SUNSETS ARE FOR SUCKERS: AN EXPERIMENTAL TEST OF SUNSET CLAUSES

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ABSTRACT

Some have suggested that including sunset clauses in legislation makes laws easier to pass, in part because sunsets may facilitate bipartisan compromise. We use a randomized experiment to assess whether sunset clauses actually change people's support for legislation, along with other compromise beliefs such as the perception of sponsors' good faith and the likelihood that the law will be effective. We randomly assigned 1,639 U.S. adults to read laws with one of three sunset conditions (none, standard sunset, or conditional sunset that would be contingent on an evaluation of the law), one of two topic areas (drug overdoses and Medicaid beneficiary health), and one of three political valences (neutral, liberal, or conservative). Participants estimated their support for the law to which they were assigned, and they identified their own political leanings and party affiliations. Sunsets did not increase overall support for laws, contrary to prior suggestions of an overall compromise effect. But in an interaction between sunset and political valence, we found that sunsets increased support for conservative but not liberal legislation. Subgroup findings confirmed liberals' tendency to increase their support for conservative laws that contained a sunset clause (either standard or conditional). Conservatives, however, did not increase their support for liberal policies in the presence of sunset clauses. This asymmetry gives rise to what we characterize as a "sucker" effect—a willingness to compromise that is not reciprocated, even if these effects are unconscious. We explore possible explanations for this finding and consider whether debiasing strategies may be needed when sunset clauses are used.

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I. INTRODUCTION

In the spring and summer of 2020, an urgent and powerful contagion gripped the United States. It appeared in individual cities, states, and regions, until it thoroughly permeated the nation. The spread, of course, was the rapid proliferation of temporary law. Two years into the COVID-19 pandemic, we are awash in declarations of emergency, regulatory changes, temporary waivers, time-limited activations of emergency authority, spending of emergency funds, impermanent exemptions and immunities, and executive orders ranging from city mayors to the President. All of these new arrangements have sunset or are expected to sunset—to cease and revert to prior legal arrangements—when the emergency is past. Legislators and Executive Branch actors have contemplated and specified these sunsets at the time of enactment, sometimes including open-ended language ("during the national emergency"),[1] and sometimes setting absolute sunset dates ("on September 30, 2020").[2]

We suggest that these sunset clauses do not only determine the longevity of temporary laws, but also affect the likelihood that lawmakers will reach the partisan compromises needed to enact them. Prior scholarship suggests that statutes containing sunset provisions are more likely to pass,[3] but

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[1] Coronavirus Aid, Relief, and Economic Security (CARES) Act, Pub. L. No. 116-136, § 3224, 134 Stat. 281 (2020).

[2] Families First Coronavirus Response Act, Pub. L. No. 116-127, § 2202(e), 134 Stat. 178 (2020).

[3] *See* Frank Fagan & Firat Bilgel, *Sunsets and Federal Lawmaking: Evidence from the 110th Congress*, 41 INT'L REV. L. & ECON. 1, 1 (2015).

no study thus far has prospectively examined whether including a sunset clause changes people's support for a law or perceptions of the law's drafters. We sought to test how sunset clauses affect support for legislation among adults in the United States, and we specifically examined how sunset clauses change support for legislation proposed by members of the opposite political party.

Recent federal laws furnish helpful examples of temporary legislation in emergency times. In late March 2020, Congress rushed to pass H.R. 748, better known as the Coronavirus Aid, Relief, and Economic Security (CARES) Act ("CARES Act").[4] Sponsored by 200 Democratic and 169 Republican representatives, the law apportioned $2 trillion to relieve financial burdens sustained by individuals, families, and institutions during the pandemic.[5] The Act also adjusted provisions of substantive law that, according to sponsors, would have hampered the coronavirus response. For example, volunteer health care providers were urgently needed to assist overwhelmed hospital systems, but some would-be volunteers were reportedly deterred by fear of increased exposure to medical malpractice lawsuits.[6] The CARES Act alleviated this concern, specifying that volunteer health professionals would not be liable for negligence in caring for actual or suspected COVID-19 patients.[7] Other provisions of the Act eased restrictions on telehealth reimbursement,[8] required public notice of prices for COVID-19 tests,[9] authorized waiver of in-person exams required for hospice and home dialysis patients,[10] extended Medicare prescription refills to ninety-day periods,[11] increased Medicare inpatient reimbursement to hospitals for COVID-19 patients,[12] allowed the U.S. Patent and Trademark Office to waive certain deadlines,[13] forced new guidance on sharing health information,[14] authorized educational waivers,[15] and relaxed some bankruptcy filing requirements.[16] This was fol-

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[4] Coronavirus Aid, Relief, and Economic Security Act, H.R. 748, 116th Cong. (2020). *See* Erica Werner, Paul Kane & Mike DeBonis, *Trump Signs $2 Trillion Coronavirus Bill into Law as Companies and Households Brace for More Economic Pain*, WASH. POST (Mar. 27, 2020), https://www.washingtonpost.com/us-policy/2020/03/27/congress-coronavirus-house-vote/ [https://perma.cc/5KCA-U7KA].

