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# EX POST LOBBYING AND THE DYNAMICS OF LEGISLATIVE ATTENTION

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## Abstract

Interest group scholars have recently learned that a very large proportion of lobbying expenditures are incurred by firms about some legislative action *after* that action has already taken place. You (2017) identifies the important phenomenon of “ex post lobbying” and presents one possible explanation for its occurrence. In this Article, I develop an alternative model and show that ex post lobbying results naturally from the combined dynamics of legislative attention and investment under uncertainty. I provide an empirical analysis establishing the key, if perhaps counter-intuitive factual assumption that justifies the alternative explanation. Finally, I present a discussion of the strengths and weaknesses of each explanation of ex post lobbying. Although these explanations are to some degree compatible and could be combined into a larger “master model,” they also compete for status as the “major” or “most significant” explanation for ex post lobbying. The theories also lead to different conclusions about the significance of ex post lobbying in the policymaking process, as I discuss, so there are real “stakes” to learning whether ex post lobbying mostly derives from dynamics of Congressional attention, collective action, or some other factors.

**Keywords** Political economy · Interest group behavior · Lobbying · Congress · Money in Politics · Executive Branch Politics · Oversight

In a recent important article, You (2017) reports that as much as 40% of lobbying on US Congressional bills occurs after enactment. The magnitude of such “ex post” lobbying expenditures makes the phenomenon greatly significant for scholarship on money in politics. Its exact meaning, however, remains unclear. You (2017) interprets ex post lobbying as influence-seeking that targets rulemaking. Implicitly, her model relies on assumptions about the pivotal role that Congress routinely plays in the rulemaking process (Weingast and Moran 1983). Although the Congressional dominance perspective has gained wide currency in political science, it was and remains controversial, especially given its limited directly testable implications (Moe 1987; Bryan D. Jones 2003). Moreover, there are many reasons for skepticism about the extent of Congressional influence over executive agencies (Fiorina 1981). Congressional capacity and attention constraints are severe, which is why they delegate in the first place. For those whose priors favor bureaucratic autonomy rather than Congressional dominance, the problem of ex post lobbying is to explain what this massive investment is doing if not seeking influence over executive policymakers.

In this paper, I reinterpret the ex post lobbying phenomenon through the lens of investment under uncertainty and the counter-intuitive dynamics of legislative attention (Dixit and Pindyck 1994; Bryan D. Jones and Baumgartner 2005). As a large literature on lobbying tells us, policy windows open rarely and legislative success is hard (Kingdon 1984; Baumgartner et al. 2009). It may seem as though the worst possible time to invest in passing a new law is immediately after the enactment of a law on a similar topic. After Congress

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passes the Affordable Care Act, for example, one does not expect the legislature to make an equally large intervention in health policy for some time. And yet, legislation-making is complicated and mistakes do happen (Osofsky 2020). What if the Congress were relatively open to considering favorable corrections shortly after legislation passes? The literature on policy and budgetary incrementalism suggests that the stakes of such corrections would presumably be lower than the initial law (Padgett 1980; Bryan D. Jones et al. 2009). But the size of the potential return is only one component in an investment decision. If the likelihood of future legislative success increases sufficiently following the passage of a law, then investing can make sense even if the future legislative success is expected to bring much smaller benefits.

To make these intuitions precise, I develop a relatively simple two-period model of an interest group’s lobbying investment decision given legislative uncertainty. Legislative success is determined by the extent of lobbying investment and whether legislative conditions are favorable or unfavorable. The key question is how legislative success in period 1 (“ex ante”) relates to legislative conditions in period 2 (“ex post”). As I show, ex post lobbying is never observed if the firm is able to perfectly observe its chances of legislative success prior to making a lobbying investment. Ex post lobbying is also not observed if the firm is completely unable to observe the likelihood of legislative success. Finally, ex post lobbying is not observed if success in period one is associated with diminished chances of legislative success in period two. The only situation where ex post lobbying is observed in the model is one in which the passage of legislation gives an imperfect signal that conditions are relatively opportune in the second period. The extent of ex post lobbying investment depends on the ratio of benefits offered ex ante and the strength of the signal that legislative passage provides. If the ratio of available benefits is small, as seems likely, then the signal that legislation provides must be strong to justify substantial lobbying ex post.

The model relies on a strong and perhaps counter-intuitive prediction about the distribution of legislative revision times. Ex ante lobbying is typically made in a “steady-state” where success is unlikely. Ex post lobbying is typically made in a “transitional state” where conditions are particularly favorable. Between the two states, the chances of success must fall drastically. Therefore, for the model to justify ex post lobbying, revision times for laws should follow what survival analysts call an “infant-mortality distribution.” If revision follows an opposite “wear-out” or “aging” mortality distribution, as is perhaps more intuitive, then that would correspond to a situation which the model reveals should not generate ex post lobbying.

