Legislative Ethics Regulation in the American States: Explaining Conflict of Interest Legislation, 1954-1996

by

Beth Anne Rosenson

B.A., Government, Wesleyan University, 1987
M.A., Political Science, Yale University, 1991

SUBMITTED TO THE DEPARTMENT OF POLITICAL SCIENCE IN PARTIAL FULFILLMENT OF THE REQUIREMENTS FOR THE DEGREE OF

DOCTOR OF PHILOSOPHY IN POLITICAL SCIENCE

at the

MASSACHUSETTS INSTITUTE OF TECHNOLOGY

September, 2000

© Beth Anne Rosenson 2000.
All rights reserved.

The author hereby grants to MIT permission to reproduce and to distribute publicly paper and electronic copies of this thesis document in whole or in part.

Signature of Author ____________________________

Department of Political Science
August 4, 2000

Certified by: ________________________________

Charles H. Stewart III
Professor of Political Science
Thesis Supervisor

Accepted by: ____________________________

Barry R. Posen
Professor of Political Science
Chairman, Graduate Program Committee
Legislative Ethics Regulation in the American States: Explaining Conflict of Interest Legislation, 1954-1996

by

Beth Anne Rosenson

B.A., Government, Wesleyan University, 1987
M.A., Political Science, Yale University, 1991

Submitted to the Department of Political Science
on August 4, 2000 in partial fulfillment of the requirements for the degree of
Doctor of Philosophy

ABSTRACT

This dissertation examines the regulation of conflicts of interest involving state legislators through the passage of ethics laws during the period from 1954-1996. The aim is to explain why legislators, who are notoriously loathe to regulate their own ethics, enacted a range of ethics laws during this time. I use a mixture of qualitative case studies and regression analysis at the individual and state levels, in order to explain the factors that lead legislators to oppose ethics reforms and the circumstances which facilitated reform success. Three main factors account for legislators' positions on ethics proposals: economic self-interest, institutional power, and ideology. Despite these reasons for opposing regulation, legislators agreed to enact ethics laws under certain conditions. Scandals and media attention to the problem of legislative ethics, as well as the efforts of governors and public interest groups, helped facilitate reform. In addition, the initiative process was a powerful weapon used by reform advocates, both for the enactment of new laws and the authorization of independent ethics commissions. While these outside actors and institutions played a critical role in explaining the likelihood and extent of reform, institutional features within the legislature itself also shaped the outcome of reform efforts.

Although many states enacted relatively comprehensive ethics laws, these laws contained important concessions made to legislators in the course of bargaining with governors and public interest groups. Further, when it came to enforcement of the new laws, legislators have maintained close control over the new commissions, using methods such as appointment of commissioners, budgetary control, and legal challenges. Consequently, few state ethics commissions with jurisdiction over legislators have sufficient power and independence to carry out their mandate. Overall, the new legislative ethics laws and their enforcement are consistent with a picture of legislators as rational actors concerned with maintaining their economic well-being and institutional power, as well as legislative autonomy and power with regard to the executive branch.

Thesis Supervisor: Charles H. Stewart III
Title: Professor of Political Science
Acknowledgments

Although completing a dissertation is in many ways a solitary endeavor, so many people sustained me throughout the long process. I wish to thank, first of all, my parents and my brother. Because of my father, Larry Rosenson, I grew up viewing an academic career as a fulfilling and exciting prospect. My mother, Joan Rosenson, helped me weather the ups and downs that come with the territory. My twin brother Jon has been there since the very beginning and despite living on opposite coasts, I feel his presence always.

I also wish to thank the many professors at Wesleyan, Yale, MIT and Tufts who encouraged me — some knowingly, some unknowingly — in my pursuit of an academic career. At Wesleyan these included Cathy Newbury, Ann Wightman, and not least of all, Barbara Craig, whose Introductory American Government course got me hooked. At Yale I was fortunate to work with Margaret Keck, who showed me that academia is only one part of life. At MIT, I was fortunate to have a dissertation committee who supported my research long before I even began the dissertation. My chair, Charles Stewart, and committee members Steve Ansolabehere and Dan Kryder provided great role models and encouraged me to think in different ways about my project. They also buoyed me in their enthusiasm even when I myself wasn't feeling so enthusiastic. I also learned a great deal from working with Jim Snyder, Joshua Cohen, and other faculty members at MIT. In addition, I benefited greatly from my friendship and intellectual exchanges with fellow students Andy Ho, Amy Black, Judy Layzer, Jocelyn Crowley, Steve Millman, Rachael Cobb and Sarajane MacCaffrey. Thanks too to Helen Ray, Santina Tonelli, Paula Kreutzer, Ann Carbone and Carol Clark for the laughs and the support.

This past year as a visiting faculty member at Tufts was a wonderful experience. I truly enjoyed being part of a department which welcomed me, cheered me on in my job search, and made me feel like a real colleague despite my part-time status. I thank Jim Glaser, Jeff Berry, and Kent Portney especially for making me feel at home and guiding me in my first foray into teaching a class. Tony Spanakos and John Gould, my part-time cohorts at Tufts, helped make the year a fun one despite the stress of being "on the market."

Outside the world of academia, many people have been an important part of my seven years at MIT, and have wholeheartedly supported my long-time pursuit of an academic career. Mini Bess and the Bess family have given 20 years of love and support. I also thank Jeanne Madden and Heidi Mintz for being such good friends for so long, and for their unique perspectives as we all faced various challenges in our lives. Duane and the Bernstein family have been a second family to me. There are others with whom my contact has been more sporadic but whose support has meant a lot: Dan Layish, Cam Mears, Emily Gerber, and Janet Lieberman are just four. I will also miss the Brook House community, especially my fellow dog-owners. These acknowledgments would not be complete without mentioning Dustin, the best little boy whose presence lifted so many of us for the too-short years we spent in his company. You brought us all so much joy and I know you're with the angels and the saints. And thanks to Sunshine, the newest and cutest Lab, who arrived late in the process but still made a contribution by providing a welcome diversion and guaranteed fresh air in the final stages.

Finally, I want to thank members of the department at the University of Florida for their enthusiasm about me as a future colleague. In their warm reception which started when I gave my job talk in December, they proved the exception to the rule that job interviews have to be a thoroughly unpleasant experience. My positive interactions with different members of the department since then gave me something to look forward to as I pushed through the final stages of my dissertation. Larry Dodd in particular has made the last six months of completing my dissertation easier through his encouragement and the excitement he has conveyed about the place that will become my new home. And now to the next adventure!
CONTENTS

Abstract 3
Acknowledgments 5
List of Tables 13

Chapter 1 Setting the Stage: Legislative Ethics and Ethics Reform

1.1 Introduction 15
1.2 The Puzzle in Brief 16
1.3 Why Legislative Ethics Matters 20
1.4 The Literature on Legislative Ethics and Ethics Reform: The Role of Beliefs, Interests, Institutions, and Electoral Competition 21
1.5 Lessons From The Literature on Earlier Political Reform Efforts, in the States and the Nation 28
1.6 The New Institutionalism: How Institutions Shape Outcomes and the Self-Interest of Political Actors 33
1.7 Overview of Chapters 35

Chapter 2 Three Qualitative Case Studies: Initial Explanations for Reform Failure and Success 43

2.1 Introduction 43
2.2 Methodology 45
2.3 Specification of the Research Problem and Theories to be Tested 47
2.4 Dependent and Independent Variables 50
2.5 Case Selection and Response to Potential Criticisms of Cases 51
2.6 Questions To Be Asked of Each Case and Measurement of Independent Variables 54
2.7 California: 1961-1966 58
2.8 Massachusetts: 1972-1978 70
2.9 New York: 1985-1987 84
2.10 Vermont: 1990-1996: A Cursory Exploration 96
2.11 Summary of Case Findings 97

Chapter 3 Roll-Call Voting on Ethics Measures: The Influence of Economic Self-Interest, Institutional Power and Ideology 102
3.1 Introduction 102
3.2 Explanation of Votes Examined 104
3.3 The Votes in Historical Context 105
3.4 Hypotheses 110
3.5 Results and Discussion 121

Chapter 4 Legislative Ethics Laws in the Pre-Watergate Period, 1954-1972: Early Innovation in the Regulation of Conflicts of Interest 125
4.1 Introduction 125
4.2 New York's Pioneering Conflict of Interest Law (1954) 129
4.3 Balancing Act: Regulation of Ethical Standards Versus Legislative Recruitment and Retention 132
4.4 Hypotheses 136
4.5 Methodology 145
4.6 Results and Discussion 150
4.7 Conclusion: Enactment of Basic Codes 158
4.8 Targeting Lawyer-Legislators: Early Innovation in the Enactment of Representation Limits, 1965-1979 158
4.9 Findings Regarding Representation Limits 165
4.10 Overall Change in the Content of State Codes During the Pre-Watergate Period, 1953-1972 167
4.11 The Model 170
4.12 Data 173
4.13 Results and Discussion 176
4.14 Summary 179

Chapter 5 Watergate and Beyond: Ethics Reform Moves Forward, 1973-1996 181

5.1 Introduction 181
5.2 Background: Overview of States' Efforts in the Immediate Post-Watergate Years, 1973-1976 182
5.3 Background: Legislative Ethics Regulation in the States, 1977-1988 184
5.4 Quantitative Analysis of Change in Legislative Ethics Laws, 1977-1988 186
5.5 Results and Discussion 189
5.6 The Changing Nature of Scandal: Federal Prosecutors Target State Officials 189
5.7 Other Factors Which Contributed to Change in State Ethics Laws 196
5.8 The Most Recent Wave of Reform: 1989-1996 201
5.9 Quantitative Analysis: The Model and Results 203
5.10 Scandal: The Continued Role of Federal Prosecution in Catalyzing State Ethics Reform 206
5.11 Other Factors Which Shaped Legislative Ethics Reform From 1989-1996 212
5.12 Summary of Findings, 1953-1996 216

6.1  Introduction  

6.2  Time Frame for the Analysis  

6.3  The Argument for Independent Ethics Commissions  

6.4  The Model  

6.5  Additional Hypotheses  

6.6  Discussion of Results  

6.7  Summary of Results  

6.8  The Toothless Tiger: Legislators Exercise Control Over The New Agencies  

6.9  Conclusion  

Chapter 7  Conclusion  

7.1  Introduction and Chapter Overview  

7.2  Tying it Together  

7.3  Enforcement: Legislators Authorize Independent Commissions But Retain Control Over Their Activities  

7.4  Comparing State Ethics Reform, 1954-1996, To Earlier Political Reform Efforts  

7.5  Conclusion  

Appendix A  

Appendix B  

Appendix C  

Appendix D  

Appendix E  

Appendix F  

Appendix G  

10
# LIST OF TABLES AND FIGURES

## A. TABLES

<table>
<thead>
<tr>
<th>Table Number</th>
<th>Title</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.1</td>
<td>Scores for Stringency of State Legislative Ethics Laws, 1996</td>
<td>19</td>
</tr>
<tr>
<td>2.1</td>
<td>Predicted Effects of Independent Variables for Case Studies</td>
<td>57</td>
</tr>
<tr>
<td>3.1</td>
<td>Analysis of Five Votes in the Massachusetts House of Representatives in 1977</td>
<td>118</td>
</tr>
<tr>
<td>3.2</td>
<td>Analysis of Four Votes in the New York General Assembly in 1966</td>
<td>119</td>
</tr>
<tr>
<td>3.3</td>
<td>Predicted Probabilities of Support for Four Votes in Massachusetts and New York</td>
<td>120</td>
</tr>
<tr>
<td>4.1</td>
<td>Passage of State Legislative Ethics Codes, 1954-1972</td>
<td>135</td>
</tr>
<tr>
<td>4.2</td>
<td>Summary Statistics for The Independent Variables</td>
<td>147</td>
</tr>
<tr>
<td>4.3</td>
<td>Event History Analysis: The Passage of Legislative Ethics Codes, 1954-1972</td>
<td>148</td>
</tr>
<tr>
<td>4.4</td>
<td>Model Estimates of the Enactment Hazard Rate for Passage of a Legislative Ethics Code</td>
<td>149</td>
</tr>
<tr>
<td>4.5</td>
<td>Passage of Representation Limits, 1965-1979</td>
<td>162</td>
</tr>
<tr>
<td>4.6</td>
<td>Summary Statistics for the Independent Variables</td>
<td>163</td>
</tr>
<tr>
<td>4.7</td>
<td>Event History Analysis: The Enactment of Representation Limits, 1965-1979</td>
<td>164</td>
</tr>
<tr>
<td>4.8</td>
<td>Model Estimates of the Enactment Hazard Rate for Limits on Lawyer-Legislators</td>
<td>165</td>
</tr>
</tbody>
</table>
4.9  Scores for Change in State Legislative Ethics Laws, 1954-1972  171

4.10  Summary Statistics for the Independent Variables  174

4.11  Explaining Change in State Legislative Ethics Laws, 1953-1972  175

5.1  Summary Statistics  187

5.2  Explaining Change in State Legislative Ethics Laws, 1977-1988  188

5.4  Summary Statistics  204

5.5  Explaining Change in State Legislative Ethics Laws, 1989-1996  205

6.1  Establishment of Independent Ethics Commissions with Jurisdiction over Legislators: 1973-1980  224

6.2  Legislative Appointments to the Commissions  225

6.3  Summary Statistics  232


6.5  Model Estimates of the Enactment Hazard Rate for Independent Ethics Commissions  234

6.6  Powers of Independent Commissions  242

B. FIGURES

5.1  Department of Justice: Federal Prosecutions of Corrupt Public Officials (for Offenses Involving Abuse of Office) at the State and Local Levels: 1970-1995  191
CHAPTER ONE

SETTING THE STAGE: LEGISLATIVE ETHICS AND ETHICS REFORM

1.1 Introduction

The news today is filled with stories regarding conflicts of interest between public officials' private interests and their public duties. On TV and in the newspapers, we encounter a stream of information about elected and appointed officials taking bribes and misusing their public positions to benefit themselves, their families, their friends, their business colleagues and their campaign donors. There is a seemingly infinite number of ways that public officials are reported to use their offices for private benefit. These include accepting free vacations from lobbyists, receiving honoraria from trade associations with an interest in legislation, and — as highlighted by a recent news story involving the Massachusetts Lieutenant Governor — using state aides and helicopters to conduct private business.

This dissertation is about efforts to regulate unethical behavior by one class of public officials, namely state legislators. Compared to the professions of medicine and laws, state legislatures came late to the process of developing codes of ethics for their members.\(^1\) The focus is on the period from 1954-1996. During this time, states went beyond existing bribery statutes to enact a wide range of laws aimed at regulating the grayer area of conflicts which do not involve the explicit *quid pro quo* which characterizes bribery — the grayer area of potential and apparent conflicts of interest between legislators' private interests and their public duties. Beginning with New York's generalized ethics law enacted in 1954, the states developed both prescriptive and proscriptive standards to guide legislators' behavior. These standards, enshrined both in statutory form and in legislative rules, have restricted legislators from accepting things of value such as gifts and honoraria from parties with an interest in legislation, representing clients before state agencies, and working as lobbyists after leaving office.

During this period, states also began to require mandatory public financial disclosure for

---

legislators as well as other elected and also appointed officials. While state legislative conflict of interest regulations have coincided with and in some cases followed from federal legislation, in important ways which I discuss in the dissertation the states actually led the federal government in the extent of some of their restrictions on legislators.

My aim in the dissertation is to explain why state policy makers began to enact these legislative conflict of interest laws even before the catalyzing event of Watergate, and why these efforts have varied widely across states throughout the entire period. What have been the sources of support for, and opposition to, this legislation? In answering these questions, I hope to shed light on the phenomenon of political reform more broadly. In this chapter, I first present a synopsis of the puzzle posed by legislators self-regulation in the area of ethics. Next I discuss, also briefly, why legislative ethics matters, before turning to a review of the literature on 1) modern state legislative ethics reform and 2) earlier political reform efforts, such as federal civil service reform and Progressive era legislation aimed at reducing the power of machines and political parties. Out of this literature come several different theories, not all mutually exclusive, which I will test in the empirical chapters of the dissertation. They fall into several broad categories or classes of explanations: 1) culture and ideology, 2) scandal, the media and agenda-setting, 3) electoral factors and party competition, 4) institutions, institutional features, political and economic self-interest, and 5) direct democracy. The findings lend support to the second, fourth and fifth categories of explanations.

The final section of this chapter provides an overview of the six chapters which follow. I present the questions asked in each chapter and then summarize the main findings.

1.2 The Puzzle in Brief

Legislative ethics regulation — as a type of legislative behavior, and as a sub-category of political reform defined more broadly — presents an interesting puzzle. Scholars have observed that legislators tend to be willing to regulate the behavior of other officials in the name of "ethics reform" but much more resistant to regulating their own (Beard and Horn 1975; Katz 1981; Thompson 1995). For example, New York today bars executive branch officials from
receiving fees for speeches made before groups with an interest in legislation, and since 1987 has had an independent commission to monitor and enforce ethics laws for executive branch officials. But no such honoraria ban applies to legislators, and the ethics enforcement mechanism for legislators is not an independent commission but a joint legislative ethics committee composed of legislators themselves. Attempts to set up an independent commission in New York, and in other states, and to require disclosure of various business and professional activities, have met with hostility, even ridicule from legislators. Rare is the legislator who seems enthusiastic about establishing rules or enacting laws to restrict his/her own behavior in the name of making the legislature a more ethical body. Common legislative responses to proposals for ethics restrictions include the assertion that only legislators themselves — not laws or outside agents — can be the arbiters of their own ethics, and the charge that such regulatory legislation is merely a symbolic way of appeasing the misguided media, public, and reformers.²

Despite this legislative recalcitrance on ethics legislation, however, some state legislators have engaged in significant self-regulation over the past 45 years. Consider New York, again, as an example. Despite the gaps in ethics coverage and enforcement described in the previous paragraph, New York does have strong disclosure laws for legislators, as well as a two-year "revolving door" limits on legislators becoming lobbyists after their terms end, a relatively strong gift restriction, and a ban on lawyer-legislators representing clients before state agencies. Why do states such as New York enact these tough laws despite the seemingly reflexive resistance of legislators? Why did states such as Minnesota and Montana enact relatively weak regulations for legislators during the years 1954-1996, with states such as Vermont and Wyoming lagging even further behind and lacking even a generalized conflict of interest law which covers legislators.

² The comment of a New York State legislator in response to a survey by Marshall Goodman and his colleagues is a good example of a typical response. Recent legislative ethics reform, said this individual was "driven by myopic media and ax-grinding advocacy groups... All legislators are not crooks... Ethical people manage conflict(sic) of interest which everyone has." See Marshall R. Goodman, Timothy Holp, Louis Martin, and Eric Rademacher, "Legislative Ethics: Reform and Reaction in the States." Paper presented at the Annual Meeting of the American Political Science Association, 1994, New York, no page number.
Table 1.1 below illustrates the wide variation in states' legislative ethics laws as of December 1996; scores are for the 48 continental states. The scores for each state are based on an ethics law index I constructed, which has six main components. States are given points for having certain ethics restrictions for legislators: 1) a basic ethics code, 2) limits on honoraria, 3) limits on gifts from lobbyists, 4) post-government employment restrictions, 5) limits on representation of clients before state agencies, and 6) mandatory financial disclosure. A state which scores 0 has no ethics restrictions in any of these categories. A state which scores 6 (roughly the average score for the data set) has some combination of different restrictions. An example of such a combination would be an honoraria ban, a two-year post-government employment limit on legislators working as lobbyists, and a restriction on lawyer-legislators representing clients before state agencies. States which score 7 or above have restrictions in at least four of the different categories. Appendix A provides a detailed explanation of the scoring for the different components of the index and the years when different restrictions were enacted in each state.
Table 1.1: Scores for Stringency of State Legislative Ethics Laws, 1996

<table>
<thead>
<tr>
<th>State</th>
<th>Total ethics score</th>
<th>State</th>
<th>Total ethics score</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. KY</td>
<td>10.5</td>
<td>25. IN</td>
<td>6.0</td>
</tr>
<tr>
<td>2. SC</td>
<td>10.0</td>
<td>26. MI</td>
<td>6.0</td>
</tr>
<tr>
<td>3. CA</td>
<td>9.5</td>
<td>27. WV</td>
<td>6.0</td>
</tr>
<tr>
<td>4. FL</td>
<td>9.5</td>
<td>28. NE</td>
<td>6.0</td>
</tr>
<tr>
<td>5. TX</td>
<td>9.5</td>
<td>29. NM</td>
<td>5.5</td>
</tr>
<tr>
<td>6. MA</td>
<td>9.0</td>
<td>30. MN</td>
<td>5.5</td>
</tr>
<tr>
<td>7. MD</td>
<td>9.0</td>
<td>31. VA</td>
<td>5.5</td>
</tr>
<tr>
<td>8. NJ</td>
<td>9.0</td>
<td>32. AZ</td>
<td>5.0</td>
</tr>
<tr>
<td>9. PA</td>
<td>9.0</td>
<td>33. OR</td>
<td>5.0</td>
</tr>
<tr>
<td>10. WI</td>
<td>9.0</td>
<td>34. UT</td>
<td>5.0</td>
</tr>
<tr>
<td>11. CT</td>
<td>8.5</td>
<td>35. GA</td>
<td>4.5</td>
</tr>
<tr>
<td>12. IA</td>
<td>8.5</td>
<td>36. KS</td>
<td>4.5</td>
</tr>
<tr>
<td>13. IL</td>
<td>8.5</td>
<td>37. CO</td>
<td>4.0</td>
</tr>
<tr>
<td>14. NY</td>
<td>8.5</td>
<td>38. DE</td>
<td>4.0</td>
</tr>
<tr>
<td>15. OH</td>
<td>8.5</td>
<td>39. ME</td>
<td>4.0</td>
</tr>
<tr>
<td>16. OK</td>
<td>8.5</td>
<td>40. MT</td>
<td>4.0</td>
</tr>
<tr>
<td>17. AL</td>
<td>8.0</td>
<td>41. MS</td>
<td>3.5</td>
</tr>
<tr>
<td>18. AR</td>
<td>8.0</td>
<td>42. NC</td>
<td>3.0</td>
</tr>
<tr>
<td>19. RI</td>
<td>7.5</td>
<td>43. NH</td>
<td>3.0</td>
</tr>
<tr>
<td>20. TN</td>
<td>7.0</td>
<td>44. ND</td>
<td>1.5</td>
</tr>
<tr>
<td>21. LA</td>
<td>7.0</td>
<td>45. ID</td>
<td>1.0</td>
</tr>
<tr>
<td>22. MO</td>
<td>7.0</td>
<td>46. SD</td>
<td>1.0</td>
</tr>
<tr>
<td>23. WA</td>
<td>7.0</td>
<td>47. VT</td>
<td>0.0</td>
</tr>
<tr>
<td>24. NV</td>
<td>6.5</td>
<td>48. WY</td>
<td>0.0</td>
</tr>
</tbody>
</table>

Minimum: 0  
Mean Score: 6.16  
Maximum: 10.5  
Standard Deviation: 2.75

Note: Scores are based on a state's ethics restrictions for legislators in six categories: 1) basic ethics code, 2) honoraria limits, 3) gift limits, 4) limits on representation of clients before state agencies, 5) post-government employment limits, and 6) financial disclosure requirements. Higher numbers indicate more stringent restrictions. An explanation of the scoring system can be found in Appendix A.

Data from state conflict of interest statutes and state legislative rule books. See Appendix A for details and for a breakdown of scores by category for each state.

The dissertation seeks to explain the variation in states' ethics laws that is highlighted in Table 1.1 above. Unlike Goodman, Holp and Ludwig (1996), however, I do not rely simply
on cross-sectional analysis which takes a snapshot of differences in states' ethics laws at a particular point in time. Instead, I examine change across the time period from the mid-1950's to the mid-1990's. In addition to looking at aggregate, cross-state variation in the breadth of ethics coverage for legislators, I also examine individual-level variation in legislators' voting on various legislative ethics restrictions, in order to shed light on the sources of legislative support for and opposition to ethics regulation.

1.3 Why Legislative Ethics Matters

Corruption and political ethics are undeniably important topics in the study of politics (Benson 1978; Peters and Welch 1978; Johnston 1982). Unethical behavior matters, according to the arguments of political scientists, historians, and economists, for a number of reasons. First, corruption diminishes the public's trust in government (Johnston 1982). This matters because citizens' trust in public officials is an important pillar of a healthy democracy (Citrin 1974; Miller 1974; Abramson 1983; Craig 1993). This mistrust can lead to political apathy and diminished political participation. Since the decline in American electoral turnout has been a long-standing concern among political scientists (Burnham 1982; Teixeira 1987), corruption is important to the extent that it contributes to this decline.

Dennis Thompson argues that we should care about legislators behaving unethically — allowing their autonomous judgment to be corrupted — because when legislators make decisions that are not based on the "merits" but rather on the possibility of private gain for themselves, they fail to live up to the ideal of deliberative democracy promoted by James Madison and the founding fathers.\(^3\) Thompson urges that legislative ethics be seen as a top priority because in the absence of proper attention to legislative ethics, the legislature will fail to serve its desired purpose in a democratic society (Thompson 1995). Other political scientists such as Alan Rosenthal (1996) and Donald Maletz and Jerry Herbel (1998) disagree, arguing that too much attention to legislative ethics can divert legislators from the more important

---

business of making good public policy. Still, Thompson makes a compelling argument that legislative ethics does matter — that it is a good thing for our representatives to follow basic principles such as considering policies on their merits, treating citizens and colleagues fairly, and publicly accounting for their actions.

From an economic perspective, corruption matters because it generates inefficiencies and, according to some economists, reduces economic growth. Corruption leads to "expenditures of public resources that otherwise might not have been made." \(^4\) Countries that are notoriously corrupt also tend to stagnate economically, and economists argue that the relationship is no accident (North 1981; De Long and Schleifer 1993; Mauro 1995; Knack and Keefer 1995; Easterly and Levine 1997). Rafael La Porta states succinctly, "The importance of good government for growth ... appears to be a well-established empirical proposition." \(^5\) Finally, unethical behavior such as legislators taking gifts from lobbyists is argued to benefit the "haves" — wealthy corporations and individuals — more than the "have-nots" and to divert limited resources away from those citizens who may need them the most (Benson 1978). For all these reasons, then, unethical behavior by legislators is not simply a matter for philosophers' to ponder. It is something which affects the very fabric of democratic government and has very real consequences.

1.4 The Literature on Legislative Ethics and Ethics Reform: The Role of Beliefs, Interests, Institutions, and Electoral Competition

Since Watergate, there has been renewed interest in the topics of legislative and political ethics in general, or "public integrity," to use the terminology of Roberts and Doss (1997) Still, there are major gaps in the study of political corruption in America in general, and of legislative ethics in particular. Much of the scholarly attention to political ethics in the post-Watergate era focuses on individual cases of corruption such as the Keating Five case, Iran-Contra, Wedtech and Abscam (DeLeon 1993). Studies of policy makers' responses to

corruption (i.e. legislation, investigations, and prosecution) similarly tend to focus on individual cases of reform, such as passage of the 1977 Congressional ethics codes (Katz 1981) or the independent counsel statute (Garment 1991; Fisher 1999). Most case studies relating to unethical political behavior are not linked to more general patterns in American politics, or used to show how theories work or do not work across different political settings. In fact, they are often presented as isolated and highly particularized historical instances. The method used to draw conclusions is often largely based on drawing inferences from a non-randomly selected group of anecdotal observations.

The main problem with the political science literature on public ethics, then, is that it has historically tended to approach the topic in an atheoretical manner. Findings for particular case studies are not linked to broader theories of political motivations, behavior and outcomes. Dennis Thompson's 1995 book *Ethics in Congress* is a rare exception, but Thompson is a political philosopher. As Stewart (1994) notes, empirically-oriented political scientists in general have shied away from addressing legislative ethics in a systematic way. Peters and Welch's 1978 comment that "though corruption has been an ever present part of American political life, analysts of American politics have not studied it systematically" still holds true. Part of this has to do with the inherent difficulties of studying corruption. The data is notoriously slippery because definitions of corruption may change over time, and it is hard to measure corruption because of limits and biases in how corruption is defined and how and whether it is reported. Still, given the intrinsic importance of corruption to American politics, abandoning its study because of data issues and other complexities comes at a cost.

In this dissertation, I apply both qualitative and quantitative methods to the study of legislative ethics. The application of quantitative methods to the study of political ethics, while relatively uncommon, is not entirely new. Some empirical political scientists in

---

6 See Thompson, *Ethics in Congress*.
recent years have used quantitative techniques to examine both similar and different
difficult questions than those I ask here. For example, there have been a spate of studies which
study the effects of corruption on legislative elections. Most use regression analysis to
assess the effect of corruption charges on legislators' vote totals, primarily from the late
consider the effects of a wide variety of scandals, others focus on particular instances of
scandal-related corruption or alleged abuse of power; for example, Stewart (1994)
considers the Credit Mobilier scandal of the 19th century, while others look at the House
Bank Scandal of the early 1990's (Jacobson and Dimock 1994; Alford, Teeters, Ward and
Wilson 1994; Banducci and Karp 1994; Stewart 1994; Dimock and Jacobson 1995;
Groseclose and Krehbiel 1995). A smaller number of studies uses surveys and
experiments to understand how voters conceptualize and respond to unethical behavior by
their representative (Strom and Peters 1977; Rundquist, Strom and Peters 1977; Sonner
and Wilcox 1999; Miller 1999). In a different vein, there is a small literature by political
scientists seeking to explain the sources of corruption in the American states, in particular
why corruption convictions are higher in some states than in others (Nice 1983, Johnston

While these studies apply the methods of empirical political science to the study of
legislative ethics, they are not of much direct use for the research in this dissertation. The
number of studies is even more limited which seek to explain the phenomenon of interest to
me, namely the factors which facilitate and hinder the enactment of such laws. They fall into
two categories: individual and aggregate-level studies. In the individual-level category, there
have been several studies which look at Congressional voting patterns on ethics regulation, in
particular the Ethics in Government Act of 1989 which linked a pay raise for House members
to a ban on honoraria (Bianco 1994, Clark 1996). Clark (1996) focuses the fact that the bill
was an unpopular one because of the pay raise, and therefore seeks to explain why legislators
might support bills opposed by their constituents. William Bianco (1994) also considers
legislators' votes on the Ethics Act of 1989, but Bianco's focus is really on how legislators develop trust among their constituents. His interest is not in explaining why legislators voted as they did on the ethics reform-pay raise bill. In a conference paper, I looked at U.S. Senators' voting patterns on several bills to limit honoraria from 1981-1983 (Rosenson 1997). While one of the three bills I examined was linked to a pay raise, the other two were not, allowing for some examination of the influences on legislative behavior without the contaminating effects of the controversies associated with increasing legislative salaries. I found that legislators were motivated primarily by economic self-interest and institutional power in deciding whether to support or oppose honoraria limits. Members who earned more in honoraria tended to oppose the legislation, as did members of the majority party.

Another study with interesting findings regarding individual-level support for and opposition to legislative ethics regulation is Virginia Bradbury's 1996 dissertation, *Government Ethics Reform: The Massachusetts Financial Disclosure Law*. Based on an intensive historical study of ethics legislation in Massachusetts in 1977 and 1978, Bradbury argues that the reforms were spearheaded by liberals and non-power holders in both the state House and Senate (as well as by Common Cause, a public-interest group). The main opponents to these laws were top legislative leaders and their leadership teams in the legislature. Loftus (1992) suggests that a similar pattern held in Wisconsin in 1974, when liberal, non-power holding legislators pushed forward a major ethics law.

At the aggregate level of analysis, there are several recent treatments of variation in states' efforts to regulate legislative ethics, and of the process by which states enact legislative ethics reform (focusing on the key political actors in the process and their interaction). In a series of conference papers and a journal article, Marshall Goodman and his colleagues use correlation and regression analysis, case studies, and surveys of legislators to explain why some states had stronger ethics laws than others as of 1996 and the factors which facilitated the passage of these laws (Goodman 1993; 1994a, 1994b; 1996). Goodman et al. construct an index which measures the breadth of ethics law coverage in 36 states. When they disaggregate
this index into narrower categories of ethics legislation, they find that certain restrictions such as those related to use of official position, private use of public resources, and impropriety in service, are positively correlated with higher legislative compensation, while conflict of interest limits are not correlated with higher compensation. Democratic party control is associated with limits relating to use of official position and limits on lawyer-legislators (Goodman 1993).

The correlation coefficient findings in Goodman's early research regarding the positive impact of compensation, however, conflict with the later results presented in Goodman, Holp and Ludwig (1996). The regression analysis in this article, which uses the overall strength of states' ethics laws as the dependent variable, suggests that compensation is not a strong predictive factor; neither is political culture. Both the correlation analysis and the regression are limited by the small n of 36; the quantitative analysis also fails to examine change over time. Through case studies of Tennessee, Nevada and Kentucky, and a survey of legislators in 20 states, Goodman and his colleagues do attempt to explain the process of legislative ethics reform and how it evolves over time. Their central argument is that ethics legislation is driven primarily by scandals and the media; reform is a "reactive defense" to negative publicity about legislative scandals (Goodman 1994b). Interestingly, there are a number of factors they do not consider as potential explanatory variables; liberal-conservative ideology and institutional power (which Bradbury argues were important factors in the Massachusetts case) are just two. One of the main things this dissertation attempts to do is to build upon Goodman's initial analysis of cross-state variation and to incorporate additional and potentially important explanatory factors that are lacking in that analysis.

In his 1996 book, Drawing the Line: Legislative Ethics in the States, Alan Rosenthal concurs with Goodman's assessment of recent state ethics legislation as a scandal-driven process. Rosenthal's conclusions are based on an anecdotal methodology in which he uses informal interviews with legislators from states in which significant ethics legislation was enacted during the 1990's, bolstered by review of newspaper coverage of these reform efforts and some research of secondary source information on the process. The states he considers
include California, Kentucky, South Carolina, Iowa, and New Mexico. Rosenthal also suggests that the extensiveness of ethics legislation should be shaped by legislative compensation (with better-paying states having stricter limits on outside income since the limits will not be as burdensome when legislators are paid higher officials salaries). However, he does not present any assessment of whether the strength of states' laws actually does vary with compensation. While Rosenthal's book contains many interesting insights culled from his discussions with legislators, its main purpose is really to make a normative argument that some of the scandal-driven legislation of the last decade is undesirable, and to suggest that too much ethics legislation fosters a harmful and unwarranted distrust of legislators. Rosenthal claims not to be a booster for legislators, but the tone of the book is more defensive than it is scientific and objective. He does not attempt a systematic analysis of ethics legislation in all states, or even in a specified subset of states. Instead, he draws his conclusions from discussion of particular states whose selection is never explained. Despite the lack of methodological rigor in the book, however, I take these about the factors which catalyze ethics reform into account in formulating hypotheses that will be tested more rigorously.

To develop theories to explain the sources of support for and opposition to state legislative ethics laws, then, I started with the research by Goodman and Rosenthal. Although flawed and limited, these are the most recent and comprehensive attempts to explain the phenomenon of interest — state legislative ethics regulation. I also drew on the individual case studies of state legislative ethics reform efforts in Massachusetts by Bradbury and in Wisconsin by Loftus, in order to build hypotheses about why legislators in different states across different time frames might support or oppose various ethics restrictions.

Another very different literature which proved useful was the rather small literature on modern public interest group activity. Andrew McFarland (1976, 1984), Michael McCann (1986), and most recently, Jeffrey Berry (1999) have written on the activities of Common Cause, the nation's biggest good-government group which has chapters in 48 of the 50 continental states; McCann and Berry also address other public interest groups such as the
League of Women Voters and Ralph Nader’s Congress Watch which have an interest in ethics in government. In his case study of Common Cause (CC), McFarland places the organization "within the Progressive reform tradition in America" while calling it a "new phenomenon within that tradition." Writing in 1984, McFarland notes that CC’s state organizations have "played an important role in lobbying for the torrent of good government laws recently passed by ... state legislatures." As I will argue in this dissertation, CC’s efforts — in particular its use of the initiative option in certain states — were critical to the enactment of strong state ethics laws in the 1970’s and 1980’s.

McFarland notes that CC’s membership draws predominantly from upper middle-class professions who "generally hold to liberal social beliefs." McCann and Berry agree with McFarland that modern good-government advocates such as those from CC and League of Women Voters can be characterized by a liberal belief system, placing them within a broader category of "public interest liberalism" which includes groups such as the Sierra Club. What makes them liberals, according to McCann, is their view that the "immense power of corporations in the economic marketplace alone establishes them as 'the dominant institution of American society,' which is a bad thing because "the automatic market exchange process fails to provide for citizen welfare." Groups like Common Cause, argues McCann, justify their existence by claiming that they provide "civic balance" or a counterweight to the overweening influence of large corporations.

McCann stresses not just the liberal, anti-corporate aspect of CC, but also its "moralistic tendencies," an "almost obsessively moralist" and "morally self-righteous" posture. This posture sees social problems as the result of abuses by self-interested individuals... and moral weakness (as) a pervasive root of evil." It has important parallels with the world view

---

10 Ibid., p. 9.
11 Ibid., p. 30.
13 Ibid., p. 76.
of the earlier Progressive Era reformers, who George Mowry argues (with reference to California) were guided by the belief that "behind every political question was a moral question." Hofstadter, in *The Age of Reform*, also argues that Progressive Era political reform was motivated in large part by the concern about "moral degeneration..." This moralism derives in large part from the religious background of the reformers (Mowry 1951; Hofstadter 1955; Elazar 1970).

McCann's emphasis on the moralism of modern ethics-in-government reformers also connects to contemporary debates in the state politics literature on the role of political culture in shaping political outcomes. This literature derives from Daniel Elazar's 1970 book *Cities of the Prairie*, in which he categorizes states based on their dominant political cultures. The three cultures — moralist, individualist, and traditionalist — reflect the ethic, religious and socioeconomic differences which existed among the residents of the original 13 colonies and later migrants to the different states. This typology is discussed in depth in Chapter 4. For now, we can say that of the three cultures, previous research on the relative intolerance of moralistic states for corruption suggests that moralistic states may be more likely to enact strong ethics laws (Nice 1983; Johnston 1983; Meier and Holbrook 1992). Indeed, this is precisely the proposition that Goodman and his colleagues tested through cross-sectional analysis of differences in state legislative ethics laws as of 1993. I test the same hypotheses for a greater number of observations and over several different periods of time; like Goodman, I find that culture is not a strong predictor of variation in states' laws.

1.5 Lessons From The Literature on Earlier Political Reform Efforts, in the States and the Nation

For a more enriched and historically-informed perspective on the factors which may have facilitated state ethics reform between 1954-1996, I also drew on studies of political reform efforts more broadly defined. This research, primarily by historians but with important contributions by political scientists, focuses on the contribution of political actors, political

---

parties, and political institutions to the success of these reforms. In this dissertation, I seek not just to explain why states enacted particular ethics laws during this contemporary period, but to link these findings to more general patterns in the regulation of public ethics throughout American political history. Legislative ethics reform is similar to earlier reform efforts in that one of its primary aims is to reduce the influence of special interests on legislators and other public officials. I am interested in seeing what parallels, if any, can be drawn between the process of political reform prior to the 1950's, and the efforts of the modern ethics-in-government movement at the state level. It is to a discussion of these studies of earlier reform efforts that I now turn. Among the efforts I consider are Progressive era changes in the political system such as the passage of initiative, referendum and recall provisions; the direct primary; election reform; and regulation of railroad companies' ties to legislators. I also consider the 1883 Pendleton Act which ushered in civil service reform at the national level.

I have already discussed the emphasis by some scholars of the Progressive era on moralism as a driving belief system of Progressive reformers. Many analysts of earlier political reform movements at the state and national level also assign a central role to scandal and the media as key catalysts to reform. Hoogenboom (1979) argues that Gilded Age scandals and the public exposure of corruption by the media were critical in ending the federal "moiety" (customs forfeiture) system in 1874 and in forcing reform programs such as the adoption of the Australian or "secret" ballot in Massachusetts and Pennsylvania in 1888 and 1891. Hofstadter (1955), Thelen (1976) and Roberts and Doss (1997) similarly argue that muckracking journalists played a central role in driving forward Progressive era corrupt practices reforms — in individual states such as Wisconsin and also at the national level — by exposing the bribery of legislators and other public officials by railroad corporations. Link and McCormick (1983) also argue that media-publicized scandals relating to the corrupt alliances between state and local politicians and business corporations helped generate public outcry that reform legislation in such as New York, Pennsylvania, and South Dakota in the first decades of this century. Investigations instigated by legislatures themselves led to revelations about the
bribery of political bosses by railroad, insurance, and utility companies. The result was new laws which regulated lobbying, mandated direct primaries, forbade corporate campaign contributions, and "in the unkindest cut of all, forbade railroads to issue passes to legislators and other state officials."\(^{16}\)

I will argue that scandals facilitate reform through the agency of the media, which helps set the political agenda, bringing reform proposals to the forefront when they may otherwise have languished on the back burner. The media was an active player in the process of Progressive reform. "Without the active support of the press, the populist and progressive movements would have withered on the vine. The press publicized the agenda of these reform movements..."\(^{17}\) Similarly, Link and McCormick note that although "people had talked about the (Progressive) reforms for many years ... the disclosure of corruption in 1905 and 1905 catalyzed their enactment and set off a fundamental transformation of the functions of state governments."\(^{18}\) This pattern of scandal catalyzing reform through a process of agenda setting is evident even before the reforms of the late 1800's and early 1900's, for example in the case of the 1853 passage of a ban on federal employees representing clients before federal agencies.\(^{19}\)

Another political actor who may help set the agenda for political reform is the chief executive, because of his or her unique position as the state's "chief legislator." Several studies of Progressive era reforms at the state level stress the role of governors in promoting anti-corruption reforms, often for pragmatic, electorally-driven reasons. For example,

Democratic reform candidates won governorships in Alabama, Georgia, and Mississippi on the issue of business and railroad control of state houses ... Party platforms everywhere in 1906 rang out against business control of


\(^{18}\) Link and McCormick, p. 32.

politics; in the following winter, most governors, in their annual messages, joined in the demand for remedial legislation.\textsuperscript{20}

Often, then, gubernatorial calls for reform focused specifically on corruption in the legislative branch. Mowry (1951) and Thelen (1976) argue that Progressive era governors in California and Wisconsin were critical to the passage of reforms aimed at reducing the influence of railroad corporations on the state legislature. La Follette, of Wisconsin, and Hiram Johnson, of California, were perhaps the most well known Progressive reformers, but chief executives in many other states played a role in the passage of anti-machine reforms, for example in Iowa, Minnesota, Kansas, Alabama, North Carolina and Georgia.\textsuperscript{21}

Another factor which scholars of Progressive era reform stress as important in pushing forward the enactment of controversial restructuring changes in government and the economy is electoral competition. Parties vying for the support of voters in a competitive environment, according to this argument, are more willing to support political reforms such as anti-corruption legislation that is popular with voters at the same time as it challenges the power and perquisites of existing elites. Wiebe (1967) and Thelen (1976) argue that inter-party competition contributed to the passage of various Progressive laws in New York, Ohio and Wisconsin. Wiebe, for example, argues that upstate Republicans in New York supported certain reform proposals as a way of upstaging Tammany Hall Democrats and cutting into their control of state and municipal politics.

Scholarship on the passage of federal civil service reform — the central goal of which was to reduce patronage-based corruption — also suggests that electoral competition may generate pressure on recalcitrant elected officials to support reforms they do not really wish to see enacted. Skowronek (1982), for example, argues that electoral pragmatism based on the imperative of close party competition helps explain congressional Republicans' grudging support for the Pendleton Act. After the Republicans lost the House in 1882, with the Senate

\textsuperscript{20} Ibid., p. 3.
in a virtual tie, the Republicans came around to supporting civil service reform as a way of helping their electoral fortunes in 1884. Skowronek suggests this was a response to the highly competitive political environment in which they now found themselves.  

Skowronek also stresses the role of outside reformers in helping the cause of civil service reform. The National Civil Service Reform League (NCSRL) ran a publicity campaign to educate the public on the issue and also used electoral pressure, "withholding their allegiance from the two major parties and offering their votes to the candidates most firmly committed to their single issue... Their strategy ... was to use the intense electoral competition of the day to their advantage." Roberts and Doss concur with Skowronek on the importance of outside pressure on elected officials: "The establishment of the NCSRL, in 1881, played a major role in increasing pressure on Congress and the White House." Other analysts of municipal reform movements during the Progressive era also stress the role of outside groups such as the National Municipal League, established in 1894, in the passage of civil service legislation and other reform.  

Not just reformers from outside the government, but also political "outs" who served in the government, had a positive impact on the success of state and federal-level Progressive era reforms. Progressive reformers in the states tended to be "insurgents" from within the majority party (Wiebe 1967; Thelen 1976; Gould 1978; Link and McCormick 1983). They were politicians who were not firmly ensconced within the power structure but rather who were relatively new to office and saw themselves as outsiders rather than consummate insiders enjoying the spoils of power. Two examples of such "outside" reformers were Governor La Follette of Wisconsin and Governor Albert Cummins of Iowa, who, in Wiebe's words, built their state careers as "factional chieftain(s) concentrating initially upon intra-party power."  

---

23 Ibid., p. 64.  
24 Roberts and Doss, p. 20.  
25 See, for example, Link and McCormick, Chapter 2, and Clifford W. Patton, The Battle for Municipal Reform: Mobilization and Attack, 1875 to 1900 (College Park: McGrath, 1969).  
26 Wiebe, p. 178.
Driven by political ambition and by conviction, up-and-coming young majority party members often took up the mantle of political reform and used it to wrest power from established bosses within their parties who had failed to heed the calls of outside reform groups and the press. For these non-power holders within the majority party, reform became a central element of their campaigns and, over time, their careers. Close on their heels, in many cases, were members of the minority party who fueled the drive for reform partly out of resentment of the abuses of power by majority party members and partly as a way of reducing the electoral advantages of the majority.

1.6 The New Institutionalism: How Institutions Shape Outcomes and the Self-Interest of Political Actors

The way legislators' positions within the institutional power structure structured support for reforms such as civil service legislation and the direct democracy innovations of the Progressive era has connections to the recent literature on the "New Institutionalism." A basic insight of the new institutionalist literature, characterized by the work of scholars such as March and Olson (1984) and Shepsle (1989), is that institutions both reflect and at the same time shape the preferences of political actors who make decisions within them. Institutions are not simply "empty shells to be filled by individual roles, statuses and values."27 Instead, they play a central role in determining political outcomes by "determining, ordering, or modifying individual motives."28 A key goal of the New Institutionalists has been to restore traditional political institutions such as legislatures and the state in general to the central place they occupied in political science before the behavioral revolution of the mid-20th century. In the pre-behavioral political science, institutions were understood not as "arenas" within which individual-level behavior determines political outcomes, but as important structuring agents.

whose features themselves shape the behavior of the individual political actors embedded within them.\textsuperscript{29}

As Shepsle argues, structural features and procedures of legislatures such as committee organization, leadership organization, and the rules of debate and amendment shape the parameters of possible political outcomes. A common example of how this works is the use by autocratic Southern committee chairs of the powers of agenda control to prevent civil rights legislation from coming to a vote prior to the mid-1960's. I will argue, within the New Institutionalist tradition, that features of state legislative organization such as salary levels and the proportion of members who hold positions of power had an important effect on the passage of legislative ethics restrictions in the pre-Watergate period, and to a lesser extent in the years after. For example, the extent of legislative compensation structured members' economic self-interest and their resistance to limits on outside income. Legislators in states that paid higher official salaries were more willing to place limits on their own outside income and other business and professional activities. Institutional power within legislatures (leadership positions and committee chairmanships) also had an impact, in this case a negative one, on the likelihood and extensiveness of ethics reform both in the pre- and post-Watergate periods. As with compensation, members' interests were shaped by an important institutional feature — the power that they held within the legislative hierarchy.

I also argue that \textit{outside} institutions — the media, public interest groups, and the initiative option — had an important impact on whether states enacted ethics laws and established independent ethics commissions to enforce those laws. I have discussed above the way that the media served to link scandal to reform. The existence of an initiative option also had a positive impact on the likelihood of state action on legislative ethics regulation. Presenting a common argument in favor of direct democracy devices, Ross (1987), Cronin (1989), and Schmidt (1989) suggest that the initiative can be used to bypass legislative intransigence, or legislative unresponsiveness to proposals that are desired by the general

\textsuperscript{29} See March and Olsen, p. 734, and Shepsle, pp. 132-136.
public or particular segments of the public. I argue that the initiative played an important role in the passage of legislative ethics restrictions particularly in the post-Watergate period, for example in states where mandatory disclosure requirements, honoraria bans, and post-government employment restrictions were enacted through the ballot. States with an initiative option were also more likely to be among the early leaders in establishing independent ethics commissions. In addition, the implied threat of the initiative's use contributed to the passage of certain ethics legislation, for example, in Massachusetts in 1978, discussed in one of the case studies of Chapter 2.

To understand how the initiative came to be such an important tool in the passage of state ethics legislation between 1973 and 1996, we need to also look at the activities of Common Cause and its state chapters. Without the leadership of this public interest group, the initiative would not have been the powerful tool it proved to be at the state level. While Common Cause relies on the lobbying of legislators and information provision as its chief strategies at the national level — in the absence of a national initiative option — at the state level the initiative is clearly an additional and even more potent additional weapon. In the 1990's it has been especially useful in the passage of state-level campaign finance reform, for example in Maine, Missouri and Massachusetts. I argue in the dissertation that it was important in explaining the passage of relatively strong legislative conflict of interest laws and enforcement mechanisms in the 1970's and 1980's.

I turn now to an overview of the chapters which follow.

1.7 Overview of Chapters

Chapter Two presents three case studies, the purpose of which is to explore some initial hypotheses regarding causes of variation in states' legislative ethics regulation. I use congruence procedures to examine within-case variation in three states during three different time periods. These are California in the 1960's, Massachusetts in the 1970's, and New York in the 1980's. The findings from these case studies will help guide the statistical analysis of later chapters by providing plausible explanations for why states initially failed to enact
legislative ethics laws but later passed identical or highly similar proposals under different circumstances; I also look at the role of certain political actors such as governors as legislative leaders to assess the positions that these actors tended to take on legislative ethics regulation. I find that scandals involving legislators appear to have been an important ingredient in explaining passage versus non-passage in all three cases. Scandals influenced legislatures to enact reform through an agenda-setting process which focused negative media attention on the legislative institution. The media also played an independent role in the process in one case by exposing legislative conflicts of interest not directly related to the particular scandal; in general the print media also made use of editorials to promote strong versions of reform and criticize legislators who sought to block or weaken reform proposals. Legislative professionalization, in the form of increased compensation, appeared to play a role in facilitating legislative ethics regulation in two of the three cases.

Party control or changes in political competition did not seem to have an impact on the success versus failure of ethics reform. In looking at the position of key political actors, I found that legislative leaders tended to oppose reform (an important exception being California's Speaker of the House Jesse Unruh) and sought to water down strong reform proposals. On the other hand, governors in two of the three states took a stand in favor of substantial reform. This gubernatorial attention to the problem of legislative ethics — with governors making reform a priority in their public addresses — may have helped to help move the issue to the forefront of the political agenda. Finally, the existence of an initiative option proved to be a useful tool in Massachusetts in 1978; wielded by Common Cause, it helped put pressure on legislators to enact ethics legislation, albeit with some modifications from the Common-Cause supported proposal.

Chapter Three examines how members of two state legislatures, in New York and Massachusetts, voted on nine different conflict of interest proposals. The aim is to shed light on the sources of support for and opposition to legislative ethics regulation, at the individual level. I test five main hypotheses regarding legislators' positions for or
against these bills: economic self-interest, institutional power, ideology, professional norms, and electoral marginality. I look first at four votes that took place in 1965 in the New York General Assembly. These proposals addressed financial disclosure, limits on lawyer-legislators appearing before state agencies, and the establishment of an independent ethics advisory commission. Next I consider five votes on legislative rules changes which were taken in the Massachusetts General Court in 1977. The content of these proposals included financial disclosure requirements, numerical limits on gifts from lobbyists to legislators, and limits on lawyer-legislators.

I find that legislators who held positions of institutional power were significantly less likely to support a wide variety of ethics proposals, while relatively liberal members were more likely to support ethics reform. Members were also influenced by economic self-interest. Members who were attorneys were less likely to support substantive restrictions on the practice of law by legislators and disclosure requirements that could require them to reveal information about their clients. Professional status and electoral marginality did not affect members' positions on ethics laws.

Chapter Four begins with an observation which is important in itself because it represents a challenge to the common wisdom. Although Watergate was an important catalyst to the enactment of various state and federal ethics laws, considerable activity in the area of state legislative conflict of interest regulation took place in the two decades prior to that landmark national event. I provide a brief overview of state efforts prior to 1954 to address the problem of corruption and unethical behavior, primarily through bribery statutes but also through certain targeted restrictions. I then discuss the pioneering effort by New York, which enacted the first generalized conflict of interest statute in 1954. I look at the language of several early state codes to provide insight into the aims of the drafters of these laws and the balancing act they sought to achieve between promoting ethical standards and avoiding the creation of major obstacles to the recruitment and retention of qualified public officials.
Using event history analysis, I consider the initial passage of state legislative ethics codes from 1954-1972. The goal is to understand why 26 states enacted codes but the rest did not during this time frame. I find that liberal ideology, scandals, a state history of corruption, legislative professionalization, and institutions of direct democracy made states more likely to enact these codes, while certain arrangements of legislative power-holding in states' lower houses made enactment less likely. Political culture had a mixed impact not entirely consistent with my initial predictions. Inter-party competition did not facilitate enactment as expected. More broadly, I argue that the reported scandals which helped catalyze reform should be understood not as isolated events within individual states, but within the broader context of federal and state attention to the connections between organized crime and the political system. In the wake of Estes Kefauver's Senate committee investigation of these connections in a number of cities, the states themselves began to undertake investigations which revealed corrupt linkages between gambling figures and elected officials; these investigations helped generate pressure for reform.

I also use linear regression to examine variation in the content of state ethics laws enacted during this period. The findings are similar to those for the event history analysis, with a few additional factors coming into play. Scandals, legislative professionalization, liberal ideology, and policy diffusion from leader to follower states contributed to the passage of more stringent laws. Existing laws regulating lobbyists and campaign contributions appeared to substitute for conflict of interest laws, with states that had strong laws in these areas enacting weaker conflict of interest restrictions. Finally, legislatures in which a high proportion of Senate members held a stake in institutional power — were associated with the enactment of weaker laws.

I conclude that features both internal and external to state legislatures shaped the likelihood and the extent of early state activity in the area of legislative ethics regulation. States that had certain types of legislative organization (legislatures with low compensation and many members in positions in institutional power) enacted strong ethics restrictions for legislators
during this early period. On the other hand, outside forces, in particular the media and other states, traditionally looked to as role models in policy innovation played a key role in pushing legislative ethics reform forward. Governors also took a leadership role in promoting basic ethics codes in states such as New York, Massachusetts and California during this time; their support is likely to helped ethics reform succeed through the impact that gubernatorial attention to certain issues has on agenda-setting.

I also use logistic regression to examine one particular category of legislative ethics reform innovation: limits on lawyer-legislators. I focus on why states enacted this particular restriction beginning in 1965 and running through 1979. Interestingly, states with a higher percentage of attorneys were more likely to enact such limits, despite the self-interest of attorneys in preventing such restrictions. This is likely the case because the threat to legislative autonomy associated with legislators representing clients before state agencies is more substantial in states where there are more lawyer-legislators; in states with very small numbers of attorneys in the legislature, this is probably not perceived as a problem important enough to require regulation. In line with the findings about the passage of ethics codes and other restrictions on legislators, scandal and compensation also prove to be important predictors of whether states enacted representation limits.

Chapter Five carries the analysis of Chapter Four into the post-Watergate period. I first provide a brief overview of some of the legislation which occurred between 1973 and 1976, the years immediately following Watergate. I focus here on the content of the laws, and return to the subject of enforcement mechanisms — in particular the establishment of state ethics commissions — in the next chapter. I then turn to two distinct periods of change in state ethics laws: 1977-1988, and 1989-1996. I discuss some of the key innovations that took place in each period, such as honoraria limits and later, complete bans on honoraria, and bans on gifts from lobbyists. Then I present the results of several linear regression models similar to the second model in Chapter Four, which examine variation in the change in states' legislative ethics laws during each period.
As in the pre-Watergate period, I find that scandals and a state history of political corruption were critical catalysts to the enactment of restrictions on legislators. These reported scandals are presented as part of a broader development in American politics which took place during this time: an increased emphasis on the prosecution of corrupt officials by federal, state and local law enforcement agencies. Specifically, the FBI conducted a number of highly publicized "sting" operations which set up and exposed legislators taking bribes in exchange for support of fictitious legislation, while the Department of Justice began in the 1970's to engage in creative and aggressive pursuit of elected officials under federal mail fraud and extortion statutes. In every period I examine, the states which enacted the strongest laws did so under the impetus of negative publicity about elected officials, especially those involving members of the legislative branch. I argue that these scandals have taken on a new and controversial aspect, due to the active contribution of government officials themselves in creating and redefining corrupt behavior.

Another factor that was important in the passage of ethics laws between 1977 and 1988 was the initiative option. The initiative was actively used in some states to pass ethics legislation that legislators were unwilling to enact themselves. In other cases the mere threat of its use served to prod recalcitrant legislators into supporting legislation that was promoted by good-government reformers. A key player in pressing for ethics reform in the post-Watergate period — often by using the initiative option — was Common Cause, which began in 1970 to promote both model general legislation and targeted, specific ethics reforms in 48 of the 50 states. There is also some evidence that certain features of legislative organization (powers of leaders and the proportion of committee chairmen) hindered the passage of ethics laws between 1989 and 1996, as occurred during the pre-Watergate years.

The evidence is mixed on the impact of inter-party competition on the passage of ethics laws. In the two periods between 1977 and 1996, states with unified governments were more likely to enact ethics laws. Thus it is not inter-party competition but its absence that seems to facilitate the passage of this legislation. This finding contradicts research on earlier political
reform efforts which suggests that competition between the parties catalyzed reform efforts as party leaders promoted reform in order to gain electoral support. However, in the period from 1989-1996, party competition within state legislatures did facilitate the enactment of stringent ethics laws. Legislators appeared to be more willing to enact ethics laws when they were from the same party as the governor, while within legislatures — at least in the last time period — inter-party competition seemed to enhance the prospects for ethics reform. As in the pre-Watergate period, forces outside rather than within legislatures — in particular the print media, the actions of other states, and new public interest groups — played a central role in bringing the issue of legislative ethics to a prominent position on the agenda and putting pressure on members to enact some type of reform legislation.

Chapter Six focuses on the ways that states have chosen to enforce their ethics laws. Enforcement by legislative ethics committee differs significantly from enforcement by independent commission (Thompson 1995; Williams 1996). There has been little work on the question of why states adopt the enforcement mechanisms they do. Specifically, why do some states prefer to keep jurisdiction over ethics enforcement and financial disclosure within the legislature (as does Congress and the majority of the states), while others have set up commissions whose members are non-legislators — and which in some cases have the authority to levy significant fines on members for violating state ethics laws, and which in rare instances can even promulgate regulations on their own? In this chapter, I use event history analysis to examine why a minority of states established independent ethics commissions in the decade immediately following Watergate (1973-1980). In the last part of the chapter, I examine the various methods by which legislators exert control over the commissions, focusing on two: control of appointments and the use of legislation to limit commission powers:

In the hazard analysis, I consider the same hypotheses as in the previous two chapters — culture/ideology, electoral competition, institutional power, scandals and corruption, economic self-interest, direct democracy, diffusion, and pre-existing laws. I also include
variables that address the particularities of delegation of power to administrative agencies: these measure legislators' appointment powers, gubernatorial power, state wealth and bureaucratic capacity. As in the analysis regarding enactment of ethics laws, I find that scandals catalyzed the enactment of independent commissions. I also find that the existence of an initiative option facilitated the establishment of these commissions, as it facilitated enactment of ethics laws during certain periods. More wealthy states were also more likely to authorize independent commissions during this time, while gubernatorial power had a marginally significant and negative impact on the likelihood of authorization. Surprisingly, institutional power-holding, both by top legislative leaders and by Senate committee chairs, appears to have facilitated rather than hindered the enactment of independent commissions. Finally, campaign finance laws acted as a substitute for independent commissions; states which had strong laws regulating campaign finance contributions to legislators were less likely to authorize independent commissions, apparently because they were already exerting some control over the influence of special interests, big business and big labor on the legislative process.

In the second part of the chapter, I examine the stresses to which the new commissions, and those established in later decades, have been subject. These include legislative retaliation against commissions which took strong action against legislators; this retaliation has involved commission budgets and also the reduction of commission powers. The commissions have also been subject to numerous legal challenges by legislators regarding their constitutionality and the scope of their powers. I argue that even from the time the commissions were first authorized, legislators have addressed the principal-agent problem inherent in the creation of an administrative agency by exerting control over the commissions through all these means. Only three of the 13 commissions — four under a slightly more generous definition — can be defined as having the independence and power adequate to carry out their missions.

Chapter Seven presents the conclusions based on the previous six chapters, drawing together the evidence from the individual-level and aggregate, state-level analysis of legislative ethics reform of several different types and in several different time periods.
CHAPTER TWO

THREE QUALITATIVE CASE STUDIES:
INITIAL EXPLANATIONS FOR REFORM FAILURE AND SUCCESS

2.1 Introduction

This chapter presents three case studies which use qualitative methods to examine the legislative ethics reform process. The case studies test several theories and are also used for theory-generation with regard to the question: Why does state legislative ethics reform fail in some cases and succeed in others? The cases are drawn from three states in three different decades: California in the 1960's, Massachusetts in the 1970's, and New York in the 1980's. Because I use a within-case methodology, discussed in more detail below, there are in effect six observations. Three have one value of the dependent variable, and three have another value (the dependent variable equals failure in half the cases and success in the other half). To address the potential problem of selection on the dependent variable, I also consider, in a more cursory fashion, two additional cases of failure for the state of Vermont.

Case studies serve a variety of purposes. Van Evera (1997) identifies five: testing theories, creating theories, identifying antecedent conditions, testing the importance of antecedent conditions, and explaining cases of intrinsic importance. In this chapter, I mainly use the case studies for theory testing, which I expand upon in the following chapters through quantitative analysis. However, George and McKeown (1985) note that in case study research,

a clear demarcation between hypothesis formation and hypothesis testing often is absent, because the research process often involves iterative cycling in which hypotheses are successively 'fitted' to observations.30

Thus, I also use the cases to develop clearer theories about how certain variables influence the process of ethics reform. The theory-testing is based on the use of what George (1979) calls "available general hypotheses" which I will test for their possible effects on ethics reform failure and success. I will also use the case studies for theory-development, or more precisely, to "refine and elaborate the initially available theor(ies)."\textsuperscript{31} This refinement can involve a reformulation of the hypotheses regarding particular variables, or the creation of new theories based on factors which appear to be relevant to the outcome being considered.

In both the theory-testing and the theory-development, I draw on the method of structured, focused comparison outlined by George (1979) and George and McKeown (1985) and the use of congruence procedure to test theories regarding causal links between variables. As King, Keohane and Verba argue, "both quantitative and qualitative research can be systematic and scientific."\textsuperscript{32} Simply because a research project has a small number of observations, this does not mean that one cannot approach the research and the drawing of inferences in a systematic and structured manner. The method of structured, focused comparison applies such a systematic approach to the cases. Its distinguishing features are that the researcher singles out specific aspects of the case for investigation, and that he or she applies standardized questions to each case.\textsuperscript{33} The main questions for each case test three theories regarding the failure and success of ethics reform. These theories center respectively on the contribution of scandal, legislative compensation, and party competition to the ethics reform process. I also include standardized questions that will be used more for theory development than theory testing: these address the role of legislative power-holders and governors in the ethics reform process. The findings will be used to generate clearer theories regarding the role of these players and their impact on the ultimate success of ethics reform. Finally, in constructing a narrative of the reform process for each cases, I will also search for

\textsuperscript{33} George and McKeown, p. 41.
other factors, outside of these standardized questions, which help explain the different outcomes we observe.

2.2 Methodology

Each state-case consists of a within-state comparison of a failed reform effort and a later, successful reform effort. Thus each case contains two observations. Since there are different values on the independent and dependent variables within each case, we are able to apply what Mill (1843) calls the "method of difference," which attempts to identify independent variables associated with differing outcomes. George and McKeown note, however, that theory-testing in case studies differs from theory-testing in statistical research:

Judgments of prediction 'success' may not be easy in a situation where statistical approaches to this problem cannot be applied. Essentially, prediction 'success' is a relative concept — we can say that one theory is more successful than another if outcomes are observed to be 'closer' to its predictions than to the predictions of some other theory.

I use both a quasi-experimental methodology, congruence procedure, and a non-experimental methodology, the process-tracing technique (George and McKeown 1985; Van Evera 1997). George and McKeown describe congruence procedure as follows: "The researcher ... compares observed values of dependent variables with those predicted by theory, given the observed independent variables. If the outcome is consistent with the prediction, then the possibility of a causal relationship is strengthened." Van Evera makes an even stronger case for the use of this method: if the values of the dependent and independent variables covary in accordance with the predictions of the test hypotheses, "the test is passed."

My cases are well-suited to using congruence procedure, in Van Evera's view, because there is large variation in the values of both the dependent and independent variables and the

34 Ibid., p. 31.
36 Ibid., p. 30.
variation is relatively simple to interpret (I discuss the dependent and independent variables briefly in Section 2.4 and then in more detail with regard to measurement, in Section 2.6). Van Evera argues that where there is "sharp" variance on the dependent variable — in my case, ethics reform failure versus success — and also sharp variance on a particular independent variable (as opposed to sharp variance in several at once),

this sharp variance ... is unlikely to arise from measurement error, since the error would need to be large and to gyrate in step with the IV — an unlikely combination. The action of a third variable is also an unlikely cause, since this would require a third variable that gyrates in step with A (the DV that is purported to be the relevant explanatory variable) and as markedly as A — an unlikely possibility, and one that is easily assessed, since such a variable will leap out from the case.  

Congruence procedure is what George and McKeown call a "quasi-experimental method" in that it involves "comparing variations in order to make claims about causal processes." The second method I use, process tracing, does not involve such a comparison of variation in variables and, they argue, is not a quasi-experimental method. Instead, the logic of process-tracing involves a focus on the decision process itself: the stimuli actors attend to, the behavior that occurs, and "the effect of various institutional arrangements (and other variables of interest) on attention, processing and behavior." Processes are examined not in terms of inputs and outputs but as a "stream of behavior" through time: "any explanation of the processes at work in the case thus not only must explain the final outcome, but also must account for this stream of behavior." The emphasis of process-tracing is therefore on the process itself as it unfolds in time; the process is not treated as a black box. George and McKeown note that the data requirements of process-tracing, which relies on the use of historical and archival information, are greater than those of congruence procedure. In the cases which follow, the sources for the process-tracing were newspaper and secondary source

---

38 Ibid., pp. 62-63.
39 George and McKeown, p. 24.
40 Ibid., p.35.
41 Ibid., p.36.
accounts of reform, legislative histories tracing the progress of bills through state legislatures, and gubernatorial papers tracing the involvement of chief executives in the reform process.

2.3 Specification of the Research Problem and Theories to be Tested

The main question that I address in the case studies, and in the dissertation as a whole, is rooted in a basic observation regarding legislative ethics. As noted in Chapter One, legislators are generally loathe to regulate themselves when it comes to potential conflicts of interest (Beard and Horn 1976; Katz 1981). The dissertation aims to answer the question: why, then, have legislators at times enacted laws which do precisely that? The bulk of the dissertation uses quantitative analysis to analyze individual legislators' voting on ethics proposals, and also variation across states in the stringency of their legislative ethics laws. This chapter focuses on the process of ethics reform itself. As discussed in the previous section, case studies offer an opportunity to look at policy-making not as a black box into which inputs enter and outcomes pop out, but as a process that unfolds over time and in which policies result from the interaction between different political actors and institutions. The case studies here provide a richer and more detailed look at the process of reform — indeed, they provide a narrative of the reform process — while at the same time engaging in a systematic testing of existing theories and development of potential new theories. I will then return to the data to retest these theories — and others not included here — in the chapters which follow, using a larger data set.

There are several key theories regarding anti-corruption regulation in general, and ethics regulation more specifically. I focus on the theories that arise most commonly in the literature. By limiting the number of theories that I will test here, I follow the advice of Lijphart (1971), who argues in favor of a reduction of the number of variables to be considered.

First, several political scientists have argued that the successes of ethics-in-government movement at the state level since the late 1980's are traceable in many cases to scandals in individual states (Zimmerman 1994; Goodman, Holp and Ludwig 1996; Rosenthal 1996). Analysts of earlier anti-corruption efforts in American political history similarly argue that
scandals, and the attendant media coverage of unethical behavior, helped catalyze various reforms at both the state and national levels (Hoogenboom 1978; Benson 1978; Link and McCormick 1983). Hoogenboom, for example, makes this argument about Gilded Age reforms in Pennsylvania and New York during the 1870's. These reforms included the enactment of state bribery laws pertaining to legislators, new laws aimed at the problem of corrupt elections, prohibition of private and local bills — a notorious source of corruption — and controls on railroad companies.42 Hoogenboom's central claim is that the spark for these reforms, enacted in both states through constitutional revision, was media revelations of the corrupt practices of state legislatures, especially bribery of legislators by railroad executives.