[5] *See Cosponsors: H.R. 748 — 116th Congress (2019-2020)*, CONGRESS.GOV, https://www.congress.gov/bill/116th-congress/house-bill/748/cosponsors [http://perma.cc/35BX-4KMY]; *see also* Werner et al., *supra* note 4.

[6] *See* AM. MED. ASS'N & MED. PRO. LIAB. ASS'N, COVID-19: RECOMMENDATIONS FOR PURSUING LIABILITY PROTECTIONS THROUGH STATE ACTION (2020), https://www.ama-assn.org/system/files/2020-04/state-guidance-medical-liability-protections.pdf [http://perma.cc/MW7S-T8KM].

[7] *See* Coronavirus Aid, Relief, and Economic Security (CARES) Act, Pub. L. No. 116-136, §§ 3215(a)–(f), 134 Stat. 281 (2020).

[8] *Id.* §§ 3704(4), 3707.

[9] *Id.* § 3202(b)(1).

[10] *Id.* §§ 3705(3), 3706(2).

[11] *Id.* § 3714.

[12] *Id.* § 3710(a).

[13] *Id.* § 12004(a).

[14] *Id.* § 3224.

[15] *Id.* § 3511.

lowed by other emergency legislation, such as the American Rescue Plan Act under President Joe Biden,[17] that set time limits on aid provisions.[18]

Some of these changes were in a markedly conservative direction (e.g., raising the standard of liability for medical malpractice related to COVID-19), but others were more liberal in emphasis (e.g., increasing Medicaid reimbursement and relaxing bankruptcy rules). The Families First Coronavirus Response Act ("FFCRA") also made temporary changes that tended toward liberal policies, including allowing waivers of National School Lunch Program requirements,[19] waiving administrative requirements for Special Supplemental Nutrition Program for Women, Infants, and Children ("WIC")[20] and Supplemental Nutritional Assistance Program ("SNAP"),[21] and expanding eligibility for emergency family and medical leave.[22] These statutes also created space for executive agencies to make further modifications. But all of these unusual changes are set to expire soon after the national emergency concludes (or, for laws expiring in 2020, to end when legislators predicted the emergency would conclude). Both the CARES Act and the FFCRA were passed with a politically divided government—a Democratic House, a Republican Senate, and a Republican White House. Now that all three are under Democratic control, ongoing COVID-19 responses will likely continue to make use of sunset clauses, with end dates determined by the course of the pandemic.[23]

Sunset provisions are frequent in governmental responses to emergencies, but legislators also incorporate sunsets regularly in non-emergency times. Recent years have offered some high-profile illustrations. In late 2017, for example, a Republican-controlled Congress used the budget reconciliation process to pass the Tax Cuts and Jobs Act.[24] Among other changes, the law lowered tax rates and increased deductions for individuals and corporations,[25] increased exemptions from estate and gift taxes,[26] lifted penalties for failing to maintain health insurance,[27] and directed the Department of the Interior to create a program for oil and gas production in the Coastal Plain of

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[16] *Id.* § 1113.

[17] American Rescue Plan Act of 2021, Pub. L. No. 117-2, 135 Stat. 4.

[18] *See, e.g.*, *id.* § 1105(a)(1)(B).

[19] Families First Coronavirus Response Act, Pub. L. No. 116-127, § 2202, 134 Stat. 178 (2020).

[20] *Id.* §§ 2203, 2301.

[21] *Id.* § 2301(a).

[22] *Id.* § 3102(a).

[23] At the time of this writing, the first major COVID-19 bill under the Biden administration is still in draft form. *See* Jim Tankersley, Luke Broadwater & Hailey Fuchs, *House Puts $1.9 Trillion Stimulus on Fast Track, with No GOP Votes*, N.Y. TIMES (Feb. 6, 2021), https:// www.nytimes.com/live/2021/02/05/us/joe-biden-trump-impeachment [https://perma.cc/A2DU-LWBR].

[24] Tax Cuts and Jobs Act of 2017, Pub. L. No. 115-97, 131 Stat. 2054.

[25] *Id.* §§ 11001, 11011, 11021.

[26] *Id.* § 11061.

[27] *Id.* § 11081.

the Arctic National Wildlife Refuge in Alaska.[28] The Act was projected to cost the nation $1.5 trillion over a ten-year period.[29] But some of the Act's costly changes were set to expire after five- or eight-year periods; many provisions—including twenty-three sections lowering individual income taxes—expire in December 2025, after which taxes will increase again.[30] The sunsetting of the Act's provisions reduced the projected cost of the law; without these sunsets, the law was projected to cost $2.2 trillion.[31] Watchdogs argued that this was a strategic use of sunsets to "hide [the Act's] true cost[s]," reasoning that lawmakers in 2025 are more likely than not to reauthorize the cuts before they expire.[32]

One proposed virtue of sunset legislation is that it can encourage compromise, increasing the chances that provisions will pass despite political disagreement. With a sunset clause, individuals who oppose a legislative change are assured of a second opportunity to contest it, particularly if the law proves to be ineffective or counterproductive. Moreover, because sunset clauses default to canceling legislation, legislative momentum at the time of the sunset will be toward removing the law rather than renewing it—those seeking renewal will bear the burden of persuasion. By contrast, individuals who favor the legislation at the outset may believe that a sunset clause jeopardizes its long-term benefit. But they may also conclude that that a smooth trial period will allow them to argue persuasively for reauthorization; parties who benefit from the new legislation (or come to rely on it) are also likely to join the renewal effort. Under these conditions, legislative advocates might rationally accept a sunset clause where it secures initial passage of a law.

