

Lawmaking in the U.S.: American Legislatures and the Politics of Abortion and Charter Schools, 1997 - 2014

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Abstract

Understanding the correlates of policy change is important, but difficult. Many theories regarding the production and alteration of policy exist, but the ability to empirically characterize the scope and magnitude of policy change across time and different institutional contexts is limited. Using annual evaluations of policy outcomes from interest groups, measures of the revealed preferences of political elites, and information on the rules of procedure in each legislature, we examine lawmaking in state legislatures across nearly two decades on two salient issues – abortion and education. We find that both the level and change in policy are most prominently related to the median legislator and the governor and that the relationship between the chamber median and policy is most pronounced in legislatures with more majoritarian procedures. Conducting a simulation study to relate the reduced form empirical specifications to the predictions of extant lawmaking models reveals that our results are most consistent with models emphasizing the lawmaking constraints imposed by multiple veto points.

Keywords: Lawmaking; Legislatures; Federalism; Education Policy

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Understanding how and why legislatures successfully enact policy change is important because it is through the passage of laws that governments structure citizens' interactions with one other and their government. Despite the centrality of this question, many robust disagreements persist. For example, how important are political parties to lawmaking outcomes (Rhode 1991; Aldrich 1995; Aldrich and Rohde 1997; Cox and McCubbins 2005), and does divided government make lawmaking less likely (Binder 1999; Coleman 1999; Binder 2003; Mayhew 2005)? How do institutional structures and super-majoritarian requirements affect lawmaking (Krehbiel 1998; Brady and Volden 1998; Wawro and Schickler 2004; Anzia and Jackman 2013; Jackman 2013)? Are lawmaking outcomes extreme, or do institutional checks and balances produce relatively centrist policy outcomes despite parties being more likely to vote in opposition to one another (Shor and McCarty 2011)? How durable are enacted policies (e.g., Jenkins and Patashnik 2012)?

We are not lacking for theories describing the possible determinants of lawmaking outcomes, but characterizing the empirical relationship between these influences and lawmaking outcomes is limited by the difficulty of assessing policy content over time and across different institutional settings. We address these limitations by examining the relationship between the magnitude and timing of policy change and the impact of political elites and institutional rules in 49 state legislatures for two policies over nearly two decades. The persistent lawmaking activity by state legislatures in two highly salient policy domains – abortion regulations and the availability of school choice in public education – allows us to explore how the relationship between elite preferences and policy outcomes varies across issues depending on the configuration of political elites and the legislative procedures employed by state legislatures. To compare policy outcomes over time and across states we use measures based on a stable grading criteria produced by interest groups. State level policy scores allow us to directly compare both the level and change in policy over time and across states relative to variation in elected officials and legislative procedures.

We show that state policies on abortion and charter schools are most closely connected to

the preferences of the chamber median and the governor in two respects. Not only is the level of policy change more related to the location of the ideal point of the chamber median within a state, but the policy change over time in a state is also principally correlated with changes in ideal point of the chamber median. Moreover, these relationships are strongest in legislatures lacking gatekeeping or other procedures limiting the influence of the chamber median in scheduling. In contrast, the ideal point of the majority party median is inconsequential for explaining either the level or the change in state policy controlling for the ideal point of the chamber median. A simulation study helps relate these reduced form correlations to equilibrium predictions of prominent lawmaking models and they suggest that the pattern of relationships in the observed data is most consistent with a lawmaking model in which the chamber median is constrained by other elite actors.

We establish our argument in several steps. First, we briefly highlight some difficulties confronting studies of lawmaking and we argue that focusing on the enactment of abortion and charter school policies by state legislatures using interest group scores to characterize policy outcomes allows us to make important progress. Section two employs a simulation study to relate the equilibrium predictions of five prominent lawmaking model to the regression coefficients of the reduced-form empirical specifications we fit to the observed data to provide a basis for interpreting the regression results we report. Section three implements these reduced form models to the data we analyze and uses the resulting estimates to characterize the extent to which the ideal points of the governor, chamber median, and majority party median correlate with both the level and difference of policy change and also how these relationships depends on variation in procedural rules. Section four concludes.

1 Studying Lawmaking

Tremendous progress has been made theorizing about the importance of various political elites and institutions for lawmaking outcomes and scholars have explored questions regarding the dynamics and durability of policy (e.g., Jenkins and Patashnik 2012) as well as how

the preferences of political elites produce different policy outcomes depending on the location of the status quo policy and the set of rules structuring elite interactions (Diermeier and Krehbiel 2003). A lengthy and constructive debate exists regarding the relative importance of gatekeeping (Denzau and Mackay 1983; Crombez, Groseclose and Krehbiel 2006), agenda setting (Romer and Rosenthal 1978; Shepsle 1979; Shepsle and Weingast 1981; Stiglitz and Weingast 2010), the majority party (Rhode 1991; Aldrich 1995; Aldrich and Rohde 1997; Cox and McCubbins 2005; Battista and Richman 2011), the chamber median (Krehbiel 1998; Wiseman and Wright 2008), and the executive branch (Moe and Howell 1999; Cameron 2000; Howell 2003). There is no shortage of predictions about the relationship between elite preferences and policy outcomes.

Empirical progress has proven more difficult because of measurement difficulties. Most dominant lawmaking theories focus on the impact of various structures given two primitives: the policy preferences of elected officials and the location of the status quo policy. Progress has been made in characterizing the ideal points of political elites (Poole and Rosenthal 1997; Clinton, Jackman and Rivers 2004; Shor and McCarty 2011) that are commonly assumed to describe policy preferences, but assessing the magnitude of policy change relative to the status quo policy has proven more difficult.

Scholars have largely examined either on the timing the initial policy change (see, for example, Berry and Berry 1990; Shipan and Volden 2006; but see Mintrom 1997; Mintrom and Vergari 1998), or closely related measures.¹ Much work, for example, looks at the number of “important” enactments in a legislative session (e.g., Binder 1999; Chiou and Rothenberg 2003; Lapinski 2008), but the variation in such measures (e.g., Mayhew 2005; Howell et al. 2000; Clinton and Lapinski 2006) does not obviously relate to variation in the magnitude of policy change. Other important work looks at the type of enacted legislation

¹While important, questioning whether or not an enactment occurs is different from characterizing the nature of policy change and it may obscure important differences in how the enactments differ across states and time (see, for example, Mooney and Lee 1995; Hays 1996; Glick and Hays 1991, on how policies change as subsequent states adopt them) and it also excludes the possibility of exploring the persistence of policy and whether a policy in a state is subsequently changed by the legislature or executive (Volden 2006).

(e.g., Gamm and Kousser 2010), but not the size of policy change. Impressive recent work by (Caughey and Warsaw 2015*b*) characterizes a state’s overall policy liberalism, but it can be difficult to relate aggregate policy movements to the dynamics of particular policies.

