

CHAPTER 16

STATE BUREAUCRACY

Policy Delegation, Comparative Institutional Capacity, and Administrative Politics in the American States

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BUREAUCRATIC agencies play a vital role in the governance of the American states. For many citizens these agencies are the “face of government” due to their role in providing public services such as unemployment benefits, environmental conservation, college education, and police protection. Less obviously, perhaps, they often also play a significant role in determining the content of public policy, both through the discretion afforded them in interpreting their legislative mandates and through the part they play, both formally and informally, in determining important features of these mandates to begin with.

State agencies reflect what state governments do (Dresang and Gosling, 1989). Thus, the importance of state agencies in the U.S. system of government is proportional to the policy activism of state governments. While state governments have probably never been the lethargic backwaters that some have portrayed them as (Teaford, 2002), their importance as policymakers has increased dramatically over the latter half of the 20th century. During this period a “silent revolution” took place in the states, as large numbers of state governments simultaneously adopted reforms that increased policymaking capacity in all three branches of government and took on expanded roles in domestic public policymaking (Walker, 1995). This increased policy activism is reflected in a significant growth in the overall size of state governments. A common measure of the size of government is total state expenditure as a share of total state personal income. By this indicator, the average size of the states’ public sectors, which was just over four percent of state personal income at the end of World War II, had more than tripled to over 14 percent by 2000 (Garand and Baudoin, 2004).

This expansion in the policy roles of state governments has necessitated the creation of new agencies to fulfill new functions. The earliest agencies had responsibilities related to general, well recognized state needs—in areas such as agriculture, education, and highways. As new problems or needs were recognized, succeeding generations of agencies emerged to address issues such as civil rights, occupational safety, environmental protection, and drug and alcohol abuse (Jenks and Wright, 1993).

Besides serving the needs of their constituents, public agencies in the American states play a critical role as an institutional fulcrum in American federalism, coordinating policy implementation efforts between U.S. national and local governments. This intermediary function has grown through time as federal governments have devolved policymaking authority to state governments, as well as the resources necessary to undertake such increased policy responsibilities. The national government has undertaken a variety of federalism initiatives over the postwar period, ranging from the Creative Federalism of Lyndon Johnson to the New Federalism initiatives of Richard Nixon and Ronald Reagan, during which program responsibilities were pushed to the states (Walker, 1995; Conlan, 1998). Cutting across these initiatives has been an increased state reliance on federal grants-in-aid; the number of federal aid programs increased from 40 in 1946 to over 600 in 2008 and the amounts allocated rose from \$7 billion to \$454 billion over the same period (Milakovich and Gordon, 2010). The combination of joint responsibility for implementing programs under the mantle of cooperative federalism and joint funding under the burgeoning number of federal grant programs has created an expansive network of connections between state agencies and their national counterparts, and highlights the role of state agencies as intermediaries in the U.S. federal system (Bowling and Wright, 1998).

Current research on bureaucratic politics in the American states has made great strides in understanding how state government agencies administer policies (Brudney and Hebert, 1987; Elling, 1999), as well as how they function within the American federal system (Chubb, 1985; Gormley, 1992; Wood, 1992; Hedge and Schicchitano, 1994; Keiser, 2001; Cho et al., 2004; Nicholson-Crotty, 2004; Collins and Gerber, 2006; Cline, 2010). This body of research has focused predominantly on applying theories of U.S. national politics to understanding bureaucratic policymaking in the American states (Potoski, 1999; Teske, 2004; Kim and Gerber, 2005; Poggione and Reenock, 2009). We thus know a good deal about the effect of partisan control of electoral institutions, partisan gridlock, budgetary resources, public opinion, and institutional pressures from other governmental levels on bureaucratic policymaking.

However, this focus largely ignores the capacity of governmental institutions, which is often critical for understanding political outcomes in the American states. In their path-breaking work on comparative legislative delegation, John Huber and Charles Shipan (2002: 79) aptly note that “In the United States, for example, there is a great deal of difference in legislative capacity across state legislatures, with some legislatures having very low levels and others having very high levels of capacity.” This claim of varying institutional capacity also contains merit for both governors and public bureaucracies. After all, governors’ capacity to influence the bureaucracy

depends upon the formal and informal powers of the office (e.g. Abney and Lauth, 1983; Hebert, Brudney, and Wright, 1983; Sigelman and Dometrius, 1988; Dometrius, 2002; Beyle, 2004; Woods and Baranowski, 2007). Moreover, state bureaucracies' influence in the policymaking process systematically varies across states (Elling, 1992; Barrilleaux, 1999).

In this essay, we propose a comparative-institutional theoretical framework for analyzing policy delegation in the American states. The novel aspect of this theoretical framework is centered on a comparative analysis of the institutional capacities possessed by the legislature, chief executive (governor), and bureaucracy. This theoretical framework is undergirded by an assumption that institutions seek to maximize administrative policy control, subject to their relative endowments of institutional capacity. That is, although both partisan and ideological preferences are critical for determining policy outcomes, they are either constrained or empowered by institutions' capacity for policymaking.

Bureaucratic politics research focused at the U.S. national level has generally assumed that institutional capacity is exogenously fixed by either constitutional arrangements or legislative statutes. However, in the American states, institutional capacity varies in systematic ways both between and within states. Our approach encourages students of state bureaucracy to place greater emphasis on fully exploiting the leverage provided by comparative analysis of the American states. Research in cross-national comparative politics, we argue, remains an under-utilized resource that can provide a useful reservoir of theory that may be applied to better understand how state institutions affect policy outcomes.

The outline of this essay is as follows. The next section presents a discussion of what is known from the current literature on policy delegation and political control of the bureaucracy. The third section explains why a focus on comparative institutional capacity is critical for understanding policy outcomes, and proceeds to define legislative capacity, gubernatorial capacity, and bureaucratic capacity over policy administration. A comparative institutional capacity theoretical framework for understanding policy delegation in the American states is advanced in the fourth section. This theoretical framework is centered on "state capacity" in terms of absolute levels across all institutions, as well as (im)balances that occur in relative terms. The essay concludes with some prescriptions for how this nascent theoretical framework can be applied to the study of comparative state bureaucracy research in other areas beyond policy delegation.

DOES THE DELEGATION LOGIC OF U.S. NATIONAL INSTITUTIONS DIRECTLY APPLY TO THE AMERICAN STATES?

The empirical literature on public bureaucracy in the American states is a rather large, heterogeneous, mass of studies. This literature grows out of separate research traditions

in political science, public administration, and to a lesser extent sociology and economics. Within political science, research tends to focus on broad questions about the role of the bureaucracy in the larger political system (*bureaucratic politics*). In general, the bureaucratic politics literature can be characterized as emphasizing three core problems confronting the administrative state in democratic settings. First, *delegation* research focuses on the conditions under which politicians delegate policymaking authority to state governmental agencies. Second, *bureaucratic compliance* research analyzes the conditions that produce greater agency responsiveness to the preferences of elected officials or the mass public. Finally, *federalism* research examines state bureaucracies' role in the federal system, especially the effect of intergovernmental policy implementation on issues of bureaucratic responsiveness. These studies generally provide empirical tests of theoretical propositions derived from the literature on bureaucratic politics at the U.S. national level and, to a lesser extent, formal models of bureaucratic behavior developed with the U.S. national context in mind. In this essay, our attention is restricted to the extant literature on policy delegation. Yet the logic and insights advanced in this essay can be easily extended and modified to address other areas of administrative politics, including issues of bureaucratic compliance and federalism.