The mechanism by which these and other scandals are hypothesized to catalyze reform is through media attention. This media attention, according to research on agenda-setting, helps bring reform to a more central position on the legislative agenda. Intensive media coverage increases the importance of an issue or problem to public officials and thereby increases the likelihood that they will take action on the problem (Linsky 1986; Rogers and Dearing 1988; O'Heffernan 1994).

A second theory about the failure or success of state ethics reform efforts is that higher legislative compensation can facilitate reform. Sacks (1971) argues this was the case during the 1960's and 1970's and Goodman (1993, 1994a, 1994b) makes a similar argument for certain types of ethics legislation during the 1990's. The reason why higher compensation should have a positive influence on legislators' willingness to enact conflict of interest laws which restrict their ability to earn outside income is that legislators are rational economic actors, concerned with their financial well-being as well as with maintaining political power (Clark 1996; Rosenson 1997). However, Goodman, Holp and Ludwig (1996), contradicting Goodman's earlier research, argue — based on cross-sectional analysis of variation in states'

---

42 The corrupt elections laws of 1873 in Pennsylvania, which preceded enactment of the secret ballot by 18 years in that state, instituted statewide voter registration, required that ballots be numbered, insisted on minority representation at the polls, and provided that contested elections be settled in court. See Ari Hoogenboom, "Did Gilded Age Scandals Bring Reform?" In Before Watergate, eds. Abraham S. Eisenstadt, Ari Hoogenboom and Hans L. Trefousse (New York: Brooklyn College Press, 1978), p. 132.
ethics laws in the early 1990's — that compensation is not an important predictor of the stringency of state ethics reform: higher compensation was not associated with stronger laws.

A third theory is that inter-party competition may facilitate the passage of legislative ethics laws. Wiebe (1967), Thelen (1976) and Skowronek (1982) argue that intense electoral competition in the late 19th and early 20th century contributed to the passage of civil service legislation, as well as campaign finance regulation and other Progressive political reforms. Parties vying for electoral support in a closely competitive environment, according to this reasoning, are more likely to pass popular laws that can help increase their vote margins. These scholars argue that parties which were in danger of losing control of the executive branch and one or both houses of the legislature in various states — and at the national level — were more likely to enact legislation that would appeal to the general public. Ethics laws are a classic type of popular legislation that parties can use to expand their base of support or to mobilize existing support. On the other hand, some scholars (Ripley 1969; Sundquist 1988) argue that it is the absence of party competition, not its presence, that facilitates the passage of legislation, particularly when it comes to unified versus divided government.

Finally, in exploring the role of legislative leaders and governors in the ethics reform process, I again draw on theories about the role of these actors in earlier reform efforts. These theories are developed in more depth in Chapter Four; for now I provide a brief overview. With regard to legislative power-holders — Speakers, Senate Presidents/Majority Leaders, and committee chairs — scholars have argued that these actors have resisted political reform efforts that would "rewrite the rules of the game ... or destroy special privilege."43 Wiebe (1967) and Thelen (1976) argue that legislative support for Progressive reform came not from established party leaders but from "insurgents" within the majority party, who often used reform to expand their political bases and build their political careers. On the other hand, Loftus claims that in Wisconsin in the 1970's, legislative leaders — in particular, himself, as Assembly Speaker — led the drive for ethics reform rather than blocking it (Loftus 1992, 1994).

---

The role of governors in the process of ethics reform is also important to consider. As Durning (1991) and Bernick and Wiggins (1991) note, governors hold a unique position in state politics and have significant influence over the political agenda, because of their high visibility and informal power. Historical research suggests that governors played a central role in promoting anti-corruption legislation during the Progressive era (Mowry 1951; Thelen 1976). On the other hand, Goodman, Holp, Martin and Rademacher (1994) find that while governors played an important role in the success of some state ethics reform efforts in the 1990's, they did not have an influential role according to a majority of legislators surveyed.

A specific way that governors may affect the political agenda is through their electoral campaigns. Mowry (1951) and Thelen (1976), for example, argue that Progressive governors in states including Wisconsin, California and Iowa made reducing corruption and increasing government accountability part of their campaign platforms in the early 1900's. Once elected, they fought for and won enactment of the legislation they had promised. Again, governors' motives for doing this are likely to be a mix of genuine conviction and political expediency. As Thelen (1976) argues with respect to Governor LaFollette of Wisconsin, and Link and McCormick (1983) argue with regard to other governors, running on an anti-corruption platform and enacting anti-corruption laws helped governors who wanted to advance in their careers.

We might also expect governors to be stronger supporters of legislative ethics reform because of competition between the two branches (Rosenthal 1990). It is logical that executives should be more likely to promote reforms targeted at their main competitor for power than for those competitors — legislators themselves — to promote such laws. Further, governors can even be expected to support ethics laws that cover the executive branch as well — which many of the legislative ethics laws considered in this dissertation do — because of the traditional view of executives as guardians of the greater public interest.

2.4 Dependent and Independent Variables
The dependent variable is the failure or success of ethics reform, where failure is defined as a reform proposal not being enacted and success equals the passage of the same or similar legislation. As I discuss in detail in Section 2.6, the main independent variables are: scandals, legislative compensation, inter-party competition, and action by governors and legislative power-holders during the period of reform failure and success. I consider media coverage of scandals as a key intervening variable, which serves as the link between scandal and reform success. Section 2.6 details how the IVs are measured and what level of variation is expected to matter. First, however, we turn to a discussion of case selection.

2.5 Case Selection and Response to Potential Criticisms of Cases

The particular cases were selected for several reasons. First, the cases are similar in certain key respects, so that I control for some important aspects of state politics that may affect policy outcomes (George and McKeown 1985). All three states are large, urban states with liberal citizen and elite ideology and relatively aggressive print media. By holding these background conditions relatively constant, we can test for the potential impact of other variables that are of interest. Second, information about the introduction and passage of legislation in those cases was relatively accessible compared to other potential cases, and good newspaper accounts of ongoing ethics reform efforts were available. The Los Angeles Times, Boston Globe and New York Times all reported extensively on the ethics reform process in those states. Finally, since the three cases are taken from three different decades, any patterns we find in the ethics reform process across the cases will not be extremely period-specific. Our findings will be generalizable over a broader time frame than, for example, if we only looked at

---

44 For example, with regard to citizen ideology, California's average score during its period of reform failure and success combined was 54.93; Massachusetts' score for the similar period was 79.92, and New York's was 66.48. Data comes from Berry, Berry and Ringquist (1997) and is available on the Florida State University website (http://www.pubadm.fsu.edu/archives/). Possible scores range from 0 to 100. Relatively conservative states such as Arizona, Arkansas and Nebraska never score above 50 for the entire period in which ideology is measured (1960-1993). Conservative states tend to have scores in the single digits, teens, 20's and 30's. The lowest possible score is 1.16 for Mississippi in a particular year. The maximum is 93.91 for Massachusetts in a particular year. States with scores from 50 through 100 can be considered liberal. California by this measure is the least liberal of the three states, although this is due in part to the fact that I measure its ideology for the 1960's, when reform was being considered, and liberal ideology tends to trend upward over the 33-year period.
cases from one decade. In later chapters, I divide the 42-year time frame of the study into several shorter sub-periods. At this stage, however, the goal is to identify plausible explanations through preliminary testing for why ethics reform fails or succeeds, which can then be further tested across a variety of periods through quantitative analysis. Distinctions can then be made about factors which may matter in one period but not another.

The cases I chose conformed to the following pattern: in each case, a certain ethics reform proposal was introduced in a given year, but was not enacted (either in that year or over a period of several years). After a period ranging from one to five years, the same proposal that failed was enacted. This research design raises the question of how past failure may affect future success, which will be addressed more in the discussion at the end of the chapter. The fact that reform failed over a period of several years may be beneficial for reform advocates, who can point to legislative unwillingness to enact ethics laws as a way of bolstering support for the cause of ethics regulation.

In California, a proposal to establish the state's first code of legislative ethics was introduced in the 1961-2 and 1963-4 sessions, but the proposal did not make it out of committee. The code passed in July 1966. In Massachusetts, proposals for financial disclosure and an independent ethics commission were introduced every year between 1972 and 1976, but these proposals also died in committee. In the 1977-78 biennium, reform was successful. Finally, in New York, an ethics reform proposal which failed in 1985 and 1986 was enacted in 1987. This pattern in all three cases of initial failure followed by later success allows us to address the general question: what explains the difference between failure and success within a given state?

There are (at least) two potential criticisms of the cases I have selected. First, an alternative strategy might have been to do a purely cross-sectional analysis of state variation in ethics laws. This could involve, for example, looking at one state that has very weak legislative ethics regulations and one which has very strong regulations, and then testing and/or

---

45 Most recent case studies of state ethics reform do precisely this. For example Goodman (1993, 1994a; 1994b) and Rosenthal (1996) focus exclusively on cases of reform in the late 1980's and 1990's.
developing theories to explain this variation. For example, we might compare Kentucky and Wyoming today. Kentucky has the strongest legislative ethics law of any state while Wyoming is tied with Vermont for the weakest.\footnote{See Chapter One, Table 1.1.} The problem with doing qualitative case studies of this kind is that in order to understand why two states have very different laws at a given time, we must look at efforts to enact ethics regulations over a long period of time up to that point. As described in Chapter Four, the first state effort at regulating legislative conflict of interests through ethics laws was in 1954; many other states began their first attempts to enact ethics laws in the 1950's and 1960's. Thus, a particular state may have strong laws in 1996 because of successful reform efforts in the 1960's or 1970's, and we would need to consider values of the independent variables for these earlier periods rather than just focusing on efforts in the 1990's. The case studies I have chosen allow us to focus on reform failure and success during more narrowly focused time periods, allowing the use of process-tracing techniques that would be difficult across lengthier periods of time.

A second criticism of the case selection is that by choosing three cases of failure/success within states, I am selecting on the dependent variable. In other words, it would be better to have at least one case of failure/failure. Van Evera defends selection on the dependent variable as an acceptable choice, calling the notion that we should never select on the dependent variable a "methodology myth" and a "specious injunction that can best be ignored."\footnote{Van Evera, p. 43.} He argues that selection on the dependent variable is appropriate under any of three common conditions. These are 1) if we can compare conditions in selected cases to a known average situation, 2) if the cases have large within-case variance on the study variable, permitting multiple within-case congruence procedures, and 3) if cases are sufficiently rich to permit process tracing.\footnote{Ibid., pp. 46-47.} The cases I have selected fit the second and third conditions. There is large within-case variance on the study variable — ethics reform success — for each case, allowing me to look for congruence or incongruence between observed and predicted values of
the independent and dependent variables. Second, for each case, I have sufficient information to do process tracing using government documents, newspaper accounts, and secondary source accounts of ethics reform. The availability of this information is strongest for the New York and Massachusetts cases, but there is adequate information for California as well.

Although the three main cases presented here do select on the dependent variable, I present some limited information from a fourth state-case, Vermont. Whereas the three main cases represent failure-success, I focus on Vermont in the 1990's as a case of failure-failure or continued failure over a period of time. A rudimentary exploration of this case supplements the findings of the three main cases with regard to the key independent variables.

2.6 Questions To Be Asked of Each Case and Measurement of Independent Variables

For each case, I ask several standard questions which are designed to test existing theories about the factors which facilitate legislative ethics reform. I measure each of the key independent variables for the base period when reform failed, and then for the time period when reform succeeded. Below, I briefly outline the questions to be asked and how I will measure the key variables.

1. Scandal

The main question here is: Were there any significant political scandals, reported by the major state newspaper? By scandal, I mean an event featuring alleged abuse of power involving a conflict between public officials' private interests and their public duties. Included in this category are indictments and convictions for bribery, political extortion, and embezzlement, and investigations or reports (by law enforcement agencies or by state government itself) of patterns or incidents of corruption. These incidents must involve legislators, the governor, and other statewide officials; since they are the most visible public officials, their misbehavior is most likely to be reported and thus to spark calls for reform in turn. I measure the potential effects of scandal in a given year beginning two years prior to that year, and up through the first six months of that year. Data came from the New York Times
Index for all states and from the three major newspapers identified above for each state, as well as from two additional newspapers for Massachusetts (the Boston Herald and the Boston Phoenix).49

My initial hypothesis is that scandals involving legislators, particularly members of the legislative leadership, should be especially likely to lead to reform, since these scandals can be most directly linked to definition of legislative ethics as a problem requiring a policy solution. Scandals involving governors should also be important because of the governor's central role in state politics, but not as important as those involving legislators.

2. Compensation

Were there any increases in legislative compensation during the period of reform success compared to the level of compensation in the period of reform failure? I define the period of reform failure as the years during which legislators or governors sponsored ethics proposals which were not enacted. For California, this is four years; from 1961 to 1964; for Massachusetts it is five years, from 1972 to 1976; and for New York it is two years, from 1985 to 1986. The period of reform success is defined as the biennium during which reform passed. Compensation may vary over the period of failure, and I take this into account. I measure compensation as the real biennial salary for legislators, not including allowances for travel. Data came from a data set provided by Morris Fiorina (see Appendix C for more information on the compensation variable).

The question of what amount of change in legislative compensation would be expected to affect the likelihood of ethics reform success is a difficult one to answer a priori. George and McKeown argue that

---

49 As in the chapters which follow, when using the New York Times Index for states outside New York, I looked under the heading for each state and also under the heading Crime for each year. When using the Los Angeles Times, for which there is no index, I looked at the front page of each day's paper and also at the "In the State" summary for each day. For the Massachusetts case, I used the indices at the State House Library for the Boston Globe, Boston Herald/Evening Herald, and Boston Phoenix. For each year, I searched under the headings Corruption, Politics and Government, Legislature and Governor. For New York, I relied on the New York Times Index. for each year, looking under the headings Legislature, Governor, and Politics and Government.
basing design decisions on a priori judgments may be risky and unproductive; the investigator is more likely to develop sensitive ways of describing variance in the variables after he or she has become familiar with the ways in which they vary in historical cases. An iterative procedure for determining how best to describe variance is therefore recommended.  

As a preliminary hypothesis, I expect that changes in compensation over 25% should be associated with an expectation of ethics reform success, while smaller increases should not make a difference.

3. **Party Competition**

Did the partisan balance of power in the state change from the time when reform failed to the biennium when it succeeded? Inter-party competition is measured two ways: first, by the number of seats held by the majority and minority party in each house, and second, by which party controls one or both legislative chambers and the executive branch. Data came from the *Book of the States*.

Again, it is difficult to specify *a priori* when changes in party competition will matter, and what size change is necessary to make a difference in the likelihood of reform success. We can make some initial predictions, however. First, a switch in one party's control of either chamber of the legislature or the executive branch should matter more than a simple numerical change in the number of seats held by each party in the two chambers. Second, unless the two parties are within five seats of each other in their numbers in either chamber, the situation cannot be described as a highly competitive one. Finally, if a party loses at least 10 seats in either chamber, this can be considered a major change in party competition.

4, 5. **Legislative Leaders and Governors**

Finally, I also consider the positions and actions of some key actors in the reform drama. These are the governor and legislative leaders. The questions here are somewhat less focused than the questions for the other three variables; this is why the findings here will be used more for theory-building than theory-testing. I ask the same questions for both the

---

50 George and McKeown, pp. 45-46.
governor and legislative power-holders. I consider a range of legislative power-holders: these include the Speaker of the House, Senate President/Majority Leader, as well as committee chairmen, particularly of the committees which had jurisdiction over the ethics bills. I ask several questions. First, did any of these actors take a conspicuous stand in favor of or against reform both during the period of reform failure and the period of success? What actions if any did they take to push reform forward or to hold it back? Was there any evidence, from secondary source or newspaper accounts, that these actions contributed to the failure or success of reform proposals?

Table 2.1 below shows the hypothesized effects of the independent variables on reform success.

| Table 2.1 |
| Predicted Effects of Independent Variables for Case Studies |

1) Scandal/Media Coverage  
2) Compensation  
3) Party Competition  
4) Governors  
5) Legislative Power-Holders  
   Speakers/Senate Presidents  
   Committee Chairs  

Of these five variables, the literature discussed in Section 2.3 suggests that scandal is likely to be the most important of all the variables; it comes closest to being a necessary
component of reform success, if one exists. The literature on compensation suggests that compensation increases are not necessary but can facilitate reform success. Competition is argued to be an important factor in explaining earlier political reform successes, but it is not emphasized by accounts of the modern ethics-in-governmment movement's successes; therefore, I expect it to play less of a role. Similarly, Goodman, Holp, Martin and Rademacher (1994) suggest that the contribution of governors, while potentially important, is not necessary to ethics reform success. Finally, I expect to see top legislative leaders and committee chairs strongly opposing reform during the period of reform failure, but whether top leaders switch to active support during the period of reform success is an open question. Loftus (1994) argues this happened in one state (Wisconsin), but other accounts (Bradbury 1996) suggest it did not happen in other states. Scholarship on earlier reform efforts suggest that active support of legislative power-holders is not essential to reform success; since the main impetus for reform comes from outside forces and non-power holders inside the legislature, all that may be needed is the grudging acquiescence of top leaders (Gould 1976).

2.7 California: 1961-1966

On July 7, 1966, the California Legislature adopted a conflict-of-interest bill by a vote of 22-8 in the Senate and 66-1 in the Assembly. The bill, part of a broader constitutional revision package, went before the voters as a referendum item that November and was approved by a 2-1 margin. The bill, as approved by the legislature, did several things. First, it contained general prohibitions against a legislator engaging in "any activity which is in substantial conflict with the proper discharge of his duties in the public interest," accepting outside employment which "he has reason to believe will ... impair his independence of judgment," and disclosing, for pecuniary gain, confidential information acquired in the course of doing his job.51 It also contained more specific provisions such as a 1) limit on lawyer-legislators representing clients for compensation before certain state agencies, with two exceptions: the Workers' Compensation Appeals Board and Commissioner of Corporations,

51 California Statutes Title 2, Section 8920.
and 2) the establishment of a joint legislative ethics committee, composed of three members from each house, to investigate alleged violations of the new law. See also California Statutes Title 2, Sections 8940. Finally, the bill included a legislative pay raise which increased members' annual salaries from $6,000 to $16,000.

House Speaker Jesse Unruh's (D-Inglewood) claim that "this is as tough a conflict-of-interest statute as there is on the statutes books anywhere in the country, and perhaps tougher" was something of an exaggeration. While the statement was true with regard to the limit placed on representation of clients by lawyer-legislators before state agencies, it was false in other regards. New York's 1964 law, for example, contained a two-year revolving door provisions for legislators. Also, New York and other states by 1966 already required disclosure of certain financial interests; California did not require any public financial disclosure until 1974. Still, despite the hot air, the law represented a major step forward for the state of California. For the purposes of this chapter, it was a major step forward with reference to a recent failed effort: virtually identical conflict-of-interest proposals had been put forward in both the state Assembly and the state Senate for the previous two biennial sessions. The sponsors of these bills were Sen. Alvin Weingand (D-Santa Barbara) and Sen. Jerome Waldie (D-Antioch) in the Senate and Frank Lanterman (R-La Canada) in the Assembly. In each chamber, the bills died in the Governmental Efficiency Committee without coming to a vote. Why did these proposals fail in 1961-2 and 1963-4, but succeed in the 1965-66 biennium? What made legislators willing to swallow what many apparently saw as a bitter pill?

The first factor to consider is the role of scandal. In the period of reform failure and the two years immediately preceding it — 1959-1963 — there were no major corruption scandals

---

52 California Statutes Title 2, Sections 8940.
54 See the reported comments of Senators and Assemblymen, for example, in the following three articles: Gene Blake, "Three Key Measures Sent to State Senate Floor," Los Angeles Times, June 29, 1966; Gene Blake, "Senate Approves Measures to Modernize State Constitution," Los Angeles Times, July 1, 1966; and Gene Blake, "Constitution Plan Snagged in Legislature," Los Angeles Times, July 6, 1966.
involving legislators, the governor or other statewide officials reported in the *Los Angeles Times*. In March 1965, however, a legislative scandal broke. Assemblyman Lester A. McMillan (D-Los Angeles), who had served 23 years in the legislature, was indicted and charged with seeking a $10,000 bribe to prevent the routing of a freeway. In July, McMillan was acquitted; the judge accepted the defense contention that the legislator, who was also an attorney, had offered to represent eight businessmen in his private legal capacity before a state agency. Interestingly, the case was not covered extensively by the *Los Angeles Times*. There were only a handful of articles on the indictment and the trial itself. What was important was the repercussions of the case in terms of how the acquitted legislator responded — by coming out in favor of ethics reform — and the similar response of the media. Both the judge and McMillan himself made public statements in which they argued that the case highlighted the need for an ethics code to regulate conflicts between legislators' private interests and their public duties. Judge Joseph Wapner criticized the fact that legislators worked only part-time and therefore earned relatively low salaries. Their part-time status and poor pay, he argued, meant that all but the independently wealthy relied in large part on outside employment to support themselves, leading to conflicts of interest that might otherwise be avoided:

> People hire legislators to go before courts and boards because they can exert influence... Since the public hasn't decided to do anything about it, it places the members of the Legislature in a terrible position.

Wapner urged that legislative salaries be raised to alleviate the problem of legislators misusing their power and engaging in conflicts of interest. McMillan himself commented,

> There's a great need for conflict of interest laws in this state, but first the people will have to decide to pay their representatives on a full-time basis and pay them a large enough salary so it would not be necessary to practice law on the side.

---

55 I examined the front page of the *Los Angeles Times* and also the "In the State" summary for each day of these years.


57 It may have been more extensively reported by the *Sacramento Bee*, however.

58 Ibid.

59 Ibid.
Despite McMillan's acquittal, the case had important repercussions for the legislature and for the ongoing efforts by Lanterman, Waldie and Weingand to enact conflict-of-interest legislation. Even before the case went to trial, it prompted the Los Angeles Times to take interest in the issue of conflict of interest. Prior to this, the efforts of the sponsors of reform legislation received absolutely no attention from the press. In June 1965, however, the paper assigned three reporters to interview every legislator regarding their financial interests. The reporters also independently investigated the issue, tapping other sources in an attempt to obtain additional information. A special 12-page section of the Times on September 15 detailed the outside income, both earned and unearned, and the campaign contributions of all 39 senators and 80 assemblymen. Among the points emphasized was that of the 47 legislators who were attorneys, many had represented clients before state agencies. Indeed, one lawyer-legislator was quoted as saying, "There is more opportunity for an attorney to have a conflict of interest than other legislators because it can be hidden in the attorney-client relationship." The article suggested that the autonomy of at least one legislator — Sen. James Cobey, (D-Merced) — had been compromised by his representing a construction company before a state agency at the same time as he was introducing a bill authorizing a state guarantee of federal grant money, which would have benefited that specific company. Further, it quoted another legislator who admitted that some of his legal clients wanted him to represent them before state agencies because of his public position.

In addition, the article noted that many legislators held stocks in savings and loan associations and banks chartered by the state. The suggestion in the article was that this represented a dangerous conflict of interest because it had led to some favorable legislative action regarding the financial institutions. Overall, the article suggested that many potential

---

60 Ibid.
61 All but three provided information to the paper voluntarily. One of those three, interestingly, was Assemblyman Willie Brown (D-San Francisco), who would later become Speaker and would sometimes be criticized for setting a poor ethical example (Alan Rosenthal, Drawing the Line: Legislative Ethics in the States (New York: Twentieth Century Fund, 1996), p. 221.
62 Sen. Fred Marler (R-Redding), cited in Blake, "State Legislators: They Serve Too Many Masters?"
conflicts of interest existed, and needed to be more closely regulated, and that legislators' low pay was a major contributing factor to these conflicts.

Thus, in the wake of the McMillan case, the state newspaper of record began reporting on the need for reform and on the legislation that had already been proposed. In the years from 1961 to 1964, the media had paid scant attention to the problem of legislative ethics and to the proposals that had been sponsored in the legislature. In 1965 and 1966, after McMillan's indictment, the *Times* began devoting both more of its news coverage to the subject of legislative conflicts of interest and to pending proposals for reform. The paper also began to use the editorial page to promote a code of ethics for legislators and a pay raise, described as the "cart" to the ethics code's "horse." It also reported favorably on New York's new ethics code passed in 1964, recommending that California follow New York's example, in particular by placing a two-year ban on lobbying by former legislators and requiring detailed financial disclosure. The *Times* continued to play the role of reform booster when the Assembly and Senate began seriously considering ethics legislation in 1966. Late in the process, when a conference committee worked to iron out differences between the more pro-reform attitude of the Assembly and the more conservative Senate approach, the *Times* gave sustained front page coverage to the committee negotiations and also editorialized against the attempts of the Senate to water down the main reform proposal. Thus the newspaper shifted from paying no attention to paying substantial attention the problem of legislative ethics and to proposed solutions to that problem.

Did party competition and control of state government change between the period of ethics reform failure and reform success? In the 1961-2 biennium, the Senate and Assembly were majority Democratic, 28-11 and 46-33 respectively. Democrat Edmund Brown was governor. In 1963-64, the Democrats maintained unified control, with Brown serving his

---

second term. Although the Democrats lost two seats in the Senate in the 1962 election, their numbers increased by six in the Assembly. In the 1965-1966 session, the Democrats were still at the helm of state government; having lost just one seat in the Senate and three in the Assembly in the 1964 election. Thus there was not a significant increase in party competition that could conceivably have contributed to the success of ethics reform in 1966. While the Democrats did lose a few seats in the legislature between the period of reform failure and reform success, they still maintained a significant advantage in both houses (25-14 in the Senate and 49-31 in the Assembly). These margins cannot accurately be described as a situation of intense party competition comparable to the one in Congress which Skowronek argues helped facilitate federal civil service reform in the 1870's (Skowronek 1982). The Democrats in California were solidly in control of the legislature, compared to other state legislatures at the time.\textsuperscript{66}

Is there any evidence that increased compensation played a role in the success of ethics reform in 1966? I have already suggested that a legislative pay raise was a crucial feature of the ethics package enacted by the legislature in July. When legislators voted in favor of the conflict-of-interest measure, they were also voting to raise their salaries by 166% each year. Members' annual compensation had been stuck at $6,000 in constant dollars since 1955; an increase to $16,000 per year or $32,000 for the biennium was a considerable jump. Sacks (1971) argues that this increase was significant in particular because it made the limit on outside employment of lawyer-legislators (who composed 39% of the legislature) more palatable. The increase in their official salary, Sacks suggests, made these legislators more willing to swallow a major restriction on their capacity to earn outside income by representing clients before the state.\textsuperscript{67}

\textsuperscript{66} Consider, for example, Ohio, where the two parties were tied in the Senate, or South Dakota and Wyoming, where the majority party in the Senate held two- and one-seat advantages respectively.

\textsuperscript{67} Since financial disclosure in the 1965 \textit{Times} article was voluntary and most legislators did not choose to provide specific amounts for their outside earnings, we do not know exactly how much legislators would lose from the new restrictions. Still, the 166\% annual salary increase was a sizable amount and most likely was sufficient to compensate lawyer-legislators for accepting representation limits.
In my study of Congressional voting on honoraria reform in 1981-1983, I found that a pay raise served to push certain members from opposition to support for limits on outside income; the key characteristic of the members who were so influenced was that they were the ones who earned the most in honoraria, meaning they were the ones most directly and negatively affected by the proposed limit on outside income (Rosenson 1997). We do not have a record of votes in California on bills with and without a pay increase because there was never any vote on a bill without a raise included. However, it is plausible that the same dynamic was at work with attorneys there, many of whom the Times suggested derived a significant portion of their income from business before the state. They would be the legislators most adversely affected by the proposed restriction; the pay raise is likely to have been an important factor in their minds which made the restriction more acceptable. Looking at the final vote on July 7, we see that of the 30 members who voted (four senators abstained), 13 were attorneys.\footnote{See California Legislature, Senate Daily Journal, July 7, 1966, p. 1021 for information on how members voted. Members' occupational information came from the California Blue Book, 1965-66, pp. 56-62.} The correlation coefficient for attorneys and vote for the bill is only .07, with a p-value of .70. Thus attorneys were no less likely to support the bill than non-attorneys. Logistic regression analysis, controlling for other factors, also showed that attorneys were no less likely to support the bill than non-attorneys.\footnote{The other variables in the regression were 1) members' electoral margin in the last election, 2) a dichotomous measure for whether the member was up for re-election that year (an important variable to control for given the pay-raise component of the bill), 3) a dichotomous measure for occupational status as a business-owner, and two measures of institutional power: 4) majority party status, and 5) chairmanship of a committee with above-average seniority for its members. While the attorney variable was insignificant (and positively signed), it is important to note than none of the variables in the equation achieved statistical significance. The model had no reduction in error in predicting cases; in fact it performed worse than a model which predicted the modal value of the dependent variable. These poor results are most likely due to the fact that there were only 29 observations and six independent variables (complete information was unavailable for one of the 30 who cast a vote on the bill).} This suggests that attorneys in the Senate may have been "bought off" by the pay increase; without it, they might have opposed the bill. Also, as I suggest below, key legislative leaders appear to have supported conflict of interest regulation because they viewed it as a way of getting higher salaries and helping attract higher quality people to serve in the legislature.
I turn now to the more exploratory aspects of this case study. Using congruence procedures, we have examined three factors and found two that appear to have contributed to the success of reform in 1966. There were two significant changes between the period of reform failure and success — a scandal involving a well-known legislator and increased media attention to the issue of legislative ethics, and a major salary increase. We turn now to consider the position of some key actors in the reform process: the governor and the legislative leadership.

Recall that from 1961 to 1964, Democrats Weingand and Waldie in the Assembly and Republican Lanterman in the Senate introduced conflict-of-interest proposals which went nowhere in the legislature. What was the position of Governor Edmund Brown during this period, and then later during the period of reform success? Turning to his annual state of the state addresses, we see that Brown never mentioned legislative ethics during those years.\(^70\) Beginning in 1965, however, the governor began to speak out in favor of legislative ethics reform, both in his inaugural address and in other public addresses. On February 5, for example, he spoke before a group of California newspaper publishers and "solicited their support in developing a code of ethics for legislators coupled with a pay raise for the lawmakers."\(^71\) After the legislature took no action on a code of ethics in 1965, Brown called it into special session in March 1966 to consider two subjects pertaining directly to the legislature itself: conflict of interest and institutional modernization.\(^72\) It is not entirely clear why Brown became interested in these issues, but one possible reason, discussed in more detail below, is that he wanted to be able to work with a more modern, efficient legislature — one that met annually, had greater member stability due to higher salaries, and was less beholden to outside

---

\(^70\) The *Los Angeles Times* accounts of these addresses shows Brown emphasizing educational issues, the development of a rapid transit system, housing, economic development, labor-management relations, natural resources and election law (but not conflict of interest) reform.


\(^72\) The legislature at that time met for 120 days in odd-numbered years and 30 days for budget sessions in even-numbered years. To consider non-budgetary issues in an even year, a special session had to be called. See Charles G. Bell and Charles M. Price, *California Government Today* (Hornewood: Dorsey Press, 1980), p. 187.
interests. These factors conceivably would make it easier for him to win enactment of his ambitious policy proposals.

As with the McMillan scandal, gubernatorial attention to legislative ethics may have helped bring proposals for reform into the forefront of the political agenda. The literature on agenda setting suggests that the governor has a unique role to play (Bernick 1979; Ransone 1982; Beyle 1983; Durning 1991). Because of the visibility of the office and his access to the media, he is uniquely positioned to play a leadership role in policy making. Bernick and Wiggins argue that this "high visibility ... means that the issues highlighted by chief executives draw the attention of the media and consequently the public."73

Brown's decision to call a special legislative session beginning in April 1966 to address legislative modernization and conflicts of interest grew out of a broader, more long-term movement focused on making the legislature a more effective institution. Up through the early 1960's, California's legislature was "reasonably typical of other states. Legislators were poorly paid, met only part of every year, had inadequate offices... haphazard procedures, and ... very few professional staff."74 Some legislators, notably House Speaker Jesse Unruh, began advocating a salary increase in order to "attract brighter, better educated people to the legislature" and also to attract more minorities to run for office.75 In 1963 the legislature adopted a concurrent resolution establishing a independent Constitutional Revision Commission to consider the merits of a salary increase as well as to examine how increasing staff might improve the legislature. The commission made its initial report to the legislature in February 1966 and recommended both a salary increase and a code of ethics for legislators. The report of an independent commission appointed by the governor gave legitimacy to the twin causes of legislative ethics and increased legislative compensation, which would go before

74 Bell and Price, p. 187.
75 Ibid., p. 188.
the voters as Proposition 1A, a constitutional amendment question on the November ballot, if it was first passed by the legislature.

Accounts of the 1966 constitutional amendment, then, suggest that Speaker Unruh was a major supporter of a pay increase and of a code of ethics for legislators. But what was the position of other legislative power-holders on reform? I have suggested that they did not actively support reform efforts in the years of reform failure. Once proposals for reform were propelled to the front of the agenda and became the subject of active debate, how did institutional power-holders react? Accounts of the progress of the ethics proposals in both houses suggest two things: the going was more difficult in the Senate, and the main obstacles came from some key committee chairmen. After the conflict-of-interest legislation passed the House in June 1966, it came under attack in the Senate Finance Committee, where it had been sent after being approved by the Governmental Efficiency Committee. Finance Committee Chair George Miller expressed his unequivocal displeasure with the code, asking, "Is there anyone in the audience who can demonstrate any need for this?" According to a majority of the 12 committee members passed the bill on a voice vote. When the bill went to the Senate floor on June 30, Miller introduced a major weakening amendment to delete the requirement, contained in the House version of the bill, that no legislator could "have any interest, financial or otherwise direct or indirect, or engage in any business or transaction or professional activity ...which is in substantial conflict with the proper discharge of his duties."

Chairman Miller argued that the bill went too far in barring conflicts of interest and was unnecessary given that there were already 15 sections of the Penal Code which addressed legislative corruption in the form of bribery. One of his strongest backers in pressing for the amendment was another powerful Democratic leader in the Senate, Stephen Teale, Reapportionment Committee Chair and a member of the Rules Committee. Teale was a vocal opponent of the entire concept of a legislative ethics code during the entire debate. The Senate

---

voted unanimously in favor of Miller's weakening amendment and then passed the entire package by a 27-6 vote. Assembly Speaker Jesse Unruh publicly attacked the amendment, and James Mills (D-San Diego), author of the final constitutional revision package in the Assembly, also called it unacceptable. The *Times* came out behind Unruh and Mills, referring to the Senate's "emasculating" amendment and arguing in an editorial that the deleted language should be restored or the bill dropped entirely.78

Several days later, a Senate-Assembly conference committee agreed to restore the deleted section, bringing the Senate bill back in line with the Assembly version. While the vote in the Assembly was 66-1, it was much closer in the Senate: 22-8, where 21 votes were needed for passage since it was a constitutional revision measure. Of the eight voting no, four were Democrats and four were Republicans.79

Overall, the position of legislative power-holders on reform was mixed. Some powerful committee chairmen opposed it and one, Senate Finance Committee chair George Miller, tried to substantially weaken the language contained in the Assembly version of the bill. On the other hand, House Speaker Jesse Unruh took a strong stand in favor of a code of ethics. Bell and Price call Unruh the "leading proponent of Proposition 1A," the ethics and pay raise measure that went before the voters in November 1966. They argue that Unruh "campaigned tirelessly the length and breadth of the state championing the measure."80 Unruh's interest in ethics legislation, however, seems to have been a byproduct of his more primary interest in a legislative pay raise as part of a broader effort to modernize and professionalize the legislature. Newspaper accounts suggest that Unruh viewed the executive branch, not the Republican party, as his main competitor for power. Hence, it is not surprising

---

79 All four Democrats — Miller, Teale, O'Sullivan and Quick, were committee chairmen. However, every Democrat in the 1965-66 Senate was a chair of at least one committee. One measure of the relative desirability and power of committee chairmanships is the average seniority of a committee's members. The first three Democrats who voted no chaired committees with above-average seniority, an indicator that these were powerful committees. Average seniority for all committees was 7.8 years. For Miller's Finance committee it was 15 years; for Teale's Reapportionment Committee it was 10.3, and for Quick's Fish and Game Committee it was 3.9 years. (California Blue Book, 1965-66, pp. 67-68).
80 Bell and Price, p. 188.
that he supported modernization to increase the power of the legislative institution so it could compete more effectively with the governor in determining public policy. Unruh's advocacy of a pay raise may also have had partisan motivations, if Fiorina's argument is correct that higher salaries may benefit the Democratic party more than the Republicans (Fiorina 1994). To the extent that Unruh understood the calculations made by Democrats and Republicans about alternative careers and the asymmetric impact of higher salaries on the two parties, his interest in a pay raise may have been partially motivated by the belief that it would disproportionately benefit his party.

Unruh's lesser interest in the ethics component of modernization can be seen in his actions during the campaign for Proposition 1A. Bell and Price report that Unruh persuaded lobbyists to join in the campaign ("take a lobbyist to lunch" became a legislative theme) by warning them that their failure to support 1A with political campaign contributions would long be remembered.81

His push for the constitutional amendment paid off when voters approved Proposition 1A by a 3-1 margin in November.

To summarize the key findings of the California case, two of the three explanatory variables that were tested varied significantly between the period of reform failure and success. These were the presence of a scandal involving the legislature and the level of legislative compensation. The scandal involving a veteran legislator appears to have helped move legislative ethics to the front of the agenda, with the print media playing an important role in this process. On the other hand, inter-party competition did not seem to be a facilitating factor in the success of reform. There were no significant changes in the degree of inter-party competition between the two periods. Finally, some legislative power-holders opposed reform — namely powerful committee chairmen — while others, in particular Assembly Speaker Jesse Unruh, supported it. Bell and Price argue that Unruh's efforts helped the cause of ethics reform with the voters. The governor also took a strong and unequivocal stand in favor of

81 Ibid.
legislative ethics reform during the period of reform success. Gubernatorial support may also have helped facilitate reform success by moving reform to the center of the legislative agenda via media attention, thereby pressuring legislators to pass — albeit by a narrow margin in the Senate — the constitutional revision measure.


On May 30, 1978, the Massachusetts Senate voted to accept a conference committee ethics bill. Most notably, it mandated extensive financial disclosure by legislators and other public officials, limited gifts to legislators from lobbyists, set a one-year limit on legislators becoming lobbyists after leaving office, restricted lawyer-legislators’ appearances before state agencies, and established an independent ethics commission to monitor enforcement of the new ethics law, with jurisdiction over legislators.\textsuperscript{82} The Senate vote was a voice vote with no debate. The next day, after two hours of debate that was “dominated by speeches of praise,” the Massachusetts House voted to accept the conference committee report 215-12.\textsuperscript{83} On June 5, Governor Michael Dukakis signed the bill into law. While the final leg of the journey appeared to be smooth sailing, the enactment of a strong financial disclosure law and establishment of an independent commission followed a hard-fought campaign, particularly in the Senate. Further, before this victory, proponents had endured years of inaction in both chambers.

Massachusetts first enacted ethics laws which included legislators as a covered category in 1961 and 1962. These laws, pushed by then-Governor John Volpe, made the state one of the early pioneers in addressing conflicts of interest. The 1961 law was especially innovative for the time, containing a requirement for disclosure of financial interests; however, the legislature repealed the provision the following year. By the time the 1970’s rolled around, Massachusetts lagged behind many other states in terms of requiring legislators and other public officials to disclose their business and financial activities. From 1972 to 1976, at least

\textsuperscript{82} In this respect, the Massachusetts Commission differed from other state commissions of the time, for example those in Indiana and South Carolina, which only had jurisdiction over the executive branch.

13 legislators and Common Cause put forth a variety of ethics proposals which would have required financial disclosure, established an independent ethics commission, and restricted gifts from lobbyists. None of these bills ever came to a vote on the floor of either house; they were buried in committee in both the House and Senate.\footnote{\textit{Ibid.}, pp. 48-89.}

In March 1977, and then again in October and November of that year, the state House and Senate finally addressed the issue of legislative ethics by considering a number of proposed changes in their legislative rules. Included among the successful rules changes were 1) the establishment of new House and Senate Ethics Committees, 2) a requirement that the new committees formulate a financial disclosure requirement, and in the House, two additional regulations: 3) a restriction on lawyer-legislators' appearances before state agencies; and 4) a $35 limit on the value of individual gifts from lobbyists to legislators.\footnote{While the Senate Ethics Committee had recommended 10 rules changes, all but the two regarding financial disclosure and a newly constituted ethics committee died in committee. Those which never came up for a vote included a $100 annual limit on gifts from a given lobbyist to a legislator, fees to lawyer-legislators for representation before state agencies, "no-show" jobs, use of confidential information for financial gain, and all appearances before state agencies where there was a "close economic association" with the person represented. See Bradbury (1996), Chapter 4, for an account of the 1977 Senate and House rules changes.} The next chapter analyzes some of the votes in the House on amendments related to these rules changes.

These rules changes in the House and the more limited rules changes in the Senate represented a significant step toward regulating legislators' behavior. But reform elements both within and outside the legislature — in particular, the public interest group Common Cause — wanted to see the changes codified in law. This had been the intent of the failed bills filed between 1972 and 1976. They also wanted an independent commission like the one enacted by initiative in Florida two years earlier, to monitor ethics and financial disclosure. For reformers, public financial disclosure was a good thing, but not when the reports had to be filed with the House and Senate clerks, who were given control over their release to interested citizens, public interest groups and members of the media. More preferable as a repository of financial disclosure forms was an commission whose members would be appointed by the
governor, and which would have power to fine those who failed to file or who filed false information.

The basic question of this case study is: why did the legislature go the additional step in 1978, beyond the rules changes of 1977, and to enact an ethics law which covered a wide range of legislative activities and set up an independent commission which violated the fundamental notion of legislative autonomy in managing the business of its members? After years of inaction on a financial disclosure law and legislative disinterest in an independent commission, how did these proposals make it through the House and Senate in May 1978? What can we learn from the process by which disinterest changed to support, restoring Massachusetts to a position of relative strength among the states in terms of its legislative ethics regulations?

I focus on the 1978 law rather than the rules changes here as the measure of reform success, for the reasons described above: it represents success from the perspective of those who sponsored and pushed for reform. The 1977 rules were only a partial success; they could be repealed in a less public fashion than a law if the House or Senate simply failed to approve them at the beginning of a legislative session. I therefore define reform success as the 1978 enactment of the financial disclosure and ethics commission law. The period of reform failure that I will consider here is the two biennial sessions, 1973-4 and 1975-6.

The first factor to be examined is the potential role of scandal in catalyzing reform. During the period when reform proposals failed to make it out of committee — 1973 through 1976 — the three major Boston newspapers which covered state politics (The Boston Globe, the Herald/Evening Herald, and the Boston Phoenix) reported no major political scandals involving legislators or the governor.86 Although Watergate was on the national agenda, corruption in the state of Massachusetts was still an issue simmering below the surface. There were a variety of low-level scandals involving municipal officials, and two state officials from

---

86 While none of these papers published their own indices to coverage prior to the 1980's, the Massachusetts State House Library has an index to coverage by all three papers. I looked for each year under the headings Corruption, Politics and Government, Legislature and Governor.
the Metropolitan District Commission, a state bureau which oversees public works, faced
charges of extorting money from a roofing contractor in 1974.87 But no major scandals
involving the legislature or executive branch appeared in the print media. As an October 1971
Boston Globe article indicated, the head of the Federal Strike Force on Organized Crime and
Racketeering in New England, in an address to other law enforcement agents, suggested that
corruption pervaded Massachusetts government but said it could not be proven. "There are
certain individuals on all levels in the state of Massachusetts who are on the take," said Edward
F. Harrington. "However, what we know and what we can prove is a little different. The strike
force has been unable to develop a witness with respect to the information we have."88

In 1975, Governor Dukakis said in an interview that he had "inherited a corrupt
system," but then withdrew his charge several days later, saying he had "no evidence of
corruption."89 There was a general sense that corruption did exist, but that it was hard to
demonstrate conclusively. Allegations by reform elements outside and within the legislature,
for example, that legislators were being paid to "produce favorable laws for the (race)tracks,"
were not backed up by official reports or investigations.90 In this climate, it is not surprising
that little support gathered around the reform programs introduced at the State House in
December 1972 and then each year from 1973 to 1976 by Common Cause, another group
called CPPAX, and their legislative backers.91

In 1974 over two dozen legislators signed on as co-sponsors of Common Cause's
omnibus ethics bill — centered on a financial disclosure and an independent commission —
and the legislature held public hearings. But members of the Joint State Administration
Committee which held the hearings were unenthusiastic. "How far are we going to let the
people run the government? Maybe we should just do away with elections," said Rep. Thomas

---

87 For example, the mayor of Peabody was sent to jail for bribery.
89 Mike Barnicle, "Of Charges and Integrity," Boston Globe, May 12, 1975. See also Boston Globe, May 7,
1975, May 9, 1975, in the State House Index.
90 Boston Globe, October 21, 1973, in the State House Index.
91 CPPAX, Citizens for Participation in Political Action, was less well-known than Common Cause but still
active in the public-interest arena.
McGee (D-Lynn) a committee member and House Majority Leader.92 The financial disclosure/ethics commission bill, along with 11 other financial disclosure bills filed in 1974, were all discharged to the Speaker-controlled Rules Committee, where they languished without coming to a vote. In July 1975, House Majority Leader McGee became the new Speaker. Under his rule that year and through the middle of 1976, the House responded even more harshly to various ethics reform proposals. For example, in late 1975 two disclosure bills and one disclosure/commission bill received adverse committee reports as opposed to no report at all.93

In July 1976, however, the political landscape shifted when a scandal of major proportions broke. The Boston Globe and other papers reported that a federal grand jury was probing two state senators, Majority Leader Joseph DiCarlo (D-Revere) and Assistant Minority Whip Ronald MacKenzie (R-Burlington), on extortion charges.94 In what became known as the MBM scandal, the senators were charged with trying to extort money from a New York consulting firm, McKee-Berger-Mansueto, under threat of a harmful legislative committee report with regard to the construction of the Boston campus of the University of Massachusetts in the early 1970's.95 The legislators were indicted later that year and went on trial in February 1977. During the trial, MacKenzie and DiCarlo made public an FBI report indicating that Senate President Kevin Harrington, Senate Ways and Means Chair James Kelley, Boston Mayor Kevin White and others had also received illegal payments from MBM in connection with the construction of the University of Massachusetts campus. On February 25, a jury found MacKenzie and DiCarlo guilty on all eight counts of the federal indictment. MacKenzie resigned his seat in April, but DiCarlo refused to resign. He was expelled April 4, the first expulsion in the history of the state Senate.96

---

92 Bradbury, p. 76.
93 These bills were House No. 2008, House No. 4396, and House No. 3577, proposed by Charles Flaherty, John Businger, and Ronald Pina, all liberal Democrats working with Common Cause (See Bradbury, p. 89). See also Editorial, "Financial Disclosure Now," Boston Globe, April 24, 1975.
94 The State Treasurer, Robert Q. Crane, was also revealed to be under investigation for alleged illegal use of campaign funds and income tax evasion, but was never criminally prosecuted.
95 Boston Phoenix, July 27, 1976 in the State House Index.
96 Bradbury, p. 90.
Analysts of the MacKenzie-DiCarlo convictions concur that they played a central role in the success of ethics reform proposals pending in the legislature. Virginia Bradbury calls the trial the "spark in the long smoldering ethics reform movement in Massachusetts," and quotes veteran State House reporter Robert Turner of the Boston Globe: "Many will remember that there has been a lot of talk about policing the Legislature for years, but very little was done until two senators were convicted."97 As in California in the mid-1960's, a legislative scandal (in this case, a bipartisan scandal involving two very big fish, one from each chamber of the legislature) and the subsequent barrage of media attention to the problem of legislative corruption helped set the agenda for ethics reform in Massachusetts in late 1977 and 1978.

What about legislative compensation in the periods of ethics reform failure and success? During the years 1973 to 1976, when ethics reform was languishing in committee in the House and Senate, biennial compensation in constant dollars was $25,376.98 Legislators voted themselves a pay raise in April 1977, several months before they enacted new ethics rules and a year before they passed the comprehensive law incorporating financial disclosure, a gift limit, a post-government employment limit, restrictions of lawyer-legislators, and establishing an independent commission. The amount of the raise was 17.7%, bringing biennial compensation to $29,879.99 Whereas in California, analysts of the successful ethics reform effort emphasized the contribution of the 166% increase in legislators' salaries, in Massachusetts this factor was not emphasized by either secondary source accounts or newspaper accounts of the reform process. Still, it is plausible that the 17.7% increase in legislators' pay one year prior to the passage of the 1978 ethics law made legislators more willing to accept limits on outside income, mandatory financial disclosure, and a strong enforcement mechanism.

---

97 Ibid., pp. 91-92.
99 The pay increase was tied to a recent raise granted to Civil Service grade 19 state employees. In 1976, the Legislature had adopted procedures tying their salaries to those of state employees in order to avoid perennial controversy over salaries. Although their pay would now be driven by changes in the pay of that Civil Service grade, legislators were still required to vote approval of each increase. See Book of the States, 1976-7 and "House votes itself pay raise — Hatch calls it bad timing," Boston Globe, April 7, 1977.
What about party competition? Were there any important changes in the composition of state government between the period of reform failure and success? During the early part of the period of reform failure, 1973-4, the governor was a Republican, Francis Sargent. In the 1974 election, Democrat Michael Dukakis defeated Sargent. In the 1973-4 biennium the Democrats controlled both Senate and the House, 32-8 and 184-51. In the 1974 election they gained seats in both houses, so in 1975-6 they dominated the Senate 33-7 and the House 190-45. The 1976 election increased their strength further, increasing Democratic control of the Senate to 34-6 and of the House to 192-44. From the period of reform failure to reform success, then, competition between the two parties actually declined. State government became unified under Democratic control with Dukakis' election. The Democrats tightened their grip on the legislature, picking up two seats in the Senate between 1973 and 1977 and eight seats in the House. The fact that reform succeeded under conditions of increasingly Democratic control contradicts the hypothesis that ethics reform success may be partly a function of increased inter-party competition. Rather, success followed a period of decline in party competition.

I turn now to a consideration of the role that the governor and legislative leadership played in the reform process. During the period of reform failure, neither Governor Sargent nor Governor Dukakis made ethics regulation a priority. In his annual address in January 1973, Sargent said he would push for the reorganization of state government, eliminating state agencies and cutting jobs to save $90 million, but said nothing about governmental ethics. In his first inaugural message in January 1975, Dukakis talked about the need to improve public transportation, economic development, and health care. The next year, in January 1976, Dukakis promised a balanced budget, emphasizing the state's debt problem, and again setting economic development as a priority; he also called for reorganization of the court system, but said nothing about the need for legislative ethics reform.

---

100 Jeremiah Murphy, "We will move forward," *Boston Globe*, January 11, 1973.
In 1977, Dukakis' state of the state address emphasized job creation, property tax relief, and judicial reform as the governor's key goals. Again ethics reform went unmentioned. Later that year in April, Dukakis listed nearly 30 bills he wanted the General Court to pass; his top two priorities were balancing the state budget and overhauling the court system. There was no mention of the proposals for financial disclosure and an independent ethics commission that had been filed by Common Cause and sympathetic legislators. In 1978, the year the ethics law passed, Dukakis still showed no strong commitment to ethics reform. In his state of the state speech, he sounded the same themes as the year before, calling for court reform, property tax relief, and also an increase in local aid to cities and towns.

Dukakis' silence on ethics reform continued even when Common Cause forced the issue onto the agenda in December 1977. Even though legislative ethics rules had been adopted that year, Common Cause (CC) was determined to see those rules enshrined in law and also to establish an independent commission, as well as to put in place a revolving door limit on legislators. After gathering the requisite number of signatures, Common Cause filed an initiative petition with the Secretary of State on December 7. The petition was assigned a number, House 5151, and referred to the joint State Administration Committee. April 5 was set as the date for a public hearing. The House and Senate were required by law to vote on the measure without amendment by May 3. If by that deadline the Legislature failed to act or rejected the petition, Common Cause could "complete" the petition by filing an additional 9,274 signatures by July 5, which would place the petition on the November ballot for a direct vote by the citizens of Massachusetts.

Dukakis could have mentioned the initiative proposal in his January 1978 state of the state address — only one month after Common Cause had filed the petition with the Secretary of State — but he chose not to do so. When the legislature in April 1978 held hearings and debated the Common-Cause petition and a Senate substitute, Dukakis remained "curiously

104 Bradbury, pp. 145-6.
silent" on the subject of ethics reform.\(^{105}\) It was only when a conference committee began meeting in late May that Dukakis finally spoke on the matter. Again, the Senate was more opposed to certain financial disclosure requirements than the House, and Dukakis came down on the side of the Senate conferees. Dukakis and Senate conferee Chester Atkins expressed concern that disclosure for executive branch officials, particularly those at the middle management level, could make it hard to recruit good people to office. Dukakis was also concerned about the impact of financial disclosure on his ability to recruit citizens to serve on unpaid state boards and commissions.\(^{106}\) He had nothing positive to say about disclosure for legislators, however. In the end, the House agreed with the Senate-Dukakis position on disclosure regarding who would have to file: all elected and appointed officials, candidates, and people who held a major policy-making position in state or county government, but not people serving without compensation or serving on a governmental board that had no authority to expend public money.\(^{107}\)

Aside from arguing against disclosure for state employees, Dukakis did not speak out publicly in favor of any aspect of the ethics bill in 1978. Had he been a strong supporter of the Common Cause petition — which was identical in many respects to the failed bills of 1973-1976 — there were a number of opportunities on which he might have spoken out. One was when the petition was filed. Another was when the Senate tried to delay the petition by requesting a Supreme Judicial Court advisory opinion on the constitutionality of financial disclosure and an independent commission. Common Cause, the Senate Ethics Committee and the Attorney General all submitted briefs on eight questions regarding the constitutionality of the petition.\(^{108}\) On May 27, the State Supreme Court ruled that only one provision of the


\(^{107}\) Bradbury, pp. 198-99.

\(^{108}\) Among these questions were whether financial disclosure 1) violated a right of privacy, 2) impermissibly added to the qualifications for office, or 3) violated the right to seek public office. Two additional questions were whether an independent commission violated the constitutional guarantee of the Senate and House of Representatives to be the final judge of the qualifications of its members and determine their own rules and whether the enforcement powers of the commission violated the right to trial by jury or separation of powers.
Common Cause petition was unconstitutional: the one barring legislators from being seated until they had filed a financial disclosure statement. The petition did not violate the rights of privacy, constitutional guarantees of separation of powers, or the legislature's rights to determine the qualifications of its members.\textsuperscript{109}

The ruling was not a surprise; these questions had already been litigated with similar results in other states, such as Michigan. No financial disclosure requirements or independent commissions had been overturned on the basis of claims like those made by the Senate Ethics Committee. With a judicial consensus that ethics laws similar to the proposed Massachusetts law were constitutionally sound, Dukakis need not have worried that by endorsing ethics reform, he could be advocating something unconstitutional. At the very least, he might have spoke out in favor of the principles behind ethics reform, if not the specific proposal under consideration. His only public comments on existing reform proposals expressed concern about the potential impact on recruitment to the executive branch; he mentioned no potentially positive impact on the legislative branch. Contrary to the common perception of Dukakis as an advocate of clean government and of proper government processes, then, his role in the passage of the 1978 ethics law was negligible. Unlike the California case where Governor Brown took a strong stand in calling for ethics reform, Dukakis was not a key player in the Massachusetts reform case.

What about the position of top legislative leaders on financial disclosure and an independent commission? In 1977, House Speaker Thomas McGee had led the leadership fight against many of the ethics rules changes, although he was outnumbered on many of those votes by reformers from his own party allied with members of the minority party (see Chapter Three). With regard to the 1978 ethics bill, McGee faced additional pressure. this time from Common Cause, which wielded the threat of an initiative petition that was virtually certain to

\textsuperscript{109} Bradbury, pp. 153-169.
succeed at the ballot in November. McGee still remained "steadfast in his opposition" to legislative ethics regulation, but his opposition in this case manifested itself more as petulant behavior than in the use of blocking tactics. For example, when the House held hearings on the Common Cause petition on May 1, McGee had his Majority Leader preside in his place to show his displeasure. When the House voted on May 31 to enact the financial disclosure and ethics commission law, McGee did not preside over the vote, delegating that task to a lieutenant; he also did not vote on the bill.

McGee's other actions reflected a similar distaste for ethics legislation combined with a reluctant acceptance of the legislation's eventual success. McGee's choice of conferees to the Senate-House conference committee is instructive in this regard. They were John Murphy, a trusted member of his leadership team and chair of the powerful Committee on Bills in the Third Reading; Sherman W. Saltmarsh, a Republican known for working with the Democratic leadership; and Democrat Robert Cerasoli, one of the ten original signatories to the Common Cause initiative petition and a long-time supporter of ethics reform. Thus he picked two legislators who could be expected to resist efforts to strengthen the existing proposal, but also one strong advocate of reform. Bradbury suggests that McGee and the House leadership may have been more supportive of the initiative petition than they had been of the ethics rules changes because this time around, it was an election year; they did not want to be seen as holding back ethics reform several months before the election.

Fewer Senate members were up for re-election in 1978 compared to members of the House, so the electoral imperative did not weigh as heavily on them. The House voted 199-28 in favor of the initiative petition, while the Senate rejected it 28-7. Senate President Harrington's opposition to ethics reform manifested itself in several ways. He led the drive to have the Senate Ethics Committee challenge the Common Cause initiative petition, as described

---

111 Bradbury, p. 215.
112 Ibid., Ch. 5.
113 Ibid., p. 184.
above. When that failed and the Massachusetts Supreme Judicial Court ruled the petition constitutionally sound, Harrington then used parliamentary maneuvering to support the substitution of a Senate Ethics Committee bill for the Common Cause petition. This move forced Common Cause to collect extra signatures to bring the proposal to the ballot.\textsuperscript{114} The Senate substitute, sponsored by Ethics Committee chair Chester Atkins, was weaker than the CC-House bill in several respects, particularly regarding exemptions to financial disclosure. This substitute passed and a conference committee was called to hammer out differences between the two chambers. On May 16, Harrington chose as his three appointments to the conference committee three men who had "publicly expressed disapproval of the CC initiative petition."\textsuperscript{115} These were Chester Atkins, John Olver and William Saltonstall. Saltonstall made an announcement that same day that he would not run for re-election and took the opportunity to attack financial disclosure as a hindrance to the recruitment and retention of good public officials. Harrington's conference appointees, more than House Speaker McGee's, reflected the oppositional stance of the Senate leadership toward ethics reform.

The House and Senate conferees made a number of compromises which reflected the Senate's demands that the initial Common Cause proposal be watered down. Disclosure would include trusts but not inheritances; and spouses and dependent children of public officials would only have to report the source, not the amount, of their economic interests. The Senate also won exemptions for disclosure of home mortgages, educational loans, alimony and child support obligations, and debts owed to relatives.\textsuperscript{116} Finally, the House conferees acquiesced in the Senate demand that three members of the five-member ethics commission would constitute a quorum. Rep Murphy, the trusted lieutenant of Speaker McGee, often sided with the Senate in demanding these various weakening changes. Client disclosure was also eliminated, with Common Cause agreeing this would go too far in the direction of violating public officials' privacy.

\textsuperscript{114} Ibid., p. 181.  
\textsuperscript{115} Ibid., p. 183.  
\textsuperscript{116} Ibid., pp. 189-191.
Despite these changes which weakened the initial financial House-Common Cause disclosure requirements, the conferees actually strengthened the disclosure requirements in four regards: by requiring the reporting of honoraria from lobbyists, of creditors who had forgiven debts, of businesses from which a leave of absence had been taken, and of equity in businesses recently transferred to a family member.\footnote{Ibid., p. 192.} The Senate conferees also fought against the House/Common Cause provisions prohibiting lawyer-legislators from appearing before most state agencies for compensation, but in the end gave in on this point. They also concurred "with strong protest" in the House proposal for a $100 cap on gifts from lobbyists, in exchange for the House accepting the more detailed Senate language regarding categories of value to be reported.\footnote{Ibid., p. 198.}

These various changes in the original CC petition were what one observer referred to as a "legislatively choreographed effort" designed to achieve a compromise with Common Cause. A Boston Globe article on May 16, shortly before the conference committee met, stated that "The goal of the strategy is to have the Legislature produce an ethics bill that meets Common Cause standards. If that happens, Common Cause would drop its plans to put its original version of the ethics bill on the November ballot."\footnote{Norman Lockman, "Ethics Bill Headed for Conference," Boston Globe, May 16, 1978.} The strategy worked. An interesting question is why CC was willing to compromise with the Legislature, when it had already gathered enough signatures to put its own bill on the ballot in November. Perhaps the major reason had to do with growing criticism of the CC petition by the media. Even the Boston Globe, which was a strong supporter of the principle of ethics legislation, published editorials criticizing the "flawed" provisions of the petition, and urged CC to accept a "reasonable compromise" with the Senate, to spare the public from "the absurd choice between flawed reform and no reform at all."\footnote{Editorial, "Ethical Balancing," Boston Globe, April 25, 1978; also Editorial, "An Ethical Compromise," Boston Globe, April 28, 1978.} It is likely that Masachusetts/Common Cause executive director Jay Hedlund recognized that the organization's reputation would suffer some damage...
if CC steadfastly refused to compromise with legislators, particularly given that the major print media outlet had come out publicly in favor of at least some of the Senate's more moderate language on reform.

The impact that direct democracy institutions had on the passage of the financial disclosure-ethics commission bill in May 1978 cannot be underestimated. Although the proposal never went to the ballot, Common Cause's use of the ballot process to play hardball with the state legislature on reform was an important factor in its ultimate success. Although Common Cause did compromise with the Senate and the House on the specific provisions of reform, in the end the public interest group got the main things it wanted. Most important were statutory financial disclosure requirements and the coup de grace, a truly independent ethics commission with three members to be appointed by the Governor, one by the Secretary of State and one by the Attorney General. Common Cause also succeeded in having the rules changes of the previous year regarding gift limits and limits on lawyer-legislators appearing before state agencies included in the new law. In addition, a one year post-employment lobbying prohibition for former state elected officials, including legislators, was included, although a concession was made at the request of the House leadership that the ban would not take effect until February 1, 1979. Overall, then, this was a comprehensive and detailed ethics law which gave Common Cause a decisive victory. Without the threat of the initiative process to prod legislators, the public interest group may not have been able to get the legislature to accept so many of its desired regulations.

To summarize, in Massachusetts as in California, reform success was preceded by a major legislative scandal — in this case, one involving two powerful legislators, one from each chamber — whereas the period of failure was characterized by no scandals involving legislators, governors or other statewide officials. There was an increase in compensation between the period of reform failure and success, but it was significantly smaller than the pay hike in California, and secondary source accounts of reform success make no mention of the

---

121 Bradbury, p. 208.
raise as a factor contributing to reform success. Party competition was not associated with success versus failure. In fact, success followed a decline rather than an increase in party competition. Finally, legislative leaders — both the House Speaker and the Senate President, along with some key committee chairmen — attempted to block and to weaken reform, while the governor was largely neutral in the reform process. Whereas the previous governor during the period of reform failure paid no attention to the issue of legislative ethics or the need for new ethics laws, Dukakis' stance on reform was if anything negative. Thus there is no evidence that gubernatorial support contributed to reform success.


On June 31, 1987, the New York Legislature and Democratic Governor Mario Cuomo announced that they had reached an agreement on an ethics bill which had been a source of considerable conflict and publicity. The bill, passed unanimously by the Assembly and Senate two days later and then signed by the governor, was described by the New York Times as "perhaps the biggest victory of Cuomo's term in office." Just three months earlier, Cuomo had vetoed an ethics bill drafted by the legislature without his input, calling it unacceptably weak and demanding that legislators go back to the table and address some of his concerns. His victory represented the coming to fruition of a year of effort on his part and even more years of effort by legislators.

The bill enacted in June strengthened New York's existing ethics-in-government statute in several regards, particularly regarding financial disclosure, representation of clients before state agencies by lawyer-legislators and ethics enforcement. The existing law had required financial disclosure only where the entity in which an official had an interest that was "subject to the jurisdiction of a regulatory agency" unless that official himself determined "in his discretion" that the interest "might reasonably be expected to be particularly affected by

---

124 Ibid., pp. 326-7.
legislative action." The new law moved far beyond leaving disclosure to legislators' discretion and required them to file extensive financial disclosure forms. Covered items included offices and directorships; business and professional positions; interests in contracts with state and local government; sources of gifts and reimbursements; interests in trusts; post-employment agreements, real property and securities held; and importantly, sources of income over $1,000. Unlike the rest of the financial disclosure form, however, the amount of income — listed as a range of values — would be kept confidential and shielded from public view. Failure to file or filing a false statement would now be punishable by up to $10,000 or a year in prison.

The new law also eliminated exemptions in the existing statute regarding lawyer-legislators' appearances before state agencies. Finally, the 1987 law introduced a new enforcement mechanism to replace the very weak existing system which consisted of an Advisory Committee on Ethical Standards in the Attorney General's office, whose purpose and power extended only to issuing advisory opinions on the application of the ethics code. The 1987 law created an independent Ethics Commission to monitor executive branch officers and employees. Jurisdiction over legislators was placed in the hands of a new eight-member Joint Legislative Ethics Committee consisting of four legislators from each party. Cuomo had wanted legislators to be under the jurisdiction of the independent commission, but he lost out on this point. Both oversight bodies were given the power to impose civil penalties up to $10,000 for violation of the conflict of interest rules as well as failure to file or false filing of the disclosure form.

125 New York Public Officer Law, 73 (6).
126 These forms covered not only the finances of legislators themselves but also the finances of their spouses and dependent children. In addition, legislative aides and state employees earning over $30,000 per year) to file extensive financial disclosure forms.
127 Ibid., 73 (3).
128 Importantly, quasi-judicial appearances such as those involving denial of a liquor license were no longer allowed. The final version of the ethics act banned legislators from representing clients on a wide range of issues: purchase, sale, rental or lease of property, rate-making, adoption or repeal of regulations, obtaining of grants and loans, licensing, and franchising. Other members of legislators' law firms were still allowed to appear before state agencies for compensation, however. Ibid., 73 (7).
The 1987 Ethics Act had its genesis in bills championed earlier by Democratic Assemblyman Oliver Koppell and Alexander Grannis, and by Democratic senator Franz Leichter. Grannis had introduced a financial disclosure bill in the House as far back as 1978, which never made it out of the Committee on Governmental Operations. I focus here on the efforts that began in 1985 since the bills which failed in that year were more similar to the successful bill of 1987. On January 9, 1985, Leichter and Grannis, both liberal Democrats from Manhattan, introduced bills in the Senate and Assembly respectively. Leichter was a member of the Senate minority party while Grannis was a member of the Assembly majority party. Their virtually identical bills called for annual financial disclosure, including requirements that legislators report the sources of income in categories of value above $1,000 and that they report honoraria over $100. The reports for legislators would be filed with the clerk of the assembly and secretary of the senate, while those for executive branch officials would be filed with the secretary of state. Violation of the law would constitute a misdemeanor. Both bills languished in the Committee on Governmental Operations without coming to a vote.

In 1986, Grannis reintroduced his bill in the Assembly. Three other financial disclosure bills were introduced later that year in the Assembly. One of these was a leadership bill sponsored by Assemblyman Koppell, (D-Bronx), a liberal chair of the judiciary committee and a member of Ways and Means. The Koppell bill was very similar to Grannis' original financial disclosure proposal; it required reporting of sources of income above $1,000, as well as reporting of gifts aggregating $250 from a single source (with

130 The New York Red Book describes these two legislators as liberal. Grannis received consistently high ratings from Americans for Democratic Action, a liberal group which ranks state legislators and Congressmen on the basis of their voting records. Leichter was a member of the Democratic-Liberal faction of the Democratic party, whose main issues included consumer legislation, tenants issues, and sweatshops. New York Red Book, 1985-86, p. 102.
132 A. 4163, A. 10360, and A. 11547.
133 The liberal description comes from the New York Red Book for 1986.
important exceptions for transportation, lodging, food and entertainment). Koppell's bill was weaker with regard to the disclosure of gifts and certain financial information than the non-leadership bill of Assemblyman Grannis. This bill received a favorable report from the Committee on Governmental Operations, passed through Ways and Means and the Rules Committee, and the Assembly voted in favor of it on June 26 by a vote of 144-1.