Another robust literature evaluates lawmaking using roll calls, but it is difficult to interpret the implications for lawmaking outcomes without knowing what is being voted upon (e.g., Clinton 2007; Jenkins 2008; Battista and Richman 2011).² For example, it is difficult to know when comparing “roll-rates” – the extent to which parties vote in opposition to one another and either the minority or majority party loses (e.g., Cox and McCubbins 2005; Jenkins and Gailmard 2010; Anzia and Jackman 2013) – whether the changes being voted upon are large or small.

To make progress on this important issue, we explore lawmaking in state legislatures (Hamm and Squire 2005; Squire 2012). We focus on state legislatures to leverage the variation in the configuration of elite preferences, status quo policies, and legislative procedures (Anzia and Jackman (2013); Jackman (2013));³ a legislature that allows a simple majority to override a governor’s veto (e.g., Tennessee) may create different incentives for lawmaking than a state that requires a supermajority (e.g., California). We focus on lawmaking in the lower house in the text (Rogers 1998, 2005) because it is more likely to reflect the state’s current political environment due to more frequent elections. In addition, given the intended role of the lower house in providing for popular representation, focusing on the relationship between the lower house and policy outcomes has the largest implications for the policy

²Recent scholarship has tried to locate the status quo relative to the distribution of elite preferences using several means. Richman (2011), for example, uses survey-based ordinal measures of legislators’ preferences along with the standard roll call data to identify the location of the status quo policy for tax and spending issues across multiple sessions of Congress, Clinton (2012) relies on a series of assumptions about members’ perceptions and voting behavior to estimate the perceived location of the status quo when examining lawmaking related to the Fair Labor Standards Act, and Woon and Cook (2013) assume that the distribution of status quo policies is history dependent, and a function of both lawmaking and exogenous random shocks such as scientific discovery or bureaucratic implementation when comparing various models of lawmaking. Others focus on instances where the status quo may be more readily identifiable (e.g., Krehbiel and Rivers (1988)).

³This is not to deny that important institutional change occurs over time in Congress (see Binder and Smith 1997; Schickler and Rich 1997; Schickler 2001; Wawro and Schickler 2004, for examples), but it is hard to determine the impact of infrequent institutional changes on lawmaking when the institutional changes themselves may be either a cause or a consequence of the lawmaking outcomes of interest.

representation of citizens.⁴

We track the lawmaking actions of 49 state lower houses on two prominent issues over two decades: the regulation of abortions and the provision for charter schools. Focusing on the permissiveness of state abortion laws is important because it is a highly salient and partisan issue on which the states have increasingly taken the lead because of national-level policy gridlock. Abortion politics are a well-defined issue with clear advocates on either side and clear connections to each political party's positions. Policies related to the establishment of charter schools is also an appropriate and important focus because it is a policy that is largely, but not wholly, at the discretion of state legislatures and it also provides a nice contrast to abortion policies owing to its less partisan history.⁵ Charter schools are also a newer issue than abortion policies (see Chubb and Moe 1988; Mintrom 1997; Mintrom and Vergari 1998), and 43 states and the District of Columbia have adopted legislation allowing charter schools to varying levels since the adoption of the first state law allowing charter schools in 1991 and 2014.

To characterize both the level and change in a state's abortion policy over time we use the scorecard produced by NARAL Pro-Choice America to measure the cumulative burden of accessing reproductive health care in each state. We have annual ratings starting in 2004, and states are scored on a 13-point grade scale ranging from F to A+.⁶ These letter grades are presumably cardinal in the same way that letter grades in secondary schools are cardinal because they are based on an underlying numerical score – e.g., the difference in policies

⁴Even so, section 3 of the Appendix replicates our analysis using preferences of legislators in the upper chambers and reaches identical conclusions.

⁵According to the National Charter School Resource Center, “[c]harter schools are publicly funded, independently operated schools that are allowed to operate with more autonomy than traditional public schools in exchange for increased accountability.” See their website: <http://www.charterschoolcenter.org/priority-area/understanding-charter-schools>. Charter school legislation is largely at the discretion of states, but there are also federal influences beginning in 1995 (Finnigan et al. 2004) and The Office of Charter Schools in the U.S. Department of Education currently administers eight grant competitions for the charter school community and supports entities, such as the National Charter School Research Center, that provide resources for the community. Lastly, the No Child Left Behind Act of 2001 amended the Elementary and Secondary Education Act of 1965 to require states to hold all public schools, including charter schools, to the same performance standards (Finnigan et al. 2004, 53).

⁶See Section 1 of the Appendix for more details including criteria used by NARAL. We recode the scores so that an A+ is coded as 0 (liberal) and an F is a 12 (conservative).

between a state getting a A or B is four times smaller than the policy differences between a state getting a B versus a F, but treating the scores as ordinal does not affect our findings. To measure the content and change in a state’s laws related to the regulation of charter schools, we use the scores produced by the pro-charter-school interest group the Center for Education Reform (CER) starting in 1997 and ranging continuously from 0 to 1.⁷

Interest group scores provide an appropriate and valuable measure of policy outcomes because they provide a summary score for each state in each year using a grading criteria that is stable across time and across states. Using interest group scores avoids the difficult task of measuring policy using observable outcomes whose relationship to policy choices may be difficult to know and compare – e.g., which of the multitude of educational outcomes related to “education policy” (i.e., dropout rates, standardized test scores) should be used to differentiate state policy and how is it possible to disentangle whether differences are due to state policy decisions or other confounding considerations (e.g., parent involvement)? By scoring states’ policies on the same scale, interest groups provide an accounting of not only which states have more or less liberal policies, but also the extent to which the states’ policies differ.

The fact that the interest groups have a vested interest in particular policy outcomes will not bias our analysis because we characterize the variation in a state’s score relative to past scores and the scores of other states; even if the rating system used by the interest group over time is systematically biased to favor liberal or conservative policy options, because the scoring criteria is stable, this will not affect our ability to evaluate change relative to other

⁷Section 1 of the Appendix describes this measure in more detail including listing specific criteria. The scores produced by the CER consider all aspects related to the charter school environment in the state – including the impact of public laws, state regulations, legal rulings, and how the law is implemented by the state bureaucracy. As such, our measure of lawmaking related to charter schools reflects the sum total of elite involvement – including the actions of legislators, executives and judges. In cases where a law includes provisions that change overtime, say a cap on the number of schools that expires at some future date, scores reflect current period policy, not policy once all provisions take effect. Therefore, changes in scores are not solely due to changes of law. While this complicates causal inference, it provides a measure that comports with a realistic conceptual definition of the status quo as the product of law, implementation by bureaucrats, and interpretation by courts. The first year CER released scores was 1996, but they were on a different scale so we exclude them.

states and other time-periods.