We sought to test whether sunset clauses facilitate compromise, particularly among opponents of proposed legislation. This study uses a factorial randomized trial among a sample of U.S. adults to test how sunset clauses affect support for a proposed law, and how this purported compromise effect may change according to the political valence of the law (i.e., liberal, conservative, neutral). In a randomized experiment, we found that a sunset clause can increase liberals' support for conservative legislation. Adding a sunset clause to a conservative law also increased liberals' beliefs that the sponsors had good intentions, and it increased their faith that if the law does prove ineffective, a future Congress will change it. Among conservatives, however, these compromise effects were slim or absent. Conservatives did

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[28] *Id.* § 20001.

[29] Letter from Keith Hall, Dir., Cong. Budget Office, to Sen. Ron Wyden (D-Or.), Ranking Member, S. Comm. on Fin. (Jan. 2, 2018), https://www.cbo.gov/system/files/115th-congress-2017-2018/costestimate/53437-wydenltr.pdf [https://perma.cc/FM4U-89CL].

[30] *See* Amir El-Sibaie, *A Look Ahead at Expiring Tax Provisions*, Tax Found. (Jan. 18, 2018), https://taxfoundation.org/look-ahead-expiring-tax-provisions/ [https://perma.cc/VAA5-6KEK].

[31] *New Senate Tax Bill Hides over $500 Billion of Gimmicks*, Comm. for a Responsible Fed. Budget (Nov. 15, 2017), https://www.crfb.org/blogs/new-senate-tax-bill-hides-over-500-billion-gimmicks [https://perma.cc/KRP8-E4J7].

[32] *Id.*

not increase their support for liberal policies, despite the addition of a sunset clause. Although sunsets marginally increased conservatives' beliefs that a law's liberal sponsors had good intentions, support for the proposed law was unchanged.

If our results translate to voting patterns among legislators or voters in direct-ballot initiatives, our results suggest that rather than motivating bilateral cooperation, sunsets may produce "sucker effects," whereby they encourage liberals to compromise while leaving conservatives unmoved. This is not to say that conservative lawmakers deliberately include sunsets to hoodwink their liberal colleagues, but that the parties' asymmetry in responsiveness to sunsets suggests that liberals will give way more easily than conservatives on legislation that they oppose. Here, we draw on empirical and theoretical work by Tess Wilkinson-Ryan and David Hoffman, who have described and measured sucker effects in contract law,[33] and we focus on the asymmetry with which liberals cede some opposition when offered a sunset clause, while conservatives do not reciprocate. Under these conditions, sunset clauses may shift legislation toward more conservative policies over time. Prior uses of sunsets in conservative legislation such as the Tax Cuts and Jobs Act, the Patriot Act, and numerous tax bills support this interpretation. Counterexamples exist as well—for example, the Assault Weapons Ban,[34] the Voting Rights Act,[35] and legislation responding to the 2008 economic crisis[36] and the COVID-19 pandemic have skewed toward a liberal valence. But for any individual statute, prior scholarship has not tested how the addition of a sunset clause alone can change support among liberal and conservative individuals, holding all other attributes constant. We provide this test.

We consider various explanations for our findings that liberals are more likely to compromise. For example, perhaps liberals share an unmeasured trait that gives them greater tendency to compromise under any condition. Perhaps our results are an artifact of the political moment of the survey in fall 2019, which was characterized by Republican control in both Congress

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[33] *See* Tess Wilkinson-Ryan, *The Sucker Norm* 2 (U. Pa. L. Sch. Inst. for L. & Econ., Research Paper No. 09-05, 2008) ("In order to be a sucker, a person must receive a disadvantageously inequitable payoff, meaning that he must either give more than he gets or get less than he deserves."); *see generally* Tess Wilkinson-Ryan & David A. Hoffman, *Breach is for Suckers*, 63 VAND. L. REV. 1003 (2010) (describing the effects of breach of contract).

[34] Violent Crime Control and Law Enforcement Act of 1994, Pub. L. No. 103-322, 108 Stat. 1796, § 20409(d).

[35] Voting Rights Act of 1965, Pub. L. No. 89-110, 79 Stat. 437, § 4.