In the Senate, however, Leichter's reintroduction of his financial disclosure bill from the previous year met with less success. It was not reported out of the Committee on Governmental Operations. An even bigger blow to the cause of ethics reform occurred when the Assembly sent the Koppell bill to the Senate for concurrence on June 25. The bill was referred by Senator President Warren Anderson to the Committee on Finance — an unusual move given that it was not a financial bill — where no further action was taken on it. President Anderson, an attorney, had already expressed his opposition to the bill, in particular to the limits it contained on lawyer-legislators representing clients before state agencies. Governor Cuomo, in a public address later that day, said he "regret (ted)" the refusal of the Republican majority in the Senate even to allow public debate of my recommendations ... I will continue to urge Senator Anderson to reconsider this position."

Why did ethics reform fail to come to a vote in either house of the legislature in 1985, succeed in the Assembly but fail in the Senate in 1986, and then succeed a year later in June 1987? The first factor to consider is the potential role of scandal in facilitating reform efforts. In 1983 and 1984, the New York Times reported no major conflict of interest scandals involving legislators, the governor or other statewide officials. In May 1985 the Times reported that the state investigative committee was holding hearings on evidence that state

---

134 Assembly Journal 1986, pp. 1416-1420.
135 Ibid.
137 Public Papers of Governor Cuomo, speech of June 26, 1986, p. 948.
138 See New York Times Index for New York State under the headings of legislature, governor, and politics and government.
employees violated the law by helping landlords negotiate leases on office space for state agencies. However, the investigation did not lead to any indictments or convictions and did not receive further publicity. Beginning in January 1986, news broke of a federal investigation into a bribery scandal involving the New York City Parking Violations Bureau and the leasing of contracts to collect fines from parking scofflaws. Federal prosecutors said in January that as much as $2 million in bribes had been paid by bureau contractors over the previous five years; that figure was later increased to almost $4 million paid or promised to city and Democratic Party officials.\textsuperscript{139} As the scandal — described as the city's "worst corruption scandal in decades" — played out that year, the Queens Borough President of the Democratic party was implicated and later committed suicide.\textsuperscript{140} The Bronx Democratic Party chairman was also indicted on bribery and racketeering charges. The scandal received considerable attention from the New York Times, and also led to comments by both New York City mayor Ed Koch and Governor Cuomo about the need to eliminate corruption in city contracting. Cuomo called in December for a commission to investigate city corruption. However, it is important to note that this was a scandal involving city, not state officials.

Late in 1986, after the legislature had already convened for the year with the Senate failing to support ethics reform, a big scandal broke that centered on state legislators rather than city officials. The \textit{New York Times} reported in October that a federal grand jury was investigating two Democratic members of the state Assembly, Reps. Lipschutz and Cohen, on charges of placing no-show employees on the office payroll. Paying employees who did not perform any work was an even more egregious misuse of public funds than the more common practices of nepotism and patronage. In this case, the employees were secretaries from the law firm of the special counsel to the Assembly Speaker. In the following months, more state legislators were implicated. The records of all 18 representatives from Manhattan were subpoenaed in March 1987, and Lipschutz resigned after the Assembly Ethics Committee recommended she be censured for the no-show jobs. The scandal widened over the course of

\textsuperscript{140} \textit{New York Times Index}, March 14, II, 1:1.
the year to include the Senate Minority Leader (Ohrenstein, a Democrat), and five other Democratic senators. In total, eight state legislators were charged with payroll abuses, including charges of using legislative aides to perform campaign work.

The legislative payroll scandal, which centered on misuse of public power by members of both houses of the legislature, seems to have helped push the cause of legislative ethics reform to a more central position on the legislative agenda. Just a month after the scandal broke, both Republican and Democratic leaders of the legislature announced that they would support a broad ethics measure to curb officeholder abuses, including a provision for detailed financial disclosure. On April 7, both houses of the Legislature — including the previously recalcitrant Senate — voted overwhelmingly for stricter ethics rules governing themselves and others. The vote was 57-0 in the Senate and 142-1 in the House. Governor Cuomo, however, called it unacceptably weak and vetoed it. As I describe in more detail later in the case study, the legislature rewrote much of the bill to meet his demands.\(^{141}\) The *Times* reported in July that Cuomo was able to "rally public sentiment in favor of the ethics code and against the legislature in large part because of the investigations by half a dozen different prosecutors into legislative payroll abuses."\(^{142}\) In this changed political environment, with negative media attention focused directly on the legislature, it became more of a political liability for legislators to continue balking at strong ethics reform. Under these circumstances, Cuomo was finally able to get the support of Senate President Anderson and other legislative leaders who had wanted to water down his proposals.

What about the potential role of increased compensation in facilitating ethics reform success in 1987? In 1985 and 1986, the period of reform failure, annual compensation was $43,999.\(^{143}\) The only state that paid its legislators more was Michigan. However, legislators wanted a raise, and on July 11, 10 days after the ethics bill was signed, they voted themselves a 33.7% salary increase, bringing the annual salary to $57,500. A New York Times article on


\(^{143}\) *Book of the States*, 1986-87.
July 2, two days after Cuomo and the legislature announced their agreement on the ethics bill, suggested that a deal regarding the salary increase had been "struck with Senate Republicans to win passage of the ethics code."\textsuperscript{144} Cuomo's aides told the Times that the governor had played "hardball" with the Senate majority leader on the pay raise issue, threatening to hold up the raise unless he agreed to support the ethics bill Cuomo wanted (with some important concessions). To get the raise, the majority party in the Senate (and in the Assembly) agreed to give Cuomo enough of what he wanted to assure that this bill did not meet the same fate as the bill vetoed by the governor two months earlier.

Party competition did not seem to play an important role in the success of ethics reform in 1987. In 1985 and 1986, the years when reform languished, there was a Democratic governor (Cuomo, first elected in 1982) and a Democratic Assembly (97-52). As during the past 50 years, the Senate was controlled by the Republicans. That year they had a nine-seat margin, with 35 seats to the Democrats' 26. In the 1986 elections, Cuomo was re-elected and the Senate stayed in Republican hands with the same numbers, 35-26. The Democrats did lose three seats in the House, but this was not really significant in that they still had a 38-seat lead, controlling 62.6% of the seats as opposed to 65.1%. The 1986 electoral change was not big enough to be considered as a serious increase in inter-party competition, since control of the Assembly, Senate and executive branch remained in the same hands, with no change in the numbers in the Senate and only a small change in the Assembly.

As the above account suggests, the legislative leadership, particularly in the Senate, was not an enthusiastic supporter of strong conflict of interest regulation. In 1985, there was no push by legislative leaders in either house to bring the Leichter and Grannis bills out of committee. The next year, a leadership-sponsored bill did make it to a vote in the assembly, but as described above, this bill was weaker than the non-leadership bill on disclosure, gifts, and representation limits. The New York Times suggested that top leaders in the Assembly and Senate "demonstrated considerable discomfort" during informal discussions about stronger

proposals floated by the Governor and by strong legislative supporters of ethics reform such as Grannis and Leichter. On the day Cuomo formally introduced his proposal, April 27, Spokesmen for Assembly Speaker Stanley Fink and Senate Majority Leader Warren Anderson refused comment. As the legislative session went on, Anderson's opposition became evident. As discussed above, he refused to let Cuomo's plan, which was approved with modifications by the Assembly, come to a vote in the Senate. Regarding the provision to limit lawyer-legislators' appearances before state agencies, he said publicly, "I just don't see the need for it."  

In March and April 1987, the four top legislative leaders — new Assembly Speaker Mel Miller, Assembly Minority Leader Clarence Rappleyea, Senate Majority Leader Warren Anderson, and Senate Minority Leader Manfred Ohrenstein — met to discuss the Cuomo plan. During these negotiations, Anderson again played a key role in weakening Cuomo's proposed legislation. The new Assembly Speaker, Miller, said that he went along with the weaker Senate version of the legislation "to win Senate support of some kind of ethics bill when the Legislature was being criticized on ethics issues." He asserted that the Assembly had "given in" to a weaker ethics bill only as a "last resort" — to get some legislation rather than none at all.  

The Senate version was weaker for several reasons. First, it exempted from the ban on appearances before state agencies all "quasi-judicial" proceedings. It also allowed members of legislators' law firms to appear before all state agencies; Cuomo had wanted these attorneys covered in the ban as well. Also, political party officials were allowed to appear before government agencies on behalf of clients. Second, while the financial disclosure provisions of

148 These included proceedings conducted by the state Tax Commission, Insurance Department, Workers Compensation Board, Unemployment Insurance Appeals Board, Department of Social Services, Department of Labor, State Liquor Authority, and the Office of Professional Medical Conduct.
the leadership bill were more comprehensive than those of the existing statute, the enforcement provisions were actually weaker than those required by current law, according to a memorandum by the Attorney General. And of course, the provision for a legislatively-controlled Ethics Committee rather than an independent commission to oversee legislators' compliance with the law represented a substantial watering-down of Cuomo's original plan. Whereas the weakened financial disclosure and lawyer-legislator provisions were primarily the work of the Senate leadership, Assembly leaders were equally adamant in insisting on legislators' autonomy to monitor their own ethics.

It appears that the most potent opposition to strong ethics reform — the proposals of Cuomo and the initial legislative sponsors — came from Senate Republican Majority Leader Anderson. But the gamble Anderson and the Assembly leaders who went along with him made, that the bill would be acceptable to the governor, failed. After Cuomo vetoed the leadership bill, the leaders went back to the table and restored a good number of the provisions Cuomo had wanted: 1) limits on quasi-judicial appearances, 2) limits on written communication with state agencies by lawyer-legislators on behalf of clients, and 3) limits on county-level political party chairmen appearing before state agencies. They also restored the provision for jail terms for violation of financial disclosure requirements and agreed to an independent audit of the legislature, as well as other parts of state government. However, the leadership held firm on the matter of separate ethics enforcement bodies for the executive and legislative branches, and also won on the matter of lawyer-legislators disclosing the identities of their clients.

The preceding account of reform success in 1987 suggests that the governor was a strong supporter of legislative ethics regulation. I now turn to a closer examination of the governor's role in the ethics reform process, both during the period of reform failure and success.

151 The final bill said no such disclosure would be required.
Lieutenant Governor Mario Cuomo first ran for governor in 1982 on an anti-Reagan platform; corruption, conflicts of interest, and legislative ethics were not part of his campaign. In his first annual address on January 5, 1983, Cuomo discussed the need to increase state funding of programs for the poor, in particular Medicaid. He did not mention legislative ethics as a priority.\footnote{152} In 1984, Cuomo's annual address emphasized job training programs, education, housing, and aid to the homeless. The next year, his priorities changed somewhat from the first two years in which he had focused on programs for the needy. In his 1985 State of the State address, Cuomo called for tax cuts and a decrease in the state debt. Within this framework of budget adjustment, he argued that additional money should be appropriated to build public housing units, raise teacher salaries, and clean up the environment.\footnote{153} Again, there was no mention of legislative or political ethics. In December 1985, Cuomo called a special session of the legislature to address proposals for malpractice insurance, environmental clean-up, and housing that had been blocked by the Republican Senate.\footnote{154} Although ethics bills had been introduced in the House and Senate that year, including one by a liberal Democrat, Cuomo did not push for any sort of ethics legislation in 1985. He made no mention of ethics reform in his public addresses that entire year.\footnote{155}

In January 1986, Cuomo's State of the State address again emphasized cleaning up the environment and housing for the homeless, as well as jobs for welfare applicants and economic development. Again, there was no mention of ethics legislation.\footnote{156} After the New York City parking bureau scandal broke later that month, however, Cuomo, along with mayor Ed Koch, became interested in anti-corruption regulation pertaining to the legislature. Cuomo had issued an executive order shortly after taking office which required his appointees serving in policy making positions to file more detailed annual financial disclosure than that required by statute.

While this order was designed to set a high standard for the executive branch, Cuomo did not propose any similar legislation for legislators until the 1986 city scandal apparently sparked his interest.

On April 27, 1986, Cuomo introduced his own ethics proposal which covered legislators as well as executive branch officials. As discussed above, it included provisions for expanded financial disclosure, limits on lawyer-legislators, and an independent commission. As outlined in the previous section, the Assembly passed it but the Senate majority leader refused to allow public debate of the proposal despite a favorable committee recommendation. In a public address to the Citizens Crime Commission and in public comments from the executive chamber in May and June 1986, Cuomo attacked the Senate leader for refusing to support his bills. More significantly, he said he would make legislative ethics reform a campaign issue when he ran for a second term in November. His Republican challenger in the election, Andrew O'Rourke, also made corruption one of his top campaign issues.\footnote{New York Times Index 1986, May 30, II, 2:1, also June 4.} Not only Cuomo but also O'Rourke frequently discussed political corruption and the need for politicians to hold higher ethical standards during the campaign. It is plausible that the attention of both gubernatorial candidates to the issue of political ethics helped move legislative ethics reform to an even more central place on the agenda. Ethics and conflict of interest had moved out of the periphery earlier that year with Cuomo's late-in-the-legislative-session ethics proposal, but it would gain additional fuel from the emphasis by both candidates on these issues during the campaign.

In January 1987, Cuomo began the year by renewing his call for ethics legislation, saying he would make it a priority for the legislative session. He vowed to press for enactment of the proposal which had failed the previous year, in particular the provisions for financial disclosure by legislators, limits on lawyer-legislators appearing before state agencies, and an independent ethics commission.\footnote{Jeffrey Schmaltz, "Cuomo Emphasizes Curb on Spending," New York Times, January 8, 1987.} This was the first year that Cuomo started off by making legislative ethics a priority. We have seen in the above discussion how he kept the pressure on
the legislature as the year went on, vetoing the weaker version of reform that the Senate and Assembly leadership drafted in April without his input. With the strike of his veto pen, Cuomo turned the issue into a high-stakes battle between himself and the legislature. As the discussion of legislative compensation suggested, Cuomo was not adverse to playing hardball by threatening to block a legislative pay raise. In the end, he succeeded in getting much of what he wanted, with the important exception of an independent ethics commission with jurisdiction over the legislative branch.

This evidence suggests, then, that the governor was a strong advocate of ethics reform and that he played a leadership role in the process. Indeed, it was his proposal which provided the starting point for debate in 1986 and 1987, rather than the Leichter or Grannis bills. It was Cuomo who insisted that legislators be barred from quasi-judicial appearances before state agencies, and that failure to file a disclosure form or false filing be considered a criminal act punishable by jail time. In the end the legislative leadership acquiesced on many points of contention with the governor. It is important to note that their position was precisely that — acquiescence — while the driving force behind stronger ethics laws was Cuomo. Had the chief executive been someone with a lesser commitment to ethics reform, legislative leaders would most likely have succeeded in passing their desired version of reform in April.

It seems, then, that legislative ethics reform in New York was facilitated by several factors. The first was a major scandal which ensnared members of the both the state Senate and state Assembly — including one member of the Senate leadership. This scandal put a negative media spotlight on the legislature, bringing the issue of legislative ethics to the forefront of the political agenda. Second, a substantial legislative pay raise in the year of ethics reform success seems to have been a factor in legislators’ willingness to give Cuomo the stronger reform package he wanted. Finally, beginning in the summer of 1986 Cuomo made legislative ethics regulation a top priority. The fact that ethics reform received the endorsement and attention of both candidates in the gubernatorial election of that year most likely helped focus media attention on the issue beyond the attention of the previous year. In April 1987.
Cuomo risked a veto override to get concessions from the legislature on the breadth and enforcement of the new restrictions. Finally, as suggested above, he used the "stick" of refusing to sign off on a pay raise as an additional weapon. All these factors likely contributed to the ultimate success of the bill at the close of the legislative session. While Cuomo had proposed ethics legislation in 1986, it was late in the year, only two months before end of the legislative session. By making it part of his campaign platform in the fall of 1986 and giving it priority status in public addresses after he was re-elected, he helped move the issue to the center of the legislative agenda.

2.10 Vermont: 1990-1996: A Cursory Exploration

While none of the three cases studies are examples of continued reform failure within a single state, I did consider the case of Vermont (an example of continued failure) with regard to the two key variables identified by the California, Massachusetts and New York cases. These variables are scandal and compensation. The consideration which follows is suggestive, not conclusive, since I did not conduct a complete case study.

Vermont today is one of three states that has no legislative ethics law or legislative rules pertaining to ethics or conflict of interest.\textsuperscript{159} Since 1990, Vermont Common Cause and supportive legislators have introduced a comprehensive ethics bill based on the Common Cause Model State Ethics Law, which would cover legislators as well as executive branch officers and other government employees. This bill contains a financial disclosure provision, a ban on representation before state agencies, and a one-year revolving door limit. None of these provisions have been enacted, however.\textsuperscript{160}

Why has Vermont failed to enact any substantive ethics restrictions for legislators?

Focusing on the years 1990-1996 (1996 is the end point for the analysis of this dissertation), we can look at variation in the two key independent variables from the three case studies of this

\textsuperscript{159} The other two are Wyoming and North Dakota. North Dakota and Vermont do have gift limits, however, under their lobbying statutes. Vermont has an executive branch ethics code and disclosure requirement, issued in 1988 by executive order of then-Governor Madeline Kunin.

\textsuperscript{160} Correspondence with Maria Thompson, chair of Common Cause Vermont, May 1999.
chapter. During this period, there were no major reported conflict of interest scandals involving legislators, the governor, or statewide officials.\textsuperscript{161} Also, annual legislative compensation in Vermont remained quite low during this time. In 1990 it was $6,750 per year; it rose to $7,680 in 1996. While this represents a 13.77% raise, the overall level is still very low relative to other states.\textsuperscript{162}

Low compensation and overall absence of scandal, then, may help explain Vermont's continued failure to enact a legislative ethics law in this period. In addition to Vermont, the states with the weakest legislative ethics laws in 1996 were New Hampshire, Idaho, South Dakota and Wyoming. All these states had relatively low compensation as of 1996 and also relatively few conflict of interest scandals for the entire period that ethics laws could have been enacted, 1954-1996.\textsuperscript{163} Just as the presence of scandals and increases in legislative compensation were associated with the success of ethics reform in the three cases of this chapter, states where both scandals and compensation have remained low for many years seem to be associated with continued failure to enact legislative ethics laws. In Chapters 4 and 5, I will use multivariate analysis to test this relationship for a large number of states over a 40-year time frame.

2.11 Summary of Case Findings

In the three main cases examined, there is evidence that political scandals involving legislators played a key role in the success of legislative ethics reform. There is also evidence that increases in legislative compensation made legislators more willing to accept regulation of their professional activities and outside-income earning potential. The evidence for the compensation-ethics reform link is strongest for the California case. There the two were directly linked in the 1966 legislation enacted by the legislature in July 1966. The raise there was the most significant (166\%) of the three cases, and is therefore most likely to have

\textsuperscript{161} See \textit{COGEL Guardian}, quarterly newsletter of the Council on Governmental Ethics (Los Angeles), 1988-1996.
\textsuperscript{162} Thirteen states had annual salaries lower than Vermont in 1996, according to data provided by John Carey.
\textsuperscript{163} I calculated cumulative scandal scores for each state for the period 1953-1996, using data from the \textit{New York Times Index} for all years, Department of Justice \textit{Annual Reports} from 1976-1996, and the \textit{COGEL Guardian} for 1988-1996 (see Appendix C for scoring of scandals).
facilitated a legislative tradeoff of higher pay for limits on outside income. In the New York case, the raise which was enacted the same month as the ethics legislation was also substantial (33.7%). The New York Times reported that the pay raise was part of a deal struck between the governor and legislative leaders to get legislative acceptance of the ethics reform bill. In Massachusetts, a 17.7% pay raise occurred 13 months before the financial disclosure-ethics commission bill was enacted, and seven months before changes in the legislative rules relating to ethics were passed. We can draw an inductive link between the increase and legislators' willingness to enact a strong ethics law in May 1978. However, the size of the raise is smaller than in the other two cases and there is no secondary source evidence suggesting that the raise did indeed affect legislators' calculations about the benefits and costs of ethics legislation.

In none of the cases did ethics reform success appear to be facilitated by an increase in party competition. In the Massachusetts case, the evidence even points in the opposite direction: that consolidation of unified control may have contributed to a more favorable environment for ethics reform. Regarding the role of governors and legislative leaders in the reform process, in two of the cases (California and New York), governors played a strong role in leading the drive for ethics reform. However, in Massachusetts, Governor Dukakis did not take a strong stand in favor of reform. He mostly stayed out of the fray until stepping in at the end to broker a compromise between the House and Common Cause, on the one hand, and the Senate on the other; he came down on the side of less extensive ethics regulation. Where governors did seem to make a difference in the success of ethics reform, in one case (New York) it may have been significant that the governor promoted ethics legislation as part of his campaign platform. I will incorporate this electoral dimension of potential gubernatorial influence into the analysis of the following chapters.

In two of the three cases (Massachusetts and New York), legislative power-holders opposed strong proposals for ethics reform. Interestingly, the strongest opposition in all the cases seemed to come from Senate rather than House leaders. In New York, this may have been due to partisan competition between a Republican Senate and Democratic governor, but in
Massachusetts and California, the Senate was Democratic and so was the executive branch and the House. In all three cases, Senate leaders took more steps to block reform than House leaders. In Chapters Four and Five, I will use variables that distinguish between House and Senate leaders to see if this difference is evident in the quantitative analysis as well.

While top leaders (speakers/Senate presidents or majority leaders) and chairs of the committees overseeing the ethics bills generally work to block or water down reform, in California the Assembly Speaker championed the cause of reform. In the California case, this leadership interest in an ethics code was inextricably tied to a broader interest in legislative modernization, particularly in terms of an increase in legislative salaries. In the other two states, legislative leaders only accepted reform under the intense pressure of external events and outside actors. Scandals and negative media publicity about the legislature itself, combined with a highly public effort by the governor of New York and the threat of a ballot initiative by Common Cause in Massachusetts, created a political environment in which leaders felt compelled to enact some version of reform. Legislative leaders in New York and Massachusetts wrested key concessions from these outside forces, however, refusing to allow Cuomo or Common Cause to fully determine the form that ethics laws and their enforcement would take.

One variable which was not included in the standardized questions appeared to be highly important in one of the three cases. In Massachusetts, the use of the initiative process was arguably an important facilitative factor in the success of ethics reform in 1978. Without Common Cause's threat to bring the matter directly to the voters, it is unlikely that the legislature would have supported such a strong version of reform. While California's ethics law was ultimately enacted through a constitutional referendum, I do not consider this form of direct democracy to be in the same category as the initiative process. This is because constitutional amendment questions which go before the voters must first be approved by the legislature in California and other states. Thus the constitutional referendum process does not provide a method of bypassing legislators, as does the initiative. In Chapters Four to Six, I
will consider whether states which have an initiative process are more likely to have stronger ethics laws. I will also consider the role of public interest groups in using the initiative as part of their organizational repertoires.

In addition, I will consider the potential impact that past failures and successes may have on reform outcomes at a given time (in Chapter Five, I include a variable which takes into account how recently a state enacted ethics laws, or whether it has not yet enacted any laws at all). As Skocpol argues in a different context, policy legacies (or non-legacies) can exert a powerful influence on future policy decisions (Skocpol 1988). On the one hand, where reform has failed for a number of years, that very failure may increase the likelihood of legislation being passed at a later date. Continued failure can help generate support for reform by making the need for reform seem even more pressing; importantly, the fact of continued failure can be used by reform advocates to justify the need for reform legislation. On the other hand, recent reform success may hinder the passage of additional ethics regulations, since legislators may feel they have done enough in addressing the problem of legislative ethics. Indeed, Rosenthal suggests that legislative ethics reform comes in waves, both within and across states (Rosenthal 1996). The issue of legislative conflicts of interest has been addressed and then revisited by the states at punctuated times between the 1950's and 1990's, with differing emphases in different decades. Looking at the dates of major successful reform efforts across the 50 states, we can see that very few states enact reform in one year and then additional reform in the next few years. There is often a period of a decade or more between enactments of major legislation. Thus recent successes may reduce the likelihood of policy action in the near future, just as continued failure may fuel the movement for new laws and increase the likelihood of reform success.

In conclusion, the case studies provide some initial findings regarding the contribution of scandal, legislative compensation, direct democracy institutions, governors and legislative leaders to the reform process. The two strongest results are that scandal and legislative

---

164 For example, financial disclosure was a central emphasis in the mid to late 1970's; honoraria and gift limits have been important in the 1990's.
compensation were found to covary with reform success. When scandals were present and compensation increased from its level during the period of reform failure, ethics legislation succeeded.
CHAPTER THREE

ROLL-CALL VOTING ON ETHICS MEASURES: 
THE INFLUENCE OF ECONOMIC SELF-INTEREST, 
INSTITUTIONAL POWER AND IDEOLOGY

3.1 Introduction

The previous chapter provided an initial exploration of various hypotheses regarding the success and failure of state legislative ethics reform, using the case study approach. I turn now to the quantitative analysis of variation in state ethics legislation, which will allow me to engage in theory-testing using a larger number of observations. I do this in two ways: first, through analysis of individual legislators' voting on ethics proposals in two states, and second, through aggregate, state-level analysis of variation in the ethics laws passed by the states in different periods.

This chapter, then, examines legislators' votes on nine ethics regulation proposals in two states in two decades, New York in 1965 and Massachusetts in 1977. It is commonly asserted that legislators are loathe to regulate their own ethics (Beard and Horn 1976; Katz 1985; Thompson 1995). Beyond this observation, however, political scientists have had little to offer in the way of a systematic explanation for why legislators, as individual actors, might oppose ethics laws, and what characteristics make legislators more or less likely to support conflict of interest regulation. There are two studies from the past five years which do analyze legislative voting on ethics reform; however, their scope is limited for reasons I describe below. One study by Clark (1996) looks at voting by members of Congress on the honoraria ban-pay raise bills of 1989. Because of the pay raise component, the emphasis of the article is on why legislators might support unpopular bills that are opposed by their constituents.¹⁶⁵ Bianco (1994) also examines legislators' votes on the 1989 Ethics Act and argues that certain legislator characteristics affected the degree of constituent trust, which gave the legislators

¹⁶⁵ As the abstract states, "This article examines the process of roll call voting when constituency pressures run counter to the desires of legislators." See John A. Clark, "Congressional Salaries and the Politics of Unpopular Votes," American Politics Quarterly, Vol. 24, No. 2, April 1996, p. 150.
leeway in voting for a pay raise. However, the focus of these two pieces of scholarship on a bill that was linked to a salary increase limits our ability to develop a more general explanation of legislators' positions on ethics regulation, since the ethics component was arguably overshadowed by the salary increase component in legislators' minds. Not all ethics bills are linked to pay raises, and it is important to understand the positions legislators take on bills that do not have a pay raise component.

Hypotheses regarding the bases of support for and opposition to ethics regulation among legislators have been put forth with regard to various reform efforts. With regard to the 1989 federal ethics bill, Clark includes as independent variables the following: personal economic factors, reelection considerations, ideology, and institutional power. His regression analysis shows that all these factors are significant in explaining how legislators voted on three roll call votes. Others emphasize some of the same factors with respect to other cases of ethics reform at the state level. For example, Bradbury (1996) suggests that certain members of the Massachusetts legislature opposed ethics reform in 1977 and later in the 1980's and 1990's out of fear that it would threaten their institutional power, while others supported reform efforts because of their liberal ideology. Loftus (1993) suggests that liberal Democrats who did not hold leadership positions in the legislature provided the core of support for ethics reform in Wisconsin in 1974. However, these assertions about the sources of support for and opposition to ethics regulation have not been systematically tested, particularly at the state level.

Today, 47 of the 50 states have conflict of interest statutes which regulate legislators, among other public officials. This fact suggests that at least a majority of legislators in these states, at certain times, have been willing to support these laws. This chapter tests seven hypotheses regarding the sources of legislators' support for and opposition to ethics regulation.

---

166 In particular, the amount of honoraria earned, previous electoral margin, ideology and seniority had consistent effects across the three votes.

167 Vermont, Wyoming and North Dakota have no statutes regarding legislative conflicts of interest or requiring legislators to file financial disclosure information. South Dakota has no conflict of interest statute but does require financial disclosure.

168 The exception would be if a state enacted all its' ethics laws entirely through the initiative process, which is generally not the case. Only half the states have initiatives and many which do not still have strong ethics laws.
3.2 Explanation of Votes Examined

The nine votes examined — five from Massachusetts and four from New York — involve a variety of conflict of interest measures. The range of ethics restrictions addressed in the votes include a numerical limit on gifts from lobbyists, requirements for financial disclosure, limits on lawyer legislators' appearances before state agencies, and the establishment of an independent ethics advisory commission. The votes therefore do not relate only to one narrow and specific type of reform measure. I adjust certain independent variables to reflect the particularities of the votes; for example, I include a variable for whether a member was an attorney in the votes on lawyer-legislators and on financial disclosure but not in the votes on gift limits, since occupational status is likely to be relevant in the first two types of votes but not in the third. Because the votes come from two states, the results are more generalizable than if they were taken from one state only.

The Massachusetts votes were all votes on proposed changes in the legislative rules of the House of Representatives. All five were amendments to a leadership-supported ethics measure. As rules changes, these votes received less publicity than, for example, the votes of the following year to enact changes in the state's conflict of interest statute. This is beneficial for a reason I discuss below: legislators may be more likely to show their true preferences when the vote is removed from the harsh spotlight of media publicity.

The same reasoning applies to two of the four New York votes. Of these four votes, two are final votes on legislation, while two are votes on earlier versions of proposed ethics regulations. This choice is deliberate. Were we to concentrate only on final votes, we would be unlikely to learn much about how legislators approach the prospect of ethics regulation. Final votes on ethics reform packages tend to be virtually unanimous. By the time final votes take place, many of the provisions which generate legislative opposition have been taken out or watered down so that the vast majority of members are able to support the final package. And since final votes are highly publicized, even members who oppose the final provisions are hesitant to go on record as being "against ethics reform." These votes do not tend to exhibit
significant variation since only a handful of members typically vote no. On the other hand, earlier votes and votes on legislative rules tend to be much closer and more contentious; they contain precisely the controversial provisions that generate serious opposition, and since the votes receive considerably less publicity, members may be more willing to vote against provisions they oppose. We are therefore more likely to see members reveal their true preferences when voting on earlier versions of ethics legislation or rules changes since these occur without the presence of the spotlight that characterizes final votes. There is less reason to worry that strategic voting may cloud the findings about why legislators supported or opposed the ethics proposals.

For all these reasons, then, votes on rules and early votes on proposed legislation highlight divisions within the legislature on proposed ethics regulations and illuminate the real sources of support and opposition. Three of the votes I consider in this chapter involved hours of contentious debate and the final tallies were quite close. For example, the May 4, 1965 proposal in New York on an amendment to bar legislators from virtually all representation before state agencies and require more detailed financial disclosure failed by a two-vote margin. One of the Massachusetts proposals passed by five votes, and another failed by a ten-vote margin (see below for description of particular amendments). Given the lopsided division of the House by party and the tendency for most votes to follow partisan lines, these votes were notably close.

Another benefit of the Massachusetts votes I examine is that they are votes on particularized amendments to a broader ethics package. These amendments are each focused on one specific conflict of interest provision (or at most two) rather than a melange of dozens of different provisions. This makes it easier to formulate hypotheses about support versus opposition, since it is clearer what members might be opposing, in comparison to a final vote on a bill that includes 50 different provisions.

3.3 The Votes in Historical Context
The first five votes I examine took place in the Massachusetts General Assembly in 1977. Massachusetts had enacted ethics laws in 1961 and 1962, making the state one of the early pioneers in addressing conflicts of interest in the two decades preceding Watergate. However, the financial disclosure provision enacted in 1961 was repealed the following year, and by the time the 1970's rolled around, Massachusetts lagged behind many other states in terms of requiring legislators and other public officials to disclose their business and financial activities. As described in Chapter Two, from 1972 to 1977, at least 13 legislators and Common Cause put forth a variety of ethics proposals which would have required financial disclosure, established an independent ethics commission, and restricted gifts from lobbyists. None of these bills ever came to a vote on the floor of either house; they were buried in committee in both the House and Senate.169

In 1977, things changed. In 1976, the Majority Leader and the Assistant Minority Whip of the state Senate were indicted and convicted on federal extortion charges.170 In response to this highly publicized scandal, both the lower house and the upper house of the state legislature took up the issue of ethics reform in 1977. In March 1977, the House voted on several proposals to change its legislative rules. Two of these proposals came out of a report by a special committee established by Speaker Thomas McGee in the wake of the extortion trial; these dealt with the establishment of a new standing committee on ethics. I do not consider these here since these votes were not just ethics-related but also reflected a separate battle that was brewing in the House over decentralization of power and the power wielded by the Speaker. The one proposal from March that I consider was to require the new House Ethics Committee to formulate a financial disclosure requirement, which was conspicuously not one of the special committee's recommendations. This controversial proposal was put forth by a young Democratic member named Ronald Pina (D-New Bedford).

170 See Chapter Two for more detail on this scandal.
The March 14 vote for financial disclosure passed 132-100 (see Table 3.1 for analysis of this vote and all other votes discussed below).

In addition to this March vote, I looked at four additional House votes that occurred in November of the same year. That month, the House took up the issue of ethics reform in a more sustained way, debating various proposals for a code of ethics over a 11-day period. Of these, I consider four amendments to the overall code which dealt with a range of potential conflicts of interest. One was a vote to restrict lawyer-legislators' appearances before state agencies; this passed by a wide margin, 166-51. The next vote was to weaken the proposed ethics code by requiring conflicts of interest to be "substantial" in order for the member to be in violation of the new law. This passed by a vote of 150-76. The third November amendment was to push forward the timetable for financial disclosure, requiring members to disclose their professional and business activities before the 1978 election. It failed by 10 votes, 105-115. The last November vote was to lower the proposed limit on gifts from lobbyists from $100 to $35. It passed narrowly by a vote of 108-103.

All but one of the Massachusetts votes I examine were put forth by Democrats, who were the majority party in the House at the time. The members who proposed the five "strengthening" amendments, Reps. Colo, Almeida, Pina, and Roche (Pina of New Bedford proposed two), were generally relatively junior in terms of years in office and also relatively liberal, as measured by their ADA scores. Only one was in a position of relative power within the house as a member of the Rules Committee; this was Rep. Pina, who had been a leading advocate of ethics reform over the past six years in the House and had an ADA score of 100.\textsuperscript{171} The member who put forward the amendment to weaken the proposed ethics code, Antone Aguiar of Swansea, was the chairman of the banks and banking committee and a close ally of the Speaker and Majority Whip.

In addition to the Massachusetts votes, I also examined four ethics reform votes taken in New York in May 1965. In March of the previous year, New York had enacted an ethics

\textsuperscript{171} Massachusetts Political Almanac, 1977-1978.
law which included a $25 limit on gifts to legislators from lobbyists and others with an interest in legislation, and also put in place the first post-government employment limit for legislators who would now have to wait two years after leaving office before they could become a lobbying agent. However, certain proposals advocated by a special committee appointed by Senate and House leaders — such as a ban on lawyer-legislators representing clients before the Court of Claims and most state agencies — met with strong opposition from legislators, particularly Senate leaders, and failed to pass.\textsuperscript{172} The ban on lawyer-legislators was an especially contentious issue. Forty-one of the 58 Senate members were attorneys, as were 90 of the 150 Assembly members. The \textit{New York Times} reported that before the Court of Claims alone, about 30 lawyer-legislators had cases pending as of March 1964.\textsuperscript{173} The final bill which did pass omitted the special committee's recommendation that lawyer-legislators be prohibited from practicing before the Court of Claims and other state agencies. It permitted practice before these agencies but did make it unlawful for lawyer-legislators to accept cases on a contingent basis. The final bill was attacked by the study commission which was frustrated to see many of its recommendations fail to be enacted, as well as by the New York State Citizens Ethics Committee, the Citizen's Union, a non-partisan public interest group, and the \textit{New York Times} editorial page. These advocates all urged that the legislature reconsider certain proposals, including the failed attempt at banning lawyers appearing before state agencies, a proposal for an independent state ethics commission, and expanded financial disclosure for legislators and other elected and appointed officials.

In 1965, the Democrats took control of the lower house for the first time in 30 years. The Republicans still controlled the governor's office and the State Senate. Bills were again proposed to strengthen the existing ethics code. In particular, Rep. Daniel Kelly, a liberal Democrat from Manhattan, sponsored two bills which received significant attention from the

\textsuperscript{173} Silbey, "Albany is Cool to Ethics Report."
*New York Times.* The first bill sought to ban state legislators and legislative employees from practicing for compensation before the State Court of Claims and many other state agencies — the same proposal that had failed the previous year. It also required more comprehensive annual statements of financial interests in businesses regulated by the state. After bitter debate on May 4, the bill failed in the Assembly by a vote of 71-73, but then passed 20 days later by a vote of 110-36 in a "surprising" turnaround. However, when the bill went to the Senate Finance Committee, the provision barring representation before the Court of Claims was deleted by the committee chairman, Samuel Greenberg, a lawyer with a sizable practice before the Court of Claims. Legislators were barred from representation before most other agencies, however, and the extended financial disclosure provision was retained.

The second New York bill I examine was a proposal to establish an independent state ethics commission consisting of seven members; three were to be appointed by the governor and four by the legislature. Thus the proposal would have stacked the commission slightly in favor of the legislature since it would have a one-person edge in appointing its members. The commission was to have the power to render advisory opinions, on request, with regard to the public officers' law. Requests could only be made by certain public officials and not by members of the general public. This bill would also have abolished the existing advisory ethics committee within the attorney general's office. Sentiment among legislators ran strong against the bill. Legislators argued that the existing advisory committee, combined with the advisory ethics panels in each house of the legislature, was adequate to the task of overseeing the state's public ethics law. Legislators particularly objected to the governor appointing three of the seven members to the proposed commission. The bill failed twice in the Assembly

---


175 See Schanberg, "Assembly, in Switch, Votes to Tighten Code of Ethics."

The exceptions regarding representation before state agencies included the Department of Taxation, the Division of Corporations, and also claims for workmen's compensation, disability benefits and unemployment insurance.Appearances on matters which were "prim See New York Assembly Bills, 1965, Intro. 235 arily mini.erial, not involving any substantial discretion on the part of any state agency" were also permitted.

176 New York Assem.bly Bills, 1965, Intro. 141

177 Schanberg, "Assembly, in Switch, Votes to Tighten Code of Ethics."
and never came to a vote in the Senate. On May 4, it went down by a vote of 66-78, and on May 24, it lost by an even wider margin, 50-82.

Thus I look at four votes for New York in 1965, in addition to the seven from Massachusetts. The first New York votes, on May 4, were preliminary votes on each of the two measures: 1) limits on lawyer-legislators and expanded financial disclosure and 2) establishment of an independent ethics commission. The other two votes were final votes on the same bills on May 24.

I use logistic regression to examine the propensity of legislators to support or oppose the bills. First I discuss the seven hypotheses to be tested. Information on the data used to measure the independent variables (and the dependent variables) is presented in Appendix B. Then I present results from the regressions and predicted probabilities for different values of key independent variables.

3.4 Hypotheses

1. Economic Self Interest

H1. Legislators who are attorneys should be more likely to oppose measures to restrict lawyer-legislators' appearances for compensation before state agencies.

H2. Legislators who are attorneys and businessmen should be more likely to oppose financial disclosure requirements, the strengthening of ethics committees, and the establishment of independent commissions.

Most research on legislative voting emphasizes the role of party, ideology, and district characteristics in explaining how legislators vote (Kindgon 1989; Arnold 1990; Poole and Rosenthal 1991). Only recently have scholars begun to consider the potential influence of economic self-interest on legislators' votes. While economic self-interest will not necessarily play a role in all types of votes, its influence has been examined, for example, in Congressional voting on pay raises (Bianco 1994; Clark 1996). In other work, I found that economic self-interest had a strong influence on U.S. Senators' votes on honoraria reform in
the 1980's, with members who earned more in honoraria being more resistant to placing a ceiling on the amount of honoraria that could be earned (Rosenson 1997).

I start by assuming that legislators care not only about their political survival (Mayhew's "electoral connection") but also about their economic well-being. In other word, legislators' voting on ethics proposals may plausibly be influenced by the economic interests they have at stake. Ethics proposals of the kind examined here would certainly affect legislators' economic well-being, by limiting their outside income potential (for attorneys); requiring public exposure of certain business interests, sources of income, and clients; and placing their activities under the scrutiny of various oversight agencies. The above two hypotheses follow from this premise that legislators will resist proposals that could impact negatively on their professional and business activities.178

II. Institutional Power

H3: Legislators who are institutional power-holders (top leaders, chairs of committees or members of key committees) should be less likely to support ethics laws than non power-holders within the legislature.179

H4. Members of the majority party should be more likely to oppose ethics reform than members of the minority party.

Put simply, those who have political power should tend to oppose proposals to restrict the benefits that flow from holding a position of power. There is historical evidence that institutional power-holding indeed has served as an obstacle to anti-corruption and other

178 It would be ideal to include measures of members' outside income as well as dichotomous variables which measure particular occupational affiliations. It is plausible that members who are not independently wealthy and depend more on outside income are more likely to oppose proposals to regulate outside income. However, this information is not available for the states in these years. States generally keep financial disclosure information for less than 10 years, and the information is notoriously imprecise even when it is available. One problem with the information even when it can be obtained is that it does not distinguish between wealthy, very wealthy, and extremely wealthy. For most states, the highest category is something like $250,000 or over, with no distinctions above that point. Additionally, trusts generally do not have to be reported at the state and federal levels; thus, for example, Senator Ted Kennedy, a multimillionaire, appears from his financial disclosure form to be a near-pauper with under $100,000 in assets.

179 The variable leadership was measured as equal to one for members who were Speakers, Senate Presidents, Majority Leaders, committee chairs, or belonged to the Ways and Means or Rules committees; it was equal to zero otherwise. See Appendix B for details.
political reforms. Studies of Progressive era political reform efforts show that political leaders in the states tended to oppose attempts to "rewrite the rules of the (political) game" and reduce their "special privilege."180 Wiebe (1967), Thelen (1976), and Gould (1978) argue that this pattern of opposition to Progressive political reform among members of the majority party and especially, among power-holders within the majority party, could be discerned in a number of different states.181 With respect to ethics reform in the states during the period examined in this dissertation, Loftus (1992) and Bradbury (1996) have hypothesized that critical support within state legislatures came members who did not hold positions of institutional power.

For purposes of testing these two hypotheses, the question is: how do we define institutional power? I start by noting the emphasis that studies of legislative organization have placed on the role of committees in the legislative structure (Polsby 1968; Shepsle and Weingast 1979, 1987, 1994; Weingast and Marshall 1988; Rohde 1991; Hall 1993). In particular, New Institutionalists such as Weingast and Marshall (1988) and Shepsle and Weingast (1979, 1987, 1994) emphasize the centrality of committees in determining policy outcomes. The power of committees to set policy agendas, bring matters up for a vote, and "bias outcomes in favor of their preferred alternatives" is critical to understanding legislative organization.182

Within committees, the main power rests with chairs and chairs of sub-committees. In the New York legislature in 1965 and Massachusetts legislature in 1977, sub-committees were not prevalent and we can therefore focus on standing committees as the key loci of power. Top leaders, committee chairs, and also members of important committees such as Ways and Means

---

181 Wiebe (1967) and Thelen (1976) argue that the establishment of initiative, referendum and recall provisions — as well as railroad regulation and other attacks on "special interests" and their beneficiaries in state government — tended to be opposed by power-holders within the majority party, but supported by insurgents within the dominant party and by members of the out-party. Wisconsin, California and Iowa are examples of states where this is argued to have occurred.
and Rules tend to receive more material benefits from office-holding than other members from special interest groups and others with an interest in legislation (Parker 1992).

For example, studies of Congressional honoraria have shown that honoraria flowed disproportionately to committee chairs in the 1980's (Congressional Quarterly 1982, 1983; Parker 1992). This also tends to be true of campaign finance contributions, which flow disproportionately to top legislative leaders such as the Speaker, Majority Leader and Senate President; to committee chairs; and to members of the majority as opposed to the minority party. We might also expect gifts such as entertainment and travel to be distributed disproportionately to legislators who hold positions of power within the legislative structure. These benefits of office are often the target of "reform" efforts because their exchange between special interests and legislators threatens legislative judgment or legislative autonomy, to use Dennis Thompson's terminology. For reformers, the fact that the pattern of exchanges is so highly skewed in terms of which legislators receive the benefits only highlights the extent to which material benefits are clearly being used to influence the policy process.

Assuming that legislators want to maximize the benefits such as gifts and business opportunities that they receive from office, it makes sense that legislators who are the recipients of a relatively large quantity of such benefits will resist efforts by political reformers to regulate their flow. They may also oppose ethics laws for a more general reason: because these laws pose a threat to the very position of power they have worked so hard to attain. Any ethics law carries with it the potential for exposure of unethical behavior under the provisions of that law. Power-holders realize that the media likes to publicize ethical lapses involving elected officials — especially powerful officials — because of the imperatives of journalistic competition and the system of rewards within the journalistic community. Such media publicity, of course, has potential electoral repercussions. Thus ethics laws may pose a bigger political danger to, for example, the chairman of the banking committee, than to a first-year legislator who sits on several obscure committees. On the other hand, we would expect non-power holders, both
within the legislature as a whole and within the majority party more specifically, to be more likely to introduce and to support regulatory legislation.

III. Ideology

H5. Members who are more liberal should be more likely to support proposals to regulate legislative ethics.\(^{183}\)

Numerous studies have shown a clear influence of ideology on individual-level voting by legislators and on overall policy outcomes at the state and national levels (Barrilleaux and Miller 1988; Poole and Rosenthal 1991; Alt and Lowry 1994; Barrilleaux, Holbrook and Langer 1997; Berry, Ringquist, Fording and Hanson 1998). Ideology is generally measured on a traditional liberal-conservative continuum in these and other studies, which show that liberal ideology is associated with more generous policies in areas such as welfare provision, disability benefits, and environmental protection.

The implications of ideology for ethics regulation have been considered by several political scientists. In my study of Congressional voting on honoraria legislation in the early 1980's, I found that ideology did not predict members' support for honoraria limits (Rosenson 1997). However, Clark (1996), found that liberal ideology increased the likelihood of members of Congress voting to support three ethics measures in 1989. Loftus (1992) and Bradbury (1996) have also suggested that liberal state legislators had a positive influence on the passage of ethics laws in Wisconsin and Massachusetts in the 1970's. None of these authors really explains why this might be the case, however. Clark's explanation of why liberals (measured by ADA scores) might support the three bills he examines is inextricably linked to the pay raise component of those bills. His argument is that conservatives who favor a smaller national government and/or a return to a citizen legislature should oppose a pay raise while liberals should support it. A rationale can be put forward, however, that pertains more directly

\(^{183}\) While ADA scores were available for Massachusetts to use as measure of ideology, for New York no such scores were available for the year 1965. Therefore I used the percent of the member's district vote that was captured by the Liberal party in the most recent general election; Feigert (1968) suggests that this is a good measure of traditional liberal-conservative ideology at the district level. See Appendix B for details and sources for the data.
to the "ethics" component of the legislation, meaning the fact that the bills propose limits on outside activities of legislators in an attempt to regulate potential conflicts of interest. What ethics regulation fundamentally does is to place restrictions on public officials' economic activities, e.g. their ability to earn outside income and to reap other financially valuable benefits such as gifts from lobbyists. We can hypothesize that more liberal members will be more likely to support such economic regulation, and more conservative members will be more resistant to such limits on economic activity. In a sense, ethics regulation can be likened to tax policy, which regulates the economic activity of citizens and businesses; we would expect to see the same liberal support and conservative opposition to this type of regulation that we see, for example, with proposals to raise taxes.

IV. Electoral Marginality

H6. Members who are electorally insecure should be more likely to support ethics reform.¹⁸⁴

It is commonly asserted that electoral considerations affect legislators' behavior (Mayhew 1975; Fiorina 1989, Arnold 1990). More specifically, some political scientists have argued that electoral marginality affects legislators' calculations about what bills to support or oppose and how loyal to be to their parties (Fiorina 1973; Kuklinski 1977, 1978; Bartlett 1979; Hibbing 1983; Wilkerson 1990; Clark 1996). It is sometimes argued that "safer" legislators (those with a wider margin of electoral victory in the most recent election) have more leeway to oppose popular bills or support unpopular ones despite the desires of their constituents. On the other hand, legislators who are more marginal are more responsive to constituent preferences and will tend to support popular bills and oppose unpopular ones (Bartlett 1979).¹⁸⁵

---

¹⁸⁴ Electoral marginality is measured as the percent of the total vote won by the member in the most recent general election. See Appendix B.
Ethics bills are a classic example of popular legislation which tends to be supported by virtually all constituents. Voters generally favor clean government. Unlike legislators, scholars and other experts who are concerned about the potential downsides of good-government regulation, citizens tend to support virtually any law that is presented as an "ethics" law. Thus we would expect marginal legislators to be more likely to vote for such laws out of responsiveness to constituent sentiment than secure legislators, who will feel freer to express oppose ethics proposals when they come up for a roll-call vote. As Arnold (1990) argues, legislators are always concerned about potential electoral retaliation, even if the public is inattentive at the time of a given policy debate. Although a legislator's constituents may not be attentive to an ethics proposal at the time it is being debated and voted on, the issue may become salient at election time when it is raised by his opponents. Marginal legislators should be especially concerned about the potential for an opponent to make an issue out of an anti-ethics reform vote.

V. Professional Norms

H7: Legislators who define themselves as "professionals" should be more likely to support ethics laws than non-professionals.

Studies of professional ethics in fields such as medicine and the law have argued that the professionalization of occupations — the move to full-time, highly paid status — is accompanied by the development of certain norms or beliefs among the occupation's membership (Kultgen 1988; Sullivan 1995). The professionalization of state legislatures beginning in the 1960's has been a topic of interest for scholars of state politics. Various studies have examined the causes of legislative professionalization (Mooney 1995) while others have considered its effects (Grumm 1971; Pound 1992; Fiorina 1994). Sacks (1971) and Pound (1992) have hypothesized that the professionalization in state legislatures which occurred in the 1960's and 1970's was an important cause of the initial enactment of state conflict of interest laws. There are several possible mechanisms by which professionalization and ethics regulation may be linked. One is a straight-forward tradeoff between higher
compensation and greater willingness to regulate outside income (the main linkage I posit in this dissertation). Another is a correlation between the norms that accompany professionalization and a desire to establish clear-cut standards of behavior for members of the profession.

Here I consider the second pathway.\textsuperscript{186} Within legislatures, members who define themselves as professional or full-time legislators may have different beliefs about how members of that occupation should conduct themselves, compared to members who only have a part-time commitment to the legislative job and define themselves primarily as attorneys, businessmen, teachers, consultants, doctors, etc. Full-timers may be more supportive of attempts to establish clear standards of behavior for their chosen profession, as opposed to members who do not define themselves primarily as legislative professionals.

Table 3.1 below presents the regressions for the Massachusetts votes. Table 3.2 presents the regressions for the New York votes.\textsuperscript{187} I include calculations for the proportional reduction in error, which ranges from 16.60\% to 42.85\% for the different regressions.\textsuperscript{188} Table 3.3 presents predicted probabilities for various values of the independent variables, for four of the regressions. Two are from Massachusetts and two are from New York. Because it is difficult to interpret the coefficients in logistic regression, this last table provides a useful way of understanding the impact of various factors on the probability of support for the bills.

\textsuperscript{186} There is not much variation in how different legislators in the same body are paid. Although certain legislative leaders are paid more, to test the hypothesis that this differential pay matters is problematic since the higher pay correlates perfectly with institutional leadership positions, the variable measured under the institutional power explanation.

\textsuperscript{187} Certain variables are not included for particular regressions when they are not applicable to the particular vote. For example, with the votes on lawyer-legislators, I include a variable for attorneys but not for business owners. The variable for business owners is included in the votes on disclosure since we would expect it to be relevant to that category of ethics reform. Neither of the variables for attorneys or business owners is included in the regression for the Massachusetts vote to limit gifts; we would not expect these occupations to be associated with any particular preferences on this vote. Also, there is no variable for full-time legislators in the New York regressions since virtually no members of the New York General Assembly defined themselves as full-time legislators in 1965. By contrast, 34\% of Massachusetts legislators defined themselves this way in 1977.

All the variables except ideology are measured the same way for both states, except for ideology as discussed in Footnote 183.

\textsuperscript{188} The formula for proportional reduction in error is: (errors in predicting the dependent variable using the modal value of the dependent variable - errors in prediction using my model) / errors in predicting the dependent variable using the modal value of the dependent variable.
Table 3.1

Analysis of five votes in the Massachusetts House of Representatives in 1977
(logistic regression)

<table>
<thead>
<tr>
<th>Variable</th>
<th>V1</th>
<th>V2</th>
<th>V3</th>
<th>V4</th>
<th>V5</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>B</td>
<td>SE</td>
<td>B</td>
<td>SE</td>
<td>B</td>
</tr>
<tr>
<td>Economic Self Interest</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Attorney</td>
<td>-1.023</td>
<td>0.455c</td>
<td>-3.074</td>
<td>0.512a</td>
<td>0.644</td>
</tr>
<tr>
<td>Business Owner</td>
<td>0.499</td>
<td>0.694</td>
<td></td>
<td></td>
<td>-0.599</td>
</tr>
<tr>
<td>Institutional Power</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Leadership</td>
<td>-0.906</td>
<td>0.354b</td>
<td>-0.843</td>
<td>0.461c</td>
<td>1.784</td>
</tr>
<tr>
<td>Majority Party</td>
<td>-1.138</td>
<td>0.434b</td>
<td>-1.338</td>
<td>0.671c</td>
<td>1.364</td>
</tr>
<tr>
<td>Ideology</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>ADA Score</td>
<td>0.041</td>
<td>0.008a</td>
<td>0.031</td>
<td>0.010a</td>
<td>-0.054</td>
</tr>
<tr>
<td>Professional Norms</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>F-T Legislator</td>
<td>0.356</td>
<td>0.381</td>
<td>-0.333</td>
<td>0.485</td>
<td>0.167</td>
</tr>
<tr>
<td>Electoral Marginality</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Percent Last Election</td>
<td>-0.001</td>
<td>0.005</td>
<td>-0.002</td>
<td>0.008</td>
<td>0.007</td>
</tr>
<tr>
<td>Constant</td>
<td>-0.096</td>
<td>0.637</td>
<td>2.593</td>
<td>1.030c</td>
<td>1.072</td>
</tr>
</tbody>
</table>

N                           | 211      | 194      | 204      | 196      | 186      |
Percent Correctly Predicted | 69.19%   | 81.96%   | 78.43%   | 73.98%   | 72.04%   |
Proportional Reduction in Error | 30.10% | 16.60%   | 38.23%   | 42.69%   | 42.85%   |

a p < .001.  b p < .01.  c p < .05.  d p < .10.

Explanation of votes:
V1- Vote to require financial disclosure
V2- Vote to restrict lawyer-legislators' appearances before state agencies
V3- Vote to weaken proposed ethics code by requiring conflicts of interest to be "substantial"
V4- Vote to require financial disclosure before 1978 election
V5 - Vote to limit individual gifts from lobbyists to $35

Data on members' votes from Massachusetts Journal of the House, Yea and Nea Supplement, 1977. Information on sources for independent variables can be found in Appendix B.
### Table 3.2

#### Analysis of four votes in the New York General Assembly in 1965

(logistic regression)

<table>
<thead>
<tr>
<th>Variable</th>
<th>Vote Number</th>
<th>V1</th>
<th>V2</th>
<th>V3</th>
<th>V4</th>
<th>B</th>
<th>SE</th>
<th>B</th>
<th>SE</th>
<th>B</th>
<th>SE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Economic Self Interest</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Attorney</td>
<td>-1.018</td>
<td>0.484c</td>
<td>-1.428</td>
<td>0.484b</td>
<td>-1.465</td>
<td>0.685c</td>
<td>-2.036</td>
<td>0.596a</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Business Owner</td>
<td>-0.650</td>
<td>0.552</td>
<td>-1.152</td>
<td>0.552c</td>
<td>-1.076</td>
<td>0.753d</td>
<td>-2.777</td>
<td>0.718a</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Institutional Power</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Leadership</td>
<td>-1.066</td>
<td>0.465c</td>
<td>-1.003</td>
<td>0.489c</td>
<td>-0.394</td>
<td>0.617</td>
<td>-1.518</td>
<td>0.571b</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Majority Party</td>
<td>1.482</td>
<td>0.474a</td>
<td>1.265</td>
<td>0.480b</td>
<td>1.733</td>
<td>0.624b</td>
<td>1.546</td>
<td>0.566b</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Ideology</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Liberal Ideology</td>
<td>0.0752</td>
<td>0.077</td>
<td>0.154</td>
<td>0.082c</td>
<td>0.360</td>
<td>0.125b</td>
<td>0.257</td>
<td>0.098b</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Electoral Marginality</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Percent Last Election</td>
<td>-0.005</td>
<td>0.017</td>
<td>-0.009</td>
<td>0.018</td>
<td>-0.024</td>
<td>0.022</td>
<td>-0.004</td>
<td>0.019</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Constant</td>
<td>0.116</td>
<td>1.063</td>
<td>0.299</td>
<td>1.121</td>
<td>1.882</td>
<td>1.446d</td>
<td>-0.109</td>
<td>1.221</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>N</th>
<th>140</th>
<th>137</th>
<th>141</th>
<th>129</th>
</tr>
</thead>
<tbody>
<tr>
<td>Percent Correctly Predicted</td>
<td>65.71%</td>
<td>66.42%</td>
<td>81.56%</td>
<td>75.42%</td>
</tr>
<tr>
<td>Proportional Reduction in Error</td>
<td>29.41%</td>
<td>23.33%</td>
<td>23.52%</td>
<td>34.00%</td>
</tr>
</tbody>
</table>

### Explanation of votes:

V1- Initial vote to require expanded financial disclosure and limits on lawyer-legislators
V2- Initial vote to require independent ethics advisory commission
V3- Final vote to require expanded financial disclosure and limits on lawyer-legislators
V4- Final vote to require independent ethics advisory commission

Data on members' votes from *New York Assembly Journal*, 1965. Information on sources for independent variables can be found in Appendix B.
Table 3.3

Predicted Probabilities of Support for Four Votes in Massachusetts and New York

<table>
<thead>
<tr>
<th>Vote Number</th>
<th>V1</th>
<th>V2</th>
<th>V3</th>
<th>V4</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mean Values, All Variables</td>
<td>84.03%</td>
<td>51.81%</td>
<td>42.73%</td>
<td>48.07%</td>
</tr>
<tr>
<td>Leadership = 1</td>
<td>74.07%</td>
<td></td>
<td>27.24%</td>
<td>31.25%</td>
</tr>
<tr>
<td>ADA = minimum value</td>
<td>61.72%</td>
<td>42.73%</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Attorney = 1</td>
<td>31.05%</td>
<td></td>
<td>28.57%</td>
<td>37.05%</td>
</tr>
<tr>
<td>Attorney = 1, Leadership = 1, ADA = minimum value</td>
<td>7.04%</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Majority Party = 1</td>
<td></td>
<td>42.37%</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Leadership = 1</td>
<td></td>
<td>33.33%</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Leadership = 1, Majority Party = 1, ADA = min. value</td>
<td></td>
<td></td>
<td>12.16%</td>
<td></td>
</tr>
<tr>
<td>Liberal Ideology = minimum value</td>
<td></td>
<td></td>
<td></td>
<td>28.57%</td>
</tr>
<tr>
<td>Attorney = 1, Leadership = 1, Liberal ideology = minimum</td>
<td></td>
<td></td>
<td></td>
<td>09.45%</td>
</tr>
<tr>
<td>Leadership = 1, Attorney = 1</td>
<td></td>
<td></td>
<td></td>
<td>21.97%</td>
</tr>
</tbody>
</table>

V1- Vote to restrict lawyer-legislators, Massachusetts 1977
V2- Vote to limit gifts from lobbyists, Massachusetts 1977
V3- Initial vote to require expanded financial disclosure and limits on lawyer-legislators, New York 1965
V4- Initial vote to require independent ethics advisory commission, New York 1965

Note: Predicted probabilities are calculated using the coefficient estimates for votes 2 and 5 from Table 3.2 and votes 1 and 2 from Table 3.2. The first row shows predicted probabilities with all variables set at their mean values. Each of the following rows sets all variables at their means as well, except those noted in the text.
3.5 Results and Discussion

The regression results show that institutional power, economic self-interest, and liberal ideology played an important role in shaping legislators' positions on conflict of interest regulation proposals. As predicted, members who held leadership positions were less likely to support reform in eight of the nine votes examined. The coefficient is negative in all the regressions, except in the third vote in Table 3.1, where the proposal being voted on would have weakened the proposed code of ethics. The coefficients there are positive and significant, as H3 and H4 predicted. Of these eight votes, the leadership variable is significant at the .001 level in two, at the .01 level in three, and at the .05 level in three.

We can the see the impact of institutional power more clearly in Table 3.3. Across the four votes considered in this table, the difference between the predicted probability of support for an average legislator (all variables set at their means) and a member who is average in all respects except that he holds a leadership position ranges from 9.96% and 18.48%. In other words, holding a position of institutional power makes a member nearly 10 percent to nearly 18.5% less likely to support ethics reform, ceteris paribus.

Members of the majority party were, as expected, less likely to support ethics reform in all five of the Massachusetts votes. However, the opposite result was found in the New York votes, where members of the majority were significantly more likely to support reform. Although this finding with regard to New York is somewhat puzzling, one possible explanation is that while the Democrats were the majority party in 1965, they had been in the minority for the previous 30 years. Thus these legislators in 1965 may have perceived themselves as members of the "out-party," taking a longer-term view of state politics, and may have voted accordingly.

Economic self-interest also proved important in explaining members' positions on ethics reform, particularly with regard to limits on lawyer-legislators. On the three votes which dealt with limits on lawyer-members appearing before state agencies, members who were
attorneys were significantly less likely to vote yes than non-attorneys. The attorney variable was significant at .001 in the Massachusetts case and .05 in the New York cases. The impact of being an attorney is particularly striking in Massachusetts. In the first vote in Table 3.3, we see that the difference between an average member and one who was average in all respects except being an attorney was 52.98%. Going from the first to second set of conditions, the predicted probability of support drops from 84.03% to only 31.05%. In New York the difference is 14.16% (see third vote). However, the initial probability is only 42.73% (a higher percentage of members in New York were lawyers than in Massachusetts, which contributed to the vote being much closer). Neither of the proposals to limit lawyer-legislators was accompanied by a compensatory pay raise, as was the case in California in 1966. Thus, attorneys' opposition to these bills was not "bought off" by a tradeoff involving higher official pay as is hypothesized to have occurred in California.

One likely reason why being a lawyer had a higher impact on the predicted probability of support in Massachusetts is that the proposal to regulate lawyer-legislators there was much more stringent there and did not include any of the exceptions provided for in the New York bill. Footnote 175 details many of the exemptions in New York; the only exemption in Massachusetts was for "ministerial" appearances which do not involve any substantial discretion on the part of the state agency.189

Members who were business owners were also less likely to support the two proposals in New York for financial disclosure and for an independent ethics commission. However, the business owner variable was not significant in any of the Massachusetts votes. Thus, it appears that lawyer-legislators responded consistently and strongly in terms of economic self-interest to proposals that would limit their employment opportunities, while business owners responded less consistently or strongly to several proposals that might have a negative effect on their professional activities. This makes sense when we consider that the proposed regulations had a more direct negative effect on lawyers than on business owners. Business owners faced

189 Ministerial appearances including filing or amendment of tax returns, applications for permits or licenses, and filing of incorporation papers.
disclosure of their activities but not direct limits on those activities, whereas attorneys would be restricted in the types of clients and cases they could take on.

Liberal ideology also proved to be a positive predictor of support for ethics reform in both states. Not only was it relatively liberal members who sponsored the various bills and amendments in both states, but liberal members were more likely to vote in favor of them than more conservative members. Liberal ideology was significant at the .001 level in all of the Massachusetts votes, at the .01 level in two of the New York votes, and at the .05 level in another of the New York votes. The difference between the predicted probability of support for an average legislator and one who held the least liberal ideology is 22.31% for the first vote in Table 3 and 14.16% for the third vote. The latter difference is equal to the difference between an average legislator and one who is average except for being an attorney.

Electoral marginality was not relevant to members' vote calculations. The coefficient was not significant in any of the regressions. Professional status was positively associated with greater support in only one of the Massachusetts votes; the variable was significant at the .10 level. However, the coefficient was negative in other regressions. The evidence is therefore relatively weak that professional norms played a role in shaping legislators' vote decisions on ethics reform. Instead, economic self-interest and institutional power acted to engender opposition among members, while liberal ideology facilitated support. When we look at members who had an economic self-interest and institutional power at stake, and were also ideologically conservative, we see that this combination of factors made legislators quite unlikely to support reform. For example, in Table 3.3, we see that members who were attorneys, leaders, and very conservative had predicted probabilities of support ranging from a low of 7.04% (for the first vote) to a high of 12.16% (for the second vote). This is quite small compared to the predicted probabilities for "average" members on those votes, which ranged from to a low of 42.73% (Table 11) to 84.03%. Particularly where votes were close, these factors are likely to have made a critical difference between the passage and failure of ethics regulation.
This chapter suggests, then, there is empirical evidence to bolster the hypotheses and anecdotal evidence (as well as evidence from earlier efforts at political reform) that ideology, institutional power and economic self-interest shape legislators' positions on ethics reform. The fact that professional status did not exert a positive influence on support for reform belies the notion that professionalization is necessarily associated with higher standards for legislators. Overall, this chapter and the case studies of the previous chapter suggest two things. First, the sponsors of important ethics proposals in Massachusetts and New York tended to be liberal legislators who did not hold major positions of institutional power within the legislature. Second, we can see from the regression analysis of this chapter that liberal members and non-power holders also tended to be more supportive of such proposals when they came to a vote. The strongest opposition came from members whose economic self-interest was threatened by the proposals (primarily attorneys), who held positions of power, and who were conservative.
CHAPTER FOUR

LEGISLATIVE ETHICS LAWS IN THE PRE-WATERGATE PERIOD, 1954-1972: EARLY INNOVATION IN THE REGULATION OF CONFLICTS OF INTEREST

4.1 Introduction

Over the past five decades, state governments have devoted significant attention to the problem of "unethical" behavior of elected officials. While efforts to contain political corruption — in particular, to address bribery — date back to the founding of the Republic, the efforts of states and the federal government since the mid-1950’s are of a different sort. Going beyond the blatant type of corruption exemplified by bribery and extortion, state policy makers have focused their attention on areas of official behavior where the ethical issues are more subtle. The laws of the past 40 years have been aimed primarily at regulating potential and apparent conflicts between public officials' private interests and their public duties, rather than the more blatant conflict involved when a legislator takes cash in return for his vote. Whereas state bribery laws are part of the state criminal codes and carry criminal penalties, the newer conflict of interest laws are generally part of the civil codes; the penalties for violation typically involve fines or sanctions other than jail time.

This chapter aims to explain variation in the efforts by state policy makers in the years 1954-1972 to regulate conflicts of interests involving one particular group of public officials — legislators. Virtually all recent studies of American political ethics emphasize the regulatory legislation passed in the wake of Watergate. They pay much less attention to efforts to regulate the behavior of elected and appointed officials prior to 1972 (Beard and Horn 1976; Anechiarico and Jacobs 1996; Rosenthal 1996). However, substantial activity occurred in

---

190 Several political scientists, however, have tried to place political ethics in a broader historical context beyond the post-Watergate period. These include Zimmerman (1994) and Roberts and Doss (1997). Zimmerman's overview of state legislation to curb unethical behavior by elected officials touches upon New York's pioneering efforts in 1954, although he pays less attention to other states' activity in this area prior to Watergate. Roberts and Doss devote the first five chapters of their book, From Watergate to Whitewater: The Public Integrity War, to a discussion of efforts to regulate conflicts between officials' public duties and private interests from 1789 to 1973. However, their book focuses on legislation at the federal level, such as the 1853
this area in the decades preceding this landmark national event, both at the federal and the state level. This chapter focuses on states' early efforts to regulate legislative conflicts of interests in the overlooked period immediately prior to Watergate. The year 1954 is taken as the starting point because that is when New York took the pioneering step of enacting the first generalized conflict of interest law; over half the states followed suit in the 19 years which followed. The paper focuses on regulation that falls, in statutory terms, into the category of conflict of interest law. I exclude from consideration regulations that deal specifically with campaign financing and as such, are part of states' election statutes.\textsuperscript{191} I use three models to examine 1) enactment of the basic ethics codes, 2) enactment of restrictions on lawyer-legislators, and 3) overall change in states' legislative ethics laws.

