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by

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Committee in charge:

Professor Sean Gailmard, Chair
Professor Eric Schickler
Professor Sean Farhang
Professor Kevin Quinn

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Abstract

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Given gridlock in Congress, presidents and subunits of Congress are increasingly pursuing their policy goals in the executive branch. Yet we know little about how they go about doing so. In Chapter 1, I introduce the broad notion of positive agenda control by the president. Up until this point, the existing literature has been narrowly focused on presidents' negative agenda control over agencies (Moe (1985); Nathan (1983)) and has only recognized positive agenda control in terms of executive orders (Moe and Howell (1999); Howell (2003)). I argue that presidents direct their resources toward allied agencies to strengthen, pass, and implement policies the president supports. Using a newly collected dataset, I look at the Office of Information and Regulatory Affairs, the most important innovation in presidential power in 35 years, and I show that Presidents Clinton and Obama were disproportionately likely to use OIRA to review the policies of relatively more liberal agencies and President George W. Bush was disproportionately likely to use OIRA to review the policies of relatively more conservative agencies. This finding differs from the conventional wisdom that OIRA is a presidential watchdog and it changes how we think about presidential power in administrative oversight.

In Chapter 2, together with Abby Wood and Sean Gailmard, I turn to congressional committees and their pursuit of policy goals in the executive branch. We introduce the theory that congressional committees use oversight of bureaucracy as a means to mitigate agency problems they face with the bureaucracy. Up until this point, scholars have not systematically connected the oversight activity of Congress to the democratic problems created by delegation. The landmark analysis of Aberbach (1990) placed oversight in a framework centered on Congress and the broad contours of the national policymaking environment, without taking into account agency policymaking activity. In contrast, we present a principal-agent model of oversight and find support in a newly-collected dataset of on-the-record legislative hearings for

the model's three observable implications: legislative oversight is increasing in agency policymaking activity, increasing in the amount of ideological conflict between committees and agencies, and increasing in the amount of ideological conflict between House and Senate committees during divided Congresses. Our results provide evidence that committees oversee agencies not merely to position-take for the next campaign cycle, but to influence actual policy outcomes.

In Chapter 3, I return to a focus on the president and I treat limiting lobbyist influence as a policy goal in its own right. I argue that lobbyists going "offensive" in their lobbying strategies combined with underwriting some of the work of under-resourced agencies puts lobbyists in a position to set the agenda in the executive branch. I contribute a bargaining model in which an agency, the president, and a lobbyist each have agenda-setting power some of the time. I derive the conditions under which the president, so long as he or she is not perfectly ideologically aligned with the agency, can limit the influence of the lobbyist on the agency's policies by acting as a "tough" bargaining agent. This model reveals a tradeoff from the standpoint of the agency between working with an ideologically aligned president (an ally on policymaking goals) and working with an ideologically unaligned president who can help limit lobbyist influence.

To Arman, Simone, and Malcolm.

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Chapter 1

Presidents' Pursuit of Policy in the Executive Branch

The relative power of the president has been increasing as Congress has become more polarized and less effective. As public problems persist—such as the budget deficit, unemployment, the failing immigration system, drinking water shortages, climate change, and an education system failing the poorest 25 percent of children—Congress is not able to solve them. By default, the power to do so tips toward the presidency, the courts, and state governments. This paper focuses on how presidents in particular use this increased power to pursue their policy goals outside of the legislative process, in the executive branch.

Existing studies of presidents pursuing their policy goals in the executive branch focus on presidents exerting negative agenda control over agencies. Scholars have acknowledged positive presidential power, but mostly in terms of presidents acting unilaterally (Moe and Howell (1999); Howell (2003)).[1] The vast majority of research assumes that presidents act as veto players focusing their resources on reining in ideologically unaligned agencies. This line of thinking has its roots in both congressional (Weingast and Moran (1983); McCubbins and Schwartz (1984); McCubbins, Noll and Weingast (1987)) and presidential (Nathan (1983); Moe (1985); Moe (1993); Moe and Wilson (1994); Lewis (2003); Rudalevige (2002); Lewis (2008)) theories of delegation and bureaucratic control.

But presidents can also work with agencies they are aligned with in order to strengthen, pass, and implement policies that the president supports. In this sense they can also use the tools and resources of the office to exert positive agenda control over agencies. I suggest and formalize a new way of thinking about presidents working with agencies that fundamentally broadens

[1] But see Kagan (2001) and Krause and O'Connell (2015) for exceptions.

the scope of presidential power from the earlier presidential control literature. My theory, quite simply, is that when presidents favor executive branch agency policymaking efforts, they strengthen those efforts; when they are against those efforts, they veto them.

Using newly collected data on the Office of Information and Regulatory Affairs (OIRA), the most important innovation in presidential power in the last 35 years, I show evidence that presidents use OIRA to work with allied agencies to strengthen and pass policies they support. In particular, I find that Presidents Clinton and Obama were disproportionately likely to use OIRA to review significant policies by more liberal agencies, whereas President George W. Bush was disproportionately likely to use OIRA to review significant policies by more conservative agencies. This finding differs from the conventional wisdom that OIRA is a presidential watchdog focused on reining in ideologically unaligned agencies (Wiseman (2009); Acs and Cameron (2013); Acs and Cameron (2014); Nou (2012); Bubb and Warren (2014)). In addition to correcting a mistaken assumption in the existing literature on OIRA, this finding suggests that going forward scholars consider presidents' incentives to strengthen policies they support, and not just veto policies they are against.

Together with my theory, this finding lays the foundation for a whole new research program focused on positive agenda control by the president. It suggests that we reconsider not just OIRA, but also presidential budgetary agendas, and executive appointments (which new work on presidential staffing choices is already doing (Krause and O'Connell (2015)), from the perspective of presidents seeking to strengthen the agencies and the policies that they are aligned with. It also suggests that we reconsider a number of connections between politics and policymaking from the standpoint of presidents' positive agenda control in the executive branch. These politics-policymaking connections include the role of concentrated interests lobbying the president (Haeder and Yackee (2015)), the role of negotiations geared toward building compromises within the Democratic or Republican party coalition in the executive branch, and the role of presidents attempting to ensure that policies withstand judicial scrutiny. This paper is a first step in advancing this new research program on presidents' positive agenda control within the executive branch.

1.1 A Theory of Presidents Pursuing Policy in the Executive Branch

I propose a new approach to thinking about presidents pursuing policy in the executive branch. My approach directly connects presidents' actions with

policy outcomes and it draws our attention to the role of presidents strengthening agency policymaking that they favor. While presidents can veto agency policymaking they dislike, my approach assumes that agencies can anticipate vetoes, leading to the implication that we do not observe them. What we observe are presidents using the tools of the office not to control and veto wayward agencies, but to strengthen the work of agencies with which they are aligned.

The theory presented below is about the interaction between the president and an agency within the executive branch. I assume that the president and the agency are sometimes aligned in what they want and sometimes not, and that both are aware of this alignment (or lack thereof). I also assume that when the two are aligned, the president benefits from the agency's policymaking activities. When they are unaligned, the president suffers from the agency's policymaking activities.

In this theory, the agency initiates things by choosing whether or not to take some action of its choosing. Since actions are costly to the agency, the agency will want to conserve its resources rather than take actions that the president would veto. There is no uncertainty in this theory, hence, as mentioned at the outset, this theory predicts that we will not observe vetoes.

The president then chooses between not getting involved, getting involved and vetoing the agency's initiative, or getting involved and giving a matching grant of policymaking effort to strengthen the agency' initiative. The matching grant of effort could strengthen the policy-making or implementing capacity of the agency, or it could strengthen the agency's initiative in a political sense, for example through sharing information, accommodating strong lobbyists (Haeder and Yackee (2015)), or providing the backing of the president, and in some cases it could strengthen both agency capacity and political power. The president pays a cost to veto or to give a matching grant, so these actions will only be worth it to the president in some cases.[2]

I directly connect the president's involvement with the success of the agency's initiative. I assume that success is equal to the joint policymaking effort put forth by the agency and the president when there is a matching grant, and it is zero when the president vetoes. It is worth noting that when the president exerts effort to strengthen an agency's initiative, it does not necessarily mean that the president makes the initiative more ambitious. It is perhaps more likely when the president is focusing on increasing the political strength of an

[2]I do not consider the matching grant costly to the agency. I set aside for future research concerns that the president partnering with an agency may be something that the agency prefers to avoid due to the president's involvement creating more work for the agency (e.g. during the president's OIRA review process (Nou (2012); Heinzerling (2014); Bressman and Vandenbergh (2006); Vladeck (2006)), or due to the president stepping on an agency's "turf."

initiative that this would entail weakening its ambitiousness. The key distinction between weakening an initiative in order to make it politically feasible and vetoing an initiative is whether or not the president ultimately wants it to succeed.

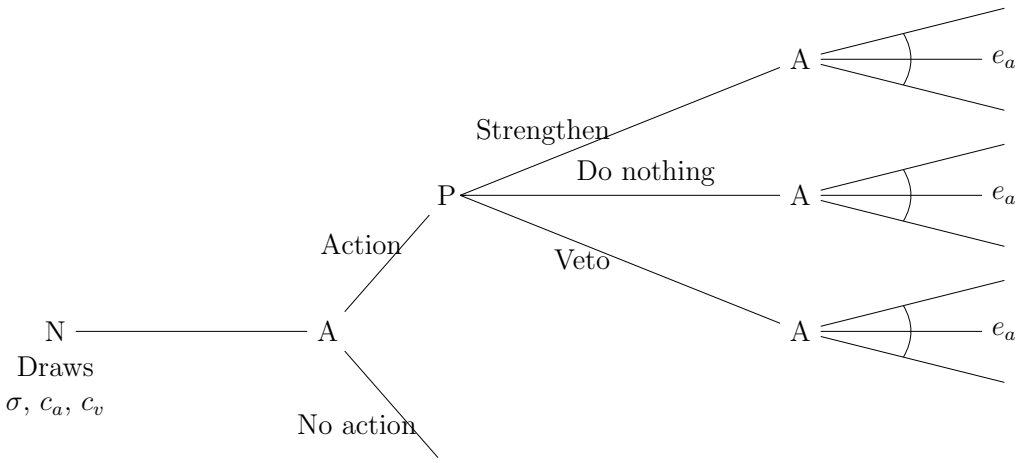
To formalize, consider a game with an agency A and the president P. The sequence is as follows. First, nature draws the ideological alignment of the president with respect to the agency, $\sigma \in \{-1, 0, 1\}$, and shows both players. $\sigma = -1$ represents the least ideological alignment between an agency and a president, $\sigma = 1$ represents the most alignment, and $\sigma = 0$ represents an amount of alignment somewhere in the middle.

Then, the agency chooses whether or not to take an action. I denote taking an action with $I \in \{0, 1\}$, where $I = 1$ represents taking an action and $I = 0$ represents not taking an action. Taking an action costs the agency $c_{action} > 0$. If the agency does not take an action, the president has no choice to make, and the game ends with success on the agency's initiative equal to zero.

If the agency takes action, the president then chooses whether to get involved and exert effort on the agency's initiative, get involved and veto it, or do nothing. When the president gets involved, he or she pays $c_{involvement}$ regardless of whether the point is to exert effort or veto. This captures the cost to the president of simply getting involved and the associated staff time and transaction costs that this entails.

When the president exerts effort on an agency initiative, he or she chooses a level of matching grant, $m > 0$. The cost to the president of the grant of effort is the cost of paying out the matching grant, $\frac{1}{2}(me_A)^2$, where e_A is the amount of effort put forth by the agency in the last step of the game. The extensive form is depicted in Figure 1.1.

Figure 1.1: Extensive Form: A Theory of Presidents Pursuing Policy in the Executive Branch



When the president vetoes an agency initiative, he or she pays a fixed cost $c_{veto} > 0$ in addition to the cost of simply getting involved, $c_{involvement}$. c_{veto} is an exogenous parameter and both the agency and the president know it. This cost of the veto could be in the form of resources needed from the president or the president's staff to carry out the veto in particular. For example, it could be drafting requested changes to an agency's proposed policy in notice-and-comment rulemaking or issuing a directive in an attempt to get an agency to stop doing something that it is doing. Or, the cost could be the result of making an agency or an interest group unhappy. It is costless for the president to do nothing.

After observing the president's choice, the agency chooses its effort level, $e_A \in [0, 1]$, where $e_A = 0$ can be interpreted as "shelving" an initiative by stopping all work on it.

The outcome of the game is in terms of strength or success of the agency's initiative. The success of the agency's initiative is zero when the agency shelves it and/or the president vetoes it, or when the agency does not take action in the first place. Otherwise, the success of the agency's initiative is equal to the combined effort of the agency and the president.

The president's utility function is

$$U_P = \delta\sigma(e_A + me_A) - \frac{1}{2}(me_A)^2 - c_{involvement} - c_{veto}, \tag{1.1}$$

where $\delta \in \{0, 1\}$ signifies whether the president vetoes, with $\delta = 1$ signifying no veto. This says that if the president does not veto, he or she gets a payoff from the sum of the agency's effort and any matching grant that is weighted by the alignment between the president and the agency. This payoff from effort will be negative when the president and agency are distant, zero when they are middle-aligned, and positive when they are close. The president also pays costs to get involved, to exert effort, and to veto.

The agency's utility function is

$$U_A = \delta(e_A + me_A) - \frac{1}{2}(e_A)^2 - c_{action}, \tag{1.2}$$

where δ is the same indicator function as in the president's utility function. This says that if the president does not veto, the agency benefits from the initiative's success, which is determined by effort put in by both the agency and the president. The agency pays a cost to take action in the first place and for the amount of effort it puts into its initiative if it takes action.

From this model, I derive two observable implications.[3] The first implication is that when $\sigma = 1$ (which I will refer to going forward as the agency and

[3]See appendix for proofs.

the president being close, by which I mean closely ideologically aligned), the president is more likely to get involved with the agency's initiative than when $\sigma = 0$ or $\sigma = -1$ (which I will refer to as the agency and the president having some amount of middle-alignment ($\sigma = 0$), and the agency and the president being distant ($\sigma = -1$)). In this case, as long as the costs of getting involved are not too high, the president benefits from exerting effort on the agency's initiative. I refer to this hypothesis as the *President Effort Hypothesis*.

President Effort Hypothesis. When an agency and the president are close, the probability of the president getting involved with that agency's initiative is higher than when the agency and the president are either distant or middle-aligned.

The second implication is that when the agency and the president are close or middle-aligned, the agency takes more actions than when that same agency is under a distant president. This follows from the fact within this model that when the president and agency are distant, the president will want to veto the agency's initiative as long as the cost of getting involved and vetoing is not too high. The agency knows this and will conserve its resources by not taking action whenever the president would veto.

I refer to this hypothesis as the *Agency Action Hypothesis*.

Agency Action Hypothesis. The probability of an agency taking action is higher when the president and the agency are either close or middle-aligned than when the agency and the president are distant.