The Logic of Delegation in U.S. National and State Politics

The delegation of policymaking authority to government agencies is a defining feature of modern industrial societies. This fact has sparked concern in some quarters over whether government agencies lie outside the realm of democratic accountability (e.g. Lowi, 1979). In delegating this authority, however, political officials do not necessarily abdicate all control over the direction of public policy. Nonetheless, political officials retain several mechanisms which may be employed *ex post* to direct agency behavior, such as budgets, personnel appointments, administrative reorganizations, and oversight hearings (Wood and Waterman, 1994). Moreover, there may be ways in which political officials can affect the substance of agency policymaking *ex ante*, through the design of agency structure and process (McCubbins et al., 1987, 1989; Moe, 1989, 1990).

The political science literature on national bureaucracy, both theoretical and empirical, has focused on the relationship of bureaucracy to external political actors in general and the effectiveness of mechanisms of *ex post* and *ex ante* political control specifically. Research on public bureaucracy in the American states has in many ways paralleled this national level literature. On a conceptual level, this literature generally views Congress as the principal, that is, the "supplier" of policy authority, and the executive branch as the agent, the "recipient" of this authority (but see Wilson, 1989; Carpenter, 2001; Krause, 2003, for important exceptions).

By delegating authority to the executive branch through vague legislation, legislatures may gain technical expertise but give up some policy control in the process (Bawn, 1995). From the legislature's perspective, this loss of control is more problematic under circumstances where the governor has preferences that diverge from those of the

legislative branch. Thus, policy delegation may be greater when the policy preferences of the executive and legislative branches converge. In an empirical test of this relationship, Huber and Shipan (2002) find that the amount of policy authority delegated to state agencies for designing Medicaid managed care reforms largely depends in predictable ways on the amount of preference divergence between the governor and the legislature. This relationship is mediated, however, by institutional context: highly institutionalized legislatures are less likely to delegate policy authority than their less institutionalized brethren. The costs of not exploiting bureaucratic expertise for low capacity legislatures may outweigh any benefits of maintaining statutory control, even in situations where the governor's policy preferences are substantially different from those of the legislature. This research illustrates the value of using states as laboratories for institutional comparison, since it is difficult to test propositions regarding differential legislative capacity at the national level, where legislative capacity is effectively fixed.

Because there is little variation in institutional capacity, delegation research applied to U.S. national policymaking institutions instead focuses on the temporal dynamics associated with the delegation dilemma. Policies designed today may be overturned by future political coalitions whose policy preferences differ from the current political coalition, a process sometimes termed *coalitional drift*. One potential solution to the threat of coalitional drift lies in insulating the implementing agency from external political interference, thus protecting policy decisions from potential political opponents, a form of *ex ante* political control.

Although developed with reference to specific national level bureaucracies, a relatively large portion of the empirical literature on *ex ante* political control has focused on the state level. Most of this research looks at the question of whether greater political uncertainty leads to greater bureaucratic insulation from external political interference. Some state-level studies have shown that political uncertainty leads legislators to insulate the bureaucracy from external influence by elected officials, in order to guard their policies from future political interference. This may be achieved through political insulation granted to agency heads (Volden, 2002a), or the adoption of state administrative procedure acts (De Figueiredo and Vanden Bergh, 2004). Yet, the possibility of *ex ante* political control through agency design remains controversial. The theoretical underpinnings of these arguments have been challenged (Spence, 1997, 1999; Pierson, 2000), and empirical evidence for the existence of such control is mixed (e.g. Potoski, 1999). Using data from a survey of state legislators, Reenock and Poggione (2004) find little support for the notion that legislators use agency design as a tactic of ongoing legislative influence over the bureaucracy. Thus, scholarly opinion remains split on the possibility of legislators making effective use of *ex ante* mechanisms of political control.

In delegating policy tasks to agencies, elected political officials lose some control over policy direction. As a consequence, agency policy choices may not reflect the preferences of their politician supervisors, a situation commonly referred to as *bureaucratic drift*. Political officials are thus faced with another tradeoff: in taking steps to reduce the possibility of coalitional drift by delegating tasks to agencies, they increase the threat of bureaucratic drift (Horn and Shepsle, 1989). Legislators may reduce the probability of

bureaucratic drift by delegating less policy authority to agencies. This strategy requires the expenditure of time and effort; thus a rational political principal is likely to use it only when considering also the availability of effective *ex post* mechanisms of control. Research into the possible substitution between *ex ante* and *ex post* mechanisms of political control is in its infancy. Empirical evidence suggests that legislators' preferences for direct intervention in bureaucracies and their preferences for statutory intervention are not substitutes (Poggione and Reenock, 2009). Rather, members who are concerned about bureaucratic drift prefer direct intervention for more permeable agencies, but this effect diminishes as agencies become more insulated. The level of permeability has no effect on legislators' preferences for statutory intervention. A recent analytical model predicts that statutory control should be greater only when the legislature's preferences are sufficiently distinct from the executive's and when non-statutory controls in that state are neither too high nor too low (McGrath, 2010). Further state-level research holds great promise for investigating issues such as these due to the significant variation in powers of *ex post* political control across the states.

The question of exactly what effects institutional design features have on agency performance remains an open one. A significant structural design issue facing legislators is whether to delegate policy to either an executive branch agency or an independent commission. Several state-level studies indicate that this choice is a consequential one: the choice of commission, the mechanisms by which commissioners are selected, and their professionalism and resources all appear to influence regulatory decisions in a variety of policy areas (Berry, 1979; Teske, 1991, 2004). Moreover, the results of Craig Volden's (2002b) analytical model suggest that this element of agency structure affects the amount of discretion afforded administrators, with executive agencies being delegated greater discretionary authority under conditions of unified government, while independent agencies are afforded more discretion under divided government. In addition to agency structure, another potentially important design feature is the imposition of procedural requirements on agency decision makers. Studies have found that policy analysis procedures may limit agency discretion (Potoski, 2002) as well as increase the amount of influence the legislature is reported as having on agency activities (Potoski and Woods, 2001), and that the amount of discretion that street-level administrators possess affects the nature of interest group involvement and influence (Reenock and Gerber, 2008).

The Advantages and Disadvantages of the Federal-Based Approach

Applying and testing theories of bureaucracy developed in the U.S. national context to state bureaucracies has undoubtedly contributed to our knowledge of bureaucracy. This is for the same reason that states are such a fertile ground for theory testing generally: there is generally significant variation in theoretically important variables across states, such as gubernatorial powers, legislative capacity, statutory and constitutional provisions, and agency insulation. This institutional variation across states can yield greater analytical leverage in testing theory than is often available at the national level.

Numerous studies have been used this variation to their advantage, leading to substantial advances in our understanding of bureaucratic dynamics.

But the approach of simply taking theories developed at the national level and empirically testing them using the states has inherent limitations. Such an approach precludes investigation into institutional features that predominate at the state level, but not the national. In areas beyond public bureaucracy, the empirical literature on the American states has provided a much richer, more complete understanding of political and policy dynamics. No mechanisms for direct democracy exist at the national level in the U.S. for instance, but there is a rich literature that explores the impact of direct democracy in the states (for an overview consult Lupia and Matsusaka, 2004). Research on the mass public's influence over public bureaucracy lags behind in this respect (but see Spence 2003, Gerber, Lupia, and McCubbins, 2004, for notable exceptions), which has precluded the development of an organic theory of bureaucratic politics in the American states.