That the policy scores may reflect non-legislative actions is also not problematic because the “noise” introduced by the actions of non-legislative actors will only make it more difficult for us to find a relationship between the policy scores and the composition of the legislature – if policy change occurs because of court action, for example, the result will be policy changes that are presumably unrelated to the actions of elected officials. In addition to stacking the deck against our investigation, the actions of non-legislative actors are also conceptually relevant – we are interested in the extent to which the legislature changes policy relative to the existing status quo, not whether it changed policy relative to the last policy it enacted (and which may no longer be policy relevant).

To provide a sense of both the state-level policy variation for these two issues as well as the extent to which these scores can account for policy change over the time period we examine, Figure 1 graphs the score of every state in the first period for which we have data (1997 for charter school policy; 2004 for abortion policy) against the state’s score as of 2014. Several conclusions are evident. The right-most plot clearly reveals that the magnitude of policy change associated with the initial adoption of a charter school law varies in important ways. Among those states with no charter schools as of 1997 (i.e., a score of 0), for example, the law enacted by Indiana in 2003 (0.79) – subsequently amended by legislative action to 0.82 as of 2013-14 — allowed an unlimited number of charter schools to be sponsored by local school boards, five per year by public universities, and five per year by the mayor of Indianapolis as well as an automatic waiver from most state and district regulation and full legal and fiscal autonomy for the charter schools. In contrast, the law enacted by Maryland in 2003 (0.24) gave school districts the authority to determine the number of charter schools in each district, it required charter schools to apply for a waiver from state and district regulations, and it granted them only limited fiscal autonomy with no legal autonomy.

Even among states with preexisting charter school laws (i.e., states with scores greater than 0 as of 1997) – some states chose to enact more permissive laws (e.g., Minnesota) while

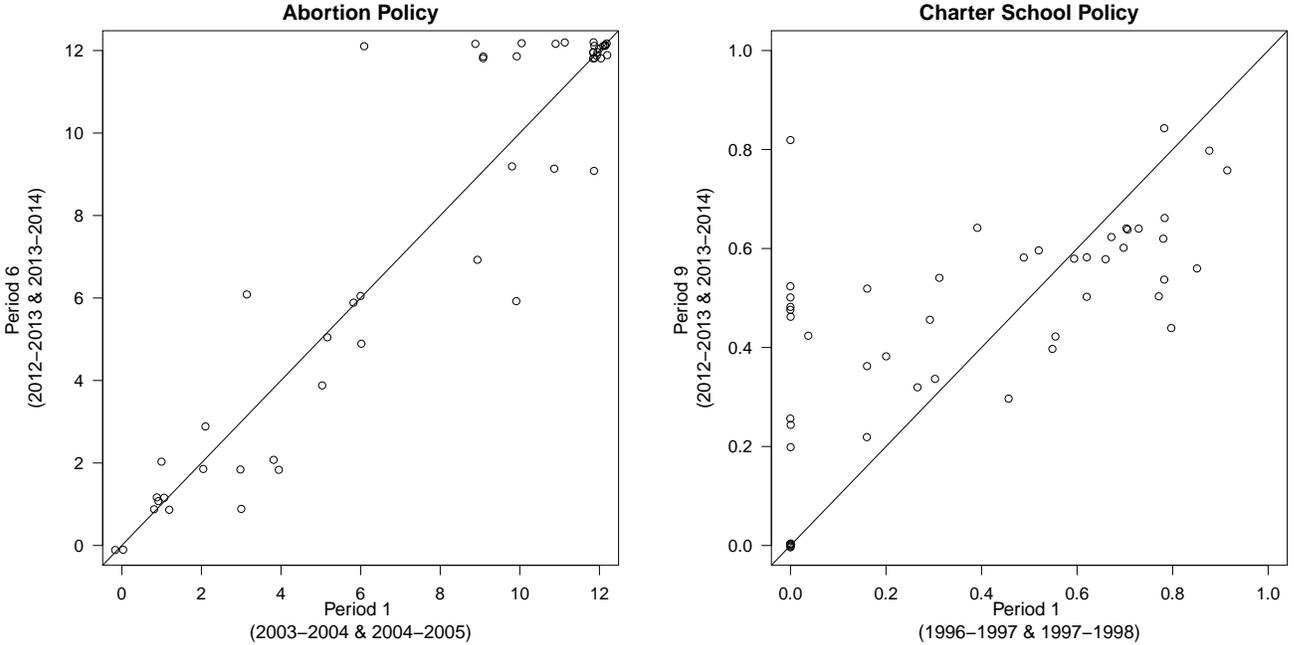


Figure 1: NET CHANGE IN POLICY SCORES: Higher values indicate more conservative policy positions. The 45-degree line denotes instances of no change.

others placed more restrictions on charter schools (e.g., Kansas). Finally, seven states failed to enact any pro-charter school laws (the point mass at (0,0)).

Turning to abortion policy (left), many states are graded as being very conservative in both 2004 and 2014 (the point mass at (12,12)), but policy change is evident in both directions over this time period; abortion regulations in several states became more conservative – the collection of points at that are at 12 in period 6, but not period 1 – while other states adopted more liberal policies (those points beneath the 45-degree line).

Figure 2 describes the magnitude of policy change during this time period by plotting the distribution of the difference in interest group policy scores. Consistent with lawmaking theories that predict widespread gridlock (Krehbiel 1998; Brady and Volden 1998), the modal change for both policies is zero by significant margin (78% for abortion policy and 43% for charter school policy), but larger changes are sometimes evident.⁸

⁸There are also two issues related to measurement that deserve attention. First, because the measure of abortion policy is a letter grade rather than based on a numeric score, the measure of policy change for charter schools is more sensitive to smaller policy changes. Second, because many states receive the most conservative