1.2 Empirical Analysis: The Office of Information and Regulatory Affairs

As previously mentioned, Congress created OIRA as part of the Paperwork Reduction Act in 1980 and President Reagan formalized OIRA's role in reviewing agency policymaking through Executive Order 12,291 in 1981.

When OIRA takes a policy under review, the agency needs OIRA's approval in order to finalize its policy.[4]

[4]The one exception to OIRA review authority is that presidents have not sought to extend OIRA review to independent agencies. The concept of "independent" agencies is that they are more independent from the president than cabinet departments and executive agencies. Since *Humphrey's Executor v. United States* (1935), presidents have not been able to fire appointees heading up independent agencies without cause, but can do so in the case of executive agencies and cabinet departments. Whether OIRA can review independent agencies' policies is somewhat ambiguous and there are at least a few instances of

OIRA has broad discretion in choosing what policies to review. There is a set of legal criteria set forth in President Clinton's E.O. 12,866 for which policies OIRA can review, namely "significant" policies. E.O. 12,866 defines "significant" in the following ways: policies that have $100 million or more annual impact on the economy, and/or are inconsistent with another agency's policy, and/or alter the budgetary impact of grants or entitlements, and/or raise novel legal or policy issues. But these criteria are neither necessary nor sufficient to guarantee OIRA-review. An agency can send a policy that it designates as "significant" to OIRA for review, and OIRA can choose not to review it.[5] Moreover, an agency can choose not to send a policy to OIRA because it does not designate it as "significant," and OIRA can overwrite the agency's significance determination and review it anyways.

When OIRA chooses to review a policy, it can strengthen it in some way or veto it. OIRA may strengthen policies by offering policy-capacity help to agencies, for example by helping with cost-benefit analyses. OIRA may also strengthen policies in a more political sense, for example through sharing information from within or outside the executive branch, accommodating lobbyists (Haeder and Yackee (2015)), and providing the backing of the president.

One aspect of OIRA review that facilitates within-executive-branch information sharing is the interagency review process. When OIRA takes a policy under review, it sends that policy out to other agencies in the executive branch with equity in the policy in order to get their feedback. For example, if the EPA seeks a change to chlorofluorocarbon regulations, OIRA will send the EPA's proposed change to agencies (such as NASA, DOD, and the FDA) with equity in chlorofluorocarbons, a chemical for which there is currently no readily available substitute. This process often brings out the strongest criticisms to an agency's proposed policy, which OIRA can choose to help the agency deal with before finalizing the policy.

When OIRA vetoes an agency's policy, the veto takes the form of OIRA refusing to approve an agency's policy unless the agency makes revisions that the agency would rather abandon the policy than make. OIRA can refuse to approve a policy but cannot revise the policy itself. Upon receiving required revisions back from OIRA, an agency could make those revisions or "shelve" the policy, either by formally withdrawing it or informally stopping work on it. Existing studies of OIRA generally treat OIRA exclusively as a veto player (Wiseman (2009); Acs and Cameron (2013); Acs and Cameron (2014); Nou (2012)), neglecting its role at other times in strengthening policies.

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independent agency policies reviewed by OIRA. But in general, OIRA does not review the policies of independent agencies.

[5] About one third of significant policies go unreviewed by OIRA. See Figure 1.2 on page 17 for the proportion of significant policies that underwent OIRA review from 1995-2014.

The observable implications that I derive from my model of presidents pursuing policy goals in the executive branch, as applied to OIRA are as follows: (*i*) OIRA is most likely to review the policies of agencies it is most aligned with (President Effort Hypothesis), and (*ii*) Agencies are most likely to issue significant policies when they are most aligned with the president (Agency Action Hypothesis).

Empirical Strategy

To test the hypotheses just described, I collected from OIRA's reginfo.gov all instances of centralized review from 1995-2014. I collected all instances of policymaking from the Unified Agenda from 2009-2014 to extend Anne Joseph O'Connell's Unified Agenda federal government rulemaking data to cover the Obama administration years (through 2014). I coded each rulemaking for whether it underwent centralized review, at what stage it did so, and for what duration it was under review.

I include in my analysis only executive agencies and cabinet departments for which there is at least one mention in the Unified Agenda during each of the Clinton, G.W. Bush, and Obama administrations.[6] I use agency ideology scores from Clinton and Lewis (2008) to describe an agency's ideology. These agency ideology measures were created using an expert survey. The measures are time invariant and are meant to capture the ideology of the underlying mission of each agency, regardless of presidential and appointee leadership over that agency at any given point in time. For ease of interpretation, I have rescaled these agency ideology scores so that the most liberal agency has ideology equal to zero.

I exclude independent agencies because their policies are not generally reviewed by OIRA, as previously discussed. I also exclude the Department of Defense because it is an extreme outlier on agency ideology within my sample. It is more than one standard deviation above the second most conservative agency in my sample. As I show in the Appendix, my main result holds when I include the Department of Defense and exclude the Obama administration years, but not when I include all three administrations.

[6]The agencies that I include from most liberal to most conservative according to Clinton and Lewis (2008) are: Department of Labor, Department of Housing and Urban Development, Department of Health and Human Services, Department of Education, Environmental Protection Agency, Agency for International Development, Department of State, National Archives and Records Administration, National Aeronautics and Space Administration, Department of Transportation, Department of Agriculture, Department of Veterans Affairs, Office of Personnel Management, General Services Administration, Department of Energy, Department of Justice, Department of the Interior, Department of the Treasury, Small Business Administration, and Department of Commerce.

I focus only on the most significant policies by including only those policies designated as "significant" according to E.O. 12,866 and/or "major" according to the Congressional Review Act. To focus in on the most significant policies, 1995 is the earliest year included because this is the earliest year for which policy significance was reliably reported in the Unified Agenda (O'Connell (2011)).

The main explanatory variable for both of my hypotheses is agency-president ideological distance. I operationalize this ideological distance by interacting Clinton-Lewis agency ideology with the party of the president. To account for using an estimate (of agency ideology, in this case) as an explanatory variable, I bootstrap all standard errors and show that all results are robust to weighting each observation by the inverse of the variance of the Clinton-Lewis agency ideology estimate.

In order to test the president effort hypothesis, I look at within-agency change in the probability that an agency's policies are reviewed by OIRA as that agency's ideological distance to the president decreases. I specify the following ordinary least squares model.

$$\begin{aligned} review_{iyp} = \beta_0 + \alpha_i + \beta_1 ag.ideology_i + \beta_2 Repub.pres_y \\ + \beta_3 ag.ideology_i * Repub.pres_y + \epsilon_{iy} \end{aligned} \tag{1.3}$$

The sample includes all policies designated in the Unified Agenda as "significant" according to E.O. 12,866 and/or "major" according to the Congressional Review Act from 1995-2014 for all non-independent agencies for which there is a Clinton-Lewis ideology score and for which there is at least one mention in the Unified Agenda during each of the Clinton, G.W. Bush, and Obama administrations, excluding the Department of Defense. Subscript i denotes agencies, subscript y denotes years, and subscript p denotes policies. The dependent variable, *review*, indicates whether a policy underwent OIRA review.[7] The explanatory variable of interest is the interaction between agency ideology and the party of the president (where Republican president is coded as 1). α_i represent agency fixed effects.

In order to test the agency action hypothesis, I look for evidence of a higher quantity of significant policies proposed (Notice of Proposed Rulemakings (NPRMs)) by an agency in a given year when that agency is ideologically closer to the president. I specify the following ordinary least squares model.

[7] Table 2.3 on page 43 provides descriptive statistics on all variables.

$$NPRMs_{iy} = \beta_0 + \alpha_i + \beta_1 ag.ideology_i + \beta_2 Repub.pres_y + \beta_3 ag.ideology_i * Repub.pres_y + \epsilon_{iy} \quad (1.4)$$

The sample includes all agency-year pairs from the sample described above. Subscript i denotes agencies and subscript y denotes years. The dependent variable, $NPRMs$, is the number of significant NPRMs per year per agency. As above, the explanatory variable of interest is the interaction between agency ideology and the party of the president (where Republican president is coded as 1), and α_i represent agency fixed effects.

Results

Figure 1.3 on page 18 shows the results for the president effort hypothesis in the raw data.[8] On average, more conservative agencies, such as the Department of Commerce and the Small Business Administration, are disproportionately likely to have their significant policies reviewed by President George W. Bush's OIRA. More liberal agencies, such as the Environmental Protection Agency (EPA) and the Department of Housing and Urban Development (HUD), are disproportionately likely to have their significant policies reviewed by President Obama's and President Clinton's OIRA.

Table 1.2 on page 19 provides results with standard errors for the president effort hypothesis. Moving one unit more conservative in terms of an agency's ideology makes it three percentage points disproportionately likely to be reviewed by President George W. Bush relative to Presidents Clinton and Obama. This is a 4.5 percent increase above the mean OIRA review rate, which is 67 percent.

Table 1.3 on page 20 provides results for the agency action hypothesis. Moving one unit more conservative in terms of an agency's ideology makes it disproportionately likely to issue an additional 1.87 significant proposed policies/year under President George W. Bush relative to Presidents Clinton and Obama. This is about a 20 percent increase above the mean, which is 9.57 significant proposed policies/year.

Table 1.4 on page 21, Table 1.5 on page 22, and Table 1.6 on page 23 provide additional robustness checks for the president effort hypothesis. Table 1.4 provides results that include the Department of Defense, an extreme outlier in agency ideology dropped from the main analysis. These results suggest that President Obama's OIRA treated the Department of Defense differently

[8] Partialling out the agency fixed effects gives a consistent picture as 1.3.

than other relatively conservative agencies and differently than other presidents treated the Department of Defense. These differences under the Obama administration combined with the Department of Defense being an extreme outlier in agency ideology affects the main results. When I include the Department of Defense but exclude the Obama administration years, the main results hold.

Table 1.5 shows that results for the president effort hypothesis are robust to including policy-level controls, including whether there was a judicial or legislative deadline, whether there was an interim final rule or direct final rule, and whether there was an Advance NPRM. These policy controls account for differences in these policies over and above being "significant." An interim final rule or direct final rule suggests that someone involved with the policy thought there was urgency to finalize it. A legal deadline means that either Congress or the courts gave the agency a deadline by which it had to issue a policy. An advance NPRM means that the formal rulemaking process began earlier than it usually does when a policy simply begins the formal process with an NPRM.

Table 1.6 shows that results for the president effort hypothesis are robust to weighting each observation by the inverse of the variance of the Clinton-Lewis agency ideology estimate. As previously discussed, the weights are meant to account for the fact that there is greater uncertainty about some agency's ideology estimates than others. A tables showing that the result for the agency action hypothesis is also robust to weighting each observation by the inverse of the variance of the Clinton-Lewis agency ideology estimate is available by request. There are no changes to significance levels from the weights.

1.3 Conclusion

This paper began with the recognition that scholars have mostly not recognized presidents' positive agenda control in the executive branch—a particularly important topic given gridlock in Congress. As a result, we know very little about how presidents work with agencies they are aligned with in order to strengthen, pass, and implement policies that they support. We know presidents set direction and priorities for agencies' work using unilateral tools such as executive orders (Moe and Howell (1999); Howell (2003)). But we know very little about how presidents pursue policies in a positive sense after setting this initial direction, and in cases when they do not set the initial direction.

I have argued that when presidents favor executive branch agency policymaking efforts, they strengthen those efforts; when they are against those efforts, they veto them. This approach to thinking about how presidents pur-

sue their policy goals in the executive branch broadens the emphasis in the existing literature so as to include presidents exerting both positive and negative agenda control over agencies.

My empirical analysis focuses on the most important innovation in presidential power in the last 35 years: OIRA. I show that Presidents Clinton and Obama were disproportionately likely to use OIRA to review significant policies by more liberal agencies, whereas President George W. Bush was disproportionately likely to use OIRA to review significant policies by more conservative agencies. This evidence suggests that presidents use centralized review to strengthen policies they favor and it corrects a mistaken assumption in existing studies of OIRA that OIRA is merely a veto player. Going forward, future studies of OIRA and of presidential control more broadly need to take into account presidents' incentives for strengthening policies they support, and not just vetoing policies they are against.

This is a first step in a much larger research agenda geared toward better understanding presidents' positive agenda control in the executive branch. This agenda calls for reconsideration of not just OIRA, but also presidential budgetary agendas and executive appointments (see Krause and O'Connell (2015)), from the perspective of presidents seeking to strengthen the agencies and the policies with which they are aligned. This agenda also calls for further inquiry into connections between politics and policymaking such as the role of concentrated interests lobbying the president (Haeder and Yackee (2015)), the role of negotiations geared toward building compromises within the Democratic or Republican party coalition in the executive branch, and the role of presidents attempting to ensure that policies withstand judicial scrutiny.

1.4 Proofs

Agency Action Hypothesis.

From the perspective of the agency, when the president does not veto, the agency's first derivative is

$$\frac{\partial U_A}{\partial e_A} = 1 + m - e_A. \tag{1.5}$$

The agency's optimal effort given no veto is $e_A^* = 1 + m$, where $m > 0$ is the matching grant of effort that the president has the option to give.

When the president vetoes, the agency's first derivative is

$$\frac{\partial U_A}{\partial e_A} = -e_A. \tag{1.6}$$

The agency's optimal effort given a veto is $e_A^* = 0$.

When $\sigma = -1$, the president vetoes if $c_{involvement} + c_{veto} \leq 1$, and otherwise does not get involved. The president never exerts effort since doing so would bring utility $-(1 + 2m + m^2) - \frac{1}{2}(m + m^2)^2 - c_{involvement}$, which is always less than -1, the utility the president would get from doing nothing. If $c_{involvement} + c_{veto} < 1$, the agency will not take action since the president would veto. In addition, the agency will not take action if $c_{action} \geq \frac{1}{2}$ since the cost of taking action in the first place, regardless of a veto, exceeds the possible benefit to the agency.

When $\sigma = 0$, the president always chooses to do nothing, which brings utility zero, which is larger than utility would be from vetoing $(-c_{involvement} - c_{veto})$ and larger than utility would be from exerting effort $(-\frac{1}{2}(m + m^2)^2 - c_{involvement})$. The agency takes action unless $c_{action} \geq \frac{1}{2}$.

When $\sigma = 1$, the president never vetoes. This is because the president's utility from a veto is $-c_{involvement} - c_{veto}$, which is always less than the utility the president gets from doing nothing, which is equal to 1.

Since the president never vetoes when $\sigma = 1$, the president's first derivative in this case is

$$\frac{\partial U_P}{\partial m} = -2m^3 - 3m^2 + m + 2. \tag{1.7}$$

The president's optimal value for the matching grant of effort is $m^* = \frac{\sqrt{17}-1}{4}$. Algebraically, this first order condition could be solved with two other values, both of which are ruled out here since they are negative and $m > 0$. The president gives m^* whenever $m^*(2 + m^*) > c_{involvement} + \frac{1}{2}(m^*(1 + m^*))^2$, and otherwise does not get involved.

Given a matching grant of effort from the president, m^*, the agency's optimal effort, e_A^*, is $1 + m$, and the agency takes action unless $c_{action} \geq \frac{1}{2}$.