Taking key differences in institutional features into account promises advances in our understanding of legislative delegation; consider, for instance, the legislative veto, which has been ruled unconstitutional for the national government (*INS v. Chadha*) but exists in many states. This mechanism has been found to interact in important ways with aspects of policy delegation. Huber and Shipan (2002) find that the availability of the legislative veto as a mechanism of ex post control increases the amount of statutory discretion that policymakers are willing to delegate to state administrative agencies. More recently, Poggione and Reenock (2009) similarly find that the availability of a legislative veto changes legislators' strategies of bureaucratic control.

More generally, there is substantial variation across state bureaucratic and gubernatorial institutions, in addition to legislatures, in the tools that they have to effectively engage in policy administration. The extant literature's focus on testing theory developed at the national level has largely precluded assessing how this variation may impact the conclusions drawn from national-level studies. Moreover, state politics scholars have largely ignored an important source of theory about bureaucracy from the cross-national comparative literature (Weissert, 2011). In the next section, we urge scholars to redirect their focus away from U.S. national politics towards a truly comparative institutional focus by assessing how relative capacity differences among the legislature, governor, and bureaucracy, can shape how policy preferences are translated into administrative policymaking in the American states.

INSTITUTIONAL CAPACITY AND THE STUDY OF PUBLIC BUREAUCRACY IN THE AMERICAN STATES

Somewhat interestingly, the extant literature examining bureaucratic politics in the American states rarely draws upon the rich variation in the institutions of governance. With few exceptions (e.g., Huber, Shipan, and Pfahler, 2001; Huber and Shipan, 2002),

research on comparative bureaucracy in the American states has relied on applying the logic of U.S. federal governance to the subnational level. This is hardly surprising; given that the American states are constituent units in the U.S. federal system. Moreover, adapting theories that were initially formulated to explain politics at the national level makes considerable sense given the many institutional features shared by U.S. federal and state governments—separation of powers, a unitary elected chief executive, bicameralism [save Nebraska], two major political parties resulting from single member districts, and so on. It is thus understandable that the American states are often treated as versions of the national government in miniature. While advantages exist for drawing upon theories of U.S. national politics to enhance our understanding of bureaucratic politics in the American states, the logic emanating from the approach largely confines scholarship to puzzles of a “temporal” dimension—e.g. partisan control, divided party government, the effect of particular rules applied in a given state, the sequence of politically appointed agency heads, and budgetary change through time.

Theories of bureaucratic politics emanating from the U.S. national government, however, often fail to consider important differences in structural features that are relatively fixed at the national level. In contrast, comparative, cross-national research on public bureaucracies highlights the considerable heterogeneity in administrative systems that exist across nations. For example, southern European nations such as Italy, Greece, Portugal, and Spain possess highly politicized civil service systems that create a special class of patronage that hinders the development of bureaucratic expertise and reputations for competent administration (Sotiropoulos, 2004). Further, the lack of a professionalized public bureaucracy has tangible implications ranging from stifling economic growth (Evans and Rauch, 1999) to increasing political corruption (Golden, 2003).

More generally, the cross-national comparative politics literature highlights the importance of differences involving institutional capacity. Institutional capacity is defined here as the potential capabilities of legislative, executive, and bureaucratic institutions to make and implement policy, net of partisan and ideological policy preferences. Put another way, institutional capacity can be thought of as the amount of authority ascribed to institutions via constitutional, statutory, and external means. Therefore, institutional capacity provides the parameters by which governmental institutions can convey their policy preferences into actual policymaking and administration. Analyzing the comparative institutional capacity of legislatures, governors, and public bureaucracy in the American states is especially salient given the considerable variations involving constitutional powers, institutional powers, and “state” powers centered on the role of bureaucracy in the governmental system.

This article advances a theoretical framework for analyzing bureaucratic politics in the American states by focusing on comparative institutional capacity. Viewed in this manner, preferences (either of a partisan or ideological nature) become factors that are governed by the underlying relationship between institutional capacity and bureaucratic policymaking in the American states. In this way, the approach advocated here has considerably more in common with bureaucratic politics in cross-national political contexts than it does with the U.S. federal government. This is

because the institutional capacities of governmental institutions systematically vary in cross-national settings.

One aspect of institutional capacity is grounded in the role of constitutions, which serve to define both the potential and limits of institutional authority—i.e., “the parameters of governance.” For instance, political economists have highlighted the mechanisms contained in constitutions that are important for studying the allocation of formal powers across governmental institutions (Persson and Tabellini, 2003; Berkowitz and Clay, 2012). Another aspect of institutional capacity is affected by legal-statutory variations that are critical for assessing the role bureaucracies play in policymaking (e.g., McNollGast, 1987, 1989; Epstein and O’Halloran, 1999; Huber and Shipan, 2002). If policymaking is merely the product of the intersection between “*preferences*” and “*institutions*” (Plott, 1991), then it naturally follows that the interaction between institutional capacities’ and actors’ policy preferences will produce variable bureaucratic policy outputs and resulting outcomes. A final component of institutional capacity rests with the extent to which structural limitations constrain institutions from exercising their authority. One should anticipate that these capacities will not merely vary across agencies by policy tasks (Rourke, 1984), agency structure (Seidman and Gilmour, 1986), or clientele support (Carpenter, 2001) as is commonly ascribed at the U.S. federal government level. Rather, the performance of public agencies executing the same policy tasks, for example, may systematically vary across states simply due to variations in bureaucratic capacity.

States provide advantages for developing and testing a comparative institutional capacity theory of bureaucratic politics relative to nations, due to the fact that the macro-structural features of the American states are effectively fixed. In contrast to cross-national research, which often must make comparisons across widely different constitutional systems, electoral institutions, and federalism structures, all of the American states operate under the same general constitutional framework (separation of powers system), electoral institutions (single-member districts, majority rule), and national sovereignty (all states are members of the U.S. federal system). Studying the American state governments thus enables scholars to more clearly isolate differences arising from institutional capacity independent of these broader macro-structural differences that may confound causal inferences. Thus, applying theories of institutional capacity can have great predictive import for understanding not only which institution controls the bureaucracy, but also address normative issues associated with both professionalism and governance quality in the American states.

Legislative Capacity

According to Huber and Shipan (2002: 79), legislative capacity can be defined as “the costs to politicians of *drafting* detailed legislation.” We broaden this definition to include the legislature’s capacity to engage in both formal and latent oversight activities as well. Thus, legislative capacity is inversely related to *both* the costliness of drafting

detailed legislation and performing oversight-based monitoring. *Ceteris paribus*, legislatures possessing high levels of institutional capacity will be less inclined to delegate policymaking authority to the executive branch since they have sufficient expertise and resources to write specific legislative statutes that explain what they want done and how it should be executed. Moreover, high capacity legislatures are also better equipped to perform effective monitoring of government agencies through their oversight activities. As a consequence of both these factors, states possessing high capacity legislatures are in a better position to influence the content of bureaucratic policymaking if they so desire.