To test the theory, I conduct a significant and original empirical exercise that aims to describe distribution of revision times for laws and policy areas in Congress. In terms of sources, I use a new and comprehensive database of US laws, multiple well-established legislative coding schemes including from the policy agendas project and the Library of Congress, and also computational text analysis and network analysis of the US Code and Tables compiled by the Office of the Law Revision Counsel. Regardless of measurement scheme, I shows that the vast majority of policy areas *do* exhibit infant mortality, as the model expects.

The dynamics of legislative attention and investment under uncertainty suggest that ex post lobbying may be revision seeking rather than oversight focused, as You (2017) argues. Admittedly, these explanations are not mutually exclusive. Nevertheless, the explanations are in tension with one another, for example about which actor this lobbying ultimately aims to persuade. To adjudicate between these explanations, I focus on the Dodd-Frank Act. By analyzing the timing of rulemaking under Dodd-Frank, and a new dataset of regulatory lobbying at the Federal Reserve, I show that *ex post* lobbying is not *ex post enough* to primarily concern oversight. Rather, the timing of ex post lobbying on Dodd-Frank is much more consistent with expected revision times for most laws. I conclude by discussing the implications of the two accounts for our understanding of money in politics and Congressional-executive relations.

## 1 Ex Post Lobbying and Expectations of Success

Consider the following investment problem for a hypothetical actor interested in lobbying Congress. I shall refer to this actor as a “firm” although it could just as easily refer to a trade association, a public interest group, or any other actor that lobbies. There are two periods  $t = \{1, 2\}$ . In each period a law may be enacted,  $\lambda_t = 1$ , or not enacted,  $\lambda_t = 0$ . Whether a law is enacted is stochastic and depends on two factors: the state of the world and the extent of lobbying investment. States of the world are either favorable,  $\mu_t = 1$ , or unfavorable,  $\mu_t = 0$ . Further,  $\mu_t \sim \text{Bernoulli}(p)$ . Investment in each period is a continuous variable  $e_t$  subject to an overall budget constraint on total spending across all periods. Given that assumption, there is no further loss of generality in assuming  $e_1 + e_2 = 1$ , which suggests interpreting  $e_t$  as the proportion of total lobbying investment in each period. If conditions are favorable, then whether a law passes is a (biased) coin toss from the distribution  $\lambda_t \sim \text{Bernoulli}(e_t H)$ . If conditions are unfavorable, then whether

a law passes is a less favorable coin toss,  $\lambda_t \sim \text{Bernoulli}(e_t L)$ , with  $0 \leq L < H \leq 1$ . More concisely, we may write  $\lambda_t \sim \text{Bernoulli}(e_t(L + \mu_t(H - L)))$ . If a law is passed in period  $t$ , the benefit is  $b_t$ , otherwise is 0. Further, for simplicity let us assume that  $b_1 > b_2$  and that  $b_2 > \frac{1}{L}$ , with the latter condition implying that the firm finds lobbying investment incentive compatible even in the low state.<sup>2</sup>

In solving this investment problem, we will focus on characterizing the margin of period 1 to period 2 investment, i.e.  $e_1 - e_2$ . For example, a margin of 0.2 would imply that 60% of the firm's budget is spent in period 1 and 40% is spent in period 2. Thematically, the difference is similar to the relationship between ex ante and ex post lobbying, although technically ex post lobbying should only be lobbying that occurs after legislation has been succesful, i.e.  $e_2 > 0$  and  $\lambda_1 = 1$ . We wish to understand how the margin  $e_1 - e_2$  depends on the information structure that states of the world and legislative success provides.

### 1.1 Full Information

To begin the analysis, I start from the counter-factual premise that the firm can observe  $\mu_t$  in period  $t$ .<sup>3</sup> The problem is solved by backwards induction. In period 2, the firm may spend  $0 \leq e_2 \leq 1 - e_1$ . The expected benefit of spending  $e_2$  is:

$$b_2 e_2 L - e_2$$

if  $\mu_t = 0$  and

$$b_2 e_2 H - e_2$$

if  $\mu_t = 1$ . Since we assume  $b_2 > \frac{1}{L}$ , the utility function is linearly increasing in effort so the firm will spend all it can.