[36] The Economic Stimulus Act of 2008 and the American Recovery and Reinvestment Act of 2009 provided numerous tax credits, individual tax cuts, and business incentives to bolster economic growth. *See What Did the 2008–10 Tax Stimulus Acts Do?*, TAX POL'Y CTR.: BRIEFING BOOK, https://www.taxpolicycenter.org/briefing-book/what-did-2008-10-tax-stimulus-acts-do [https://perma.cc/RA85-M3A3]. Many of these taxes were set to expire after 2012, but they were reinstated and made permanent in the American Taxpayer Relief Act of 2012. *See What Did the American Taxpayer Relief Act of 2012 Do?*, TAX POL'Y CTR.: BRIEFING BOOK, https://www.taxpolicycenter.org/briefing-book/what-did-american-taxpayer-relief-act-2012-do [https://perma.cc/RV9R-JCQK].

and the White House. We consider whether liberals were more interested in the statutory goals we studied (namely, reducing drug overdose deaths and improving the health of Medicaid recipients), as well as whether liberals espoused sunsetting legislation because they were more interested in evidence-based practice. If liberals support policies on the basis of instrumental effects (i.e., measurable outcomes), but conservatives support policies based on theory and values commitments (which are less responsive to empirical measurement—and would be less responsive at a future sunset date to empirical claims), we would expect to find liberals more swayed by sunsets. Our explanatory analyses are post hoc and intended to generate rather than prove hypotheses. We suggest, however, that liberals may be more motivated by support for the policy goal, more committed to evidence-based legislation, or characterized by personality traits that simultaneously make liberal ideology more appealing and make compromise more acceptable.

Under any of these explanations, the lopsided compromise effects of sunset clauses may produce long-term tendencies toward more conservative legislation. These results should prompt a rethinking of sunset clauses; although they may help break through partisan gridlock, they may also be more effective for advancing compromise on conservative compared to liberal legislation. This finding has several implications. If other determinants of willingness to compromise are held constant over time and across areas of legislation, increased frequency of sunset clauses may yield conservative policy drift in enacted law. If parties propose sunsetting legislation with equal frequency, then among enacted laws with sunsets, we might expect more of these laws to be conservative rather than liberal in their emphasis. And if both parties are equally effective at keeping sunsetting legislation on the books (e.g., through ongoing renewals or removal of sunset dates) then we may expect this conservative policy drift to accumulate over time.[37] We may also expect that Congress is more likely to entrench conservative legislation when it uses ongoing but time-limited renewals, rather than by removing sunsets entirely. Finally, if lawmakers are aware of the pro-conservative bias in the compromise effect of sunset clauses, we might expect to see conservative lawmakers using sunset clauses more frequently than liberal lawmakers to garner compromise; liberal lawmakers may compensate by relying on other compromise tactics such as allowing legislative amendments, including waiver provisions, or giving agencies more discretion to fill in interpretive gaps.

This Article proceeds in the following Parts. Part II introduces sunset clauses and their possible uses, and we categorize sunset clauses as conditional (i.e., the law will sunset if certain conditions exist) compared to stan-

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[37] Or rather, if conservative lawmakers are in fact more effective than their liberal colleagues in securing renewals of sunsetting legislation (consider, for example, the successful renewal of many tax cuts compared to unsuccessful efforts to reinstate the Voting Rights Act or the Assault Weapons Ban), then this effect will be magnified.

dard (i.e., the law will sunset in 2025). In Part III, we present our factorial randomized experiment, which tested legislation with a liberal, conservative, or neutral valence, crossed with a no-sunset condition, a standard sunset clause or a conditional sunset clause. We measured participants' liberal or conservative affiliations, and the primary outcome was support for the law. This Part includes our findings. Part IV explores possible mechanisms for disparate tendency of liberals to compromise. Part V discusses the long-term political implications of our analysis. Part VI concludes.

II.   Sunset Clauses

Prior scholarship on temporary legislation is extensive and reflects many hypothesized functions of sunset clauses. In this Article, we tackle the perception that sunset clauses induce more compromise between people of opposing political ideologies. But we acknowledge many other functions of sunset clauses here. This Part will consider prior work on functions and normative desirability of sunset clauses, distinguish between multiple types of sunset clauses, and identify how sunset clauses may exert both disciplining effects (i.e., they change the actual costs and benefits of enacting a law) and signaling effects (i.e., including a sunset clause communicates something about the law's sponsors or the law itself).

A.   Functions of Sunset Clauses

Sunset clauses are statutory provisions that require a law to expire at a predetermined time unless it is renewed.[38] Examples of federal statutes with sunset provisions include the federal Assault Weapons Ban,[39] the Patriot Act,[40] the Voting Rights Act,[41] the independent counsel statute that governed the investigation of President Clinton,[42] and numerous tax cuts.[43] Sunsets have been part of U.S. law from the country's earliest days.[44] Thomas Jefferson speculated that all laws should "naturally expire[ ] at the end of nineteen years,"[45] and the projected duration of the Constitution lent particu-

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[38] *See* Jacob E. Gersen, *Temporary Legislation*, 74 U. Chi. L. Rev. 247, 247 (2007).

[39] Violent Crime Control and Law Enforcement Act of 1994, Pub. L. No. 103-322, § 20409(d), 108 Stat. 1796.

[40] USA PATRIOT Act of 2001, Pub. L. No. 107-56, § 224, 115 Stat. 272.

[41] Voting Rights Act of 1965, Pub. L. No. 89-110, § 4, 79 Stat. 437.

[42] Ethics in Government Act of 1978, Pub. L. No. 95-521, § 601, 92 Stat. 1824.

[43] *See, e.g.*, Rebecca M. Kysar, *Dynamic Legislation*, 167 U. Pa. L. Rev. 809, 820–21 (2019) (citing examples including the Economic Growth and Tax Relief Reconciliation Act of 2001 and the Jobs and Growth Tax Relief Reconciliation Act of 2003).