Legislative capacity is closely related to the concept of legislative professionalism, "the capacity of legislatures to generate and digest information in the policy process" (Squire, 2007: 211). Empirically, legislative professionalism indices generally include measures of legislative session length, staff resources, and legislator compensation (Mooney, 1994; Squire, 2007), although in some empirical studies these are reduced to a single measure of compensation (e.g. Huber, Shipan, and Pfahler, 2001; Huber and Shipan, 2002; Shipan and Volden, 2006). While compensation captures increased incentives for attracting qualified individuals for legislative careers (e.g. Maestas, 2000; Squire, 2007), it is the institutional resources that allow legislators to engage in activities that influence bureaucratic behavior that are of greater analytic utility.¹ These resources include legislative staff, which is primarily responsible for the labor effort in conducting legislative oversight activities (e.g. Grossback and Peterson, 2004), and session length, which allows the legislature to serve as a full time counterweight to the executive branch (Woods and Baranowski, 2006). Some state legislatures also have resources that more specifically allow them to direct bureaucratic behavior, including rule review powers (Ethridge, 1981; Woods, 2004; Gerber, Maestas, and Dometrius, 2005; Poggione and Reenock, 2009), sunset laws (Clingemayer, 1991; Clingemayer and West, 1992), and legislative program evaluation offices (Boerner, 2002; Woods and Baranowski, 2007).

In addition to the resources that legislators have at their disposal to engage in bureaucratic oversight, other factors may affect its capacity to influence bureaucratic behavior. High legislative turnover can undermine legislative capacity; a "revolving door" among its members may reduce the institutional stability, memory, and experience necessary to effectively draft detailed legislation and subsequently monitor agency performance. Legislatures with high degrees of party competition are more likely to experience greater member turnover than those which are dominated by one party (such as the Republican party in South Carolina or the Democratic party in Massachusetts). Legislative term limits may also inhibit institutional continuity by forcing skilled legislators to exit office thus reducing a critical source of institutional memory and legislative expertise in dealing with the bureaucracy.² Term limits, for instance, have been found to substantially increase the number of legislators who say that administrative reports are too confusing or that they do not know where to get the information they need (LeRoux et al., 2002), a trend suggesting a decline in legislator expertise in dealing with the bureaucracy in term limited legislatures.

Executive (Gubernatorial) Capacity

Executive (Gubernatorial) capacity refers to how the application of governors' formal powers affects their ability to shape policy administration. Typically, more powerful governors are viewed as being more effective for implementing their policy agenda (e.g. Sigelman and Dometrius, 1988; Ferguson, 2003). Executive capacity in the realm of bureaucratic politics can be defined as containing five components. First, *organizational powers* constitute a governor's capacity to organize the bureaucracy. This may include the extent to which governors have unbridled unitary executive authority powers, how many agencies they are responsible for (i.e. span of control), and their ability to reorganize state government agencies with as little interference as possible from other state-level institutions (Beyle, 2004; Beyle and Ferguson, 2008). Powerful governors exhibit certain common characteristics: they share executive authority with few other elected executives, possess a manageable administrative terrain with a small number of agencies and commissions/boards, and possess authority to reorganize executive branch agencies without legislative approval.

Second, *budget powers* represent the ability of governors to control the provision of bureaucratic resources. These resources can be used for either accentuating or undermining an agency's mission based on the governors' policy preferences, as well as for targeting specific policy and administrative priorities within state agencies. Beyle's (2004) definition of gubernatorial budget powers relies on the extent to which governors can both formulate and adopt budget proposals with as little legislative interference as possible. Another important element of executive budgetary influence pertains to the governor's authority to control the allotment of funds to agencies after they have been appropriated by the legislature (Woods, 2003).

Third, *appointment powers* provide the governor with a formal mechanism for staffing the top-levels of state executive agencies. The importance of appointment powers in directing bureaucratic behavior has been extensively documented in past studies (Dometrius, 1979; Abney and Lauth, 1983; Elling, 1992; Dometrius, 2002). Governors with fewer potential veto players in the appointment process possess the greatest control over staffing bureaucratic leaders (Beyle, 2004; Beyle and Ferguson, 2009).

Fourth, *tenure potential* represents governors' duration in office without facing re-election (i.e. term length) and doing so in a repeated manner (i.e. the absence of term limits) (see Beyle, 2004, 2009). In turn, governors with strong tenure potential can more effectively resolve credible commitment problems with other institutions since they are not easily deposed from office. More specifically, governors that are able to serve lengthier terms are more likely to deal effectively with the bureaucracy since they have more time to learn on the job. Similarly, a governor who is eligible to seek re-election an unlimited number of times will be a more formidable political actor than one who must exit office due to term limit restrictions.

Finally, a set of specific *oversight tools* are designed to give the governor greater control of the bureaucracy. Some of these tools are designed to provide governors with institutionalized access to information and evaluation of bureaucratic performance in

the form of policy analysis studies, financial and compliance audits, and sunset reviews (Boerner, 2002). Similar to the increasing role of the Office of Management and Budget in evaluating proposed federal agency rules (Cooper and West, 1988), executive review of agency regulations, which is typically housed in the state budget office, may be conducted using a variety of economic analysis techniques, including cost-benefit analysis, economic impact analysis, or regulatory analysis (Hahn, 2000). Moreover, many states have created program evaluation offices to provide ongoing analysis and oversight of government functions. In conjunction with these reviews governors in many states been granted the authority to modify, or even strike down administrative rules before they go into effect (Grady and Simon, 2002). Both the information provided through program evaluation and policy analysis offices and gubernatorial rule review authority have been found to provide governors with increased influence on agency rulemaking (Woods, 2004; Woods and Baranowski, 2007).

Bureaucratic Capacity

Bureaucratic capacity affords public administrators the ability to effectively administer governments' public policies. Assessing bureaucratic capacity requires one to ask "To what extent does the bureaucracy have the requisite resources, skill, and autonomy to effectively administer public policies?" Bureaucracies that exhibit high capacity tend to adapt and learn at a faster rate than those that exhibit low capacity (Downs, 1967; Simon, 1976; Stinchcombe, 1990). Conversely, low levels of bureaucratic capacity contain a dual reinforcing effect for muting the exercise of bureaucratic authority. Low bureaucratic capacity makes it easier for politicians to control policy administration since agencies do not have sufficient autonomy to establish an independent source of power through either clientele support (e.g., Rourke, 1984; Wilson, 1989; Carpenter, 2001) or by establishing a favorable organizational reputation (e.g., Krause and Douglas, 2006; Krause and Corder, 2007; Carpenter, 2010; Carpenter and Krause, 2012). Further, politicians will also be less willing to vest discretionary policymaking authority to "low capacity" public agencies possessing similar preferences since politicians' desire for competent policy administration (and obtaining proper electoral credit for policies) outweighs their desire to delegate to an "easy to control" bureaucracy (Huber and McCarty, 2004). Therefore, high levels of bureaucratic capacity are not only necessary for administrative institutions having an independent voice in governance, but is also requisite for the effective exercise of discretionary authority granted to them by political institutions.

Bureaucratic capacity can be defined on two distinct dimensions: Resources and Structure-Process. *Bureaucratic Resources* provide public agencies with the requisite budgetary, clientele, and reputational resources to be equipped to effectively perform administrative tasks. According to resource dependence theory, budgetary resources are critical since they provide the lifeblood to ensure that agencies are adequately funded to perform administrative tasks (Pfeffer and Salancik, 1978). Clientele support from either organized interests or relevant professional associations also serves as a vital

institutional resource by affording public agencies with an external buffer from politicians who seek to limit the policy influence of bureaucrats (Rourke, 1984; Wilson, 1989). In turn, clientele support not only serves to insulate bureaucratic agencies from political control, but it can also empower them as an independent institution within governmental systems. Professional associations and networks also play a vital role in cultivating bureaucratic autonomy by externally reinforcing the policy expertise displayed by government agencies (Carpenter, 2001). This is because public agencies possess strong incentives to cultivate an organizational reputation for performing in a competent and professional manner in order to attain greater autonomy on their own accord, as well as obtaining greater policy discretion from their political principals.