Comparing the agency's choice of whether to take action under the three possible values of σ, we see that the agency is weakly more likely not to take action when $\sigma = -1$ than when $\sigma = 0$ or when $\sigma = 1$.

President Effort Hypothesis.

As we saw above, the president gets involved with an agency's initiative when $\sigma = 1$ whenever $m^*(2 + m^*) > c_{involvement} + \frac{1}{2}(m^*(1 + m^*))^2$, and the president never gets involved when $\sigma = 0$.

Also as above, when $\sigma = -1$, the president gets involved and vetoes when $c_{involvement} + c_{veto} \leq 1$, and otherwise does not get involved. When $c_{involvement} + c_{veto} \leq 1$, the agency anticipates a veto and takes no action. Hence, the president has nothing with which to get involved.

These comparisons show that the president is weakly more likely to get involved when $\sigma = 1$ relative to when $\sigma = 0$ and when $\sigma = -1$.

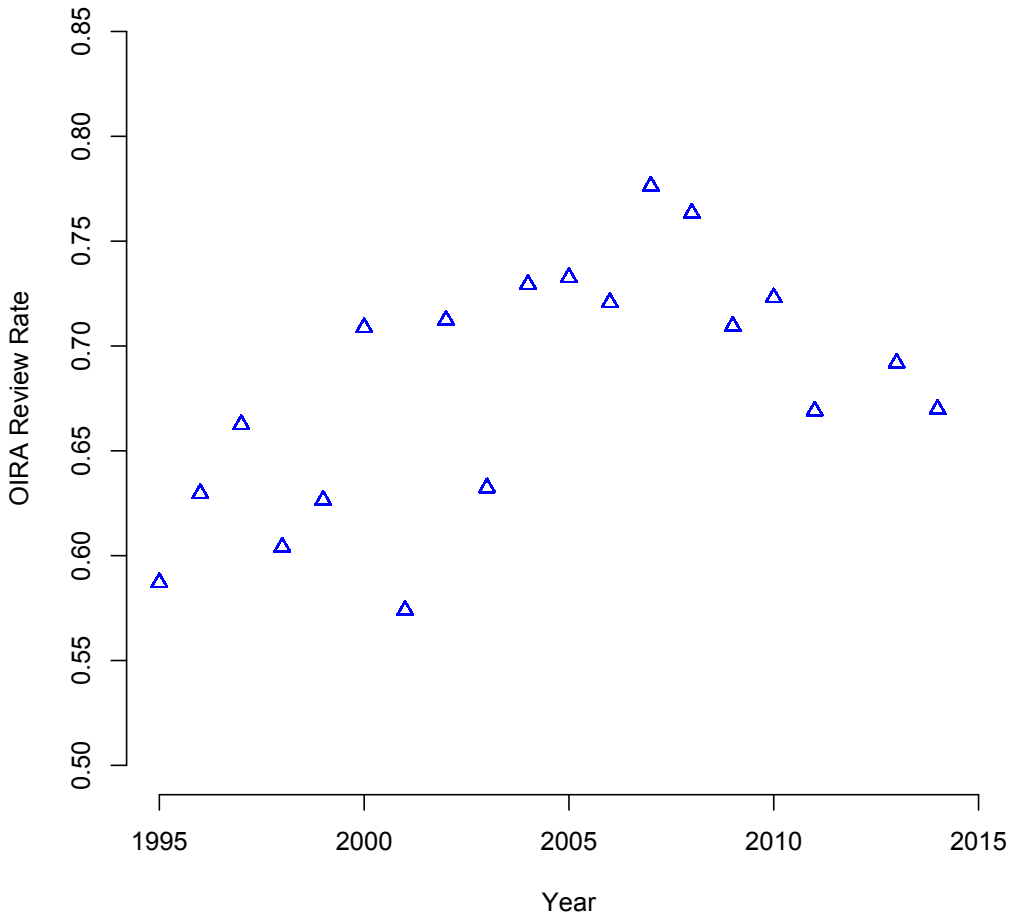
1.5 Main Figures and Tables

Table 1.1: Descriptive statistics

	Units	N	Mean	SD	Median
NPRMs/year per agency (20 agencies, 20 years)	agency-year	400	9.57	10.13	6.0
OIRA review (dummy)	policy	6233	.67	.47	1
Withdrawn (dummy, conditional on OIRA review)	policy-review	7072	.083	.28	0
Agency ideology	agency	20	1.34	0.84	1.55

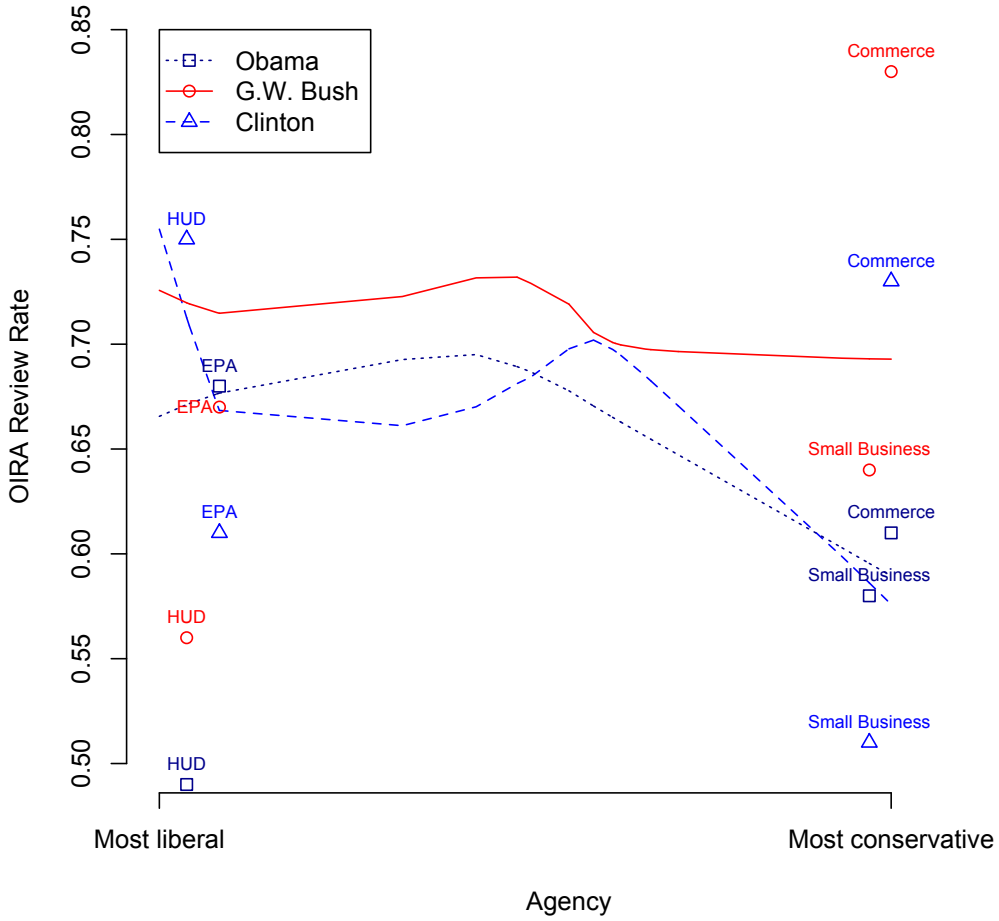
Notes: The sample for NPRMs/year per agency includes all agency-year pairs from 1995-2014 for all non-independent agencies for which there is a Clinton-Lewis agency ideology score and for which there is at least one mention in the Unified Agenda during each of the Clinton, G.W. Bush, and Obama administrations, excluding the Department of Defense. Only significant NPRMs are included, which are those designated in the Unified Agenda as "significant" according to E.O. 12,866 and/or "major" according to the Congressional Review Act. The sample for OIRA review includes all policies designated in the Unified Agenda as "significant" according to E.O. 12,866 and/or "major" according to the Congressional Review Act from 1995-2014 for all non-independent agencies for which there is a Clinton-Lewis ideology score and for which there is at least one mention in the Unified Agenda during each of the Clinton, G.W. Bush, and Obama administrations, excluding the Department of Defense. OIRA review indicates whether a policy underwent OIRA review. The sample for Withdrawn includes all policy-OIRA-review pairs for policies designated in the Unified Agenda as "significant" according to E.O. 12,866 and/or "major" according to the Congressional Review Act from 1995-2014 for all non-independent agencies for which there is a Clinton-Lewis ideology score and for which there is at least one mention in the Unified Agenda during each of the Clinton, G.W. Bush, and Obama administrations, excluding the Department of Defense. Withdrawn indicates whether a policy selected for OIRA review was withdrawn by the agency after the review and during the same administration as the review. Agency ideology (Clinton-Lewis) rescaled so that the most liberal agency has ideology equal to zero.

Figure 1.2: OIRA Review Rate on Significant Policies



Notes: The sample includes all policies designated in the Unified Agenda as "significant" according to E.O. 12,866 and/or "major" according to the Congressional Review Act from 1995-2014 for all non-independent agencies for which there is a Clinton-Lewis ideology score and for which there is at least one mention in the Unified Agenda during all three administrations, excluding the Department of Defense. OIRA review rate is the proportion of significant policies that underwent review by OIRA during each year.

Figure 1.3: OIRA Review Rates by Agency by Administration



Notes: Administration OIRA review rates are fitted with lowess lines. The sample includes all policies designated in the Unified Agenda as "significant" according to E.O. 12,866 and/or "major" according to the Congressional Review Act from 1995-2014 for all non-independent agencies for which there is a Clinton-Lewis ideology score and for which there is at least one mention in the Unified Agenda during all three administrations, excluding the Department of Defense. OIRA review rate is the proportion of significant policies that underwent review by OIRA during each administration. Agencies are ordered along the x-axis according to their Clinton-Lewis ideology score, rescaled so that the most liberal agency has ideology equal to zero. From most liberal to most conservative, the agencies are: Department of Labor, Department of Housing and Urban Development, Department of Health and Human Services, Department of Education, Environmental Protection Agency, Agency for International Development, Department of State, National Archives and Records Administration, National Aeronautics and Space Administration, Department of Transportation, Department of Agriculture, Department of Veterans Affairs, Office of Personnel Management, General Services Administration, Department of Energy, Department of Justice, Department of the Interior, Department of the Treasury, Small Business Administration, and Department of Commerce. The Department of Housing and Urban Development, Environmental Protection Agency, Department of Commerce, and Small Business Administration are labeled as illustrative examples.

Table 1.2: President Effort Hypothesis

	DV: OIRA review (dummy)	
	Model 1	Model 2
Agency ideology	-.039***	
	(.0089)	
Pres party (Repub=1)	.025	.027
	(.018)	(.018)
Agency ideology*Pres party	.035***	.030**
	(.014)	(.013)
Mean of dependent variable	.67	.67
# Observations	6233	6233
R-Squared	.0074	.032
Agency FEs	No	Yes

Notes: $^{***}p < 0.01$, $^{**}p < 0.05$, $^{*}p < 0.1$. Robust standard errors from ordinary least squares (OLS) regressions reported in parentheses. There are no changes to significance levels using bootstrapped standard errors. The sample includes all policies designated in the Unified Agenda as "significant" according to E.O. 12,866 and/or "major" according to the Congressional Review Act from 1995-2014 for all non-independent agencies for which there is a Clinton-Lewis ideology score and for which there is at least one mention in the Unified Agenda during each of the Clinton, G.W. Bush, and Obama administrations, excluding the Department of Defense. OIRA review indicates whether a policy underwent OIRA review. Agency ideology (Clinton-Lewis) rescaled so that the most liberal agency has ideology equal to zero.

Table 1.3: Agency Action Hypothesis

	DV: NPRMs/year	
	Model 1	Model 2
Agency ideology	-4.32***	
	(.76)	
Pres party (Repub=1)	-1.28	-1.28
	(2.19)	(1.17)
Agency ideology*Pres party	1.87	1.87**
	(1.25)	(.75)
Mean of dependent variable	9.57	9.57
# Observations	400	400
R-Squared	.093	.71
Agency FEs	No	Yes

Notes: $^{***}p < 0.01$, $^{**}p < 0.05$, $^{*}p < 0.1$. Robust standard errors from ordinary least squares (OLS) regressions reported in parentheses. There are no changes to significance levels using bootstrapped standard errors. The sample includes all agency-year pairs from 1995-2014 for all non-independent agencies for which there is a Clinton-Lewis ideology score and for which there is at least one mention in the Unified Agenda during each of the Clinton, G.W. Bush, and Obama administrations, excluding the Department of Defense. NPRMs/year include all NPRMs designated in the Unified Agenda as "significant" according to E.O. 12,866 and/or "major" according to the Congressional Review Act. Agency ideology (Clinton-Lewis) rescaled so that the most liberal agency has ideology equal to zero.

1.6 Appendix Tables

Table 1.4: President Effort Hypothesis: With Department of Defense

	DV: OIRA review (dummy)		
	With DOD	With DOD (no Obama)	Without DOD
Pres party (Repub=1)	.048***	.016	.027
	(.018)	(.022)	(.018)
Agency ideology*Pres party	.0023	.040**	.030**
	(.012)	(.016)	(.013)
Mean of dependent variable	.68	.68	.67
# Observations	6454	4556	6233
R-Squared	.032	.0087	.032
Agency FEs	Yes	Yes	Yes

Notes: $^{***}p < 0.01$, $^{**}p < 0.05$, $^{*}p < 0.1$. Robust standard errors from ordinary least squares (OLS) regressions reported in parentheses. There are no changes to significance levels using bootstrapped standard errors. The sample in Model 1 includes all policies designated in the Unified Agenda as "significant" according to E.O. 12,866 and/or "major" according to the Congressional Review Act from 1995-2014 for all non-independent agencies for which there is a Clinton-Lewis ideology score and for which there is at least one mention in the Unified Agenda during each of the Clinton, G.W. Bush, and Obama administrations. The sample in Model 2 takes the sample from Model 1 and omits the Obama administration years. The sample in Model 3 takes the sample from Model 1 and omits the Department of Defense. OIRA review indicates whether a policy underwent OIRA review. Agency ideology (Clinton-Lewis) rescaled so that the most liberal agency has ideology equal to zero.

Table 1.5: President Effort Hypothesis: With Policy-Level Controls

	DV: OIRA review (dummy)	
	Without controls	With controls
Pres party (Repub=1)	.027	.038**
	(.018)	(.018)
Agency ideology*Pres party	.030**	.022*
	(.013)	(.013)
Mean of dependent variable	.67	.67
# Observations	6233	6233
R-Squared	.032	.066
Agency FEs	Yes	Yes
Policy-level controls	No	Yes

Notes: $^{***}p < 0.01$, $^{**}p < 0.05$, $^{*}p < 0.1$. Robust standard errors from ordinary least squares (OLS) regressions reported in parentheses. There are no changes to significance levels using bootstrapped standard errors. The sample includes all policies designated in the Unified Agenda as "significant" according to E.O. 12,866 and/or "major" according to the Congressional Review Act from 1995-2014 for all non-independent agencies for which there is a Clinton-Lewis ideology score and for which there is at least one mention in the Unified Agenda during each of the Clinton, G.W. Bush, and Obama administrations, excluding the Department of Defense. OIRA review indicates whether a policy underwent OIRA review. Agency ideology (Clinton-Lewis) rescaled so that the most liberal agency has ideology equal to zero. Policy-level controls include whether there was a judicial or legislative deadline, whether there was an interim final rule or direct final rule, and whether there was an Advance NPRM.