The 1954-1972 period represents a time of substantial state policy innovation in terms of regulating legislative conflicts. Indeed, most post-Watergate legislation has simply built upon and strengthened the laws of this earlier period. Twenty-seven states during this time enacted laws outlining guidelines or standards of conduct for legislators. In some cases they went beyond general "guidelines" and placed specific, substantive restrictions on legislators' outside employment and business activities.\textsuperscript{192} These restrictions included limits on lawyer-legislators' appearances before state agencies, limits on legislators receiving gifts from special interest groups, and limits on legislators' becoming lobbyists after leaving office. In these ethics policy innovations, certain states were actually ahead of the federal government in the restrictions they placed on legislators prior to 1964 and 1967-8, when the Senate and then the

\textsuperscript{191} This is not to say that campaign finance practices pose no conflicts of interest. Indeed, some scholars of political ethics argue that some of the most serious ethical conflicts in American politics relate to the financing of campaigns (Thompson 1995; Rosenthal 1996). However, for the purposes of this study, I have narrowed my focus to non-campaign related regulations, since a broader focus would confound any attempt to explain variation in states' regulatory efforts. The factors which explain conflict of interest statutes are likely to be somewhat different than the factors which account for differences in states' regulation of campaign finance practices. Indeed, one exploratory test I ran showed that the model used here works much better at explaining state conflict of interest laws than it does at explaining one particular type of campaign finance regulation, i.e. limits on PAC contributions to legislators.

\textsuperscript{192} In a minority of cases, the new legislative ethics codes were put in place through changes in states' legislative rules rather than statutory changes.
House enacted ethics codes for its members and set up permanent ethics committees.\textsuperscript{193} Although the pre-Watergate state laws lacked specificity and teeth in terms of enforcement, in certain respects they went further than the laws of the federal government regulating legislative conflicts of interest. It is instructive, for example, to note the language of the 1958 code of ethics passed by resolution in the U.S. House and Senate. If we compare the 1958 federal resolution to some state laws of the same time period, we can see that certain states were more specific in the restrictions they placed on legislators and public officials. The 1958 federal code, which had no legal force, states that government employees including members of Congress should "put loyalty to the highest moral principles and to country above loyalty to persons, party, or Government department ... uphold the Constitution... give a full day's labor for a full day's pay ...never discriminate unfairly by the dispensation of special favors to anyone (and) expose corruption wherever discovered"\textsuperscript{194} Like some state codes, it banned the use of confidential information in the pursuit of private profit. In 1958, however, certain states had already gone even further than the federal code of ethics, requiring legislators to disclose certain business interests such as contracts with regulated state agencies (e.g. New York's 1954 code, Texas' 1957 code, or Massachusetts' 1961 code) and also forbidding them to engage in contracts with the state except under conditions of competitive bidding. In addition, states including New York and New Jersey established permanent bipartisan legislative ethics committees in the 1950's, a decade before the U.S. House and Senate did.

Of course, the federal government was ahead of the states in terms of other conflict of interest regulations that affected legislators. For example, members of Congress were banned from appearing before federal agencies for compensation in 1853. But in areas such as public financial disclosure for legislators, the states prior to 1968 led both the House and Senate.

\textsuperscript{193} In the wake of a scandal involving misuse of public power by Senate aide Bobby Baker, the U.S. Senate set up a bipartisan ethics committee in 1964 to investigate allegations of improper conduct by senators. The Senate also enacted a code which dealt mainly with the solicitation and use of campaign funds, and also required annual disclosure. On Congressional ethics reform of the 1960's, see Congressional Ethics: History, Facts and Controversy (Washington: Congressional Quarterly, 1992), pp. 146-7.

\textsuperscript{194} Ibid., p. 146.
1968, the House voted for a rule to require public financial disclosure, and strengthened the provision in 1970.\textsuperscript{195} In 1964, the Senate passed a rule requiring disclosure with the U.S. Comptroller General in 1964, but voted 44-40 to keep the disclosure forms confidential.\textsuperscript{196} It was not until the House and Senate ethics codes of 1977 were enacted that the Senate required \textit{public} financial disclosure, and not until 1978 that disclosure was a matter of law, not part of the legislative rules. By this time, the majority of states already had statutes which mandated public financial disclosure for legislators and other public officials.

As the analysis of this chapter suggests, state ethics regulation between 1954 and 1972 was largely to a response to internal and intra-state factors rather than to exogenous national events. Thus while Watergate would later provide an important impetus to state efforts in regulating public ethics, the states did not "need" Watergate to initiate policy action in this area. Recognizing the innovations that took place prior to Watergate raises several interesting questions. In particular, which states led the way in enacting laws to reduce potential conflicts between legislators' public and private interests? Which factors facilitated action in the area of conflict of interest law, and which factors hindered such action? Using event history analysis, the following section provides an answer to these questions.

Before turning to the 1954-1972 period, brief note needs to be made of anti-corruption efforts in the states prior to the 1950's. Though the analysis here begins in 1954, I do not mean to suggest that the states were wholly inactive prior to this period regarding the regulation of conflicts of interest. Indeed, most early state constitutions dealt explicitly with the prohibition of bribery (Noonan 1984; Hoogenboom 1978). Some of these early constitutions also barred legislators from voting where they had a financial interest at stake. Gilded Age scandals brought a variety of state-level reforms aimed at limiting official corruption (Hoogenboom 1978). During this period, lobbyists frequently used bribes, retainers, stock

\textsuperscript{195} Representatives had to list financial interests worth over $5,000 and income of over $1,000 from companies doing substantial business with the government or regulated by the government, as well as sources of income for services exceeding $5,000 per year.
\textsuperscript{196} The only exceptions, which did have to be made public, were contributions received at fund raisers and honoraria worth over $300 each.
options and other means to induce legislators' decisions. Faced with a "virus of corruption" infiltrating the legislative process, reformers took action in the last quarter of the 19th century and first decade of the 20th century. At the state and federal level, for example, laws were passed which barred legislators from accepting employment or other favors from railroads, widely viewed as having a major corrupting influence on members of state legislatures as well as the U.S. Congress.

Also during the late 19th century, many states added legislators to the categories of public officials covered by their bribery statutes. Most states had initially covered only judicial and/or executive officers; legislators were brought under the umbrella of the laws' coverage later on. An example of this pattern is Massachusetts, which in 1875 added legislators to the list of covered officials; officials already covered included state and municipal purchasing officers and municipal officials. The penalty for violation of the statute was $50 to $1000 or up to one year imprisonment, which was increased to a maximum $3000 fine or two years imprisonment by the 1962 ethics legislation.

4.2 New York's Pioneering Conflict of Interest Law (1954)

By 1954, virtually all states had some sort of anti-bribery law which prescribed fines and imprisonment for violation. However, the states had yet to take substantial steps toward addressing less blatant forms of corruption, namely those activities which presented the potential for conflicts of interest without necessarily involving a quid pro quo. The year 1954 marked the starting point of states' forays into general regulation of the "murkier" sorts of conflicts of interest posed by gifts, honoraria, outside employment and business interests, and post-government employment of legislators by lobbying organizations. In this year, New York took the first decisive step toward outlining standards of conflict. This first generalized conflict of interest statute in the states, enacted on April 14, came in response to various

199 Final Report, Special Commission on Ethics, Commonwealth of Massachusetts, June 12, 1995.
scandals involving New York state legislators and other elected officials. More broadly, it was an outgrowth of the activities of the U.S. Senate Judiciary Committee's investigations in the early 1950's, under the leadership of Senator Estes Kefauver, into the links between organized crime and state and local government in cities and towns across the country. Kefauver interpreted the mandate of his committee as a "directive to survey the total structure of organized crime operating in interstate commerce and the corrupting influences that such activities had created in American politics." New York City was a primary target. The Kefauver Committee's exposure of the power that organized crime figures exerted over local and state politicians led not only New York but also other states such as Massachusetts and New Jersey to conduct their own investigations in response to the revelations of the committee's work in their states.

Governor Thomas Dewey, in his annual message on January 6 of that year, noted the precedent for a code of ethics for public officials in the similar codes of the bar and judiciary. Dewey summarized the issue, suggesting that New York was stepping into uncharted territory by taking on the problem of conflicts that did not within the neat parameters of outright bribery:

The problem of ethical standards is not the simple issue of bribery or corruption, on which there is no difference of opinion. It involves a whole range of border-line behavior, questions of propriety and the question of conflict of interests ... The public is entitled to expect from its servants a set of standards far above the morals of the market place ... Many members of (licensed occupations) are in the Legislature ... and are frequently called upon to vote on matters affecting their own occupations ... The problem is to separate

200 In March 1953, the New York State Crime Commission issued a report which cited the dangers of the relationship between political leaders and underworld figures in the state. The report, sent by Governor Thomas Dewey to the legislature, centered on officials' failure to halt gambling and the bribery of public officials by gamblers. Several state representatives and senators were shown to have business links to various harness race tracks across the states. The Senate Majority Leader resigned amid revelations about his connections to a convicted labor extortionist and charges that he had intervened on his behalf in return for financial and political gain. Additional charges were made in the New York Times in early 1954 that a state representative and ex-state senator had offered bills which allowed a racketeer to file late tax returns and also banned attempts to deport him (New York Times Index, 1953, 1954).
the unavoidable conflicts of interest from the venal and the doubtful; to chart of shadowlands of conduct where men of good will may have difficulty in deciding whether a course is proper or improper.\textsuperscript{203}

The New York law set out guidelines for the conduct of public officials, including legislators, concerning "possible conflict between private interests and official duties."\textsuperscript{204} Among the somewhat vague and general standards enumerated and framed in terms of "shoulds" were the following: "No officer of employee of a state agency, member of the legislature or legislative employee should accept other employment which would impair his independence of judgment in the exercise of his official duties." Nor should he "engage in any business or professional activity (which requires) the disclosure of confidential information gained through his official position." Neither should he use or attempt to use his official position to secure unwarranted privileges or exemptions for himself or others.\textsuperscript{205}

Some provisions of the New York law were more specific. For example, the law barred elected officials and public employees from representing clients before state agencies on a contingent basis.\textsuperscript{206} Certain state regulatory agencies were required to keep a public record of appearances before them by public officials. This provision had special significance for legislators, many of whom were attorneys with substantial practices before state agencies. The law also barred legislators and other officials from selling over $2,500 worth of goods or services to the state except by competitive bidding. Finally, the law took a first step toward public financial disclosure by requiring that covered officials with an interest of $10,000 or

\textsuperscript{203} \textit{Ibid.}, pp. 169-170.
\textsuperscript{204} This and all following references to the 1954 New York law come from the \textit{State of New York Report and Digest of Pertinent Statutes and Opinions Relating to Integrity and Ethical Standards in Government} (Senate Committee on Ethics and Guidance: Legislative Document No. 9, 1959).
\textsuperscript{205} Even more general were the following two standards: 1) No covered official should "by his conduct give reasonable basis for the impression that any person can improperly influence him or unduly enjoy his favor in the performance of his official duties," and 2) Each covered official should "endeavor to pursue a course of conduct which will not raise suspicion among the public that he is likely to be engaged in acts that are in violation of his trust."
\textsuperscript{206} Some members of the commission which proposed the regulations, and a few legislators, had wanted the law to go further by actually banning appearances for compensation — not just contingent ones but \textit{any} appearances — but they would have to wait until 1965, and later, 1987, to see such limits enacted and then strengthened.
more in any activity regulated by various state departments would have to file a statement with the Secretary of State.\textsuperscript{207}

No special enforcement agency was established to address alleged violations of the law's provisions. The law did state that violators of code provisions could be "fined, suspended, or removed from office or employment" (although no specific range of fines was enumerated in the law). The attorney general could step in to enforce the law, or, in the case of the legislature, members could police themselves. The law authorized the Attorney General to set up an advisory committee to which he could submit requests for opinions, but only regarding executive branch officers and employees.

4.3 Balancing Act: Regulation of Ethical Standards Versus Legislative Recruitment and Retention

Like all the other state ethics codes which followed, the New York law contained a declaration of intent filled with lofty, general statements such as "A continuing problem of a free government is the maintenance among its public servants of moral and ethical standards ... the people are entitled to know that no substantial conflict between private interests and officials duties exists in those who serve them." However, the declaration also noted the delicate balancing act involved in regulating legislative ethics: "Some conflict of interest is inherent in any representative form of government" because "government is and should be representative of all the people." This sentiment — that legislators coming from and returning to private life would of necessity have private interests, and that it is problematic to assume that any private interest automatically presents a conflict of interest — is echoed in other state codes, and in the debates over the passage of various conflict of interest regulations throughout the past 40 years.\textsuperscript{208} Drafters of the state conflict of interest laws wanted to set standards of conduct to

\textsuperscript{207} Covered agencies included State Departments of Banking, Insurance, Public Service, and Labor.

\textsuperscript{208} Indeed, the tone of many legislative debates over regulating members' ethics has often been quite bitter, with members frequently standing up to assert their violent disagreement with the basic premise of restricting legislators' outside activities. For example, in 1964, a New York Times article reported "most legislators (reacting) coolly ... to a report urging them to set more stringent rules for their own conduct." A special commission had just recommended a ban on appearances by lawyer-legislators before the Court of Claims and most other state agencies. Although the commission insisted that the proposed ban "is in no way intended as a reflection upon the integrity, fairness or impartiality of any ... member of the legislature," one Senator, Samuel
guide legislators with regard to possible unethical behavior, but attempt to micro-manage the behavior of current and future members or raise the bar so high that nobody would want to serve. In choosing between clear and strong restrictions on behavior and maintaining substantial latitude for members to pursue their outside interests in order not to drive them away from public service, legislators have generally come down on the side of the former.

We can see this balancing act in the 1961 debate over the first generalized ethics code in Massachusetts. Governor John Volpe noted that while the code was designed to "protect government integrity ... this goal must be balanced with facilitating the recruitment and retention of personnel needed by government." The drafters of the Massachusetts code and other state codes wanted to avoid stigmatizing legislators as inherently corrupted or easily corrupted. As they wrote the text of the ethics laws, they were cognizant of the need to keep the legislative profession suitably attractive to current and potential officeholders. Therefore they sought to "prescribe essential restrictions against conflicts of interest in the executive and legislative branches without creating unnecessary barriers to public service." In Massachusetts, legislators watered down the governor's 1961 proposal in order to assure that they would not experience the code as not overly onerous; they did this, for example, by removing proposed restrictions on gifts and by making the code largely unenforceable.

Another example of the sensitivity of the early ethics code drafters to the potential for regulation to serve as a disincentive to public service is found in Utah's 1969 Public Officers

---

Greenberg, speaking for himself and approximately 30 other legislators who had cases pending before the Court of Claims, reportedly "snorted" the following comment: 'Baloney. They're throwing us a sop. How can they pretend this isn't intended to reflect on us?' John Silbey, "Albany is Cool to Ethics Report," New York Times, March 10, 1964.

In another example of the strong opposition by legislators to the regulation of legislators' outside activities through the setting of general standards of conduct and substantive restrictions, one opponent of the 1966 proposed ethics code in California, Sen. Stephen Teele, stated tartly, "I'm afraid I wouldn't be able to get out of bed in the morning without being in conflict of interest with myself. I don't think I want to prostitute myself to a group of newspaper publishers who couldn't stand a conflict of interest bill in their own business." Gene Blake, "Legislature Curbs Conflict of Interest," Los Angeles Times, July 8, 1966.


211 Only one provision provided any penalty. State officials who held a financial interest worth over $10,000 in a state contract had to disclose that interest to the Secretary of State; failure to submit such a statement could result in a fine up to $1,000. The disclosure requirement was repealed the following year and not reinstated until 1978, when it was backed up by a much stronger enforcement mechanism.
and Employees Ethics Act. The preamble to the Utah law states that the law "does not intend to deny any public officer or employee the opportunities available to all other citizens... to acquire private economic or other interests so long as this does not interfere with the full and faithful discharge of his public duties." Some codes contain a more positive appreciation of the value of legislators' outside affiliations. For example, West Virginia's ethics law states explicitly the

recognition that there may be certain public officials or public employees who bring to their respective offices or employment their own unique personal prestige which is based upon their intelligence, education, experience, skills and abilities... In many cases, these persons bring a personal prestige to their office or employment which inures to the benefit of the state and its citizens.

West Virginia's code, in fact, is replete with language which aims to avoid unduly stigmatizing legislators and other public officials. For example, the preamble to the 1989 amendments, while banning virtually all gifts of monetary value from interested parties, states that "There shall be a presumption that receipt of a gift does not impair the impartiality and independent judgment of (the recipient). The presumption may be rebutted only by the direct objective evidence that the gift did impair ... judgment ... or that the (recipient) knew or had reasonably to know that the gift was offered to impair his impartiality." New York's pioneering conflict of interest statute was followed over the next few decades by more than half the states. For example, in 1957, in the wake of successive bribery scandals, Texas enacted a law establishing standards of conduct for public officers and

---

212 Utah Code Annotated § 67-16-12.
213 West Virginia Annotated Statutes § 6B-2-5.
214 Ibid. The 1989 law stated that a public official or employee may "knowingly accept any gift, directly or indirectly, from a lobbyist or from any person whom the official or employee knows, or has reason to know" is doing or seeking to do business with the state, is engaged in activities regulated by his agency, or "has financial interests which may be substantially and materially affected, in a manner distinguishable from the public generally, by the performance or non-performance of his official duties." Several exemptions are made (e.g. for example for food and beverages, ceremonial gifts or awards of insignificant monetary value, and "reasonable" expenses for food, travel and lodging at meetings).
employees.\textsuperscript{215} Table 4.1 below shows the states which followed suit by enacting their own codes, and the years of enactment.

\begin{center}
Table 4.1
Passage of State Legislative Ethics Codes, 1954-1972
\end{center}

\begin{table}
\begin{tabular}{l}
\textbf{States Which Enacted a Code During This Period} \\
Arizona, Arkansas, California, Colorado, Connecticut, Florida, Georgia, Illinois, Iowa, \\
Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Minnesota (not in dataset), \\
Michigan, New Jersey, New Mexico, New York, Oklahoma, Pennsylvania, Texas, Utah, \\
West Virginia, Washington, Wisconsin \\
\textbf{States Which Did Not Enact a Code} \\
Alabama, Delaware, Idaho, Indiana, Mississippi, Missouri, Montana, Nevada, New \\
Hampshire, North Carolina, North Dakota, Ohio, Oregon, Rhode Island, South Carolina, \\
South Dakota, Tennessee, Vermont, Virginia, Wyoming \\
\textbf{Years of Enactment} \\
1954- New York \\
1957- Texas \\
1958- New Jersey \\
1961- Maine, Maryland, Massachusetts, Minnesota (not in dataset) \\
1964- Louisiana \\
1965- Washington \\
1966- California \\
1967- Arizona, Florida, Illinois, Iowa, New Mexico, Pennsylvania, West Virginia, Wisconsin \\
1968- Georgia, Michigan, Oklahoma \\
1969- Utah \\
1970- Kansas \\
1971- Arkansas, Colorado, Connecticut \\
1972- Kentucky \\
\end{tabular}
\end{table}

Data for the dependent variable comes from state conflict of interest statutes and state legislative rule books.

\textsuperscript{215} In 1955, 17 individuals including a U.S. Congressman and ex-state senator were indicted for receiving bribes in connection with a state-financed veterans' land sales program. In March 1957, the New York Times reported that a Texas state representative was indicted for accepting a bribe to withdraw a bill regulating naturopaths (New York Times Index 1955, 1957) The Texas law which followed had strong parallels to the New York law; similar standards were delineated with reference to disclosure of confidential information and disclosure of controlling interests in a corporation or firm with the Secretary of State. The Texas law went further than New York, however, in limiting transactions with state agencies and also in its statement that no covered official "shall accept any gift, favor, or service that might reasonably tend to influence him in the discharge of his official duties." Enforcement, as with the early New York and Massachusetts codes, was weak, however. Non-compliance with the Texas law would be "grounds for expulsion, removal from office, or discharge, whichever is applicable." See H.B. No. 3, Chapter 100, 55th Legislative Session, State of Texas, 1957.
We turn now to the analysis of the enactment of the initial codes by the states in the period 1954-1972. The key question is: why did some states adopt legislative codes of ethics during this time frame? I first present 11 hypotheses, which fall into seven broad categories. Appendix C provides details on the measures used to test the hypotheses. After outlining the main hypotheses, I discuss the methodology used to test these hypotheses. Then I present results from the event history analysis.

4.4 Hypotheses

I. Culture/Ideology

H1: States with "moralistic" political cultures should be the most likely to enact an ethics code during this time period.

Political culture is a potentially relevant factor to the explanation of state ethics laws since it encompasses ideas about political corruption. Elazar (1970, 1972) has grouped states into categories based on their dominant political cultures. Using his typology, we might expect states with moralistic political cultures to be the most likely to pass laws aimed at preventing legislators' private interests from threatening the public interest.216

---

216 According to Elazar's formulation, in states with moralistic political cultures, politics is seen as a means for establishing a good and just society. Public service in the moralistic political culture "is viewed as a responsibility to be carried out honestly, conscientiously, and even selflessly for the sake of public rather than private interests." See John Kincaid, "Introduction." In Political Culture, Public Policy and the American States, ed. John Kincaid (US: Center for the Study of Federalism, 1982), p. 10. By contrast, the individualistic political culture tends to view politics as a marketplace where private interests play a key role. The traditionalist political culture, Elazar's third category, is one dominated by established elites. As in the individualistic political culture, those "active in politics are expected to benefit personally from their activity (which can include) ... direct pecuniary gain." Daniel Elazar, Cities of the Prairie; The Metropolitan Frontier and American Politics (New York: Basic Books, 1970), p. 265.

Use of these categories in research on state policy differences is often criticized since the groupings were constructed based on data from the late 1960's but they are often used to explain differences in state policy outcomes in the 1980's and 1990's — a lag time of up to 25 years. However, the data is appropriate for the time period considered here. Another criticism centers not on the outdated nature of the cultural groupings when used in research on current policy differences, but on the idea that states have static political cultures.

Some scholars (Sharkansky 1969; Kincaid 1982; Wirt 1982) have suggested that political culture falls on a continuum from traditionalist to individualistic to moralistic, while others (Ellis 1994) have suggested that individualism and moralism are at opposite ends of the continuum. Consensus exists, however, that moralistic cultures are at one extreme. My model is agnostic as to whether individualist or traditionalist culture is "closer" to moralist culture; I therefore use moralist culture as the constant and include the traditionalist and individualist variables to test for different possible relationships. In any event, I expect both included variables to be negatively signed.
H2: The more liberal a state's ideology, the more likely it will be to enact a legislative ethics code.

States with more liberal citizen ideologies may be more likely to enact ethics codes. Liberalism reflects a willingness to regulate economic behavior in the name of a greater social good. Analysts of Progressive era reforms (Wiebe 1967, Thelen 1976) — while not explicitly using the term liberal to describe the ideology of those who sought reform at the municipal, state and federal levels, nevertheless contrast these reform advocates to conservative supporters of big business privilege, arguing that conservativism was associated with opposition to regulatory legislation. Following this reasoning, conservative ideology should be associated with a smaller likelihood of enacting ethics codes which regulate the economic activities of legislators. 217

II. Political Factors: Electoral Competition and Institutional Power

H3a: Competition between political parties may spur the passage of popular legislation such as ethics codes.

H3b: Unified governments should be less likely to enact ethics codes than divided governments.

H3c: States in which majority party control of the legislature is greater should also be less likely to enact ethics codes.

Median voter theories of politics suggest that parties compete for votes by seeking out policy positions that enable them to capture a bigger portion of the electorate; in particular, competitive parties will seek and promote the preferences held by the median voter (Downs 1957; Black 1958; Plott 1967). Downs conceives of parties as teams which seek to win elections by offering positions which maximize the expected utility of the median voter. Given that anti-corruption policies tend to be popular among virtually all voters — who commonly

217 As described in Appendix C, ideology is measured using Berry, Berry and Ringquist's (1997) scores for citizen ideology in the states for each year. This measure extrapolates citizen ideology from the ideology of elected officials in the state. While Erickson, Wright and McIver's (1985) state ideology measure is more commonly used and has the advantage of being based on survey data, it lacks the advantage of the Berry measure which takes into account variation within states over time.
opposes ethics laws except politicians? — it makes sense that ethics laws may be more likely under conditions of intense electoral competition.

States where control of government is split between the parties, then, may actually provide more hospitable climates for the passage of ethics codes than states dominated by one party, as competition spurs policy innovation. 218 This argument has been made with reference to federal civil service reform in the 1880's and Progressive era reforms, as discussed in Chapter One.

H4: Governors may promote ethics codes by enacting the codes after they are elected or re-elected to office.

Scholars of state politics have often emphasized the central role that governors play in the policy making process. "Scholars agree that a governor is the state's chief legislator, a leader in policy making," states Dan Durning, who cites Ransone (1982) and Beyle (1983), among others, on this point. 219 The findings of Goodman, Holp, Martin and Rademacher (1994) with respect to the role of the governor in the formulation of ethics legislation in the 1990's suggest that governors played an important role in the formulation of successful ethics legislation in at least in some states in the 1990's. 220

---

218 The opposite argument is made, however, for example by Ripley (1969) and Sundquist (1988). These authors assert that it is more difficult to pass legislation under conditions of divided government since it is harder to form coalitions, especially when the policies are the source of some controversy among policy makers. However, scholars such as Mayhew (1991) have found that divided government does not necessarily prevent the enactment of significant legislation.


Bernick (1979) and Durning (1991) argue that the "informal powers" of the governor, such as visibility of the office and access to the media, help him play a leadership role. Bernick and Wiggins (1991) similarly note that "high visibility ... means that the issues highlighted by (governors) draw the attention of the media and consequently the public." E. Lee Bernick and Charles W. Wiggins, "Executive-Legislative Relations: The Governor's Role as Chief Legislator." In Gubernatorial Leadership and State Policy, Eric B. Herzik and Brent W. Brown eds., (Connecticut: Greenwood Press, 1991), p. 75.

On the other hand, some scholars argue that "state representatives rarely see the governor as playing a significant role in the state legislature." Robert S. Erickson, Gerald C. Wright and John P. McIver, Statehouse Democracy: Public Opinion and Policy in the American States (Cambridge: Cambridge University Press, 1993), p. 127.

220 Sixty-nine percent of the 368 legislators they surveyed said governors were not influential or somewhat influential, while only 31% said they were moderately or highly influential. (Marshall R. Goodman, Timothy Holp, Louis Martin, and Eric Rademacher, "Legislative Ethics: Reform and Reaction in the States," Presented at the Annual Meeting of the American Political Science Association, New York, 1994).
Governors can highlight issues through the state of the state address or through other speeches given during their terms of office, and their speeches tend to receive more media attention than those of legislators or other political actors. Looking at newspaper coverage of legislative ethics reform efforts in states including New York, Massachusetts, Texas, Louisiana, and California between the years 1954 to 1996, it appears that governors often played an active role.\textsuperscript{221} In particular, gubernatorial candidates often make fighting corruption and cleaning up government part of their campaign platforms.\textsuperscript{222} Because of political competition between governors and legislators, governors often emphasize legislative corruption and the need for legislative ethics reform. To the extent that governors follow up on their campaign promises, they may push for the enactment of legislative ethics laws after they are elected. Therefore, it may be more likely for states to enact ethics codes in years immediately following gubernatorial elections than in other years. In other words, I operationalize gubernatorial influence on ethics reform as a dichotomous measure which equals one for the year after a gubernatorial election and zero otherwise.

**H5: The greater the number of members in a legislature who have some measure of institutional power, the less likely ethics legislation will be.**\textsuperscript{223}

Since there are different kinds of institutional power, I make two separate predictions which take into account the different types of power-holding:

\textsuperscript{221} Examples of governors during the 1954-1972 period who were at the forefront of conflict of interest reform include Governor Dewey of New York in 1954, Governor Volpe of Massachusetts in 1961, and Governor Brown of California in 1966. Examples from the post-Watergate period include Governor Cuomo of New York in 1987, Governor Richards of Texas in 1991, and Governor Foster of Louisiana in 1996.

\textsuperscript{222} As discussed in Chapter One, Mowry (1951) and Thelen (1976) argue that Progressive era governors did just that. As is sometimes argued about foreign policy, it may be the case that executives are naturally better situated to promote reforms designed to protect the general or public interest, whereas legislators are better situated to promote the interests of specialized groups of constituents and special interest groups, due to their differing electoral bases of support.

\textsuperscript{223} As argued in the previous two chapters, legislators are more likely to resist ethics reform when it is perceived as a threat to their institutional power and perquisites of office. Legislators who hold positions of power should be less likely to introduce — and more likely to resist — ethics reform, while those who are non-power holders should be more likely to promote and support ethics laws. Aggregating this picture of individual member behavior to the state level, the higher the number of members in a legislature who hold positions of institutional power, the less likely it is that ethics legislation will be enacted.
H5a) States in which a greater proportion of majority party members are committee chairmen should be less likely to enact ethics code.\textsuperscript{224}

H5b) States where top legislative leaders hold more power should be least likely to pass reform, while states in which top leaders are relatively weak should be more likely to enact reform.\textsuperscript{225}

We saw in Chapters Two and Three that top legislative leaders and other institutional power-holders tended to be more likely to oppose ethics reform than other members. This is because ethics restrictions generally have their greatest effect on those who benefit the most from them, namely those in positions of power. Therefore, those most likely to introduce and support ethics reform should be members who do not have a great stake in power, i.e. political "outs" within and outside the majority party.\textsuperscript{226} Those who have acquired institutional power would be expected to oppose policies that would restrict their power and the benefits that flow from holding power.\textsuperscript{227}

III. Scandal/Corruption

H6: The occurrence of scandals involving unethical behavior by state legislators and/or statewide officials should increase the likelihood of states enacting an ethics code.

Scandals bring political ethics to the forefront of the legislative agenda and historically have sparked efforts to regulate unethical behavior in the states (Hoogenboom 1979, Zimmerman 1994; Rosenthal 1996). States where scandals involving conflicts of interest

\textsuperscript{224} I test this separately for the house and senate in each state.

\textsuperscript{225} The power of top leaders is measured by bill referral and appointment powers. See Appendix C for details.

\textsuperscript{226} The majority party control variable, a key measure of electoral competition, also measures a weak form of institutional power-holding.

\textsuperscript{226} As discussed briefly in Chapter One, studies of Progressive era political activity at the state level provide suggestive parallels for later 20th century political reform. In states such as California, Wisconsin, Oregon, Kansas, and South Dakota, the driving force behind the institution of various reforms (the initiative, referendum, and recall, campaign finance regulation, and other attacks on the corruption of political leaders and existing power arrangements) came from insurgents within the majority party (Wiebe 1967; Thelen 1976; Gould 1978).

\textsuperscript{227} As Gould (1978) writes about Progressive era proposals such as campaign finance reform, political leaders generally "did not wish to rewrite the rules of the game ... or destroy special privilege ... (rather) they wished to clasp it to their own bosom." Lewis L. Gould, Reform and Regulation in American Politics, 1900-1916 (New York: John Wiley & Sons 1978), p. 61. We should expect to see the same pattern with ethics reforms that take aim at the special privileges of certain legislators.
(official misuse of power and resources for personal gain) are infrequent or non-existent will lack such a catalyzing stimulus. Since the space on the legislative agenda is limited, it is less likely that the issue of legislative ethics will make it onto the agenda — and be sustained on the agenda — in such states. Conversely, in states where there are frequent scandals, legislators are forced to confront the issue of conflict of interest by the media, public interest groups, other political actors, and concerned constituents. This makes it more likely that they will respond by enacting an ethics code.228

228 Basically the theory here is one of stimulus and response, where the stimulus of scandal helps shape the political agenda. While not all states will respond to every stimulus, they will be more likely to take action in the presence of a stimulus than in its absence. Drawing from Mohr's (1969) analysis of organization innovation, the stimulus of scandal will affect outcomes by affecting the motivation to innovate. Goodman et. al. (1993, 1994a, 1996) have theorized that scandals are key to explaining the timing and stringency of state legislative ethics laws, but they do not explicitly test for the impact of scandal in their analysis.

The case studies I have conducted suggest that the media plays a critical role in the linkage between scandal and reform, in large part by focusing and keeping attention on the issue of political ethics. The main model of politics which applies here is that of agenda-setting. Downs (1972) posits an "issue-attention" cycle where media scrutiny focuses public opinion on a problem, generating pressure on public officials to adopt a new policy innovation in response to the problem. Kindon (1984) and Hays and Glick (1997) also stress the role of the media in setting public agendas and repositioning issues which may have been hovering in the background at the front of the agenda. By prominently publicizing proposals for reform — and also by publicizing attempts to scuttle or scale back reform proposals — reporters and editors generate a pressure that pushes legislators to act in order to reduce negative media attention to the functioning of government institutions.

Examples of negative media coverage in the pre-Watergate period of legislators' attempts to water down ethics reform proposals include the editorials and reporting by the New York Times during debates in 1963 and 1964 over strengthening the 1954 ethics law. Coverage by the Times was also highly critical during the 1965 debate over limits on lawyer-legislators and the establishment of an independent advisory committee to issue opinions on potential conflicts of interest. Another example of editorial and reportorial criticism of legislators' opposition to ethics reform is the Los Angeles Times coverage of the 1965 and 1966 attempts to establish an initial ethics code and place substantial limits on lawyer-legislators.

In the post-Watergate period, negative media coverage of legislators' attempts to weaken ethics reform proposals has also been widespread. Newspaper reporters and editors zero in on discrepancies between bills proposed by governors and public interest groups, on the one hand, and the watered-down versions that generally emerge from House and Senate committees and conference committees. The role of legislative leaders in trying to weaken reform through back-door dealings is often highlighted by zealous reporters. Examples of the negative coverage include reporting and editorials by the Boston Globe in 1977 and 1978 of legislators' resistance to financial disclosure and to the establishment of an independent ethics commission. Also illuminative in this regard is the coverage by the New York Times of the 1987 battle between Governor Mario Cuomo and state legislators over Cuomo's proposal for a major overhaul of the state's ethics laws, described in Chapter Two. Times editorials and also news articles tended to portray Cuomo as the guardian of the public interest in clean government battling against recalcitrant, self-interested legislators. Cuomo's electoral considerations and the fact that his proposals would increase executive power relative to that of the legislature, received less attention.

Further examples of critical media coverage of legislators' balking at ethics reform include the 1991 coverage by the Houston Post of conference committee squabbling over the powers of a proposed ethics commission in Texas. As with the New York Times coverage of the 1987 ethics reform debate, the Houston Post emphasized the contrast between the support for Governor Ann Richards for wide-ranging reforms and the desire of legislators to enact more limited reform.228
Not just the immediate impetus of a particular scandal, but a more enduring history of corruption should make a state more likely to enact an ethics code during this time.\footnote{In other words, a historical tendency of states to be vulnerable to public corruption should increase legislators' interest in enacting a code which fits into the broad category of anti-corruption legislation. A strong state history of public corruption should spark interest in reform from both public-interest groups and certain legislators.} I use two measures to reflect the scandal/corruption hypothesis: one which measures the immediate effects of particular scandals on the passage of ethics codes, the other which measures states' general "tendencies" toward corruption. As described in Appendix C, the scandal variable is an additive measure of the number and severity of conflict of interest scandals involving certain state officials. The measure of long-term corruption comes from David Mayhew's analysis of traditional party organizations or TPOs in the states in the late 1960's \cite{Mayhew1986}.

## IV. Economic Self Interest/Legislative Professionalization

**H7:** The higher the compensation for state legislators, the more likely they will be to enact ethics codes aimed at regulating their outside income and activities.

**H8:** State legislatures with a higher proportion of attorneys may be less likely to enact ethics codes.

\footnote{While Mayhew does not claim that TPOs are not identical to political machines, he suggests that there are important similarities. TPOs, like machines, work for the nomination of candidates for municipal, county, and state offices. More important, a TPO "relies substantially on 'material' incentives, and not much on 'purposive' incentives, in engaging people to do organization work or to supply organization support." David Mayhew, *Placing Parties in American Politics* (Princeton: Princeton University Press, 1986), p.20.}

In other words, TPO make heavy use of what James Q. Wilson calls "individual material" inducements or "tangible rewards: money, or things and services readily priced in monetary terms" which include appointive or elective positions in government, business opportunities, and exemptions from law enforcement \cite{Ibid.} The use of these material incentives is a common characteristic of political machines and it is conducive to political corruption \cite{Benson1978, Johnston1992}. States with high TPO scores should therefore have more corruption than those with a low degree of traditional party organization.

The TPO measure is, however, an imperfect measure of long-term corruption in the states. I also used a measure derived from George Benson's *Political Corruption in America* \cite{Benson1978}. Benson compiled working papers on corruption in 35 states from the early 1900's to the mid-1970's. I tried using a dichotomous measure which scored states as 1 if Benson assessed them as having "continuous" or "major" problems with corruption. Fourteen states received a score of 1; the rest were scored zero. See George Benson, *Political Corruption in America* \cite{LexingtonBooks1978}, Chapter 7. The results are not presented here, but are discussed in a footnote to the results section. The substantive results of both models are largely similar. While neither measure of long-term corruption is ideal, the TPO measure is preferable because it is based on an assessment of all the states in the dataset, whereas Benson only looked at 35 states.
We start with the basic proposition that legislators are concerned with their economic well-being as well as with political power. They will naturally resist attempts to reduce their economic well-being, and will respond positively to efforts that maintain or improve their economic well-being. In the pre-Watergate period—and to a lesser extent today—the vast majority of legislators were only part-time and poorly paid. Most were dependent on outside income to support themselves and their families. Chapter Three showed how at the individual level, legislators were more likely to oppose ethics laws when the restrictions impinged directly on their ability to supplement their official salaries; for example, members who were attorneys were more likely to oppose restrictions on lawyer-legislators.

Legislative compensation is a critical part of legislators' economic well being. Research on state politics has shown clearly that it influences legislators' behavior (Rosenthal 1974; Fiorina 1994). Various scholars have theorized about a positive correlation between legislative compensation and ethics reform at the aggregate level, i.e. that states will be more likely to enact reform where salaries are higher (Sacks 1971; Pound 1992; Rosenthal 1996). The rationale for a linkage between compensation and legislators' attitudes toward ethics laws is that where legislators are poorly paid, they may be unwilling to place restrictions on their ability to supplement their salaries through outside activities. Conversely, the better paid legislators are, the more willing they may be to accept ethics restrictions. There is in effect a tradeoff between higher salaries and willingness to pass laws restricting outside income.231

In this chapter, I test explicitly for a connection between higher legislative pay and the likelihood of states' enacting an ethics code in the years 1954-1972. I also test to see whether the proportion of attorneys in the legislature had a negative impact on the likelihood of ethics

231 Scholars of state legislatures have pointed to the increase in legislative salaries during the 1960's and 1970's as a central element of the move toward professionalization and modernization of the institution (Squire 1992; Fiorina 1994). Sacks and Pound suggest that the increase in salaries during this period facilitated the passage of conflict of interest laws which regulated outside income and economic activities of legislators. Sandra Williams (1985) has suggested a similar linkage for Great Britain. However, only one study, to my knowledge, has tested explicitly for this linkage (Goodman et al. 1994b). Goodman and his colleagues found a positive correlation between state legislative pay and certain conflict of interest restrictions; however, their study is a cross-sectional analysis which deals with ethics laws in the 1990's, not the pre-Watergate period.
reform, given that certain ethics restrictions impinge most severely on lawyers (i.e. limits on representation before state agencies and disclosure requirements).\textsuperscript{232}

\textbf{V. Direct Democracy}

\textbf{H9: States with an initiative process should be more likely to enact ethics codes than those without one.}

The initiative process is considered a powerful method of bypassing legislative opposition to certain policies (Cronin 1989; Schmidt 1992). In recent years especially, it has been used by public interest groups such as Common Cause to enact laws that legislators have not been willing to enact themselves, such as public financing for electoral campaigns. The Massachusetts case study of Chapter Two suggests that the initiative played a role in the passage of a strong legislative ethics law in 1978. Anecdotal evidence suggests a number of cases in which other ethics restrictions were passed by initiative, for example in California and Florida in 1974, in Arkansas in 1991, and in California again in 1990. Even where the initiative is not actually used to enact a law, it can — as in the Massachusetts case — serve as a tool to prod recalcitrant legislators into taking action as a pre-emptive strike against voters writing their own legislation.\textsuperscript{233}

\textbf{VI. Policy Diffusion}

\textbf{H10: Ethics codes will diffuse among states. If certain "leader" states enact ethics codes, other leader states and follower states within their regions will be more likely to enact such codes.}\textsuperscript{234}

\textsuperscript{232} On the other hand, states with more attorneys may actually be the most likely to enact limits on attorneys because it is only in these states that outside activities of attorneys pose a serious potential for widespread conflict of interest. In states with very few attorneys, conflicts involving lawyer-legislators are not likely to be perceived as a major problem requiring remedial legislation.

\textsuperscript{233} In addition to Chapter Two of this dissertation, see also Bradbury (1996) for a detailed discussion of the role of the initiative in the passage of ethics legislation in Massachusetts in 1978.

\textsuperscript{234} Policy diffusion studies do not always specify the precise process by which regional diffusion occurs. However, it is plausible that states learn from their neighbors and are more willing to adopt laws that have already been tried in other states. Berry and Berry (1990) suggest that "policy adoptions by nearby states provide a critical resource (information) for overcoming an obstacle to innovation (uncertainty about potential effects of new laws)." (Berry and Berry, p. 400). Similarly, Elazar (1972), quoted in Berry and Berry, maintains that state policy makers tend to view nearby states as "experimental laboratories" for policies.

It is also plausible that recent policy adoption by national and regional "leader" states may catalyze action by other states by generating public-interest group and popular demand within the not-yet adopting states. The media most likely plays a central role in transmitting public interest group and popular sentiment in favor
State policy innovation is likely to be the result not only of intra-state factors but also of inter-state policy diffusion. Various scholars have argued that certain states have been leaders across a wide variety of policy innovations (Walker 1969; Gray 1973; Savage 1978; Lutz 1987). The argument is that national and regional leaders set the pace in policy innovation, with "follower" states being more likely to enact policies after leader states have already done so.\textsuperscript{235}

VII. Pre-Existing Policies

**H11:** States which have strong lobbying and/or campaign finance laws may be less likely to adopt conflict of interest laws.

Policy legacies can exert a powerful influence on the parameters of future policy decisions (Orloff 1988; Skocpol 1988). Specifically, existing state laws which address potential conflicts of interest may affect the passage of legislative ethics codes. States which have already taken steps to control legislative conflicts of interest through other means may be less likely to adopt new laws, while states with weak lobby and campaign finance laws may be more likely to adopt ethics laws. Ethics laws may therefore substitute for other types of laws.\textsuperscript{236}

4.5 Methodology

Event history analysis is used to answer the question: what is the probability that a state will adopt a legislative ethics code during the pre-Watergate period? The period of analysis begins in 1954, which represents the first year that states were "at risk" of adopting a code. It ends in 1972. Observations are annual and states are dropped from the "risk set" after they experience the event in question, namely passage of a legislative ethics code.\textsuperscript{237} The dataset of new policies to elite policy makers. This mechanism and the reduction-of-uncertainty scenario are not mutually exclusive; the two may operate together and can be seen as complementary rather than competing.\textsuperscript{235} However, Goodman, Holp, Martin and Rademacher (1994) argue, based on survey data, that states did not pay much attention to the actions of other states when it came to ethics reform in the 1990's.\textsuperscript{236} In other words, states which have already enacted strong laws to regulate lobbyists' contacts with legislators may have a weaker impetus to enact laws which regulate legislators directly. Similarly, states with limits on campaign finance contributions from corporations and/or labor unions may have a weaker impetus to enact legislative ethics laws, since the two types of laws may be substitutes.\textsuperscript{237} I therefore model the passage of an ethics code as a non-repeatable event. Although passage could be considered a repeatable event (since laws can be repealed), for the period considered here it is accurate to consider
consists of observations for the 48 contiguous states, minus Nebraska and Minnesota since they had non-partisan legislatures during this period and thus certain variables are undefined for those states.

The variable to be explained is the hazard rate, defined as the probability that a state experiences an event during a particular time period, given that the state is at risk during that time. The hazard rate is presumed to be determined by the independent variables described above. Following Singer and Willett (1993), Mintrom (1997), and Beck and Katz (1998), I control for possible time dependence, which is often ignored in time-series cross section analysis with a binary dependent variable. I do this by using dummy variables for the individual years, with the first year excluded and used as the constant.

Table 4.2 below presents summary statistics for the independent variables. Table 4.3 presents the regressions results for the model using time dummies to control for duration dependence and particular year effects (coefficients and standard errors for these dummy variables are not presented). I use two models; the first includes all the independent variables, while the second keeps only those variables whose coefficients exceed their standard errors.

Using the coefficient estimates generated by the event history analysis, we can calculate predicted probabilities that a state with specified characteristics will adopt a legislative ethics code in a given year. Table 4.4 shows the predicted probabilities that a state will enact a

---

enactment of ethics codes as non-repeatable. Just one state, Massachusetts, enacted and then repealed a code during this time frame, and the repeal was only partial.

238 Berry and Berry (1990) note that the the hazard rate, being a probability, is an unobserved variable. The observed dependent variable is a dummy variable scored as one when a state experiences the event and zero otherwise. Because the dependent variable is dichotomous, logistic rather than linear regression is the preferable estimation technique.

239 As Mintrom points out, "Since (this) model makes time-dependency explicit, other time-varying explanatory variables ... are not contaminated by picking up otherwise general maturation effects." (Mintrom, p. 754) I therefore control for potentially spurious findings regarding variables which trend upward over time, such as legislative compensation or diffusion effects.

Following Singer and Willett (1993), I also tried two models — not presented here — which used only the year dummies and a time trend variable respectively. Neither of the models allowed me to predict any cases where the dependent variable was scored one (i.e. state passed an ethics code in that year). This contrasts to the proportional reduction in error for the models presented here (see Table 4.3 for PRE value).

The dummy variables also allow us to account for the possibility that exogenous events (for example the 1967 passage of ethics code by the U.S. House and Senate) have an effect on state action in this policy area. To the extent that such exogenous factors influence the probability of states' enacting an ethics code, the coefficients for particular year variables may be statistically significant.
legislative ethics code, given differing values for the independent variables. The year is set to 1964, a point roughly in the middle of the period examined here. I calculated predicted probabilities of passage for 13 different sets of circumstances — one minimally favorable, one maximally favorable, and 11 in between. The first set of conditions sets all variables at the levels least favorable for passage. The second set of conditions sets all variables at their means, and the next 10 show adjustments from this second set by changing one or more of the variables from its' mean value. The last set of conditions sets all variables at the levels most favorable for passage.

---

**Table 4.2**

Summary Statistics for the Independent Variables

<table>
<thead>
<tr>
<th>Variable</th>
<th>Mean</th>
<th>Std. Dev.</th>
<th>Min.</th>
<th>Max</th>
</tr>
</thead>
<tbody>
<tr>
<td>Individualist Culture</td>
<td>0.31</td>
<td>0.46</td>
<td>0.00</td>
<td>1.00</td>
</tr>
<tr>
<td>Traditionalist Culture</td>
<td>0.34</td>
<td>0.47</td>
<td>0.00</td>
<td>1.00</td>
</tr>
<tr>
<td>Ideology</td>
<td>43.61</td>
<td>16.91</td>
<td>8.26</td>
<td>78.81</td>
</tr>
<tr>
<td>Unified Government</td>
<td>0.59</td>
<td>0.49</td>
<td>0.00</td>
<td>1.00</td>
</tr>
<tr>
<td>Majority Party Control</td>
<td>72.14</td>
<td>16.01</td>
<td>50.00</td>
<td>100.00</td>
</tr>
<tr>
<td>Gub. Campaign</td>
<td>0.34</td>
<td>0.47</td>
<td>0.00</td>
<td>1.00</td>
</tr>
<tr>
<td>Speaker/Pres Power</td>
<td>3.29</td>
<td>1.11</td>
<td>0.00</td>
<td>4.00</td>
</tr>
<tr>
<td>Senate Chair Ratio</td>
<td>0.91</td>
<td>0.38</td>
<td>0.24</td>
<td>3.20</td>
</tr>
<tr>
<td>House Chair Ratio</td>
<td>0.41</td>
<td>0.25</td>
<td>0.06</td>
<td>2.00</td>
</tr>
<tr>
<td>Scandal</td>
<td>0.14</td>
<td>0.69</td>
<td>0.00</td>
<td>9.00</td>
</tr>
<tr>
<td>TPO</td>
<td>1.98</td>
<td>1.43</td>
<td>1.00</td>
<td>5.00</td>
</tr>
<tr>
<td>Compensation</td>
<td>13.22</td>
<td>13.26</td>
<td>0.43</td>
<td>167.48</td>
</tr>
<tr>
<td>Attorneys</td>
<td>23.86</td>
<td>13.71</td>
<td>2.17</td>
<td>61.00</td>
</tr>
<tr>
<td>Initiative Process</td>
<td>0.50</td>
<td>0.50</td>
<td>0.00</td>
<td>1.00</td>
</tr>
<tr>
<td>Diffusion</td>
<td>0.87</td>
<td>1.54</td>
<td>0.00</td>
<td>11.00</td>
</tr>
<tr>
<td>Lobby Laws</td>
<td>2.68</td>
<td>1.89</td>
<td>0.00</td>
<td>5.00</td>
</tr>
<tr>
<td>Campaign Finance Laws</td>
<td>0.71</td>
<td>0.69</td>
<td>0.00</td>
<td>2.00</td>
</tr>
</tbody>
</table>

Data sources: See Appendix C.
Table 4.3: 
Event History Analysis: 
The Passage of Legislative Ethics Codes, 1954-1972 
(logistic regression)

<table>
<thead>
<tr>
<th>Variable</th>
<th>Model 1</th>
<th>Model 2</th>
</tr>
</thead>
<tbody>
<tr>
<td>B</td>
<td>SE (B)</td>
<td>B</td>
</tr>
<tr>
<td>Culture/Ideology</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Individualist</td>
<td>-4.1733</td>
<td>-4.9480</td>
</tr>
<tr>
<td></td>
<td>1.9263*</td>
<td>1.6024**</td>
</tr>
<tr>
<td>Traditionalist</td>
<td>1.1881</td>
<td>1.1674</td>
</tr>
<tr>
<td></td>
<td>1.0876</td>
<td>0.9934</td>
</tr>
<tr>
<td>Lib-Con Ideology</td>
<td>0.0904</td>
<td>0.0969</td>
</tr>
<tr>
<td></td>
<td>0.0338**</td>
<td>0.0297**</td>
</tr>
<tr>
<td>Electoral Factors</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Unified Government</td>
<td>0.6634</td>
<td>0.6964</td>
</tr>
<tr>
<td></td>
<td>0.5765</td>
<td>0.5557</td>
</tr>
<tr>
<td>Majority Party Control</td>
<td>0.0017</td>
<td></td>
</tr>
<tr>
<td></td>
<td>0.0257</td>
<td></td>
</tr>
<tr>
<td>Gub. Campaign</td>
<td>3.0489</td>
<td>3.1211</td>
</tr>
<tr>
<td></td>
<td>0.9769**</td>
<td>0.9701**</td>
</tr>
<tr>
<td>Institutional Power</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Senate Chair Ratio</td>
<td>-0.7114</td>
<td>-5.4987</td>
</tr>
<tr>
<td></td>
<td>1.0922</td>
<td>2.1952**</td>
</tr>
<tr>
<td>House Chair Ratio</td>
<td>-4.6871</td>
<td></td>
</tr>
<tr>
<td></td>
<td>2.5590*</td>
<td></td>
</tr>
<tr>
<td>Speaker/Pres. Power</td>
<td>0.4821</td>
<td>0.5367</td>
</tr>
<tr>
<td></td>
<td>0.4097</td>
<td>0.3477+</td>
</tr>
<tr>
<td>Scandal/Corruption</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Scandal</td>
<td>0.7319</td>
<td>0.7429</td>
</tr>
<tr>
<td></td>
<td>0.2475**</td>
<td>0.2401**</td>
</tr>
<tr>
<td>TPO</td>
<td>0.9395</td>
<td>1.1194</td>
</tr>
<tr>
<td></td>
<td>0.5067*</td>
<td>0.4333**</td>
</tr>
<tr>
<td>Economic Self-Interest</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Leg. Compensation</td>
<td>0.0648</td>
<td>0.0684</td>
</tr>
<tr>
<td></td>
<td>0.0243**</td>
<td>0.0232**</td>
</tr>
<tr>
<td>Attorneys</td>
<td>0.0390</td>
<td>0.4333</td>
</tr>
<tr>
<td></td>
<td>0.0319</td>
<td>0.0307+</td>
</tr>
<tr>
<td>Direct Democracy</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Initiative Process</td>
<td>1.5424</td>
<td>1.7744</td>
</tr>
<tr>
<td></td>
<td>0.8783*</td>
<td>0.7917*</td>
</tr>
<tr>
<td>Diffusion</td>
<td></td>
<td></td>
</tr>
<tr>
<td>State Diffusion</td>
<td>0.0744</td>
<td></td>
</tr>
<tr>
<td></td>
<td>0.1336</td>
<td></td>
</tr>
<tr>
<td>Pre-Existing Laws</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Lobby Laws</td>
<td>-0.0614</td>
<td>0.7088</td>
</tr>
<tr>
<td></td>
<td>0.1780</td>
<td>0.4221*</td>
</tr>
<tr>
<td>Campaign Finance</td>
<td>0.7172</td>
<td></td>
</tr>
<tr>
<td></td>
<td>0.4436+</td>
<td></td>
</tr>
<tr>
<td>Year Dummies</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>(not presented)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Constant</td>
<td>-12.8528</td>
<td>-14.2174</td>
</tr>
<tr>
<td></td>
<td>4.4066**</td>
<td>3.4436**</td>
</tr>
<tr>
<td>-2 LOG LIKELIHOOD</td>
<td>126.354</td>
<td>126.937</td>
</tr>
<tr>
<td>Prop. Reduction in Error</td>
<td>.23</td>
<td>.23</td>
</tr>
<tr>
<td>N=711</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

+ p < .10; * p < .05; ** p < .01, one-tailed tests.

Data for the dependent variable from state conflict of interest statutes and state legislative rule books (see Appendix A). See Appendix C for data sources for the independent variables.
Table 4.4

Model Estimates of the Enactment Hazard Rate for Passage of a Legislative Ethics Code

<table>
<thead>
<tr>
<th>Hypothetical Conditions</th>
<th>Predicted hazard rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. (Minimally Favorable Conditions)</td>
<td></td>
</tr>
<tr>
<td>Year: 1964</td>
<td></td>
</tr>
<tr>
<td>Least Liberal Ideology</td>
<td></td>
</tr>
<tr>
<td>Not Post-Gub. Campaign Year</td>
<td></td>
</tr>
<tr>
<td>Divided Control of Government</td>
<td></td>
</tr>
<tr>
<td>Minimum Scandal Value</td>
<td></td>
</tr>
<tr>
<td>Minimum TPO Score</td>
<td></td>
</tr>
<tr>
<td>Minimum Leg. Compensation</td>
<td></td>
</tr>
<tr>
<td>No Initiative Process</td>
<td></td>
</tr>
<tr>
<td>Individualist Culture</td>
<td></td>
</tr>
<tr>
<td>Minimum Speaker/Pres. Power</td>
<td>.0000</td>
</tr>
<tr>
<td>Maximum Ratio House Chairs</td>
<td></td>
</tr>
<tr>
<td>2. Year: 1964</td>
<td>.0056</td>
</tr>
<tr>
<td>Mean Values, All Variables</td>
<td></td>
</tr>
<tr>
<td>3. Year: 1964</td>
<td>.1432</td>
</tr>
<tr>
<td>Mean Values, All Variables</td>
<td></td>
</tr>
<tr>
<td>Except TPO = Max. Value</td>
<td></td>
</tr>
<tr>
<td>4. Year: 1964</td>
<td>.0649</td>
</tr>
<tr>
<td>Mean Values, All Variables</td>
<td></td>
</tr>
<tr>
<td>Except Compensation = 50</td>
<td></td>
</tr>
<tr>
<td>5. Mean Values, All Variables</td>
<td>.0911</td>
</tr>
<tr>
<td>Except Scandal = 4</td>
<td></td>
</tr>
<tr>
<td>6. Mean Values, All Variables</td>
<td>.0375</td>
</tr>
<tr>
<td>Except House Chair Ratio = Min.</td>
<td></td>
</tr>
<tr>
<td>7. Mean Values, All Variables</td>
<td>.1333</td>
</tr>
<tr>
<td>Except Ideology = Max. Value</td>
<td></td>
</tr>
</tbody>
</table>
8. **Mean Values, All Variables**  
   Except Initiative = 1  
   .0136

9. **Mean Values, All Variables**  
   Except Ideology = Max. Value  
   and Initiative = 1  
   .2720

10. **Mean Values, All Variables**  
    Except Ideology = Max. Value,  
    Initiative = 1 and  
    House Chair Ratio = Minimum  
    .7194

11. **Mean Values, All Variables**  
    Except Scandal Value = Maximum  
    .8064

12. **Mean Values, All Variables**  
    Except Compensation = 100  
    .9952

13. **(Maximally Favorable Conditions)**  
    Year: 1964  
    Most Liberal Ideology  
    Post-Gub. Campaign Year  
    Unified Control of Government  
    Maximum Scandal Value  
    Maximum TPO Score  
    Maximum Leg. Compensation  
    Initiative Process  
    Traditionalist Culture  
    Maximum Speaker/Pres. Power  
    Minimum Ratio House Chairs  
    1.0000

Note: Hazard rates are calculated using the coefficient estimates from Table 4.3.

---

4.6 **Results and Discussion**

The regression results confirm many of the original hypotheses. Specifically, they provide support for the role of scandal (both short-term scandals and long-term corruption within states), legislative compensation, gubernatorial campaigns, the initiative process, and liberal ideology in facilitating the passage of ethics codes during the pre-Watergate period. The results also provide some support for the hypothesis that institutional power in the House hindered ethics reform, and mixed evidence regarding the influence of political culture on the
passage of ethics reform. In model 2, two time dummies are negative and significant at the .10 and .05 levels respectively. These are the variables for 1957 and 1965. The dummy variable for 1968 is positive and significant at the .05 level; this finding can be interpreted as providing support for one of two hypotheses: either the enactment by eight states of ethics codes in 1967 provided an impetus to additional state enactments the following year, or the enactment in 1967 of the Congressional ethics codes provided a similar stimulus, or a combination of the two. Overall, the pattern of the time dummies suggests that the passage of ethics codes is not simply a function of the passage of time. The substantive variables, rather than the time dummies, are more important in explaining variation in the likelihood of ethics code enactment.

In model 2, scandal, traditional party organizations, compensation, liberal ideology, and gubernatorial campaigns all have positive and significant coefficients, as expected, at the .01 level. Institutional power in the House, also as expected, is negative and significant at the .01 level. The coefficient for the initiative process variable is also positive and significant at the .05 level.

It appears that scandal was a major stimulus to the enactment of the initial ethics codes. States which experienced particular conflict of interest scandals during this time, and also states that scored high in terms of traditional party organization, were more likely to enact conflict of interest codes prior to Watergate. As discussed earlier with reference to New York, a major cause of reported scandals was state investigations into linkages between organized crime operations and state and local politicians, carried out in the wake of Sen. Estes Kefauver’s Senate Committee investigations in 1950-1951. The Kefauver Committee had held hearings and uncovered ties between underworld figures and elected officials in cities and counties including Miami, Florida; Chicago, Illinois; New Orleans, Louisiana; Bergen County, New Jersey; St. Louis and Kansas City, Missouri. The revelations touched not only local police chiefs and other local officials, but also implicated state legislators and governors in certain states. These revelations stimulated states to take action on the problem of organized crime

---

over the next decade and a half. In the 1950's and 1960's, ambitious politicians in states including New York, Florida, and New Jersey followed the committee's lead in conducting their own investigations into ties between organized crime and politicians at both the state and city levels. The timing of these investigations in some of these cases preceded the enactment of legislative ethics codes by a year or two.

We can see the impact of corruption and scandals on the likelihood that states would enact a code in Table 4.4. When we set all variables at their mean values, the likelihood of passage is only .56 percent or about half of one percent. (Recall that there are 711 observations in the dataset and only 26 of these are scored as 1, meaning that the state enacted passage in a given year). If we keep all variables but traditional party organization at their means and increase the TPO value to the maximum possible, the likelihood of passage rises to 14.32%. I also tried using the Benson measure of state corruption in place of the TPO variable (results are not reported here). The results were largely the same as those using the TPO measure.241

If we keep all variables but scandal at their means and increase the scandal variable to 4 — which represents a relatively large conflict of interest scandal — the likelihood of passage rises to 9.11%. Setting the scandal variable at its' maximum value, the likelihood of passage rises to 80.64%. Of course, only a few states during this time reached the maximum level for this variable. Still, a major scandal or combination of scandals clearly increases by a significant amount the likelihood that a state will enact a code in that year.

Both the media, as the link between scandal and reform, and governors, as the chief policy makers in the state, appear to have helped place and keep ethics codes on the legislative agenda. While I do not measure media influence explicitly, the argument I develop in the case studies of Chapter 2 is that scandals lead to reform via the reporting and attention of the media. Another force external to the legislature which appears to have a positive impact on the

241 The coefficient for the Benson corruption variable was positively signed but insignificant. The only substantive differences in the results were that 1) the diffusion variable was significant at the .10 level, and the initiative variable was not significant.
likelihood of ethics reform is the initiative process. States which had an initiative process were significantly more likely to enact these codes in this period, either because the process was actively used — as in California in 1966 or Colorado in 1972 — or because of the possibility that it could be used. The magnitude of the impact of the initiative considered in isolation is very small, however. A state with an initiative process and average values on all other variables has a 1.36% probability of enacting a code, which is 1.13% higher than a state with no initiative process and average values on all other variables. Only when the initiative is taken in combination with other significant variables does it have a more substantial impact. For example in the 9th and 10th sets of conditions, when we combine an initiative with liberal ideology or with liberal ideology and a minimal ratio of House chairs, the predicted probability of passage is 27.20% and 71.94% respectively. The initiative process has a more significant individual impact on ethics reform in the post-Watergate period, as I show in the following chapters.

The more liberal a state's ideology, the more likely it was to enact ethics reform. If we compare the predicted probability of passage for the second set of conditions (all variables at their means), to the probability in the fifth set of conditions, where ideology is at its maximum value, the difference is 12.77%. When we combine maximum liberal ideology with a state that has an initiative process, the predicted probability of passage rises an additional 14.43% to 27.20%, as described above. While liberalism seems to have facilitated ethics reform, it is equally likely that conservative ideology thwarted reform, to the extent that it reflects a resistance to regulation of private economic activity.

Legislative compensation also had a major influence on the likelihood of states' enacting an ethics code during this period. If we increase real biennial compensation from its' mean value of $13,200 to $50,000, keeping all variables at their means, the predicted probability of passage rises from .0056 to .0649 or almost 6% (12th set of conditions). If real compensation is increased its maximum value of $167,480, the likelihood of passage rises all the way to 99.52%. Of course, only one state had a legislative salary level that high during this
period; still, the impact of increasing compensation even in smaller increments is significant. For example, if we increase compensation to $100,000, the predicted probability of passage is 67.56%. This finding provides support for the hypothesis of Sacks (1971) and Pound (1992) that increasing legislative salaries in the 1960's and 1970's facilitated the passage of legislative ethics codes.

The results are mixed with respect to the impact of institutional power on the enactment of legislative ethics codes. On the one hand, as expected, states where more members of the House majority party held positions of power were significantly less likely to enact ethics codes during this time. Where more House members held committee chairmanships, and therefore had a stake in institutional power, ethics reform was less likely. However, this finding did not hold for the Senate. Although the Senate committee chair variable was negatively signed as expected, the coefficient did not achieve significance at the .10 level. Further, the variable which measured the power of Senate presidents and House speakers was positively signed and significant at the .10 level in Model 2, contrary to expectations.

This last finding is somewhat puzzling. It may be that the measure I used is overly crude. The variable does not have a lot of variance; the minimum value is 0 and the maximum value is 4, while the mean is 3.29. Most states score quite high on this measure of the power of top leaders while very few states score low during this period; Kentucky is one notable exception. My measure may not really reflect important differences in the power of top leaders across states. Or, it may be the case that my initial hypothesis is simply wrong: states where speakers and senate presidents are powerful may in fact be more likely to enact reform because power is more centralized; in the cases where top leaders do want ethics reform, it helps if these leaders have greater power over committee chair appointments and bill referral. Leadership support for reform during this period may have contextual, due to the fact that the codes enacted during this period tended to be largely symbolic and substantively weak, and therefore relatively "cost-free" for legislators to enact. In other words, this early period may be an exception to the rule that top leaders tend to oppose ethics reform. Still, this result
contradicts the clear finding that institutional power-holding in the House hindered the enactment of ethics codes.

Another somewhat surprising finding has to do with political culture. I expected both traditionalist and individualist culture to be negatively signed, indicating that states with these cultures were less likely than states with moralistic cultures to enact ethics codes in this early period. Indeed, the coefficient for individualist culture was large and negative, significant at the .01 level. This makes sense given Ellis's (1993) suggestion that moralistic and individualistic culture are at opposite ends of the spectrum. However, traditionalist culture is positively signed (although not significant). This may reflect the relationship between traditionalism and corruption. Since states with moralistic cultures tend to have "clean" politics and those with traditionalist cultures tend to have more public corruption, the positive impact of traditionalism may simply reflect the fact that such states have more corruption and hence, more of an impetus to ethics reform. This fits with the stimulus-and-response theory of how scandal facilitates reform. Since there is undoubtedly some measurement error in the scandal variable, the political culture variable may be picking up some unaccounted-for explanatory power related to the impact of corruption on the passage of ethics laws. However, individualistic states are also likely to have more corruption than moralistic states, but the coefficient for the individualist variable is negative. It is not clear how to account for the finding that individualistic states, but not traditionalist ones, were less likely than moralistic states to enact legislative ethics codes during this time.

Gubernatorial campaigns did appear to have a positive influence on the likelihood that states would enact an ethics code. States were, as expected, more likely to enact these codes in the year after a gubernatorial campaign. However, this finding may be a result of the fact that these years coincide with the first year of a biennial session. During the pre-1972 period, most states only met every two years and did so in odd years. The significance of the gubernatorial campaign variable may therefore be a result of the fact that states were simply more likely to pass any legislation in the years after a campaign. With this consideration in mind, I also ran
a regression which omits the gubernatorial campaign variable; the findings regarding the other significant variables were unchanged.

Governors may still have had an important influence on the enactment of ethics codes during this period, but in a way I am unable to measure. Looking at newspaper coverage of ethics reform efforts in New York, Massachusetts, and California during this period, for example, we can see that Governors Dewey, Volpe and Brown all pressed for the enactment of ethics codes, often fighting the resistance of key legislators in their states. 242 While the involvement of governors in the reform process is evident in the case studies for California and New York, the amount of time it would take to measure whether governors took a public stand in favor of reform in 46 states for all the years considered here (both election and non-election years) was prohibitive.

Another interesting finding was that campaign finance legislation appears to have been a complement to ethics legislation. States which had strong campaign finance laws were more likely to enact ethics codes. Lobby laws do not appear to substitute for or complement ethics codes in these models. A final variable that is marginally significant in an unexpected way is the percent of attorneys in the legislature. The higher this percent, the more likely states were to enact ethics codes. As I show in the next section, this may because of a particular type of ethics restriction that states began to enact during this period: limits on lawyer-legislators. Instead of this restriction being less likely where there are more lawyer-legislators, it appears that the restriction was enacted only in states where there was a fairly large proportion of attorneys. The most plausible explanation for this finding is that in states such as Indiana or New Hampshire where there is only a small number of attorneys in the legislature, the problem of legislators representing clients before state agencies is not seen as an important one which necessitates remedial legislation. I elaborate on this reasoning in more detail later in the chapter when I discuss the results of the model which examines the enactment of this particular limit.

242 Dewey was instrumental in the enactment of the 1954 New York Code. Volpe pushed for the 1961 code in Massachusetts. For Volpe's proposed bill, see Journal of the Senate, 1961, p. 1. For the legislation that was enacted in May, 1961, see Massachusetts Legislative Documents, House Number 3202.
It is also interesting to note which hypotheses were entirely unsupported by the regression results. Neither unified party government nor majority party control were significant. This suggests that inter-party competition did not facilitate the passage of ethics laws, as it has been argued to have done for other types of political reform. The only electoral factor that did make a difference was gubernatorial campaigns, and even this finding is questionable for the reason discussed above.

Finally, the passage of the early conflict of interest codes did not appear to follow a pattern of diffusion from "leader" states to follower states. While all but one of the 14 states designated as national and/or regional leaders enacted codes during this time, some non-leader states enacted codes before the states they were supposed to follow. For example, Texas enacted a code in 1957, the second state to do so, seven years before Louisiana, the regional leader it was expected to follow. Maine also enacted a code before its' regional leader, Massachusetts, beating it by five months. Washington enacted a code a year before its' regional leader, California.

This is not to say that there was no diffusion of ideas among states regarding legislative conflict of interest regulation during this time, but rather that diffusion of the simple codes did not follow the expected pattern in which certain states acted as leaders and other states as followers. Indeed, we see clear evidence of diffusion in the language of the initial codes. For example, after California limited representation by lawyer-legislators before certain state agencies in 1966, a number of states followed suit the following year. The text of the laws in some of these states, such as Illinois and New Jersey, was remarkably similar to the California law. I discuss diffusion more in the final section of the chapter.