Bureaucratic Structures-Processes provide public agencies with the formal organizational context in which they perform their policy and administrative functions. Along this particular dimension, bureaucratic capacity is enhanced in three distinct ways. First, structures which devolve executive power from a unitary elected chief executive to multiple elected executives heading individual departments diffuse authority across several independently elected executive officials (Bowman, Woods, and Stark, 2010). Second, states with the strongest personnel systems that advocate merit-based recruitment and promotion (via civil service procedures), as well as good pay (relative to comparable private sector compensation), will reflect stronger bureaucratic capacity. This is because public agencies that select, reward, and retain members based on their policy expertise will enhance the administrative capacity of the American states. For example, over the past few decades American states have experienced a sharp trend towards “deregulating” their civil service systems (e.g., Cogburn, 2001). This pattern has reflected a general trend toward decentralizing state personnel functions by declassifying state agency personnel, placing restrictions on state employees’ rights during the grievance process, and fortifying executive control over personnel selection systems for purposes of recruiting, rewarding, and retaining loyalists to the governor (Hays and Sowa, 2006).

Finally, states that adopt appropriate organizational routines and procedures will be most capable of managing the government programs they are charged with administering. For example, the Government Performance Project (GPP) initiated at Syracuse University (Barrett and Greene, 2001) and currently housed at the Pew Center for the States, seeks to measure the management capacity of state governments based largely upon measuring the “best practices” of state governments that relate to criteria involving human resources, financial [fiscal], capital, information technology, and results-based management (see Ingraham and Kneeder, 2000, for an application using these GPP scores). The utility of these organizational routines and procedures are not limited to the internal functioning of public agencies, but rather have policy implications for the “reach” of public bureaucracies in the American states. For example, Cogburn and Schneider (2003) find that states with high levels of management capacity (i.e. desirable organizational routines and procedures) are inclined to tackle more challenging policies of a collectivist nature, whereas lower levels of management capacity are preoccupied with distributive/particularistic policies which are easier to manage in both scope and

conflict. Similarly, Jennings and Woods (2007) find that higher levels of management capacity result in the development of stronger environmental programs (as well as the more effective implementation of existing policies). This pattern makes intuitive sense and is consistent with bounded rationality theories of the firm (March and Simon, 1958; Cyert and March, 1963). Put simply, states with better organizational routines and procedures will be able to administer more ambitious policies than those that fall in short in this dimension which must “satisfice” by simplifying their task environment.

In the next section of the essay we develop a theoretical framework that attempts to provide a coherent logic expressing how variations in each institutional actor’s relative capacities interact with the actor’s preferences to influence policy delegation in the American states. Our aim is to provide a theoretical framework that can serve as the basis for further theoretical development and empirical testing in the realm of American state bureaucratic politics.

RECONSIDERING POLICY DELEGATION IN THE AMERICAN STATES: THE LOGIC OF COMPARATIVE INSTITUTIONAL CAPACITY

As discussed in the previous section, high levels of institutional capacity afford institutions both expertise and policy control benefits. However, the depiction of institutional capacity alone does not explain outcomes involving policy administration among multiple institutions. This requires that a predictive theory be advanced to specify the conditions under which specific institution(s) possess a comparative advantage in policy administration. In this section we propose a theoretical framework for this purpose.

Our theoretical framework is motivated by the simple notion that institutions seek to maximize administrative policy control in order to achieve their policy preferences, subject to their relative endowments of institutional capacity. This theory is thus in the tradition of New Institutionalism in that it adheres to Charles Plott’s (1991) “fundamental equation of policymaking” which posits that *Preferences* \times *Institutions* = *Policy* (see also, Hinich and Munger, 1997). In the context of the framework advanced here, administrative control is determined by two factors: (1) the extent to which institutions’ policy preferences converge (or diverge), and (2) the relative institutional capacity of each institution. Applied to comparative delegation choices, this means that the legislature will discount preference divergence at varying rates based upon the relative institutional capacities among relevant policy actors. A comparative assessment of institutional capacity among the legislature, governor, and bureaucracy (agency) can thus be thought of as setting the parameters by which policy preferences are transmitted into policy administration.

Specifically, we consider three classes of comparative legislative delegation problems that are distinguished by the relative comparative institutional capacity among the

legislature, governor, and agency. *Absence of Institutional Dominance* occurs when all three institutions possess uniform levels of institutional capacity, *Singular Institutional Dominance* exists when only a single institution is classified as a *High* capacity type and the remaining two are *Low* capacity types, and *Shared Institutional Dominance* exists when a pair of institutions are classified as a *High* capacity types and the lone remaining institutions possesses *Low* capacity.

Next, we offer a preliminary logic and resulting set of comparative statics based on the aforementioned assumptions regarding maximizing policy control that is subject to the constraint of the legislature's relative level of institutional capacity. The stylized model that we propose in this section only considers two capacity types (*High* vs. *Low*), and does not distinguish between binary (delegate or do not delegate?) and continuous (what amount to delegate?) delegation choices. We also assume that institutional capacity is identical within a capacity type. Moreover, institutional capacity not only determines which actors' preferences the legislature takes into account involving the implementation of public policy, but also affects the rate at which they discount preference divergence among key policy actors. Because our focus is centered on policy administration, the stylized theoretical logic advanced here further assumes that the politics underlying policy adoption is exogenously determined. Finally, we maintain the common simplifying assumptions that actors possess symmetric, risk-neutral ideological policy preferences. Obviously, a more general (and satisfying) model would relax these assumptions, while also offering additional institutional details. We leave this for scholars to take up in future research on this topic.

Absence of Institutional Dominance (Uniform Institutional Capacity)

For this particular class of comparative delegation problems, all three institutions (legislature, governor, and agency) exhibit uniform institutional capacities—i.e. each actor possesses an identical amount of institutional capacity. Therefore, the legislature's calculus will produce the same comparative-static predictions. In the first instance of uniform institutional capacity, the legislature, governor, and bureaucracy are each defined as being “Low” capacity types (*Low State Capacity*).³ Because all three institutions possess low institutional capacity in the first scenario, we can infer that (aggregate) state capacity is low. Alternatively, uniform institutional capacity may also result when aggregate institutional capacity is maximized by all three institutions possessing high capacity (*High State Capacity*). Under such a scenario, this competitive balance reflects three robust institutions which can not only check the power of one another, but have sufficient capacity to make them capable of effective governance.

Comparative delegation outcomes are illustrated in Figure 16.1.