Table 1.6: President Effort Hypothesis: With Weights Using the Inverse of the Variance of the Clinton-Lewis Agency Ideology Measure

	DV: OIRA review (dummy)	
	Without weights	With weights
Pres party (Repub=1)	.027	.030
	(.018)	(.019)
Agency ideology*Pres party	.030**	.028**
	(.013)	(.014)
Mean of dependent variable	.67	.67
# Observations	6233	6233
R-Squared	.032	.040
Agency FEs	Yes	Yes
Weights	No	Yes

Notes: $^{***}p < 0.01$, $^{**}p < 0.05$, $^{*}p < 0.1$. Robust standard errors from ordinary least squares (OLS) regressions reported in parentheses. There are no changes to significance levels using bootstrapped standard errors. The sample includes all policies designated in the Unified Agenda as "significant" according to E.O. 12,866 and/or "major" according to the Congressional Review Act from 1995-2014 for all non-independent agencies for which there is a Clinton-Lewis ideology score and for which there is at least one mention in the Unified Agenda during each of the Clinton, G.W. Bush, and Obama administrations, excluding the Department of Defense. OIRA review indicates whether a policy underwent OIRA review. Agency ideology (Clinton-Lewis) rescaled so that the most liberal agency has ideology equal to zero. In the model with weights, each observation is weighted by the inverse variance of the Clinton-Lewis agency ideology measure.

Chapter 2

Bureaucratic Agency Problems and Legislative Oversight

(with Abby Wood and Sean Gailmard)

Major pieces of legislation typically leave important details to be worked out by bureaucratic agencies. For example, the Patient Protection and Affordable Care Act delegates to the Secretary of Health and Human Services everything from the reimbursement structure for insurance companies, to determination of reasonable rate increases, to the establishment of a high risk health insurance pool. Because agency employees are subject-area experts, congressional delegation can result in more efficient and expert policies. The costs of congressional delegation to agencies are well theorized: When it delegates to agencies, Congress entrusts policy-making authority to actors with different goals and conceptions of good public policy, and a weaker connection to the electorate, than Congress itself. An agency problem results. Oversight is a potentially important channel for mitigating Congress's agency problem and therefore for bolstering the democratic accountability of agency policy-making.

Scholars have not systematically connected the oversight activity of Congress to the democratic problems created by delegation. The landmark analysis of Aberbach (1990) remains the definitive work on the oversight activity of Congress (supplemented and extended in Aberbach (2002)), but Aberbach's empirical analysis and major conclusions place oversight in a framework centered on Congress and the broad contours of the national policy-making environment. Oversight's costs and benefits are understood by Aberbach in terms of resources available to congressional committees, such as staff sizes; and the wider constraints Congress faces in fashioning new policy initiatives, such as budget deficits. Aberbach argues that both the resources available for legislative oversight of bureaucracy and the costs of building grand new policy initiatives contributed to the growth of oversight activity through the 1970's and 1980's. Thus his account emphasizes factors internal to Congress and the

wider policy environment as determinants of oversight.

To date, scholars have largely neglected the influence of conflict between agencies and committees on oversight incentives and activity. Temporal variation in oversight activity may be intelligible in terms of incentives, resources, and constraints faced by Congress, but we do not know whether it is related to the agency problems Congress faces when delegating to the bureaucracy. If the relationship between agency-committee conflict and oversight is weak, then oversight may well serve legislators' incentives without simultaneously reducing the democratic problems created by delegation. In other words, oversight may amount to position-taking rather than a device to enhance agency accountability. Even the substantial growth in oversight hearing activity that Aberbach documents would not reflect a coherent effort at mitigating accountability problems; it would instead be at best an incidental side effect of a choice with a logic independent of making delegation more democratic. On the other hand, a finding that oversight activity within the legislature is intelligible in light of the agency problems Congress faces due to delegation, would help to reconcile the challenges brought about by institutional design of the less-accountable but more-expert bureaucracy with the more-accountable but less-expert legislature.

The normative importance of oversight stems in part from its potential value in mitigating agency losses Congress faces when delegating to the bureaucracy.[1] In a number of theoretical accounts and some empirical work, legislative oversight has been conceptualized in this way. One of the first and probably the most important such accounts is McCubbins and Schwartz (1984), who created the concept of "fire alarm" vs. "police patrol" oversight. This distinction was invented on the heels of substantial concern and criticism about ?abdication? of authority and responsibility for making hard programmatic choices by Congress, and Congress's failure to engage in comprehensive and sustained oversight of the many programs and agencies it created following World War II, as directed in (e.g.) the Legislative Reorganization Act of 1946 (cf.Ogul (1976)). The great value of the fire alarm–police patrol distinction is that it places oversight in the broader context of an agency problem (though that is not the operative language in the original article), and shows that there are multiple instruments available to a principal seeking to solve or mitigate that problem. In that light, the important point is that the principal must choose some instruments of influence over policy and mitigation of agency loss, not that it must choose all of them.

[1]Part of the interest in oversight stems from an interest in Congress and the activities of its members per se. Simply put it is interesting to explore what they are up to and what causes changes in their activities. This is the predominant orientation of the oversight literature, but it is not the orientation of this paper.

That the principal must choose from among a variety of instruments provides a link between the choice of various ex ante and ex post controls over agency policy choices. For example, oversight ensures suitable choices and checks for problems after agency policy decisions have been made (an ex post approach); statutory discretion and institutional design are useful for tilting the analysis of choices and tradeoffs made by agencies in the first place (an ex ante approach) (Weingast and Moran (1983); McCubbins, Noll and Weingast (1987), McCubbins, Noll and Weingast (1989); Calvert, McCubbins and Weingast (1989); Banks and Weingast (1992); Kiewiet and McCubbins (1991); Epstein and O'Halloran (1999); Bawn (1997)). These are all in part fungible approaches to achieving the same goal: influence and direction of public policy that nevertheless acknowledges the expertise that agencies bring to the table.[2]

Congress can take a number of different routes to achieve the optimal mix of legislative control and agency loss. Even among ex post controls, oversight activity conducted formally in Congress and on the record is by no means the only route. Yet as Aberbach demonstrates, and our newly collected data also confirms, Congress in fact does a fair amount of it. Bawn (1997) shows that legislators treat oversight strategically, in that preferences over ex ante versus ex post controls over bureaucratic policy-making are in part affected by whether a legislator sits on committees in Congress with oversight jurisdiction.[3] Epstein and O'Halloran (1999) show that a measure of oversight hearing activity is negatively associated with passage of major laws that delegate authority to agencies, perhaps because such oversight supplies information to committees that alleviates the need to take advantage of bureaucratic expertise. Clearly, then, a comprehensive understanding of the extent to which Congress confronts the agency problem that delegation creates, and how it addresses its agency problem, requires an understanding of oversight behavior in general, and in the context of the agency problem.

In short, Congress does not have to use formal oversight per se to address its agency problem in the bureaucracy, but it does use formal oversight quite regularly for something. If that something is connected to control of delegated authority, then oversight can be considered as a useful element among a set of tools to enhance the compatibility of democratic and administrative policy-making.

The purpose of this paper is to explore the connection, if any, between

[2]The fungibility of ex post and ex ante "controls" is even more obvious when one considers that the expectation of being subject to ex post controls affects the decisions bureaucrats might make in the first place, just as ex ante controls might.

[3]Specifically, Bawn shows that legislators on a committee with oversight jurisdiction over a program vote to tilt the mix of control mechanisms toward the ex post variety, giving these legislators a disproportionate influence over the ultimate policy. Legislators not having oversight jurisdiction vote to tilt the mix toward ex ante controls.

formal oversight and control of delegated authority for policy-making. We present a theory of oversight that places democratic problems created by delegation at its center. The costs and benefits of oversight in this theory are based on conflict between committees and agencies. The three implications that we distill from the theory are that oversight levels will be (*i*) increasing in the level of activity of an agency, (*ii*) increasing in the policy conflict between a committee and an agency, and (*iii*) increasing in the internal disagreement among multiple committees overseeing the same agency. We test the empirical implications of this theory on a new panel dataset of legislative oversight spanning from 1983-2010. Like Aberbach (1990), we treat on-the-record oversight activity as conducted in congressional hearings as the operational measure of oversight.

Our results are encouraging when viewed with a concern for democratic accountability of agency policy-making. They are consistent with our theory, which suggests that formal oversight by congressional committees is indeed connected to the agency problem that Congress faces in the bureaucracy. But our results also turn up evidence that committees may compete on oversight in an "arms race" pattern. This competition over oversight could lead to Congress providing more oversight than would be ideal from the perspective of obtaining a democratically accountable arrangement of policy outcomes.

2.1 A Theory of Bureaucratic Agency Problems and Legislative Oversight

The theory on which the empirical analysis below is built takes as given an agency problem between Congress and the bureaucracy. There are many possible reasons for the agency problem but the basic point is this: Different parts of Congress and various bureaucratic agencies will often have different ideas of what makes for good public policy. They may each have sensible reasons, in terms of constituency preferences or technical analysis of the policy problem or simply their own ideologies, but the basic point is only that they may want different things.

Since bureaucrats are often called to execute laws as well as to write laws (or their functional equivalent) in the first place, they have inherent opportunities to bend public policy in the direction of their preferred alternatives. Many approaches exist for Congress to try to limit or prevent agencies from bending policy. One such approach is legislative oversight, including the kind that takes place on the record and in legislative hearings. Oversight hearings are one way for the individual legislators and committees participating in them to bend public policy back in their preferred direction and away from the

agency's, or the President's, or even other subsets of Congress not involved in the oversight hearing in question.

Thus, oversight is modeled here as having an effect on final content of public policy, after bureaucrats have chosen a policy to (attempt to) implement. Our approach is clearly not the only way to think about the effects of oversight, but it is simple, concrete, and allows an explication of the view of oversight as an ex post tool to influence policy outcomes.

To capture this formally, consider a game with an agency A and two committees, C_1 and C_2. Policies are chosen from the real number line $\mathbb{R}$. There is an exogenous status quo policy $q \in \mathbb{R}$. Each player has symmetric and single peaked preferences over policies, with an ideal point denoted $\hat{x}_A, \hat{x}_1, \hat{x}_2$ respectively. Without loss of generality, assume that $\hat{x}_A = 0$ and that $\hat{x}_2 > \hat{x}_1$, and let $\mu = \frac{\hat{x}_2 + \hat{x}_1}{2}$ be the midpoint between the committee ideal points. Further assume (with loss of generality) that $\hat{x}_1 < \hat{x}_A = 0 < \hat{x}_2$.[4]

The sequence is as follows. First, A makes a commonly observed choice of whether to initiate policy change ($P = 1$) or not ($P = 0$). If $P = 0$, the game ends and the final policy is q. If $P = 1$, A chooses a policy $x_A \in \mathbb{R}$ (which need not equal $\hat{x}_A$). Then without observing[5] x_A, C_i allocates 1 unit of time to oversight $s_i \geq 0$ and non-oversight business $t_i \geq 0$, simultaneously with C_j. C_i then observes x_A with probability s_i.

If $P = 1$ so the agency initiates policy change, final policy x is determined as follows. If only C_i observes x_A, policy is $x = \hat{x}_i$. If both C_i and C_j observe x_A, then $x = \mu$. If neither committee observes x_A, then $x = x_A$. If $P = 0$, as noted, $x = q$.

The utility function for committee i is $U_i = b(t_i) - d(|x - \hat{x}_i|)$, where d is a continuously differentiable function such that $d > 0$, $d' > 0$, and $d'' > 0$ (*e.g.*, Euclidean distance), and b is a continuously differentiable function such that $b' > 0$ and $b'' < 0$. Thus, utilities depend on policy through a standard spatial distance measure, and on the value of time for non-oversight activities. This value increases at a decreasing rate. Since $s_i + t_i = 1$, the function b can equally well be thought to capture the opportunity cost of oversight in a convex function. Non-oversight activity is valuable to the committees because they can use it on drafting and analyzing legislation, constituency service to aid in reelection, fundraising, or hob-nobbing with lobbyists. Time taken from those activities alone makes oversight costly.[6]

[4]Assuming that committees have ideal points on opposite sides of A is useful to rule out coordination issues in selecting efficient equilibria of a collective action game that the committees would face, if they desired movement from A in the same direction.

[5]The game and results are actually identical if C_i can observe x_A, as will be explained briefly. The assumption of of unobservable x_A somewhat enhances the substantive motivation.

[6]To say nothing of actual resource costs of oversight, which are not modeled here and

The utility function for A is $U_A = -d(|x - \hat{x}_A|) - v(s_1 + s_2)$, where d is the same distance metric specified above and v is a continuously differentiable function such that $v' > 0$ and $v'' > 0$. This function reflects the assumption that oversight is costly for agencies. There are several reasons for this, including diverting staff time from program implementation and maintenance to preparing for oversight hearings, as well as the possible reputational costs for agencies if they are subject to withering contumely at the hands of congressional committees. Besides the representation and interpretation of costs of experiencing or engaging in oversight, the agency and committees are the same in the sense that they are policy motivated.

When the committees choose oversight levels, they choose in ignorance of the game's history up to that information set. So the natural equilibrium concept is sequential equilibrium. However, since C_i cannot update any beliefs about A's choice at the time it chooses s_i, there is no need to specify C_i's beliefs off the equilibrium path. Indeed, since there is uncertainty about preferences, equilibrium requires that C_i form a belief about A's choice x_A that places probability 1 on the value which A actually chooses. For this reason, the model is identical whether C_i can or cannot observe x_A at the time it chooses s_i. The SPNE with observability is the same.

As C_i chooses s_i, and taking s_j and x_A as given, the probability distribution over $d(|x - \hat{x}_i|)$ is

$$d(|x - \hat{x}_i|) = \begin{cases} 0 & \text{with probability } s_i(1 - s_j) \\ d(|\hat{x}_2 - \hat{x}_1|) & \text{with probability } s_j(1 - s_i) \\ d(|x_A - \hat{x}_i|) & \text{with probability } (1 - s_1)(1 - s_2) \\ d(|\mu - \hat{x}_i|) & \text{with probability } s_1 s_2. \end{cases} \tag{2.1}$$

Thus C_i's objective function is

$$EU_i(s_i) = b(1-s_i) - s_1 s_2 d(|\mu - \hat{x}_i|) - s_j(1-s_i)d(|\hat{x}_2 - \hat{x}_1|) - (1-s_1)(1-s_2)d(|x_A - \hat{x}_i|). \tag{2.2}$$

Because of the curvature of $b(\cdot)$, EU_i is strictly concave in s_i. With appropriate Inada-type conditions, a unique interior optimum exists, $s_i^*(s_j, x_A)$, for $i \in \{1, 2\}$. These s_i^* functions represent the best response functions for the respective committees.