The proportional reduction of error (PRE) in Table 4.3 suggests that we improve considerably upon our ability to predict the passage of state legislative ethics codes in this period by using my model. The PRE for both Model 1 and Model 2 is 23%. A model which relies on the modal value of the dependent variable correctly predicts all cases of non-passage
but no cases of passage. The model here correctly predicts eight cases of passage while mispredicting two cases of non-passage.

4.7 Conclusion: Enactment of Basic Codes

Five factors clearly facilitated state-level innovation in the area of legislative conflict of interest codes from 1954-1972. These factors were scandals and a history of corruption within states, legislative compensation, liberal citizen ideology, the existence of an initiative option, and gubernatorial campaigns. There is also evidence that institutional power within the lower houses of state legislatures presented a roadblock to legislative ethics reform during this time. Thus it appears that the impetus to reform came largely from outside the legislative institution: from scandals and corruption which were publicized by the media, from governors who promoted reforms as part of their electoral campaigns, and from the initiative process or implicit threat of its' use.

While great emphasis has been placed on the role of Watergate in catalyzing ethics legislation at the federal and state level, we see clearly that in the pre-Watergate period, many *intra-*state factors influenced states' enactment of these codes. The one national event which may have significantly affected passage of the state codes is the 1967 enactment of the U.S. House and Senate ethics codes. Thus the states did not simply reflect federal activity in the early innovation of conflict of interest codes. State action was shaped by a variety of state-specific factors including scandals and corruption, legislative structures (compensation and the distribution of institutional power), gubernatorial campaigns, popular ideology, and institutions of direct democracy.

4.8 Targeting Lawyer-Legislators: Early Innovation in The Enactment of Representation Limits, 1965-1979

In this section, I examine one particular type of ethics restriction for legislators which states began to enact in the pre-Watergate period. This is limits on legislators representing clients for compensation before state agencies; this restriction has been one of the most hotly contested ethics proposals in state legislatures. As far back as the 1840's, John Quincy Adams
questioned the ethics of legislators practicing as attorneys. The former president, who was then serving as a member of Congress, had been asked to appear before the U.S. Supreme Court on a constitutional question involving a private citizen. Adams wrote in his diary, "It occurs to me that this double capacity of a counselor in courts of law and a member of a legislative body affords opportunity and temptation for contingent fees of a very questionable moral purity."

At the time Adams wrote, the practice of Congressmen and other federal employees representing clients in claims against the federal government was an increasingly common one. Daniel Webster was perhaps the most notorious 19th century Congressman in terms of deriving additional income from his law practice by representing clients before courts and executive agencies. In what would be viewed today as a thoroughly unacceptable conflict of interest, for example, Webster argued 41 cases on behalf of the Bank of the United States before the Supreme Court. Other Congressmen engaged in equally eye-raising practices; one particularly egregious example was Ohio Senator Thomas Corwin, who won a $500,000 fraudulent claims suit before the Mexican Claims Commission. By appearing before claims commissions set up after the Jay Treaty, the War of 1812, and the Mexican War, Congressmen were able to earn sizable fees to supplement their official salaries.

In 1850, a scandal broke which involved President Zachary Taylor's Secretary of War George Crawford, Secretary of War to President Zachary Taylor. Crawford's representation of a private claimant against the government (Crawford received half the settlement) — along with revelations about former Senator Corwin, now Treasury Secretary, in 1852 — sparked charges of conflicts of interest and catalyzed the 1853 legislation barring Congressmen and

---

other federal employees from representing paying clients before federal agencies, except for the courts.\textsuperscript{247}

The main idea behind this type of restriction is that public officials cannot faithfully serve two masters, i.e. the public and a private client. According to a survey of legislators themselves about the problems involved in lawyer-legislators representing clients before agencies over which they have budgetary control, the possibility arises that the agency "might feel intimidated if a legislator on its budget committee appeared as an advocate." The legislator's appearance "inevitably creates an aura of a threat of political repercussions if the result is unfavorable."\textsuperscript{248} It is likely that agency personnel would feel "under pressure" if a legislator appeared on a non-routine matter for a client.\textsuperscript{249}

One hundred and twelve years after Congress banned legislators from representing clients before state agencies, New York took the first step among the states of restricting lawyer-legislators' appearances before state agencies. I take 1965 as the starting point for state action because this is when New York. As described in Chapter Two, this is when legislators were barred from compensated representation before most state agencies. Between 1965 and 1979, a total of 17 states enacted some sort of limit on lawyer-legislators, either restricting their appearances before state agencies or requiring to disclose those appearances. In this section, I use hazard model analysis to explore why a minority of states were early innovators who enacted these limits, while other states did not. The period goes beyond the boundaries of the pre-Watergate period defined as 1954-1972, but it is necessary to extend that time frame to carry out the analysis. If we limit the period to 1965-1972, there are only eight states which enacted any representation limits. This small number of positive outcomes makes it difficult to do the hazard model analysis. Therefore, I include the years 1973-1979 as well, during which an additional nine states enacted representation limits. We are still looking at the initial period


\textsuperscript{248} Stern, p. 254.

\textsuperscript{249} ibid.
of innovation for this particular policy; it is just extended over a 15-year time frame so there is a sufficient number of observations for which the dependent variable is a positive outcome.

Table 4.5 shows which states enacted representation limits during this time and the years of enactment. Table 4.6 presents the summary statistics for the independent variables, and Table 4.7 presents the regression results. As in the hazard model analysis of simple ethics code enactment, I ran regressions using all independent variables and then just those whose coefficients exceeded their standard errors. Table 4.8 presents predicted probabilities using different values of key independent variables, using Model 2 in Table 4.7 to calculate the hazard rates. Independent variables are the same as for the preceding analysis of the passage of the basic codes, with several modifications. For example, ideology is measured for each individual year rather than taking an average because more data is available for this period. I also draw on additional data for the scandal variable that is not available for the years analyzed in the preceding analysis. Appendix D details the independent variables used in this section.
Table 4.5
Passage of Representation Limits, 1965-1979

**States Which Enacted Representation Limits During This Period**
Alabama, Arkansas, California, Connecticut, Florida, Illinois, Indiana, Maryland, Massachusetts, Minnesota (not in dataset), Mississippi, Missouri, Nevada, New Jersey, New York, Ohio, Pennsylvania, Wisconsin

**States Which Did Not Enact a Code**
Arizona, Colorado, Delaware, Georgia, Idaho, Iowa, Kansas, Kentucky, Louisiana, Maine, Michigan, Montana, New Hampshire, New Mexico, North Carolina, North Dakota, Oklahoma, Oregon, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, Washington West Virginia, Wyoming

**Years of Enactment**
1965- New York
1966- California
1967- Florida, Illinois, New Jersey
1971- Arkansas, Connecticut, Maryland, Minnesota (not in dataset)
1973- Alabama
1974- Indiana, Ohio, Wisconsin
1975- Nevada
1977- Massachusetts
1978- Missouri, Pennsylvania
1979- Mississippi

Data from state conflict of interest statutes and state legislative rule books (see Appendix A).
Table 4.6
Summary Statistics for the Independent Variables

<table>
<thead>
<tr>
<th>Variable</th>
<th>Mean</th>
<th>Std. Dev.</th>
<th>Min.</th>
<th>Max</th>
</tr>
</thead>
<tbody>
<tr>
<td>Individualist Culture</td>
<td>0.24</td>
<td>0.43</td>
<td>0.00</td>
<td>1.00</td>
</tr>
<tr>
<td>Traditionalist Culture</td>
<td>0.37</td>
<td>0.48</td>
<td>0.00</td>
<td>1.00</td>
</tr>
<tr>
<td>Ideology</td>
<td>41.87</td>
<td>18.12</td>
<td>1.16</td>
<td>86.73</td>
</tr>
<tr>
<td>Unified Government</td>
<td>0.51</td>
<td>0.50</td>
<td>0.00</td>
<td>1.00</td>
</tr>
<tr>
<td>Majority Party Control</td>
<td>69.89</td>
<td>14.99</td>
<td>50.00</td>
<td>100.00</td>
</tr>
<tr>
<td>Gub. Campaign</td>
<td>0.34</td>
<td>0.47</td>
<td>0.00</td>
<td>1.00</td>
</tr>
<tr>
<td>Speaker/Pres Power</td>
<td>3.12</td>
<td>1.17</td>
<td>0.00</td>
<td>4.00</td>
</tr>
<tr>
<td>Senate Chair Ratio</td>
<td>0.71</td>
<td>0.34</td>
<td>0.12</td>
<td>2.55</td>
</tr>
<tr>
<td>House Chair Ratio</td>
<td>0.32</td>
<td>0.20</td>
<td>0.04</td>
<td>2.00</td>
</tr>
<tr>
<td>Scandal</td>
<td>0.35</td>
<td>1.19</td>
<td>0.00</td>
<td>9.00</td>
</tr>
<tr>
<td>TPO</td>
<td>1.95</td>
<td>1.40</td>
<td>1.00</td>
<td>5.00</td>
</tr>
<tr>
<td>Compensation</td>
<td>20.32</td>
<td>16.20</td>
<td>0.23</td>
<td>77.46</td>
</tr>
<tr>
<td>Attorneys</td>
<td>23.03</td>
<td>13.60</td>
<td>2.00</td>
<td>57.00</td>
</tr>
<tr>
<td>Initiative Process</td>
<td>0.42</td>
<td>0.49</td>
<td>0.00</td>
<td>1.00</td>
</tr>
<tr>
<td>Diffusion</td>
<td>0.73</td>
<td>1.51</td>
<td>0.00</td>
<td>7.00</td>
</tr>
<tr>
<td>Lobby Laws</td>
<td>2.86</td>
<td>1.77</td>
<td>0.00</td>
<td>5.00</td>
</tr>
<tr>
<td>Campaign Finance Laws</td>
<td>0.74</td>
<td>0.58</td>
<td>0.00</td>
<td>2.00</td>
</tr>
</tbody>
</table>

Data sources: See Appendix D.
Table 4.7:
Event History Analysis:
The Enactment of Representation Limits, 1965-1979
(logistic regression)

<table>
<thead>
<tr>
<th>Variable</th>
<th>Model 1</th>
<th>Model 2</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>B</td>
<td>SE (B)</td>
</tr>
<tr>
<td><strong>Culture/Ideology</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Individualist</td>
<td>-1.3978</td>
<td>2.0875</td>
</tr>
<tr>
<td>Traditionalist</td>
<td>-1.0035</td>
<td>2.2598</td>
</tr>
<tr>
<td>Lib-Con Ideology</td>
<td>0.0039</td>
<td>0.0284</td>
</tr>
<tr>
<td><strong>Electoral Factors</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Unified Government</td>
<td>0.3971</td>
<td>0.6873</td>
</tr>
<tr>
<td>Majority Party Control</td>
<td>0.0259</td>
<td>0.0377</td>
</tr>
<tr>
<td>Gub. Campaign</td>
<td>1.7223</td>
<td>0.9750*</td>
</tr>
<tr>
<td><strong>Institutional Power</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Senate Chair Ratio</td>
<td>-0.2039</td>
<td>1.3567</td>
</tr>
<tr>
<td>House Chair Ratio</td>
<td>-0.7408</td>
<td>2.5724</td>
</tr>
<tr>
<td>Speaker/Pres. Power</td>
<td>-0.0582</td>
<td>0.4173</td>
</tr>
<tr>
<td><strong>Scandal/Corruption</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Scandal</td>
<td>0.2420</td>
<td>0.1524+</td>
</tr>
<tr>
<td>TPO</td>
<td>0.2053</td>
<td>0.4710</td>
</tr>
<tr>
<td><strong>Economic Self-Interest</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Leg. Compensation</td>
<td>0.0297</td>
<td>0.0251</td>
</tr>
<tr>
<td>Attorneys</td>
<td>0.0822</td>
<td>0.0376*</td>
</tr>
<tr>
<td><strong>Direct Democracy</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Initiative Process</td>
<td>0.7833</td>
<td>0.8416</td>
</tr>
<tr>
<td><strong>Diffusion</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>State Diffusion</td>
<td>0.0253</td>
<td>0.2163</td>
</tr>
<tr>
<td><strong>Pre-Existing Laws</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Lobby Laws</td>
<td>-0.2094</td>
<td>0.2381</td>
</tr>
<tr>
<td>Campaign Finance</td>
<td>-0.3315</td>
<td>0.5678</td>
</tr>
<tr>
<td><strong>Year Dummies</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(not presented)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Constant</td>
<td>-10.9002</td>
<td>4.4066**</td>
</tr>
<tr>
<td>-2 LOG LIKELIHOOD</td>
<td>93.583</td>
<td>97.434</td>
</tr>
<tr>
<td>Prop. Reduction in Error</td>
<td>.12</td>
<td>.18</td>
</tr>
<tr>
<td>N=711</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

+ p < .10; * p < .05; ** p < .01, one-tailed tests.

Data for the dependent variable from state conflict of interest statutes and state legislative rule books. Details on the independent variables can be found in Appendix D.
Table 4.8
Model Estimates of the Enactment Hazard Rate for Limits on Lawyer-Legislators (logistic regression)

<table>
<thead>
<tr>
<th>Hypothetical Conditions</th>
<th>Predicted hazard rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Year: 1973 Mean Values, All Variables</td>
<td>.0114</td>
</tr>
<tr>
<td>2. Year: 1973 Mean Values, All Variables Except Year = Post-Gub. Campaign</td>
<td>.0240</td>
</tr>
<tr>
<td>3. Year: 1973 Mean Values, All Variables Except Attorneys = Max. Value</td>
<td>.0395</td>
</tr>
<tr>
<td>4. Year: 1973 Mean Values, All Variables Except Scandal = Max. Value</td>
<td>.0704</td>
</tr>
<tr>
<td>5. Mean Values, All Variables Except Compensation = Max. Value</td>
<td>.0884</td>
</tr>
<tr>
<td>6. Mean Values, All Variables Scandal and Compensation = Max. Values</td>
<td>.3861</td>
</tr>
<tr>
<td>7. Mean Values, All Variables Attorneys, Gub. Campaign, Scandal and Compensation = Max. Values</td>
<td>.8217</td>
</tr>
</tbody>
</table>

Note: Hazard rates are calculated using the coefficient estimates from Table 4.7.

4.9 Discussion: Findings Regarding Representation Limits
Several variables were important in explaining why certain states enacted representation limits and others did not during this initial period of innovation. As with the enactment of simple ethics codes, the passage of limits on lawyer-legislators was facilitated by scandals, higher compensation, gubernatorial campaigns and a higher proportion of attorneys in state legislatures. It is worth reiterating the likely reason that the attorney variable has a positive and significant coefficient. The initial hypothesis is probably wrong, and what is more plausible is that only those states with a relatively high proportion of attorneys serving in the legislature — some of whom represent clients before state agencies — are likely to view the issue of lawyer-legislators as a problem. Only when the number of attorneys who engage in the potential conflict of representing private clients before agencies over which the legislature has budgetary control reaches a certain level, are policy makers likely to see a need to restrict this practice. In other words, the story is a demand-driven one, as with the impact of scandal on reform. Of the 17 states in the dataset which enacted representation limits, the average percentage of attorneys in the legislature at the time of passage was 31.485. The average for the entire dataset was 23.03. Only three of the states that enacted limits — Indiana, Nevada and Connecticut — had legislatures with less than 20% of the members being attorneys at the time of passage.250

Each of the key variables taken in isolation has a small impact in terms of magnitude on the likelihood that states would enact these limits. For example, as Table 4.8 shows, setting the percent of attorneys at its maximum value, the predicted probability of passage rises almost 3% over the base probability when all variables are set at their means. A state which scores the maximum value on the scandal variable has a probability roughly 7% greater than the base probability of enacting a code, ceteris paribus. A state with maximum biennial compensation ($77,460) has a probability of 8.84% of enacting a representation limit, almost 9% greater than the base probability. Finally, a state which had a gubernatorial election in the previous year has a

250 All these states enacted only disclosure limits for lawyer-legislators, not substantive limits on their appearing before state agencies.
probability about 2% higher than the base of enacting a representation limit. The impact of the key independent variables is greater when we consider their combined impact. For example, when both scandal and compensation are at their maximum values, the model hazard rate is 38.61% or over 38% higher than the base probability. Setting all key variables at their maximum values, the predicted probability of passage rises to 82.17%. Thus states with a very high proportion of lawyer-legislators, very high compensation, and a combination of major conflict of interest scandals in a given year were highly likely to enact representation limits.

4.10 Overall Change in the Content of State Codes During the Pre-Watergate Period

I turn now to an examination of variation in the overall content of the codes enacted in the states between 1954 and 1972. Using linear regression analysis, I will look at why some states enacted more extensive codes than others. The previous analysis has shed light on the question of why some states enacted codes, and some enacted representation limits, while others did not. However, there was wide variation in the overall extensiveness of the restrictions placed on legislators' activities. Recall that states began to enact limits in four different areas during this time — representation, disclosure, gifts, and post-government employment of legislators. The page length of the new laws of states such as New York, Massachusetts and California numbered in the double digits and contained various substantive restrictions on legislators; on the other hand, other states opted for very brief codes, often less than one page long and written at an extremely high level of generality. Such weaker codes were often adopted through legislative resolution rather than by statute, a move criticized by outside reformers as representing a weaker commitment to establishing permanent guidelines. Certain states, then, put in place very general codes which spoke vaguely of the need for legislators to "pursue the highest standards of ... conduct."

251 Again, the gubernatorial campaign variable is correlated with the first year of the legislative session, which may lead to spurious results for states which only met every other year during this time. I tried a model without this variable; the substantive results were unchanged.

Maine is an example of a state which passed a very short and vague initial code of legislative ethics during this period. In 1961, the Maine House and Senate concurred in incorporating a one-paragraph code into the Senate and House registers. The code began with a generic statement about the trust placed in public officeholders by the electorate and the need to uphold that trust. It went on to state simply that "No state legislator will accept any employment which can possibly impair his independence and integrity of judgment nor will he exercise his position of trust to secure unwarranted privileges for himself or for others." The code concludes with a sentence urging state legislators to be "ever mindful of the ordinary citizen who might otherwise be unrepresented, and ... endeavor conscientiously to pursue the highest standards of legislative conduct." No penalties for violation are included nor is any enforcement — even censure, dismissal or other forms of discipline by either body of the legislature — discussed.253

Codes such as the 1961 Maine code did not include any substantive restrictions such as limiting lawyer-legislators' appearances before state agencies or placing a value limit on gifts that legislators could receive from lobbyists or others with an interest in legislation. On the other end of the spectrum, California's 1966 statute, enacted by constitutional amendment, included some quite specific and extensive limits on legislators. For example, the law stated that no member of the legislature shall "accept or agree to accept, or be in partnership with any person who accepts or agrees to accept, any employment, fee, or other thing of monetary value ... in consideration of his appearing ... or taking any other action on behalf of another person before any state board or agency."254 We saw in Chapters Two and Three how both California and New York enacted a variety of substantive restrictions prior to Watergate. For example, New York was a pioneer in 1964 in enacting a two-year post-government employment limit on legislators. Other states followed a similar path, particularly with reference to lawyer-

253 Ibid.
254 California Codes § 2-2-8920. The only exception made in the California law was for appearances before the Workers' Compensation Appeals Board. The restriction on legislators' partners' appearing for compensation is a significant limit that most states do not have even 30 years later. Many states which do restrict lawyer-legislators leave a loophole for other members of their law firms. Massachusetts is one such example.
legislators and mandatory disclosure. In 1971, New Jersey limited legislators and other state officers from appearing before most state agencies with a number of exceptions: these included cases relating to workers' compensation and proceedings before the Division of Civil Rights and the Public Employment Relations Commission. Some states such as Connecticut simply listed a group of agencies before which legislators could not appear for compensation.

With regard to legislators receiving gifts from lobbyists and other "interested" parties, there was again wide variation in states' restrictions prior to 1972. Wisconsin was the earliest innovator, and the strictest, in this regard. In 1957, Wisconsin enacted the first "no cup of coffee" law which banned legislators from taking anything of value from lobbyists and principals. This extremely restrictive statute defined "anything" to include "food, meals, lodging, beverage, transportation, money, campaign contributions or any other thing of pecuniary value." New York's 1964 law, though not as severe as Wisconsin's, was still relatively stringent for the time. It placed a $25 limit on any gift that a legislator could solicit or receive. Though the law did not limit food or beverages, it did ban gifts "in the form of money, service, loan, travel, entertainment, hospitality, thing or promise... under circumstances in which it could be reasonably inferred that the gift was intended to influence (the legislator), or could reasonably be expected to influence him, in the performance of his duties." The limit was increased to $75 in the 1987 revision of the ethics law. Kentucky's 1972 law placed a $100 limit on gifts. Other states did not place a numerical limit on acceptable gifts but merely barred gifts "of substantial value."

New York was also at the forefront of the states in terms of mandating disclosure of certain financial information by legislators. While most states did not enact disclosure laws

255 New Jersey Code § 52:13D-16.
256 Connecticut's 1971 law limiting representation by lawyer-legislators included 13 agencies such as the department of motor vehicles, gaming policy board, and liquor control board.
257 Officials' Receipt of Food, Drink, Favors, Services, etc., Guide prepared by the Wisconsin Ethics Board, July 1992.
258 New York Public Officers Law, Section 73, Article 4.
259 This figure would also be increased, to $200, in 1976.
until after Watergate, New York by 1965 required legislators and legislative employees file
with the clerk of their house a written statement of information including 1) any offices and
directorships they held in a corporation, firm, or enterprise subject to the jurisdiction of a
regulatory agency, and 2) any financial interests subject to the jurisdiction of a regulatory
agency. The specific value of the interests did not need to be disclosed. Arizona also required
disclosure of directorships and certain business interests in its 1967 law. Arkansas in 1971
also required legislators to disclose the names of any businesses regulated by a state agency
and directorships in corporations or firms. The 1971 Arkansas law also required legislators to
disclose any business activities from which they received compensation over $1,500. Other
states required disclosure in connection with a vote on a matter in which the legislator had a
related financial interest, but did not require general, annual personal financial disclosure prior
to Watergate.

4.11 The Model

This section seeks to explain why some states enacted more extensive legislative ethics
laws than others prior to Watergate. The dependent variable is an additive index which
measures a variety of substantive restrictions on legislators. Using this measure allows us to
go a step beyond the analysis of the first part of this chapter, which made no distinctions
regarding the contents of states' codes. The initial hazard model analysis only allowed for the
examination of simple passage versus non-passage of a code. Here we use a dependent
variable which will allow us to examine variation in the overall amount of change in states' 
legislative ethics laws in 1972.

Table 4.9 below shows the scores for the amount of change for each state between
1954 and 1972. The scores range from 0 for states such as Wyoming and Vermont to 6.5 for
Illinois and New York. A score of zero represents no change, or no new laws enacted; a score
of four, for example, represents the enactment of at least two types of ethics restrictions in that
state. Similar to the index shown in Table 1.1 in Chapter 1, the index of change that I
constructed is an additive measure based on five different categories of ethics restrictions (the
number of categories is one smaller than the index in Table 1.1 since one of the components measured as of 1996 — honoraria limits — did not exist in the period being considered here). The five categories which make up the index are: 1) a basic ethics code, 2) gift limits, 3) post-government employment limits, 4) representation limits, and 5) personal financial disclosure requirements. Information on scoring for the index can be found in Appendix E.

---

Table 4.9

Scores for Change in State Legislative Ethics Laws, 1953-1972

<table>
<thead>
<tr>
<th>State</th>
<th>Total ethics score</th>
<th>State</th>
<th>Total ethics score</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. NY</td>
<td>7.5</td>
<td>24. ME</td>
<td>1.0</td>
</tr>
<tr>
<td>2. IL</td>
<td>6.5</td>
<td>25. MI</td>
<td>1.0</td>
</tr>
<tr>
<td>3. NJ</td>
<td>5.5</td>
<td>26. NM</td>
<td>1.0</td>
</tr>
<tr>
<td>4. MA</td>
<td>5.0</td>
<td>27. TN</td>
<td>1.0</td>
</tr>
<tr>
<td>5. CA</td>
<td>4.5</td>
<td>28. OH</td>
<td>0.0</td>
</tr>
<tr>
<td>6. PA</td>
<td>3.5</td>
<td>29. NV</td>
<td>0.0</td>
</tr>
<tr>
<td>7. WA</td>
<td>3.5</td>
<td>30. NC</td>
<td>0.0</td>
</tr>
<tr>
<td>8. AR</td>
<td>3.0</td>
<td>31. SC</td>
<td>0.0</td>
</tr>
<tr>
<td>9. CT</td>
<td>3.0</td>
<td>32. IN</td>
<td>0.0</td>
</tr>
<tr>
<td>10. LA</td>
<td>3.0</td>
<td>33. ND</td>
<td>0.0</td>
</tr>
<tr>
<td>11. MD</td>
<td>3.0</td>
<td>34. RI</td>
<td>0.0</td>
</tr>
<tr>
<td>12. CO</td>
<td>2.5</td>
<td>35. MS</td>
<td>0.0</td>
</tr>
<tr>
<td>13. FL</td>
<td>2.5</td>
<td>36. DE</td>
<td>0.0</td>
</tr>
<tr>
<td>14. IA</td>
<td>2.5</td>
<td>37. VA</td>
<td>0.0</td>
</tr>
<tr>
<td>15. KY</td>
<td>2.5</td>
<td>38. AL</td>
<td>0.0</td>
</tr>
<tr>
<td>16. OK</td>
<td>2.5</td>
<td>39. OR</td>
<td>0.0</td>
</tr>
<tr>
<td>17. TX</td>
<td>2.5</td>
<td>40. SD</td>
<td>0.0</td>
</tr>
<tr>
<td>18. UT</td>
<td>2.5</td>
<td>41. MT</td>
<td>0.0</td>
</tr>
<tr>
<td>19. AZ</td>
<td>2.0</td>
<td>42. VT</td>
<td>0.0</td>
</tr>
<tr>
<td>20. GA</td>
<td>2.0</td>
<td>43. NH</td>
<td>0.0</td>
</tr>
<tr>
<td>21. WI</td>
<td>2.0</td>
<td>44. MO</td>
<td>0.0</td>
</tr>
<tr>
<td>22. WV</td>
<td>2.0</td>
<td>45. ID</td>
<td>0.0</td>
</tr>
<tr>
<td>23. KS</td>
<td>1.0</td>
<td>46. WY</td>
<td>0.0</td>
</tr>
</tbody>
</table>

Minimum: 0  Mean Score: 1.71  Maximum: 7.5  Standard Deviation: 1.92

Note: Scores represent an additive index which consists of five categories of ethics restrictions for legislators: 1) basic ethics code, 2) gift limits, 3) limits on representation of clients before state agencies, 4) post-government employment limits, and 5) financial disclosure requirements. Data comes from state conflict of interest statutes and state legislative rule books. Details on scoring can be found in Appendix E.
The regression equation which measures change between the two time points, 1954 and 1972, is:

\[ Y_2 = \beta_1 Y_{t-1} + \beta_2 X_1 + \beta_3 X_2 + \beta_4 X_3 + \ldots + \beta_{15} X_{14} + \epsilon_2 \]

\( X_1 \) through \( X_{14} \) represent the independent variables. The \( Y_1 \) on the right-hand side of the equation is included because we must control for the initial level of the dependent variable (Markus 1978; Barilleaux 1986; McAdams 1986; Mooney 1995). However, in modeling change between 1953 and 1972, \( Y_1 \) drops out of the equation because all states start the beginning of the period with a score of zero on the index. Because \( Y_1 \) is zero for all states, it therefore has no effect on \( Y_2 \). However, we keep \( Y_1 \) in the model for the periods 1977-1988 and 1989-1996, because for these periods, the initial value of a state's ethics laws does exert an influence on the value at a later time point. The time frame here is unique because the starting point is a true starting point for changes in ethics laws, uncontaminated by earlier enactments of restrictions measured by our index. \( Y_2 \) in this model therefore represents change over the 20-year period, not simply the level at the end of the period.

The dependent variable, change in state ethics laws, trends upward over the time period examined here (change is positive for all states). Some of the independent variables also trend upward during this period. For example, change in real compensation is positive for 41 of the 46 states in the dataset. The number of scandals also increases over the time period. To avoid spurious findings about the impact of these explanatory variables on the dependent variable, I transformed the raw value of \( Y_2 \) so it equals deviation from the average value of \( Y_2 \). Where the dependent variable now measures deviation from the average change, some states have positive and some have negative values. This removes the upward trend from the original dependent variable and therefore removes the potential for spurious findings about independent variables which are also increasing over the time period.\(^{260}\)

---

\(^{260}\) This means that we are testing the hypotheses with regard to relative change, rather than absolute change, over the time period examined here.
4.12 Data

Data on the independent variables can be found in Appendix E. The hypotheses are the same as for the first part of this chapter so they are not repeated here. The variables themselves are also the same as in the first part of the chapter, with several modifications. For this model, we only have 46 observations (again, Hawaii, Alaska, Nebraska and Minnesota are omitted because certain information for the independent variables is not available for the years 1953-1972). Because of the relatively small number of observations compared to the hazard model regression, I collapsed four of the original variables into two. First, culture is measured here as a continuous variable, ranging from -1 to 1, as opposed to using dummy variables to represent individualist and traditionalist culture, with moralist culture as the constant (see Appendix E for details). Second, I collapsed the two control variables under the category of "other laws" into one additive variable, "other laws." Also, since this regression looks at change over a 19-year period rather than on a year-by-year basis, it was not possible to include a variable measuring whether a particular year followed a gubernatorial campaign year. Compensation here is measured as the change in real biennial compensation for the entire period, rather than the value of compensation in a given year. Other variables, such as majority control of the legislature or unified control of state government, are either averaged for the whole period or measured as a percentage of the entire period (see Appendix E for details).

Table 4.10 below provides summary statistics for the independent variables, and Table 4.11 presents the regressions. The first model uses all nine independent variables; the second keeps only those variables whose coefficients are greater than their standard errors.
### Table 4.10
Summary Statistics for the Independent Variables

<table>
<thead>
<tr>
<th></th>
<th>Mean</th>
<th>Std. Dev.</th>
<th>Min.</th>
<th>Max</th>
</tr>
</thead>
<tbody>
<tr>
<td>Culture</td>
<td>0.00</td>
<td>0.84</td>
<td>-1.00</td>
<td>1.00</td>
</tr>
<tr>
<td>Ideology</td>
<td>44.85</td>
<td>17.18</td>
<td>8.26</td>
<td>78.81</td>
</tr>
<tr>
<td>Unified Government</td>
<td>0.58</td>
<td>0.27</td>
<td>0.10</td>
<td>1.00</td>
</tr>
<tr>
<td>Majority Party Control</td>
<td>70.83</td>
<td>14.71</td>
<td>50.64</td>
<td>100.00</td>
</tr>
<tr>
<td>Speaker/Pres Power</td>
<td>3.00</td>
<td>1.14</td>
<td>0.00</td>
<td>4.00</td>
</tr>
<tr>
<td>Senate Chair Ratio</td>
<td>0.88</td>
<td>0.30</td>
<td>0.33</td>
<td>1.97</td>
</tr>
<tr>
<td>House Chair Ratio</td>
<td>0.39</td>
<td>0.19</td>
<td>0.09</td>
<td>0.99</td>
</tr>
<tr>
<td>Scandal</td>
<td>2.20</td>
<td>3.70</td>
<td>0.00</td>
<td>15.00</td>
</tr>
<tr>
<td>TPO</td>
<td>2.20</td>
<td>1.61</td>
<td>1.00</td>
<td>5.00</td>
</tr>
<tr>
<td>Change in Compensation</td>
<td>14.79</td>
<td>16.71</td>
<td>-5.55</td>
<td>67.50</td>
</tr>
<tr>
<td>Attorneys</td>
<td>26.01</td>
<td>15.53</td>
<td>2.17</td>
<td>61.00</td>
</tr>
<tr>
<td>Initiative Process</td>
<td>0.35</td>
<td>0.48</td>
<td>0.00</td>
<td>1.00</td>
</tr>
<tr>
<td>Diffusion</td>
<td>12.28</td>
<td>16.02</td>
<td>0.00</td>
<td>42.00</td>
</tr>
<tr>
<td>Other Laws</td>
<td>3.46</td>
<td>2.06</td>
<td>0.00</td>
<td>7.00</td>
</tr>
</tbody>
</table>

Data: see Appendix E.
Table 4.11
Explaining Change in State Legislative Ethics Laws, 1953-1972
(linear regression)

<table>
<thead>
<tr>
<th>Variable</th>
<th>Model 1</th>
<th>Model 2</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>B</td>
<td>SE (B)</td>
</tr>
<tr>
<td><strong>Culture/Ideology</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Culture</td>
<td>-0.1868</td>
<td>0.2308</td>
</tr>
<tr>
<td>Lib-Con Ideology</td>
<td>0.0117</td>
<td>0.0146</td>
</tr>
<tr>
<td><strong>Electoral Factors</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Unified Government</td>
<td>0.4058</td>
<td>0.6498</td>
</tr>
<tr>
<td>Majority Party Control</td>
<td>-0.0101</td>
<td>0.0141</td>
</tr>
<tr>
<td><strong>Institutional Power</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Senate Chair Ratio</td>
<td>-0.7187</td>
<td>0.4683+</td>
</tr>
<tr>
<td>House Chair Ratio</td>
<td>-0.1054</td>
<td>0.7933</td>
</tr>
<tr>
<td>Speaker/Pres. Power</td>
<td>0.0943</td>
<td>0.1470</td>
</tr>
<tr>
<td><strong>Scandal/Corruption</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Scandal</td>
<td>0.1039</td>
<td>0.0429**</td>
</tr>
<tr>
<td>TPO</td>
<td>0.0557</td>
<td>0.0979</td>
</tr>
<tr>
<td><strong>Economic Self-Interest</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Change in Comp. Attorneys</td>
<td>0.0192</td>
<td>0.0084*</td>
</tr>
<tr>
<td><strong>Direct Democracy</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Initiative Process</td>
<td>0.0497</td>
<td>0.2652</td>
</tr>
<tr>
<td><strong>Diffusion</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>State Diffusion</td>
<td>0.0159</td>
<td>0.0087*</td>
</tr>
<tr>
<td><strong>Pre-Existing Laws</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Other Laws</td>
<td>-0.0934</td>
<td>0.0575+</td>
</tr>
<tr>
<td><strong>Constant</strong></td>
<td>-0.2380</td>
<td>1.4993</td>
</tr>
<tr>
<td>Adjusted R-squared</td>
<td></td>
<td>.50</td>
</tr>
<tr>
<td>N=46</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

+ p < .10; * p < .05; ** p < .01, one-tailed tests.

Data for the dependent variable comes from state conflict of interest statutes and state legislative rule books. See Appendix E for data sources for the independent variables.
4.13 Results and Discussion

The results suggest that some of the same factors which explained the passage or non-passage of an initial ethics code also explain the relative stringency of states' codes during this period. First, the greater the number and the severity of scandals in a state, the greater the positive change in a state's ethics score, measured as deviation from the average change.\textsuperscript{261} The scandal variable is significant at the .01 level in both Models 1 and 2 in Table 4.11. States with the highest scandal scores from 1953 to 1971 were, in order, New Jersey, Massachusetts, Texas, Louisiana, New York, Illinois, Alabama, Oklahoma, Wisconsin, West Virginia and Florida. Of these 11 states, 10 had above-average change in their ethics laws during this time. States with no scandals during this period, such as Montana, Rhode Island, Idaho, and Vermont tended to have below-average change in their ethics laws.

Not only scandal but also rising compensation facilitated the enactment of more comprehensive ethics laws during this time. States with the largest increases in real compensation from 1953 to 1970 include Illinois (which had the greatest increase, $67,500), New York ($56,000), Massachusetts ($38,340), Pennsylvania ($38,010) and California ($32,750). All these states enacted ethics laws in this period which were well above-average in stringency. The only exception to this pattern is Michigan, which increased its legislative compensation by $50,870, bringing it into what the National Conference of State Legislatures calls the "professional" category of legislatures. Despite this major increase in legislators' salaries, however, Michigan enacted only a very weak code of ethics during this initial period.\textsuperscript{262}

\textsuperscript{261} Since the dependent variable equals the deviation from the average change, this makes interpretation of the coefficients somewhat cumbersome. The following examples use Model 2 in Table 11 to derive the effects of changes in the independent variables on the transformed dependent variable. An increase of 5 points in a state's scandal score is associated with an increase of .55 standard deviations (nearly one-half a standard deviation) from the average change in ethics score from 1953 to 1972. An increase of $10,000 in real compensation is associated with an increase of .18 deviations from the average change, while a $50,000 increase is associated with an increase of .92 or nearly 1 standard deviation from the average change.

\textsuperscript{262} Interestingly, Michigan has consistently lagged behind other professionalized legislatures in the stringency of its ethics laws through the 1990's. Even today Michigan stands out in its failure to require any financial disclosure from legislators, putting it with a handful of states such as Idaho and Vermont. Michigan's relatively weak legislative ethics laws compared to other states with professionalized legislatures may be due to the fact that Michigan had relatively fewer scandals compared to states such as New York, Massachusetts and Illinois.
Of the seven states which actually decreased their real compensation for legislators during this time period (Alabama, Rhode Island, New Hampshire, West Virginia, Oklahoma, Arizona, and Utah), four enacted ethics laws of below-average strength. The three which enacted relatively strong laws in this period despite decreasing real compensation (Oklahoma, West Virginia and Arizona) all experienced at least one major scandal involving legislators and/or other elected officials. Other states which had only very small increases in real compensation (well below the average increase) but no major scandals, such as Wyoming and Virginia, enacted very weak ethics laws or no laws at all during this period. Thus it seems that in the absence of scandal, states which did not undergo substantial professionalization in terms of increasing legislative compensation during this time did not enact ethics laws with much breadth.

There is also weak evidence that institutional power in state Senates hindered the enactment of strong legislative ethics laws during this time. The coefficient for the Senate chair variable is negative and significant at the .10 level, suggesting that states with high proportions of senators holding positions of institutional power enacted ethics laws of below-average strength in this period. Finally, two additional variables are significant. First, states with strong lobby and campaign finance laws enacted weaker-than-average ethics laws during this time, suggesting that there was some substitution effect among the different types of laws aimed at reducing the influence of special interest groups on state legislatures. Second, the coefficient on the diffusion variable is positively signed and highly significant in this analysis. While simple ethics codes and representation limits did not appear to follow a pattern of diffusion from leader to follower states, diffusion did occur in the content of the codes considered more broadly. It is not so much that "follower" states emulated the restrictions of their regional leaders, but that national leaders emulated each other in terms of enacting similar
restrictions on legislators. Thus, for example, New Jersey, Pennsylvania, Colorado, and Connecticut followed New York in enacting disclosure requirements during this time.\textsuperscript{263}

It may seem puzzling that the basic codes and representation limits did not diffuse from leader states to other leader states and to follower states, while the overall content of the codes did follow such a pattern. This finding can be reconciled if we consider the fact that certain non-leader states (according to Walker's innovation scores) enacted simple codes in the absence of their leader states doing so, which contradicts the test hypothesis regarding how innovations diffuse among the states. However, these follower states generally did not enact \textit{comprehensive} laws.\textsuperscript{264} The states which \textit{did} enact relatively comprehensive laws during this time tended to be national leaders who were emulating the examples set by other leaders, a pattern which would provide support for the test hypothesis regarding policy diffusion.

Consider, for example, Pennsylvania, a national leader which looks to nine other national leaders in devising its policies. During this period, all but one of the other leaders enacted a wide range of ethics restrictions.\textsuperscript{265} When we sum these restrictions enacted by these other leader states together, the result is a wide range of possible restrictions that Pennsylvania could choose from in designing its own ethics law during this time. Leader states did not always emulate \textit{all} the restrictions enacted by their peer leader states, but they emulated some of them. For example, California's legislature declined in 1966 to enact a post-government employment restriction along the lines of New York's 1964 statute, despite the print media's urging them to do so. However, as described in Chapter Two, California \textit{did} follow the lead of New York, New Jersey and Massachusetts when it enacted representation and gift limits. States generally picked and chose certain aspects of the new laws rather than copying other states' laws wholesale.

\textsuperscript{263} The way the diffusion variable is constructed, it tests more strongly for the impact of national leaders on each other than for the impact of regional leaders on their followers. This is because follower states are assumed to emulate only their regional leaders, while national states emulate the actions of all the other national leaders.
\textsuperscript{264} Three examples of this pattern are Maine, Utah and Arkansas.
\textsuperscript{265} Oregon was the only one of Walker's 10 national leaders which enacted no legislative ethics restrictions at all during the pre-Watergate period.
One likely source of diffusion during this early period was the national governors' conference. Proceedings from the conference in the 1960's show that the issue of ethics regulation was raised there. Another national organization, the non-profit Council on State Governments (CSG) may have served to foster diffusion of legislative ethics regulation among the states. In 1972, the CSG issued a staff report on Conflict of Interest and Related Regulations for State Legislators in 1972 which summarized existing restrictions in the 50 states. The report included direct excerpts from the laws of Illinois, Maryland, Washington and California. It is likely that this report was used by the laggardly states during the post-Watergate years as a critical source of information. It is also possible that states considering adopting ethics codes prior to Watergate consulted the CSG, as a clearinghouse for information on state laws, to find out how other states had confronted the issue of ethics regulation.

4.14 Summary

The models of this chapter show that scandals and compensation were important in explaining the early enactment of basic ethics codes, early representation limits, and overall initial change in state ethics laws. Institutional power in the Senate hindered enactment of the simple codes, while institutional power in the House appears to have hindered overall change in states' laws. Gubernatorial campaigns seemed to have facilitated the enactment of both basic codes and representation limits, although the caveat remains that this may be a result of correlation with the first year of legislative sessions. Liberal ideology and the initiative option made enactment of basic codes more likely. Interestingly, while economic self-interest seemed to motivate legislators to oppose ethics regulation where compensation was low, at the aggregate level, the economic self-interest hypothesis regarding attorneys being more likely to oppose ethics regulation was not borne out. At the individual level, we saw a clear relationship between being an attorney and voting against restrictions on lawyer-legislators; however, in the hazard model which looked at states' early enactment of representation limits, it was those states with a higher proportion of attorneys which were most likely to enact this type of restriction. A greater proportion of attorneys in the legislature apparently made the issue of
potential conflicts of interest involving lawyer-legislators more likely to achieve a place on the legislative agenda since only in states with a fairly high percentage of attorneys was the issue likely to be perceived as an important one. When members actually voted on the limits, however, attorneys at the individual level expressed strong opposition, presumably out of economic self-interest.

Finally, there was some evidence of overall policy diffusion in that states enacted more comprehensive change in their ethics laws if the leader states they emulated had previously enacted relatively comprehensive change in their laws. This last result was not consistent across all the regressions, however. The most consistent finding across all three sets of models was that scandals motivated legislators to self-regulate in terms of setting ethical standards, and higher legislative compensation made legislators more willing to enact codes, restrictions on lawyer-legislators and other restrictions such as revolving door and disclosure requirements. The anecdotal evidence that legislators are less resistant to laws that restrict outside income when they are compensated by higher official pay is supported by the data in this chapter.
CHAPTER FIVE
WATERGATE AND BEYOND:
ETHICS REFORM MOVES FORWARD, 1973-1996

5.1 Introduction

The previous chapter looked at early innovation by the states in legislative conflict of interest regulation, considering the enactment of the initial ethics codes, limits on lawyer-legislators, and overall change in states' legislative ethics laws. The time frame for that analysis was 1954-1972, extending to 1979 in the case of representation limits. This chapter focuses on states' efforts in the area of legislative ethics regulation in the post-Watergate period. The emphasis is on the years 1977-1996, after the immediate stimulus of Watergate had worn off.

The 20-year period is broken into two sub-periods, 1977-1988, and 1989-1996. The division into separate periods is done for two reasons. First, in late 1988, the first of a series of "sting" operations conducted by federal and local law enforcement agencies and aimed at state legislatures became public. Analysts of legislative ethics regulation consider the period from 1989-1996 unique because of these highly public sting operations (Rosenthal 1996; Ensign 1996). These stings, carried out primarily by the FBI but also by state and local law enforcement agencies, ensnared over 50 state legislators in eight years. Second, the period beginning in 1989 is considered to represent a new "wave" of ethics reform focused on restricting legislators from receiving things of value from lobbyists; consequently, gift and honoraria restrictions have featured prominently in the reform efforts of this period (Bullock 1994; Rosenthal 1996).

---

5.2 Background: Overview of States' Efforts in the Immediate Post-Watergate Years, 1973-1976

Before turning to the quantitative analysis, I first provide a brief overview of the status of states' legislative ethics efforts up through 1977. By the beginning of 1977, 39 of the 48 continental states had some conflict of interest or disclosure provisions either in their statutes or in their legislative rules. Given that only 27 of the continental states had such regulations as of 1972, this means that in the four years immediately following Watergate, there was a flurry of brand-new conflict of interest regulation in the states targeted at legislators, as well as at other public officials.

States which had not enacted any laws regulating conflicts of interest before 1972, then, took decisive action during the four-year period from 1973 to 1977. These states were Alaska, Alabama, Indiana, Nebraska, Nevada, North Carolina, Ohio, Oregon, Rhode Island, South Carolina, South Dakota and Tennessee. In some cases, the only requirement of the new laws was financial disclosure, as in South Dakota. In other cases, such as Alabama, a range of substantive restrictions were enacted. Watergate, along with some state-specific scandals, seems to have prodded these states — which had lagged behind innovative states such as New York, Massachusetts and California in outlining standards of conduct for legislators — into action. Tennessee's 1975 law was particularly innovative with regard to its restriction on officials accepting anything of value from lobbyists. The Tennessee law, going beyond other laws of the time, specified that "anything of value" included hotel expenses and the use of lobbyist credit cards.\(^{267}\)

Watergate also spurred states which had already enacted ethics laws prior to Watergate to update their existing laws by adding financial disclosure to their arsenal of ethics restrictions. Examples of this pattern are Wisconsin, Minnesota, and California. Other states added new substantive restrictions to their existing codes. For example, Kansas passed its first legislative ethics law in 1970, a very weak code containing only general principles of ethical conduct with

\(^{267}\) Tennessee Statutes 3-6-108.
no substantive restrictions on legislators' behavior. In 1974, Kansas added a restriction on
gifts worth over $40 and required disclosure of representation before state agencies. Maine,
described in the last chapter as a state with a relatively weak pre-Watergate code, strengthened
its code in 1973 and again in 1975, when it also set up an independent ethics commission with
jurisdiction over legislators. Michigan also strengthened its ethics code in 1973. Texas
strengthened its existing law in 1973 and 1975, including a provision changing bribery from a
third degree to a second degree felony. North Carolina also made bribery a first class felony in
1975.

Although certain states strengthened their bribery statutes during this period, bribery
laws do not appear to have acted as a substitute for other conflict of interest regulation.
Instead, changes in bribery law generally accompanied or supplemented changes in the
"murkier" type of regulation examined here. Ohio is an example of a state which updated its
bribery statute at the same time (1973) as it enacted a law requiring mandatory financial
disclosure, a one-year revolving door limit on legislators becoming lobbyists, a ban on
disclosure of confidential information, and a ban on lawyer-legislators performing all but
"ministerial" functions for compensation before state agencies. Both states with weak conflict
of interest regulations and states with strong regulations amended their bribery laws during the

Other states which strengthened their existing laws between 1973 and 1976 include
Kentucky, Colorado, and Minnesota. Colorado, which had enacted financial disclosure
requirements in 1971, added further to those requirements in 1973. Minnesota strengthened its
relatively weak ethics code in 1974 by requiring the disclosure of representation by lawyer-
legislators before state agencies. While many states added to their existing ethics restrictions in
this period, however, certain states were unmoved by the impetus of Watergate. Delaware,
Idaho, Missouri, New Hampshire, Vermont, Virginia, and Wyoming still lacked even a simple
code of legislative ethics at the end of 1976.
Another notable policy innovation of the 1973-1976 period was the establishment of independent ethics commission with the power to advise on, and investigate, potential violations of the state ethics laws. Prior to 1973, only Hawaii had an independent ethics commission (established in 1968) and this agency did not have jurisdiction over state legislators. The main enforcement mechanisms for legislative ethics prior to 1973 were legislative ethics committees (joint or separate by house), the Secretary of State's office, and the Attorney General's office. Between 1973 and 1976, however, a number of states such as California, Kansas, Florida, Minnesota, and Washington set up independent commissions to monitor legislators' financial disclosure and to address alleged violations of substantive ethics restrictions. Other states followed suit after 1976 by setting up ethics commissions with varying degrees of power. The establishment of independent commissions during this period is the subject of Chapter 6. For now, we continue with the analysis of changes in the provisions of state ethics laws, leaving the discussion of enforcement mechanisms for later.

5.3 Background: Legislative Ethics Regulation in the States, 1977-1988

The new conflict of interest legislation of the immediate post-Watergate years 1973-1976 did not represent the end of state activity in this area. States continued to revisit the question of legislative ethics even after the direct stimulus of Watergate had worn off. In some cases this meant repealing certain provisions; in 1977, for example, Colorado repealed parts of its legislative ethics code. In 1984, Alaska eliminated a restriction on lawyer-legislators representing clients before state agencies that had been enacted in 1974, changing the law to require only disclosure of such representation. Other states eliminated certain mandatory disclosure requirements. In other cases, states which had no ethics laws finally enacted them. One such state, which made its first foray into the regulation of legislative ethics during the 1977-1988 period, was Missouri. Missouri enacted an ethics law in 1978 which contained restrictions in a number of areas including gifts from lobbyists, post-government employment,
and representation by lawyer-legislators.\textsuperscript{268} Mississippi also enacted its first legislative ethics restrictions in 1979, and New Hampshire enacted its first ethics law in 1987.

In addition, some states which already had an ethics law on the books took major strides forward in terms of placing substantive restrictions on legislators' activities. As described in the case study of Chapter Two, Massachusetts is an example of such a state which strengthened its ethics laws considerably during this time. Massachusetts was one of a number of states which began to address the practice of legislators receiving fees for speeches, by limiting allowable honoraria to a "reasonable" amount.\textsuperscript{269} Other states which strengthened their laws in this period included Pennsylvania, which instituted a one-year revolving door limit in 1978, tightened its representation limits, and limited allowable honoraria to $1,000 total per year. Pennsylvania also authorized an independent ethics commission with jurisdiction over state legislators.\textsuperscript{270}

Oklahoma also strengthened its conflict of interest statute, as it pertained to legislators, in 1986. The 1986 amendments strengthened Oklahoma's original 1968 law by adding financial disclosure requirements and shifting the power to enforce the state's ethics laws from the Attorney General and legislative ethics committees to a new ethics commission. Louisiana in 1979 also strengthened its existing legislative ethics law, requiring financial disclosure of legislators for the first time. Maryland also strengthened its ethics law in 1979 by requiring additional financial disclosure and establishing a state ethics commission. However, the Maryland ethics commission was not given jurisdiction over state legislators; that authority remained with the joint legislative ethics committee. New York, as discussed in Chapter 2, strengthened its existing law in 1987, expanding disclosure requirements and limits on lawyer legislators' appearances before state agencies. Like Maryland, however, New York legislators declined to give enforcement power over the new laws, as applied to legislators, to an independent commission.

\textsuperscript{268} Financial disclosure was not required until 1990, however.
\textsuperscript{269} In Massachusetts, as in Wisconsin, what is "reasonable" has been determined by the State Ethics Commission. In Massachusetts it is $100 per honoraria.
\textsuperscript{270} Pennsylvania Statutes, Title 65, Chapter 15.
5.4 Quantitative Analysis of Change in Legislative Ethics Laws, 1977-1988

We turn now to the quantitative analysis of change in states' ethics laws between 1977 and 1988. The analysis is very similar to that of Chapter 4. Again following Markus (1978), Barilleaux (1986), McAdams (1986) and Mooney (1995), I use the following model:

\[ Y_2 = \beta_1 Y_{1t-1} + \beta_2 X_1 + \beta_3 X_2 + \beta_4 X_3 + \ldots + \beta_{17} X_{16} + e_2 \]

where \( Y_2 \) equals the index score for the state's ethics laws in 1988, and \( Y_1 \) controls for the score on January 1, 1977, the beginning of the time period. The index score for 1988 includes the same factors as the measure for 1972, except that honoraria limits are added to the index.\(^{271}\) For the years 1977-1996, there are 47 observations (Minnesota, not included in the earlier analysis, is now in the dataset.\(^{272}\)

The independent variables are virtually the same as those in the 1953-1972 analysis, with several modifications. First, I use an updated measure of political culture, Moralistic Culture, which more accurately reflects the 1977-1988 period. I take advantage of a 1983 survey conducted by Jonathan Siegel which measured each state's Common Cause membership per capita; I use this measure as a proxy for moralistic culture rather than Elazar's measure, which is out of date for the years 1977 to 1988 (see Appendix F for details on the updated measure). Second, I control for recent legislative activity by the states by including a variable Last Passed Laws. The rationale for including this control variable is that states which have recently enacted legislation strengthening their legislative ethics restrictions will probably be less likely to enact further strengthening changes in the immediate future, whereas states which have not enacted any "positive" changes recently should be more likely to enact strengthening changes in their laws. See Appendix F for details on this variable, and other independent variables in the equation.

\(^{271}\) The first limits on honoraria were enacted in 1974, so this factor was not applicable to the 1972 index. During the period examined here, some states placed a limit on the amount of honoraria that legislators could accept.

\(^{272}\) Minnesota switched to a partisan legislature by this period, so we are able to calculate variables such as majority party control of the legislature and unified government. Nebraska still had and has a non-partisan legislature, so those variables are undefined and therefore Nebraska is not included in the analysis. Hawaii and Alaska are again omitted from the analysis.
Table 5.1 provides summary statistics for the 1) overall change in states' ethics laws and 2) the independent variables. Table 5.2 shows the regression results; as in the previous chapter, the first is a full regression including all independent variables and the second is a pruned regression using only those variables for which the coefficients exceed the standard errors.

<table>
<thead>
<tr>
<th>Dependent Variable</th>
<th>Mean</th>
<th>Std. Dev.</th>
<th>Min.</th>
<th>Max</th>
</tr>
</thead>
<tbody>
<tr>
<td>Index88</td>
<td>4.10</td>
<td>2.17</td>
<td>0.00</td>
<td>8.50</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Change in Ethics Laws, 1977-1988</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mean</td>
</tr>
<tr>
<td>------</td>
</tr>
<tr>
<td>1.18</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Independent Variables</th>
</tr>
</thead>
<tbody>
<tr>
<td>Moralistic Culture</td>
</tr>
<tr>
<td>Ideology</td>
</tr>
<tr>
<td>Unified Government</td>
</tr>
<tr>
<td>Majority Party Control</td>
</tr>
<tr>
<td>Speaker/Pres Power</td>
</tr>
<tr>
<td>Senate Chair Ratio</td>
</tr>
<tr>
<td>House Chair Ratio</td>
</tr>
<tr>
<td>Scandal</td>
</tr>
<tr>
<td>TPO</td>
</tr>
<tr>
<td>Change in Compensation</td>
</tr>
<tr>
<td>Attorneys</td>
</tr>
<tr>
<td>Initiative Process</td>
</tr>
<tr>
<td>Diffusion</td>
</tr>
<tr>
<td>Index76</td>
</tr>
<tr>
<td>Last Passed Laws</td>
</tr>
<tr>
<td>Other Laws</td>
</tr>
</tbody>
</table>

Data sources: See Appendix F.
Table 5.2
Explaining Change in State Legislative Ethics Laws, 1977-1988
(linear regression)

<table>
<thead>
<tr>
<th>Variable</th>
<th>Model 1</th>
<th></th>
<th>Model 2</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>B</td>
<td>SE (B)</td>
<td>B</td>
<td>SE (B)</td>
</tr>
<tr>
<td>Culture/Ideology</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Moralistic Culture</td>
<td>0.1571</td>
<td>0.5099</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Lib-Con Ideology</td>
<td>-0.0016</td>
<td>0.0173</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Electoral Factors</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Unified Government</td>
<td>1.0248</td>
<td>0.9246</td>
<td>1.0566</td>
<td>0.5642*</td>
</tr>
<tr>
<td>Majority Party Control</td>
<td>3.916E-4</td>
<td>0.0260</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Institutional Power</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Senate Chair Ratio</td>
<td>0.0184</td>
<td>0.9118</td>
<td></td>
<td></td>
</tr>
<tr>
<td>House Chair Ratio</td>
<td>0.9224</td>
<td>1.9193</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Speaker/Pres. Power</td>
<td>0.1136</td>
<td>0.2210</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Scandal/Corruption</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Scandal</td>
<td>0.1272</td>
<td>0.0724*</td>
<td>0.1657</td>
<td>0.0586**</td>
</tr>
<tr>
<td>TPO</td>
<td>0.2232</td>
<td>0.1684+</td>
<td>0.2136</td>
<td>0.1117*</td>
</tr>
<tr>
<td><strong>Economic Self-Interest</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Change in Comp.</td>
<td>0.0152</td>
<td>0.0202</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Attorneys</td>
<td>0.0309</td>
<td>0.0248</td>
<td>0.0228</td>
<td>0.0153+</td>
</tr>
<tr>
<td><strong>Direct Democracy</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Initiative Process</td>
<td>1.0267</td>
<td>0.4411*</td>
<td>0.86916</td>
<td>0.3549**</td>
</tr>
<tr>
<td><strong>Diffusion</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>State Diffusion</td>
<td>0.0373</td>
<td>0.0873</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Controls</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Index76</td>
<td>0.6646</td>
<td>0.1373**</td>
<td>0.7153</td>
<td>0.1092**</td>
</tr>
<tr>
<td>Other Laws</td>
<td>-0.0446</td>
<td>0.1057</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Last Passed Laws</td>
<td>0.3753</td>
<td>0.2291+</td>
<td>0.4614</td>
<td>0.1826*</td>
</tr>
<tr>
<td>Constant</td>
<td>-1.3466</td>
<td>2.0959</td>
<td>-0.6435</td>
<td>0.5893</td>
</tr>
</tbody>
</table>

Adjusted R-squared              | .71     |               | .76     |               |
N=47                             |         |               |         |               |

+ p < .10; * p < .05; ** p < .01, one-tailed tests.

Data for the dependent variable comes from state conflict of interest statutes and state legislative rule books (See Appendix A). See Appendix F for data sources for the independent variables.
5.5 Results and Discussion

In the regression results of Table 5.2, we see some patterns which are similar to the 1953-1972 period. First, scandals and a history of state corruption have a positive impact on the extent of change in states' legislative ethics laws. Looking at Model 2 in Table 5.2, each one-unit change in a state's scandal score for this period leads to a change of .165 in the states' ethics index. A 10-unit increase in a state's scandal score (meaning that the state experienced some major reported conflicts of interest scandals) scandal score) is associated with an increase of 1.65 in the state's ethics index. This is a considerable increase considering that the average state started the period with a score of 2.89 on the index and increased its score by 1.18. A 5-unit increase in a state's scandal score is associated with an increase of .8 or nearly 1 point on the ethics index. A one-unit increase in a state's TPO score was associated with a .21 increase in its' ethics index during this time.

5.6 The Changing Nature of Scandal: Federal Prosecutors Target State Officials

During the first period, the pre-Watergate years, I argued that scandals were in some important cases the result of state investigations into the links between organized crime and public officials, and that these investigations were a state-level response to the findings revealed by the U.S. Senate's Kefauver Committee. In the years from 1977 to 1988, the nature of state-level scandals and corruption shifted. In particular, many of the reported scandals which figure into the scandal measure are a result of a broader shift in federal prosecution of political corruption at lower levels of government. Maass (1987) and Garment (1991) have argued that beginning in the early 1970's, federal prosecutors began pursuing political corruption at the state and local level with "unusual vigor."273 In 1975, motivated in part by Watergate, President Gerald Ford and Attorney General Edward H. Levi announced that investigating and prosecuting official corruption would now be a priority of the Department

of Justice. In 1976, the assistant attorney general, Richard Thornburgh, created the Public Integrity Section of the Department of Justice which was given the "responsibility for overseeing to federal effort to combat corruption through the prosecution of elected and appointed officials at all levels of government.\textsuperscript{274}

Figure 5.1 below shows just how successful this effort was. The table highlights the increase in federal prosecution of corrupt state and local officials from 1970 through the 1995. What it does not show is \textit{why} and \textit{how} this increase came about. How was it that federal prosecutors indicted and ultimately convicted so many state and local officials beginning in the early 1970's? What happened was that U.S. attorneys began to make creative use of four federal statutes to prosecute elected state and local officials — statutes which, argue Maass and Garment, were never intended to be used for this purpose. These laws were the 1872 Mail Fraud Act, the 1946 Hobbs Act, the 1961 Travel Act, and RICO (the Racketeering Influenced and Corruption Organized Act), enacted in 1970. The first of these laws was aimed at combating lottery frauds perpetrated through the mail system, while the other three were aimed at fighting the racketeering activities of labor and organized crime. Maass' reading of the legislative intent of these laws is that they were not intended to apply to cases of political corruption by state and local officials. But beginning in the early 1970's, several ambitious federal attorneys began stretching the language of these laws, particularly the first, second and fourth so they could be applied to public officials. Bribery could be prosecuted as mail fraud, as extortion, and as racketeering, under these three laws.

\textsuperscript{274} \textit{Ibid.}, p. 201.
Figure 5.1
Department of Justice: Federal Prosecutions of Corrupt Public Officials (for Offenses Involving Abuse of Office) at the State and Local Levels: 1970-1995

For example, prosecutors argued under the Mail Fraud Statute that politicians who took bribes were guilty of mail fraud because they were defrauding citizens of their "intangible right to conscientious, loyal, faithful, disinterested, and honest government." All that needed to be shown to obtain a conviction was that some piece of documentation relating to the bribe had passed through the mails. While lower-level courts upheld convictions obtained under the Mail Fraud Act, the Supreme Court was not so sanguine about this use of the law. The Court ruled on June 24, 1987, in a 7-2 decision, that the mail fraud statute was not intended to apply to politicians' defrauding citizens of their "intangible rights to honest and impartial government." But Congress gave federal prosecutors back their ammunition the following year when it passed a one-sentence amendment to an anti-drug bill declaring that "the term 'scheme or artifice to defraud includes a scheme or artifice to deprive another of the intangible right of honest services." As one commentator notes, the Mail Fraud Act remains the "pre-eminent weapon in the arsenal of any aggressive federal prosecutor... nothing is as broad, flexible, and powerful as mail fraud when it comes to putting public officials behind bars."

RICO has also been an important, though less frequently used, tool of federal prosecutors. To counter the infiltration of legitimate business enterprises such as trucking and warehousing by racketeers and organized crime figures, RICO states that it is illegal for an individual who has received income from a "pattern of racketeering activity" — such as murder, arson, gambling, robbery or bribery — to invest the income in any "enterprise" that affects interstate commerce, and for any person employed by or associated with any such enterprise to engage in such a pattern. Enterprise is defined as an individual, partnership, corporation, association or union. What federal prosecutors did was to devise an expansive

275 Ibid., p. 206.
277 Ibid.
278 A pattern of racketeering activity requires two acts of racketeering within ten years. See Maass, p. 210-212, for a discussion of RICO and its use by federal prosecutors.
interpretation of the term "enterprise" to include state legislatures, police departments, state and local executive agencies, and municipal courts. Thus a state legislator who received gifts from a racketeer could be prosecuted under the statute. Using RICO has several advantages for prosecutors. First, they can avoid the normal five-year statute of limitations on prosecution of criminal acts. Second, they can introduce more incriminating evidence than under the other three statutes (e.g. evidence of prior crimes to prove the "pattern" of racketeering). Unlike the Mail Fraud and Travel Acts, which provide a maximum prison term of five years, a RICO conviction carries a 20-year jail term. The fact that the law is relatively tough in these respects makes it easier for prosecutors to obtain cooperation from defendants.

While these prosecutorial efforts reached many low-level public employees such as local police officers, local court personnel, and state agency workers, many successful prosecutions involved state legislators, governors, and other statewide officials. They are therefore factored into the scandal variable calculated for this period. Consider just two years from the period examined here: 1982 and 1985. In 1982, the Department of Justice reported that its U.S. Attorneys had convicted a former President Pro Temp of the Florida Senate, along with two others, of extortion and mail fraud in connection with a scheme to extort money from a night club owner in exchange for assistance in obtaining a liquor license. DOJ prosecutors also won the conviction of a former Massachusetts state senator on extortion charges, a Michigan state representative for soliciting bribes, a South Carolina state representative for defrauding the government under the Mail Fraud Statute, and a Tennessee state senator for mail fraud and extortion. The last case generated a landmark Supreme Court decision in which the Court ruled that a state legislator cannot claim immunity concerning his legislative activities in a federal prosecution.279 In 1985, the DOJ reported the conviction of the President Pro Tempore of the Mississippi State Senate for extortion under the Hobbs Act (he had extorted $50,000 to insure the passage of a horse racing bill), the indictment of a former New Jersey State Senator

279 U.S. Department of Justice, Report to Congress on the Activities and Operations of the Public Integrity Section, 1982, pp. 16-17.
on RICO charges, and the conviction of a former Oklahoma State Senator on 18 counts of mail fraud.280

Where state prosecutors may have been uninterested in pursuing these officials under state bribery laws, federal prosecutors had no such qualms and were willing to use federal laws intended for that purpose to achieve their goals. Legislators in South Carolina, Alabama, Kentucky, Indiana, and many other states were prosecuted during this period under the laws described above. For example, in Pennsylvania in 1980, federal investigators uncovered a ghost-payrolling scheme where Democratic Party workers were placed on state payrolls including the payroll of three state senators — one the former Majority Leader — who were indicted and ultimately convicted on mail fraud charges.

It appears that the aggressive efforts of federal prosecutors in pursuing state-level political corruption helped spark state legislative ethics reform in some key states. While some of the scandals that catalyzed reform stemmed from state-level prosecutions of bribery, a considerable number of scandals can be traced to the efforts of federal prosecutors. One example is Mississippi, which enacted its first ethics law in 1979 following the indictment in September and conviction in December 1978 of a state senator and former state senator on corruption charges by federal prosecutors.281 In Pennsylvania, the House Speaker and a state senator were indicted in 1978, the first on charges of extortion and the second on charges of racketeering and mail fraud in connection with placing two women on the state payroll who never showed up to work.282 As discussed earlier, Pennsylvania strengthened its ethics law later that year, adding numerous substantive restrictions for legislators.

280 U.S. Department of Justice, Report to Congress on the Activities and Operations of the Public Integrity Section, 1985, p. 30.
281 U.S. Department of Justice, Report to Congress on the Activities and Operations of the Public Integrity Section, 1978, p. 10.
282 This "ghost-payrolling" scheme was later revealed to be more extensive than initially thought; federal prosecutors ultimately obtained convictions of the former Majority Leader of the Senate, a current state senator, and a former state senator, in addition to the original state senator who was indicted. See New York Times Index, 1978, and U.S. Department of Justice, Report to Congress on the Activities and Operations of the Public Integrity Section, 1980, p. 12.
Another example of federal prosecution spurring ethics reform is Louisiana, where a federal bribery and racketeering investigation implicated legislators, the Lieutenant Governor, and the former governor. The 1979 ethics law which, among other things, strengthened disclosure requirements, followed closely on the heels of this scandal.\textsuperscript{283} Similarly, in Missouri, the 1978 ethics law was a response to the mail fraud conviction of the former House speaker on 15 counts of accepting kickbacks.\textsuperscript{284}

The involvement of New Jersey state legislators in ABSCAM — an FBI sting known primarily for entrapping seven U.S. Congressmen — also catalyzed state ethics reform during this period. One state senator was convicted on bribery charges in connection with ABSCAM in September, 1980. When the ABSCAM scandal broke that year, it was also revealed that a number of New Jersey state legislators had close ties to the gambling industry which was subject to state regulation. Seven legislators were reported to own stock in casinos or companies that hoped to open casinos. One state senator, who reportedly accepted $25,000 from FBI agents posing as Arab sheiks, told federal investigators that he wielded "considerable influence" over appointments to the Casino Control Commission which oversaw gambling in the state; specifically, he was involved in the sale of appontive positions to individuals interested in minimizing regulation of the gambling industry. Later that year, "spurred by allegations of influence peddling stemming from the ABSCAM investigation," the New Jersey legislature unanimously approved a strengthened code of ethics. This included a post-government employment provision that prohibited legislators and other state officials from working for the casino industry for two years after leaving office.\textsuperscript{285}

Yet another example of federal prosecution efforts sparking ethics reform is New York. The 1987 ethics law discussed at length in Chapter Two was in large part due to the federal and state investigation and prosecution related to members of the state Assembly placing no-show

workers on their payrolls. And as discussed in another case study, a long-smoldering ethics reform movement in Massachusetts finally found success in 1978 after the indictment and conviction of two powerful state legislators on bribery and extortion charges, by federal prosecutors using the Hobbs Act. In the wake of this scandal, legislators agreed to enact a strong law which included a wide range of restrictions on their outside activities. Finally, Oklahoma enacted a strong ethics law in 1986, including establishment of a powerful ethics commission, in the wake of several convictions of state legislators on charges of mail fraud, abuse of office, and vote fraud.