In **panel 1a**, the legislature's (*L*) ideal point is an endpoint on this conservative-liberal ideological policy space, while the agency is on the other endpoint (*A*), and governor's ideal point (*G*) lies between *L* and *A*. In this instance, *L*'s willingness to delegate

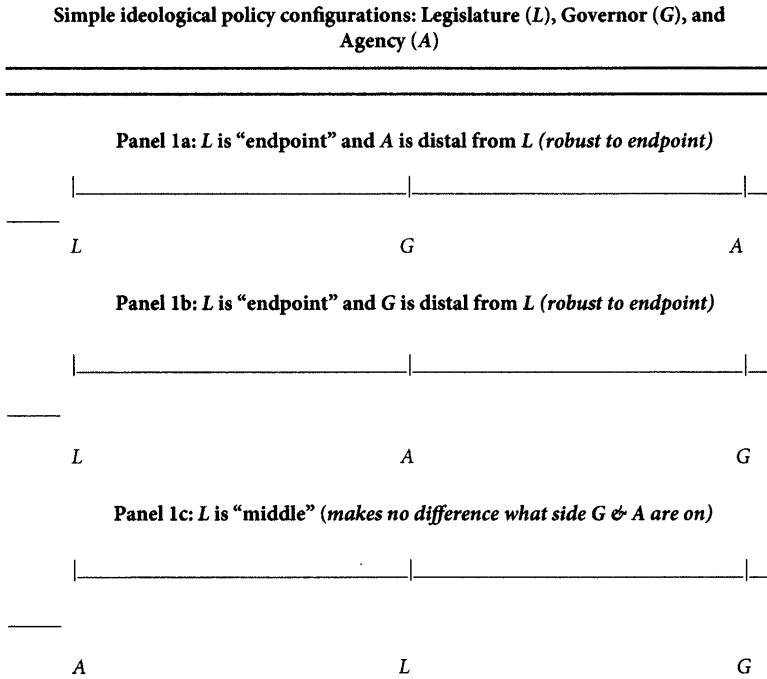


FIGURE 16.1 Simple ideological policy configurations: legislature (L), governor (G), and agency (A)

Notes: Panel 1a: L is “endpoint” and A is distal from L (*robust to endpoint*) Panel 1b: L is “endpoint” and G is distal from L (*robust to endpoint*) Panel 1c: L is “middle” (*makes no difference what side G & A are on*). The ideological continuum moves from liberal (left) to conservative (right).

polymaking authority to equal capacity institutions (G and A) is decreasing in ideological divergence between itself and the distal actor, subject to the constraint of a formidable “centrist” actor that has the capacity to check the distal actor. Because the legislature has no comparative institutional capacity advantage vis-à-vis the governor or agency in either the *Low State Capacity* or *High State Capacity* cases, the rate at which preference divergence is discounted is fixed at $\alpha = 1$. This is the implied assumption of federal-based delegation models, which do not account for variable levels of institutional capacity. Under the assumption of risk-neutrality, these models focus solely on the absolute distance between actors’ ideal points.

More precisely, our model predicts that legislative delegation will be decreasing in the distance between the legislator’s ideal point (L) and the midpoint between the governor

(G) and Agency (A)—i.e., $|L - \frac{A+G}{2}|$ under both the panel 1a and panel 1b scenarios.⁴

In the final scenario characterized by panel 1c, the legislature (L) will lie between the

agency (A) on the left (liberal) and governor on the right (conservative) (G). In this particular situation, the key ideological chasm depends upon L 's relative position to G vis-à-vis A . When the legislature is closer to the governor (G) than the agency (i.e.,

$L > \frac{G-A}{2}$), the legislature's proclivity for delegation will be decreasing in $|L-A|$. This is

because A is the most distal actor and can effectively check G since they possess the same level of institutional capacity. Conversely, when the legislature is closer to the agency (A)

than compared to the governor (i.e. $L < \frac{G-A}{2}$), then the legislature's proclivity for delegation will be decreasing in $|L-G|$. In the special case when the legislature's ideal point

bisects that of the governor and agency—i.e. $L = \frac{G-A}{2}$ —the legislature's willingness to

delegate will be at its (relative) apex for these uniform capacity cases since it will be unaffected by changes in $|G-A|$ because the balance of institutional capacity between G and A means that resulting policy will fall at L .

Although the comparative static predictions in the realm of legislative delegation are observationally equivalent in the *Low State Capacity* and *High State Capacity* scenarios, the normative implications are vastly different. In the *Low State Capacity* case, administrative governance will be problematic on two levels. First, all institutions will lack sufficient capacity to make and administer policy in an effective manner. Second, because they each possess similar levels of institutional capacity, severe policy gridlock will arise when the critical institutional preferences diverge. This will result in low caliber policy administration that produces inadequate action when institutional preferences are aligned with each other, and inaction when they are not. As a result, policy stalemate under *Low State Capacity* may actually be desirable under certain circumstances if governmental inaction is deemed superior to incompetent policy action. Yet, when institutional preferences diverge under *High State Capacity*, policy stalemate is an acute problem. Unlike the *Low State Capacity* case where governmental inaction due to conflicting preferences is preferable to incompetent action, such policy gridlock in the *High State Capacity* case is undesirable since it prohibits institutions from effectively exercising their robust institutional capacity to undertake policy administration.

Singular Institutional Dominance

While the two previous cases presume a balance of powers attributable to all institutions possessing the same caliber of institutional capacity, the distribution of authority in the American states is uneven due to both varying constitutional and statutory provisions. As discussed in the previous section, this variation includes (but is not limited

to) differences in institutional resources provided to state legislatures (Hahn, 2000; Grossback and Peterson, 2004; Gerber, Maestas and Dometrius, 2005; Squire, 2007), and governors (Dometrius, 1987; Grady and Simon, 2002; Beyle, 2004; Ferguson, 2006), as well as the structural and procedural resources afforded bureaucratic agencies (Barrilleaux, Feiock, and Crew, 1992; Barrilleaux, 1999; Ingraham and Kneeder, 2002). A second set of cases cover those instances where an imbalance of institutional capacity exists among policy actors. Although this imbalance imposes costs by reducing competition among governmental institutions—thereby stifling innovation—it also contains benefits for quick and decisive action (i.e., it lowers the transaction costs of policy administration) in a democratic system of governance.

Under *singular institutional dominance*, a single institution serves as the dominant policy actor in state-level administrative governance. *Legislative Dominance* occurs when the legislature is endowed with strong formal powers and a strong level of professionalism, but the governor and agency are not. In these instances, the legislature has the means to direct policymaking activities, but the executive branch is not fully capable of implementing the legislature's policy plans. Referring again to Figure 16.1, in the two scenarios when L is an endpoint on the ideological policy space (**panels 1a and 1b**) and both A & G possess the same (low) level of institutional capacity, the legislature's will-

ingness to delegate is decreasing in $\alpha \left| L - \frac{A+G}{2} \right|$, where $\alpha > 1$. That is, the legislature is

not only less willing to delegate authority to either a governor or agency with divergent preferences, but this willingness is also declining in α —the extent to which the legislature enjoys an institutional capacity advantage over an equally weak governor and agency. When the legislature (L) lies between the agency (A) on the left (liberal) and governor on the right (conservative) (G), one should observe policy outcomes consistent with those observed under the assumption of uniform capacity noted under **panel 1c**⁵, except that preference divergence will be discounted at a high rate due to the fact that the legislature enjoys relatively greater institutional capacity than either executive

branch policy actor. Therefore, when $L > \frac{G-A}{2}$, the legislature's proclivity for delega-

tion will be decreasing in $\alpha |L-A|$, where $\alpha > 1$. When $L < \frac{G-A}{2}$, the legislature's pro-

clivity for delegation will be decreasing in $\alpha |L-G|$, where $\alpha > 1$. The institutional capacity

discount parameter is trivial in the special case of $L = \frac{G-A}{2}$ since the legislature's pol-

icy preferences will be implemented (at L) if delegated to either G or A , irrespective of how distant they are from one another, because the latter pair possess equal levels of institutional capacity.