In light of this analysis, let us consider how the firm should will decide to invest at the outset. It does not know the exact state of the world in period 2, however it does know it will spend all that is leftover from period one. Its period 2 expected utility is therefore

$$(1 - e_1)b_2 p H + (1 - e_1)b_2(1 - p)L - (1 - e_1) = (1 - e_1)[b_2(p\Delta + L) - 1]$$

where  $\Delta = H - L$ . The period one expected utility depends on the state of the world, which is observable. Let us suppose that the state of the world is unfavorable. Then the firm expects

$$e_1 L b_1 - e_1 + (1 - e_1)[b_2(p\Delta + L) - 1]$$

Since the function is linear in  $e_1$ , the coefficient on  $e_1$  is the crucial one for determining the extent of investment. If the coefficient is positive, then the more one invests in the first period, the greater one's overall utility. The firm will invest up to  $e_1 = 1$ , or 100% of the overall lobbying budget. A corollary is that no ex post lobbying is observed, since all the budget is spent after period 1. If the coefficient is negative than  $e_1 = 0$  and 100% of the investment is in period two. Note that if no lobbying investment is made in the first period, then there is also no chance of legislative success, so again no ex post lobbying is observed. If the coefficient on  $e_1$  is 0, which I shall refer to as the "knife-edge" case, then the firm is truly indifferent between spending today and tomorrow. In the knife-edge case, the model gives weak predictions, as  $e_1 - e_2$  could be anything between  $-1$  and  $1$ . This situation occurs if and only if

$$\frac{b_1 - b_2}{b_2} = p \left( \frac{H - L}{L} \right)$$

Both sides of this equation have expressions that are akin to rates of return. On the left hand side, there is the legislative return to success today relative the value of success tomorrow. On the right hand side, there is the "circumstantial" return to having a greater chance of success tomorrow. In order for ex post lobbying to occur with full information, the legislative returns must exactly equal the potential circumstantial returns times the probability that circumstances will be more favorable. If the legislative returns are greater than these circumstantial returns, then the budget is entirely invested in period one, while if the reverse then the entirity is invested in period two.

This analysis presumes that the firm initially observes an unfavorable state of affairs. If conditions are initially good, then the expected value similarly depends on the coefficient of  $e_1$ , which is

$$H b_1 - b_2 L - b_2 p \Delta$$

<sup>2</sup>If these condition do not hold, then there are more cases, but the model's substantive conclusions are the same.

<sup>3</sup>Put differently, in period 1 the firm can observe  $\mu_1$  but not  $\mu_2$ , however in period 2 the firm can observe  $\mu_2$ .

Note however that this expression is always strictly positive if  $b_1 > b_2$ , therefore if the conditions are initially favorable there is no point for the firm to wait until the next period, since conditions are worse in expectation and the benefits of legislative success are also worse. The following proposition summarizes these conclusions.

**Proposition 1** *Except for the knife-edge case where circumstantial returns exactly equal legislative returns, ex post lobbying is not observed when the firm has full-information about its chances of legislative success. The firm either initially perceives favorable circumstances and invests all its budget right away, initially perceives unfavorable chances and prefers to wait for better conditions, or values success today so much more highly than success tomorrow that it declines to wait even though it observes conditions may improve.*

## 1.2 No Information

The second benchmark case relies on tweaking the information structure, such that the firm has no information about the circumstances influencing the likelihood of legislative success. Lobbying conditions may in actuality be relatively favorable or relatively unfavorable, but the firm does not know today which is true and is not going to know tomorrow either.

The investment problem has a similar solution achieved via backward induction. In period 2, if the firm invests  $e_2$ , then there is a  $p$  probability of  $b_2 e_2 H - e_2$  and  $(1 - p)$  probability of  $b_2 e_2 L - e_2$ . The total expectation is

$$(b_2 e_2 H - e_2) p + (b_2 e_2 L - e_2) (1 - p) = b_2 e_2 [p\Delta + L] - e_2$$

Our assumption that  $L > \frac{1}{b_2}$  is strong enough to avoid edge cases and guarantee that the entire remaining budget in period 2 is spent.<sup>4</sup> The expression for period one utility is analogous to that for period two, and we may therefore write the overall utility as

$$[p\Delta + L] [b_1 e_1 + (1 - e_1) b_2] - 1$$

. This expression is again linear in  $e_1$  and so the margin of period one versus period two investment is again driven by the sign of  $e_1$ 's coefficient. Note here, however that our assumption  $b_1 > b_2$  guarantees that the coefficient is always strictly positive.