[44] Gersen, *supra* note 38, at 250–55.

[45] Chris Mooney, *A Short History of Sunsets*, Legal Affs. (2004), https://www.legalaffairs.org/issues/January-February-2004/story_mooney_janfeb04.msp [https://perma.cc/8T2Q-MZK6].

lar weight to decision-making at the Philadelphia Convention.[46] Sunsets were taken up even in these early days of U.S. law: the Constitution embeds a two-year sunset into military appropriations in the Army Clause of Article I,[47] and the Sedition Act of 1798 was set to expire when John Adams concluded his presidency.[48]

Sunset clauses may serve a number of functions in legislation.[49] These may include facilitating congressional oversight of agency functions,[50] addressing agency capture,[51] promoting experimentation,[52] allowing the evolution of statutory schemes over time,[53] accommodating future changes in facts,[54] facilitating temporary responses to emergencies,[55] facilitating research and consideration of data on whether the law is an optimal strategy for achieving legislative goals,[56] improving democratic accountability (particularly of agencies),[57] avoiding "policy drift" over time,[58] avoiding unde-

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[46] *See* Daniel E. Herz-Roiphe & David Singh Grewal, *Make Me Democratic, But Not Yet: Sunrise Lawmaking and Democratic Constitutionalism*, 90 N.Y.U. L. Rev. 1975, 1979 (2015).

[47] *Id.* at 1982.

[48] Mooney, *supra* note 45.

[49] We do not focus on sunsetting in judicial decisions, which is distinct. The function of sunsetting in judicial opinions is less about the need for compromise, and more focused on anticipating changed factual circumstances in future years. *Cf.* Neal Katyal, *Sunsetting Judicial Opinions*, 79 Notre Dame L. Rev. 1237, 1240–41, 1246–47 (2004).

[50] *See* Theodore J. Lowi, The End of Liberalism, 309–10 (1st ed. 1969).

[51] *See* Kysar, *supra* note 43, at 824–25.

[52] *See generally* Sofia Ranchordás, Constitutional Sunsets and Experimental Legislation (2015); Sofia Ranchordás, *Innovation-Friendly Regulation: The Sunset of Regulation, the Sunrise of Innovation*, 55 Jurimetrics J. 201 (2015).

[53] *See* Ranchordás, *Innovation-Friendly Regulation*, *supra* note 52, at 216–19.

[54] *See* Allison Orr Larsen, *Do Laws Have a Constitutional Shelf Life?*, 94 Tex. L. Rev. 59, 107 (2015).

[55] *See* Eric A. Posner & Adrian Vermeule, *Accommodating Emergencies*, 56 Stan. L. Rev. 605, 617 (2003); Antonios Kouroutakis & Sofia Ranchordás, *Snoozing Democracy: Sunset Clauses, De-Juridification, and Emergencies*, 25 Minn. J. Int'l L. 29, 51–57 (2016).

[56] *See* Yair Listokin, *Learning through Policy Variation*, 118 Yale L.J. 480, 536 (2008) (arguing that sunset provisions increase efficiency by "enhanc[ing] the search for excellent policies"); Justin R. Pidot, *Governance and Uncertainty*, 37 Cardozo L. Rev. 113, 156 (2015); Zachary J. Gubler, *Experimental Rules*, 55 Bos. Coll. L. Rev. 129 (2014). The same argument has been made in favor of sunsets on judicial decisions regarding the constitutionality of government action. *See* Michael Gentithes, *Sunsets on Constitutionality and Supreme Court Efficiency*, 21 Va. J. Soc. Pol'y & L. 373, 395–96 (2014) (suggesting that sunsets in judicial opinions can "allow the government to test a potentially transformative policy in practice, and the Court can use the information gathered during the sunset period to decide if the policy's gains outweigh its costs in constitutional terms"). Sunset clauses may in fact direct agency actors to consider the impact of the law over time, such as the federal Assault Weapons Ban, which directed the Attorney General to identify "[the] impact, if any, on violent and drug trafficking crime" during the ten-year sunset period. Pidot, *supra* note 56, at 145–46.

[57] Robert W. Hahn, *State and Federal Regulatory Reform: A Comparative Analysis*, 29 J. Legal Stud. 873, 888 (2000); *see also* George K. Yin, *Temporary-Effect Legislation, Political Accountability, and Fiscal Restraint*, 84 N.Y.U. L. Rev. 174, 179–80 (2009). Alexander Hamilton also argued for sunset clauses to promote democratic accountability, suggesting that sunsets will call public attention to legislation at multiple points over time. *See* Gersen, *supra* note 38, at 251.