Put simply, L is less willing to delegate to authority to G as preferences diverge, and this rate of unwillingness increases in L 's institutional capacity advantage over G . If α

is sufficiently high, then the legislature may choose not to delegate to agencies responsible for policy administration even when they possess very similar policy preferences (Huber and McCarty, 2004). Under *Legislative Dominance*, policymaking will most closely mirror popular will that is embodied by elected assemblies. Forgoing any professional and technical expertise that is housed within public agencies, any advantages associated with unilateral action by governors is not problematic for the legislature since the executive branch is ill equipped to use what little powers they possess—that is, the governor suffers from low institutional capacity.

However, when the legislature is a low capacity type, its willingness to delegate is solely a decreasing function of its own preferences vis-à-vis those of the high capacity institution, but at a declining rate since the legislature incurs an institutional capacity deficit. This is because the dominant executive branch actor will dictate the terms of policymaking. Therefore, if the governor (G) is the dominant institution (*Gubernatorial Dominance*), then the legislature's willingness to delegate policymaking authority is decreasing in $\alpha |L-G|$, where $0 < \alpha < 1$. For such strong governor/weak legislature states, executive influence over bureaucratic activities is quite easy to attain. Under this particular configuration of powers, the bureaucracy is not sufficiently insulated from the governor's reach, nor can it fully exploit any common agency problems confronting both governors and legislatures as a pair of political principals seeking to obtain control over bureaucratic policymaking (e.g. Bertelli and Lynn, 2004; Gailmard, 2009). Moreover, the legislature may possess rational incentives to delegate to the executive branch under these circumstances, thus abdicating additional institutional authority to governors. Although governors represent broad state constituencies, this is potentially problematic for making sound policies since unfettered unilateral executive action can produce undesirable policy outcomes resulting from the fact that governors' short-run electoral impulses cannot be sufficiently checked by other democratic institutions (Krause and Melusky, 2012).

Similarly, if the agency (A) is the dominant institution (*Bureaucratic Dominance*), then the legislature's willingness to delegate policymaking authority is decreasing in $\alpha |L-A|$, where $0 < \alpha < 1$. In this particular situation, the bureaucracy is highly professional, well-resourced, and has either ample discretion (Hammond and Knott, 1996) or autonomy (Carpenter, 2001) from political institutions, where each political institution possesses low levels of institutional capacity. In this particular case, the bureaucracy plays the preeminent role in policymaking since it is afforded both the requisite autonomy and discretion to undertake administrative tasks with little effective interference from either political branch. Bureaucratic dominance leads to policy administration that may deviate from democratic preferences in the direction of bureaucratic preferences (*bureaucratic drift*). A "strong" agency's ability to control policy administration will increase as its preferences diverge from both a "weak" legislature and governor. This logic suggests that political institutions will have limited means to effectively check the exercise of bureaucratic authority if the bureaucracy chooses to flex its considerable muscles. While this may lead to greater technical expertise in policymaking, it also poses normative concerns for democratic governance due to a lack of policy responsiveness to popular will, as reflected in the policy preferences of elected officials.

Shared Institutional Dominance

This final class of comparative delegation problems is characterized by a pair of institutions that coexist as the dominant (i.e., high capacity) policy actors in state-level administrative governance. In general, under shared institutional dominance, the extent to which dominant institutions are successful coordinating to obtain their policy objectives determines their effectiveness for shaping policy administration. In each case, these institutions will be able to exercise greater shared control over policy administration as their preferences converge toward one another.

The first two scenarios treat the legislature as one of the dominant institutions in this arrangement. *Legislative-Bureaucratic Shared Dominance* means that the governor is essentially on the sidelines of policymaking and the real action lies with a highly professionalized legislature possessing ample formal powers and a bureaucracy that has the attributes of a dominant bureaucracy, except that it may lack discretion and autonomy from the legislature when their preferences diverge. Specifically, the legislature and agency can effectively counterbalance one another since they are each high capacity

types. Therefore, the legislature's willingness to delegate is decreasing in $\frac{|L-A|}{2}$.⁶

Political Shared Dominance is the flip side of *Bureaucratic Dominance* insofar as both the governor and legislature each possesses abundant institutional capacity in relation to a weak bureaucracy. Under these conditions, the bureaucracy is, at best, capable of merely executing the will of elected officials—especially when the legislature and governor share similar policy preferences. In terms of the comparative delegation logic proposed

here, the legislature's propensity for delegation is decreasing in $\frac{|L-G|}{2}$ since the legis-

lature and governor can effectively check one another so policy outcomes will be the bisection between their ideal points.⁷ Thus, political shared dominance leads to outcomes that approximate the normative ideal for many democratic theorists: policy that reflects the preferences of two coequal elected political institutions. The downside of such an arrangement generally is that policymakers neglect to take into account the specialized knowledge and expertise that resides in the bureaucracy. Under conditions of political shared dominance, however, this concern is mitigated by the fact that bureaucratic capacity is low relative to the institutional capacity that resides in the elected branches of government.

The final scenario, *Executive Shared Dominance*, is less straightforward since both the governor and bureaucracy each possess high levels of institutional capacity, and the legislature does not. Because the legislature realizes that it is the sole low capacity institution, the battle for policy control within the executive branch between the governor and bureaucracy will be determinative. Yet, the comparative-static predictions are less straightforward than in the previous two cases of shared institutional dominance. The simplest case is when the legislature's preferences (L) lie between those of the governor

(G) and agency (A) as characterized in **panel 1c**. Specifically, when the legislature is closer to the governor (G) than the agency (i.e. $L > \frac{G-A}{2}$), then the legislature's pro-

clivity for delegation will be decreasing (at a slower rate) in $\alpha |L-A|$, where $0 < \alpha < 1$. Conversely, when the legislature is closer to the agency (A) than the governor (i.e.

$L < \frac{G-A}{2}$), then the legislature's proclivity for delegation will also be decreasing (at a

slower rate) in $\alpha |L-G|$ where $0 < \alpha < 1$. Finally, when the legislature's ideal point bisects

that of the governor and agency—i.e. $L = \frac{G-A}{2}$ —the legislature's willingness to dele-

gate policymaking authority will be high because the "balance" of institutional capacity between G and A means that resulting policy will fall at L. The final two cases are variants of the uniform institutional capacity scenarios illustrated in **panels 1a** and **1b**, where L is at an endpoint of the ideological spectrum. Specifically, legislative delegation will be decreasing in the policy distance between L and the midpoint between A and G—i.e.

$|L - \frac{A+G}{2}|$ (where $0 < \alpha < 1$) irrespective whether A or G is distal from L. However,

because the legislature is comparatively weaker vis-à-vis either executive branch institutions ($0 < \alpha < 1$), they will discount this observed level of ideological preference divergence.

A summary of these comparative statics for all cases in each given scenario type is listed in **Table 16.1**. On the whole, greater (aggregate) institutional capacity in the cases of shared dominance provides the potential for more effective policy administration than in the cases of *Low State Capacity* and singular dominance. Yet fully realizing the benefits of greater aggregate institutional capacity often requires goal congruence among the high capacity institutions. In the cases of legislative-bureaucratic shared dominance and political shared dominance, especially, a high capacity legislature will rationally forgo some of the benefits of coordinating with other high capacity institutions so as to retain greater policy control as their policy preferences diverge.