Taking these best responses s_i^* as given, A's objective function is

therefore can be thought of as borne by the whole Congress, not internalized by a given committee.

$$\begin{aligned} EU_A(x_A) = \; & -s_1^*(1-s_2^*)d(|\hat{x}_1 - \hat{x}_A|) - s_2^*(1-s_1^*)d(|\hat{x}_2 - \hat{x}_A|) \\ & -s_1^* s_2^* d(|\mu - \hat{x}_A|) - (1-s_1^*)(1-s_2^*)d(|x_A - \hat{x}_A|) \\ & -v(s_1^*(x_A) + s_2^*(x_A)), \end{aligned} \tag{2.3}$$

with an optimum denoted $x_A^*(s_1^*(x_A), s_2^*(x_A))$.

Given agency policy-making ($P = 1$), the sequential equilibrium consists of simultaneous solutions of $s_1^*(x_A)$, $s_2^*(x_A)$, and $x_A^*(s_1^*(x_A), s_2^*(x_A))$, in terms of the exogenous variables $\hat{x}_1, \hat{x}_2, \hat{x}_A$.

For the empirical analysis, several aspects of the equilibrium are crucial. The first is analytically trivial but substantively important. If $P = 0$ so that A keeps the status quo in place, there is nothing for oversight to do, and it carries an opportunity cost, so no oversight occurs. As agencies engage in more policy making activity, there is at least some incentive for oversight. We refer to this as the **agency activity hypothesis**.

Proposition 1. For each committee C_i, $i \in \{1, 2\}$, $s_i^*(P)$ is weakly increasing: oversight levels are increasing in agency policy making activity.

Other properties of the equilibrium are instances of monotone comparative statics. First, $EU_i(s_i)$ clearly follows a single crossing property with respect to $\hat{x}_i$. Specifically, as $|\hat{x}_i|$ increases, the value of oversight for i increases as well. This change in ideal point does not affect the marginal cost of oversight (given by the function b), but does affect the marginal benefit. When $|\hat{x}_i|$ grows (either $\hat{x}_2$ grows above or $\hat{x}_1$ shrinks below 0), $d(\cdot)$ increasing implies it is relatively more beneficial for i to obtain marginal movements from x_A toward $\hat{x}_i$. This complementarity is identified in the cross partial of the objective function EU_i. For C_1,

$$\frac{\partial^2 EU_1}{\partial s_1 \partial \hat{x}_1} = s_2(d'(\frac{\hat{x}_2 - \hat{x}_1}{2}) - d'(\hat{x}_2 - \hat{x}_1)) - (1 - s_2)d'(x_A - \hat{x}_1) < 0. \tag{2.4}$$

Recall that $d' > 0$, so $-d' < 0$ in each term. The first term is negative because $\hat{x}_2 > \mu$ and $d'' > 0$, so that the overall cross partial is negative too. Since $\hat{x}_1 < 0$ by assumption, this also means that $\frac{\partial^2 EU_1}{\partial s_1 \partial |\hat{x}_1|} > 0$, which is a complementarity condition that is sufficient for a monotone comparative static of s_i^* with respect to $|\hat{x}_i|$. An analogous derivation holds for C_2.

Furthermore, since $\hat{x}_A = 0$ by assumption, $|\hat{x}_i|$ captures the ideological conflict between C_i and A. This leads to the following proposition.

Proposition 2. For each committee C_i, $i \in \{1, 2\}$, and holding fixed $\hat{x}_j$, $s_i^*(|\hat{x}_i|)$ is weakly increasing: oversight levels are increasing in ideological distance between C_i and A.

We refer to this result as the **agency policy conflict hypothesis.** Since oversight is imperfect at moving policy in this model, principals cannot fully eliminate an agent's ability to act on its own preferences rather than the principal's. The greater the divergence or conflict between the most preferred decisions of the principal and the agent, the greater the agency loss. This, in turn, raises the value of tools that can mitigate agency loss, such as oversight, and should make them used more often. Therefore, greater conflict in policy goals between Congress and agencies should be associated with more oversight.

Another important hypothesis concerns the interaction, or competition, between committees to influence the final policy implemented by A. To establish this, consider another single crossing property in EU_i: this time between s_1 and $\hat{x}_2$. For concreteness, consider the analysis from C_1's point of view; it is similar from C_2's. The first derivative is

$$\frac{\partial EU_1}{\partial s_1} = s_2(d(\hat{x}_2 - \hat{x}_1) - d(\mu - \hat{x}_1)) - (1 - s_2)d(x_A - \hat{x}_i). \tag{2.5}$$

Signing the derivative of the second term with respect to $\hat{x}_2$ is straightforward because s_2 increases with $\hat{x}_2$ (proposition 1). Note again that because $d'' > 0$ and $\hat{x}_2 > \mu$, the term $(d(\hat{x}_2 - \hat{x}_1) - d(\mu - \hat{x}_1))$ is also increasing in $\hat{x}_2$. So the first term is the product of two terms, both increasing in $\hat{x}_2$. Therefore,

$$\frac{\partial EU_1}{\partial s_1 \partial \hat{x}_2} > 0, \tag{2.6}$$

which ensures a monotone comparative static of s_i^* with respect to $\hat{x}_2$. There are two effects behind this. First, increasing $\hat{x}_2$ increases C_2's oversight s_2, which raises the chance of undesirable outcomes for C_1, and to counterbalance this possibility, C_1 has an incentive to engage in more oversight. Second, even fixing s_2, an increase in $\hat{x}_2$ makes some of the policy outcomes less desirable for C_1, while making none more desirable. So C_1 increases s_1 to lower the chance of these events.

Since $s_1(|\hat{x}_1|)$ is increasing per proposition 1, we obtain the following result.

Proposition 3. For each committee C_i, $i \in \{1, 2\}$, $s_i^*(|\hat{x}_2 - \hat{x}_1|)$ is weakly increasing: oversight levels are increasing in ideological distance between C_1 and C_2.

We refer to this as the **common agency hypothesis**. Multiple principals in Congress possess autonomous authority to initiate oversight proceedings. Unlike passing a law, which requires concerted action and agreement among veto players in Congress, oversight hearings require only a group of legislators on a single committee with the desire to hold them.

Therefore, common agency considerations can also bear on incentives for oversight. If oversight can affect agency actions, and principals disagree about

the desired actions, then individual principals have greater incentives to use oversight to bend agency actions in their preferred direction.[7]

There are two reasons for the effect: first, disagreement among principals can make it more difficult to pass statutes directing agency actions, thereby closing off one channel for mitigating agency loss — and making other channels more valuable to all principals. Clearly, this increases the incentives for individual committees to engage in oversight, and indeed is closely related to previous arguments about incentives for oversight and the difficulty of passing new initiatives (Aberbach (1990)). Since lawmaking is not part of our analysis, our model does not capture this effect per se.

Second, if one principal engages in oversight and thereby influences agency actions, a competing principal with a different desired action has an incentive to engage in oversight activity itself, to reduce or "undo" the effects on the agent of the oversight activity of the first principal.[8] This is the effect captured in our model.

Congress can have internal policy conflict within a chamber or across chambers. The common agency arguments above apply to each. Therefore, policy conflict between the Senate and the House should, all else constant, increase both House and Senate oversight activity. Greater policy conflict within the House should also increase House oversight activity, and the same goes for the Senate.

The common agency hypothesis is somewhat more delicate, from the standpoint of democratic accountability, than the agency activity and agency policy conflict hypotheses. For those two, one can interpret oversight as a means to mitigate agency loss faced by Congress as a whole, and given that body's democratic pedigree, one can interpret minimized agency loss as desirable. But the common agency hypotheses suggest that a chamber or a unit of Congress may be something like the Red Queen, and faster running simply increases the speed of the treadmill for other units of Congress. In other words, if oversight helps to counteract efforts of other units in Congress to influence agencies, then collectively Congress may in fact provide too much of it. First, the opportunity cost of legislative time spent on oversight just to forestall the effects of oversight by other legislative units is probably not zero; second, this "arms

[7]Gailmard (2009) also studies common agency and legislative oversight. In that model the multiplicity of principals reduces incentives for legislative oversight, for a fixed level of preference conflict among them. The reason is that for a given level of preference conflict over agent policy choices (to wit, zero in Gailmard (2009)), oversight is a public good among the principals and as such is underprovided. In both that model and the implicit model considered here, increased preference conflict among a fixed number of principals increases incentives for oversight.

[8]Whitford (2005) demonstrates a similar effect, with the President and Congress as the principals, on attempts to influence EPA decision making. While oversight is not one of the control instruments available in his data, the underlying logic of his argument is similar.

race" pattern of oversight could contribute to a more contentious political climate around program implementation than is necessary to obtain a particular arrangement of policy outcomes.

2.2 Empirical Analysis: Legislative Oversight Hearings

Data

New Oversight Hearing Data

Using the Congressional Information Service's (CIS) public records of hearings, we scraped the text of CIS's public record for each hearing containing synonyms of and variations of the word "oversight," as well as synonyms and variations of words indicating problems, such as "waste" and "fraud."[9]

To make it into our dataset, CIS hearing records had to mention at least one administrative agency.[10] We also record whether a hearing involved at least one agency staff person giving testimony and whether the agency was mentioned in the title or brief summary of the hearing record in particular. A team of undergraduate researchers read the hearing records to make a judgement call as to whether or not the hearing was overseeing an administrative agency.[11] Given all of this, we can define oversight hearings in the follow-

[9]On Lexis Nexis, we used the following search: TITLE (REFORM! or (RECOMMEND! w/3 (REVIS! OR CHANGE! OR REFORM!)) or FUTURE or OVERSIGHT or REVIEW! or "'s w/4 BUDGET!" or ABOLISH! or NEED! or MANAG! or WASTE! or FRAUD! or ABUS! OR INSPECT! or INQUIR! or OVERVIEW! or EXAMIN! or LOOK or ASSESS! or RE-ASSESS!) OR DESCRIPTORS (REFORM! or (RECOMMEND! w/3 (REVIS! OR CHANGE! OR REFORM!)) or FUTURE or OVERSIGHT or REVIEW! or "'s w/4 BUDGET!" or ABOLISH! or NEED! or MANAG! or WASTE! or FRAUD! or ABUS! OR INSPECT! or INQUIR! or OVERVIEW! or EXAMIN! or LOOK or ASSESS! or RE-ASSESS!) OR SUMMARY (REFORM! or (RECOMMEND! w/3 (REVIS! OR CHANGE! OR REFORM!)) or FUTURE or OVERSIGHT or REVIEW! or "'s w/4 BUDGET!" or ABOLISH! or NEED! or MANAG! or WASTE! or FRAUD! or ABUS! OR INSPECT! or INQUIR! or OVERVIEW! or EXAMIN! or LOOK or ASSESS! or RE-ASSESS!) AND NOT SOURCE (APPROPRIATION!). We have excluded Appropriations Committees in both the House and the Senate. One extension of the analysis that we present here would be to include these.

[10]We note that we only searched for mentions of the names of independent agencies, cabinet departments, and executive agencies. This means that if a subagency within a cabinet department was mentioned but the overarching cabinet department was not, it would not make it into our dataset.

[11]The percent overlap between two coders on a sample of our data was 77%. The Cohen's κ, which adjusts for overlap by chance, was .55, which those who have suggested guidelines for interpreting Cohen's κ have described as "moderate" or "fair to good" (Landis, Koch

ing ways (or combinations of the following ways): 1) hearings that mention an agency anywhere in the CIS hearing record, 2) hearings that mention an agency in the title or brief summary of the CIS hearing record, 3) hearings that have at least one agency staff person giving testimony, and 4) hearings that mention an agency and that were hand coded as overseeing that agency.

Our dataset is at the agency-committee pair level by year and spans from 1983-2010. Hearing information included in the dataset includes the committee or committees holding the hearing, the agency or agencies mentioned in the record of the hearing, whether each agency was mentioned in the title or summary in particular, whether each agency had a staff person giving testimony, descriptions of the content of the hearing, all dates on which the hearing took place, the dates that each witness testified, the subject matter of the witness testimonies, all of the witnesses and their affiliations, and the hand-coded oversight designation.

In order to account for a committee's decision not to oversee an agency, we include in the dataset every possible agency-committee pair in every year. Since committees can choose to oversee any agency that they wish to oversee, we paired all committees with all agencies in our dataset.[12]

Additional Data

For our measure of agency activity we use data from O'Connell (2008, 2011) on agency rule making. O'Connell constructed a database of agency rule making from the Unified Agenda of Federal Regulatory and Deregulatory Actions, which is published in the Federal Register twice per year. O'Connell's database contains dates of important components of the rulemaking process for a total of 48,091 rules made by fifteen cabinet departments, eight executive agencies, and twenty-four independent agencies from 1983-2010. Important components of the rulemaking process included in the database include the dates that Notice of Proposed Rulemaking were issued, when comment periods opened and closed, when final rules were issued, when proposed rules were withdrawn, and when interim rules were issued, as well as substantive information such as the abstract of each rule and the prioritization of each rule as "major" under the Congressional Review Act O'Connell (2008, 2011).

For our measure of committee ideology we use the Common Space score of the chair of the committee in each year. We normalize these committee ideology scores across chambers within each Congress since we are interested in

et al. (1977); Fleiss, Levin and Paik (1981)).

[12]We use as the pool of agencies all cabinet departments, executive agencies, and independent agencies that undertook at least one rule making action from 1983-2010 and hence appeared in the Unified Agenda of Federal Regulatory and Deregulatory Actions during this time period.

a committee's ideology relative to the other committees across both chambers that it could be competing with over oversight in the "arms race" pattern implied by our common agency hypothesis.

For our measure of agency ideology we use normalized scores developed by Clinton and Lewis (2008). Their measure is based on a survey of expert observers regarding their perceptions of agency ideology and is meant to measure the underlying ideology of the agency's mission, not the ideology of the appointees in the agency at the time of the survey.

Analysis

We present analysis here for 1983-2010 defining an oversight hearing as one that mentions an agency and has at least one agency staff person testifying.[13] We break the analysis up between divided Congresses only and all Congresses. We look specifically at divided Congresses since this is a concrete way to operationalize, albeit imperfectly, the idea of competing committees whose ideal points are on opposite sides of the status quo policy.

Our dependent variable, $hearings_{acy}$, is the number of hearings per agency-committee pair per year. In other words, it is the number of hearings held by a particular committee to oversee a particular agency in a given year. We provide descriptive statistics for our dependent variable and all explanatory variables in 2.3.

