Stud. Quart.* 36, 71–97.
- Moe, T.M., 1989. The politics of bureaucratic structure. In: Chubb, J.E., Peterson, P.E. (Eds.), *Can the government govern*. The Brookings Institution, Washington D.C.
- Moncrief, G., Thompson, J.A., 2001. Lobbyists' views on term limits. *J. State Govern.* 13–15.
- Moncrief, G.F., Thompson, J.A., Haddon, M., Hoyer, R., 1992. For whom the bell tolls: term limits and state legislatures. *Legislat. Stud. Quart.* 17, 37–47.
- Moral-Benito, E., 2013. Likelihood-based estimation of dynamic panels with predetermined regressors. *J. Bus. Econ. Stat.* 31, 451–472.
- Naarr, 1996. *Administrative rules review directory and survey*. Thomson Legal Publishing, Lombard, IL, 1996–1997.
- Nicholson-Crotty, J., Miller, S.M., 2011. Bureaucratic effectiveness and influence in the legislature. *J. Public Administrat. Res. Theor.* 22, 347–371.
- Poggione, S.J., Reenock, C., 2009. Political insulation and legislative interventions: the impact of rule review. *State Polit. Policy. Q.* 9, 456–485.
- Posner, E., 2001. Controlling agencies with cost-benefit analysis: a positive political theory perspective. *University of Chicago Law Review*, p. 68.
- Renfrow, P.D., West, W.F., Houston, D.J., 1986. Rulemaking provisions in state administrative procedure acts. *Public Administrat. Quart.* 9, 357–381.
- Schwartz, J.A., 2010. 52 Experiments with regulatory review: the political and economic inputs into state rulemakings. *Institute for Policy Integrity, New York University School of Law, New York*.
- Shapiro, S., Borie-Holtz, D., 2015. *The politics of regulatory reform*. Routledge, New York, NY.
- Sobel, R.S., Dove, J.A., 2014. Analyzing the effectiveness of state regulatory review. *Public Fin. Rev.* 44, 446–477.
- Squire, P., 2007. Measuring state legislative professionalism: the squire index revisited. *State Polit. Policy. Q.* 7, 229, 211–227.
- Squire, P., 2012. *The evolution of American legislatures: colonies, territories, and states*. University of Michigan Press, Ann Arbor, pp. 1619–2009.
- Squire, P., 2017. A squire index update. *State Polit. Policy. Q.* 17, 361–371.
- Stigler, G.J., 1971. *The theory of economic regulation*. *Bell J Econ Manage Sci* 2, 3–21.
- The council of state governments, 1987. *The Book of the States. The Council of State Governments, Lexington, KY*.
- Vakilifathi, M., 2019. Constraining bureaucrats today knowing you'll be gone tomorrow: the effect of legislative term limits on statutory discretion. *Policy Stud. J.* 47, 978–1001.
- West, W.F., 2004. Formal procedures, informal processes, accountability, and responsiveness in bureaucratic policy making: an institutional policy analysis. *Public Adm. Rev.* 64, 66–80.
- Wood, B.D., Bohte, J., 2004. Political transaction costs and the politics of administrative design. *J. Polit.* 66, 176–202.
- Woods, N.D., 2009. Promoting participation? an examination of rulemaking notification and access procedures. *Public Adm. Rev.* 69, 518–530.
- Woods, N.D. 2015. *Separation of powers and the politics of administrative rule review*. 15, 345–365.
- Woods, N.D. 2018. *Regulatory analysis procedures and political influence on bureaucratic policymaking*. 12, 299–313.
- Yackee, J.W., Yackee, S.W., 2006. A bias towards business? Assessing interest group influence on the U.S. Bureaucracy. *J. Polit.* 68, 128–139.
- Young, A.T., 2015. From Caesar to Tacitus: changes in early Germanic governance circa 50 BC–50 AD. *Public Choice* 164, 357–378.
- Zhou, Y., 2020. Horizontal “checks and balances” in the socialist regime: the party chief and mayor template. *J. Inst. Econ.* 16, 65–82.