**Proposition 2** *Ex post lobbying is not observed when firm has no information about its chances of legislative success.*

## 1.3 Partially Observable Information

Now suppose that the firm cannot directly observe the state. However, they *can* observe whether a law has passed in period 1. And suppose also that the firm assumes there is a relationship between  $\lambda_1$  and  $\mu_2$ , in other words the observable evidence of a law passing today is related to the likelihood that lobbying tomorrow will prove successful. In particular, suppose if  $\lambda = 1$  then  $\Pr(\mu_2 = 1) = p\psi$  while  $\Pr(\mu_2 = 1) = p$  if  $\lambda_1 = 0$ , where  $\psi$  represents the percentage change in probability of passage if there was a bill passed in period one. Note the constraint that  $\psi \in [0, \frac{1}{p}]$ . If  $\psi = 1$ , then the passage of a law in period one provides no signal about success in period two and the case reduces to one of no information.

Solving by backward induction is similar to the previous cases, however second period utility depends on what happens in period one. In particular, if a law is passed then the expected utility is

$$b_2 e_2 [p\psi\Delta + L] - e_2$$

while if no law is passed then the expected utility is

$$b_2 e_2 [p\Delta + L] - e_2$$

In either case our assumptions about the relative size of  $b_2$  and  $L$  guarantees the firm spends all leftover funds in period two.

While the period one utility from investing  $e_1$  is identical to the previous no information case ( $b_1 e_1 [p\Delta + L] - e_1$ ) the expected utility from period two requires application of the law of total probability.<sup>5</sup> Eventually, expansion yields

<sup>4</sup>Investment of the entire budget is justified if  $b_2 > \frac{1}{p\Delta + L}$  but since  $p\Delta + L > L$  we have  $\frac{p\Delta + L}{L} > 1$  by assumption

<sup>5</sup> $E(U(\lambda_2)) = E(U(\lambda_2) | \lambda_1 = 1) \Pr(\lambda_1 = 1) + E(U(\lambda_2) | \lambda_1 = 0) \Pr(\lambda_1 = 0)$

$$\underbrace{(b_2(1 - e_1) [p\Delta + L] - (1 - e_1))}_{\text{Expectation Without Observing } \lambda_1} + \underbrace{e_1 [p\Delta + L] b_2(1 - e_1)p\Delta (\psi - 1)}_{\text{Marginal Change Observing } \lambda_1}$$

An interpretive gloss on these expressions may aide understanding. The left under-braced term is the benchmark utility if no law is successfully passed in period one. The right under-braced term is the expected utility gain from legislative success. Combining period one and period two expected utilities yields the following expression, which has been rearranged to clarify that the form is quadratic and not linear.

$$-b_2 p \Delta (\psi - 1) [p\Delta + L] e_1^2 + (b_2 p \Delta (\psi - 1) + (b_1 - b_2)) e_1 [p\Delta + L] + b_2 (p\Delta + L)$$

There are several notable aspects about this expression. Perhaps most importantly, the expression is concave upward if  $\psi < 1$ , meaning that any critical value of  $e_1$  found via first order conditions would constitute a utility *minimum* and not a maximum. Since in this case the boundary constraints bind,  $e_1 = 0$  or  $e_1 = 1$  whenever  $\psi < 1$ . A little further analysis shows that  $e_1 = 1$  is surely better. Intuitively, if the passage of a law is negatively correlated with success in the next period, and the benefit of passage in the first period is higher than passage in the second period, there is no reason for the firm to wait to invest and ex post lobbying is not observed.

On the other hand, if  $\psi > 1$  then taking first order conditions provides the following interior solution

$$e_1 = \frac{1}{2} + \frac{b_1 - b_2}{2b_2 p \Delta (\psi - 1)}$$

The margin between first and second period spend is even more compact

$$e_1 - e_2 = \left( \frac{b_1}{b_2} - 1 \right) \left( \frac{1}{p\Delta(\psi - 1)} \right)$$

What's happening here? The expression suggests that the size of the margin of period one relative to period two lobbying depends on several factors. First, by assumption, the benefits available in period one are greater than in period two, but as the ratio becomes progressively greater the preference for spending in period one also increases. These incentives are offset, however, by the strength of the signal that legislation can provide about the how favorable circumstances may be in period two. This "signal strength" is actually made of several components, including the relative value of the high state  $\Delta$ , its baseline likelihood  $p$ , and the degree to which the second period state is correlated with passage  $\psi$ . The greater the value of the high state, the greater the incentives to seek ex post lobbying. The relationship between  $\psi$  and  $p$  is more complicated because the two variables are linked via the constraints on probabilities. Ceteris paribus, greater values of each imply smaller difference in spending in the two periods. At the same time, if  $p$  is smaller, then  $\frac{1}{p}$  is bigger, and so therefore can  $\psi$ . Replacing  $\psi$  with its maximum possible value of  $\frac{1}{p}$ , one can see that as  $p \rightarrow 1$ , the value of  $e_1 - e_2$  will get increasingly large even if  $b_1$  and  $b_2$  are pretty close, while if  $p \rightarrow 0$  it is easier to find parameter combinations that generate a margin between 0 and 1. In this sense, as favorable circumstances for legislation are rarer, the easier it will be to sustain relatively large amounts of lobbying in period two. Note that the margin is always positive under these assumptions, so period two lobbying investment can never actually exceed that of period one. The following proposition summarizes these observations.