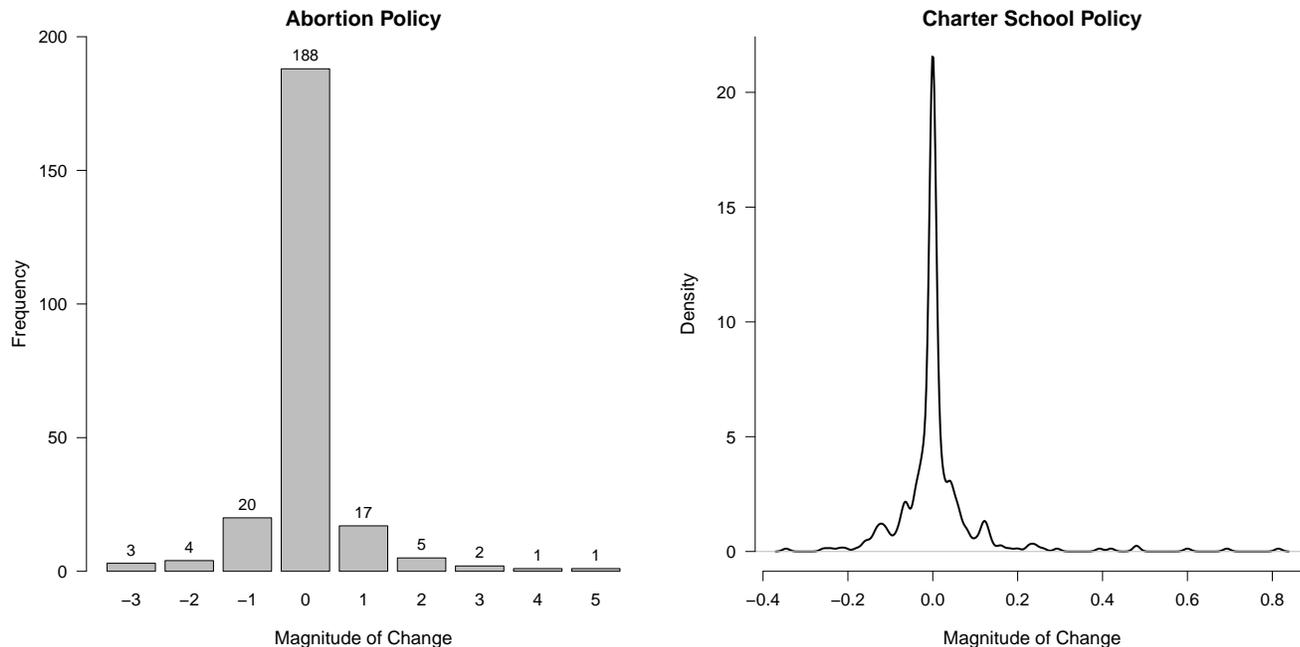


Figure 2: DISTRIBUTION OF CHANGE IN POLICY SCORES PER PERIOD

Focusing on the scores for a few states reveal the sensibilities of these ratings. Between 2009 and 2012, for example, Arizona enacted legislation that, among other restrictions, banned partial-birth abortions except to save the life of the mother, requiring notarized parental consent for a minor to get an abortion, and banned abortions after 20 weeks of pregnancy (Florsheim 2014; Rau 2013). This sequence of policymaking resulted in their NARAL score declining from C+ in 2008 to D in 2009 to F in 2012. This change in policy coincides with the governorship changing party control from a Democrat to a Republican in 2009 and the election of increasingly conservative chamber and majority party medians.

New Hampshire’s law authorizing charter schools, for example, first passed in 1995 and it was amended in 2003 to allow the State Board of Education to authorize charter schools (*State of New Hampshire Charter School Program Review 2007*). Because the CER considers the number of chartering authorities in their scoring, and laws that permit more chartering authorities receiving a higher (i.e., more conservative) score, this change in policy increased

rating possible for the abortion score in the first period, further conservative moves are impossible. This truncation arguably makes it more difficult for us to find an association between elite preferences and policy.

New Hampshire’s score by 3.5 points. Like the change in abortion law in Arizona, this conservative change in charter school law coincides with the election of a Republican governor as well as more conservative chamber and majority parity medians.

Having demonstrated the ability of policy scores produced by interest groups to characterize policy change of varying magnitudes across time and states, we now describe our empirical strategy for interpreting the correlations between policy outcomes measures used interest group scores and elite activity in terms of potential explanations for this covariation.

2 Correlates of Lawmaking Theories

Many explanations have been proffered for why policy change occurs. Some point to unified partisan control of the government as a critical correlate of successful legislative action (Coleman 1999; Binder 2003). Others disagree (Mayhew 2005), or argue that what matters is not partisan control per se, but rather the political elites who occupy pivotal roles in the lawmaking process (e.g., Brady and Volden 1998; Krehbiel 1998). Some argue that the most salient feature of lawmaking is the ability and desire of the majority party to control the legislative agenda (Cox and McCubbins 2005), while others point out that these accounts are not necessarily at odds with each other and that perhaps features emphasized by several accounts are true (Chiou and Rothenberg 2003; 2009). Still others emphasize the influence of the executive (Cameron 2000; Howell 2003; Moe and Howell 1999; Lewis 2008; Clinton, Lewis and Selin 2013) either because of the advantages that result from the ability to “go public” and galvanize public support (Kernell 2007) or the capacity to use institutional prerogatives to affect the implementation of policies by the bureaucracy.

In short, we do not lack theoretical accounts of the lawmaking process. We focus on several prominent spatial models that generate precise predictions about how various institutional features affect the change of policy from the existing status quo policy to a new policy. Given their prominence in the literature and their shared conceptual foundation that helps isolate the critical distinctive features of each, we focus on the comparative static pre-

dictions from five widely known models – a basic median voter model (Black 1958), a “pivot” model with a veto override constraint and a filibuster (Krehbiel 1998), a “pivot” based model with only a veto-override constraint, a majority party negative agenda control model (Cox and McCubbins 2005), and a majority party positive agenda control model (Smith 2007).⁹ While hybrids of these five core models have been proposed and explored (e.g., Chiou and Rothenberg 2003), we focus on these five because of the difficulty of differentiating between these five models and hybrid models using the available data.

The equilibrium predictions for these models are well-known, and the predicted policy change is a function of the location of the status quo policy relative to the configuration of elite preferences. Absent an ability to determine the location of the status quo relative to the policy preferences of the theoretically relevant elites, however, it is not immediately clear what empirical specification should be estimated to evaluate the relative support for these five theories. In the absence of this comparable measures, what is a meaningful and defensible empirical specification – particularly given that the measures of relevant elites (Wiseman and Wright 2008) are often so highly correlated?

Rather than simply assert that correlations between measures of elite preferences and policy outcomes are resolute for determining the nature of lawmaking responsible, we employ a simulation study to characterize the pattern of partial correlations between the chamber median, party medians, party of the governor and policy outcomes that results from regressions applied to data generated from each of the dynamic lawmaking models. By revealing the pattern of correlations between elite preferences and policy outcomes that would be predicted by each model if each model were responsible for generating the data in a reduced-form regression, the simulation study thereby provides the basis for relating the regression results to the predictions of existing lawmaking theories.