[58] *See* David Kamin, *Legislating for Good Times and Bad*, 54 Harv. J. on Legis. 149, 201 (2017).

sirable entrenchment,[59] correcting errors,[60] reducing susceptibility to cognitive bias arising from fear of acting in error,[61] creating incentives for affirmative congressional decision-making[62] and reducing inertia,[63] instilling urgency in legislative activity,[64] and allowing discontinuation of laws that prove more expensive than anticipated.[65]

A central virtue of sunset clauses, however, is that they may facilitate compromise.[66] Sunset clauses are a recognizable means of securing passage of legislation with strong opponents, such as the Patriot Act[67] or tax cuts under the Bush and Trump administrations.[68] Enacting a time limit for a statute promises opponents that the legislation will inflict less harm than anticipated—or harm for only a short period of time—and that eventually, the law will revert to a more desirable state. These provisions also promise opponents another chance to contest the law, and they allow opponents a chance to gather information in the meantime to demonstrate why the law was a bad idea. By resetting to the default state at the time of expiration, sunset provisions also invite opponents to wager that a future legislative stalemate will end in their favor. Sunset provisions, on this view, are "a spoonful of sugar that helps controversial legislation go down."[69] Fagan and Bilgel have restated this theory in economic terms: "the initial enactment costs of temporary legislation are less than the initial enactment costs of permanent legislation, holding the substance of the legislation constant."[70] This framing echoes Jacob Gersen's characterization of sunset clauses as spreading enactment costs over time (i.e., the costs of enacting now, plus the costs of renewing later); because we cognitively discount future costs, laws with sunset provisions will have lower enactment costs at the time of their first enactment.[71] For a proponent anticipating long-term benefits of a given law, a sunset provision may in fact lessen support for a law's passage by making

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[59] *See* Kysar, *supra* note 43, at 840.

[60] *See* Gersen, *supra* note 38, at 267–68; Katyal, *supra* note 49, at 1245–46 (proposing error correction as a rationale for judicial as well as legislative sunsets).

[61] Gersen, *supra* note 38, at 268–71.

[62] *See* Pidot, *supra* note 56; Listokin, *supra* note 56 (even suggesting that the expiration of a sunset clause may be accompanied by a penalty default—a bad law to incentivize legislative attention and affirmative decision-making).

[63] Katyal, *supra* note 49, at 1240.

[64] Cynthia Opheim, Landon Curry & Patricia M. Shields, *Sunset as Oversight: Establishing Realistic Objectives*, 24 Am. Rev. Pub. Admin. 253 (1994).

[65] Yin, *supra* note 57, at 234–35; *see also* Kysar, *supra* note 43, at 853 n.209.

[66] Mooney, *supra* note 45 ("Though the Bush Administration may have preferred, all things being equal, to do without [sunset provisions in the Patriot Act and several tax bills], the inclusion of these provisions helped get the laws through Congress.").

[67] Kysar, *supra* note 43.

[68] *See* Alli Sutherland, *Ghosting in Tax Law: Sunset Provisions and Their Unfaithfulness*, 46 Hastings Const. L.Q. 479 (2019).

[69] Mooney, *supra* note 45; *see also* Sutherland, *supra* note 68 (arguing that sunset clauses "have become a dangerous maneuver in today's politics as they are used to runaround procedural requirements" to enact laws that become permanent).

[70] Fagan & Bilgel, *supra* note 3, at 1.

[71] Gersen, *supra* note 38, at 264–65.

the predicted benefits temporary (and, thus, lessening predicted benefits in aggregate). The extent to which a sunset clause facilitates compromise also depends on the extent to which agents take seriously the likelihood of expiration or renewal.

Sunset provisions are not without their drawbacks; they require Congress to continue acting, which can be a tall order given gridlock and limited legislative resources.[72] They demand space and attention on the agendas of future legislative committees, which may have more pressing problems and resource demands.[73] They can be gamed in order to avoid a full accounting of a law's long-term budgetary impacts.[74] They can be ineffective for preventing entrenchment (and have themselves been fair game for repeal),[75] and they may do little to incentivize the uptake of information about whether laws have been effective during the sunset duration.[76] Where they are effective, sunset clauses conversely generate instability and may lead to the reversal of policies on which people have come to rely.[77] They may deter long-term investments needed for a piece of legislation to have its full impact, such as sunset provisions on tax credits for promoting renewable energy.[78] Interest groups in particular may find that sunset clauses deprive laws of anticipated long-term benefits and create opportunities for disadvantageous

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[72] Kysar, *supra* note 43, at 816–17.

[73] *Id.* at 839. Richard C. Kearney has reported a survey of states with sunset legislation providing for agency review and discontinuation of governmental entities over time, and found that twelve states discontinued legislative sunset reviews "because of high monetary and temporal costs of sunset review, intensive lobbying by vested interests, unfulfilled expectations of agency termination, low levels of citizen participation, and other perceived problems." Richard C. Kearney, *Sunset: A Survey and Analysis of the State Experience*, 50 Pub. Admin. Rev. 49, 49 (1990).

[74] Kysar, *supra* note 43, at 853; Rebecca M. Kysar, *Lasting Legislation*, 159 U. Pa. L. Rev. 1007, 1007 (2011).

[75] Rebecca M. Kysar, *The Sun Also Rises: The Political Economy of Sunset Provisions in the Tax Code*, 40 Ga. L. Rev. 335, 341 (2006); Kysar, *supra* note 43, at 826–27. Legislatures may do little to take laws off the books even after the sunset period has run, and they may have little appetite for revisiting statutes and agencies considered settled or entrenched. Guido Calabresi, A Common Law for the Age of Statutes 61–62 (1982); *see also* Mooney, *supra* note 45; Sutherland, *supra* note 68, at 491–92 (describing how the sunset of the Patriot Act was reversed within days with the passage of the USA Freedom Act in 2015, and noting the extension of Bush-era tax cuts under the Obama administration); Erin Dewey, *Sundown and You Better Take Care: Why Sunset Provisions Harm the Renewable Energy Industry and Violate Tax Principles*, 52 B. C. L. Rev. 1105, 1120–21 (2011) (finding that sunsetting provisions intended to discipline agency activity tend to fail "due to lack of public participation, enhanced special interest lobbying, and costly review processes").