DISCUSSION

In this essay, our central purpose has been to claim that bureaucratic politics in the American states is fundamentally different from its counterpart in U.S. national politics. This is because institutional capacity varies across state governments in both absolute and relative terms. As a result, we argue that future research on bureaucratic politics in the American states should possess a truly comparative politics focus that emphasizes

Table 16.1 Summary of Legislature's Decision Rule for Policy Delegation—The Role of Ideological Policy Preferences and Comparative Institutional Capacity

Institutional Capacity Regime	Location of L	Delegatee Endpoint(s)	L's Relative Capacity	Legislative Delegation Decision Rule
Absence of Institutional Dominance (Low & High State Capacity)	Endpoint	A	$\alpha = 1$	$ L - \frac{A+G}{2} $
	Endpoint	G	$\alpha = 1$	$ L - \frac{A+G}{2} $
	Center	A & G	$\alpha = 1$	$\text{if } L > \frac{G-A}{2} : L - A $ $\text{if } L < \frac{G-A}{2} : L - A $ $\text{if } L = \frac{G-A}{2} : L$
Singular Institutional Dominance				$ L - \frac{A+G}{2} $
Legislative Dominance	Endpoint	A	$\alpha > 1$	$\alpha L - \frac{A+G}{2} $
	Endpoint	G	$\alpha > 1$	$\alpha L - \frac{A+G}{2} $
	Center	A & G	$\alpha > 1$	$\text{if } L > \frac{G-A}{2} : \alpha L - A $ $\text{if } L < \frac{G-A}{2} : \alpha L - G $ $\text{if } L = \frac{G-A}{2} : L$
Gubernatorial Dominance	_____	_____	$0 < \alpha < 1$	$\alpha L - G $
Bureaucratic Dominance	_____	_____	$0 < \alpha < 1$	$\alpha L - A $
Shared Institutional Dominance				
Legislative-Bureaucratic Shared Dominance	_____	_____	$\alpha = 1$	$\frac{ L - A }{2}$
Political Shared Dominance	_____	_____	$\alpha = 1$	$\frac{ L - G }{2}$
Executive Shared Dominance	Endpoint	A	$0 < \alpha < 1$	$\alpha L - \frac{A+G}{2} $
	Endpoint	G	$0 < \alpha < 1$	$\alpha L - \frac{A+G}{2} $ $\text{if } L > \frac{G-A}{2} : \alpha L - A $
	Center	A & G	$0 < \alpha < 1$	$\text{if } L < \frac{G-A}{2} : \alpha L - G $ $\text{if } L = \frac{G-A}{2} : L$

cross-state differences in the design, powers, and external support for legislatures, governors, and public agencies. Although current theoretical research in bureaucratic politics has made critical strides in focusing on the capacity of a single institution, in the form of the legislature (Huber and Shipan, 2002) or bureaucracy (Huber and McCarty, 2004), what is needed is for a comparative assessment of institutional capacity and its implications for control over policy administration.⁸

This essay has made an initial attempt to address this puzzle by sketching out a simple spatial theoretical model of legislative delegation that is motivated by comparative institutional capacity among the legislature, governor, and public agencies. Specifically, the legislature seeks to maximize policy control in accordance with preference divergence between itself and executive branch institution(s), subject to the constraint of the legislature's relative level of institutional capacity. The spatial model offers an interesting set of comparative-static predictions regarding how the legislature makes delegation decisions under varying institutional capacity scenarios and ideological preference configurations. Institutional capacity affects the legislature's choice involving delegation decisions. Specifically, we posit that the rate at which preference divergence between the legislature and executive branch institution(s) is discounted will be an increasing function of the legislature's capacity deficit.

Research analyzing the implications of comparative institutional capacity on bureaucratic politics can be extended beyond the case of delegation in the American states. For instance, although federalism is exogenous to our comparative institutional capacity framework, the logic advanced in this essay can be extended to incorporate the delegation issues involved in intergovernmental policy administration. Two tiered principal-agent models have already been applied to the intergovernmental system (Chubb, 1985; Hedge, Scicchitano, and Metz, 1991; Wood, 1992). More recently, preference congruence between the federal and state levels of government has been incorporated into our understanding of American federalism (Nicholson-Crotty, 2004; Krause and Bowman, 2005; Clouser McCann, 2010). Our theoretical perspective suggests that the next step is to extend this research program to incorporate variations involving institutional capacity. For instance, partial preemption regulatory agencies, such as EPA and OSHA, oversee state implementation of federal regulatory laws. Although the states have lead implementation and enforcement authority, the federal agency retains a residual capacity to conduct monitoring inspections and enforcement actions within those states. Our theory suggests that these agencies will expend more effort thus monitoring state agencies when preferences diverge between the federal agency and strong capacity institutions in the state. For instance, a state with legislative dominance and a conservative Republican legislature may face stronger EPA oversight than another legislatively dominant state with a more pro-environment Democratic legislature. Phrased somewhat differently, the federal agency is more likely to delegate implementation discretion to states where the strong institutions have preferences that converge with the federal agency's preferences.⁹

This essay has served as an initial foray into thinking more seriously about evaluating institutional capacity of the legislature, governor, and bureaucracy in furthering our

understanding of policy administration in a democratic system. Clearly, the ideas and logic represent an initial, preliminary attempt to address these issues, and should be interpreted accordingly. Building upon the seminal work of Huber and Shipan (2002), our hope is that future scholarship in bureaucratic politics in the American states develops organic theories that take the best from U.S. national politics, while augmenting them with insights that reflect the truly comparative nature of administration among this class of policy laboratories.

NOTES

1. Indeed, Woods and Baranowski (2006) argue that greater political careerism (most notably, progressive ambition and salary compensation) dampens the incentives for legislatures to allocate scarce time and effort to influence public agencies. This is because legislative efforts at directing administrative behavior do not yield the same career benefits as constituent casework and bill sponsorship (see also, Rosenthal, 1981).
2. Squire (2007: 215) notes that the link between professionalized and career legislatures is a somewhat tenuous one; part of this rationale is attributed to state legislative careers being far less prestigious and lucrative compared to serving in the U.S. Congress. Moreover, term limits disproportionately affect the lower chamber (House/Assembly) since the upper chamber (Senate) becomes a base for former lower chamber members who are term limited out of office (Moncrief, Niemi, and Powell, 2004: 369–370).
3. We treat *state capacity* in the context of our theoretical framework as being the aggregate institutional capacity derived from the legislature, governor, and bureaucracy. In the comparative politics literature, this concept is often conceptualized as the ratio of total governmental revenues to GDP (e.g. Steinmo, 1993; Cheibub, 1998), robust property rights (e.g. North, 1991; Weingast, 1995), and low levels of political corruption (Nye, 1967).
4. Because $\alpha = 1$ for the *Absence of Institutional Dominance* class of problems, this discounting parameter is dropped under uniform institutional capacity scenarios for notational ease.
5. These comparative-static predictions would be reversed if the agency (A) was the most conservative actor and governor (G) was the most liberal actor.
6. Please recall that $\alpha = 1$ since the legislature (L) and agency (A) possess identical institutional capacities.
7. Please recall that $\alpha = 1$ since the legislature (L) and governor (G) possess identical institutional capacities.
8. Huber and Shipan's (2002) theoretical logic is currently the "gold standard" for students of bureaucratic politics analyzing the American states. Yet, Huber and Shipan's theory (and empirical tests) treats both governors and bureaucracies' institutional capacities as being exogenously fixed—i.e., only legislative capacity plays a role in conditioning how policy preferences get translated into outcomes pertaining to delegated policymaking authority.
9. For simplicity's sake we are assuming that the federal agency's preferences are fixed. If it is responsive to the preferences of national political principals, then it is congruence between these preferences and those of the strong subnational institution(s) that would matter.

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