We focus on the relationship between policy and the preferences of three political elites

⁹We model legislatures with and without a filibuster because, while most state-chamber rules limit debate by setting limits on individual legislators’ speaking time, limits on individual legislators’ opportunities to speak, and/or limits on overall length of debate, some legislatures do not require a supermajority to “move the previous question” and end debate (Reilly 2009).

that are critical for the five spatial lawmaking models we examine. The chamber median is of interest given the prominent role that the median legislator has in majoritarian systems (see, for example, Black 1958; Krehbiel 1998), the governor is relevant because they are sometimes empowered with a veto that requires a super-majority to override (Cameron 2000; Krehbiel 1998) and their public prominence may provide them with an enhanced ability to set the agenda and mobilize public support (Canes-Wrone 2006; Kernell 2007),¹⁰ and the majority party median is important for determining whether the majority party is able to achieve its desired policy outcome due to an enhanced ability to enforce party discipline in an electoral arena where voters may have little connection to their particular legislator other than than the party label (Cox and McCubbins 2005).

To measure the policy preferences of these elites we use the state legislative ideal points from 1993 to 2013 produced by McCarty and Shor (2014).¹¹ (Their assumption that legislators have fixed ideal points across time means that changes we explore are due to replacement rather than conversion.) Measuring the preferences of governors is more difficult and we follow the existing literature in using the party of the governor as a proxy for policy preferences.¹²

To relate our simulation to the data we analyze in subsequent sections, we compute the average and standard deviation of ideal points for each party, the proportion of legislators

¹⁰Alternatively, their ability to influence policy through the state bureaucracy may allow them notable influence on the policies that are realized.

¹¹We use the ideal points of the chamber median and majority party median in the final year for each legislature when available. So, we use ideal points from odd-numbered years in states with elections in odd-numbered years and ideal points in even-numbered years in states with elections in even-numbered years. In cases where the ideal point is missing in the final year, we use the the ideal point for the earlier year between state legislative elections if it is non-missing. The recoded state-years are Virginia in 2009, Kansas and Nevada in 2012, and all states with final sessions in 2014.

¹²To determine the party in control of the governorship, we collect results of gubernatorial elections from the *CQ Press Voting and Elections* collection to create an indicator variable for major party affiliation of governors that takes a value of one if a governor is a Republican and zero otherwise. When possible, we coded governors that were independents or members of minor parties as a member of a major party based on past or future major party affiliations. Only Jesse Ventura's term as governor of Minnesota from 1999 to 2002 was coded as missing. The *CQ Press Voting and Elections* data did not have results for some recent elections. In those cases we used data from the relevant Secretary of State. We also identified changes in party control not due to an election. For example, Janet Napolitano, a Democrat, resigned as governor of Arizona in 2009 to become the Secretary of the Department of Homeland Security. She was replaced by Janice Brewer, a Republican, due to the line of succession.

that are members of the Republican party, the party of the governor, and the veto override requirements for each state as of 2014 for each chamber-period.¹³ Each of the 10,000 simulations of lawmaking in 49 states over 9 periods is generated as follows:

1. Draw an initial status quo for each state from a $[-3, 3]$ Uniform distribution.¹⁴
2. For each of the 49 states:
 - (a) For each of the 9 lawmaking periods, generate ideal points for each party using a Normal distribution with the mean and standard deviation of ideal points of each party using the Shor-McCarty estimates for the same chamber-period. The size of each party in each legislature in each period is a function of the proportion of Republicans in the same chamber-period normalized so each state-chamber contains 100 legislators.
 - (b) For each of the five lawmaking models and for each of the 9 periods, derive the equilibrium policy outcomes given the elite preferences from (a) and the location of the status quo inherited from the equilibrium outcome of the prior period.
3. Regress each set of policy outcomes on the chamber median, majority party median, party of the governor, and a time trend along with state fixed effects.

Each simulation therefore produces a data set that mirrors the structure of our observed data, but with policy outcomes that are produced by known (and varying) data generating processes based on a model of lawmaking. Using this simulated data, we then regress the policy outcomes generated from a known lawmaking model on the covariates we use to identify the pattern of coefficients typical to each. Table 1 reveals the proportion of times

¹³We replace missing chamber-period observations in the Shor-McCarty data with the data from the most recent preceding chamber-period in that state that is non-missing. We code the missing observations of the governor's party during Jesse Ventura's term as Republican. See Table 3.16 from the Book of the States, 2014, (<http://knowledgecenter.csg.org/kc/content/book-states-2014-chapter-3-state-legislative-branch>) for veto override requirements.

¹⁴The minimum average Democratic ideal point for any state-period is -1.75 and the maximum average Republican ideal point for any state-period is 1.71.

Lawmaking Model Used to Generate Data	Chamber Median	Majority Party Median	Republican Governor
Pivot Model	1.00	0.00	0.61
Pivot Model (No filibuster)	1.00	0.26	1.00
Median Voter	1.00	0.00	0.04
Party (Negative Agenda Power)	1.00	1.00	0.03
Party (Positive Agenda Power)	0.69	1.00	0.05

Table 1: STATISTICALLY SIGNIFICANT CORRELATIONS FROM SIMULATION STUDY: Cell entries are the proportion of 10,000 OLS regressions of policy outcomes on elite preferences using legislative histories of length nine that produce correlation coefficients that are correctly signed and distinguishable from zero. Regressions include state fixed effects and a time trend.

that the measure of each elite preference is distinguishable from zero (in the correct direction) in the 10,000 simulations regressing the equilibrium policy outcomes on the ideal points of the chamber median, the majority party median and an indicator for Republican governor (as well as state fixed effects and a time trend). Thus, using a dependent variable based on the predicted outcomes from simulations generated using the pivot model with a filibuster, the top row of Table 1 reports that the coefficient on the chamber median ideal point is distinguishable from zero in the correct direction in 100% of the regressions, the coefficient on the majority party median ideal point is almost never distinguishable (less than 1% of the time), and the Republican Governor indicator is more often significant than not (61% of the time).

Table 1 reveals that a single regression correlation cannot identify the theory responsible for generating the data even in the ideal circumstances where the data generating process is known. Finding an association between the ideal point of the chamber median and policy outcomes, for example, is consistent with all five of the lawmaking models. Similarly, the regression coefficient for the ideal point of the majority party median is correlated with policy outcomes or every lawmaking model except the median voter and filibuster-pivot models.

The pattern of statistically significant coefficients is thankfully more resolute. Finding that just the coefficients on the chamber median and the Republican governor indicator are statistically distinguishable from zero, for example, is most consistent with the Pivot Models

(although in the absence of a filibuster the coefficient on the preferences of the party median is also distinguishable from zero in 26% of the simulations). Alternatively, if only the ideal point of the chamber median are related to policy outcomes the median voter model is most likely responsible for generating the data, but if only the ideal points of the chamber median and majority party median are significant (i.e., the indicator for the party of the governor is insignificant) then that pattern would be most consistent with the pattern estimated using data generated from models of party agenda setting.