[76] *See* John E. Finn, *Sunset Clauses and Democratic Deliberation: Assessing the Significance of Sunset Provisions in Antiterrorism Legislation*, 48 Colum. J. Transnat'l L. 442, 498–99 (2010) (citing evidence that sunset clauses may offer "deliberative benefits," but also noting that impacts are modest and that sunsets sometimes do not require that subsequent discussions about renewal be public).

[77] Kysar, *supra* note 43, at 840; Kysar, *Lasting Legislation*, *supra* note 74, at 1008; Manoj Viswanathan, *Sunset Provisions in the Tax Code: A Critical Evaluation and Prescriptions for the Future*, 82 N.Y.U. L. Rev. 656, 656 (2007).

[78] Dewey, *supra* note 75, at 1005.

bargaining.[79] Kysar has argued persuasively that sunset provisions also create opportunities for legislators to extract concessions from interest groups who are threatened by the possible expiration of a favored policy.[80] Some have gone further to justify and recommend statutes that actively tie the hands of future legislatures in entrenching legal rules.[81]

B.   *Types of Sunset Clauses*

Sunset clauses may take several forms. A simple sunset clause sets legislation to expire after a given period of time. But legislators may also employ a *conditional* sunset clause: a provision that sets legislation to expire automatically *unless* a pre-specified condition is met.[82] Here, in keeping with an emphasis on evidence-based policy-making,[83] we suggest that legislators may wish to couple a new law with an evaluation of its impact, and then set the law to expire unless the evaluation has demonstrated that the law has been effective for a given purpose. Although a majority of states have enacted some form of sunsetting legislation, particularly for general review of agency performance,[84] conditional sunsets are not yet in widespread use. We would consider these to be a form of what Rebecca Kysar has called "prompting legislation"—laws that require future legislators or administra-

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[79] *See* Gubler, *supra* note 56, at 132–133; *see also* Opheim et al., *supra* note 64, at 262 (finding that sunset clauses tend to allow the intrusion of "extraneous political considerations" into sunset reviews); Viswanathan, *supra* note 77, at 656 (finding that sunset clauses in tax laws "create[ ] opportunities for legislators to extract rents from lobbyists").

[80] Kysar, *supra* note 43, at 846.

[81] Eric A. Posner & Adrian Vermeule, *Legislative Entrenchment: A Reappraisal*, 111 Yale L.J. 1665, 1666 (2002).

[82] *See, e.g.*, Thomas J. Hall, *The FCC and the Telecom Act of 1996: Necessary Steps to Achieve Substantial Deregulation*, 11 Harv. J. L. & Tech. 797, 819 n.92 (1998) (illustrating several uses of conditional sunset provisions in FCC regulations); Elliott McKinnis, *The Case for State Mandatory Assignment of Benefits Legislation*, 8 Ind. Health L. Rev. 171, 179–80 (2011) (describing the use of a conditional sunset in Florida assignment of benefits law); Yoon-Ho Alex Lee, *An Options Approach to Agency Rulemaking*, 65 Admin. L. Rev. 881, 881 (2013) (describing conditional sunsets as a means of providing the legislature with an option to repeal a rule in adverse situations); Melissa J. Mitchell, *Cleaning Out the Closet: Using Sunset Provisions to Clean Up Cluttered Criminal Codes*, 54 Emory L.J. 1671, 1673 (2005) (describing possible uses of conditional sunsets in criminal law); David Zin, *An Economic Preview of the Michigan Business Tax*, 53 Wayne L. Rev. 1223, 1243–44 (2007) (describing the use of a conditional sunset in Michigan tax law).

[83] Kristen Underhill, *Broken Experimentation, Sham Evidence-Based Policy*, 38 Yale L. & Pol'y Rev. 151, 151 (2019).

[84] *See, e.g.*, Kysar, *supra* note 43, at 824 (finding that thirty-five states have passed legislation providing for sunset review of agencies); Robert W. Hahn, *State and Federal Regulatory Reform: A Comparative Analysis*, 29 J. Legal Stud. 873, 882 (2000) (describing general sunset provisions for agency review in Indiana, New Jersey, and Tennessee); Opheim et al., *supra* note 64, at 253 (finding that thirty-six states had enacted sunset review during the period between 1976 and 1982); Kearney, *supra* note 73, at 51 (discussing thirty-six states with sunsets from 1988 to 1989 and how the sunsets led to some termination of agency entities but tended to impose costs on legislatures). These general statutes that provide for termination of governmental entities without renewal are broadly known as sunset legislation, and they are distinct from other substantive laws with sunset clauses. *See* Gersen, *supra* note 38, at 259.

tive agencies to act—but these would be less open-ended, as they structure future congressional choices in ways that promote present legislative ends.[85]

Conditional sunsets might promote political compromise relative to unconditional sunsets by allowing legislators with different prior beliefs about a law's effectiveness to use the sunset period as a kind of binding experiment. Legislators who are confident that their side will be vindicated by the evaluation of a law's impact may be more likely to compromise on legislation that includes a conditional sunset.[86] If legislators have a freestanding commitment to evidence-based lawmaking, they may also find laws more appealing with conditional sunset clauses.