We have constructed three explanatory variables to test the agency activity, agency policy conflict, and common agency implications of our model. Our measure of agency activity, $lagged.rules_{ay}$, is our first explanatory variable. This is a lagged count of all rule making actions by each agency from the previous year. These rule making actions include advanced NPRMs, NPRMs, final rules, interim final rules, direct final rules, withdrawn rules, public hearings, and extensions to comment periods. We also separately construct a count of all rule making actions designated as "major" under the Congressional Review Act by each agency in each lagged year. Data is only available starting in 1994 for this "major" designation. We have lagged these rule making variables by one year based on the substantive motivation that oversight hearings are an ex post oversight tool in response to agency activity.

The second explanatory variable, $ag.com.distance_{acy}$, is a measure of the ideological distance between each committee-agency pair in each year. To construct the variable we take the absolute value of the difference between the normalized agency ideology score and the normalized committee ideology score.

[13]Results are broadly consistent when we define oversight in the other ways that our dataset lends itself to, as described previously.

The third explanatory variable, $com.com.pair.distance_{cy}$, is a measure of the ideological distance between comparable committees in the House and Senate. We have created cross-chamber pairs of committees, as listed in Table 1. We paired committees based on areas of common policy concern. The ideological distance between the House and Senate committee in each pair is the absolute value of the difference between the two committees' normalized ideology scores.

Table 2.1: Committee-Committee Pairs

	House Committee	**Senate Committee**
1	Agriculture	Agriculture, Nutrition, and Forestry
2	Armed Services	Armed Services
3	Financial Services	Banking, Housing, and Urban Affairs
4	Budget	Budget
5	Education and the Workforce	Education
6	Energy and Commerce	Commerce, Science, and Transportation
7	Science, Space, and Technology	Commerce, Science, and Transportation
8	Foreign Affairs	Foreign Relations
9	Oversight and Government Reform	Homeland Security and Governmental Affairs
10*	Homeland Security	Homeland Security and Governmental Affairs
11	Administration	Rules and Administration
12	Rules	Rules and Administration
13	Judiciary	Judiciary
14	Natural Resources	Energy and Natural Resources
15**	Merchant Marine and Fisheries	Energy and Natural Resources
16	Small Business	Small Business and Entrepreneurship
17	Veterans' Affairs	Veterans' Affairs
18	Transportation and Infrastructure	Environment and Public Works
19	Ways and Means	Finance
20	Intelligence	Intelligence

Notes: * Starting in 2002 when the House Committee on Homeland Security was established. ** Ending in 1995 when the House Committee on Natural Resources took over the duties of the Committee on Merchant Marine and Fisheries.

The main specification that we use to test the agency activity, agency policy conflict, and common agency implications of our model is as follows. Subscript a denotes agency, subscript c denotes committee, and subscript y denotes year. Γ represents fixed effects, including year fixed effects, agency fixed effects, and committee fixed effects. We cluster all standard errors at the agency-committee pair level to account for serial correlation as well as the fact that we pair some Senate committees with more than one House committee.[14]

$$hearings_{acy} = \beta_0 + \beta_1 lagged.rules_{ay} + \beta_2 ag.com.distance_{acy} + \beta_3 com.com.pair.distance_{cy} + \Gamma + \epsilon_{acy} \tag{2.7}$$

Table 1 summarizes our regression results. For a given level of ideological conflict between a committee and an agency and between a committee and its cross-chamber paired committee, we find a strong positive relationship between oversight and agency rule making but one that is quite small in magnitude. During divided Congresses, we find that one additional rule per year by an agency increased oversight hearings by .002. This means that a one standard deviation increase in the number of rules per year (an increase of about 62 rules in a given year) issued by an agency increased hearings by about 6% of a standard deviation. The magnitude decreases slightly when we look at all Congresses. Even when we limit our analysis to major rules, the magnitude remains small. A one standard deviation increase in the number of major rules per year (an increase of about 7 major rules in a year) leads to about a 5% increase in oversight hearings.

For a given level of agency rule making and ideological conflict between a committee and its cross-chamber paired committee, we also find a positive relationship between oversight and the ideological distance between congressional committees and agencies but one that is also quite small in magnitude. During divided Congresses, we find that a one unit increase in the ideological distance between an agency and a committee increased oversight hearings by .09. This means that a one standard deviation increase in the agency-committee ideological distance increased hearings by about 3% of a standard deviation. This magnitude decreases when we look at all Congresses and when we limit the analysis to major rules.

[14]Hearings held in a given year by Senate committee i, which is paired with both House committees j and k, overseeing agency a, show up as two observations. The only thing different between these observations is the *com.com.pair.distance*. One observation gives the distance between Senate committee i and House committee j and the other gives the distance between Senate committee i and House committee k. We cluster standard errors at the agency-committee pair level so as not underestimate the variance in the data resulting from these hearings.

Last, for a given level of agency rule making and ideological conflict between a committee and an agency, we find in all but one specification a positive relationship between oversight and the ideological distance between congressional committees across chambers that focus on similar policy areas. During divided Congresses, we find that a one unit increase in the ideological distance between a committee and its cross-chamber paired committee increased oversight hearings by about .186. This means that a one standard deviation increase in the committee-committee pair ideological distance increased hearings by about 5% of a standard deviation. This magnitude decreases when we look at all Congresses and when we limit the analysis to major rules.

We note that we did not find a difference in the relationship between oversight and agency-committee ideological distance between independent agencies as opposed to cabinet departments and executive agencies. We also did not find a difference in the relationship between oversight and agency-committee ideological distance based on the amount of rulemaking done by an agency.

That all of the results are more pronounced under divided Congresses is an encouraging result, in terms of support for our model. It is in these cases that we suspect it is most likely that the agency's policy would indeed fall between the two committee ideal points, which we assume in our model. Although more pronounced under divided Congresses, we also turn up support for cross-chamber "arms race"-style competition over oversight during unified Congresses. Even when cross-chamber paired committees are chaired by members of the same party, as their ideological distance from each other increases, both committees hold more oversight hearings for fixed levels of agency activity and agency-committee ideological conflict.

On the whole, the connection that we establish between congressional oversight and Congress's agency problem after delegating to the bureaucracy is encouraging from the perspective of democratic accountability. Our results provide consistent support for all three implications of our model. The magnitudes are obviously not big but there is clear evidence supporting the agency activity, agency policy conflict, and common agency hypotheses. This support is broadly consistent across empirical specifications and within different samples. Regarding the magnitudes, without more evidence and information, it is difficult to say one way or the other whether increasing hearings a small amount has important effects in how our laws are implemented and in the extent to which agency policy-making is made more democratic. But it is certainly plausible that small increases in the number of hearings can result in big changes in policy.

But the picture is not entirely rosy. With evidence of the encouraging connection between oversight and Congress's agency problem also comes evidence of a democratic problem created by delegation. Namely, instead of working to find the right mix of legislative control and agency loss, committees may

instead by engaged in an "arms race" with other committees, perhaps providing more oversight than would be ideal from the perspective of obtaining a democratically accountable arrangement of policy outcomes.

2.3 Conclusion

Although much has been learned about legislative oversight, its use in resolving Congress's agency problems with the bureaucracy has not been tested empirically. Empirical research on oversight has tended to focus on incentives and constraints within Congress itself, or from the large scale policy dynamics in play well beyond the bureaucracy.

As a result of scholars' focus on the congressional side of oversight, we have had little empirical understanding of the value of oversight hearings for reconciling administrative policy-making with democratic values and aspirations. In this paper we have explicitly connected on-the-record legislative oversight, the variety that occurs in oversight hearings, to a principal-agent approach to legislative-bureaucratic interaction. This theoretical perspective gives rise to conceptually distinct expectations about oversight behavior, as reflected in the agency policy conflict, agency activity, and common agency hypotheses. The overarching perspective behind these hypotheses is that oversight hearings are a useful tool to mitigate agency loss Congress faces in the bureaucracy, and so its use should be affected by the likely magnitude of that agency loss under different political conditions.

We are unlikely to see our empirical results if oversight activity is not systematically related to the intensity of the agency problem Congress faces, as a whole and in its possibly-conflicting subsets, with respect to the bureaucracy. Of course as in any non-experimental setting, these results should be taken with a grain of salt. We cannot rule out all omitted variables or reject that there may be other models that better explain the data, though we are unaware of any at the present time.

On the whole, our results should encourage scholars concerned with democratic accountability. Our findings suggest that formal oversight activity by Congress is at least in part about finding the optimal mix of bureaucratic control and agency loss. But our results also indicate that inter-committee competition might result in an "arms race" leading to a more contentious political climate around program implementation than is necessary to obtain a particular arrangement of policy outcomes.

2.4 Figures and Tables

Table 2.2: Oversight, Agency Rulemaking, and Ideological Conflict

	DV: Hearings per committee-agency-year						
	Model 1	Model 2	Model 3	Model 4	Model 5	Model 6	Model 7
PANEL A: Divided Congresses: 1984-1986							
All rulemaking							
Rulemaking per year per agency (lagged)	0.002***	0.002***	0.000	0.002***	0.000	0.002***	0.000
	(0.001)	(0.001)	(0.000)	(0.001)	(0.000)	(0.001)	(0.000)
Ideological distance per year per agency committee pair	0.101**	0.094**	-0.003	0.114**	-0.012	0.107**	0.002
	(0.047)	(0.047)	(0.047)	(0.046)	(0.047)	(0.046)	(0.045)
Ideological distance per year per com-com pair	0.189***	0.186***	0.188***	0.105**	0.185***	0.070	0.066
	(0.068)	(0.068)	(0.067)	(0.047)	(0.067)	(0.044)	(0.043)
N	4560	4560	4560	4560	4560	4560	4560
R-Squared	0.010	0.012	0.094	0.060	0.096	0.062	0.146
PANEL B: All Congresses: 1984-2010							
All rulemaking							
Rulemaking per year per agency (lagged)	0.001***	0.001***	0.000**	0.001***	0.000	0.001***	0.000
	(0.000)	(0.000)	(0.000)	(0.000)	(0.000)	(0.000)	(0.000)
Ideological distance per year per agency committee pair	0.040***	0.027*	0.012	0.033**	-0.004	0.019	-0.013
	(0.014)	(0.014)	(0.015)	(0.014)	(0.016)	(0.014)	(0.016)
Ideological distance per year per com-com pair	0.048***	0.072***	0.047***	-0.017*	0.072***	0.000	0.000
	(0.017)	(0.018)	(0.016)	(0.009)	(0.017)	(0.009)	(0.009)
N	40941	40941	40941	40941	40941	40941	40941
R-Squared	0.009	0.019	0.058	0.042	0.068	0.050	0.100
Major rulemaking							
Major rulemaking per year per agency (lagged)	0.012***	0.010***	0.011**	0.012***	0.009*	0.010***	0.009*
	(0.004)	(0.004)	(0.005)	(0.004)	(0.005)	(0.004)	(0.005)
Ideological distance per year per agency committee pair	0.041***	0.033***	0.021**	0.021**	0.013	0.009	-0.012
	(0.010)	(0.010)	(0.010)	(0.010)	(0.012)	(0.010)	(0.013)
Ideological distance per year per com-com pair	0.057***	0.067***	0.057***	-0.002	0.067***	0.008	0.008
	(0.020)	(0.022)	(0.020)	(0.012)	(0.021)	(0.014)	(0.014)
N	19336	19336	19336	19336	19336	19336	19336
R-Squared	0.005	0.009	0.038	0.035	0.042	0.038	0.071
FEs	None	Year	Agency	Com	Yr & Ag	Yr & Com	Yr, Ag, Com

Notes: $^{***}p < 0.001$, $^{**}p < 0.01$, $^{*}p < 0.05$, $^{\cdot}p < 0.1$ Notes: Standard errors are clustered at the agency-committee pair level. Major rulemaking is only for 1994-2010 due to data availability.

Table 2.3: Descriptive statistics, all variables

	N	Mean	SD	Median
Hearings that have an agency staff member testifying				
Divided Congresses: 1984-1986				
All rulemaking				
Hearings per year per agency-committee pair	4560	0.55	2.19	0
Rulemaking per year per agency	4560	52.52	62.09	31
Ideological distance per year per agency-committee pair	4560	1.08	0.78	0.95
Ideological distance per per committee-committee pair	4560	1.67	0.63	1.81
All Congresses: 1984-2010				
All rulemaking				
Hearings per year per agency-committee pair	40941	0.42	1.98	0
Rulemaking per year per agency	40941	55.92	70.57	28
Ideological distance per year per agency-committee pair	40941	1.04	0.81	0.86
Ideological distance per per committee-committee pair	40941	1.27	0.91	1.1
Only major rulemaking*				
Hearings per year per agency-committee pair	19336	0.22	1.51	0
Rulemaking per year per agency	19336	3.4	6.95	0
Ideological distance per year per agency-committee pair	19336	1	0.79	0.81
Ideological distance per per committee-committee pair	19336	1.33	0.98	1.2

*Notes: *Major rulemaking only for years 1994-2010 due to data limitations.*

Chapter 3

Lobbying and Presidential Oversight

President Obama, in a speech in Des Moines, Iowa on November 10, 2007, stated "I am in this race to tell the corporate lobbyists that their days of setting the agenda in Washington are over. I have done more than any other candidate in this race to take on lobbyists—and won. They have not funded my campaign, they will not run my White House, and they will not drown out the voices of the American people when I am president" (quoted in Drutman (2015)). Yet it remains an open question whether the many offices and staffers of the president, many of which are formally embodied in the Executive Office of the President, are limiting interest group influence on policymaking.

Over the past forty years presidents have gotten increasingly involved in the policymaking activity of the executive branch, going after their policy and political agenda within the executive branch (Nathan (1983); Moe (1985); Kagan (2001)). They have done so in areas from energy and the environment, to transportation, safety, health, and education, to telecomm and antitrust, to homeland security. Moreover, they have many tools at their disposal, from presidential appointments within agencies, to setting the president's budget, to the use of formal directives instructing agencies to carry out policymaking in a particular way (and not in other ways), to centralized review of agency policymaking carried out by the president's Office of Information and Regulatory Affairs (OIRA), to taking tasks away from agencies and placing them under the purview of the president's staff.

The president's oversight of the executive branch creates many openings in the policymaking process. These openings in and of themselves raise questions about interest group influence. Indeed, lobbyists can and do work directly with the president's staffers in their oversight work in many policy areas. Most of who lobbies the president's OIRA, for example, are interest groups and not unorganized members of the general public (Balla, Deets and Maltzman

(2011); Croley (2003); Steinzor, Patoka and Goodwin (2011); Haeder and Yackee (2015)). Moreover recent research raises concerns of lobbyist influence. Simon Haeder and Susan Webb Yackee turn up evidence of a relationship between lobbying the president's OIRA and policy changes, especially when there is consensus across lobbying groups and especially when businesses lobby (Haeder and Yackee (2015)). Are lobbyists using these political openings to leverage more influence? Or, can these political openings serving to limit the undue influence of lobbyists (Livermore and Revesz (2013))? We know surprisingly little about the role of presidents in mediating the influence of lobbyists.