The relationships in Table 1 provide the pattern we would expect to observe in regressions involving the actual data if each lawmaking model were true. While some observational equivalence exists due to the probabilistic nature of the simulation study, the simulation results highlight the difficulty of interpreting the meaning of regression coefficients in the absence of such a study, and it also helps identify which lawmaking models are most likely responsible given the relative incidence of the estimated pattern of correlations.¹⁵

To help refine our conclusions, we also focus on characterizing the general relationship between policy outcomes and the ideal points of various political elites in legislatures employing more majoritarian scheduling procedures. To account for possibly important procedural variation, we rely on work by Jackman (2013) and Anzia and Jackman (2013) arguing that institutional differences affect the relative influence of the chamber median on lawmaking outcomes. We use their data on four legislative rules that arguably empower the chamber median: (1) whether a committee discharge procedure exists, (2) whether the full chamber votes on committee assignments, (3) whether the chamber majority can change the order of bills on the floor calendar, and (4) whether the full chamber votes on the appointment of the presiding office.¹⁶ It is unclear whether these rules matter individually or collectively,

¹⁵One caveat is that our simulations assume that ideal points and policy outcomes occur in the same space, but if the ideal points vary in the extent to which they capture the considerations relevant to a particular policy the estimated relationships may be more imprecise. If, for example, debates over abortion policy are more partisan than debates over charter school policy, we may find a stronger relationship for abortion policies because the ideal points better measure abortion preferences. Unfortunately, issue specific preference measures that are comparable across states and time do not exist.

¹⁶See Anzia and Jackman (2013) for details. Their data are as of 2011.

or whether some are more important than others, but given the extent to which the rules covary as well as the fact that the lawmaking theories we examine are silent with respect to these particular procedures, we focus on the broader question of whether the relationship between the preferences of the chamber median and policy outcomes is more pronounced in legislatures with procedures that provide more scheduling power to the chamber median. To do so, we code any legislature that has at least two of these rules as “more majoritarian” procedures (MMP). There are 21 states that are coded as such.¹⁷

3 Empirical Results

We employ two types of regression analyses to explore the relationship between lawmaking outcomes and elites’ ideal points. First, we characterize the *level* of policy over time and across states by modeling the interest group policy score for each state in each time period controlling for differences in political elites, political institutions, and possible state and temporal differences. This specification mirrors that of our simulation study by examining whether policy is more conservative in states where political elites are more conservative and whether this relationship depends on the procedural rules of the legislature. Second, because of the persistence of policy, we also explore how *changes* in policy magnitude relate to changes in elites’ ideal points. So doing explores the speed of policy change and whether policy change occurs in the two years following each election.¹⁸

To begin, we characterize the relationship between the conservatism of policy and elite ideal points across states and across time. For states $i = 1, \dots, 49$ and time periods $t = 1, 2, \dots, p - 1, p$ where $p = 6$ for abortion policy and $p = 9$ for charter school policy, let $Y_{i,t}$ be the policy score assigned to state i by the interest group as close as possible to the

¹⁷Maine and Wisconsin are missing in the Anzia and Jackman (2013) data. The version of their data that we have provides indexes that count the number of majoritarian procedures for a given state chamber, rather than identify the specific set of rules the chamber uses. Therefore, we cannot examine the conditioning effects of individual rules.

¹⁸Legislators in five states are elected to four year terms, so, for these states some observations are between elections.

election at time t .¹⁹

$$Y_{i,t} = \mathbf{X}_{i,t}\boldsymbol{\beta} + \tau + \gamma_i + \epsilon_{i,t}$$

$\mathbf{X}_{i,t}$ is a row-vector of characteristics related to the ideal points of elected officials of state i at time t , τ allows for the possibility of a time trend due to changing national conditions (e.g., federal grants for charter schools), and γ_i is a fixed effect for state i that accounts for persistent differences between states (e.g., population diversity and density) as well as any characteristics that are largely static within a state but which may vary across states (e.g., strength of teachers' unions). By allowing for systematic differences across states via the inclusion of γ_i , we isolate the extent to which $\mathbf{X}_{i,t}$ covaries with a state's policy score. The fact that the relationship we estimate between elite ideal points and policy scores is identified by within state variation over time is important because interpreting the meaning of cross-sectional variation is far more difficult as a result of the fact that there are many state-varying features may affect policy outcomes – e.g., whether it is a professional legislature (Squire 2007), the political strength of education reformers and teachers' unions (e.g., Anzia 2011; Mintrom 1997; Mintrom and Vergari 1998; Moe 2006), and characteristics of the state's educational system (e.g., Mintrom 1997; Mintrom and Vergari 1998; Shoher, Manna and Witte 2006). Because we use a fixed-effect estimator, not only we control for the impact of stable state features, but for our results to be affected by an omitted variable such a variable would have to affect policy independent of elite preferences and also differentially vary over time within states.²⁰

Table 2 reports the results of four specifications predicting the level of policy conservatism

¹⁹The Appendix contains an extensive discussion of our mapping of scores to legislative periods as well as related robustness checks. Nebraska is excluded due to its unique unicameral structure. Four states (Louisiana, Mississippi, New Jersey, and Virginia) hold house legislative elections in odd years; therefore, we use scores in odd years for these states. For all other states, we use scores in even years. Members of the lower chamber in five states - Alabama, Louisiana, Maryland, Mississippi, and North Dakota - are elected for four year terms, but our empirical results are not sensitive to analyzing these states with two-year or four-year time periods.

²⁰The appendix reveals that controlling for various state-level characteristics produces nearly identical results.

for both abortion (Ab.) and charter school (Ch.S.) policy as a function of the political elites' ideal points and the extent to which lawmaking institutions favor the chamber median relative to the party median. (Results in the Appendix with lagged policy scores are qualitatively similar.) Because we employ state fixed effects, the main effect for more majoritarian procedures (*MMP*) is omitted. Newey-West standard errors are used to account for possible heteroskedasticity and autocorrelation.

Model	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
Policy Score	Ab.	Ch.S.	Ab.	Ch.S.	Ab.	Ch.S.	Ab.	Ch.S.
Unified Dem. (Std. Err.)	-0.43*** (0.16)	-0.04** (0.02)						
Unified Rep.	0.72*** (0.27)	0.02 (0.02)						
Chamber Median			0.70** (0.27)	0.05** (0.02)	1.84*** (0.64)	0.03 (0.07)	1.03† (0.73)	0.06 (0.07)
Chamber Median × MMP							1.02* (0.55)	0.01 (0.05)
Majority Median					-0.70* (0.36)	0.01 (0.04)	-0.58 (0.37)	-0.01 (0.04)
Rep. Gov.			0.39** (0.17)	0.03** (0.01)	0.33** (0.16)	0.03** (0.01)	0.44*** (0.16)	0.02† (0.01)
Trend	-0.01 (0.04)	0.01** (0.003)	-0.00 (0.03)	0.01* (0.003)	-0.01 (0.03)	0.01* (0.003)	0.01 (0.04)	0.004† (0.003)
State FE	<i>Yes</i>	<i>Yes</i>	<i>Yes</i>	<i>Yes</i>	<i>Yes</i>	<i>Yes</i>	<i>Yes</i>	<i>Yes</i>
N	253	401	258	406	258	406	247	389
R^2	0.99	0.95	0.99	0.95	0.99	0.95	0.99	0.96

Heteroskedasticity and autocorrelation consistent standard errors in parentheses.