Federal prosecutors did not only go after legislators during this time. They also pursued the chief executive in some states, and in at least two cases these prosecutions appear to have contributed to the enactment of state ethics laws. An example is Maryland Governor Marvin Mandel; the U.S. Attorney for Maryland obtained Mandel's conviction under the Mail Fraud statute for receiving payoffs for favorable action on race track operations dates in 1977 (Illinois Governor Otto Kerner had been convicted for the same thing, in an early pioneering use of the mail fraud law, in 1973). In the wake of Mandel's conviction, Maryland strengthened its ethics law. Other governors who were the subject of federal prosecution for corruption during this period include Louisiana Governor Buddy Roemer (whose indictment, as described above, was quickly followed by the strengthening of Louisiana's ethics law). Oklahoma Governor David Hall, West Virginia Governor Arch Moore, and Louisiana Governor Edwin Edwards. While not every one of these federally-prosecuted cases of gubernatorial and legislative corruption led to stronger conflict of interest laws, certainly a significant number of them did appear to have contributed to states' expanding the scope of their legislative ethics regulations.

5.7 Other Factors Which Contributed to Change in State Ethics Laws

---

Another factor which had a positive impact on change in states' ethics laws was the initiative process. States which used the initiative to enact new ethics restrictions for legislators during this period include Missouri (1978), Montana (1980), Arkansas (1988), and Colorado (1988). In Montana, for example, voters supported an initiative establishing financial disclosure for legislators and also disclosure for lobbyists by a 3-1 margin. In Arkansas, the state Common Cause organization and the League of Women Voters turned to the initiative process after a special legislative session called in 1988 failed to enact an ethics bill requiring disclosure of financial conflicts of interest. Later that year, with the support of then-Governor Bill Clinton, Common Cause, the League of Women Voters, and other civic-minded groups took the proposal to the voters. The ballot question won by a 64-percent margin in a clear confirmation of the proposition that voters are much more willing to support legislative ethics regulation than are legislators themselves.

In other states which had an initiative option, Common Cause and other good-government groups wielded the threat of its use to push legislators to enact strict new regulations for legislators and other public officials; the Massachusetts case study is one such example; Oklahoma is another. In Oklahoma, Common Cause failed in 1983 to get enough signatures to put an ethics measure on the ballot in 1983. By 1986, with the strong support of Governor George Nigh — and a recent legislative scandal to use as justification for tighter regulation of legislative ethics — the group was able to make successful use of the threat of initiative to get the legislature to approve a strong ethics law. It seems plausible that this threat would be taken seriously, particularly in states where the initiative had already been used to enact legislative conflict of interest and disclosure proposals — such as Oregon in 1974, Michigan in 1976, or Florida in 1976. By agreeing to enact their own legislation rather than let the voters decide on a Common Cause-sponsored initiative, legislators were also able to exact

---


290 Ibid.
certain compromises from Common Cause, as described in the discussion of the Massachusetts case in Chapter Two.

Other variables which were significant in explaining change in state ethics laws between 1977-1988 included unified government, which was significant in model 2 although not in model 1. Contrary to the hypothesis that party competition facilitates the passage of ethics legislation, it appears that the more unified state governments were, the stronger the ethics laws they enacted during this time. This finding provides some support for the argument made by Ripley (1969) and Sundquist (1988) that unified governments are more likely to get things done, especially regarding contentious policy issues.

There may be other, more subtle reasons, however, why states with more unified government enacted stronger laws in this period. The majority of states with unified government during these years were dominated by the Democrats, not Republicans. One explanation may be that Democratic leaders were picking up the mantle of ethics reform after Watergate, in the wake of a scandal involving a Republican presidential administration. There is evidence that in some states, Watergate led to the election of "reformist" Democrats who enacted strong ethics laws in the immediate post-Watergate years (1973-1976).\footnote{One example is Wisconsin, as discussed in a book written by the former Democratic Speaker of the State Assembly. See Tom Loftus, "The Road to Ethical Legislatures Isn't Paved with Tougher Laws," in State Government: CQ's Guide to Current Issues and Activities in 1992-1993, Thad Beyle, ed. (Washington D.C.: Congressional Quarterly Inc, 1992). Loftus writes, "I came to the Wisconsin legislature in 1976 with a class of reformers determined to restore the public confidence in government shaken by Watergate. Led by Governor Patrick J. Lucey, we passed the most sweeping changes in the way elections were conducted and government was operated since Fighting Bob LaFollette and the Progressives threw out the party bosses early in this century." (Loftus, p. 104).} The analysis of this chapter begins in 1977, after the fervor of Watergate had worn off somewhat. However, newly-elected Democratic reformers may have continued to push for additional laws even after the immediate post-Watergate years.

Another plausible but quite different explanation for why the change in ethics laws was greater in more Democratic states during this period is suggested by Meier and Holbrook's analysis of political corruption in the states between 1977 and 1987, essentially the exact same years examined here (Meier and Holbrook 1992). The authors found evidence of partisan
targeting by federal prosecutors of elected officials under the Reagan administration during the years 1981 to 1987. Specifically, they found that federal "prosecution of corrupt officials was more intense in Democratic states than in Republican states during the Reagan years."\textsuperscript{292} The greater rate of convictions of Democratic officials on public corruption charges during this time may have spurred more Democratic states to pass more ethics regulations, consistent with the hypotheses advanced in this and the preceding chapters that ethics reform is often a response to scandal.

As shown in Figure 5.1, convictions of public officials at the local level grew exponentially during this period. However, these convictions are not all picked up by my scandal measure, since I only measure scandals involving \textit{state} officials. I do not count convictions of \textit{local} officials, which make up the majority of convictions by federal prosecutors because of the sheer number of local officials compared to state and federal officials. The reason these convictions are not counted is because the guiding hypothesis is that only scandals involving \textit{state} officials will catalyze state legislative ethics reform. However, in this period, there were some large-scale efforts by federal prosecutors to target local officials in certain cities and counties. Two states where there were numerous convictions of county-level public officials for taking kickbacks during this period were Oklahoma and Mississippi.\textsuperscript{293} These scandals immediately preceded the enactment of strong ethics laws and are likely to have contributed to the call for reform.

As in Chapter Four, states with a higher proportion of attorneys serving in the legislature enacted stronger laws during this time. Again, the likely explanation is that representation before state agencies and disclosure of conflicts of interests may be more potent issues in states with more lawyer-legislators. Finally, two of the control variables were significant. The index score for 1976 (essentially a lagged dependent variable) was highly


significant, as would be expected. A model which used the index as the sole independent
variable had an adjusted R-squared value of .53; not surprisingly, the earlier level of ethics law
stringency had a powerful impact on the level at the end of the period. Also as expected, states
which had recently passed legislative ethics laws were less likely enact new laws during this
period. States which had never passed such a law or had done so a relatively long time ago
tended to enact stronger laws during this time.

Certain variables which were significant in the 1954-1972 analysis were not significant
in the analysis of change between 1977 and 1988. In particular, neither increasing
compensation nor liberal citizen ideology were associated with greater positive change in states'
legislative ethics laws during the years 1977-1988. Political culture, as measured by Common
Cause membership per capita, was not significant either. This is not to suggest that Common
Cause as an organization played no role in the enactment of ethics laws. In fact, as suggested
above, in many states the opposite was true; Common Cause was quite active in pushing for
ballot initiatives related to the regulation of political ethics in general, and legislative ethics in
particular. It is probably no accident that the only two states which lack a Common Cause state
organization, North Dakota and Wyoming, have very weak ethics laws relative to the other
states. The organization also had an important influence on the passage of ethics laws in
another way; in the mid-1970's, Common Cause began disseminating a "model ethics law" for
the states which was used by reform advocates within state government when they drafted
ethics legislation; the text of the laws which have been enacted since 1974 closely mirrors if not
replicates the language of the Common Cause model law. The culture variable, however, does
not measure the impact of Common Cause's strategies and efforts; it only measures popular
support for Common Cause in the different states. Perhaps a variable which measures the
organizational strength of Common Cause by state — the influence the organization wields
with legislators in different states — would prove to be significant. Unfortunately I was not
able to obtain such information.
Finally, diffusion from national and regional leader states to follower states did not occur during this period. State enactment of new laws, instead, was greater in states in which there were more corruption scandals — many of them stemming from federal prosecution efforts — and in states which had an initiative option that could be used by good-government reformers. States in which government was more frequently unified under one party also enacted stronger ethics laws during this time, as did states with a high proportion of attorneys in the legislature.

5.8 The Most Recent Wave of Reform: 1989-1996

We turn now to an examination of the most recent period of legislative ethics reform in the states, from 1989-1996. During the years 1989-1996, 36 states strengthened their legislative ethics laws in one way or another. The range of states’ efforts varied widely, from Idaho which finally enacted a simple ethics code but no substantive restrictions or financial disclosure, to South Carolina and Kentucky, which added restrictions in every category considered here.\textsuperscript{294} Of the three periods I examine here, the average change was greatest during this last period. For the states in the dataset, the mean change in the ethics index was 1.97 for the 1989-1996 period, versus 1.20 for the 1977-1988 period and 1.63 for the 1953-1972 period.

In particular, during the years 1989-1996, states tightened their restrictions on gifts and honoraria. State action on honoraria stemmed in part from the decision of the U.S. House and Senate to ban honoraria in 1989 and 1991 respectively.\textsuperscript{295} The issue of honoraria became

\textsuperscript{294} In addition to enacting limits on gifts, representation, post-government employment, honoraria, and also disclosure limits, many states during this time also enacted bans on legislators accepting campaign contributions during a legislative session. However, I do not consider these new restrictions since they pertain primarily to campaign finance.

\textsuperscript{295} The Senate had always lagged behind the House in its regulation of honoraria. A brief history of Congressional honoraria regulation is as follows: The first law to regulate honoraria at the federal level was the 1974 Federal Elections Campaign Act. Then in 1977, the U.S. House and Senate passed ethics codes which limited outside earned income to 15% of members’ salaries, and lowered the ceiling on allowable annual honoraria to $10,000 and on allowable individual honoraria to $1,000. In 1979, the Senate voted to delay the limit for four years, allowing senators to keep $2,000 per speech and up to $25,000 total per year. The early 1980's also saw attempts in the Senate to roll back the honoraria limits. In 1989 the Senate repealed the $25,000 limit entirely by a two-vote margin. The House, frustrated by the disparity between the two bodies on this matter, responded by raising its ceiling on outside earnings from 15 to 30%. See Congressional Quarterly, Congressional Ethics: History, Facts and Controversy (Washington: Congressional Quarterly Books, 1992), Chapter 11 for a history of Congressional honoraria limits.
a matter of major public controversy at the federal level in 1988, when U.S. Senator David Durenberger and then-House Speaker Jim Wright became embroiled in controversies involving their honoraria earnings.²⁹⁶ It is worth noting, however, that honoraria bans were considered at the state level as early as 1987 in Tennessee and Maryland, two years before the U.S. House instituted its ban.²⁹⁷ Seventeen states banned honoraria for legislators in the eight years between 1989 and 1996. These included Pennsylvania and Tennessee in 1989; Arkansas and California in 1990; Texas, Connecticut and South Carolina in 1991; Kentucky and Ohio in 1993; and Maryland in 1995. California, like Arkansas, enacted its ban through the initiative process, in 1990. While the majority of states established honoraria bans through statutes, others such as Indiana and Tennessee only incorporated a ban into their legislative rules.²⁹⁸ Several important loopholes regarding honoraria were retained by virtually all states which placed some limit on the practice. First, legislators can generally accept travel reimbursement, though not direct monetary compensation, for speaking at a conference on a matter pertaining to legislation. Second, they can accept honoraria if they donate it to charity or return it to the giver, a loophole which parallels the Congressional honoraria restriction.²⁹⁹ Also between 1989 and 1996, 15 states joined Wisconsin in enacting a "no cup of coffee" ban on gifts (Wisconsin's pioneering ban on gifts dates back to 1957). These states include Kentucky, South Carolina, Minnesota and Massachusetts.³⁰⁰ Other states placed

²⁹⁶ The Senate Ethics Committee found that Durenberger used a book he wrote as a "mechanism to evade the statutory limitations on honoraria." At the time, honoraria for senators were restricted to 30% of members' salaries. See Dennis Thompson, Ethics in Congress (Washington D.C.: Brookings, 1995), p. 34.


²⁹⁸ In Maryland, the proposal passed the Senate but failed in the House. In Tennessee, the proposal was considered in the Senate during debate over legislative rules, but no action was taken on the proposal "because senators believed that fees for their participation at meetings were an important perquisite of office." See the COGEL Blue Book (Council of State Governments, Lexington, Kentucky: 1988) pp. 143 and 151

²⁹⁹ Tennessee's was only for the Senate. See Tennessee Legislative Rules.

³⁰⁰ Massachusetts lawmakers included the gift ban as part of the state election law, leaving intact the section of the conflict of interest statute which restricts gifts from lobbyists to $100. Common Cause of Massachusetts is currently trying to eliminate this discrepancy in the law by having lawmakers include the ban in the conflict of interest statutes, replacing the existing $100 limit. A special state commission established to
numerical restrictions on gifts where before there were none or the law was unclear about what value of gifts was acceptable. Iowa, for example, went from a $35 limit, enacted in 1987, to a $3 limit per gift or meal in 1993 following a conflict of interest case involving the senate president. Florida's 1990 law prohibited legislators from accepting gifts worth over $100 from lobbyists, their principals, or PACS, and required disclosure of gifts over $25. Ohio in 1994 placed a $75 limit on gifts from lobbyists, while Texas banned pleasure trips funded by lobbyists in 1990. Virtually all states except Texas, however, retain a loophole in their gift statutes which exempts trips from being counted as gifts. Ohio is another rare exception, having enacted a restriction on lobbyist-funded trips in 1993, when the state also banned legislative honoraria in 1993.

Analysts of the changes in state ethics laws during this period tend to stress one explanation for the reform efforts: the catalyzing effect of scandal (Bullock 1994; Stuart 1994; Goodman 1994, 1996; Rosenthal 1996). Was scandal the only factor which affected states' efforts at legislative ethics regulation during this period? Or did other factors that were significant in earlier periods, such as ideology, compensation, unified government, or institutional power, have any impact — positive or negative — on states' enactment of additional ethics restrictions? To answer this question, we turn now to the quantitative analysis of change between 1989 and 1996.

5.9 Quantitative Analysis: The Model and Results

The model is the same as the one used in the first part of this chapter to analyze change between 1977-1988. The independent variables are basically measured the same as for the 1977-1988 period but reflect the years being examined, 1989-1996. See Appendix G for data on the dependent and independent variables. Table 5.3 presents summary statistics for the dependent and independent variables. Table 5.4 shows the results of the regression analysis.
Table 5.3
Summary Statistics

**Dependent Variable**

<table>
<thead>
<tr>
<th>Index96</th>
<th>Mean</th>
<th>Std. Dev.</th>
<th>Min.</th>
<th>Max</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>6.05</td>
<td>2.81</td>
<td>0.00</td>
<td>10.50</td>
</tr>
</tbody>
</table>

**Change In Ethics Laws, 1989-1996**

<table>
<thead>
<tr>
<th></th>
<th>Mean</th>
<th>Std. Dev.</th>
<th>Min.</th>
<th>Max</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>1.97</td>
<td>1.90</td>
<td>0.00</td>
<td>8.00</td>
</tr>
</tbody>
</table>

**Independent Variables**

<table>
<thead>
<tr>
<th>Variable</th>
<th>Mean</th>
<th>Std. Dev.</th>
<th>Min.</th>
<th>Max</th>
</tr>
</thead>
<tbody>
<tr>
<td>Moralistic Culture</td>
<td>0.96</td>
<td>0.60</td>
<td>0.17</td>
<td>2.62</td>
</tr>
<tr>
<td>Ideology</td>
<td>49.76</td>
<td>12.27</td>
<td>30.58</td>
<td>82.57</td>
</tr>
<tr>
<td>Unified Government</td>
<td>39.89</td>
<td>32.41</td>
<td>0.00</td>
<td>1.00</td>
</tr>
<tr>
<td>Majority Party Control</td>
<td>63.74</td>
<td>8.90</td>
<td>50.60</td>
<td>87.79</td>
</tr>
<tr>
<td>Speaker/Pres Power</td>
<td>2.90</td>
<td>1.02</td>
<td>0.00</td>
<td>4.00</td>
</tr>
<tr>
<td>Senate Chair Ratio</td>
<td>0.81</td>
<td>0.41</td>
<td>0.35</td>
<td>2.66</td>
</tr>
<tr>
<td>House Chair Ratio</td>
<td>0.37</td>
<td>0.17</td>
<td>0.15</td>
<td>0.93</td>
</tr>
<tr>
<td>Scandal</td>
<td>5.29</td>
<td>5.97</td>
<td>0.00</td>
<td>30.00</td>
</tr>
<tr>
<td>TPO</td>
<td>1.98</td>
<td>1.43</td>
<td>1.00</td>
<td>5.00</td>
</tr>
<tr>
<td>Change in Compensation</td>
<td>-0.69</td>
<td>11.37</td>
<td>-45.21</td>
<td>20.80</td>
</tr>
<tr>
<td>Attorneys</td>
<td>16.55</td>
<td>9.07</td>
<td>0.00</td>
<td>45.00</td>
</tr>
<tr>
<td>Initiative Process</td>
<td>0.34</td>
<td>0.48</td>
<td>0.00</td>
<td>1.00</td>
</tr>
<tr>
<td>Diffusion</td>
<td>4.09</td>
<td>4.12</td>
<td>0.00</td>
<td>13.00</td>
</tr>
<tr>
<td>Index88</td>
<td>4.10</td>
<td>2.19</td>
<td>0.00</td>
<td>8.50</td>
</tr>
<tr>
<td>Last Passed Laws</td>
<td>1.47</td>
<td>0.93</td>
<td>0.00</td>
<td>3.00</td>
</tr>
<tr>
<td>Other Laws</td>
<td>5.51</td>
<td>1.89</td>
<td>2.00</td>
<td>9.00</td>
</tr>
</tbody>
</table>

Data sources: For dependent variable, see Appendix A. For independent variables, see Appendix G.
<table>
<thead>
<tr>
<th>Variable</th>
<th>Model 1</th>
<th></th>
<th></th>
<th>Model 2</th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>B</td>
<td>SE (B)</td>
<td></td>
<td>B</td>
<td>SE (B)</td>
<td></td>
</tr>
<tr>
<td>Culture/Ideology</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Moralistic Culture</td>
<td>-0.7435</td>
<td>0.6022</td>
<td></td>
<td>-0.8504</td>
<td>0.3935*</td>
<td></td>
</tr>
<tr>
<td>Lib-Con Ideology</td>
<td>-0.0278</td>
<td>0.0333</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Electoral Factors</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Unified Government</td>
<td>0.9414</td>
<td>0.8525</td>
<td>1.3333</td>
<td>0.7213*</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Majority Party Control</td>
<td>-0.0851</td>
<td>0.0394*</td>
<td></td>
<td>-0.0704</td>
<td>0.0294*</td>
<td></td>
</tr>
<tr>
<td>Institutional Power</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Senate Chair Ratio</td>
<td>-1.1980</td>
<td>0.7607+</td>
<td></td>
<td>-0.8700</td>
<td>0.5450+</td>
<td></td>
</tr>
<tr>
<td>House Chair Ratio</td>
<td>-0.3387</td>
<td>2.2783</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Speaker/Pres. Power</td>
<td>-0.5475</td>
<td>0.2570*</td>
<td></td>
<td>-0.5981</td>
<td>0.2024*</td>
<td></td>
</tr>
<tr>
<td>Scandal/Corruption</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Scandal</td>
<td>0.2094</td>
<td>0.0539**</td>
<td></td>
<td>0.1861</td>
<td>0.0399**</td>
<td></td>
</tr>
<tr>
<td>TPO</td>
<td>0.1357</td>
<td>0.1920</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Economic Self-Interest</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Change in Comp. Attorneys</td>
<td>0.0156</td>
<td>0.0276</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Direct Democracy</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Initiative Process</td>
<td>0.5061</td>
<td>0.5610</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Diffusion</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>State Diffusion</td>
<td>0.0211</td>
<td>0.0633</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Controls</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Index88</td>
<td>0.7859</td>
<td>0.1565**</td>
<td></td>
<td>0.7765</td>
<td>0.1041**</td>
<td></td>
</tr>
<tr>
<td>Other Laws</td>
<td>-0.0521</td>
<td>0.1332</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Last Passed Laws</td>
<td>-0.2207</td>
<td>0.2951</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Constant</td>
<td>12.5353</td>
<td>3.8028**</td>
<td></td>
<td>9.0881</td>
<td>1.9320**</td>
<td></td>
</tr>
<tr>
<td>Adjusted R-squared</td>
<td>.74</td>
<td></td>
<td></td>
<td>.78</td>
<td></td>
<td></td>
</tr>
<tr>
<td>N=47</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

+ \ p < .10; * \ p < .05; ** \ p < .01, one-tailed tests.

Data for the dependent variable comes from state conflict of interest statutes and state legislative rule books (See Appendix A). Information on data for the independent variables can be found in Appendix G.
5.10 Scandal: The Continued Role of Federal Prosecution as a Catalyst to Ethics Reform

As Goodman (1994, 1996), Bullock (1994) Stuart (1994) and Rosenthal (1996) suggest, scandal is indeed a critical variable in explaining states' efforts to strengthen their legislative ethics restrictions during this period. The scandal variable is significant at the .001 level in both Model 1 and Model 2. The only variable which has a higher T-statistic is the variable which controls for ethics law stringency at the beginning of the period.

As in the years 1977-1988, major corruption scandals in this period were often the result of aggressive federal prosecution efforts by the Department of Justice, which frequently worked in concert with the Federal Bureau of Investigation. Seven states were the subject of FBI sting operations aimed at trapping state legislators (generally on videotape) taking bribes from federal agents; these were California, West Virginia, Tennessee, Kentucky, South Carolina, Illinois, and Louisiana. In most cases, the agents pretended to be representatives of companies involved in horse and dog racing, and offered bribes in exchange for favorable legislation. In California they pretended to be businessmen who offered bribes in exchange for legislation to benefit a fictitious seafood company (hence the scandal's name, Shrimpgate). In two other states, Arizona and New Mexico, local law enforcement officials carried out similar stings against state legislators.303

The 1989-1996 period was not the first time that sting operations involving state legislators were carried out. The 1980 ABSCAM sting, which drew New Jersey state legislators as well as U.S. Congressmen into its net, is a well-known earlier example. What was different and striking about the 1989-1996 period, however, was the extent of the stings and the number of legislators they ensnared. In California, five current or former legislators were convicted, including the former Assembly Minority Leader. Eight legislators were indicted in Kentucky's BOPTROT scandal — including the House Speaker — and all but one

303 See Rosenthal, Chapter 1. The one sting Rosenthal does not discuss is the Illinois "Silver Shovel." operation in which FBI undercover agent offered bribes to state legislators to propose legislation beneficial to cemetery owners. See COGEL Guardian, March 1996, p. 17.
plead guilty. West Virginia's scandal also involved two powerful legislators, one the Senate President and the other the former Senate President. In South Carolina, 17 current and former legislators were indicted in connection with "Operation Lost Trust" after taking cash in return for their votes on a gambling measure; all but one were convicted of extortion under the Hobbs Act.\footnote{Ibid. See also the accounts in the reports by the U.S. Department of Justice, Report to Congress on the Activities and Operations of the Public Integrity Section, 1989-1995, as well as accounts in the New York Times Index and the COGEL Guardian’s quarterly newsletter for 1988-1996.}

Every state which faced such a highly-publicized exposure of legislative corruption due to a sting operation enacted major changes in its legislative ethics laws, although the range of responses varied. New restrictions were placed on legislators' activities and in some cases, independent ethics commissions were established with the power to police legislators (e.g. West Virginia in 1989, Louisiana in 1996). West Virginia even gave its new ethics commission the power to appoint a special prosecutor in any county where a public official is on trial.\footnote{This power is significant because West Virginia does not have a state prosecutor and must rely on county prosecutors to bring cases of alleged unethical behavior to court. (See Wagar and Knapp, "The Truth about Ethics," in State Government, CQ’s Guide to Current Issues and Activities, 1992-3, Thad Beyle, ed. (Washington: Congressional Quarterly, 1992), p. 157.} Kentucky and South Carolina, where the largest number of legislators were convicted by federal prosecutors, vaulted to the number one and number two states in terms of the stringency of their legislative ethics laws.\footnote{See Table One in Chapter One.}

The South Carolina Legislature, according to Common Cause/South Carolina executive director John Crangle, would not have considered "reform of this magnitude without the sting."\footnote{Amy E. Young, "In the States," Common Cause Magazine, May/June 1991, p. 41.} Arizona Common Cause executive director Dana Larsen agreed: "The indictments (which resulted from the sting) raised the interest in our issues and that makes my job easier."\footnote{Ibid.}

The job was not so easy for reform advocates in states with no scandals during this period, such as Wyoming and North Dakota, and not surprisingly, these states generally did not enact new ethics laws for legislators.

Other states experienced less severe scandals that also grew out of federal prosecution of individual state legislators, governors, and other statewide elected officials. Beginning in
early 1993, for example, Michigan faced what the *Detroit News* called its "biggest political scandal in the past half century," which involved lax oversight and fraud at the House Fiscal Agency. Seven former legislative staffers and a state representative pleaded guilty to felonies including mail fraud.\(^ {309}\) Michigan enacted a new ethics law in the wake of this scandal. The law banned honoraria, required lawmakers to report free trips valued at over $100, prohibited legislators who left in midterm from becoming a lobbyist during the remainder of their term of office, and ended officeholder expense funds which had historically been used as slush funds. Common Cause of Michigan's executive director Karen Holcomb-Merrill was quoted as saying, "Negative publicity regarding the scandal made the legislature feel they (sic) had to address governmental ethics in some respects."\(^ {310}\)

There were also scandals involving legislators, governors, and other statewide officials which were the result of state, not federal prosecution, that helped reformers enact new ethics laws. For example, the Arkansas Attorney General who was running for governor in 1990 was convicted of felony theft for misusing his expense privileges, spending money from his office operating account on "wine, women and entertainment."\(^ {311}\) He dropped out of the race when the charges were first reported. Arkansas/Common Cause and independent observers suggest that this scandal helped the 1990 initiative effort which transferred ethics enforcement from the Attorney General to a newly created independent commission and banned honoraria. Fallout from the scandal also is believed to have helped a 1991 effort (by sympathetic legislators this time, not by initiative) to expand financial disclosure.\(^ {312}\)


\(^{310}\) See *COGEL Guardian*, February 1994. However, Michigan failed to act on a number of proposed changes, including the establishment of an independent ethics commission, financial disclosure of members' business and other employment interests, and a one-year revolving door limit. See *Detroit News*, January 15, 1995, and Common Cause/Michigan newsletter, 1993-1996.


Ethics reform also followed state prosecution of unethical behavior in Minnesota during this time. The Minnesota House Majority Leader and the Speaker of the House resigned in 1994 after the "Phonegate" investigation into the use of state phones by Majority Leader Alan Welle to make $90,000 worth of personal calls. Welle was indicted and pleaded guilty to a gross misdemeanor to avoid prosecution on a felony charge. In the immediate wake of this highly-publicized scandal, Minnesota enacted a no cup of coffee gift law.

In Texas, House Speaker Gib Lewis was indicted in 1990 on misdemeanor charges of violating state ethics laws by accepting and failing to report certain gifts. The next year, Texas banned honoraria, instituted an one-year revolving door ban for legislators and other officials and limits on lawyer-legislators, and strengthened its disclosure and other conflict of interest regulations. The new ethics law also reinvigorated the Texas Ethics Commission which had gone unfunded for the previous four years. Alabama is another state which enacted some strong new ethics regulations in the wake of a scandal that arose from state prosecution of unethical behavior. After Governor Guy Hunt was convicted in April 1993 of diverting $200,000 in inaugural funds for personal use, a new law placed limits on the personal use of office equipment and facilities, expanded financial disclosure, and established a two-year post-government employment limit for legislators and other state employees.

Florida, Massachusetts and Wisconsin are three more examples of how state investigations and prosecution helped spark ethics reform in this period. In 1989, 24 Florida state legislators failed to report hunting, fishing and pleasure trips paid for by lobbyists under the existing gift statute. The matter went to a grand jury and the legislators were ultimately fined. The scandal fueled a new ethics law which clarified the definition of gifts (trips were now to be included), and placed a $100 limit on allowable gifts from lobbyists, PACs and

---

313 The Speaker, who had not made any illegal phone calls herself, resigned after criticism of her handling of the affair, including her refusal to turn over phone records to the press. See Rosenthal, pp. 185-194.
316 Rosenthal, pp. 128-129.
corporations. The law also instituted a ban on legislators accepting honoraria from PACs or lobbyists.\textsuperscript{317} In Massachusetts, after 10 past and current legislators were fined by the State Ethics Commission for violating state conflict of interest laws by accepting gratuities from insurance lobbyists; the legislature responded in 1994 by passing a gift ban.\textsuperscript{318}

In Wisconsin in the late 1980's, the investigation of 12 state lawmakers and six lobbyists on influence-peddling charges by the state Ethics Commission and the Dane County District Attorney resulted in the House majority leader and 10 other legislators being fined for accepting a lobbyist-financed trip. Another legislator pleaded guilty to five misdemeanor charges under the state ethics laws, resigned and served 90 days in jail. Wisconsin, which already had a relatively strong ethics law, clarified and tightened its law regarding legislators accepting gifts in the wake of this scandal (one sentence specified that legislators could not accept discount sky boxes at the local stadium from lobbyists). In 1989 the legislature also transferred regulation of lobbyists from the secretary of state to the independent ethics board.\textsuperscript{319}

Certain scandals, then, led to clear responses in terms of new laws that addressed the very problems that had been highlighted by the scandals, for example in Massachusetts, Wisconsin and Florida. In other states, the response was more sweeping. For example, the scandals involving misuse of public resources in Alabama led to a post-government employment limit as well as a limit on the use of public resources and facilities. In Michigan, the scandal involving the House Fiscal Agency led to an audit of that agency and changes in how it kept its books, along with the removal of the House committee chairman who oversaw the agency.\textsuperscript{320} However, the ban on honoraria and revolving door limit which were part of the new ethics law, were not direct responses to the wrongdoing uncovered in the scandal; instead,

\textsuperscript{317} Florida Statutes, Title 10, Chapter 112.
\textsuperscript{318} \textit{COGEL Guardian}, June 1994, p. 13.
these were changes that reformers had been seeking for years as part of a broader effort to improve legislative ethics.

The new laws in Kentucky and South Carolina were the most sweeping. In response to the indictments and convictions of numerous legislators on bribery charges, both states instituted post-government employment limits, strengthened financial disclosure, and banned gifts and honoraria, as well as increasing the penalties for bribery. The strengthening of financial disclosure and honoraria limits for legislators in many states during this time was often a generalized response to abuses involving conflicts of interest, even though in some cases (e.g. Alabama, Arkansas and Pennsylvania), the main culprits in the scandals were governors, attorney generals, and treasurers who were not directly connected to the legislature itself.

One concern regarding the finding that scandals led to the enactment of stronger ethics laws is the potential endogeneity of the scandal variable. Where ethics laws are stronger, it can be argued that there will be more reported scandals, for example in Massachusetts and Wisconsin where legislators were charged with violating state ethics laws during the 1989-1996 period. This problem is partially resolved by controlling for the level of a state's ethics laws at the beginning of the period. However, if strengthening of the laws during a given period influences the number of scandals during that period, an endogeneity problem arises in which the error term will be correlated with the dependent variable. While the linear regressions of this and the previous chapter use only 46 and 47 observations, a small number for using an instrumental variables approach to the endogeneity problem, I nevertheless tried instrumenting for the scandal variable in the models that explain change in states' laws between 1953-1972, 1977-1988, and 1989-1996.

As an instrument, I used the number of federal indictments and convictions of state legislators, governors and other statewide officials. This variable is not influenced by change in state conflict of interest laws. It is not a perfect instrumental variable since it is really

\[\text{Data came from the same sources as for the scandal variable (see Appendices C, F and G).}\]
just one part of the actual scandal variable itself, the part which is uncorrelated with the error term for the dependent variable. A better instrumental variable might have been the number of U.S. attorneys for each state during the periods examined, but I was not able to obtain this information. The regressions using this instrumental variable had the expected result of lowering the T-statistic for the scandal variable in all cases, with the instrumented variable still significant at the .05 level for all three time periods.322

5.11 Other Factors Which Shaped Legislative Ethics Reform From 1989-1996

Several other factors helped shape the extent of change in state legislative ethics laws during the 1989-1996 period. First, as expected, the previous level of a state's ethics laws had a strong impact on the level at the end of the period (the T-statistic for the control variable was 7.45). Institutional power in state senates had a negative impact on the amount of positive change. As in the pre-Watergate period, change was smaller in states where a greater proportion of majority party members were committee chairs, presumably because these power-holders blocked reform from coming to the floor or else voted against proposals that did come up for a vote. States where House speakers and Senate presidents held more power also enacted less positive change in their ethics laws during this period, consistent with the theory that top legislative leaders may use their powers of bill referral and appointment to block ethics reform. Thus institutional power-holding in general appeared to hinder the enactment of strong laws.

As in the 1977-1988 period, states with more unified government enacted stronger laws during this period, providing counter-evidence to the proposal that party competition stimulates

322 While I do not present the regression results here, several things should be noted. First, the first-stage regressions of the scandal variable on the instrument yielded an adjusted-R squared value of .47 for the first period, .25 for the second period, and .25 for the final period. Second, in the IV regressions, the T-statistic for the scandal variable dropped from 3.95 to 1.72 for the first period, 2.82 to 2.31 for the second period, and 4.66 to 3.24 for the third period (figures are for model 2 for each of the periods). The results regarding other independent variables remained largely the same.

I also tried instrumenting for the compensation variable, using two instrumental variables: lack of a limit on session length and change in state population during the period. The instruments worked relatively well for the first and second time periods but not for the last period, where the first-stage results were poor. Using the instrumented variable for the first period caused the T-statistic to drop from 2.72 to 2.04; compensation was still significant at the .05 level. In the other two periods, compensation was not significant in the OLS or the IV regressions.

212
ethics reform. However, at the same time, states with greater majority party control of the legislature enacted fewer new ethics laws. This suggests that party competition within the legislature facilitated legislative ethics reform (where there was less competition — higher majority party control — there was less reform; where there was greater party competition, there was more reform). This finding, that unified government and party competition within legislatures were both associated with the enactment of stronger laws, is somewhat confusing. It may be the case that when it comes to legislative ethics reform, legislators view their main competitor or threat as the governor, and are only willing to pass strong laws when they are from the same party as the chief executive and feel comfortable working with him on this touchy issue. Legislators may be willing to work with legislators from the other party, but not a governor from the other party, because at least the legislators have the same perspective. In general, other legislators will be more sympathetic to the need to shape ethics reform so it does not unduly penalize or stigmatize the legislative branch, whereas a governor from the other party may be more likely to use ethics reform as a weapon against the legislature in general.\textsuperscript{323}

Finally, the moralistic culture variable was negatively signed and significant, contrary to the hypothesis that states with a more moralistic culture will enact stronger ethics laws. There is no ready explanation for the negative sign. What we \textit{can} say is that it is clear from the regression of this and earlier periods that moralistic political culture clearly does not have a significant positive impact on the passage of legislative ethics laws, as initially hypothesized.

The compensation variable, while positively signed, is not significant. States did not need to increase compensation in order for them to enact strong ethics laws during this period. Major scandals were apparently sufficient even in the absence of rising compensation. During the years 1989-1996, many states experienced a major decline in real compensation, due to a combination of inflation and voters' hostility to proposals that would increase legislators' salaries.\textsuperscript{324} The average change in compensation was -$690. Exactly half the legislatures

\textsuperscript{323} See Dennis Thompson, \textit{Ethics in Congress}, Chapter 6, on the similar perspective of legislators toward ethics regulation even when they are from different parties.

\textsuperscript{324} Since the mid-1980's, it has proven extremely difficult for legislators to push through increases in their salaries. While voters are rarely enthusiastic about raising legislative salaries, it seems that the 1990's were a
experienced declines in real compensation during these years. For example, Pennsylvania legislators saw their compensation fall $45,200 in real terms; the figure was $23,650 in Massachusetts and $17,030 in Illinois.

Perhaps most illuminating is the fact that the two states which strengthened their legislative ethics laws most significantly actually experienced a fall in real legislative compensation. Compensation fell by $21,600 in South Carolina and by $3,690 in Kentucky, yet both states took major strides in strengthening their legislative ethics laws, as described above. This suggests that increasing compensation was far from necessary where states experienced major scandals involving state legislators. With the exception of California, all the states which experienced major legislative stings and followed up with ethics reform started the period with relatively low salaries and did little if anything to increase compensation during this period. This fact undoubtedly contributes to the insignificance of the compensation variable and the relative importance of the scandal variable.

Alan Rosenthal (1996) suggests that extremely low compensation did hinder ethics regulation in at least some states during this time, though the effect was not statistically significant in the regression presented here. For example, Rosenthal argues that poor pay for legislators made the New Mexico legislature unwilling to substantively limit representation by time of particular recalcitrance. This recalcitrance appears to be part of a broader trend in anti-legislator sentiment during this period, which is evident in the passage of term limits for state legislators in 23 states between 1990 and 1994 (data provided by U.S. Term Limits).

Even in states which have compensation commissions, public outcry against proposed raises stymied most attempts during in the 1989-1996 period to keep salaries in line with inflation over the last decade. California's compensation commission is the only one in the nation which can approve pay raises without public, legislative or gubernatorial oversight. (See Charles Mahtesian, "When the Voters Freeze Your Pay," Governing 7:3 (December 1993), pp. 34-39). Some legislatures such as the Texas and Rhode Island legislatures have responded to voters' opposition to raising salaries with considerable ingenuity, increasing indirect forms of pay such as pensions while leaving direct compensation untouched. After Texas voters refused to approve a constitutional amendment in 1989 tripling legislators' salaries from a relatively low $7,200, a House member pushed through an amendment lowering the age at which former lawmakers could collect their pensions. Between 1989 and 1993, the expense per diem — which legislators can adjust without consulting the electorate — nearly tripled from $35 to $80. After Pennsylvania's House Speaker unsuccessfully floated the idea of a pay raise in 1992, the House Rules Committee just weeks later in a closed-door meeting passed a resolution to raise per diem expenses significantly, to the highest level of any state (see Mahtesian).

Other state legislatures also scaled back the length of their sessions where voters were unwilling to raise their salaries; two such examples are Louisiana and Pennsylvania, both of which did so in 1993.

\[^{325}\footnote{In California, as in 1966, policy makers tied ethics reform to a salary increase for legislators. Real compensation increased $18,570 in California during this time.} \]
lawyer-legislators when it considered ethics reform in 1993, quoting members whose comments support his contention. However, poor pay for the unprofessionalized New Mexico legislature clearly did not present an insurmountable barrier to restricting outside income. In the wake of a sting operation, New Mexico legislators still chose to ban honoraria in 1993, which represents a significant limit on members' ability to supplement their official salaries. Indeed, many of the states which banned honoraria during this period are "category 3" states as classified by the National Conference of State Legislatures: part-time, low-pay legislatures. Among the states in that category which banned legislative honoraria during this period are Arkansas, Louisiana, Nevada, Louisiana, and West Virginia. They took this strong action, despite their relatively low compensation, in the wake of major scandals involving legislative and other high-level state officials.

The initiative variable is also positively signed but not significant in this period. Certain states did use the initiative process during this period to enact new legislative ethics restrictions; California, Arkansas and Florida are three examples. And in another state, Massachusetts, Common Cause used the threat of initiative to get ethics and campaign reform through the legislature (in 1994, using a similar strategy as in 1978, the organization dropped its proposed ballot initiative question to tighten campaign finance and ethics regulation after the legislature itself enacted campaign finance reform and banned gifts from lobbyists to legislators). But the initiative variable was not statistically significant, probably for the same reason that compensation was not significant: a large number of states experienced major scandals or combinations of scandals that were big enough to propel ethics reform forward in state legislatures, even in the absence of rising official salaries or the threat of placing the matter directly before the voters. Scandal clearly dwarfs all other explanatory variables in this period.

---

326 Legislators were allowed to continue appearing before state agencies for pay but were not allowed to use their titles or legislative stationery in connection with their legal work. See Rosenthal, p. 87.

327 The NSCL groups states into three categories: Category 1 states are full-time, with relatively high pay, large staff, and stable membership. These include California, New York, and Illinois. Category 3 states are part-time and poorly paying, with small staff and high turnover; these include the above-mentioned states. Category 2 states are hybrids which fall in between the other two groups; examples from this group are Nebraska, Missouri, and Maryland. (Data provided by National Conference of State Legislatures, 1997).

The only variable with a larger T-statistic is the control variable for the index at the beginning of the period.

Although the linear regressions of this chapter do not test for the impact of governors, in particular of gubernatorial campaigns, on the ethics reform process, there is some evidence that governors made ethics reform a campaign issue in certain states during this period. Governor Mike Foster of Louisiana, for example, promised ethics and lobby law reform on the campaign trail in 1995. Foster called a special legislative session in March of the next year, where he succeeded in getting the legislature to approve changes in ethics law "that had been recommended for years."329 Perhaps most significant, he won the legislature's approval for the merger of separate ethics boards that oversaw the enforcement of legislative and executive branch ethics into one board, with the power to launch its own investigations and to impose stiffer fines than either of the separate boards. While Foster pushed hard for strong ethics reform, however, it appears that the driving factor behind legislators' willingness to enact new regulations was the FBI sting which broke in the summer of 1995 and uncovered substantial legislative corruption.

In 1991, a gubernatorial election year in Kentucky, every candidate for governor was found "pushing some version of ethics and campaign reform."330 However, ethics reform went nowhere in 1992; it was not until after the FBI BOPTROT probe became public in the closing days of the 1992 session that legislators agreed to enact sweeping changes in the state's ethics laws, which was done in a special session in 1993. Thus it was not so much gubernatorial attention to the problem of legislative ethics as it was a legislative scandal of major proportions that lit the fire under smoldering reform efforts. Similarly, in Texas, Governor Ann Richards pushed for strong ethics reform in 1991. However, it seems that it was not so much the governor's efforts as the scandal involving the House Speaker that pushed legislators to enact changes in the existing conflict of interest statute.

5.12 Summary of Findings, 1953-1996

We can now assess the findings for Chapters Four and Five, for the three periods of 1954-1972, 1977-1988, and 1989-1996. The hazard model analysis which focused on early passage of a simple ethics code and early enactment of representation limits, along with the linear regressions for all three periods, suggests that scandals were a major catalyst to reform. States which experienced scandals involving legislators, governors and/or other statewide officials were more likely to enact an initial ethics code for legislators and also enacted more extensive restrictions on legislators' activities. In enacting legislation in the first period, states appeared to be influenced by the actions of national and regional leaders. However, in the later two periods, diffusion did not occur in this way. In the first period, increasing compensation was associated with a greater willingness to enact simple codes, limits on lawyer-legislators, and other ethics regulations such as disclosure requirements, gift limits, and revolving door limits. But in the later two periods, low compensation was not a barrier to reform. Liberal ideology also facilitated the initial enactment of basic ethics codes for legislators, but was not necessary for strengthening of laws in the later years.

There is also some evidence that institutional power in the form of committee chairs in the both houses of state legislatures hindered the enactment of ethics laws in the first and third periods. In the third period, there is also evidence that powerful House Speakers and Senate Presidents obstructed the enactment of strong laws. Regarding party competition, the evidence is weak that inter-party competition contributed to the passage of ethics laws. The evidence tends to point in the opposite direction; although party competition within legislatures was associated with the enactment of stronger laws in the third period, states with more unified government in the last two periods enacted stronger laws, suggesting that it was the lack of partisan competition which facilitated the passage of ethics laws.

While there is some evidence that gubernatorial campaigns were associated with the enactment of early ethics codes and representation limits, this may be due to the fact that post-gubernatorial campaigns years tend to coincide with the first year of the legislative session in a time when most legislatures only met every other year. Additionally, the evidence from
particular cases suggests that it was not so much gubernatorial attention to the problem of legislative ethics but rather the occurrence of major scandals that galvanized legislators to pass strong ethics laws.

Finally, moralistic culture did not contribute to the enactment of strong ethics laws in any of the periods examined. In the one case where culture was significant, it was in the opposite direction from the one that was expected. This finding contradicts Opheim's research on variation in states' regulation of lobbyists; Opheim found that states with moralistic cultures had stronger lobby laws and enforcement than other states (Opheim 1991).

The most consistent factor in explaining the enactment of ethics restrictions for legislators was scandals involving legislators and other high-level state officials. The reforms enacted, however, were not always (or only) direct responses to the unethical behavior highlighted by the scandals to which they responded. In many states, the new laws addressed a wide range of behavior, going beyond the activities involved in the scandal.

An important development during the years 1977-1996, highlighted in Figure 5.3, is the growth in federal prosecutions of corrupt state officials, especially legislators. The Department of Justice, often working in concert in the Federal Bureau of Investigation, was responsible for many highly-publicized indictments and convictions of legislators, governors, and other statewide officials during this period. The narrative of this chapter has shown how these prosecutorial efforts led to ethics reform. The prosecutions, often accomplished through creative use of the federal Mail Fraud Statute, Hobbs Act and RICO, centered on bribery of state officials by lobbyists and FBI agents. Yet states did not simply respond to the scandals by strengthening their bribery laws. Instead, they went beyond the relatively straight-forward world of bribery law to craft new regulations in the grayer area of potential conflicts of interest. Among the areas regulated were gifts, honoraria, post-government employment. States also enacted a wide range of disclosure requirements during this period. Even states which experienced smaller-scale scandals than, for example, the "stung" states of Kentucky
and South Carolina, responded by enacting strong new laws during the two decades between 1977 and 1996.

Scandals, and the negative media attention which accompanied them, were the main catalyst to ethics reform. In understanding where these scandals came from, it is important to realize that it was not simply the case that state legislators became more corrupt in this period and therefore more scandals occurred. Instead, the hand of federal prosecutors pursuing their own agenda, and using legal tools at their disposal, weighed heavily in the production of the scandals which led to reform.
CHAPTER SIX

THE MOSTLY TOOTHLESS TIGER:
THE AUTHORIZATION OF INDEPENDENT ETHICS COMMISSIONS,
1973-1980 AND BEYOND

6.1 Introduction

The previous two chapters looked at variation in the content of state ethics laws but did not consider how states chose to enforce those laws. Strong laws and strong enforcement of the laws are two different things, however (Jackson 1992; Hermann 1996; Williams 1996). In the case of state lobby regulation, Opheim (1991) suggests that while there are some similarities in the factors which explain the stringency of lobby laws, on the one hand, and enforcement of the regulations on the other, some differences also exist.331 This finding is not surprising because while we might expect certain key explanatory factors to be the same, the dynamics of administrative enforcement require the consideration of additional hypotheses.

In this chapter, I focus on state policy makers' choice of whether or not to create an independent ethics commission to enforce legislative ethics laws. The time frame for this analysis is 1973 to 1980. I use both the hypotheses of the previous chapters and four additional hypotheses that address the particularities of administrative oversight. After the quantitative analysis of variation in state enforcement mechanisms, I turn to a consideration of some of the difficulties these commissions have faced in carrying out their mission to enforce state conflict of interest laws, during the initial period of their authorization and through the 1980's and 1990's. I focus on two dimensions of commission power and autonomy: 1) independence from the legislature measured by the method of appointment of commission members, and 2) advisory, investigative, and adjudicatory powers granted to the commissions. The main argument of this section of the chapter is that despite pioneering an enforcement mechanism which gave authority over legislative ethics to an outside agency, state legislators have acted consistently with theories of legislative

331 In particular, Opheim finds that while political culture and party competition are significant explanatory factors in both cases, legislative staffing is significant only for explaining variation in the stringency of the lobby law index, while pay per session is significant only in explaining enforcement. See Cynthia Opheim, "Explaining the Differences in State Lobby Regulation," Western Political Quarterly 44: 1991, pp. 405-419.
dominance of the bureaucracy to assure that the commissions have only limited autonomy and power.

The establishment of an independent commission differs from simply enacting ethics restrictions in several ways. First, legislators are explicitly delegating authority, and specifically authority over their own behavior. This delegation of authority generates a principal-agent problem (McCubbins, Noll and Weingast 1987). It also requires the development of bureaucratic capacities in order for the new agency to carry out its function. Further, as with any regulatory commission, there is the question of who appoints commission members. Appointments are extremely important because they represent a key mechanism by which the legislature is able to "control" the bureaucracy it creates (Weingast and Moran 1983; Moe 1987).

Finally, creating an ethics enforcement agency is typically more costly than the alternative enforcement mechanisms — leaving enforcement to a legislative ethics committee or to the attorney general or secretary of state. While there are financial costs associated with the operation of legislative ethics committees and with enforcement by attorneys general or secretaries of state, these costs tend to be lower than if an entirely new agency were created. This is because the legislators who staff the ethics committees do not generally receive additional payment for their work, commissioners (or at least the heads of independent commissions). Similarly, when attorneys general or secretaries of state are given responsibility for the enforcement, of legislative ethics laws, some of the costs are typically subsumed under the existing budget. Since the apparatus already exists to enforce other laws, there are fewer start-up costs compared to establishing a new agency.

In the immediate aftermath of Watergate and through the end of the 1970's, states pioneered a new ethics enforcement mechanism: the independent ethics commission (Huckshorn 1985; Schwarz 1994; Ensign 1996). With regard to this enforcement mechanism, the states were ahead of the federal government, which did not establish the Office of Government Ethics — an
agency even eaker than most state ethics commissions — to monitor executive branch ethics until 1978; Congress to this day has never delegated ethics enforcement authority to an outside body.\textsuperscript{332} By contrast, a good number of states during the 1970's set up ethics, financial disclosure, and campaign finance commissions with jurisdiction over legislators. Of concern here are the 13 new ethics and disclosure commissions created in the states between 1973 and 1980 which were given jurisdiction over legislators. Others were given jurisdiction only over the executive branch.\textsuperscript{333} It is important to note that the states which created these commissions did not completely take away legislators' power to self-regulate in the area of ethical conduct. As I discuss later in this chapter, legislative ethics committees were maintained side-by-side with the new commissions. The important contribution that the new commissions made is discussed in more depth below. Perhaps the most important point is that where ethics committees may be unwilling to pursue allegations against a legislator, the independent commissions represent an alternative forum for complaints to be investigated and violators to be punished.

Of the 13 new commissions with jurisdiction over legislators, all were given oversight authority over legislators' financial disclosure reports. Most were also given oversight over the enforcement of conflict of interest laws with regard to legislators. Table 6.1 shows the years of enactment and areas of oversight for the ethics commissions that were established between 1973 and 1980. The new commissions varied in terms of the powers they were given, and in terms of their true independence from the legislature. The members of the Massachusetts, Rhode Island, Wisconsin, California and Washington commissions were to be appointed completely by non-legislators (e.g. by the governor, secretary of state, and attorney general). At the other end of the spectrum, legislators appointed all members of the Alabama, Maine and Montana commissions. The rest of the commissions fell in between those two extremes, with legislators tendencies to retain at least a one-member edge over governors and other non-legislators in terms of appointing.


\textsuperscript{333} Examples of states which established ethics commissions during this time to enforce executive branch adherence to state ethics laws, while leaving legislators the power to monitor themselves, were Indiana (1974), Kentucky (1975), South Carolina (1976), and Maryland (1979).
commission members. Table 6.2 shows the percentage of commission members appointed by legislators (higher percentages indicate less independence of the commission from the legislature, while lower percentages indicate that the commission is more truly independent of the legislature).
### Table 6.1
Establishment of Independent Ethics Commissions with Jurisdiction over Legislators:
1973-1980

<table>
<thead>
<tr>
<th>Years of Enactment</th>
<th>Ethics Commissions and Actions</th>
</tr>
</thead>
<tbody>
<tr>
<td>1973-</td>
<td><strong>Alabama Ethics Commission</strong>- Financial Disclosure, Conflict of Interest Laws</td>
</tr>
<tr>
<td></td>
<td><strong>Washington State Public Disclosure Commission</strong>- Financial Disclosure</td>
</tr>
<tr>
<td></td>
<td><strong>Wisconsin Ethics Commission</strong>- Financial Disclosure, Conflict of Interest Laws</td>
</tr>
<tr>
<td>1974-</td>
<td><strong>California Fair Political Practices Commission</strong>- Financial Disclosure, Conflict of Interest Laws</td>
</tr>
<tr>
<td>1975-</td>
<td><strong>Maine Commission on Governmental Ethics and Election Practices</strong>- Financial Disclosure, Conflict of Interest Laws</td>
</tr>
<tr>
<td>1976-</td>
<td><strong>Florida Commission on Ethics</strong>- Financial Disclosure, Conflict of Interest Laws</td>
</tr>
<tr>
<td></td>
<td><strong>Rhode Island Public Disclosure Commission</strong>- Financial Disclosure</td>
</tr>
<tr>
<td>1977-</td>
<td><strong>Connecticut State Ethics Commission</strong>- Financial Disclosure, Conflict of Interest Laws</td>
</tr>
<tr>
<td>1978-</td>
<td><strong>Massachusetts State Ethics Commission</strong>- Financial Disclosure, Conflict of Interest Laws</td>
</tr>
<tr>
<td></td>
<td><strong>Pennsylvania State Ethics Commission</strong>- Financial Disclosure, Conflict of Interest Laws</td>
</tr>
<tr>
<td>1979-</td>
<td><strong>Mississippi Ethics Commission</strong>- Financial Disclosure, Conflict of Interest Laws</td>
</tr>
<tr>
<td>1980-</td>
<td><strong>Montana Commissioner of Political Practices</strong>- Financial Disclosure, Conflict of Interest Laws</td>
</tr>
</tbody>
</table>

Note: Independent commission is defined as a commission with jurisdiction over legislators in the areas of financial disclosure or standards of conduct (or both), whose members are not legislators, although some may be appointed by the legislature (see Table 6.2).

Table 6.2
Legislative Appointments to the Commissions

<table>
<thead>
<tr>
<th>State</th>
<th>Percent of Total Appointments</th>
<th>Number of Appointments</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rhode Island</td>
<td>0.00%</td>
<td>0 of 15</td>
</tr>
<tr>
<td>Wisconsin</td>
<td>0.00%</td>
<td>0 of 6</td>
</tr>
<tr>
<td>Massachusetts</td>
<td>0.00%</td>
<td>0 of 5</td>
</tr>
<tr>
<td>Washington</td>
<td>0.00%</td>
<td>0 of 5</td>
</tr>
<tr>
<td>California</td>
<td>0.00%</td>
<td>0 of 5</td>
</tr>
<tr>
<td>Florida</td>
<td>44.44%</td>
<td>4 of 9</td>
</tr>
<tr>
<td>Mississippi</td>
<td>50.00%</td>
<td>4 of 8</td>
</tr>
<tr>
<td>Pennsylvania</td>
<td>57.14%</td>
<td>4 of 7</td>
</tr>
<tr>
<td>Connecticut</td>
<td>57.14%</td>
<td>4 of 7</td>
</tr>
<tr>
<td>Oregon</td>
<td>57.14%</td>
<td>4 of 7</td>
</tr>
<tr>
<td>Montana</td>
<td>100.00%</td>
<td>1 of 1</td>
</tr>
<tr>
<td>Alabama</td>
<td>100.00%</td>
<td>5 of 5</td>
</tr>
<tr>
<td>Maine</td>
<td>100.00%</td>
<td>6 of 6</td>
</tr>
</tbody>
</table>

Note: Higher percentages indicate commissions that are less independent from the legislature. Lower percentages indicate greater independence.


6.2 Time Frame For the Analysis

In the analysis which follows, I focus on the years 1973-1980 as a period of early innovation in legislative ethics enforcement. Prior to this period, some states such as New York, Indiana, Iowa, Connecticut, and Maine had already established standing legislative ethics committees to enforce their new conflict of interest laws for the legislature. During the years 1973 to 1980, a spate of states authorized independent commissions as a new means of enforcing the state ethics laws. Schwarz (1994) shows graphically how these years represented the peak years in the creation of state ethics agencies between 1973 and 1992. While additional commissions
were created be in the 1980's and 1990's, their establishment was more sporadic.\textsuperscript{334} I analyze the period here as a concentrated burst of effort by the states in terms of their establishing ethics commissions with jurisdiction over legislators. Focusing on the early years in which the commissions were created allows us to get at the question of which states were innovators in terms of this new enforcement mechanism.\textsuperscript{335}

Before turning to the quantitative analysis, it is worth making a detour to examine the normative issue of why independent commissions matter. What difference does it make whether ethics enforcement is done by legislative ethics committee or independent commission, and why do some scholars believe the independent commission is a more desirable means of enforcing ethics laws?

6.3 The Argument for Independent Ethics Commissions

Scholars and other political analysts generally argue that it is preferable for ethics laws to be enforced by an independent commission rather than by ethics committees composed of legislators themselves (Stern 1985; Schwarz 1994; Thompson 1995; Maletz and Herbel 1999). Dennis Thompson states the case succinctly in his discussion of Congressional ethics:

No matter how much the ethics committees are strengthened and their procedures improved, the institutional conflict of interest inherent in members judging members remains. Most other professions and most other institutions have come to appreciate that self-regulation of ethics is not adequate and have accepted at least a modest measure of outside discipline. Congress should do the same.\textsuperscript{336}

For Thompson, the state ethics commissions provide a model that Congress should follow. He argues in favor of a seven-member independent commission consisting of "distinguished citizens

\textsuperscript{334} Examples of states which created ethics commissions with jurisdiction over the legislature during these years are Texas (1983), West Virginia (1989), and Arkansas (1991).

\textsuperscript{335} It should be noted that Louisiana actually established an independent commission in 1964, making it the first state to do so. However, this activity long preceded the wave of commission creation examined here; Louisiana was an anomaly at that time in its action, not part of a broader trend as were the states which authorized commissions during the years examined here. For this reason, I treat Louisiana as an isolated case and it is not used in the analysis.

\textsuperscript{336} Dennis Thompson, Ethics in Congress (Washington: Brookings, 1995), p. 159. Thompson notes that the Senate Ethics Committee considered and rejected several such proposals for outside enforcement of ethics in 1994.
with a knowledge of legislative ethics and (legislative) practice" — but no family or business associates of members, lobbyists or others with close connections to any legislators. Three members would be chosen by the majority leader or Speaker and three by the minority leader of each chamber; the chair would be appointed by the other six.\textsuperscript{337} The ethics committees would still exist but they would hear and decide cases only after the independent commission first found credible evidence of a violation. The existence of a commission, as opposed to only having the legislative ethics committees, would provide more accountability and "help restore the confidence of the public in the ethics process."\textsuperscript{338} An additional advantage would be the reduction of the time that members now spend on ethics regulation, a task which virtually all legislators see as a chore with few if any benefits.

Stern (1985) similarly argues that the verdict of an independent commission with regard to alleged unethical conduct of a legislator has more credibility with the public and the press, and that commissions with the power and willingness to impose administrative fines should serve as a strong deterrent to unethical behavior. While some state legislative ethics committees, such as the New Jersey joint legislative ethics committee, have the power to impose fines, they tend to do so very infrequently.\textsuperscript{339} The reason why is simple, and we can see it stated clearly in the words of a legislator himself: "A lot of legislators believe they are appointed to these ethics committees to protect their own. I'm sure many legislators think 'I might be in that situation someday myself' and take it easy on their fellow lawmakers." said Bill Schluter, former chairman of the New Jersey Joint Legislative Committee on Ethical Standards.\textsuperscript{340}

6.4 The Model

The analysis which follows uses an event history model to examine the probability that a state would establish an independent commission with jurisdiction over legislators during the period from 1973-1980. I considered other measures for the dependent variable but ultimately

\textsuperscript{337} Ibid., p. 161.
\textsuperscript{338} Ibid., p. 160.
\textsuperscript{339} Conversation with counsel for the New Jersey Legislative Joint Ethics Committee, summer 1997.
\textsuperscript{340} Christopher Schwarz, "Ethics: Passing Judgment or Passing the Buck?" State Government News, February 1994, p. 11.
discarded them. For example, it would have been interesting to further classify the commissions by the degree of independence from the legislature, shown in Table 6.2 above, and by the extent of their powers, shown in Table 6.6 later in the chapter. However, since there were only 13 states which established commissions during this time, further sub-dividing that small number would have made analysis difficult. I also considered comparing the budget devoted to different ethics enforcement mechanisms in the states; however, it was not possible to obtain budgetary information for states which use ethics committees, attorneys general, or secretaries of state to enforce ethics laws for legislators, since in most cases there is no separate budget for this specific function.

Instead, I focus on the division between 1) states which chose to establish an independent commission and 2) states which kept enforcement in the hands of the legislature, the secretary of state, or the attorney general. As in the hazard model analysis of previous chapters, an observation is coded as zero if a state did not establish a commission in a given year and as one if it did.

I test the same hypotheses as in Chapters Four and Five, with four additional hypotheses that address the particularities of administrative enforcement. I do not repeat here the hypotheses regarding culture/ideology, electoral factors, institutional power, scandal and corruption, economic self-interest, direct democracy and pre-existing laws, since they are laid out in detail in Chapter Four. The four additional hypotheses need explanation, however. These hypotheses address the fact that the creation of administrative agencies raises specific issues beyond the mere enactment of new laws. Who gets to appoint commission members, how these commissions will affect the balance of power between the executive and legislative branch, and whether the state can afford and has the capacity to manage such a agency — all these issues come into play. Data on the measures used to test these hypotheses, and all other hypotheses, can be found in Appendix H.

---

341 States which had no legislative ethics laws on their books were not included in the data set, since logically it makes no sense for a state to set up an independent ethics commission with jurisdiction over legislators until there are laws for the commission to enforce. If a state enacted an ethics law during this time, it was added to the data set for that year and the following years.
6.5 Additional Hypotheses

H1: The more power legislators have over administrative appointments, the more likely they will be to establish an independent ethics commission because they will be able to exert more control over it.342

When legislatures create new agencies, a principal-agent problem arises in that the legislature, the principal, has delegated authority to an agent who may fail to carry out the principal's wishes. Legislatures, like other principals, do not simply relinquish control and hope for the best, especially where the new agency has jurisdiction over an area so close to the legislature, namely legislative ethics. Legislators want to make sure that unelected bureaucrats comply with their policy preferences (McCubbins, Noll and Weingast 1987). In this case, we assume that the policy preference of legislators is for less stringent enforcement of ethics violations involving legislators.

There are various means that legislators use to create an "incentive" system which assure that agencies carry out the desired policies (Weingast and Moran 1983). Of these, Weingast and Moran argue, perhaps the most effective means of influence is control over appointments.343 In states where legislators typically have a high degree of control over the appointment of administrative officials, they may be more willing to create administrative agencies compared to states where they typically have little control over administrative appointments.344

---

342 This variable, legislative appointment power, was measured as an additive index of the number of positions over which legislators in a given state had appointment power. See Appendix H for details.
344 This hypothesis assumes that the high degree of control over other administrative appointments (e.g. the auditor, the controller, the head of planning, the head of the department of health) will translate into a high degree of control over appointment to the ethics commission. This assumption may be problematic given that the method of appointment-making to a new agency is not generally fixed by law, so that a state in which legislatures appoint many administrative officials may decide not to give legislators that appointment power with respect to a new ethics commission. However, it is plausible that appointment power will translate from one agency to another to the extent that high legislative appointment power reflects a tradition of deference to legislative control over the bureaucracy in general.
H2. The more power the chief executive has in a given state, the less likely legislators will be to create an ethics commission with jurisdiction over the legislative branch.345

The governor is typically viewed by members of the legislature as the main competitor for power in state politics (Beyle 1990; Bernick and Wiggins 1991; Durning 1991). The chief executive has both formal and informal powers that enable him to take on a leadership role in the policy making process (Neustadt 1990; Durning 1991). Governors' powers vary, however, from state to state. As Schlesinger (1965, 1971) and Beyle (1990) argue, there are strong governors, weak governors, and some in between. Scholars typically measure governors' powers along four dimensions: budgetary power, veto power, appointment power, tenure potential, and appointment power. The last of these has been taken into account in the previous hypothesis. Here I consider the other three sources of gubernatorial influence in the policy making process. Where governors have more power relative to the legislature in these three areas, legislators should be more wary of granting additional powers to the governor because this could further increase the power imbalance between the executive and legislative branches. Legislators in states where governors are relatively powerful should be less likely to establish independent ethics commissions, over which the governor will probably have some control. In states where governors are relatively weak, legislators should be more willing to establish commissions which probably will be at least partly controlled by the governor.

H3. Wealthier states should be more likely to establish independent ethics commissions.346

Scholars have noted that state wealth influences states' abilities to fund various programs such as education and welfare (Dye 1966; Alt and Lowry 1994; Barrilleaux and Bernick 1998; Gray 1990). This is especially the case with regard to programs that states fund largely without federal assistance; enforcement of state ethics laws is one such area.

345 Gubernatorial power was measured using Schlesinger's (1971) scores, excluding points given for appointment power since this is measured by the legislative appointment variable. See Appendix H for details.
346 State wealth is measured as per capita income. See Appendix H for details.
Establishing any new agency involves start-up costs and funding of salaries beyond that which would be incurred if ethics enforcement were simply left to legislative ethics committees or the attorney general (in those cases, for example, there is no need to budget for an agency director). While ethics agency budgets are typically not large in scope, the fact that some costs are involved may deter poorer states from using this method of ethics enforcement. Thus wealthier states should be more likely to establish independent commissions than poorer states.

**H4. States with less developed bureaucratic capacity should be less likely to establish independent ethics commissions.**

Previous bureaucratic accomplishments can shape states' capacity for future development. A relative lack of bureaucratic development can hinder institutional formation in later years (Amenta and Skocpol 1988; Weir, Orloff and Skocpol 1988; Skocpol 1988). In other words, states that have not developed administrative solutions to particular problems may be less likely to do so in the future because they lack the institutional base — the "technical and intellectual capacities" to build upon. In particular, states with less developed bureaucracies should be less likely to adopt a new bureaucratic solution to the problem of ethics enforcement.

Below, I present the results of the analysis. Summary statistics are shown in Table 6.3, and the regression analysis results are shown in table 6.4. Table 6.5 shows the hazard enactment rates for differing values of key independent variables.

---

347 Consider for example, the annual budget for several ethics commissions in fiscal year 1985-1986. These budgets cover all the commission's functions, not just enforcement of legislative ethics; for example, some commissions also enforce lobby laws and they also enforce ethics and disclosure laws for executive branch officials and in some cases, local officials. The Oregon Government Ethics Commission's budget that year for all functions was $155,883. Rhode Island's Conflict of Interest Commission had a budget of $207,087. Pennsylvania's State Ethics Commission had a budget of $451,000. The Massachusetts State Ethics Commission had a relatively large budget of $793,651. Source: Campaign Finance, Ethics and Lobby Blue Book, 1986-1987 (Lexington: Council on Governmental Ethics Laws, 1986), pp. 11-15.