**Proposition 3** *If legislative success is correlated with an unfavorable future lobbying climate, then ex post lobbying is not observed. If legislative success is positively correlated with future lobbying climate, then the degree of ex post lobbying expected depends on the size of the available benefits and the signal value that legislative climate provides. If the benefits available ex post are smaller than ex ante, then positive amounts of ex post lobbying depend on the signal being fairly strong. Generally, larger amounts of ex post lobbying are feasible as favorable climates are less likely.*

The upshot of the three propositions is in a simple two-period model of investing under uncertainty, there are only two circumstances in which we should observe ex post lobbying. One situation is when the parameters align on a knife's edge, which is unlikely, and the other is when there is a positive correlation between legislative success in the first period and the likelihood of legislative success in the second. If there is no correlation, a negative correlation, or where the interest group has full information about the political environment, then ex post lobbying should not be observed.

## 2 Law and Policy Revision: Data and Methods

In order for investment incentives under uncertainty to explain *ex post* lobbying, the model developed in the prior section depends on a counter-intuitive assumption about the correlation between lawmaking success today and the likelihood of lawmaking success tomorrow. The latent probability of legislative success is hard to measure, therefore the most direct test of the theory seem difficult or impossible to operationalize. Kingdon introduces the term “policy windows” to capture a similar notion of times when policy success is particularly likely, but in his account these policy windows open unpredictably and may close without warning. Rather than focusing on trying to identify when policy windows have opened in the past, I focus instead on characterizing the distribution of revision time of laws and policies. If revision times follow a child mortality distribution, then it is relatively likely that revision will happen shortly after passage of a law or not for a long time to come. Such a situation would be consistent with the notion that conditions for lawmaking are counter-intuitively favorable after successful lawmaking. By contrast, if revision times follow an aging or wear-out mortality distribution, then passage of a law should have a negative correlation with further success in the short term. To my knowledge, no prior work has characterized the revision times between laws.

To characterize the revision time of a law, there are at least two possible approaches one might take. In the “topic” approach, one would classify as many laws as possible according to discrete policy area. If law X is on topic one and the next law on topic one is law Y, then the time between the enactment of X and enactment of Y constitutes the revision time. Using this approach, one could characterize the distribution of revision times across all topics or within topics. Alternatively, one might take the “provision” approach. The key notion here is that at least in systems with codified laws, legislative acts generally edit provisions of some hypothetical master document like the US Code. If law X creates or edits provision one and law Y later edits, moves, or deletes that same provision, then the time between X and Y constitutes the revision time for law X. Again, one could characterize the distribution of revision times overall or subset laws so as to characterize the distribution of revision times for particular kinds of laws or policy areas.

There are multiple ways one could operationalize either the topic or provision approach. First, I describe the ways I focus on using the topic approach. Legislative analysts working for Congress have several coding schemes that they have developed for tracking bills and resolutions.<sup>6</sup> In particular, since 1979 they have assigned all bills and resolutions one of thirty-two “Policy Areas.” In some cases the fit to one category might be artificial, while in other cases it might be so broad as to lump together policies that have little in common. The more flexible and granular systems that Congressional analysts have used for indexing and assigning subject have not been applied as consistently over time, and are so granular that they create their own analytical challenges. Another popular coding scheme for US laws is provided by the Policy Agenda’s Project. Their database includes 20 major policy areas and 217 subtopics, with coverage from 1948 to 2019. Neither method covers all laws.