* significant at $p < .10$; ** $p < .05$; *** $p < .01$ in a two-sided test.

† significant at $p < .10$ in a one-sided test of $H_A: \beta > 0$.

Table 2: CORRELATES OF THE LEVEL OF POLICY

Several substantive conclusions emerge. First, because policy is persistent and we include state fixed effects to account for between-state differences, the variation “explained” by the specifications is unsurprisingly high. Because the identification of the coefficients reported in Table 2 are based upon within-state variation, the existence of non-zero effects is arguably a strong test of the relationship. Second, Models 1 and 2 show that, on aver-

age, state governments under unified Democratic control adopt less conservative policy than governments under divided control and governments under unified Republican control adopt more conservative policies. Replacing the coarse indicators of party control with the ideal points of the chamber and majority party medians in each legislature in each time period along with an indicator variable for the partisanship of governors in Models 3 through 8 refines this characterization and reveals that Republican governors are likely to enact more conservative policy than states with a Democratic governor in every specification for these two issues. That said, the relative influence of the governor relative to the legislature is difficult to interpret given the measurement differences.

Third, there is a robust relationship between the conservatism of the chamber median and the conservatism of abortion policy as measured by the NARAL score controlling for the party of the governor (Model 3). Not only does this correlation persist after controlling for the preferences of the majority party median (Model 5), but the correlation between the abortion policy and the majority party median is incorrectly signed. In terms of the substantive significance of the relationship between the chamber median and the policy score in Model 5, a standard deviation conservative change in the ideal point of the chamber median results in approximately a 1.21 point change (0.66×1.84) in the 13-point policy score. Relating the pattern of statistically distinguishable coefficients we find – significant coefficients on the chamber median and Republican governor, but an insignificant coefficient on majority party median — to the simulation study of section 2 reveals that this pattern was most frequently produced by data generated from simulations using the Pivot Model of lawmaking.

Fourth, when we allow the relationship between the preferences of the chamber median and the interest group score in the state to vary depending on whether the chamber has at least two of the four legislative rules that should empower the chamber median in legislative scheduling (the indicator variable *MMP*), the positive coefficient on the interaction between the preference of the chamber median and the indicator for more majoritarian procedures

in Model 7 suggests that the preferences of the chamber median are more closely related to policy outcomes in legislatures where the rules of procedure provide more control to the chamber median. In terms of the substantive impact, a one standard deviation conservative change in the preference of the chamber median results in policy that is about 0.67 points (0.66×1.02) more conservative in more majoritarian chambers. In state chambers with rules that allow a committee discharge procedure and where the full chamber votes on committee assignments, for example, changes in the level of conservative preferences is more strongly associated with conservative changes in the level of policy than in states lacking such rules.

Fifth, the analogous relationships for the case of charter school regulations are all in the same direction as those for abortion policy, but they are less precisely estimated. As was the case with abortion policy, states with more conservative chamber medians adopt more conservative charter school policy (Model 4), but we can no longer distinguish this correlation from zero once we also control for the preferences of the majority party median (Model 6).

The weaker relationships for charter school policy are likely attributable to how well the two policies map onto the partisan-cleavages captured by the ideal points of Shor-McCarty (2014).²¹ Whereas the politics of abortion was consistently partisan and ideological across the time period we examine, the debate over charter schools was less clearly so. As of 1997, for example, California had a relatively permissive (i.e., “conservative”) charter school score of 0.78 despite having consistently liberal elites, whereas Wyoming only had a charter school law score of 0.27 despite having consistently more conservative elites. Between 1997 and 2014, however, California’s charter school law became more liberal (ending at 0.62) and Wyoming’s law became more conservative (ending at 0.32), but as of 2014 Wyoming’s policy on charter schools was still more restrictive (i.e., “liberal”) than California. In contrast, the initial scores for the abortion regulations in California and Wyoming were A+ (“liberal”) and D+ (“conservative”) respectively, and their scores remained unchanged through 2014.

²¹This also may be partially due to the strong correlation between the ideal points of the majority party median and the chamber median (Wiseman and Wright 2008).

This difference not only illustrates why there are a stronger relationship in abortion policy than charter school policy in Table 2, but it also highlights the importance of moving beyond the analysis of levels to also consider the correlates of policy change.

Correlates of Policy Differences Over Time

Having shown that the level of policy is most closely associated with the preferences of the chamber median, especially in legislatures with more majoritarian procedures, we now consider whether *changes* in policy correlate with *changes* in elite ideal points. This is important not only because the persistence of policy may make it difficult to precisely identify the correlates of policy outcomes, but also because it allows us to better control for the impact of the status quo. To do so, we use a first-difference model predicting the *change* in policy conservatism according to NARAL and CER relative to the policy conservatism as of the prior election as a function of the change in the ideal points of certain pivotal legislators. Let $M_{i,t}$ and $P_{i,t}$ be the ideal points of the chamber and majority party medians in state i at time t respectively, and let $G_{i,t}$ indicate whether the governor is a Republican. Our basic estimating equation is:

$$(Y_{i,t} - Y_{i,t-1}) = \beta_M(M_{i,t} - M_{i,t-1}) + \beta_P(P_{i,t} - P_{i,t-1}) + \beta_G G_{i,t} + \gamma_i + \epsilon_{i,t},$$

where γ_i is a fixed effect for state i . Because we continue to employ state fixed effects to account for omitted between-state differences that may cause some states to change more than others independent of the impacts of elite turnover, the effect we estimate is due to within-state variation

The first-difference specification examines whether the policy change occurring prior to the election at time t and since the election held at time $t - 1$ correlates with the change in ideal points between the legislature that is seated as of the election at time t and the prior legislature that served until the election at time $t - 1$. Put differently, does an election that

results in elite turnover at time $t - 1$ produce a change in policy as of time t that correlates with the estimated shift in ideal points? Note that if some legislatures wait longer to change policy, the first-difference model will underestimate the relationship.²²

Model	(9)	(10)	(11)	(12)	(13)	(14)
Policy Score	Ab.	Ch.S.	Ab.	Ch.S.	Ab.	Ch.S.
Chamber Median	0.43**	0.04**	0.79 [†]	0.06 [†]	0.07	0.07 [†]
(Std. Err.)	(0.17)	(0.02)	(0.50)	(0.04)	(0.57)	(0.05)
Chamber Median \times MMP					1.02***	0.02
					(0.37)	(0.04)
Majority Median			-0.22	-0.01	-0.13	-0.01
			(0.29)	(0.02)	(0.29)	(0.02)
Rep. Gov.	0.45***	0.03**	0.44**	0.03**	0.35**	0.03**
	(0.17)	(0.01)	(0.17)	(0.01)	(0.17)	(0.01)
State FE	<i>Yes</i>	<i>Yes</i>	<i>Yes</i>	<i>Yes</i>	<i>Yes</i>	<i>Yes</i>
N	190	337	190	337	182	323
R^2	0.28	0.14	0.28	0.14	0.30	0.14

* significant at $p < .10$; ** $p < .05$; *** $p < .01$ in a two-sided test.