348 Bureaucratic capacity is measured as state employment per 10,000 population. See Appendix H for details.

<table>
<thead>
<tr>
<th>Independent Variables</th>
<th>Mean</th>
<th>Std. Dev.</th>
<th>Min.</th>
<th>Max</th>
</tr>
</thead>
<tbody>
<tr>
<td>Individualist Culture</td>
<td>0.29</td>
<td>0.45</td>
<td>0.00</td>
<td>1.00</td>
</tr>
<tr>
<td>Traditionalist Culture</td>
<td>0.39</td>
<td>0.49</td>
<td>0.00</td>
<td>1.00</td>
</tr>
<tr>
<td>Ideology</td>
<td>44.07</td>
<td>16.65</td>
<td>11.79</td>
<td>86.73</td>
</tr>
<tr>
<td>Unified Government</td>
<td>0.06</td>
<td>0.23</td>
<td>0.00</td>
<td>1.00</td>
</tr>
<tr>
<td>Majority Party Control</td>
<td>68.71</td>
<td>14.10</td>
<td>50.00</td>
<td>98.58</td>
</tr>
<tr>
<td>Gub. Election</td>
<td>0.28</td>
<td>0.45</td>
<td>0.00</td>
<td>1.00</td>
</tr>
<tr>
<td>Speaker/Pres Power</td>
<td>2.79</td>
<td>1.26</td>
<td>0.00</td>
<td>4.00</td>
</tr>
<tr>
<td>Senate Chair Ratio</td>
<td>0.54</td>
<td>0.21</td>
<td>0.12</td>
<td>1.16</td>
</tr>
<tr>
<td>House Chair Ratio</td>
<td>0.26</td>
<td>0.11</td>
<td>0.04</td>
<td>0.47</td>
</tr>
<tr>
<td>Scandal</td>
<td>0.70</td>
<td>1.47</td>
<td>0.00</td>
<td>8.00</td>
</tr>
<tr>
<td>TPO</td>
<td>2.25</td>
<td>1.63</td>
<td>1.00</td>
<td>5.00</td>
</tr>
<tr>
<td>Compensation</td>
<td>30.80</td>
<td>21.55</td>
<td>2.17</td>
<td>111.33</td>
</tr>
<tr>
<td>Attorneys</td>
<td>25.25</td>
<td>12.03</td>
<td>4.60</td>
<td>56.45</td>
</tr>
<tr>
<td>Initiative Process</td>
<td>0.36</td>
<td>0.48</td>
<td>0.00</td>
<td>1.00</td>
</tr>
<tr>
<td>Diffusion</td>
<td>0.99</td>
<td>1.60</td>
<td>0.00</td>
<td>6.00</td>
</tr>
<tr>
<td>Campaign Finance Laws</td>
<td>0.79</td>
<td>0.77</td>
<td>0.00</td>
<td>2.00</td>
</tr>
<tr>
<td>Lobby Laws</td>
<td>2.91</td>
<td>1.88</td>
<td>0.00</td>
<td>5.00</td>
</tr>
<tr>
<td>Leg. Appointment</td>
<td>7.31</td>
<td>5.31</td>
<td>0.00</td>
<td>17.00</td>
</tr>
<tr>
<td>Governor's Powers</td>
<td>11.34</td>
<td>3.30</td>
<td>5.00</td>
<td>15.00</td>
</tr>
<tr>
<td>Per Capita Income</td>
<td>10.96</td>
<td>1.51</td>
<td>4.32</td>
<td>16.96</td>
</tr>
<tr>
<td>Bureaucratic Capacity</td>
<td>143.41</td>
<td>34.13</td>
<td>88.20</td>
<td>231.00</td>
</tr>
</tbody>
</table>

Data: See Appendix H.
Table 6.4  
Event History Analysis:  
The Establishment of Independent Ethics Commissions, 1973-1980

<table>
<thead>
<tr>
<th>Variable</th>
<th>Model 1 B</th>
<th>SE (B)</th>
<th>Model 2 B</th>
<th>SE (B)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Culture/Ideology</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Individualist</td>
<td>-1.4675</td>
<td>5.5014</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Traditionalist</td>
<td>0.0848</td>
<td>2.6500</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Lib-Con Ideology</td>
<td>0.0233</td>
<td>0.0477</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Electoral Factors</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Unified Government</td>
<td>-1.2859</td>
<td>1.4806</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Majority Party Control</td>
<td>0.0305</td>
<td>0.0605</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Gub. Campaign</td>
<td>0.9056</td>
<td>1.4618</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Institutional Power</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Senate Chair Ratio</td>
<td>13.590</td>
<td>4.7701**</td>
<td>10.187</td>
<td>2.8643**</td>
</tr>
<tr>
<td>House Chair Ratio</td>
<td>0.9822</td>
<td>6.5793</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Speaker/Pres. Power</td>
<td>1.6984</td>
<td>0.9217*</td>
<td>1.4951</td>
<td>0.5874**</td>
</tr>
<tr>
<td><strong>Institutional Capacity</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>State Wealth</td>
<td>0.9273</td>
<td>0.5398*</td>
<td>0.6846</td>
<td>0.3452*</td>
</tr>
<tr>
<td>Bureaucratic Capacity</td>
<td>0.0191</td>
<td>0.0357</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Scandal/Corruption</strong></td>
<td>1.2995</td>
<td>0.4974**</td>
<td>1.1091</td>
<td>0.3218**</td>
</tr>
<tr>
<td>Scandal</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>TPO</td>
<td>0.8351</td>
<td>1.6686</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Economic Self-Interest</strong></td>
<td>-0.0472</td>
<td>0.0464</td>
<td>-0.0322</td>
<td>0.0248</td>
</tr>
<tr>
<td>Leg. Compensation</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Attorneys</td>
<td>0.0638</td>
<td>0.0703</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Legislative/Exec. Powers</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Leg. Appointment Power</td>
<td>-0.0078</td>
<td>0.1687</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Gubernatorial Power</td>
<td>-0.2961</td>
<td>0.2785</td>
<td>-0.1816</td>
<td>0.1373+</td>
</tr>
<tr>
<td><strong>Direct Democracy</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Initiative Process</td>
<td>2.9354</td>
<td>1.6405*</td>
<td>1.6593</td>
<td>0.8662*</td>
</tr>
<tr>
<td><strong>Diffusion</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>State Diffusion</td>
<td>-0.6011</td>
<td>0.5197</td>
<td>-0.2971</td>
<td>0.3758</td>
</tr>
<tr>
<td><strong>Pre-Existing Laws</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Lobby Laws</td>
<td>0.1445</td>
<td>0.4312</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Campaign Finance</td>
<td>-3.5597</td>
<td>1.3255**</td>
<td>-2.5635</td>
<td>0.8815**</td>
</tr>
<tr>
<td><strong>Year Dummies</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(not presented)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Constant</td>
<td>-32.206</td>
<td>15.035*</td>
<td>-18.967</td>
<td>6.2125**</td>
</tr>
<tr>
<td><strong>-2 LOG LIKELIHOOD</strong></td>
<td>54.251</td>
<td></td>
<td>59.132</td>
<td></td>
</tr>
<tr>
<td>Prop. Reduction in Error</td>
<td>.15</td>
<td></td>
<td>.23</td>
<td></td>
</tr>
<tr>
<td>N=229</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

+ p < .10; * p < .05; ** p < .01, one-tailed tests.

Sources: See Appendix H for data on the dependent and independent variables.
Table 6.5

Model Estimates of the Enactment Hazard Rate for Independent Ethics Commissions

<table>
<thead>
<tr>
<th>Hypothetical Conditions</th>
<th>Predicted hazard rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Mean Values, All Variables</td>
<td>.0336</td>
</tr>
<tr>
<td>2. Mean Values, All Variables Except No Initiative</td>
<td>.0188</td>
</tr>
<tr>
<td>3. Mean Values, All Variables Except Initiative = 1</td>
<td>.0911</td>
</tr>
<tr>
<td>4. Mean Values, All Variables Except Campaign Finance Laws = Min.</td>
<td>.1960</td>
</tr>
<tr>
<td>5. Mean Values, All Variables Except Scandal = 4</td>
<td>.5555</td>
</tr>
<tr>
<td>6. Mean Values, All Variables Except Per Capita Income = Max.</td>
<td>.6535</td>
</tr>
<tr>
<td>7. Mean Values, All Variables Except Scandal = 4, Initiative = 1</td>
<td>.7812</td>
</tr>
<tr>
<td>8. Mean Values, All Variables Except Scandal = 4, Per Cap. Income = Max.</td>
<td>.9345</td>
</tr>
<tr>
<td>9. Mean Values, All Variables Except Scandal = Max.</td>
<td>.9900</td>
</tr>
<tr>
<td>10. Mean Values, All Variables Except Scandal = 4, Per Cap. Income = Max and Initiative =1</td>
<td>.9960</td>
</tr>
</tbody>
</table>

Note: Hazard rates are calculated using the coefficient estimates from Table 6.4.

6.5 Discussion of Results

The model presented here improves on our ability to predict correctly whether or not states enacted a independent legislative ethics commission during this period. Using a model which predicts the modal value of the dependent variable — which is zero — we would mispredict all 13
cases of passage. Using Model 2 in Table 6.4, however, we predict four cases of passage while mispredicting 10, resulting in a proportional reduction of error of 23%.

The results confirm some key hypotheses, with one unexpected result. As in the previous analysis of ethics law enactment, scandals involving conflicts of interest in the states during this time increased the probability that a state would establish an independent commission. Beyond the conventional wisdom that Watergate had a stimulative effect on the passage of conflict of interest laws and new enforcement agencies across the states, then, it was also the case that state-specific scandals contributed to the enactment of these agencies. States' own experiences with political corruption and abuse of office structured how they responded to the general stimulus of Watergate, with those states where corruption was an issue being more likely to enact strong ethics enforcement mechanisms. Developments at the federal level had another influence on states' enforcement responses, though. As discussed in Chapter 5, some of the state scandals which catalyzed the authorization of independent commissions were the result of federal prosecution of state officials using the mail fraud and other statutes. Massachusetts and Mississippi are two examples. Thus federal prosecutors had a powerful and lasting effect on how the states dealt with legislative ethics, in that the efforts of U.S. Attorneys fueled both new laws and the establishment of new agencies to enforce the laws.

We can see the magnitude of the impact of scandals in Table 6.5. The occurrence of a relatively large scandal (scandal = 4) catapults the probability of a state's authorizing an independent commission from a probability of 3.36%, the hazard enactment rate when all variables are set at their mean values, to 55.55%, making a state more likely than not to authorize a new commission. A state which experienced a scandal of maximum size had a 99% probability of authorizing a commission; however, a maximum scandal score (scandal = 8) was very rare during this time.

As in the hazard model analysis of 1954-1972 and the analysis of ethics law change between 1977 and 1988, the initiative process was found to have a positive impact on the likelihood of states' establishing independent commissions. The initiative variable is significant at
the .05 level in both models. Table 6.5 shows that a state with an initiative process had a 9.11% probability of establishing a commission, compared to a probability of 1.88% for a state without an initiative option, ceteris paribus (see condition three versus condition two in Table 6.5). In combination with other key independent variables, the impact of the initiative was even more notable. For example, a state with a relatively large scandal in a given year and an initiative option had a 78.12% probability of authorizing a commission (condition seven in Table 6.5).

California, Florida and Montana are three examples of states in which the new commissions were put in place directly by the voters (in 1974, 1976 and 1980 respectively). In Montana the ballot question, which required financial disclosure of legislators as well as setting up the new commission, passed by a 3-1 margin. Massachusetts was another state in which the existence of an initiative option played an important role in legislators' willingness to empower an independent commission with jurisdiction over legislators. Both in states where the initiative was used and states where its use was threatened — as in Massachusetts — Common Cause was a powerful player in the process. In Montana, for example, Common Cause worked to gather signatures and went to court to defend the initiative during numerous court challenges by opponents.

Another variable which influenced the likelihood of states' establishing an independent commission in this early period was states' existing campaign finance laws. The coefficient is negatively signed and significant at the .01 level, suggesting that campaign finance regulation acted as a substitute for ethics regulation. This is consistent with the linear regression analysis of Chapter Four. Apparently states which placed strong restrictions on campaign contributions, as a way of limiting the influence of special interest groups or big business on the legislative process, were less likely to establish a strong mechanism for ethics enforcement. A state with weak campaign finance laws was more likely to establish an independent ethics commission. States with

---

the weakest laws possible had a 19.60% probability of establishing a commission, as opposed to a probability of 3.36% for a state with average campaign finance regulations.

State wealth was also a significant predictor of whether or not states established independent ethics agencies in this period. The per capita income variable is significant at the .05 level in both models. Wealthy states were more likely than poor states to opt for the strongest possible ethics enforcement mechanism. Contrary to the claim of Goodman, Holp and Ludwig (1996) that state legislative ethics regulation differs from state policy making in other areas, greater state wealth was associated with a more "generous" or extensive program in ethics enforcement as in health, welfare, and education policy. Because authorizing a new ethics agency costs more than putting enforcement under the jurisdiction of an existing organization, states which could better afford these costs were more likely to fund independent commissions. A state with the maximum per capita income had a 65.46% probability of establishing a commission, versus 3.36% for a state with only average per capita income.

Another variable which was marginally significant was gubernatorial power. States with more powerful chief executives — in terms of budgetary, tenure and veto powers — were less likely to authorize independent commissions which generally granted the governor at least some additional power. The variable measuring gubernatorial power was significant at the .10 level in model 2. States with powerful governors during this time — those which scored 14 or 15 out of a maximum 15 possible points — were New York, Michigan, Ohio and Illinois, California, Colorado, Maryland, Minnesota, Oklahoma, Pennsylvania, Utah, and Washington. Of those 12 states with very powerful governors, only three established independent commissions.

The likely reason why is that legislators in such states were highly attuned to the balance of legislative-executive power and were unwilling to do something which could shift power even further in the governor's favor. They were more reluctant than legislators in states with weak governors to establish an independent commission with direct power to discipline legislators, a commission over which governors typically could expect to have some appointment power. Even if a commission were established over which legislators retained complete appointment power, it
would still represent a reduction in legislators' power generally speaking, compared to using a legislative ethics committee as the sole enforcement mechanism, since the members would be non-legislators. In a state where legislators were already relatively weak compared to their main competitor for power, it makes sense that they would be less willing to accede to a further diminution of their autonomy, particularly in an area as sensitive as ethics. This dynamic was played out in the case study of New York described in Chapter Two, where a powerful governor's attempt to authorize an independent commission with jurisdiction over legislators was fought hard by legislators in 1987. The *New York Times* account of the battle suggests that it was fundamentally a power struggle between the two branches which had gone on over other issues. Faced with a governor who they saw as over-reaching his already substantial powers, legislative leaders banded together solidly to oppose his proposal. As we saw in Chapter Two, the legislators prevailed and the new commission was given authority only over the executive branch.

One surprising result was that institutional power-holding seems to have facilitated rather than obstructed the enactment of ethics commissions, contrary to the analysis of previous chapters in which institutional power had a *negative* impact on the enactment of strong ethics laws. States with powerful House Speakers and Senate Presidents were *more*, not less, likely to establish ethics commissions. States where more Senate majority party members held chairmanships were also more likely to authorize independent commissions, contrary to previous results. While this finding is unexpected, there are at least two possible explanations. The first is somewhat ad-hoc and time-specific. It may be the case that the immediate post-Watergate period which is the time frame being examined here was one in which legislative leaders — in particular, Democratic leaders — promoted strong ethics regulation in response to Watergate. The decade after Watergate may represent a unique period in which legislative leaders went against their traditional opposition to ethics regulation. Tom Loftus of Wisconsin is one example of a Democratic Assembly Speaker who fits such a pattern. Loftus led the drive for stronger ethics laws in that state in 1974, including the authorization of a strong independent commission (see Chapters Two and Five). However, we know that in Massachusetts, the 1978 ethics law which established an independent
commission was enacted over the opposition of the House Speaker and Senate President. The result, then, is somewhat surprising in the absence of clearer empirical evidence that legislative leaders in other states lead the charge for stronger ethics laws during this time. It is also less satisfying with regard to committee chairs as opposed to top legislative leaders, since it is not clear why a situation in which more majority party members hold chairmanships would lead to a greater likelihood of ethics commission authorization.

The second explanation is that the original hypothesis regarding the impact of widespread institutional power was wrong. It may be that where power is dispersed among more members, its value is lower, so members have less to lose from strong ethics enforcement. Still, power in the form of a committee chairmanship is worth something, and the individual-level analysis of Chapter Three suggested that committee chairs as a general rule tended to strongly oppose ethics regulation. Further, if the initial theory is wrong and widespread power-holding, or decentralized power, means a greater likelihood of strong ethics regulation, then we have to explain the findings from Chapters Four and Five. The results of that analysis suggested the opposite: the more majority party members in a state who were committee chairs in the 1954-1972 and 1989-1996 periods, the weaker the ethics laws that state enacted. In short, the findings for the institutional power variables are inconsistent across time. The Speaker/Senate president variable, while negatively signed and significant for the 1989-1996 analysis, is positively signed and significant for the 1954-1972 hazard model analysis and for the ethics commission hazard model analysis of this chapter. The committee chair variable, similarly, is negatively signed and significant for two periods and positively signed and significant for the ethics commission analysis.

I tried a model testing for a possible curvilinear relationship for the impact of the committee chair variables on ethics commission authorization. However, the results using both the variable and its squared value had some odd results: the shape of the curve for the House and Senate chair variables went in opposite directions, with the first falling and then rising and the second rising and then falling. This result was repeated for the other regressions for Chapter Four and Five when I used the squared value of these variables. The results were even more inconsistent using the
squared value of the committee chair variables than simply using the basic variable itself. A more complex model, then, does not resolve the problem of inconsistent results. There is no easy explanation for why institutional power has a negative effect on ethics regulation in one time period and a positive effect in another.

Interestingly, the bureaucratic capacity variable, while positively signed, was not significant. This may because it is too general to capture the relevant capacity to enforce ethics laws. The variable measures the size of state government, controlled for population. There is no obvious way of measuring capacity for ethics enforcement more specifically, however, since the agencies being created were brand-new and did not build upon existing segments of the state bureaucracy.

It was also interesting that higher legislative compensation did not make states more likely to authorize independent commissions. In all the previous regressions, this variable was positively signed, though significant only the early years (through 1979). However, in the analysis of this chapter, the variable is negatively signed, although insignificant. The highest-paying states in terms of legislative salaries during this period — for example New York, Michigan, Ohio, and Illinois — generally chose to set up joint legislative ethics committees instead of independent commissions. Clearly higher legislative pay did not make states more willing to adopt stronger ethics enforcement mechanisms, even if it did facilitate stronger laws in the years prior to 1979, such as the enactment of limits on lawyer-legislators. This disjuncture suggests hat the enactment of laws was clearly perceived as less painful and less costly than the enactment of strong enforcement mechanisms, a finding that accords with common sense. Legislators were willing to accept some strong laws if they were well-paid, but relatively high salaries were not sufficient to make them accept a powerful enforcement mechanism. There were clearly limits to which compensation could facilitate strong ethics policy.

6.7 Summary of Results

Some of the same factors which explained the passage of strong ethics laws also explained the early passage of strong enforcement of the laws, measured by the establishment of independent
ethics commissions to enforce the laws. Scandals and the initiative process are two such variables. In addition, strong campaign finance laws acted as a substitute for strong ethics enforcement, and states with strong governors were less likely to establish commissions which would have further shifted the balance of power away from the legislative branch. Surprisingly, states with powerful House Speakers and Senate Presidents were more likely to authorize independent commissions, as were states with a higher proportion of committee chairs to majority party members. Finally, wealthier states which could "afford" the costs of a new agency were more likely to establish independent commissions rather than leaving enforcement in the hands of already-existing institutions such as the attorney general or the legislature itself. However, states which did establish these commissions all retained ethics committees as a second mechanism of ethics enforcement. While the commissions could opt for stronger discipline in a particular case, legislators would still have their say in the matter of members' behavior.

6.8 The Toothless Tiger: Legislators Exercise Control Over The New Agencies

In addition to using legislative ethics committees as a second means of enforcing ethics — one which kept control squarely in the hands of legislators — legislators also retained control over the new agencies in a number of ways. As discussed by Weingast and Moran (1983), the means by which legislators control the behavior of regulatory agencies include control of appointments and budgetary control. Another means not emphasized by these authors, but very important in the case of ethics agencies, has been the use of legislation which initially defines the tools that are given to the agencies to help them carry out their mission, and later legislation which reduces or eliminates certain powers initially granted to the commissions.

Table 6.2 at the beginning of this chapter showed the control that legislators exerted over these early commissions through appointments of commission members. Defining a minimum level of commission independence as having over half the members appointed by non-legislators, we can see that only six of the 13 new commissions meet this minimal criterion. Table 6.6 below offers a second dimension to legislative control by showing the advisory, adjudicatory and investigative powers of the new agencies.
<table>
<thead>
<tr>
<th>State</th>
<th>Score</th>
</tr>
</thead>
<tbody>
<tr>
<td>California</td>
<td>5</td>
</tr>
<tr>
<td>Massachusetts</td>
<td>5</td>
</tr>
<tr>
<td>Oregon</td>
<td>5</td>
</tr>
<tr>
<td>Wisconsin</td>
<td>5</td>
</tr>
<tr>
<td>Mississippi</td>
<td>4</td>
</tr>
<tr>
<td>Connecticut</td>
<td>4</td>
</tr>
<tr>
<td>Washington</td>
<td>4</td>
</tr>
<tr>
<td>Pennsylvania</td>
<td>3</td>
</tr>
<tr>
<td>Florida</td>
<td>3</td>
</tr>
<tr>
<td>Rhode Island</td>
<td>3</td>
</tr>
<tr>
<td>Montana</td>
<td>3</td>
</tr>
<tr>
<td>Alabama</td>
<td>2</td>
</tr>
<tr>
<td>Maine</td>
<td>1</td>
</tr>
</tbody>
</table>

Note: Each state receives one point for each of the following powers that its ethics commission can possess: 1) can issue advisory opinions which are binding, 2) can conduct investigations on its own volition (not just in response to a formal complaint), 3) can subpoena records and witnesses, 4) can impose fines, 5) can request prosecution on a discretionary basis.


In Table 6.6 above, we can see that only seven of the 13 commissions receive a score of 4 or 5 in terms of the powers granted to them by the authorizing statute. Some analysts of independent commissions suggest that all five of these powers are necessary to have a strong commission (Knapp 1990; Mackey 1996). This would leave only four commissions that can be defined as a strong commission as measured by their powers to advise, investigate and adjudicate complaints. They are California, Massachusetts, Oregon and Wisconsin. If we consider this measure of agency power in tandem with the measure of commission independence defined above
— appointment of members by non-legislators — only three commissions are relatively strong both in terms of independence from legislative control of appointments and in terms of powers granted by the authorizing statute. These are California, Massachusetts and Wisconsin. If we use the less stringent measure of agency power — commissions which scored a 4 or a 5, not just a 5 — then Washington is a fourth commission that could be considered strong both in terms of independence and powers.

This leaves nine commissions that are relatively weak, in their independence from the legislature and their ability to carry out their missions. Less than one-third of the commissions, then, can be defined as both independent of legislative appointment control and as having adequate power to carry out their missions. It is also worth noting that California's Fair Political Practices Commission no longer fits the definition of a strong commission with regard to enforcement of legislative ethics since in 1996, its power over the legislative branch with regard to state conflict of interest laws was rescinded.

In addition to authorizing commissions that were relatively weak to begin with, as a general rule legislators have further weakened these 13 original commissions — and others established in later years — rather than enthusiastically supporting or strengthening them. For example, in 1989 West Virginia established an independent ethics commission with jurisdiction over legislators, but a year later, legislators took away its power to initiate investigations on its own, in the absence of a sworn complaint.\textsuperscript{352} Kentucky also established an independent ethics commission in 1993, in the wake of an FBI sting operation that ensnared many legislators (see Chapter Five). In 1996, Kentucky lawmakers, like their West Virginia counterparts, eliminated the young commission's power to initiate independent investigations and also gave themselves more control over the appointment of commission members. These actions sparked a round of resignations from the commission.\textsuperscript{353}


In Connecticut, in retaliation for strong action against certain legislators and lobbyists, the legislature in 1991 removed the Ethics Commission's authority to render a final decision in an enforcement action.\textsuperscript{354} Similarly, the Hawaii Ethics Commission's willingness to fine legislators for violating state conflict of interest laws led to the introduction in 1996 of two legislative measures, one to prevent the commission from issuing advisory opinions and one to increase the number of commission members appointed by the legislature.\textsuperscript{355} In some states, such as Pennsylvania, the process of sunset review has been used to threaten the state ethics commission with extinction.

In addition to controlling the commissions through appointments and the limitation of commission powers, another means by which legislators have sought control is through the courts. In virtually all states where independent commissions have been established, legislators have mounted challenges both before and after authorization to the constitutionality of the new commissions. The challenges were made on several bases: that the commissions violated the constitutional power granted to the legislature to determine rules and punish members, that they violated the right to trial by jury, and that they unconstitutionally impinged on the separation of powers.\textsuperscript{356} In other cases, ballot questions asking voters to establish independent commissions were challenged on technical grounds, for example having to do with question wording. These legal challenges rarely succeeded, although one rare exception was Missouri in 1991, where the state Supreme Court struck down a ballot question that would have authorized an independent commission with jurisdiction over legislators.\textsuperscript{357} In general, state courts have upheld the establishment of independent commissions with power to monitor legislators' ethics. One important reason why, mentioned earlier, is that states which authorized these agencies at the same time kept or authorized permanent legislative ethics committees, so that the legislature did not

\textsuperscript{355} COGEL Guardian, June 1996, p. 18.
\textsuperscript{356} See for example Virginia Bradbury, Government Ethics Reform: The Massachusetts Financial Disclosure Law, p. 156, with respect to the Massachusetts State Ethics Commission.
completely abdicate the power to discipline its own members. The commissions therefore serve as enforcement bodies in conjunction with, rather than instead of, legislative ethics committees, although with important differences. For example, while many state legislative ethics committees do not have the power to fine violators — or virtually never use this power even if it is granted to them — a good number of the commissions were authorized to fine violators of the conflict of interest laws, and on many occasions, they have chosen to use this power.358

Beyond legal challenges to the commissions' basic right to exist, there have also been numerous court challenges to how the commissions' jurisdiction and powers have been defined by law or how the commissions themselves have interpreted their jurisdiction. In Oklahoma and Rhode Island, strong commissions were created, in 1986 and 1992 respectively, with the power to promulgate ethics rules on their own.359 Both these commissions have faced numerous court challenges by legislators regarding the scope of their powers. For example, in 1992, the governor and legislative leadership in Rhode Island initiated a lawsuit challenging the commissions' power to write ethics rules. In June 1992, the Rhode Island Supreme Court ruled, in a lawsuit initiated by the governor and legislative leaders, that the Ethics Commission had constitutional authority not only to enforce but also to promulgate a code of ethics.360 While the commission won in this legal battle, in other cases the outcome was different. In Massachusetts in 1986, attorneys for the legislature argued before the State Supreme Court that the Ethics Commission was overstepping its statutory authority by enforcing parts of the state conflict of interest law which it had not been granted the power to do. In this case legislators won their court battle.361

In other states the main method of emasculating the commissions has been through the legislature's power of the purse strings. The Texas Ethics Commission, established in 1983,

358 Conversation with counsel to New Jersey Joint Legislative Ethics Committee, summer 1997. Counsel said that in the past five years, the committee had only sanctioned legislators three times for violating state conflict of interest laws, and in no case were fines levied for the violations.
359 In Oklahoma, the legislature and governor must approve the rules, but in Rhode Island this additional step is not necessary.
361 Bradbury, p.211. Bradbury argues that the Court's unanimous decision that the commission lacked jurisdiction over certain parts of the law was a good one, since the commission in her opinion had "strayed" from its statutory mandate and expanded unreasonably upon its original domain.
was not funded at all for four years.\textsuperscript{362} In Oregon, after the Government Ethics Commission's investigation of a state senator in the 1990's, a bill was introduced (by the same senator) to abolish the commission. While that bill failed, the Oregon legislature did cut the commission's budget by 25%, and also restricted its ability to conduct investigations. Another bill, which failed, would have abolished the commission entirely and transferred its functions to the secretary of state and attorney general.\textsuperscript{363} The Massachusetts Ethics Commission has also suffered retaliatory budgetary action for its willingness to levy serious fines against state legislators. After the commission fined several legislators in 1992, including the Senate President, its budget was promptly slashed. Two years later, in 1994, House Speaker Charles Flaherty, under investigation by the commission, sponsored a bill to transfer the commission's adjudicatory powers to the Division of Administrative Law, limit its investigative powers, and strip the commission of its authority to issue subpoenas.\textsuperscript{364} This bill failed, however.

In virtually all states with independent commissions that have power over legislators' ethics, bills have been introduced to eliminate the commission, as in the Oregon case mentioned above. In most cases these bills do not go far; for example in Nebraska, a recent proposal to eliminate the Accountability and Disclosure Commission never made it out of committee. In Alabama in 1990, a proposal to eliminate the State Ethics Commission came to a vote in the State Senate, where it failed 18-10, with seven members abstaining.\textsuperscript{365} In California in 1996, legislators succeeded in stripping the Fair Political Practices Commission over its jurisdiction over legislative ethics, leaving the joint legislative ethics committee the sole possessor of that authority. This unusual action followed the commission's decision to fine a former state senator $15,000 for failure to disclose his sources of income and some loans.

In some cases, the ethics commissions have actually been strengthened over time. Rhode Island's commission, first established in 1976, expanded in 1986 and then strengthened

\begin{footnotes}
\item[362] \textit{COGEL Guardian}, June 1991, p. 27.
\item[363] \textit{COGEL Guardian}, December 1993, p. 18.
\item[364] \textit{COGEL Guardian}, February 1994, p. 16.
\item[365] \textit{COGEL Guardian}, August 1990, p. 20.
\end{footnotes}
again in 1992, was granted the power to levy increased fines for ethics violations in 1992.\footnote{Common Cause Conflict of Interest Legislation in The States (Common Cause: Washington, September 1990), p. 15.} Florida's commission was also granted a increase in the maximum fine it could levy, from $5,000 to $10,000.\footnote{Russell L. Williams, "Controlling Ethical Practices Through Laws and Rules: Evaluating The Florida Commission On Ethics," in Public Integrity Annual (Lexington: Council of State Governments: 1996), p. 66.} The Arkansas Ethics Commission, established by initiative in 1991, was not originally not given power to administer fines or other sanctions, but was later granted that power in 1995. However, while these commissions saw their powers increase over time, in general the commissions find themselves under constant threat by legislators in terms of their budgets, their authority to conduct investigations, and their ability to sanctions violators. Legislative action toward the commissions, as described above, it generally non-supportive and often downright hostile.

6.9 Conclusion

The creation of independent ethics commissions beginning in 1973 was in one sense a bold move which applied the Progressive era innovation of the independent regulatory commission to the area of political ethics. The impetus of Watergate, combined with state-level scandals, an aggressive use of the initiative process by reform advocates and apparently, the support of institutional power-holders, helped stimulate the authorization of 13 new commissions in the 1973-1980 period. But consistent with theories of legislative control over administrative agencies, legislators have not simply abdicated authority to the new commissions. Instead, they have exercised various means of control, including budgetary control, control over appointments and over agency powers, legal challenges, and the use of legislation to further circumscribe the authority of these commissions. Where commissions have taken strong action against legislators, as in California, Connecticut, Oregon, and Massachusetts, legislators have responded quickly and firmly to maintain control by reducing the commissions' budgets and powers. Thus states were willing to create these commissions under certain circumstances, but they have retained a tight rein on the discretion the agencies are able to exercise. The willingness of legislators to exert their control over the commissions...
provides a powerful incentive to the commissions to regulate their enthusiasm for punishing legislators who violate state ethics laws.
CHAPTER SEVEN
CONCLUSION

7.1 Introduction and Chapter Overview

The new state ethics laws and independent commissions which were the subject of this dissertation were innovative responses to the problem described by New York Governor Thomas Dewey in 1954 as one of "borderline (official) behavior, and the question of conflicts of interest."\(^\text{368}\) Between 1954 to 1996, many states enacted a wide range of regulations aimed at the problem of legislative ethics. As argued in Chapters Four through Six, some of the states actually preceded the federal government in their response to the problem of legislative conflicts of interest during this time. Although Congress pioneered bans on representation by legislators and other officials before government agencies long before the states, in other areas the states led the way. Areas where the states set the standard followed by the U.S. Congress included public disclosure of legislators' financial interests, post-government employment limits, and the outright ban of gifts from lobbyists to legislators. Further, in the authorization of independent commissions, the states have gone well beyond the U.S. Congress by delegating ethics enforcement authority to an outside agency, which is argued by some scholars to be the backbone of a strong regulatory regime (Thompson 1995; Hermann 1996; Williams 1996).

Despite the important strides taken by the states to address legislative conflicts of interest over the past four decades, however, there have been important limits on the extent to which legislators have been willing to self-regulate. I have argued that economic self-interest and the benefits received from institutional power-holding provide two important reasons why legislators resisted proposals for strong ethics laws. In the case of the independent commissions, legislators have also been concerned with the balance of power between the legislative and executive branches and with maintaining legislative control over administrative

---

agencies in general. The language of the laws themselves also suggests that legislators have sought to balance ethics regulation with concerns about recruitment and retention and the right to keep certain information private. This legislative resistance to comprehensive laws that are firmly enforced shows up in a number of ways. For example, virtually all states that have enacted representation limits for lawyer-legislators included exemptions so that legislators can still supplement their income by representing clients before some agencies. Financial disclosure laws also tend to have major loopholes, such as not requiring legislators to give the names of business clients and only requiring certain information to be made available to the public. Most important, legislators have retained a tight rein on the ethics commissions that have been established, through their powers of appointment and appropriations, and through the delineation of commission powers.

This concluding chapter aims to tie together the findings of the previous chapters. I start by discussing the findings from the individual level. Then I consider the case study findings and the results from the regression analysis, looking first at the content of the new laws and then at the enforcement mechanisms that were adopted. The basic argument is that the legislative ethics reform process during the past four decades was driven more by institutional factors and the economic self-interest of legislators than by ideological, cultural or electoral factors. These institutional factors were both external and internal to state legislatures. Institutions outside the legislature, such as the media, the initiative process, and federal law enforcement institutions, combined with outside political actors — public interest groups and governors — to play the key role in bringing reform to front of the legislative agenda. Existing institutions, and changes in these institutions, also exerted an influence on the success and extent of ethics reform. In particular, changes in federal law enforcement institutions and existing laws affected the likelihood and breadth of reform; at the same time, existing campaign finance and lobby laws generally served to substitute for or suppress the enactment of new legislative ethics laws.
Further, while outside institutions and political actors made an important contribution to ethics reform success, internal institutional features such as legislative compensation and the distribution of institutional power also shaped the likelihood and extent of ethics regulation. In the main — with some exceptions — the role of legislative power-holders in the process of ethics reform was a non-supportive one. However, where reform appeared inevitable in the wake of a major scandal or a pending ballot question, leaders played an active role in shaping the parameters of reform, specifically by putting a brake on proposals for more extensive reform. These findings in general confirm some of the results of Goodman, Holp, Martin and Rademacher (1994b), whose survey of over 300 state legislators concluded that the media and scandals played a "moderately or highly influential" role in setting the agenda for state ethics reform in the early 1990's. They also argued that public interest groups, governors and electoral factors were influential, though less so than the media and scandals, while referenda had virtually no influence. This dissertation confirms their argument about the importance of the media, scandals, and governors, but assigns more explanatory weight to the initiative process and to public interest groups, while assigning less weight to electoral competition. To the extent that inter-party competition was found to matter, it was less rather than more competition that was associated with the enactment of stronger laws.

7.2 Tying It Together:

The analysis of Chapter Three, which looked at nine ethics reform votes in two states, aimed at explaining the reasons why legislators might oppose or support ethics regulation. Three main explanations emerged for legislators' positions on ethics reform. First, members who held positions of institutional power — House Speakers, Senate Presidents, Majority Leaders, committee chairman, and members of powerful committees — were less likely to support reform. Members of the majority party — another measure of institutional power, though a more general and weaker form — were also less likely to support reform in all the

Massachusetts votes; however, this result was reversed in the New York votes, perhaps because the Democratic majority had been in the minority for the previous 30 years and still perceived ethics reform through the lens of minority party status.

There was also evidence that legislators, in deciding how to vote on ethics reform, acted as rational actors concerned with their economic well-being. On the three votes which dealt with limits on lawyer-legislators, legislators who were attorneys were significantly less likely to support limits on their ability to earn outside income. The magnitude of the impact was notable, ranging from 14% to 53%. Members who were business owners were also significantly less likely to support two of the proposals, for financial disclosure and an independent commission. Finally, liberal ideology was a significant predictor of support for ethics reform in all but one of the votes.

These findings, then, give us a clear picture of three main reasons why legislators might oppose ethics reform: because it threatens their institutional power and the benefits that flow from that power, because it threatens their economic well-being, and because of anti-regulatory ideology. Legislators are clearly behaving as rational actors with regard to the influence of institutional power and economic self-interest. The strong impact of ideology was somewhat less expected, but consistent with other findings about the role of ideology in roll-call voting (Poole and Rosenthal 1991; Berry, Ringquist, Fording and Hanson 1998).

While ideology was an important factor in explaining support for reform at the individual level, however, this result was mostly absent in the aggregate-level analysis, with the exception of early enactment of basic ethics codes. As I discuss below, there was a divergence between the factors which helped set the agenda for state legislation, on the one hand, and the factors which explain how members voted on actual reform proposals, on the other. In the aggregate-level analysis, ideology did not play a major role in explaining why some states enacted strong ethics laws and others did not. Instead, institutional factors such as media coverage of scandals and the initiative process, were central to explaining how ethics reform reached a central place on the policy agenda and was ultimately enacted.
The initial case studies of Chapter Two indicated that conflict of interest scandals involving legislators played a facilitative role in the process of ethics reform in three states. As in the individual-level vote analysis, we also saw evidence of legislative leaders — in this case top leaders from the majority and minority parties — opposing strong versions of ethics reform, although in the California case, Assembly Speaker Jesse Unruh proved to be a strong advocate for reform. There was also evidence for a link between increased legislative compensation and legislators' willingness to accept limits on outside income, as well as some evidence that the active support of the chief executive and the threat of the initiative process helped facilitate reform success. In general, the case studies point to a process in which institutional features internal to the legislature and also outside institutions and actors shaped the possibilities for reform success. Internal institutional features such as legislative compensation influenced the acceptability of reform to legislators, and outside institutions such as the media and the initiative option helped move ethics reform to a more prominent place on the political agenda. Governors and perhaps their campaigns more specifically, along with public interest groups, helped set the agenda for reform and influenced the likelihood that reform would succeed.

The analysis of Chapters Four and Five tested these case study findings through regression analysis of change in states' ethics laws during three separate periods: 1954-1972, the pre-Watergate period of initial innovation; 1977-1988; and 1989-1996. While the findings vary somewhat across the different periods, there were several important commonalities. First was the importance and scandal and the initiative process in facilitating the passage of new legislative ethics laws. Scandals were an important causal factor in all three periods. Scandals were not something, however, that came out of thin air or simply resulted from the isolated misbehavior of legislators, governors or other statewide officials. They arose, instead, from a broader political context in which the government itself played an important causal role. In the first period, reported corruption came in part out of state-sponsored investigations into links between state and city officials and organized crime figures, in the wake of the U.S. Senate
committee hearings on organized crime in 1950-1951. State officials, including legislators themselves, actively pursued corruption through special investigatory commissions. Similarly, in the 1977-1996 period, similarly, state scandals were often the result of corruption reported after government investigation and prosecution. In this later time frame, it was federal prosecutors, using several statutes not intended for that purpose, who aggressively pursued corrupt state officials, particularly legislators and governors. The targeting of corrupt public officials at lower levels of government was an outgrowth of Watergate which resulted in a new institution: the new Public Integrity Section within the Department of Justice, set up in 1976 and given the mission of fighting political corruption at all levels of government. Without this shift in federal priorities and the devotion of resources to a new corruption-fighting institution, many state scandals would probably not have occurred. The continual increase in prosecutions by the Department of Justice from the early 1970's through the 1990's, shown in Chapter Five, made a major contribution to the number and severity of reported scandals, which in turn increased the likelihood of both new ethics laws and new enforcement mechanisms. Scandals thus had an important institutional origin: the restructuring of federal prosecutorial capacities.

Scandals were translated into ethics regulation by the mechanism of media reporting. As Kingdon (1984) argues, scandals provide a "focusing event" which calls attention to a problem and propels it to the front of the legislative agenda.  

Scandals "reinforce some preexisting perception of a problem, focus(ing) attention on a problem that was already 'in the back of people's minds. ' "  

Before a major scandal, it is often the case that the issue of legislative ethics does not occupy a prominent place on the agenda; the scandal serves as "a fortuitous catalyst ... thrown into an existing environment."  

The constant barrage of negative media coverage typical of a major scandal — for example the indictment and conviction of two powerful Massachusetts state legislators in the 1970's or the legislative sting

---

371 Ibid., p. 103.
372 Ibid.
operations which took place between 1989 and 1996 — creates pressures on the legislative and executive branches to find a solution, namely new laws to address the problem. Consider for example, New York in 1987, when legislators agreed to enact Governor Cuomo's ethics package a year after Senate leaders had adamantly refused to support similar legislation. The intervening variable that made the difference was a major scandal involving federal and state investigations into state legislative payroll abuses. From the time the story broke in October 1986 to the time the legislature agreed to enact Cuomo's reform package in July 1987, the New York Times ran 24 stories about the scandal, along with 10 editorials about the scandal which called for legislators to support ethics reform.373 This media attention to the problem brought the issue of ethics reform to the front of the legislative agenda and put legislators under tremendous pressure to support reform.

The initiative process had a positive and significant impact on the passage of new laws in the both the pre- and post-Watergate periods, and as I discuss below, on the early authorization of independent commissions. As I argue in Chapters Four through Six, the initiative mattered both because it was used by public interest groups such as Common Cause and the League of Women Voters to bring ethics reform to the voters, and because the threat of its use in some cases catalyzed legislators to pass their own version of reform as a pre-emptive strike; it was an organizational tool that public interest groups could use to bring legislators to the bargaining table, as in the Massachusetts case study. As Schmidt (1989) and Cronin (1989) argue, the initiative was intended to provide a tool for bypassing legislative recalcitrance in order to enact laws that legislators are unwilling to enact themselves. Schmidt and other scholars have emphasized the role of the initiative in facilitating pro-labor and pro-welfare legislation in the first half of this century, in facilitating Progressive era taxation of big business, and in facilitating environmental and consumer legislation. To these areas of legislation, then, we need to add legislative ethics reform. It is likely that in the absence of the

---

initiative option, states such as Massachusetts, Florida, Oregon, Montana, and Arkansas would not have the ethics laws they do or the independent commissions to enforce them.

Much of the story of legislative ethics reform since the early 1970's has been a public interest group story. As the political actor with the most active and sustained interest in ethics reform, the state chapters of Common Cause (CC) have played an important role in moving ethics reform to a more central place on the policy agenda, and in pressuring legislators to enact new laws. The initiative process is perhaps its most potent weapon, but the organization has other strategies of influence, including working with sympathetic legislators and with the media to build support for reform. The generalized influence of CC on state ethics regulation is evident when we compare the text of CC's model ethics law and the conflict of interest statutes which have been enacted in the states since 1972; Common Cause sets the model which states have followed, to greater and lesser degrees, in crafting their particular versions of ethics legislation. Another non-profit organization which has had an influence on the content and language of state ethics laws is the Council on Governmental Ethics Laws (COGEL), originally based in Lexington, Kentucky and now located in Los Angeles; COGEL also disseminates a model ethics law that is very similar to that of Common Cause, and the organization sponsors annual ethics education seminars for legislators.

Not only outside institutions and actors, but also the structure of state legislatures themselves influenced the course of ethics reform in the states. New Institutionalists such as Shepsle and Weingast (1979, 1987), Shepsle (1989) and March and Olsen (1984) argue that institutional structures shape the behavior of the individuals who act within those structures. This was the case with state ethics reform; the analysis of Chapters Four and Five showed that certain features of the legislative institution shaped the propensity to reform and the extent of the reform that was enacted. In the pre-Watergate period, higher compensation facilitated the early innovation of basic ethics codes for legislators. As was argued with regard to the individual-level vote analysis, legislators approached ethics reform as rational actors concerned with their economic well-being; where this well-being was more secure, they were more
willing to accept limitations on outside income, and vice versa. In some cases, such as California in 1966, the tradeoff was explicit: there, legislators accepted a basic ethics code, limits on lawyer-legislators and other ethics regulations for a 166% increase in their salaries. In other cases, the link between legislative pay and ethics regulation was less direct: increasing salaries over the 20-year period and higher salaries at particular time points were associated with a greater likelihood of states' enacting basic codes, representation limits, and other ethics restrictions. States that paid legislators relatively well during this period, such as New York, New Jersey, and Illinois, all enacted more extensive limits on outside income than poorly-paying states such as New Hampshire, Vermont, Idaho, and Wyoming.

However, there were limits, even in the early period and clearly in the post-Watergate years, on the extent to which higher compensation could "buy" legislators' willingness to accept strong ethics restrictions. For example, even the states that have enacted the strongest representation limits in many cases exempt certain agencies from coverage; more significantly, higher compensation did not increase legislators' willingness to adopt strong enforcement mechanisms. While increased compensation appeared to facilitate ethics reform in the pre-Watergate years, additional professionalization did not produce additional laws. High compensation was certainly not necessary to the enactment of strong laws. In the 1989-1996 period, most states were "de-professionalizing" by decreasing real compensation, but many states still enacted tough new laws. During the post-Watergate years, changes in compensation had no impact on the enactment of ethics laws. There were isolated instances, for example in California in 1990, where pay raises were again tied to ethics reform, but compensation was not a statistically significant predictor of reform success in this later period.

Another institutional feature that influenced the likelihood and extent of ethics regulation was the distribution of power in both houses of state legislatures. Institutional power holding, shown to be an important predictor of individual members' opposition to ethics reform, had a similar negative effect on the passage of ethics laws in both the pre-Watergate years and the 1989-1996 period. States with a high proportion of committee chairmen passed weaker ethics
laws or no laws at all. Also during the last period, powerful Speakers and Senate Presidents were associated with states' enacting weaker ethics laws. However, this result was contradicted by the finding that states with powerful Speakers and Senate Presidents were more likely to enact basic ethics codes. The impact of institutional power at the aggregate level is therefore inconsistent; while there is evidence that it has a negative impact, there is also some evidence of a positive impact. One explanation is that the influence of institutional power is contextual. The positive influence of powerful Speakers and Senate Presidents may be due to particular political circumstances. I argued with regard to the enactment of independent commissions that the particular context of the immediate post-Watergate period may have led top legislative leaders, particularly Democrats, to become strong advocates for reform. In the initial period, where we are talking about the enactment of simple ethics codes, legislative leaders may have supported ethics regulation because it was relatively cost-free in the early period, when the content of the laws enacted was relatively weak for most states. Or it may have been the case that House Speakers and Senate Presidents, such as Jesse Unruh of California, may have supported ethics legislation during this time because it was explicitly linked to legislative modernization, so there was a sort of trade-off whereby leaders accepted ethics codes in return for increased compensation, staff, and other modernizing changes in the legislature. The problem with this theory is that very few states truly "modernized" or professionalized during the pre-Watergate years. Additional case studies would be useful for exploring the reasons why top legislative leaders may have advocated reform during this early period.

Existing laws also seemed to have an impact on the enactment of conflict of interest laws for legislators. There are other ways of regulating the interaction between legislators and "special interest" groups, lobbyists, and campaign contributors, and there was some evidence that campaign finance and lobby laws substituted for ethics laws during the 1954-1972 period. There was also strong evidence that campaign finance laws substituted for the authorization of independent commissions in the 1973-1980 period. Skocpol (1988) and other historical
institutionalists argue that previous policy choices exert a powerful influence on future policy choices; this appears to have been the case, to some extent, with state legislative ethics regulation. Here there was a substitution effect, where states which had already addressed the problem of conflicts of interest through campaign finance and lobby regulation were less likely to adopt new ethics laws addressing the problem in an additional way. Previous institutional solutions to the problem of conflict of interest, then, appeared to have affected later possibilities, in this case by reducing the likelihood of states' adopting new solutions to a problem that had already been addressed through other legislation.

As discussed above, ideology was shown to be important in explaining roll-call votes on ethics reform; legislators who held a conservative ideology were less likely to support ethics proposals. However, at the aggregate level, with the exception of the enactment of basic codes, it was not an important factor in explaining reform success. Again, this finding can be related to how policy agendas are set. Ideology explains how members voted on reform once it gets to the agenda, but apparently it does not help set the agenda for reform. After 1972, liberal ideology did not make a positive contribution to the passage of strong ethics laws. Rather, it was scandals and political institutions such as the media and the initiative process, along with political actors such as governors and public interest groups, which facilitated reform.

Political culture also proved to be irrelevant to the success of state ethics reform. Contrary to expectations, moralistic culture did not facilitate ethics reform. Moralistic or progressive culture only mattered to the extent that it was translated into organizational form — into state-level chapters of Common Cause which waged a concrete battle for political ethics regulation. As a belief system existing in the minds of citizens and elites, however, culture did not make a contribution to the enactment of ethics laws.

Electoral factors were also generally not important to explaining the passage of ethics laws. Unlike the Progressive Era when close inter-party competition contributed to the passage of political reform legislation in the states, party competition did not play a similar role.
in the state ethics laws passed between 1954-1996. Where it did matter, its impact was contrary to what was predicted. Instead of more intense competition prodding states to enact ethics laws as a way to increase electoral support, in the 1977-1988 and 1989-1996 periods, it was the absence of competition or unified government which facilitated the passage of strong ethics laws. While party competition within legislatures did contribute to the passage of ethics laws from 1977 to 1988, when we combine this finding with the negative impact of inter-branch party competition, the net result is that electoral competition had a negative impact on the passage of ethics legislation. This suggests that the parties did not see the passage of ethics laws as a way of expanding their electoral base. Spatial voting theory suggests that parties in a competitive situation will try to capture more voters with popular, centrist policy positions such as the promotion of anti-corruption legislation. However, in the case of ethics regulation, legislators did not appear to use ethics reform for electoral advantage. Rather, they were driven to enact ethics laws largely because of outside pressures such as negative media attention to the legislature, federal prosecutions of legislators and other public officials, the threat of initiative, and the activities of public interest groups.

The one electoral factor which may have played a positive role in shaping ethics reform was gubernatorial campaigns. In the case of both ethics codes and representation limits, governors' campaign promises seem to have exerted a positive influence on the enactment of reform in the year after governors were elected. The variable I used, however, has some limits — such as its correlation with the first year of the legislative session, and the fact that I was not able to measure directly the content of governors' campaigns and whether a pro-reform gubernatorial candidate actually won the election. This means we can be less sure that gubernatorial campaigns really did have an impact. What we can say, from the evidence provided by the case studies of Chapter Two, is that gubernatorial attention to the issue of state political corruption and the cause of ethics reform did appear to contribute to reform success. In California and New York, governors' calls for reform (in the New York case, both during and after a successful electoral campaign) received media attention which helped bring ethics
reform to the forefront of the agenda. Additional case studies would help shed light on the precise role that gubernatorial support played in the success of legislative ethics reform. Scattered evidence from states in the 1990s such as Louisiana and Texas suggests that gubernatorial support may be endogenous to scandal; the ultimate cause of gubernatorial calls for reform, in these cases, was scandals involving state legislators. It was really the scandals which prompted gubernatorial proposals for reform and governors' use of the "bully pulpit" to promote new legislative ethics laws. Causally, the arrows ran as follows:

Scandal $\rightarrow$ Gubernatorial Calls for Ethics Reform $\rightarrow$ Media Attention $\rightarrow$ Reform Success

Interestingly, ethics regulation did not generally follow the pattern of diffusion from "leader" to follower states as identified in the policy diffusion literature dating back to Walker (1969). Only during the pre-Watergate years did changes in state ethics laws appear to diffuse from national and regional leaders, as identified by Walker and by Savage (1978). In the post-Watergate period — and in the analysis focusing on the enactment of basic codes and representation limits in the early years — these leaders did not lead, and the followers did not follow. Instead, states' decisions about whether to enact new legislative conflict of interest laws — and to authorize independent commissions — were determined primarily by institutional variables and the pressure of outside political actors. The relative lack of importance of the actions of so-called "leader" states was also suggested by the survey research of Goodman, Holp, Martin and Rademacher (1994b). Over 300 legislators from 20 states said that the actions of other states had little or no influence in setting the agenda for ethics reform. Diffusion only took place in a general sense, with states copying the language of other states' laws when they did decide to draft new ethics legislation. However, many of the states which paved the way in enacting new laws were "non-leader" states who took action in the absence of recent action by the states they were
supposed to follow. Without the right intra-state catalysts to reform, then, states were not adequately moved by the actions of the so-called leaders to enact new ethics laws.

7.3 Enforcement: Legislators Authorize Independent Commissions But Retain Control Over Their Activities

Chapter Six extended the analysis of changes in the content of state ethics laws to examine the enforcement side of ethics regulation. Focusing on the difference between strong and weak forms of ethics enforcement, I found that there were some similarities compared to the enactment of the laws themselves, but also some factors which affected enforcement but not the content of the laws. Against the backdrop of Watergate, which provided an across-the-board stimulus to reform in the period from 1973-1980, state-level scandals and the initiative process exerted a positive influence on the likelihood of states' pioneering the establishment of new commissions during this time. Again, culture and ideology were not significant predictors of whether or not states would take action. Existing campaign finance laws appeared to substitute for the establishment of independent commissions, just as existing campaign finance and lobby laws in the pre-Watergate period substituted for the enactment of new legislative conflict of interest laws. As suggested above with regard to the content of ethics legislation, previous institutional solutions to the problem of conflict of interest appeared to have influenced — and limited — later possibilities for regulatory legislation.

Institutional power had a curious effect with regard to the authorization of independent commissions during this period. States with powerful House Speakers and Senate Presidents, and with a high proportion of committee chairs in state Senates, were more likely to authorize these new enforcement agencies. This finding contradicts the results regarding changes in the content of state laws, which showed institutional power-holding to generally have a negative impact on the likelihood and extent of reform. As I argued with regard to the positive impact of top legislative leaders on the passage of basic ethics codes, it may be that the effects of institutional power are contextual. Specifically, it may be the case that in the immediate aftermath of Watergate from 1973-1980, top legislative leaders — particularly Democratic ones
— became strong supporters of reform out of an anti-Watergate backlash, either because of genuine conviction or because of a desire to capitalize electorally on the corruption of a Republican administration. Tom Loftus, the Speaker of the Wisconsin Assembly during this period, was one example of a top legislative leader who played a highly visible and active role in promoting financial disclosure and an independent commission during this time. However, in the absence of stronger evidence regarding other leaders who strongly supported reform during this time and who actively used their powers to promote reform, the finding about the positive impact of top leaders' power — and the finding about the impact of committee chairs — remains a surprising one.

Finally, state wealth and also gubernatorial power affected the likelihood of states' authorizing independent commissions during this time. States with a greater ability to afford the costs associated with a new agency were more likely to authorize one. States with relatively powerful governors were less likely to do so, since the prospect of the chief executive being given the power to appoint members to a commission with direct authority over as sensitive an area as legislators' ethics was likely perceived as especially undesirable in those states.

While the new ethics commissions represented a potentially powerful enforcement mechanism, only three of them were truly independent and given adequate powers to carry out their mission. Instead, legislators from the start maintained a close rein on the autonomy and power of the new agencies by controlling appointments, cutting budgets in retaliation for action taken against the legislature, and failing to grant powers, especially those needed to conduct investigations and sanction violators. In later years, legislators further weakened many commissions by taking away powers that had initially been granted by statute. Legislators also mounted legal challenges to the initial establishment of the commissions. Although these attempts failed, legislators have continued to challenge the commissions in court if they feel they are overstepping their boundaries, for example in Rhode Island and Massachusetts. In the first of these cases, the state Supreme Court sided with the commission but in the latter case,
the court ruled that the commission was enforcing laws it had no authority to enforce and scaled back the commission's jurisdiction. Overall, as Jackson (1990) argues with regard to the Federal Election Commission, the exercise of legislative control over state ethics commissions has made most of them relatively "toothless tigers" when it comes to enforcing legislative conflict of interest laws.

### 7.4 Comparing State Ethics Reform, 1954-1996, To Earlier Political Reform Efforts

In Chapter One, I discussed earlier efforts at reform of the political system, focusing on attempts to address corruption in state legislatures and in the federal government. What comparisons can we draw between the state ethics reform movement from 1954-1996 and these earlier reform efforts? As in Chapter 1, I consider the passage of the Pendleton Act in 1883, which reformed the federal civil service system, and Progressive accomplishments in the states at the end of the 19th and beginning of the 20th century, such as the establishment of direct democracy devices, the Australian ballot, campaign finance reform, and civil service reform at the state and municipal levels. The process of state ethics reform was both similar to and different from these earlier reform efforts. First, as suggested above, unlike these late 19th-century and early 20th-century reforms, state legislative ethics reform was not driven forward by electoral competition. By contrast, Skowronek (1982) argues that inter-party competition contributed to the passage of federal civil service reform; Wiebe (1967), Thelen (1976), Gould (1978), and Link and McCormick (1983) similarly argue that intense party competition facilitated Progressive reforms at both the national and state levels. Where inter-party competition played a role in shaping state ethics laws, however, it had a negative influence in two of the three analyses; states with less rather than more competition enacted stronger laws in the two decades from 1977-1996.

Further, political culture, argued to play a role in explaining strong Progressive reform efforts in certain states, was not significant in explaining state ethics regulation. Mowry (1951) and Hofstadter (1955) argue that Progressive era political reform was motivated by moralistic
cultural beliefs rooted in religious traditions. However, moralistic culture did not facilitate state ethics regulation in the four decades from 1954 to 1996. While today's good-government reformers may hold moralistic beliefs, as McCann (1986) claims, variation in these beliefs across states does not help explain why some states passed stronger ethics laws than others. Moralistic culture only mattered to the extent that it was translated into organizational form, namely Common Cause chapters, which used a variety of strategies to promote ethics-in-government laws at the state level.

There were, however, some parallels between state ethics reform in the 1954-1996 period and earlier political reform efforts. First, there is some evidence that as in the Progressive era, governors helped set the agenda for reform, both by campaigning on anti-corruption platforms and by promoting reform once in office. The media provided the key link between gubernatorial attention to political reform and the ultimate success of reform.

There are also parallels between the role of the media in publicizing scandals and ongoing corruption during the Progressive era and during the 1954-1996 period. In both cases, the media provided the key mechanism by which scandals led to reform. Link and McCormick (1983) argue that in the Progressive era, sustained media attention to bribery and other conflict of interest scandals involving state legislators (for examples, their ties to railroad company executives) helped set the agenda for political reform. The media also provided the link by which state investigations into Progressive-era legislative corruption became public knowledge. The media's role during both the 1954-1996 period and the Progressive era was not simply to serve as a neutral conduit of information, however. Roberts and Doss (1997) and Link and McCormick (1983) argue that the media "took sides" on behalf of reform efforts during the Progressive era and that this boosterism was critical to the success of political reforms at the state level. I have discussed how the media played a similar role in editorializing on behalf of reform and using news stories to expose legislators who were attempting to weaken reform proposals. The role of the media as reform booster was probably slighter during the modern era, given that most journalists and journalistic outlets now aspire to greater
objectivity than during the turn-of-the-century; by contrast, in the Progressive era, muckraking reporters were not afraid to write outraged pieces which exposed political corruption and called for reform in no uncertain terms. But the sheer volume of stories that the print media devoted to major legislative scandals in the modern era, even without such emotional and outraged calls for reform, was central to the agenda-setting process by which smoldering reform movements in the states were reignited and finally achieved success.

Reform groups outside the legislature were also important in the success of national, state and municipal civil service reform as in the 1954-1996 period. The National Civil Service Reform League (NCSRL) and similar groups at the local level relied on several strategies in the late 1800's and early 1900's. These included publicity and education but also, importantly, waging electoral war on anti-reform incumbents (Patton 1969; Skowronek 1982). As discussed in Chapter 1, Skowronek argues that the NCSRL withheld allegiance from the two major parties and offered the votes of their backers to the candidates who showed the greatest commitment to reform. Similarly, during the the last quarter of the 19th century, new municipal reform groups such as the Civic Federation of Chicago and the Civitas Club of Brooklyn regularly studied the records of party candidates, and "endorsed those who best satisfied their demands." Where reform groups were relatively strong in a given city, they would "sometimes attempt to contest the election with an independent party and a separate slate of reform candidates." For example, in New York City in 1894, the Good Government Clubs, the Citizens' Union, The Society for the Prevention of Crime, the Citizens' Association and the City Club all banded together and nominated a candidate to run against the Tammany Hall nominee for mayor. The reform candidate, William Strong, won.

Common Cause, the public interest group which has been most central to the modern ethics-in-government movement, has used both similar and different tactics from the turn-of-

375 Ibid.
376 Ibid.
the-century civil service reform groups. In the tradition of the Progressive reformers, CC has relied upon publicity and education — with the media as a key ally — to build support for the legislation it wants to see enacted. However, CC has relied less on electoral tactics such as endorsing and even running candidates for office. This is most likely due to the fact that these tactics were more effective in an era of intense party competition but are less so in today's era of the personal vote, when endorsements are not as valuable as the individualistic ties that politicians build with voters (and the electoral support that Common Cause can deliver is probably less significant than what Progressive reform groups, banded together, could offer to candidates). Instead, the main strategies used by the CC state chapters, beyond publicity and education, have been 1) working with sympathetic legislators and 2) using the initiative option to bypass recalcitrant legislators or force them to compromise. In the use of the initiative as a key tool in its organizational repertoire, CC reaps the benefits of the Progressive reformers who fought for direct democracy institutions in the first decades of this century. By bringing ethics reform — and other issues — directly to the voters, CC is doing precisely what the Progressives intended the initiative to do: leverage the power of popular support in cases where legislators, often out of self-interest, are unwilling to act.

Finally, in both the earlier and the modern political reform efforts, there is evidence that governors rather than legislators led the call for reform. In general, the main impetus for reform from the 1880's through 1916, when the national Progressive party collapsed, came from outside actors and outside pressures: chief executives, public interest groups, scandals, and the media. There were legislators sympathetic to reform in both periods, for example Congressmen who were strong supporters of civil service reform in the 1880's, and the California, Massachusetts and New York legislators who fought for state ethics reform in the 1960's, 1970's and 1980's. However, these pro-reform legislators were generally the minority within the legislature and tended to be non-power-holders who were unable to move reform forward without the help of outside pressures.

7.5 Conclusion
State legislative ethics regulation during the 1954-1996 period was shaped more by institutional factors and the economic self-interest of legislators than by ideological or electoral factors. Features of the legislative institution shaped members' positions on ethics reform and the extensiveness of the laws enacted by the states. At the individual level and to some extent at the aggregate state level, institutional power-holding was associated with less willingness to enact ethics laws. Further, in the pre-Watergate period, states in which legislatures paid higher compensation to their members were more likely to enact basic ethics codes, representation limits, and more extensive ethics laws in general.

Overall, then, the evidence suggests that state ethics regulation was not simply a result of what Shepsle (1989) calls "institution-free, atomistic" individual preferences. Instead, institutional features shaped the process by which states enacted or did not enact conflict of interest laws for legislators. This finding bolsters the contention of New Institutionalists such as Shepsle and Weingast (1979), March and Olsen (1984) Skocpol (1988), Orloff (1988) and Shepsle (1989). The fundamental argument of the New Institutionalism is that the way political institutions are structured shapes the motives of individual political actors embedded in them and also shapes the range of possible political outcomes. Historical institutionalists emphasize how political institutions and structures such as the system of checks and balances, decentralization of power and multiple veto points have exerted a powerful influence on the development of American social policy, tax policy, and civil rights policy. This dissertation has argued that in the case of state ethics regulation, the existence of direct democracy institutions also exerted a powerful influence on political outcomes, namely the likelihood and extent of strong ethics laws.

In their approach to ethics reform, legislators acted as rational actors concerned with their economic well-being, who sought to protect both their outside income-earning power and the monetary benefits that flow from institutional power. There was evidence that at the individual level, legislators were motivated not only by economic self-interest but also

---

ideological concerns. However, when it came to the agenda setting process and to explaining variation in the strength of state ethics laws, in general values and beliefs — whether measured as traditional liberal ideology or as moralistic culture — did not play an important role.

Beard and Horn (1976), Anechiarico and Jacobs (1996) and others have noted the general aversion of legislators to what the latter call the general "project" of ethics regulation. Given this aversion, the question that has animated this dissertation is why legislators regulate their ethics at all. I have argued that certain institutional features of legislatures — power-holding and low compensation — explain why legislators have resisted ethics reform. Outside catalysts and institutions provide the main explanation for why they have reluctantly embraced reform at different times. In particular, the media, as conveyer of political scandals and active promoter of new ethics laws, helped catalyze ethics reform efforts by focusing negative attention on the legislature and other political officials. In these cases, particularly where the scandal involved legislators themselves, members — particularly legislative leaders — appeared to respond by exhibiting a concern for the overall image of the legislature. Although the media generally does not cover state legislatures or the Congress favorably (Lichter and Amundson 1994), the sustained negative coverage that attends major legislative scandals crosses the threshold beyond which the image of the legislative institution is compromised. The media, by highlighting scandals and then proposals for reform, set the agenda and put pressure on legislators to adopt some form of ethics legislation, in order to restore a minimally acceptable image of the legislature. In some cases, scandals involved the executive branch, but the strongest regulatory responses came after major scandals involving state legislators, such as the FBI stings in Kentucky, South Carolina, California and Louisiana. The more powerful the legislators involved, the greater the reform response.

Another important outside institution which enhanced the likelihood of states' adopting ethics laws and authorizing independent ethics commissions was the initiative process. States which did not have this institution were less likely to adopt strong laws in the post-Watergate period and less likely to be innovators in the authorization of independent commissions.
Outside reformers such as Common Cause and the League of Women Voters made use of the initiative process to take reform directly to the voters, who generally supported ethics ballot initiatives by wide margins; they also wielded the threat of a ballot question to force legislators to compromise and enact new conflict of interest laws on their own. Governors also took an active stand in promoting reform in certain cases, but reformers entirely outside the government such as the media and Common Cause state chapters were the most important actors in using the initiative process.

Scandal itself was a product of political institutions, in particular of state and federal investigatory and prosecutorial capacities. In the pre-Watergate period, in the wake of the Kefauver Committee's investigations, many states decided to conduct their own investigations into the corruption of state officials, including legislators. The scandals that were reported in the media during these years were in many cases the result of state investigations which uncovered corrupt connections between organized crime figures and state officials. During the post-Watergate years, the enhancement of federal prosecutorial capacities led to many state scandals which catalyzed successful ethics reform efforts. Specifically, in 1976, the Public Integrity Section (PIS) of the U.S. Department of Justice was established and given the manpower and financial resources to launch a massive fight against political corruption at all levels of government. The creative use of existing statutes by the PIS, often working in conjunction with the FBI, led to the indictment and conviction of many state legislators, several governors and other statewide officials on charges such as mail fraud, extortion and racketeering. These scandals catalyzed significant new ethics legislation, most notably in states such as Massachusetts, West Virginia, Kentucky, California and South Carolina but also in states including Arkansas and Illinois. Scandals, then, did not simply arise from the isolated misbehavior of particular political officials, but came out of a broader political context in which the increased attention of federal and state prosecutors played a significant role in generating reported corruption which put in motion the pattern described above, whereby media coverage of scandals created pressure which led to legislative action on ethics reform.
While scandals made legislators more willing to adopt ethics restrictions, this
dissertation has shown that the final reform packages which emerged from the bargaining
between legislators, governors, and public interest groups generally involved important
concessions to legislators. For example, in 1987 Governor Cuomo of New York was forced
to give up his proposal for an independent ethics commission with jurisdiction over legislators
in order to get the leadership of both houses to accept his proposals for expanded financial
disclosure and more extensive representation limits. In Michigan in 1994, a legislative scandal
led to the regulation of legislative honoraria and other substantive ethics restrictions, but
legislators refused to accept financial disclosure or an independent commission. Common
Cause had wanted these additional ethics regulations, but ended up getting only part of its
complete wish list. In the Massachusetts and New York cases of Chapter 2 — and in other
states — legislators were willing to enact limits on lawyer-legislators, but held the line on
disclosure of client names. In many states, legislators only went part of the way in enacting
representation limits, choosing to only require disclosure of representation rather than placing a
substantive limit on representation before particular agencies. Most important in terms of
legislators' control over ethics regulation has been the limitations placed on the independent
commissions. Even where legislators have adopted this potentially powerful enforcement
mechanism, they have maintained close control over all the commissions established over the
past 27 years. The means of control include appointments of commission members, definition
and redefinition of commission powers, budget appropriations, and legal challenges.

The trend in state ethics regulation has basically been a forward march since 1954,
when New York enacted the first generalized conflict of interest statute covering legislators.
While some states have repealed or watered down their ethics laws over time, the general
direction of ethics regulation has been one of expansion, not retrenchment. States have
generally broadened and tightened their ethics laws over time, although there are a few
holdouts such as Vermont, Wyoming, and North Dakota which still have no laws or extremely
weak laws. Some scholars argue that all this ethics legislation has gone too far, and that over-
regulation of ethics has negative effects on governmental productivity and creativity (Rosenthal 1996; Anechiarico and Jacobs 1996; Maletz and Herbel 1998). There has been some backlash against ethics regulation at the federal level; last summer Congress decide not to reauthorize the independent counsel statute partly for these reasons and partly for partisan reasons. However, at the state level, there has not yet been a real backlash against ethics legislation. Given that we can expect major scandals in the future, and given that public interest groups such as Common Cause have only intensified their use of the initiative process to push for state ethics and campaign finance legislation, we will most likely see the forward march continue.
Appendix A
Appendix to Chapter 1

The first section of this appendix provides information on the construction of the index of ethics law stringency used in Table 1.1 of Chapter 1, as well as in Chapters 4 and 5. The second section provides the specific statutory source for each state's ethics laws. Finally, the third section of the appendix gives the scores for each state, broken down by scores for each sub-category of ethics restrictions, with years of passage for the various restrictions.