To operationalize the provision approach, I repurpose two discrete products from the Office of Revision Counsel, a small Congressional agency that has existed since the 1920s for the sole purpose of maintaining the currency and consistency of the US Code. Included with the US Code, and available online, is an appendix table called Table III that maps the discrete sections of the law to parts of the United States Code. For example, Table III’s entry for the STORM Act of 2021 has two sections, the first of which edited 42 USC 5121 and the second of which revised 42 USC 5135. Table III is comprehensive in coverage, however it is not continually kept current. If titles or sections are moved by subsequent laws, which does happen from time to time, then Table III is not updated. A more granular and current approach relies on parsing the US Code itself. In particular, each provision of law also contains a source credit. For example, 42 USC 5135 has a source credit that says “(Pub. L. 93–288, title II, §205, as added Pub. L. 116–284, §2, Jan. 1, 2021, 134 Stat. 4869 .)” This credit implies that the section was made by Public Law 93-288, the “Disaster Relief Act Amendments of 1974,” and revised by Public Law 116-284, the “STORM ACT.” The downside of this approach is that to the extent that some provisions of the US Code are removed, the Office of Revision Counsel may prune that section, creating problems of missingness. That said, in the overwhelming majority of instances either approach does a good job of facilitating connections between related laws.

Given the varying coverage provided by each approach, I also conducted an initial step of building a comprehensive database of legislative enactments. This effort was facilitated by Ansolabehere, Palmer, and Schaner (2018), who have also built an almost complete set of major or even possibly major laws. Because technical or relatively minor laws are important for properly characterizing the distribution of revision times, I do focus on extending their work significantly. Using directory information provided by the HEIN Online

<sup>6</sup><https://www.congress.gov/help/find-bills-by-subject>

collection of the statute of laws, I develop a completely comprehensive databases of US lawmaking from the beginning of the Republic to the last publication of the Statutes at Large in 2012. I supplement this collection of laws with all enactments since 2012 by scraping Congress.gov.

While gathering the revision times of laws in any of these operationalizations allows one to calculate empirical distributions and plot survival curves, for subgroup analysis there is a strong possibility of information overload when looking at the distribution separately for each of twenty major policy topics, to say nothing of the 217 subtopics. As a lower dimensional summary, it is useful to consider fitting the revision times to a Weibull distribution. Using techniques from survival analysis, it is also possible to do this parametric model fitting while treating laws that have not yet been revised as censored rather than missing. The Weibull distribution is characterized by a shape and scale parameter. A negative shape parameter implies that the survival curve exhibits infant mortality, while a positive shape corresponds to the wear-out case.

### 3 Results

Figure 1 plots the survival function of laws in the Policy Agenda’s Project’s topic code one, where revision time is measured using the “topic” approach. The best fit of this survival curve to the two parameter Weibull distribution is also displayed. As the Figure shows, laws in this topic have a median revision time measured in *months*, meaning roughly half the laws in this group were revised within a matter of weeks. If a law goes without revision for a year, then the conditional probability of it going without revision for another year is substantial. The survival distribution shows infant mortality to a tee. The fit of the parametric survival function to the empirical and non-parametric function is good.

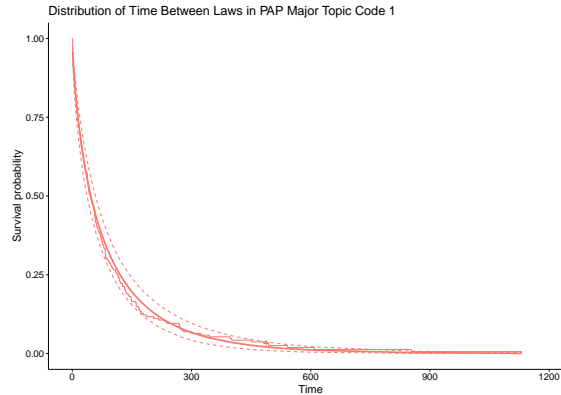


Figure 1: Survival curve for laws to remain unedited in exemplary PAP Major Topic Code.

Figure 2 extends the analysis of the one topic code to all major topic codes. The left panel shows the equivalent figures for all topics. All the major topics exhibit varyingly extreme infant mortality, but topic one is by no means an outlier. The right panel presents two dimensional summary statistics of these curves. In particular, the key observation is that the shape parameter is always negative, as one would expect from the left panel. The dimensionality reduction technique offered by the right panel will prove important as the analysis is extended to look at the more disaggregated subtopic analysis.

Figure 3 carries forward the analysis by disaggregating topics into finer categories. In particular, represented are the parameter estimates for the survival function of all subtopics covered by the Policy Agenda’s Project. Again, revision time is here calculated using the “topic” approach. In contrast with the more aggregated analysis, it does seem that there are some policy sub-areas where laws seem to wear out and become increasingly likely to be the subject of revision over time. Yet the overwhelming majority of policy subtopics are similar to the major topics in that revision is likely to occur sooner rather than later.

Early data collection suggests that the analysis using the provision rather than topic approach to calculating revision time yields substantially similar conclusions. Nevertheless, given the data collection challenges I shall hold off presenting this figures at this time.