[†] significant at $p < .10$ in a one-sided test of $H_A: \beta > 0$.

Table 3: CORRELATES OF POLICY CHANGE

Table 3 reports the results. The findings are reassuringly consistent with the results of the level model, but they yield some additional insights. First, the presence of a Republican governor is again associated, on average, with more conservative policy changes. Second, controlling for the party of the governor, a conservative change in the chamber median is associated with a conservative change in policy for both abortion (Model 9) and charter schools (Model 10). Third, this correlation persists even after controlling for changes in the preferences of the majority median, and the correlation between changes in the majority party median and changes in policy cannot be distinguished from zero for either policy (Models 11 and 12).

Considering how this relationship varies conditional on the procedural majoritarianism

²²For example, suppose a majority party takes power at time t and it is reelected to the majority at time $t+1$ and it waits until time $t+1$ to change policy (perhaps because other issues are more pressing). Assuming the election does not change the preferences of the chamber or party medians, the policy change between $t - 1$ and t is zero even though elite preferences change between $t - 1$ and t , and the policy change between t and $t + 1$ is non-zero even though there is no change in elite preferences.

of the legislature (Models 13 and 14) reveals that the relationship between changes in policy outcomes and changes in the chamber median is largest in legislatures with more majoritarian institutions – as is evidenced by the fact that the correlation coefficient on the interaction of the indicator for more majoritarian procedures (*MMP*) and the chamber median is positive.²³ In the case of abortion, this difference is stark in Model 13; in a chamber that has at least two of the following rules - a committee discharge procedure exists, the full chamber votes on committee assignment, the full chamber votes on the appointment of the presiding officer, and the chamber majority votes on the order of bills on the floor calendar – a change in the ideal point of the chamber median is associated with a larger change in policy scores than in a chamber without at least two such rules. For the case of charter school policy, the coefficient is positive in Model 14, but the magnitude of the difference between the relationship in more majoritarian and less majoritarian chambers cannot be statistically distinguished from zero.

4 Conclusion & Implications

Lawmaking is one of the most important actions that a legislature can take, but we know far more about how lawmaking works in theory than we do in practice. In part, this unfortunate gap is a consequence of the difficulty that scholars face when trying to characterize the magnitude of policy change over time and across states.

Focusing on lawmaking on two prominent and salient issues over nearly two decades and across 49 legislatures with considerable institutional variation allows us to examine the extent to which the preferences of political elites covary with both the content and magnitude of policy change. Besides the additional leverage we are able to bring to bear on the question because of the variation that exists across issues, time, and states, analyzing lawmaking on the political charged issue of abortion regulations and the emergent regulations related to

²³Again, we do not include the indicator for *MMP* chambers as a separate variable in Models 13 and 14 because we already include state fixed effects to control for stable differences across states, including variation due to differences in rules.

the role of charter schools in K-12 public education using interest group scorecards allows us to measure state policy across in 49 states across time using a common criteria. Combined with newly available data on the ideal points of political elites (McCarty and Shor 2011) and data on the extent to which legislative institutions are majoritarian (Jackman 2013), we provide a novel and revealing characterization of the relationship between elite preferences, institutions, and policy change.

There is robust evidence of a substantively meaningful relationship between the preferences of the chamber median in both the level and the magnitude of policy change – both the level and the change in the level of the liberalism of a states’ charter school and abortion regulations are correlated with the ideal points and changing ideal points of the chamber median even after accounting for static systemic differences between states. Moreover, the partisanship of the governor also matters – the presence of a Republican governor is consistently related to the presence of more conservative policy outcomes. Exploring further, we also find that the relationship between the preferences of the chamber median and policy outcomes we find is strongest in states with more majoritarian institutions, and it is larger for the more polarizing issue of abortion.

Despite using different data and different measures, our conclusion that policy outcomes covary with the ideal point of the relatively “centrist” chamber median mirror previous findings of Erikson, Wright and McIver (1993), Jeong, Miller and Sened (2009), and Battista, Peress and Richman (2014) and they are also consistent with a strong relationship that others have found between public opinion and state policymaking (Wright, Erikson, and McIver (1987); Erikson, Wright, and McIver (1993); Caughey and Warsaw (2015*a*)) given the connection between public opinion and the preferences of the median legislator. To be clear, because our results are based on the covariation of differently scaled measures we cannot necessarily conclude anything about the proximity of policy outcomes vis-a-vis elite preferences, but our results are nonetheless suggestive of an influential role for the chamber median – not only do the policy scores vary with the ideal point of the chamber median

within states, but the within-state changes in policy scores are also most closely associated with the changed in the chamber median's ideal point.

Moreover, because of the simulation study that we conduct to connect the equilibrium predictions of prominent lawmaking models to the implications such would have for the regression coefficients of reduced form regressions we can do a bit better in interpreting the meaning of the pattern of correlations we uncover. The pattern we find in the observed data – positive correlations with the partisanship of the governor and the ideal point of the chamber median, but no systematic relationship with the ideal point of the majority party median – is most consistent with the patterns that result when analyzing data generated from a lawmaking model emphasizing the constraints created by the need to acquire the approval of the executive branch and two legislative chambers to become law.

Thinking more broadly about the substantive implications that we find, while it is well known that correlations do not necessarily indicate proximity (Achen 1977), the fact that policy becomes more liberal (conservative) when the chamber median becomes similarly so certainly suggests that state-policies are most likely driven by legislators whose preferences are most centrally located in the distribution of elite preferences. While those legislators who occupy the location of the chamber median are not necessarily ideological moderate, by virtue of their relative ordering in the distribution of legislators, their views are presumably closer to more voters in the state, on average, than the views of the median majority party member. If so, our finding that the level and change of policy is more closely related to the preferences of the chamber median suggests that even despite the fact that most citizens know very little about their state government, the institutions and incentives of governance nonetheless appear to nonetheless produce relatively centrist lawmaking outcomes on average in two respects. First, not only are is the existing policy in a state most likely related to the preferences of the chamber median, but changes to that policy are most likely when the chamber median changes.

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