Lobbyists are certainly major players in the policymaking process. The most active companies have as many as 100 lobbyists representing them and active on hundreds of bills in Congress and policies in administrative agencies (Drutman (2015)). They provide policy expertise (Hall and Deardorff (2006); Gailmard and Patty (2012); Drutman (2015)) and help under-resourced congressional and agency staffers to do their jobs (Hall and Deardorff (2006)). Moreover, in recent decades lobbyists have increasingly gone on the offensive, seeking opportunities for new public policies, rather than merely responding to agency initiatives on the defense as in the past (Drutman (2015)).

Perhaps most concerning is the possibility that lobbyists are increasingly becoming agenda-setters in the policymaking process. It is through the combination of lobbyists increasingly going on the "offensive" by seeking new policies, and agencies increasingly relying on lobbyists' help to research and write policies that put lobbyists in an agenda-setting position. Whenever the agency is dissatisfied enough with an existing policy, the lobbyist may be able to use its agenda-setting power to pull policy closer to what it wants. In other words, to extract rents in exchange for the resources that lobbyists offer to under-resourced agencies. This is a major shift from lobbying that could be characterized as defensive and in response to agency proposals for new policies because it puts lobbyists in a position to shape the policymaking agenda. It is lobbyists themselves proposing policies that puts them into this position.

This paper focuses on how presidents can limit rent extractions by lobbyists who are acting in this agenda-setting role. In doing so, it challenges the "ally principle" (Bendor and Meirowitz (2004))—the notion that agencies are better off with presidents they agree with and that presidents are better off with agencies they agree with—which undergirds the presidential control literature (Nathan (1983); Moe (1985)) and a parallel literature that focuses on presidents bolstering the policymaking of likeminded agencies (Rezaee (2016)). For example, through agency appointments (Krause and O'Connell (2015)), through the OIRA review process (Rezaee (2016); Kagan (2001)), and through public assertion of ownership of agency policymaking (Kagan (2001)).

This paper will show that agencies are better off under certain circum-

stances working with a president not exactly aligned with them in order to offset the influence of lobbyists. In making this point, this paper joins a number of other works challenging and complicating the ally principle (Gailmard and Patty (2012); Gailmard and Hammond (2011); Bertelli and Feldmann (2007)). In particular, when lobbyists pressure agencies to conduct their policymaking activities in a particular way and agencies are unable to counter this pressure on their own, a president that exactly resembles the agency in terms of policy preferences will be of no help to the agency in countering the lobbyist's pressure. This is because both the agency and the president like what the lobbyist wants more than they like existing policy. But with a president that is in some sense "tougher" than the agency in terms of what kinds of agreements he or she will approve of (abandon the status quo in favor of), the agency gains bargaining power vis a vis the lobbyist.

Of course agencies are not always better off working with a president that disagrees with them on policy matters. When presidents are directing agencies to take action, either informally or through formal memoranda to agency heads, an agency would rather receive this guidance from a likeminded president. And when agencies themselves are in a position to set the agenda on policymaking and they are sending their policies to the president to be approved before they are finalized, an agency would rather be sending policies off to a likeminded president. But when an interest group has garnered agenda-setting power, an agency under certain circumstances would prefer to be working with a president that they are not perfectly aligned with in their preferences. In particular, they would prefer to be working with a president whose preferences offset the preferences of the lobbying group whose influence they are seeking to limit.

I analyze a formal model that shows how the strategic behavior of lobbying groups changes the strategic interaction between agencies and the president. The model allows for the possibility that at some times, agencies generate new policy proposals as in issuing a proposed rule and then seeking public comments and approval from the president's OIRA. At other times, the president generates new policy proposals, as in issuing memoranda to agency heads and then seeking approval from the agency and lobbyists active in the policy area. And at still other times, lobbyists working on the "offensive" generate new policy proposals and seek approval from an agency and the president. It is when the lobbyist is the one generating a new policy proposal that the president can help the agency offset the lobbyists' influence on the final policy outcome. To do so, the president cannot be perfectly aligned with the agency's preferences. The agency is thus faced with a tradeoff since when the president is the one generating a new policy proposal, the agency would be better off being perfectly aligned with the president.

Strikingly, the model shows that agencies have an incentive under certain

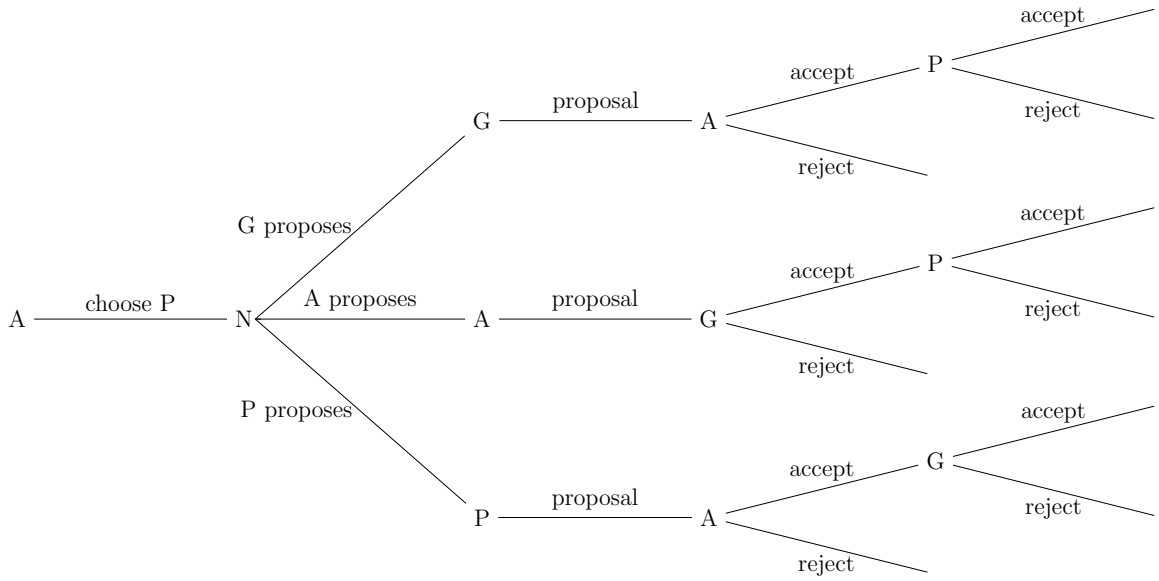
conditions to work with a president that is not exactly aligned with them in their policy preferences. There are situations in which even despite the disadvantages to the agency of working with an unaligned president, which are reflected in the model, the agency still prefers to do so in order to offset the influence of the agenda-setting power of lobbyists.

3.1 A Theory of Lobbying and Presidential Oversight

The formal model builds on the framework of Gailmard and Hammond (2011). It depicts an agency selecting a president in the context of bargaining with an interest group over policy. I develop my argument in an extensive form game with three players, an agency A, the president P and an interest group G. I will use these letters to denote the player itself and the player's ideal point. The space of available policies is the set of all real numbers $\mathbb{R}$, and a policy is denoted by $x \in \mathbb{R}$. Let q represent the status quo policy. Each player obtains different levels of utility from different policies. I assume they each have the quadratic utility function $U_j(x) = -(x-j)^2$. I assume without loss of generality that $A = 0$ and $G > 0$. Let $I_j(y)$ denote the policy in $\mathbb{R}$ not equal to y that a player with ideal point j considers equally as good as policy y.

Policymaking follows the following structure: A chooses $P's$ ideal policy. When making its choice, A knows q and G (as do all of the players). Following this, nature chooses whether G, A, or P proposes. When G proposes, G proposes x_G, which need not equal G. A then accepts or rejects $G's$ proposal, followed by P accepting or rejecting in the case in which A accepts. The final policy outcome is q when A or P reject and it is x_G when both A and P accept. When A proposes, A proposes x_A, which need not equal A. G then accepts or rejects, followed by P accepting or rejecting any policy that G accepts. The final policy outcome is q when G or P reject and it is x_A when both G and P accept. When P proposes, P proposes x_P, which need not equal P. A then accepts or rejects $P's$ proposal, followed by G accepting or rejecting any proposal that A accepts. The final policy outcome is q when G or A reject and it is x_P when both G and A accept. The extensive form is depicted in Figure 3.1.

Figure 3.1: Extensive Form: A Theory of Lobbying and Presidential Oversight



The equilibrium concept is subgame perfect Nash equilibrium. I assume that players accept an alternative to q if they are indifferent between the two. Before turning to the analysis I comment on the substantive backing of key features of the model.

In the model, the agency starts the game by choosing the president's ideal policy. This allows for consideration of the tradeoff the agency faces in working with an unaligned president who can help it reduce the influence of lobbyists in his or her capacity as a veto player, but who can use his or her proposal power in other situations to garner policy outcomes worse for the agency than if the agency and the president were perfectly aligned.

The sequence of policymaking in the model corresponds with a simplified version of bargaining over policymaking between an agency, a group, and the president. The model allows for the agency to be the agenda setter sometimes, the group to be the agenda setter other times, and for the president to be the agenda setter at other times.

The agency as agenda setter represents the typical "textbook" version of the policymaking process beginning with an agency drafting a proposed rule followed by submission of public comments by interest groups and others, followed by the agency drafting a final rule. The president's tool in all of this is centralized review of agency policymaking carried out by the president's OIRA, the most important innovation in presidential power in the last thirty years (West (2005); West (2006); Croley (2009); Bagley and Revesz (2006); Nathan (1983); Moe (1985); Wiseman (2009); Bueno de Mesquita and Stephenson (2007)). Through OIRA, presidents are able to review agency policies at the proposed rule and/or final rule stages.

The lobbying group as agenda setter does not fit with the textbook version of executive branch policymaking, but represents what scholars are increasingly observing in terms of interest groups going on the "offensive" with their lobbying efforts, seeking new policies, and treating public policy "as an opportunity instead of merely a threat" (Drutman (2015)). The amount of resources to help with the research and writing of policymaking that lobbyists bring to the table (Hall and Deardorff (2006)) potentially gives lobbyists the opportunity to claim rents in the process of offering this sort of policymaking "subsidy" to agencies. The model allows for the lobbying group to make policy proposals in order to build in this possibility that lobbyists are able to extract rents by pulling policy as close to their ideal point as possible while still inducing both the agency and the president to accept.

The president as agenda setter represents those instances that the president issues directives to agencies, either formally via memoranda to the heads of agencies or less formally through informal communication of some sort. These directives allow presidents to "instigate, rather than merely check, administrative action" (Kagan (2001)). In other words, through these directives,

presidents have agenda-setting power. With this agenda-setting power, presidents can pull policy toward their own ideal point while still inducing the agency and the group to accept.

3.2 The Optimal President for Limiting Lobbyist Influence

In my model, the agency is selecting the president in the context of policy bargaining in the executive branch. In some instances, the agency can offset the influence of an organized interest group by choosing a president whose preferences oppose those of the group. The cost of this is that at other times the agency is stuck with a president that disagrees with it on policy matters and will sometimes have proposal power. Therefore, choosing an unrepresentative president presents a trade-off to the agency.

The location of q is important to the agency's optimal choice of P. Below I present three cases.

CASE 1: $A = 0 < G < q$. **If** G **proposes**, it is not possible for P to help A offset $G's$ influence and A can do no better than setting $P = A$. When A sets $P = A$, G proposes its own ideal point and it passes. The same is true if A sets $A < P < G$. If A sets $P > G$, G cannot propose its ideal point and avoid a presidential veto, but this would not help A.

If A **proposes**, it is not possible for P to help A offset $G's$ influence either. When $P = A$, the final policy is $\max(0, I_G(q)$. If A were to choose $P < I_G(q)$, the final policy would be $\max(P, I_G(q)$, which is not as good for A as is choosing $P = A$. Moreover, if A chooses $P \geq I_G(q)$ A is worse off than when A chooses $P < I_G(q)$.

If P **proposes**, when A sets $P = A$, the outcome is $\max(A, I_G(q))$. This is better than A can do by setting $P < A$, in which case the final policy outcome is $\max(P, I_A(q), I_G(q))$, and it is better than A can do than setting $A < P < q$, in which case the final policy outcome is $\max(P, I_G(q))$.

CASE 2: $A = 0 < q < G$. In this case, no movement away from q is possible regardless of who proposes, whether A or G or P. This is because any movement of q to the right is vetoed by A and movement of q to the left is vetoed by G. When P proposes, no policy to the left of q would be accepted by G and no policy to the right of q would be accepted by A. It does not matter where P is and P cannot offset any lobbyist interest in this case.

CASE 3: $q < A = 0 < G$. **If** G **proposes**, A can choose a P to help it offset $G's$ influence on final policy. By choosing $P = \frac{A+q}{2}$, A makes P indifferent between q and $A's$ ideal point. The furthest G can pull policy to the right and avoid a presidential veto will be $A's$ ideal point. The final policy

outcome will be A. This is better than the final policy outcome when $P = A$ and G proposes, which would be $\min(G, I_A(q)$. G would be able to use its agenda-setting power to pull final policy as close to its ideal point as possible while still getting A and P to accept.

If A proposes, A is best off choosing $P = A$ since when A proposes, A can use its own agenda-setting power to offset $G's$ influence and so does not need $P's$ help to do this.

If P proposes, when A chooses $P = A$, the final policy outcome is A. If A chooses $P > A$, the final policy outcome is $\min(P, I_A(q), I_G(q))$. If A chooses $P < A$, the final policy outcome is P. And if A chooses $P < q$, the final policy outcome is q.

In sum, in cases 1 and 2, A cannot improve on a representative president $P = A$. But in case 3, when $q < A = 0 < G$, A sometimes benefits from choosing an unrepresentative P.

In case 3, $A's$ optimal president follows from maximizing the following utility function where r is the probability that P proposes, s is the probability that G proposes, and $(1 - r - s)$ is the probability that A proposes.

$$EU_A(P) = -rP^2 - s(2P - q)^2 - (1 - r - s)A^2 \tag{3.1}$$

This is $A's$ weighted average policy utility from any choice of P. The weights

are given by the probabilities that A is chosen to propose, G is chosen to propose, or P is chosen to propose. The utilities come from the policy outcome when A proposes, when G proposes, and when P proposes, for a given president choice P. This utility function expresses the tradeoff that A faces in choosing the value of P. A can limit the influence of G on policy outcomes by choosing a P that will act as a tough bargaining agent when G proposes (and will not have a cost to A when A proposes). But this will come at a cost for A when P proposes since when P proposes, A would be better off being perfectly aligned with P.

This expected utility is maximized at $P_M = \frac{2sq}{4s+r} < A$, which accounts for optimal behavior by G and by P later in the game.

However, A may prefer to choose $P = 0$ when P_M is too far below its own ideal point of zero. There is a threshold therefore that G must exceed for $P < A$ to be beneficial to A. The optimal president choice is summarized in the following proposition, proved in the appendix.