1. **Explanation of Ethics Index Construction**

The index in Table 1.1 measures the stringency of states' ethics laws as of December 1996, based on six categories of legislative ethics restrictions. The index focuses on restrictions which limit the outside income and outside activities of legislators. I chose restrictions which I thought were the most relevant to the problem of perceived conflicts between legislators' private interests and their public duties. In selecting the categories that comprise the index, I relied on both scholarly and non-academic discussions of state legislative ethics (Zimmerman 1994; Rosenthal 1994; Council on Governmental Ethics Laws Guardian Newsletter 1988-1994). I chose the categories which are most frequently emphasized by scholars and analysts of legislative ethics (and by public interest groups advocating ethics reform), and which analysts argue have had the most significant and wide-ranging impact on legislative behavior. These are the categories which have been the subject of sustained debate over the past 40 years among those concerned with defining and promoting ethical legislative behavior with regard to the problem of conflict of interest. All six categories are at the heart of the discussion contained in legislative reports and commission reports from states such as New York (1954), California (1966), Illinois (1967) and Virginia (1994); in the report of the Council on State Governments (1972); and reports by Common Cause (1990, 1993).
My index for stringency of legislative ethics restrictions is not as comprehensive as the one created by Goodman et al. (1994a, 1994b, 1996). Goodman and his colleagues coded for a wider variety of ethics restrictions. However, they also include some restrictions which are not seen as particularly important by scholars or other analysts of ethics laws. My index is more limited but also more focused on restrictions that are commonly seen as significant.

Four of the six categories represent substantive restrictions on the activities of legislators. These are: 1) limits on legislators receiving honoraria (fees for speechmaking); 2) limits on legislators receiving gifts that might influence their official action, votes, or judgment, 3) limits on representation by lawyer-legislators of clients before state agencies; and 4) limits on post-government employment of legislators as lobbyists ("revolving door" restrictions). The fifth category — personal financial disclosure — is a keystone of state and federal ethics in government laws. The sixth category is a "baseline" category which measures whether the state has an ethics code for legislators in its statutes or its legislative rule book.

States were given scores ranging from a minimum of 0 to a maximum of 11 for the stringency of their legislative ethics restrictions. They could receive two points in each of five categories and one point in a sixth, baseline category. The following section explains the scoring for each category.

a) Ethics Code — States received one point if they had a code of ethics in their statutes or legislative rules. A code of ethics need not include any substantive restrictions such as prohibitions on receiving gifts or honoraria. It only requires a general statement of purpose or general principles of ethical conduct.

b) Honoraria — 0 points if no limit at all, 1 point if state has a numerical limit or limits honoraria to a "reasonable" or "customary" amount, 2 points if state bans honoraria for legislators. States which scored two in 1996 include Arkansas, California and Pennsylvania.
c) Gifts — 0 points if state does not limit legislators in the receipt of gifts from lobbyists and others based on any understanding that their vote, official action or judgment would be influenced; 1 point if state requires disclosure of gifts; 1.5 points if state has a numerical limit on gifts (e.g. no gifts worth over $100 each), limits the receipt of gifts of "substantial value," or limits gifts with a reference to undue "influence" that might be associated with them; 2 points if state has a "no cup of coffee" law banning legislators from taking "anything of value" from lobbyists or legislative agents. Language varies greatly in this category; states were coded according to which of the four sub-categories it fit into most closely. States which scored two in 1996 include Wisconsin, Minnesota and Kentucky.

d) Post-Government Employment/Revolving Door Limit — 0 points if state does not place any restrictions on legislators working as lobbyists after they leave office; 1 point if there is a 1 year "revolving door" restriction for legislators; 2 points if there is a 2 year restriction. States which scored 2 in 1996 include New York, Massachusetts and Kentucky.

e) Representation By Lawyer-Legislators Before State Agencies — 0 points if state does not substantively limit lawyer-legislators in their appearances before state agencies; 1 point if state requires lawyers-legislators to disclose the clients they represent before state agencies; 2 points if state restricts appearances by lawyer-legislators before any state agencies. States which scored two points in 1996 include New York, Alabama and Massachusetts.

f) Personal Financial Disclosure — In scoring states for the stringency of their financial disclosure requirements, I considered 19 possible areas in which legislators could be required to disclose information; two of the 21 categories catalogued by Public Integrity Annual (1996) were excluded because they overlap with other categories in the index. The 19 are: tax returns, sources of personal income, investments, sources of income of business of a partner or shareholder, ownership interest in a business, real estate interests, offices and/or directorships held, creditor indebtedness, leases or other contracts with state entities, retainers, professional/occupational licenses held, reimbursement of travel expenses from
private sources, deposits in financial institutions, cash surrender value of insurance, private employer or nature of private employment, professional services rendered, identification of trusts by trustee, identification of trusts by beneficiary, names of immediate family members, financial interests of spouse.

States received a 0 if they had no financial disclosure requirements; 1 if they required disclosure in four areas or fewer; 1.5 if they required disclosure in 5-9 areas, and 2 points if they required legislators to disclose information in 10 areas or more. States scoring 2 in 1996 include Illinois, California and New York. The state with the highest score was Ohio, which had 19 requirements as of 1996.

2) Data Sources

Data for coding of the index came from three main sources: 1) state statutes pertaining to legislative conflicts of interests, 2) state constitutions (where I looked for constitutional amendments pertaining to legislative conflicts of interests) and 3) legislative rule books for 1996. In looking at the statutes, I consulted the index for each state under the headings of "conflict of interest," "ethics," "financial disclosure," "legislature" and "public employees/officials." In some states, ethics laws are part of the criminal codes, so I also looked under the section of the codes containing statutes on bribery and official misconduct. For some states, legislative ethics restrictions were concentrated in one section of the statutes. For others they were spread out across several different sections. Some states had significant restrictions in their legislative rules; others used only the statutes to restrict legislators' activities. Where necessary, I went back using microfilm to look at specific laws in the years they were passed to determine when new restrictions went into effect.

I also used the Public Integrity Annual (Lexington: Council of State Governments: 1996) to confirm and clarify the information found in the statutes and rules. I relied heavily on this last source for information on personal financial disclosure. Public Integrity Annual provides detailed information on the 50 states' personal financial disclosure requirements at the end of 1995; this information was the basis for the 19 sub-categories used to score states for
disclosure requirements. State statutes were used to supplement the disclosure information from this source for the year 1996.

Below are the statute sources for each state.


2) Arizona: Arizona Revised Statutes § 38-3-501 to § 38-3-543.

3) Arkansas: Arkansas Code § 21-8-101 to § 21-8-903.

4) California: California Codes § 2-2-8920 to § 2-2-8926, § 2-2-8940 to § 2-2-9955, § 9-7-86201 to § 9-7-86205, §9-7-87100 to § 9-7-87504.


6) Connecticut: Connecticut General Statutes Annotated § 1-10-80 to § 1-10-91, § 2-16a.

7) Delaware: Delaware Laws § 29-10-1002 to § 29-10-1004, § 29-10-5812 to § 29-10-5815.

8) Florida: Florida Revised Statutes § 10-112-311 to § 10-112-324, § 10-112-3135 to § 10-112-3151.

9) Georgia: § Georgia Code Annotated 45-10-1 to § 45-10-28, § 21-5-1 to § 21-5-11, § 21-5-50.

10) Idaho: Idaho Revised Statutes § 59-6-701 to § 59-6-705, § 18-381-1352 to § 18-381-1360.


12) Indiana: Indiana Code § 2-2.1-3-1 to 2-2.1-3-7.

13) Iowa: Iowa Code § 68B.1 to § 68B.7, § 68B21 to § 68B35.A

14) Kansas: Kansas Statutes Annotated § 75-43-4301 to § 75-43-4306, § 46-2-201 to § 46-2-263.

17) Massachusetts: Massachusetts General Laws Annotated § 268A§1 to § 268A§23, § 268B§1 to § 268B§8.
18) Maine: Maine Revised Statutes Annotated § 1-25§1002 to § 1-25§1020.
20) Michigan: Compiled Laws Annotated of Michigan § 15.301 to § 15.342c.
21) Minnesota: Minnesota Statutes Annotated § 10A.01 to § 10A.10.
25) Nebraska: Nebraska Revised Statutes § 49-1404 to § 49-14,126, § 49-1401 to § 49-14,133.
26) Nevada: Nevada Revised Statutes § 281.411 to § 281.625.
29) New Mexico: New Mexico Statutes Annotated § 10-16-1 to § 10-16-18.
34) Oklahoma: Oklahoma Statutory Laws § 74.4222 to § 74.4248.
35) Oregon: Oregon Revised Statutes § 244.010 to § 244.390.

36) Pennsylvania: Pennsylvania Statutes § 46.143.1 to § 43.145.8, § 65§401 to § 65§413.

37) Rhode Island: Rhode Island General Laws § 36-14-1 to § 36-14-21.

38) South Carolina: South Carolina Revised Statutes § 8-13-100 to § 8-13-1130.

39) South Dakota: South Dakota Statutory Laws § 3-1A-1 to § 3-1A-6.


41) Texas: Texas Annotated Civil Statutes § 110A-6252-9, § 5-553.001 to § 5-553.023, § 5-571.001 to § 5-571.137, § 5-572.001 to § 5-572.058.


43) Vermont: None.


45) Washington: Revised Code of Washington § 42.17.240 to § 42.17.400, § 42.20.010 to 42.20.090, § 42.22.010 to § 42.22.120.

46) West Virginia: West Virginia Code Annotated § 6B-1-1 to § 6B-2-10.


48) Wyoming: None.

3. Individual State Scores and Years of Passage of Ethics Laws

Below I provide (as in Table 1.1) the total score for each state, and also a breakdown of the scores for the six different categories of ethics restrictions. I use the following abbreviations for the different categories: 1) BC = basic ethics code, 2) HL = honoraria limit, 3) GL = gift limit, 4) PGE = post-government employment limit, 5) RL = representation limit, 6) PFD = personal financial disclosure. The year that the restriction was established by law or by legislative rule is also included in the second row for each state. In some cases, more than one year may be included for a given category, for example in the case of Alabama where the state first passed financial disclosure requirements in 1973 and then strengthened them in 1995.
## Scores for each state

1) Alabama = 8.0

<table>
<thead>
<tr>
<th>Score</th>
<th>Year Passed</th>
</tr>
</thead>
<tbody>
<tr>
<td>BC</td>
<td>HL</td>
</tr>
<tr>
<td>1</td>
<td>0</td>
</tr>
<tr>
<td>'73</td>
<td>'73</td>
</tr>
</tbody>
</table>

2) Arizona = 5.0

<table>
<thead>
<tr>
<th>Score</th>
<th>Year Passed</th>
</tr>
</thead>
<tbody>
<tr>
<td>BC</td>
<td>HL</td>
</tr>
<tr>
<td>1</td>
<td>0</td>
</tr>
<tr>
<td>'67</td>
<td>'74</td>
</tr>
</tbody>
</table>

3) Arkansas = 8.0

<table>
<thead>
<tr>
<th>Score</th>
<th>Year Passed</th>
</tr>
</thead>
<tbody>
<tr>
<td>BC</td>
<td>HL</td>
</tr>
<tr>
<td>1</td>
<td>2</td>
</tr>
<tr>
<td>'71</td>
<td>'90</td>
</tr>
</tbody>
</table>

4) California = 9.5

<table>
<thead>
<tr>
<th>Score</th>
<th>Year Passed</th>
</tr>
</thead>
<tbody>
<tr>
<td>BC</td>
<td>HL</td>
</tr>
<tr>
<td>1</td>
<td>2</td>
</tr>
<tr>
<td>'66</td>
<td>'90</td>
</tr>
</tbody>
</table>

5) Colorado = 4.0

<table>
<thead>
<tr>
<th>Score</th>
<th>Year Passed</th>
</tr>
</thead>
<tbody>
<tr>
<td>BC</td>
<td>HL</td>
</tr>
<tr>
<td>1</td>
<td>0</td>
</tr>
<tr>
<td>'71,'88</td>
<td>'88</td>
</tr>
</tbody>
</table>

Note: Colorado's basic code was first enacted in 1971, repealed 1977, and enacted again in 1988.
6) Connecticut = 8.5

<table>
<thead>
<tr>
<th></th>
<th>BC</th>
<th>HL</th>
<th>GL</th>
<th>PGE</th>
<th>RL</th>
<th>PFD</th>
</tr>
</thead>
<tbody>
<tr>
<td>Score</td>
<td>1</td>
<td>2</td>
<td>1.5</td>
<td>1</td>
<td>2</td>
<td>1.5</td>
</tr>
<tr>
<td>Year Passed</td>
<td>'71</td>
<td>'91</td>
<td>'82</td>
<td>'93</td>
<td>'71</td>
<td>'77</td>
</tr>
</tbody>
</table>

7) Delaware = 4.0

<table>
<thead>
<tr>
<th></th>
<th>BC</th>
<th>HL</th>
<th>GL</th>
<th>PGE</th>
<th>RL</th>
<th>PFD</th>
</tr>
</thead>
<tbody>
<tr>
<td>Score</td>
<td>1</td>
<td>0</td>
<td>1</td>
<td>0</td>
<td>0</td>
<td>2</td>
</tr>
<tr>
<td>Year Passed</td>
<td>'89</td>
<td>'83</td>
<td></td>
<td></td>
<td></td>
<td>'83</td>
</tr>
</tbody>
</table>

8) Florida = 9.5

<table>
<thead>
<tr>
<th></th>
<th>BC</th>
<th>HL</th>
<th>GL</th>
<th>PGE</th>
<th>RL</th>
<th>PFD</th>
</tr>
</thead>
<tbody>
<tr>
<td>Score</td>
<td>1</td>
<td>2</td>
<td>1.5</td>
<td>2</td>
<td>1</td>
<td>2</td>
</tr>
<tr>
<td>Year Passed</td>
<td>'67</td>
<td>'90</td>
<td>'67,'90</td>
<td>'74</td>
<td>'67</td>
<td>'67,'74</td>
</tr>
</tbody>
</table>

9) Georgia = 4.5

<table>
<thead>
<tr>
<th></th>
<th>BC</th>
<th>HL</th>
<th>GL</th>
<th>PGE</th>
<th>RL</th>
<th>PFD</th>
</tr>
</thead>
<tbody>
<tr>
<td>Score</td>
<td>1</td>
<td>0</td>
<td>1.5</td>
<td>0</td>
<td>0</td>
<td>2</td>
</tr>
<tr>
<td>Year Passed</td>
<td>'68</td>
<td>'68</td>
<td></td>
<td></td>
<td></td>
<td>'86</td>
</tr>
</tbody>
</table>

10) Idaho = 1.0

<table>
<thead>
<tr>
<th></th>
<th>BC</th>
<th>HL</th>
<th>GL</th>
<th>PGE</th>
<th>RL</th>
<th>PFD</th>
</tr>
</thead>
<tbody>
<tr>
<td>Score</td>
<td>1</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Year Passed</td>
<td>'90</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
11) Illinois = 8.5

<table>
<thead>
<tr>
<th>BC</th>
<th>HL</th>
<th>GL</th>
<th>PGE</th>
<th>RL</th>
<th>PFD</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>2</td>
<td>1.5</td>
<td>0</td>
<td>2</td>
<td>2</td>
</tr>
</tbody>
</table>

**Year Passed**:
- '67
- '95
- '67
- '67
- '67,'72

12) Indiana = 6.0

<table>
<thead>
<tr>
<th>BC</th>
<th>HL</th>
<th>GL</th>
<th>PGE</th>
<th>RL</th>
<th>PFD</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>2</td>
<td>1</td>
<td>0</td>
<td>1</td>
<td>1</td>
</tr>
</tbody>
</table>

**Year Passed**:
- '74
- '91
- '74
- '74
- '74

13) Iowa = 8.5

<table>
<thead>
<tr>
<th>BC</th>
<th>HL</th>
<th>GL</th>
<th>PGE</th>
<th>RL</th>
<th>PFD</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>2</td>
<td>1.5</td>
<td>2</td>
<td>1</td>
<td>1</td>
</tr>
</tbody>
</table>

**Year Passed**:
- '67
- '92
- '67
- '92
- '93
- '93

14) Kansas = 4.5

<table>
<thead>
<tr>
<th>BC</th>
<th>HL</th>
<th>GL</th>
<th>PGE</th>
<th>RL</th>
<th>PFD</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>0</td>
<td>1.5</td>
<td>0</td>
<td>1</td>
<td>1</td>
</tr>
</tbody>
</table>

**Year Passed**:
- '70
- '74
- '74
- '70

15) Kentucky = 10.5

<table>
<thead>
<tr>
<th>BC</th>
<th>HL</th>
<th>GL</th>
<th>PGE</th>
<th>RL</th>
<th>PFD</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>2</td>
<td>1.5</td>
<td>2</td>
<td>2</td>
<td>2</td>
</tr>
</tbody>
</table>

**Year Passed**:
- '72
- '93
- '72
- '93
- '93
- '93

282
16) Louisiana = 7.0

<table>
<thead>
<tr>
<th></th>
<th>BC</th>
<th>HL</th>
<th>GL</th>
<th>PGE</th>
<th>RL</th>
<th>PFD</th>
</tr>
</thead>
<tbody>
<tr>
<td>Score</td>
<td>1</td>
<td>0</td>
<td>2</td>
<td>2</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Year Passed</td>
<td>'64</td>
<td>'64</td>
<td>'79</td>
<td>'64</td>
<td>'79</td>
<td></td>
</tr>
</tbody>
</table>

17) Maine = 4.0

<table>
<thead>
<tr>
<th></th>
<th>BC</th>
<th>HL</th>
<th>GL</th>
<th>PGE</th>
<th>RL</th>
<th>PFD</th>
</tr>
</thead>
<tbody>
<tr>
<td>Score</td>
<td>1</td>
<td>0</td>
<td>1</td>
<td>0</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Year Passed</td>
<td>'61</td>
<td>'73</td>
<td>'73</td>
<td>'73</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

18) Maryland = 8.5

<table>
<thead>
<tr>
<th></th>
<th>BC</th>
<th>HL</th>
<th>GL</th>
<th>PGE</th>
<th>RL</th>
<th>PFD</th>
</tr>
</thead>
<tbody>
<tr>
<td>Score</td>
<td>1</td>
<td>2</td>
<td>1.5</td>
<td>1</td>
<td>1</td>
<td>2</td>
</tr>
<tr>
<td>Year Passed</td>
<td>'71</td>
<td>'95</td>
<td>'71,'95</td>
<td>'95</td>
<td>'71,'79</td>
<td></td>
</tr>
</tbody>
</table>

19) Massachusetts = 9.0

<table>
<thead>
<tr>
<th></th>
<th>BC</th>
<th>HL</th>
<th>GL</th>
<th>PGE</th>
<th>RL</th>
<th>PFD</th>
</tr>
</thead>
<tbody>
<tr>
<td>Score</td>
<td>1</td>
<td>1</td>
<td>2</td>
<td>1</td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td>Year Passed</td>
<td>'61</td>
<td>'78</td>
<td>'62,'77,'94</td>
<td>'62,'77</td>
<td>61,'78</td>
<td></td>
</tr>
</tbody>
</table>

Note: Massachusetts enacted financial disclosure in 1961 but repealed it in 1962; disclosure was not required again until 1978.
<table>
<thead>
<tr>
<th></th>
<th>BC</th>
<th>HL</th>
<th>GL</th>
<th>PGE</th>
<th>RL</th>
<th>PFD</th>
</tr>
</thead>
<tbody>
<tr>
<td>20) Michigan = 5.5</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Score</td>
<td>1</td>
<td>2</td>
<td>2</td>
<td>1</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Year Passed</td>
<td>'68</td>
<td>'94</td>
<td>'73,'94</td>
<td>'94</td>
<td>'75</td>
<td></td>
</tr>
</tbody>
</table>

Note: Financial disclosure was enacted in 1975 but the Michigan Supreme Court declared the law — which also would have established a state ethics commission — "unconstitutional for "embracing more than one object in violation of the Constitution." (Compiled Laws Annotated of Michigan § 15.301 to § 15.342c).

<table>
<thead>
<tr>
<th></th>
<th>BC</th>
<th>HL</th>
<th>GL</th>
<th>PGE</th>
<th>RL</th>
<th>PFD</th>
</tr>
</thead>
<tbody>
<tr>
<td>21) Minnesota = 5.5</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Score</td>
<td>1</td>
<td>0</td>
<td>2</td>
<td>0</td>
<td>1</td>
<td>1.5</td>
</tr>
<tr>
<td>Year Passed</td>
<td>'61</td>
<td>'94</td>
<td>'74</td>
<td>'74</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th></th>
<th>BC</th>
<th>HL</th>
<th>GL</th>
<th>PGE</th>
<th>RL</th>
<th>PFD</th>
</tr>
</thead>
<tbody>
<tr>
<td>22) Mississippi = 3.5</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Score</td>
<td>1</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>1</td>
<td>1.5</td>
</tr>
<tr>
<td>Year Passed</td>
<td>'79</td>
<td>'79</td>
<td>'79</td>
<td>'79</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th></th>
<th>BC</th>
<th>HL</th>
<th>GL</th>
<th>PGE</th>
<th>RL</th>
<th>PFD</th>
</tr>
</thead>
<tbody>
<tr>
<td>23) Missouri = 7.0</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Score</td>
<td>1</td>
<td>0</td>
<td>1</td>
<td>1</td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td>Year Passed</td>
<td>'78</td>
<td>'78</td>
<td>'78</td>
<td>'78</td>
<td>'91</td>
<td></td>
</tr>
</tbody>
</table>
24) Montana = 4.0

<table>
<thead>
<tr>
<th>BC</th>
<th>HL</th>
<th>GL</th>
<th>PGE</th>
<th>RL</th>
<th>PFD</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>0</td>
<td>1.5</td>
<td>0</td>
<td>0</td>
<td>1.5</td>
</tr>
<tr>
<td>Year Passed</td>
<td>'77</td>
<td>'77</td>
<td>'80</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

25) Nebraska = 5.5

<table>
<thead>
<tr>
<th>BC</th>
<th>HL</th>
<th>GL</th>
<th>PGE</th>
<th>RL</th>
<th>PFD</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>1</td>
<td>1.5</td>
<td>0</td>
<td>0</td>
<td>2</td>
</tr>
<tr>
<td>Year Passed</td>
<td>'76</td>
<td>'91</td>
<td>'76</td>
<td>'76</td>
<td></td>
</tr>
</tbody>
</table>

26) Nevada = 6.5

<table>
<thead>
<tr>
<th>BC</th>
<th>HL</th>
<th>GL</th>
<th>PGE</th>
<th>RL</th>
<th>PFD</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>2</td>
<td>1</td>
<td>0</td>
<td>1</td>
<td>1.5</td>
</tr>
<tr>
<td>Year Passed</td>
<td>'77</td>
<td>'91</td>
<td>'77</td>
<td>'77</td>
<td></td>
</tr>
</tbody>
</table>

27) New Hampshire = 3.0

<table>
<thead>
<tr>
<th>BC</th>
<th>HL</th>
<th>GL</th>
<th>PGE</th>
<th>RL</th>
<th>PFD</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>0</td>
<td>1</td>
<td>0</td>
<td>0</td>
<td>1</td>
</tr>
<tr>
<td>Year Passed</td>
<td>'87</td>
<td>'87</td>
<td>'87</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

28) New Jersey = 9.0

<table>
<thead>
<tr>
<th>BC</th>
<th>HL</th>
<th>GL</th>
<th>PGE</th>
<th>RL</th>
<th>PFD</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>1</td>
<td>1.5</td>
<td>2</td>
<td>2</td>
<td>1.5</td>
</tr>
<tr>
<td>Year Passed</td>
<td>'67</td>
<td>'88</td>
<td>'67</td>
<td>'81</td>
<td>'67</td>
</tr>
</tbody>
</table>

285
29) New Mexico = 5.5

<table>
<thead>
<tr>
<th>Score</th>
<th>Year Passed</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 1 1 1</td>
<td>67 93 93 93</td>
</tr>
</tbody>
</table>

30) New York = 8.5

<table>
<thead>
<tr>
<th>Score</th>
<th>Year Passed</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 0 1.5 2</td>
<td>54 64 64 54,65,64,87</td>
</tr>
</tbody>
</table>

31) North Carolina = 3.0

<table>
<thead>
<tr>
<th>Score</th>
<th>Year Passed</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 0 1 0</td>
<td>75 75</td>
</tr>
</tbody>
</table>

32) North Dakota = 1.5

<table>
<thead>
<tr>
<th>Score</th>
<th>Year Passed</th>
</tr>
</thead>
<tbody>
<tr>
<td>0 0 1.5 0</td>
<td>73</td>
</tr>
</tbody>
</table>

33) Ohio = 8.5

<table>
<thead>
<tr>
<th>Score</th>
<th>Year Passed</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 1 1.5 1</td>
<td>74 94 74 74</td>
</tr>
</tbody>
</table>

286
34) Oklahoma = 8.5

<table>
<thead>
<tr>
<th></th>
<th>BC</th>
<th>HL</th>
<th>GL</th>
<th>PGE</th>
<th>RL</th>
<th>PFD</th>
</tr>
</thead>
<tbody>
<tr>
<td>Score</td>
<td>1</td>
<td>1</td>
<td>1.5</td>
<td>1</td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td>Year Passed</td>
<td>'68</td>
<td>'86</td>
<td>'68</td>
<td>'86</td>
<td>'82</td>
<td>'86</td>
</tr>
</tbody>
</table>

35) Oregon = 5.0

<table>
<thead>
<tr>
<th></th>
<th>BC</th>
<th>HL</th>
<th>GL</th>
<th>PGE</th>
<th>RL</th>
<th>PFD</th>
</tr>
</thead>
<tbody>
<tr>
<td>Score</td>
<td>1</td>
<td>1</td>
<td>1.5</td>
<td>0</td>
<td>0</td>
<td>1.5</td>
</tr>
<tr>
<td>Year Passed</td>
<td>'74</td>
<td>'93</td>
<td>'74,'93</td>
<td></td>
<td></td>
<td>'74</td>
</tr>
</tbody>
</table>

36) Pennsylvania = 9.0

<table>
<thead>
<tr>
<th></th>
<th>BC</th>
<th>HL</th>
<th>GL</th>
<th>PGE</th>
<th>RL</th>
<th>PFD</th>
</tr>
</thead>
<tbody>
<tr>
<td>Score</td>
<td>1</td>
<td>2</td>
<td>1.5</td>
<td>1</td>
<td>2</td>
<td>1.5</td>
</tr>
<tr>
<td>Year Passed</td>
<td>'68</td>
<td>'89</td>
<td>'68</td>
<td>'78</td>
<td>'68,78</td>
<td>'78</td>
</tr>
</tbody>
</table>

37) Rhode Island = 7.5

<table>
<thead>
<tr>
<th></th>
<th>BC</th>
<th>HL</th>
<th>GL</th>
<th>PGE</th>
<th>RL</th>
<th>PFD</th>
</tr>
</thead>
<tbody>
<tr>
<td>Score</td>
<td>1</td>
<td>0</td>
<td>1.5</td>
<td>1</td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td>Year Passed</td>
<td>'76</td>
<td>'86</td>
<td>'92</td>
<td>'92</td>
<td></td>
<td>'86</td>
</tr>
</tbody>
</table>

38) South Carolina = 10.0

<table>
<thead>
<tr>
<th></th>
<th>BC</th>
<th>HL</th>
<th>GL</th>
<th>PGE</th>
<th>RL</th>
<th>PFD</th>
</tr>
</thead>
<tbody>
<tr>
<td>Score</td>
<td>1</td>
<td>2</td>
<td>2</td>
<td>1</td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td>Year Passed</td>
<td>'75</td>
<td>'91</td>
<td>'75,'91</td>
<td>'91</td>
<td>'75</td>
<td>'91</td>
</tr>
<tr>
<td></td>
<td>BC</td>
<td>HL</td>
<td>GL</td>
<td>PGE</td>
<td>RL</td>
<td>PFD</td>
</tr>
<tr>
<td>---</td>
<td>----</td>
<td>----</td>
<td>----</td>
<td>-----</td>
<td>----</td>
<td>-----</td>
</tr>
<tr>
<td><strong>39) South Dakota = 1.0</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Score</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>1</td>
</tr>
<tr>
<td>Year Passed</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>'76</td>
</tr>
<tr>
<td><strong>40) Tennessee = 7.5</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Score</td>
<td>1</td>
<td>2</td>
<td>2</td>
<td>0</td>
<td>1</td>
<td>1.5</td>
</tr>
<tr>
<td>Year Passed</td>
<td>'77</td>
<td>'89</td>
<td>'75,'89</td>
<td>'89</td>
<td>'72,'89</td>
<td></td>
</tr>
<tr>
<td><strong>41) Texas = 9.5</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Score</td>
<td>1</td>
<td>2</td>
<td>1.5</td>
<td>1</td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td>Year Passed</td>
<td>'57</td>
<td>'91</td>
<td>'57</td>
<td>'91</td>
<td>'73,'93</td>
<td>'73</td>
</tr>
<tr>
<td><strong>42) Utah = 5.0</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Score</td>
<td>1</td>
<td>0</td>
<td>1.5</td>
<td>0</td>
<td>1</td>
<td>1.5</td>
</tr>
<tr>
<td>Year Passed</td>
<td>'69</td>
<td>'69</td>
<td>'89</td>
<td></td>
<td>'89</td>
<td></td>
</tr>
<tr>
<td><strong>43) Vermont = 0</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Score</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Year Passed</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

288
<table>
<thead>
<tr>
<th>44) Virginia = 5.5</th>
<th>BC</th>
<th>HL</th>
<th>GL</th>
<th>PGE</th>
<th>RL</th>
<th>PFD</th>
</tr>
</thead>
<tbody>
<tr>
<td>Score</td>
<td>1</td>
<td>0</td>
<td>1.5</td>
<td>1</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Year Passed</td>
<td>'87</td>
<td>'87</td>
<td>'94</td>
<td>'94</td>
<td>'87</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>45) Washington = 7.0</th>
<th>BC</th>
<th>HL</th>
<th>GL</th>
<th>PGE</th>
<th>RL</th>
<th>PFD</th>
</tr>
</thead>
<tbody>
<tr>
<td>Score</td>
<td>1</td>
<td>2</td>
<td>1.5</td>
<td>0</td>
<td>1</td>
<td>1.5</td>
</tr>
<tr>
<td>Year Passed</td>
<td>'67</td>
<td>'94</td>
<td>'94</td>
<td>'67</td>
<td>'67</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>46) West Virginia = 6.0</th>
<th>BC</th>
<th>HL</th>
<th>GL</th>
<th>PGE</th>
<th>RL</th>
<th>PFD</th>
</tr>
</thead>
<tbody>
<tr>
<td>Score</td>
<td>1</td>
<td>2</td>
<td>2</td>
<td>0</td>
<td>0</td>
<td>1</td>
</tr>
<tr>
<td>Year Passed</td>
<td>'68</td>
<td>'89</td>
<td>'68,'89</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>47) Wisconsin = 9.0</th>
<th>BC</th>
<th>HL</th>
<th>GL</th>
<th>PGE</th>
<th>RL</th>
<th>PFD</th>
</tr>
</thead>
<tbody>
<tr>
<td>Score</td>
<td>1</td>
<td>1</td>
<td>2</td>
<td>1</td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td>Year Passed</td>
<td>'67</td>
<td>'73</td>
<td>'57</td>
<td>'73</td>
<td>'73</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>48) Wyoming = 0.0</th>
<th>BC</th>
<th>HL</th>
<th>GL</th>
<th>PGE</th>
<th>RL</th>
<th>PFD</th>
</tr>
</thead>
<tbody>
<tr>
<td>Score</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Year Passed</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

289
Appendix B
Appendix to Chapter 3

I. Dependent Variable


II. Independent Variables

1. Economic Self Interest

Dichotomous variables were used to measure whether members identified themselves as attorneys, business owners, or something else. Data for these variables came from the *Massachusetts Political Almanac*, 1977-1978, and from the *New York Red Book*, 1965-66.

2. Institutional Power

The variable *Leadership* was set equal to 1 if the member held a position of institutional power: i.e. Speaker, Senate President, Majority Leader, committee chairman, or member of the Ways and Means or Rules committee. It was set equal to zero otherwise. The variable *Majority Party* was set equal to one if the member was a Democrat in both the New York and Massachusetts cases. Data for both these variables came from the *Massachusetts Political Almanac*, 1977-78, and from the *New York Red Book*, 1965-66.

3. Ideology

For Massachusetts, members' ADA scores were used. Data came from the *Massachusetts Political Almanac*, 1977-78. For New York, no ADA scores or other official measures of direct ideology were available for the year 1965. Instead, I took advantage of the fact that New York had at that time (and still has) a Liberal party, in addition to the Democratic and Republican parties. As of 1965, according to Frank Feigert, Liberal party membership was a good measure of traditional liberal-conservative ideology (Feigert 1968). Feigert uses
survey data to measure liberalism across four issue areas — education and governmental activity, federal governmental activity, civil rights and internationalism. I calculated the percentage of the vote total for each member of the Assembly that was won by the Liberal party in the most recent general election. The **Liberal Ideology** variable therefore measures the percent of the district vote that was captured by this party. Assuming that more liberal districts elect more liberal members, I use this as a proxy for member ideology. Data for this variable comes from the *New York Red Book, 1965-66*.

4. Professional Norms

The variable **Full-Time Legislator** was coded as 1 if the member listed his occupation as full-time legislator, zero otherwise. Data came from the *Massachusetts Political Almanac, 1977-78*.

5. Electoral Marginality

The variable **Percent Last Election** equaled the percent of the total vote in the most recent general election that was won by the member. Data came from the *Massachusetts Political Almanac, 1977-78* and the *New York Red Book, 1965-66*. 
Appendix C
First Appendix to Chapter 4

I. Dependent Variable

Information about whether and when states enacted ethics codes during this period comes from state statutes and legislative rule books (statute sources are listed in Appendix A), and from a 1971 survey prepared by the Council of State Governments which asked states about their conflict of interest laws and rules. See Conflict of Interest and Related Regulations for State Legislatures (Lexington: Council of State Governments, Committee on Legislative Rules of the National Legislative Conference, 1972).

II. Independent Variables

1. Political Culture

States were divided into three categories following the classification by Daniel Elazar (1972). Dummy variables were created to represent states with moralist, individualist and traditionalist cultures. The moralist variable was used as the constant.

2. Ideology

To measure state ideology (lib-con ideology), I used the data from Berry, Berry and Ringquist (1997) which is available on the Florida State University web site (http://www.pubadm.fsu.edu/archives/). The authors constructed a measure of citizen ideology for each state and year from 1960 to 1993. Higher values indicate more liberal ideology. Since no data is available for the first six years examined in this analysis, I was unable to use observations for individual years. Instead, I computed the average ideology score for each state for the period 1960-1972. While it would be ideal to have information relating to the years 1954-1959, the measure I use covers a large portion of the time frame examined here and is preferable to employing other commonly-used state ideology measures.
which were constructed from information gathered after 1972 (e.g. McGregor 1978; Erikson, Wright and McIver 1985). The one drawback of this measure versus the Erikson, Wright and McIver measure is that the latter is based on survey data while the Berry measure extrapolates citizen ideology from the ideology of state elected officials.

3. Unified Government

The variable unified government equals one if the governor's office and two branches of the legislature were controlled by the same party, zero otherwise. Data comes from the Book of the States (Lexington: Council of State Governments) for the years 1954-1972 and from a dataset provided by Morris Fiorina to the author.

4. Majority party control

The variable Majority party control equals the percentage of legislative seats controlled by the party which dominates the legislature (i.e. the party which controls over 50% of the seats). Data comes from the Book of the States (Lexington: Council of State Governments) for each year.

5. Gubernatorial Campaigns

The variable Gub. Campaign equals one if it is the year following a gubernatorial campaign and zero otherwise. Data comes from the Book of the States (Lexington: Council of State Governments) for the years 1954-1972.

6. Top Leadership Power

The variable Speaker/Pres. Power is an additive index which measures the bill referral and appointment powers of senate presidents and house speakers. One point is given if the speaker has the power to refer bills to committees, and one point if the senate president has the same power within the senate. An additional point is given if the speaker has sole power to appoint committee chairs and one point if senate president has the same power. The variable therefore ranges from 0 to 4 and is measured as a continuous variable. Data comes from the Book of the States (Lexington: Council of State Governments) for each year.

293
7. Committee Chair Power

The variable Senate Chair Ratio measures the ratio of senate committee chairs to majority party members, or the percentage of majority party members who chair a committee. House Chair Ratio is a similar measurement for the lower house. Data comes from the Book of the States (Lexington: Council of State Governments).

8. Scandal/Corruption

A continuous measure scandal was constructed which measured the presence of a conflict of interest scandal or scandals in the two years prior to a given year. The source for the information was the New York Times Index for the years 1952-1972. I searched under each state and also under the heading Crime for each year.

There was some discretion involved in which events to classify as a scandal. I did not count sexual scandals or scandals related to vote fraud, although both can be argued to be political scandals. Instead, I was interested in the type of scandal most likely to lead to ethics reform: i.e. scandals involving bribery, embezzlement, misuse of state funds, or other uses of public office for the personal gain of an official and/or his or her fami’y. This scandal measure is a restrictive rather than an expansive one, for two main reasons. First, the New York Times Index is most likely to report only relatively "big" scandals for individual states. Second, my definition of scandal was somewhat restrictive in several ways. Mere "allegations" of a conflict between an official or state employee's public and private duties were not enough to count as a scandal. There had to be reference to an indictment or conviction, an official investigation (e.g. by the FBI, the state Attorney General or a grand jury), or an official report on corruption involving state officials. A newspaper or magazine "report" of a scandal without any official investigation was not counted as a scandal. However, if the reporting led to an official investigation, it was counted.

Scandals involving state officials using employees or other public resources for campaign work were counted, but scandals involving illegal campaign finance contributions or allegations of a link between campaign contributions and official action were not. The rationale
for this distinction is that the second type of scandal is more likely to facilitate campaign finance legislation, as opposed to than legislative conflict of interest legislation that is the dependent variable here.

States received a score of zero if no scandal was reported in the two years prior to a given year or the first six months of that year. Scandals were divided into two types: 1) those involving legislators and 2) those involving the governor, other statewide officials (e.g. the Secretary of State, State Auditor, or Attorney General), or state employees. A state received one point for each scandal involving one legislator; two points for each scandal that involved two legislators; three points for each scandal involving the Speaker of the House or Senate Majority Leader in the state legislature; and four points for any scandal involving three or more legislators. In scoring the second type of scandal (non-legislative), states received one point for each scandal involving a statewide official other than the governor (e.g. the auditor, treasurer, attorney general). They also received one point for a reported investigation or a report regarding corruption in state politics (e.g. by a special commission, legislative investigating committee or other official body). States received two points for any scandal involving the governor. If more than one type of scandal occurred in the two years prior to a given year or the first six months of that year, the points for the scandals were added together for that year’s scandal value.

The variable TPO represents a more enduring measure of corruption within states. This variable equals the Traditional Party Organization (TPO) scores from Mayhew (1986), which are based on his analysis of state politics in the late 1960's. While Mayhew emphasizes that TPOs are not identical to political machines, he suggests that there are important similarities. TPOs, like machines, work for the nomination of candidates for municipal, county, and state offices. More important, a TPO relies heavily on "material" incentives, and not much on 'purposive' incentives, in engaging people to do organization work or to supply organization support." (Mayhew, p. 20). In other words, TPOs make heavy use of what James Q. Wilson calls "individual material" inducements or "tangible
rewards: money, or things and services readily priced in monetary terms" which include appointive or elective positions in government, business opportunities, and exemptions from law enforcement (Ibid.). The use of these material incentives is a common characteristic of political machines and it is conducive to political corruption (Benson 1978; Johnston 1992). States with high TPO scores are expected to have more corruption than those with a low degree of traditional party organization.

9. Legislative Compensation

The variable **leg. compensation** equals the biennial compensation for legislators (total compensation for a given year and the year preceding it). It is measured in real (1982) dollars. Data comes from a dataset provided by Morris Fiorina and used in his 1994 *APSR* article. Data for the states not in Fiorina's dataset comes from the *Book of the States* (Lexington: Council of State Governments) for the years 1953-1972.

10. Attorneys in Legislatures

The variable **Attorneys** equals the percentage of state legislators (senators and house members) who listed their occupation as attorney. Data came from state legislative manuals and Blue Books for the states in the year 1965. While it would have been ideal to have data for each state and each year, it was not possible to obtain.

11. Direct Democracy

The variable **initiative process** is a dichotomous variable which equals one if the state had an initiative process and zero otherwise. Data comes from Michael Ross (1987). The state of Wyoming, which does have an initiative process, was coded as zero because the process was never used between 1898 and 1979. For all practical purposes, the state did not have an initiative process during the period examined here. See Michael Ross, *State and Local Politics and Policy* (Englewood Cliffs: Prentice-Hall, 1987), p. 71.

12. State-to-State Diffusion

Whereas Berry and Berry's (1990) regional diffusion model assumes that the influence of states on their neighbors is equal across states, I developed an alternative model
which takes into account the leadership role that certain states are likely to play in the
diffusion process. It is the enactment by leader states, not just any states, that is most likely
to generate policy change in other states. My alternative model accords more closely with
Walker's (1969) conception of a "tree," at the top of which is a set of

pioneering states ... linked together in a national system of emulation and
competition. The rest of the states would be sorted out along branches of the
tree according to the pioneer, or set of pioneers, from which they take their
principal cues. States like New York, Massachusetts, California and Michigan
should be seen as regional pace setters, each of which has a group of followers,
usually within their own region of the country, that tend to adopt programs only
after the pioneers have led the way.378

Based on Walker's innovation scores for 88 policies, I designated as "national leaders"
the 10 states with the highest overall innovation scores. They are: New York, Massachusetts,
California, New Jersey, Michigan, Connecticut, Pennsylvania, Oregon, Colorado and
Wisconsin. I also designated a set of regional leaders, using the nine regions designated by the
Bureau of the Census. For each region, the state with the highest Walker innovation score is
designated as the regional leader. In five of the regions, the regional leader is also a national
leader. The 10 national leaders are assumed to emulate each other; thus the diffusion variable
for these states equals the number of other national leaders which have already enacted an
ethics code. The four regional leaders that are not among Walker's top ten national leaders also
are assumed to emulate the national leaders; the diffusion variable for these four states also
equals the number of national leaders which have already enacted a code.

"Follower" states — those that are not national or regional leaders — are assumed to
follow their regional leaders. Thus the diffusion variable for these states equals one if the
leader has adopted a code and zero otherwise. This scoring system, unlike the Berry and
Berry scheme, allows states to have unequal influence on each other, with leader states
playing the central role in the diffusion of policy to other leaders and to the remaining states.

13. Pre-existing laws

378 Jack L. Walker, "The Diffusion of Innovations Among the American States," American Political Science
The variable **Lobby Laws** is an additive index which measures the strength of a state's lobbyist regulation as of 1954, the beginning of the period examined here. States received one point for each of the following restrictions on lobbyists: lobbyist registration required, financial reporting required, contingent payments prohibited, fines can be levied for violation of lobby laws, prison sentences can be imposed for violation of lobby laws.

The variable **Campaign Finance** ranges from 0 to 2: states received one point if they had contribution limits on corporations and one point if they had contribution limits on unions in 1954. States with no limits were scored as zero. Data for both variables comes from the *Book of the States* (Lexington: Council of State Governments) for the year 1954-1955.
Appendix D

Second Appendix to Chapter 4

I. Dependent Variable

Information about whether and when states enacted representation limits during this period comes from state statutes, legislative rules books, and a 1971 survey prepared by the Council of State Governments which asked states about their conflict of interest laws and rules. See *Conflict of Interest and Related Regulations for State Legislatures* (Lexington: Council of State Governments Committee on Legislative Rules of the National Legislative Conference, 1972).

Independent Variables

1. Political Culture

States were divided into three categories following the classification by Daniel Elazar (1972). Dummy variables were created to represent states with moralist, individualist and traditionalist cultures. The moralist variable was used as the constant.

2. Ideology

To measure state ideology (lib-con ideology), I used the data from Berry, Berry and Ringquist (1997). Ideology was measured for each year and each state. See Appendix C for discussion of this measure.

3. Unified Government

The variable unified government equals one if the governor's office and two branches of the legislature were controlled by the same party, zero otherwise. Data comes from the *Book of the States* (Lexington: Council of State Governments) for the appropriate years and from a dataset provided by Morris Fiorina to the author.

4. Majority party control

The variable Majority party control equals the percentage of legislative seats controlled by the party which dominates the legislature (i.e. the party which controls over
50% of the seats). Data comes from the *Book of the States* (Lexington: Council of State Governments) for each year.

5. Gubernatorial Campaign

The variable **Gub. Campaign** equals one if it is the year following a gubernatorial campaign and zero otherwise. Data comes from the *Book of the States* (Lexington: Council of State Governments) for each year.

6. Top Leadership Power

The variable **Speaker/Pres. Power** is an additive index which measures the bill referral and appointment powers of senate presidents and house speakers. See Appendix C for details. Data comes from the *Book of the States* (Lexington: Council of State Governments) for each year.

7. Committee Chair Power

The variable **Senate Chair Ratio** measures the ratio of senate committee chairs to majority party members, or the percentage of majority party members who chair a committee. **House Chair Ratio** is a similar measurement for the lower house. Data comes from the *Book of the States* (Lexington: Council of State Governments) for each year.

8. Scandal/Corruption

The continuous measure **scandal** is calculated in the same way as for the ethics code hazard model. See Appendix C for details on how scandal is scored. The sources were 1) the *New York Times Index* for the years 1963-1979, and 2) annual *Reports to Congress on the Activities and Operations of the Public Integrity Section* of the U.S. Department of Justice for the years 1976-1979.

The variable **TPO** equals Mayhew's TPO scores for the late 1960's (Mayhew 1986). See Appendix C for details.

9. Legislative Compensation
The variable compensation equals biennial compensation for legislators (total compensation for a given year and the year preceding it). It is measured in real (1982) dollars. Data comes from a dataset provided by Morris Fiorina and used in his 1994 APSR article. Data for the states not in Fiorina's dataset comes from the Book of the States (Lexington: Council of State Governments) for the appropriate years.

10. Attorneys in Legislatures


11. Direct Democracy

The variable initiative process is a dichotomous variable which equals one if the state had an initiative process and zero otherwise. Data comes from Michael Ross (1987).

12. State-to-State Diffusion

Diffusion is measured the same way as for the hazard model used to examine enactment of basic ethics codes (see Appendix C for details). The policy whose diffusion is being measured here is the enactment of representation limits, as opposed to basic ethics codes.

13. Pre-existing laws

The variable Lobby Laws is an additive index which measures the strength of a state's lobbyist regulation as of 1962, the year closest to the beginning of the period examined here for which data was available. States received one point for each of the following restrictions on lobbyists: lobbyist registration required, financial reporting required, contingent payments prohibited, fines can be levied for violation of lobby laws,
prison sentences can be imposed for violation of lobby laws. Data comes from the *Book of the States* (Lexington: Council of State Governments) for 1962-63.

The variable **Campaign Finance** is an additive index which ranges from 0 to 2: states received one point if they had contribution limits on corporations and one point if they had contribution limits on corporations in 1965. States with no limits were scored as zero. Data comes from the *Book of the States* (Lexington: Council of State Governments) for the year 1965-66.
Appendix E
Third Appendix to Chapter 4

I. Dependent Variable

An aggregate score is given for each state, which reflects the number and extent of the legislative ethics restrictions which the state enacted between 1954 and 1972. The ethics index is therefore an additive measure of various restrictions. Each state's score is based on five categories, as opposed to six for Table 1.1. The categories are: 1) a baseline category which reflects the presence or absence of a legislative code of ethics in the statutory codes or legislative rules, 2) limits on legislators receiving gifts that might influence their official action, votes, or judgment, 3) limits on representation by lawyer-legislators of clients before state agencies; 4) limits on post-government employment of legislators, and 5) personal financial disclosure requirements.

Data came from state statutes (statute sources are listed in Appendix A), legislative rule books, and from a 1971 survey prepared by the Council of State Governments which asked states about their conflict of interest laws and rules (Conflict of Interest and Related Regulations for State Legislatures (Council of State Governments, Committee on Legislative Rules of the National Legislative Conference: 1972).

Scoring for these categories is described in Appendix A.

Independent Variables

1. Political Culture

Culture is scored as -1 for traditionalist states, 0 for individualistic states and 1 for moralistic states, using Elazar's classification (Elazar 1972).

2. Ideology
Ideology is the average of the citizen ideology scores for the years 1954 through 1972, using Berry, Berry and Ringquist's (1997) data. See Appendix C for discussion of this measure.

3. Unified Government

The variable unified government equals the percentage of the 19 years from 1954-1972 that one party held unified control of state government. Data comes from the Book of the States (Lexington: Council of State Governments) for the years 1954-1972 and from a dataset provided by Morris Fiorina to the author.

4. Majority party control

The variable Majority party control equals the average percentage of legislative seats controlled by the party which dominates the legislature (i.e. the party which controls over 50% of the seats), for the years 1954-1972. Data comes from the Book of the States (Lexington: Council of State Governments).

5. Top Leadership Power

For each year from 1954-1972 I calculated an additive index which measures the bill referral and appointment powers of senate presidents and house speakers (see Appendix C for details on scoring of this measure). The variable Speaker/Pres. Power here equals the average score for a given state for the 19-year period. Data comes from the Book of the States (Lexington: Council of State Governments).

6. Committee Chair Power

The variable Senate Chair Ratio measures the ratio of senate committee chairs to majority party members, averaged for the period 1954-1972 (i.e. the percentage of majority party members who chair a committee). House Chair Ratio is the same average ratio for the lower house. Data comes from the Book of the States (Lexington: Council of State Governments).

7. Scandal/Corruption
The variable **scandal** was calculated the same way as for the hazard model in the first part of this chapter (see Appendix C for details). **Scandal** here equals the sum of all scandals for all years between 1952 and the first six months of 1972. Each scandal is counted only once. The variable **TPO** is the Traditional Party Organization score for each state. Data comes from Mayhew (1986).

8. Change in Compensation

The variable **Change in Compensation** equals the change in biennial compensation for legislators between 1953-1954 and 1969-1970 (it is calculated as compensation in 1969-1970 minus compensation for 1953-1954, so if compensation increases over the period, the value is positive). Compensation is measured in real (1982) dollars. Data comes from a dataset provided by Morris Fiorina and used in his 1994 *APSR* article. Data for the states not in Fiorina's dataset comes from the *Book of the States* (Lexington: Council of State Governments) for the years 1953-1972.

9. Attorneys in Legislatues

The variable **Attorneys** equals the percentage of state legislators (senators and house members) who listed their occupation as attorney. Data came from state legislative manuals and Blue Books for each state from the year 1965.

10. Direct Democracy

The variable **initiative process** is a dichotomous variable which equals one if the state had an initiative process and zero otherwise. Data comes from Michael Ross (1987). See Appendix C for further details.

11. State-to-State Diffusion

**Diffusion** here is calculated in a similar, but slightly different, way from the method used in the hazard model in the first part of the chapter (See Appendix C for details). Again, I designated certain national and regional leaders and follower states based on Walker's (1969) innovation scores. For each state, I calculated the total amount of change for the state or states it is assumed to emulate during the years 1954-1971. Thus each state
is assumed to be affected by the aggregate amount of change in the state or states it emulates. This sum is equal to the diffusion variable.

12. Pre-existing laws

The variable Other Laws is an additive index which combines two scores: a score for the strength of a state's lobbyist regulations and a score for the strength of its' campaign finance regulations (See Appendix C for details). Data for both variables comes from the Book of the States (Lexington: Council of State Governments) for the year 1954-1955.
Appendix F

First Appendix to Chapter Five

I. Dependent Variable

An aggregate score is given for each state, which reflects the number and extent of the legislative ethics restrictions which the state had enacted as of the end of December, 1988. The index score is based on six categories and the maximum allowable score was 11 points. The data sources, categories and scoring system are described in Appendix A.

II. Independent Variables

1. Political Culture

   Moralistic Culture is measured as the state's Common Cause membership per capita. Data comes from Jonathan W. Siegel's survey published in Andrew S. McFarland, Public Interest Lobbies: Decision-Making on Energy (Washington: American Enterprise, 1984) p. 53. The figures are for the year 1983. The top five states are Vermont, Massachusetts, Connecticut, California, and Maryland, while the bottom five are Mississippi, Alabama, South Carolina, Louisiana, and Arkansas.

2. Ideology

   Ideology is the average of the citizen ideology scores for the years 1977 through 1988, using Berry, Berry and Rinquist's data (1997). See Appendix C for discussion of this variable.

3. Unified Government

   The variable unified government equals the percentage of the years from 1977-1988 that one party held unified control of state government. Data comes from the Book of the States (Lexington: Council of State Governments).

4. Majority party control
The variable **Majority party control** equals the average percentage of legislative seats controlled by the party which dominates the legislature (i.e. the party which controls over 50% of the seats), for the years 1977-1988. Data comes from the *Book of the States* (Lexington: Council of State Governments).

5. Top Leadership Power

For each year from 1977-1988, I calculated an additive index which measures the bill referral and appointment powers of senate presidents and house speakers (see Appendix C for details). The variable **Speaker/Pres. Power** here equals the average score for a given state for the 12-year period. Data comes from the *Book of the States* (Lexington: Council of State Governments).

6. Committee Chair Power

The variable **Senate Chair Ratio** measures the average ratio of senate committee chairs to majority party members for the period 1977-1988, or the percentage of majority party members who chair a committee. **House Chair Ratio** is the same average ratio for the lower house. Data comes from the *Book of the States* (Lexington: Council of State Governments).

7. Scandal/Corruption

The variable **Scandal** was calculated the same way as in Chapter 4 (see Appendix C for details). **Scandal** here equals the sum of all scandals for all years between 1975 and the first six months of 1988. Each scandal is counted only once. Sources were the *New York Times Index* (used as described in Appendix C), and annual reports from the *Public Integrity Section of the U.S. Department of Justice* (DOJ). I relied on the section at the end of each DOJ report for incidents involving prosecution of state officials; the scandals were scored the same ways as the scandals reported in the *New York Times Index*. Again, I did not include scandals involving electoral fraud or campaign finance violations.

The variable **TPO** is the Traditional Party Organization score for each state. Data comes from Mayhew (1986).
8. Change in Compensation

The variable *Change in Compensation* equals the change in biennial compensation for legislators between 1977-1978 and 1985-1986. It is calculated as compensation in 1986 minus compensation for 1977 so if compensation increases over the period, the value is positive; otherwise it is negative. Compensation is measured in real (1982) dollars. Data comes from a dataset provided by Morris Fiorina and used in his 1994 *APSR* article. Data for the states not in Fiorina's dataset comes from the *Book of the States* (Lexington: Council of State Governments).

9. Attorneys in Legislatures

The variable *Attorneys* equals the percentage of state legislators (senators and house members) who listed their occupation as attorney. Data came from Bazar (1987) and is calculated for the year 1976.

10. Direct Democracy

The variable *initiative process* is a dichotomous variable which equals one if the state had an initiative process and zero otherwise. Data comes from Michael Ross (1987). See Appendix C for details.

11. State-to-State Diffusion

*Diffusion* here is calculated in a similar manner to that used in the model used in the last third of Chapter Four, with certain modifications (See Appendix E for details). Again, I designated certain national and regional leaders and follower states based on Walker's (1969) innovation scores. For each state, I calculated the total amount of new change for the state or states it is assumed to emulate during the years 1977-1987. To do this, I compared the changes in the leader state(s) to a given state's laws at the beginning of the period, in January 1977. Again, each state is assumed to be affected by the aggregate amount of change in the state or states it emulates. This sum is equal to the *diffusion* variable. For example, in calculating the diffusion score for Maine, I looked at change in its leader state, Massachusetts, between 1977-1987. Maine started the period with a score of
4. Based on its basic ethics code, score of 1 for disclosure, score of 1 for representation limits, and score of 1 for gift limits. During the years 1977-1987, Massachusetts went beyond Maine's existing statute by enacting additional disclosure requirements (worth 2 points), and a limit on honoraria (worth 1 point). So the diffusion score for Maine in this period equals 3, the amount of new change in its leader state during this time.

12. Pre-existing laws

The variable Other Laws is an additive index which combines two scores: a score for the strength of a state's lobbyist regulations and a score for the strength of its' campaign finance regulations (See Appendix C for details). In the previous analysis of Chapter 4, the maximum score for Other Laws was 7 (five points for lobby regulations and 2 for campaign finance). Here it is 9 because I was able to find additional information for campaign finance regulations for the states in the dataset for this time period. The additional campaign finance regulations are 1) a requirement that political action committees (PACs) have a separate segregated fund, 2) limits on contributions by state-regulated industries. Data for the campaign finance regulations comes from the Book of the States (Lexington: Council of State Governments). for 1976-77. Data on state lobby laws ceases to be available in the Book of the States after 1962 and resumes in 1988. To avoid using data gathered at the end of the period, I use the 1962 data.

13. Control for last passage of ethics laws

The variable Last Passed Laws controls for the amount of time since a state last enacted a law regulating legislative ethics. The variable is coded as 0 if it was between 1 and 5 years; as 1 if between 6 and 10 years; as 2 if 11 years or more, and as 3 if the state never passed a legislative ethics law or legislative ethics rules. The variable is expected to have a positive coefficient since states which have not enacted laws or have not enacted them in a long time should be more likely to enact strengthening laws in this period.

14. Control for previous ethics score

310
**Index76** controls for the state's ethics score at the beginning of the period. It is calculated the same way as the dependent variable (see above) except it measures the state's ethics laws as of January 1, 1977.
Appendix G

Second Appendix to Chapter 5

1. Dependent Variable

An aggregate score is given for each state which reflects the number and extent of legislative ethics restrictions as of December 1996. Scores are based on six categories of restrictions and the maximum allowable score is 11. Details on data sources and scoring are provided in Appendix A, since the dependent variable is the same as the index used in Table 1.1.

Independent Variables

1. Political Culture

Moralistic Culture is measured as the state's Common Cause membership per capita. See Appendix F for details. Data comes from Jonathan W. Siegel's survey published in McFarland (1984), p.53. See Appendix F for details.

2. Ideology

Ideology is the average of the citizen ideology scores for the years 1989 through 1993, using Berry, Berry and Rinquist's data (1997). See Appendix C for a discussion of this variable. Data was not available for the years 1994-1996.

3. Unified Government

The variable unified government equals the percentage of the years from 1989-1996 that one party held unified control of state government. Data comes from the Book of the States (Lexington: Council of State Governments).

5. Top Leadership Power

For each year from 1989-1996, I calculated an additive index which measures the bill referral and appointment powers of senate presidents and house speakers (see Appendix C for details). The variable Speaker/Pres. Powerhere equals the average score for a
given state for the eight-year period. Data comes from the *Book of the States* (Lexington: Council of State Governments).

6. Committee Chair Power

The variable **Senate Chair Ratio** measures the average ratio of senate committee chairs to majority party members for the period 1989-1996, or the percentage of majority party members who chair a committee. **House Chair Ratio** is the same average ratio for the lower house. Data comes from the *Book of the States* (Lexington: Council of State Governments).

7. Majority party control

The variable **Majority party control** equals the average percentage of legislative seats controlled by the party which dominates the legislature (i.e. the party which controls over 50% of the seats), for the years 1989-1996. Data comes from the *Book of the States* (Lexington: Council of State Governments).

8. Scandal/Corruption

The variable **scandal** was calculated the same way as in earlier chapters (see Appendix C for details on scoring). **Scandal** here equals the sum of all scandals for all years between 1987 and the first six months of 1996. Each scandal is counted only once. There were three sources of information. First, I used the *New York Times Index* (used as described in Appendix C) for the years 1987-1996. Second, I used the annual reports from the *Public Integrity Section of the U.S. Department of Justice* (DOJ) for the years 1987 to 1996. I relied on the section at the end of each DOJ report for incidents involving prosecution of state officials; the scandals were scored the same ways as the scandals reported in the *New York Times Index*. Again, I did not include scandals involving electoral fraud or campaign finance violations. The third source was the *COGEL Guardian* Newsletter, published quarterly by the Council on Governmental Ethics Laws (Los Angeles) for the years 1988-1996; the newsletter was first published in 1988.
The one difference in scoring of scandals from the previous periods is that I assigned extra weight to sting operations that targeted members of the state legislature. The maximum amount of points for a scandal in the previous periods was four points for any scandal involving three or more legislators. Such scandals, which were rare, generally arose out of state investigations into corrupt activities and involved no more than four legislators in the majority of cases. The sting operations of this period involved up to 18 legislators in a single state, and received substantial publicity in each state where they occurred. Consequently, I counted each sting as worth eight points, or double the maximum amount of points for any other scandal.

The variable TPO is the Traditional Party Organization score for each state. Data comes from Mayhew (1986).

9. Change in Compensation

The variable Change in Compensation equals the change in biennial compensation for legislators between 1989-1990 and 1993-1994. It is calculated as compensation in 1994 minus compensation for 1989 so the value can be negative or positive. Compensation is measured in real (1982) dollars. Data for the years through 1990 comes from a dataset provided by Morris Fiorina and used in his 1994 APSR article. Data for the states not in Fiorina's dataset, and for the years after 1990, comes from the Book of the States (Lexington: Council of State Governments).

10. Attorneys in Legislatures

The variable Attorneys equals the percentage of state legislators (senators and house members) who listed their occupation as attorney. Data came from Bazar (1987) and is calculated for the year 1986.

11. Direct Democracy

The variable initiative process is a dichotomous variable which equals one if the state had an initiative process and zero otherwise. Data comes from Michael Ross (1987). See Appendix C for details.
12. State-to-State Diffusion

**Diffusion** here is calculated in a similar manner to that used in the model used in the last third of Chapter Four, with certain modifications (See Appendices E and F for details). Again, I designated certain national and regional leaders and follower states based on Walker's (1969) innovation scores. For each state, I calculated the total amount of new change for the state or states it is assumed to emulate during the years 1989-1996. To do this, I compared the changes in the leader state(s) to a given state's laws at the beginning of the period, in January 1989. Again, each state is assumed to be affected by the aggregate amount of change in the state or states it emulates. This sum is equal to the **diffusion** variable. For example, in calculating the diffusion score for Mississippi, I looked at change in its regional leader state, Kentucky, between 1989-1996. Only the changes which represented new restrictions compared to Mississippi's law at the start of the period were counted as diffusion.

13. Pre-existing laws

The variable **Other Laws** is an additive index which combines two scores: a score for the strength of a state's lobbyist regulations and a score for the strength of its' campaign finance regulations (See Appendix C for details). In the analysis of Chapter 4, the maximum score for **Other Laws** was 7 (five points for lobby regulations and 2 for campaign finance). Here it is 9 because I was able to find additional information for campaign finance regulations for the states in the dataset for this time period. The additional campaign finance regulations are 1) a requirement that political action committees (PACs) have a separate segregated fund, 2) limits on contributions by state-regulated industries. Data for the campaign finance regulations and state lobbyist regulation comes from the *Book of the States* (Lexington: Council of State Governments) for 1988-9.

14) Control for last passage of ethics laws

The variable **Last Passed Laws** controls for the amount of time since a state last enacted a law regulating legislative ethics. The variable is coded as 0 if it was between 1 and 5
years; as 1 if between 6 and 10 years; as 2 if 11 years or more, and as 3 if the state never passed a legislative ethics law or legislative ethics rules. The variable is expected to have a positive coefficient since states which have not enacted laws or have not enacted them in a long time should be more likely to enact strengthening laws in this period.

15. Control for previous ethics score

**Index** controls for the state's ethics score at the beginning of the period. It is calculated the same way as the dependent variable (see Appendix A) except it measures the state's ethics laws as of January 1, 1989.
Appendix H
Appendix to Chapter 6

I. Dependent Variable

States were coded as one if they enacted an independent commission during a given year, and zero otherwise. Independent commission is defined as a commission with jurisdiction over legislators in the areas of financial disclosure and/or standards of conduct, whose members are not legislators, although some may be appointed by the legislature. Data came from Campaign Finance, Ethics and Lobby Law Blue Book, 1986-1987 (Lexington: Council on Government Ethics Laws, 1986), Public Integrity Annual (Lexington: Council of State Governments: 1996), and state statutes (see Appendix A for the last source).

II. Independent Variables

1. Political Culture

States were divided into three categories following the classification by Daniel Elazar (1972). Dummy variables were created to represent states with moralist, individualist and traditionalist cultures. The moralist variable was used as the constant.

2. Ideology

Ideology is the citizen ideology scores for each year and each state. The source is Berry, Berry and Ringquist's data (1997). See Appendix C for discussion of this variable.

3. Unified Government

The variable Unified Government equals one if both houses of the legislature and the executive branch were held by the same party in a given year. Data comes from the Book of the States (Lexington: Council of State Governments).

4. Majority party control

The variable Majority party control equals the percentage of legislative seats controlled by the party which dominates the legislature (i.e. the party which controls over 50%
of the seats). Data comes from the *Book of the States* (Lexington: Council of State Governments).

5. Gubernatorial Campaigns

The variable **Gub. Campaign** equals one if it is the year following a gubernatorial campaign and zero otherwise. Data comes from the *Book of the States* (Lexington: Council of State Governments).

6. Top Leadership Power

The variable **Speaker/Pres. Power** is an additive index which measures the bill referral and appointment powers of senate presidents and house speakers. See Appendix C for details. Data comes from the *Book of the States* (Lexington: Council of State Governments).

7. Committee Chair Power

The variable **Senate Chair Ratio** measures the ratio of senate committee chairs to majority party members, or the percentage of majority party members who chair a committee. **House Chair Ratio** is a similar measurement for the lower house. Data comes from the *Book of the States* (Lexington: Council of State Governments).

8. State Wealth

**State wealth** is measured as real per capita income. Per capita income information comes from *State Government Finances* (U.S. Department of Commerce, Bureau of the Census) for each year. It is adjusted for inflation using the implicit price deflator for state and local government, from *Business Statistics* (U.S. Department of Commerce, Bureau of Economic Analysis).

9. Bureaucratic Capacity

**Bureaucratic Capacity** is measured as state employment per 10,000 population. Data comes from the *Book of the States* and is measured in October of each even numbered year. For example, I use data from October 1972 for the years 1973 and 1974, and data from October 1974 for the years 1975 and 1976.

10. Scandal/Corruption

318
The variable Scandal was calculated the same way as described in Appendix C. Sources were 1) the New York Times Index for all years and 2) the annual reports from the Public Integrity Section of the U.S. Department of Justice (DOJ) for the years 1976 to 1980. I relied on the section at the end of each DOJ report for incidents involving prosecution of state officials; the scandals were scored the same ways as the scandals reported in the New York Times Index.

The variable TPO is the Traditional Party Organization score for each state. Data comes from Mayhew (1986).

11. Compensation

The Leg. Compensation equals the biennial compensation for legislators (total compensation for a given year and the year preceding it). It is measured in real (1982) dollars. Data comes from a dataset provided by Morris Fiorina and used in his 1994 APSR article. Data for the states not in Fiorina's dataset comes from the Book of the States (Lexington: Council of State Governments).

12. Attorneys in Legislatures

The variable Attorneys equals the percentage of state legislators (senators and house members) who listed their occupation as attorney. For the years 1973-1975, I use data from state legislative manuals and Blue Books for the year 1965. For the years 1976-1980, I use data from Bazar (1987) which is calculated for the year 1976.

13. Legislative Appointment Power

The variable which measures Legislative Appointment Power is based on the control over appointments of 22 administrative officials. The variable is an additive index. One point is given for each position over which the legislature has appointment power (either shared — as where the governor appoints but the legislature must confirm, or complete, as where the legislature has sole appointment authority). The positions are: auditor, controller, overall revenue or taxation, finance or administration, budget, planning, personnel, central purchasing, education, health, mental health, public assistance,
employment security, corrections, agriculture, highways, adjutant general, civil defense, economic development, banking, insurance, public utility. Data comes from the *Book of the States* (Lexington: Council of State Governments) for 1973-1974.

14. Governor's Powers

This variable measures the governor's powers in three areas: budgetary, veto, and tenure. Appointment power is excluded (this last power is implicitly measured by the legislative appointment power variable). Scores for each of the three powers ranges from 1 to 5, and the three scores are added together for a maximum of 15 points. Data comes from James A. Schlesinger, "Politics of the Executive," in Herbert Jacob and Kenneth Vines, *Politics in the American States*, 2nd edition (Boston: Little Brown, 1971).

15. Direct Democracy

The variable initiative process is a dichotomous variable which equals one if the state had an initiative process and zero otherwise. Data comes from Michael Ross (1987). See Appendix C for details.

16. State-to-State Diffusion

Diffusion is calculated using the method described in Appendix C. The policy being diffused here is establishment of an independent ethics commission.

17. Pre-existing laws

The variable Lobby Laws is an additive index which measures the strength of a state's lobbyist regulation as of 1954, the beginning of the period examined here. States received one point for each of the following restrictions on lobbyists: lobbyist registration required, financial reporting required, contingent payments prohibited, fines can be levied for violation of lobby laws, prison sentences can be imposed for violation of lobby laws.

The variable Campaign Finance ranges from 0 to 2: states received one point if they had contribution limits on corporations and one point if they had contribution limits on unions. States with no limits were scored as zero.
Data for both variables comes from the *Book of the States* (Lexington: Council of State Governments). For the campaign finance variable I used the volume for 1976-1977; however, for the lobby variable I had to use data from 1962-1963 since the information was not available for the years 1962-1988.
REFERENCES

Books and Articles


322


326


328


329


330


**Government Reports**