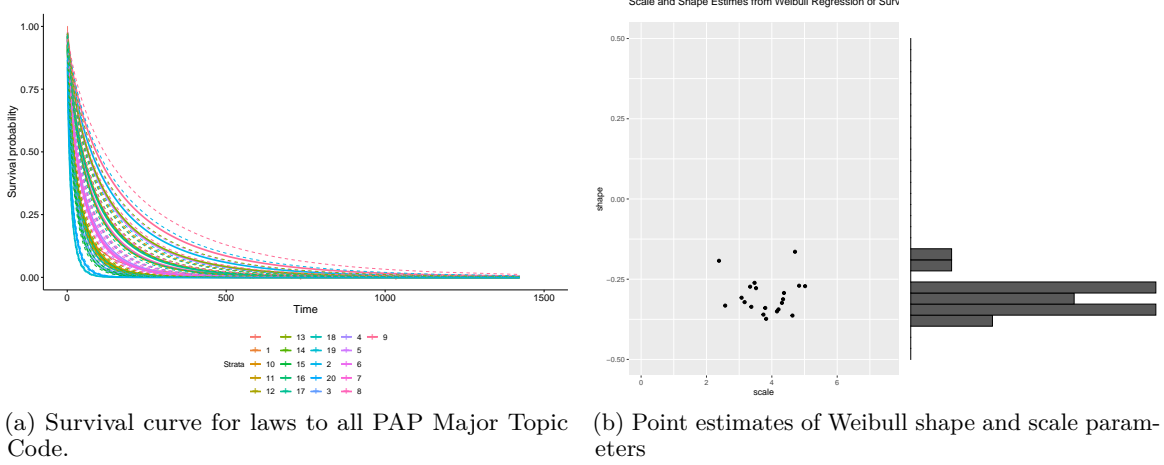


Figure 2

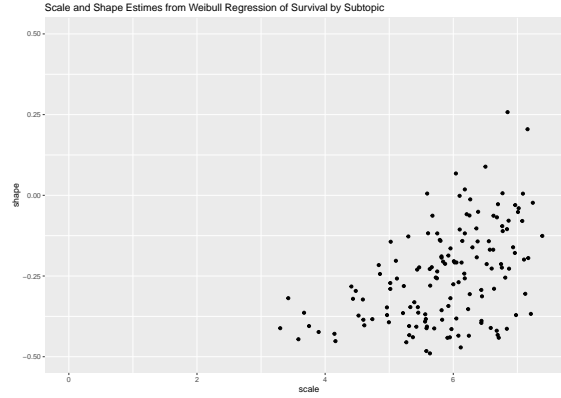


Figure 3: Survival curve for laws to remain unedited by PAP sub-topic code.

## 4 Implications and Discussion

The formal and empirical descriptive work presented here suggests that ex post lobbying may well have as its object legislative revision. The most natural objection, that there is too much ex post lobbying to justify the limited benefits available through revision, is countered by the observation that the low probability of legislative success constitutes a key deterrent to lobbying investment. To the extent that revision is an easier game to win, one might expect to see more players than original enactment, even if the potential winnings are smaller. The basic premise that revision is likely sooner rather than later is apparently justified by actual Congressional behavior.

There are two important questions that follow from the basic plausibility of this mechanism. First, some ex post lobbying could aim at oversight while other ex post lobbying could aim at revision. Is there any evidence that one motivation is stronger than the other? The second question is what the stakes of this debate are for scholarly understanding of interest group behavior and the role of money in policymaking. I turn to the latter question first.

Scholarly understanding of Congressional-executive relations is torn between two antipodal theories, Congressional dominance and bureaucratic autonomy. A large classical literature in political science argued that Congress had significantly abdicated its role in policymaking, with bureaucrats of uncertain allegiances largely making policy without significant checks from broadly representative institutions. Arthur Maass, for example, argues that the close relationship of inland shipping interests with the Army Corps of Engineers explained why so many public works projects that the Corp undertook routinely went over-budget with practically no accountability. While Congressional abdication was regarded by many as an *obvious* observation, a number of scholars motivated by economic models of principals and agents reinterpreted these findings as consistent with