Proposition 1 (a) If $q \geq 0$, $A's$ optimal choice of P is a president perfectly aligned with itself, $P^*(q) = A$. (b) If $q < 0$, $A's$ optimal choice of P is

$$P^*(q) = \begin{cases} \frac{2sq}{4s+r} \text{ if } G > -qf(r,s) \\ 0 \text{ if } G \leq -qf(r,s) \end{cases} \tag{3.2}$$

where $f(r,s) \equiv (\frac{16s^2+4sr}{(4s+r)^2} - \frac{8s}{4s+r} + 1)^{\frac{1}{2}}$ is a differentiable function for $r \in (0,1)$ and $s \in (0,1)$ such that $\frac{\partial f(r,s)}{\partial r} > 0$.

When $q < A < G$, A will only choose a president that is not perfectly aligned with itself when the ideal point of the lobbying group exceeds the threshold $-qf(r,s) > 0$, where $f(r,s)$ is increasing in r, the probability that the president proposes. Intuitively, this is because the more likely P is to propose, the more likely A will face the tradeoff of an unaligned president with agenda-setting power, and hence the relatively larger G must be in order for it to be worthwhile to A to choose an unaligned president to offset $G's$ influence. The threshold also increases as q falls further below zero since this means that P_M declines further from $A's$ ideal point of zero. Therefore the equilibrium ideal point chosen by A for P is early increasing in ideological distance between G and A.

3.3 Conclusion

In this paper, I have shown that when we assume policy proposals sometimes originate with lobbyists, the president can help agencies limit the influence of lobbyists on policymaking outcomes under certain conditions. When these conditions are met as outlined in this paper, the president helps the agency by limiting the rents that a lobbyist can extract when the lobbyist is the one putting forth a policy proposal and hence acting in an agenda-setting capacity.

One contribution of the paper is to highlight the importance of a particular kind of lobbying influence, namely agenda-setting influence, and to formalize how this kind of influence differs from lobbyists simply being a part of a negotiation process with the ability to accept or reject policies set forth by other political actors. Some existing research on lobbying groups makes this distinction (for example, Drutman (2015)). This paper suggests that it is a distinction worth continuing to make and worth investigating further.

Further research is needed to understand whether we could consider lobbyists directly lobbying the president, as in, for example, lobbying the president's OIRA (Haeder and Yackee (2015)) as a form of agenda-setting lobbying. At this point in the policymaking process, an agency has already proposed a policy and OIRA has taken it under review. However, to the extent that OIRA creates an opening for lobbyists to do more than simply approve, try to water down, or block an agency's policy, lobbyists may be able to seek major changes or complete policy overhauls directly with OIRA. If so, it may be fruitful to think of these as another instance of agenda-setting-style lobbying.

Another contribution of the paper is to formalize when we can expect it to be possible for the president to limit lobbyist influence. For example, lobbyists

must be acting as agenda-setters by putting forth policy proposals and these agenda-setting lobbyists must want more extreme changes to existing policies than do agencies. For example, when a relatively conservative agency is facing a policy demand from an even more conservative group. In this instance, a relatively more liberal president may be able to the agency to limit the influence of the group. Or when a relatively liberal agency is facing a policy demand from an even more liberal group. In this instance, a relatively more conservative president may be able to help the agency to limit the influence of the group. Empirical research on lobbying in the executive branch may be enhanced by considering these as particular contexts in which presidents may be able to limit the agenda-setting influence of lobbyists to some extent.

This paper also demonstrates that agencies do not always prefer to be managed by a president who is perfectly ideologically aligned with them. This is a departure from most existing research on the administrative presidency, which is undergirded by the "ally principle." This paper argues that agencies in fact face a tradeoff. When they are trying to get presidential approval for their own policies and when they face presidential directives, agencies are better off with a president who is perfectly ideologically aligned with them. But when they are trying to limit the agenda-setting influence of lobbyists, agencies are sometimes better off with a president who is not perfectly ideologically aligned with them. Understanding agency preferences in this way complicates the ally principle running through the presidential control literature (Nathan (1983); Moe (1985)) and running through a parallel literature that focuses on presidents bolstering the policymaking of likeminded agencies (Rezaee (2016)).

3.4 Proofs

Proof of Proposition 1: Part (a) follows from the discussion in the main body of the paper.

For part (b), A has three regions of P to choose from: (i) $P < 0$ such that $I_P(q) > G$, (ii) $P < 0$ such that $I_P(q) \leq G$, and (iii) $P = 0$.

Any P in region (i) has no effect on policy whenever G proposes, and lowers policy below $A's$ ideal point of 0 when A proposes. Therefore any P in this region is strictly dominated for A by $P = 0$. $P = 0$ will still have no effect on policy when G proposes but it will lead to a policy choice of 0 when A proposes.

Any P in region (ii) leads to expected utility for A as follows:

$$EU_A(P) = -(1-r-s)A^2 - s(2P-q)^2 - (r)P^2 = -s(2P-q)^2 - rP^2 \quad (3.3)$$

In $A's$ expected utility function, r is the probability that P proposes, s is the probability that G proposes, and $(1-r-s)$ is the probability that A proposes.

Each term is the equilibrium utility to A conditional on who proposes, weighted by the probability of who proposes. It is strictly concave in P, so the first order condition is sufficient for finding $A's$ optimal choice of P in this region:

$$P_M = \frac{2sq}{4s+r}. \quad (3.4)$$

In region (iii), with $P = 0$, A receives zero utility when A proposes, zero utility when P proposes, and $-G^2$ utility when G proposes. Therefore $EU_A(P=0) = -sG^2$. With $P = P_M$, A receives zero utility when A proposes, $-P_M^2$ utility when P proposes, and $-(2P_M - q)^2$ utility when G proposes.

Therefore

$$EU_A(P = P_M) = -s(2P_M - q)^2 - rP_M^2. \quad (3.5)$$

A strictly prefers $P = P_M$ to $P = 0$ when $EU_A(P = P_M) > EU_A(P = 0)$, or when $q^2(-s(\frac{16s^2}{(4s+r)^2} - \frac{8s}{4s+r} + 1) - r(\frac{4s^2}{(4s+r)^2})) > -sG^2$, or when $G > -q(\frac{16s^2+4sr}{(4s+r)^2} - \frac{8s}{4s+r} + 1)^{\frac{1}{2}}$. If we write the multiplier of $-q$ as $f(r,s)$, this

inequality is $G > -qf(r,s)$, and A strictly prefers $P = P_M$ to $P = 0$ when $G > -qf(r,s)$.

Differentiating $f(r,s)$ with respect to r gives

$$\frac{\partial f(r,s)}{\partial r} = \frac{4(4s^2+sr)}{(4s+r)^3}(\frac{1}{2})(\frac{16s^2+4sr}{(4s+r)^2} - \frac{8s}{4s+r} + 1)^{\frac{-1}{2}} \tag{3.6}$$

This shows that $f(r,s)$ is increasing in r.

Bibliography

Aberbach, Joel D. 1990. *Keeping a watchful eye: The politics of Legislative Oversight*. The Brookings Institution Washington.

Aberbach, Joel D. 2002. "What's Happened to the Watchful Eye?" *Congress and the Presidency* 29(1):3–23.

Acs, Alex and Charles Cameron. 2014. "Regulatory Auditing at the Office of Information and Regulatory Affairs." Unpublished.

Acs, Alex and Charles M. Cameron. 2013. "Does White House Regulatory Review Produce a Chilling Effect and "OIRA Avoidance" in the Agencies?" *Presidential Studies Quarterly* 43(3):443–467.

Bagley, Nicholas and Richard L Revesz. 2006. "Centralized oversight of the regulatory state." *Columbia Law Review* pp. 1260–1329.

Balla, Steven J, Jennifer M Deets and Forrest Maltzman. 2011. "Outside communications and OIRA review of agency regulations." *Administrative Law Review* pp. 149–177.

Banks, Jeffrey S and Barry R Weingast. 1992. "The political control of bureaucracies under asymmetric information." *American Journal of Political Science* pp. 509–524.

Bawn, Kathleen. 1997. "Choosing Strategies to Control the Bureaucracy: Statutory Constraints, Oversight, and the Committee System." *Journal of Law, Economics, and Organization* 13(1):101–126.

Bendor, Jonathan and Adam Meirowitz. 2004. "Spatial models of delegation." *American Political Science Review* 98(02):293–310.

Bertelli, Anthony and Sven E Feldmann. 2007. "Strategic appointments." *Journal of Public Administration Research and Theory* 17(1):19–38.

Bressman, Lisa Schultz and Michael P Vandenbergh. 2006. "Inside the administrative state: A critical look at the practice of presidential control." *Michigan Law Review* pp. 47–99.

Bubb, Ryan and Patrick L Warren. 2014. "Optimal Agency Bias and Regulatory Review." *The Journal of Legal Studies* 43(1):95–135.

Bueno de Mesquita, Ethan and Matthew C Stephenson. 2007. "Regulatory quality under imperfect oversight." *American Political Science Review* 101(03):605–620.

Calvert, Randall, Mathew McCubbins and Barry Weingast. 1989. "A Theory of Political Control and Agency Discretion." *American Journal of Political Science* 33:588–611.

Clinton, Joshua D and David E Lewis. 2008. "Expert opinion, agency characteristics, and agency preferences." *Political Analysis* 16(1):3–20.

Croley, Steven. 2003. "Whie House Review of Agency Rulemaking: An Empirical Investigation." *The University of Chicago Law Review* 70(3):821–885.

Croley, Steven P. 2009. *Regulation and public interests: The possibility of good regulatory government*. Princeton University Press.

Drutman, Lee. 2015. *The business of America is lobbying: How corporations became politicized and politics became more corporate*. Oxford University Press.

Epstein, David and Sharyn O'Halloran. 1999. *Delegating Powers: A Transaction Cost Politics Approach to Policy Making Under Separate Powers*. New York, NY: Cambridge University Press.

Fleiss, Joseph L, Bruce Levin and Myunghee Cho Paik. 1981. "The measurement of interrater agreement." *Statistical methods for rates and proportions* 2:212–236.

Gailmard, Sean. 2009. "Discretion rather than rules: Choice of instruments to control bureaucratic policy making." *Political Analysis* 17(1):25–44.

Gailmard, Sean and John W Patty. 2012. *Learning while governing: expertise and accountability in the executive branch*. University of Chicago Press.

Gailmard, Sean and Thomas Hammond. 2011. "Intercameral bargaining and intracameral organization in legislatures." *The Journal of Politics* 73(02):535–546.

Haeder, Simon F and Susan Webb Yackee. 2015. "Influence and the Administrative Process: Lobbying the US President's Office of Management and Budget." *American Political Science Review* 109(03):507–522.

Hall, Richard L and Alan V Deardorff. 2006. "Lobbying as legislative subsidy." *American Political Science Review* 100(01):69–84.

Heinzerling, Lisa. 2014. "Inside EPA: a former insider's reflections on the relationship between the Obama EPA and the Obama White House." *Pace Environmental Law Review* 31(1):325.

Howell, William G. 2003. *Power without persuasion: The politics of direct presidential action*. Princeton University Press.

Kagan, Elena. 2001. "Presidential administration." *Harvard Law Review* pp. 2245–2385.

Kiewiet, D. Roderick and Mathew D. McCubbins. 1991. *The Logic of Delegation: Congressional Parties and the Appropriations Process*. Chicago, IL: University of Chicago Press.

Krause, George A and Anne Joseph O'Connell. 2015. "Experiential Learning and Presidential Management of the US Federal Bureaucracy: Logic and Evidence from Agency Leadership Appointments." *American Journal of Political Science* .

Landis, J Richard, Gary G Koch et al. 1977. "The measurement of observer agreement for categorical data." *biometrics* 33(1):159–174.

Lewis, David E. 2003. *Presidents and the politics of agency design: Political insulation in the United States government bureaucracy, 1946-1997*. Stanford University Press.

Lewis, David E. 2008. *The politics of presidential appointments: Political control and bureaucratic performance*. Princeton University Press.

Livermore, Michael A. and Richard L. Revesz. 2013. "Regulatory Review, Capture, and Agency Inaction." *Geo. LJ* 101:1337 – 1427.

McCubbins, Mathew D and Thomas Schwartz. 1984. "Congressional oversight overlooked: Police patrols versus fire alarms." *American Journal of Political Science* pp. 165–179.

McCubbins, Mathew, Roger Noll and Barry Weingast. 1987. "Administrative Procedures as Instruments of Political Control." *Journal of Law, Economics, and Organization* 3(2):243–277.

McCubbins, Mathew, Roger Noll and Barry Weingast. 1989. "Structure and Process, Politics and Policy: Administrative Arrangements and the Political Control of Agencies." *Virginia Law Review* 75(2):431–489.

Moe, Terry M. 1985. "The politicized presidency." *The new direction in American politics* 235:269–71.

Moe, Terry M. 1993. "Presidents, institutions, and theory." *Researching the presidency: Vital questions, new approaches* pp. 337–85.

Moe, Terry M and Scott A Wilson. 1994. "Presidents and the Politics of Structure." *Law and Contemporary Problems* pp. 1–44.

Moe, Terry M and William G Howell. 1999. "The presidential power of unilateral action." *Journal of Law, Economics, and Organization* 15(1):132–179.

Nathan, Richard P. 1983. *The administrative presidency*. John Wiley & Sons.

Nou, Jennifer. 2012. "Agency Self-Insulation Under Presidential Review." *Harv. L. Rev.* 126:1755.

O'Connell, Anne Joseph. 2008. "Political cycles of rulemaking: an empirical portrait of the modern administrative state." *Virginia Law Review* pp. 889–986.

O'Connell, Anne Joseph. 2011. "Agency Rulemaking and Political Transitions." *Northwestern University Law Review* 105.

Ogul, Morris S. 1976. *Congress Oversees the Bureaucracy: Studies in Legislative Supervision*. Pittsburgh, PA: University of Pittsburgh Press.

Rezaee, Janna. 2016. "Presidents' Pursuit of Policy in the Executive Branch." Working paper.

Rudalevige, Andrew. 2002. *Managing the president's program: Presidential leadership and legislative policy formulation*. Princeton University Press.

Steinzor, Rena I, Michael Patoka and James Goodwin. 2011. "Behind Closed Doors at the White House: How Politics Trumps Protection of Public Health, Worker Safety, and the Environment." *Worker Safety, and the Environment (November 2011)* .

Vladeck, David. 2006. Unreasonable Delay, Unreasonable Intervention: The Battle to Force Regulation of Ethylene Oxide. In *Administrative Law Stories*, ed. Peter L. Strauss. Foundation Press.

Weingast, Barry R and Mark J Moran. 1983. "Bureaucratic discretion or congressional control? Regulatory policymaking by the Federal Trade Commission." *The Journal of Political Economy* pp. 765–800.

West, William F. 2005. "The institutionalization of regulatory review: Organizational stability and responsive competence at OIRA." *Presidential Studies Quarterly* 35(1):76–93.

West, William F. 2006. "Presidential leadership and administrative coordination: Examining the theory of a unified executive." *Presidential Studies Quarterly* 36(3):433–456.

Whitford, Andrew B. 2005. "The Pursuit of Political Control by Multiple Principals." *Journal of Politics* 67(1):29–49.

Wiseman, Alan E. 2009. "Delegation and positive-sum bureaucracies." *The Journal of Politics* 71(03):998–1014.