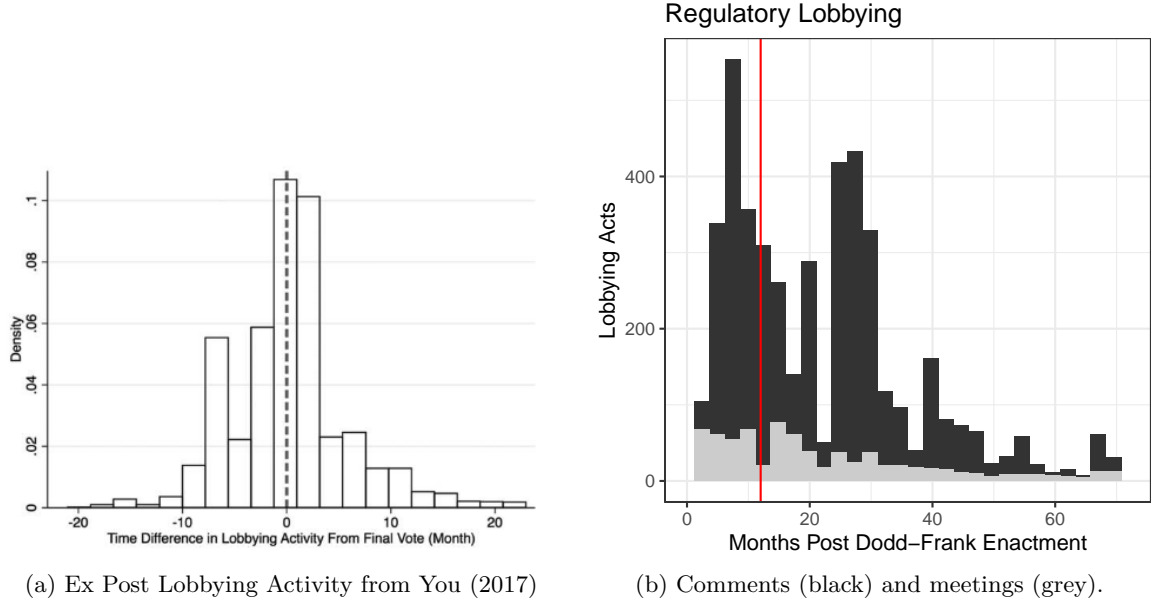


Figure 4: Ex Post Lobbying versus Dodd Frank Lobbying.

Congressional control. For example, it was argued that the failure to observe Congressional police patrols did not refute the existence of fire-alarm oversight, which might constitute a more efficient mechanism of control for a body like Congress which has many agents that it oversees. As Moe noted, however, the move from *some* control to *total* control is not trivial. Indeed, in most principal agent problems, the principal must accept some agency costs. Indeed, properly understood, the literature on Congressional dominance largely is an argument that evidence of abdication is often observational equivalent with sufficiently effective ex ante and ex post controls.

In the You (2017) interpretation, *ex post lobbying* provides some of the strongest evidence available that Congressional oversight of administrative policymaking really matters. If Congressional oversight was really important to the implementation of legislation, then one would expect truly significant investment by firms attempting to pull fire-alarms and trigger Congressional sanction or at least the threat of Congressional sanction.

By contrast, the reinterpretation of ex post lobbying as largely revision-seeking provides an alternative account consistent with weak to limited Congressional oversight of administrative policymaking. Instead, ex post lobbying is best understood as consistent with one well-known resolution to Tullock’s puzzle about why there is so little money in politics. Indeed, the theory that ex post lobbying is about Congressional oversight makes Tullock’s puzzle even greater, since it increases the number of potentially viable avenues for influence. Instead, the model suggests that lobbying investment is largely driven by the probability of a return. Since the probability of a return is typically very low, there is limited ex ante lobbying. Ex post lobbying may have a more likely return, but the available benefits are probably small. On theoretical grounds, the simplicity and coherence of the revision-focused interpretation is stronger.

On the other hand, elegance is a less valuable virtue for a theory that accuracy. What empirical evidence is there that one mechanism is stronger? Arguably, the strongest available evidence has to do with the *timing* of ex post lobbying relative to administrative policymaking that implements the laws. Figure 4 compares the volume of ex post lobbying on the Dodd-Frank law over-time with the timing of regulatory lobbying at the Federal Reserve Board. The black bars reflect the amount of commenting while the grey bars reflect meetings between interest groups and the staff in charge of implementation. As the Figure shows, the overwhelming majority of ex post lobbying on Dodd-Frank occurs within the first year of passage. By contrast, rulemaking and agency implementation is just getting started in the first year, and continues to be significant five years later. Indeed, there are *still* Dodd-Frank rules under consideration more than a decade after the law was passed. The decline in ex post lobbying happens with similar alacrity as the decline in probability of revision in most policy areas. As a descriptive and correlative matter, the timing of revisions has a better expected fit than the timing of administrative policymaking.

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