The design of a conditional sunset could entail permissive or mandatory renewal. A legislature bound by a conditional sunset clause saying "the law will lapse if an evaluation does not find it is effective" may find that the condition is met, and then must still make the permissive choice to renew. Alternatively, a conditional sunset clause could provide, "the law will lapse if an evaluation does not find it is effective, but if it is effective, the law will remain in force." Under this formulation, meeting the condition for renewal changes the default, such that the law continues in force as a mandatory matter unless affirmatively changed (it becomes, for Kysar's purpose, "dynamic legislation" that automatically adapts to conditions). Inertia, under a permissive versus mandatory condition, operates to different ends. Examples of conditions on legislation include the Don't Ask, Don't Tell Repeal Act of 2010 (which made repeal of the policy conditional on a review by the Department of Defense),[87] and the restrictions on "state sponsors of terrorism" (conditional on the designation of those nations by Secretary of State).[88]

C.   *Disciplining and Signaling Effects*

In this study, we sought to test the principal virtue touted for sunset provisions—namely, that they facilitate compromise by opponents of controversial legislation. Our study is motivated by the idea that standard and conditional sunsets may have two forms of effects in the process of legislative compromise: disciplining and signaling effects.

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[85] Kysar, *supra* note 43, at 824–25. This is in sharp distinction to standard sunset laws, which allow future legislatures to "decide de novo how to proceed" in a legislative area. John C. Roberts & Erwin Chemerinsky, *Entrenchment of Ordinary Legislation: A Reply to Professors Posner and Vermeule*, 91 Calif. L. Rev. 1773, 1784 (2003) (noting that an ordinary sunset clause "in no way ties the hands of successor legislators").

[86] *See* Ian Ayres, Super Crunchers: Why Thinking-by-Numbers Is the New Way to be Smart 62–63 (2007) (arguing that randomized policy experiments can foster political compromise).

[87] Don't Ask, Don't Tell Repeal Act of 2010, Pub. L. No. 111-321, 124 Stat. 3515.

[88] Foreign Assistance Act of 1961, Pub. L. No. 87-195, 75 Stat. 424-2 (codified as amended in scattered sections of 22 U.S.C.); Arms Export Control Act of 1976, Pub. L. No. 90-629, 82 Stat. 1321 (codified as amended in scattered sections of 22 U.S.C.); Export Controls Act of 2018, Pub. L. No. 115-232, 132 Stat. 2208 (codified as amended in scattered sections of 50 U.S.C.).

First, sunset clauses exert a disciplining effect—they change the anticipated costs of legislation. Compared to a state of no sunset clause, adding a sunset provision may reduce the harms that opponents predict, but it also may reduce the predicted benefits that proponents anticipate. As a result, we anticipate that a sunset clause will weaken not only opposition to a proposed law among people who are ideologically opposed, but also support for a proposed law among people for whom it is ideologically congruent. Fagan and Bilgel have studied whether sunset clauses increase the likelihood that a bill is passed into law, drawing on a randomly selected 1,025 bills introduced during the 110th Congress; approximately 31% of introduced bills included a temporal restriction, but these bills had more than twice the passage rate of bills containing permanent legislation, at passage rates of 5% for permanent laws and 13% for laws with sunset provisions.[89] Using a model that assumes lower enactment costs of bills with sunsets (i.e., that sunset clauses facilitate compromise), they find that sunset clauses on average increase the probability of bill passage by approximately 60% in a law with no other time limits (and 20% in a law that already contains a separate sunset provision).[90] Fagan and Bilgel's model does not, however, suggest the mechanism driving this effect—the binary outcome of law passage does not explain why sunset clauses might increase support, and specifically it does not distinguish between possible increases in support among opponents of a law, compared to possible decrements in support (although likely smaller) among a law's proponents. Fagan and Bilgel report on bills during a particular Congress (2007–2009), and they do not disaggregate bills by the political party driving opposition. We aimed to identify some of the cognitive processes that may be driving increased passage of laws with sunset provisions, including whether the compromise effect may be more pronounced among one political party compared to the other.

Second, we anticipate that sunset clauses also exert a signaling effect—they communicate information to agents and observers. Including a sunset clause may signal, for example, that a law's sponsors are acting in good faith to achieve a policy goal, such that they will allow the law to be changed if it fails. Advancing a law with a sunset provision may simultaneously communicate that the law's sponsors are confident that the law will work (such that they are taking the chance on it being repealed if it does not prove itself) or conversely, communicate that some reluctant supporters are confident that the law will fail (such that they only want to try it on a limited basis). It may reliably communicate that a law's sponsors expect opposition (perhaps because the law is itself problematic) and must hold out a sunset clause as a concession. It may also communicate information about the sponsors themselves—for example, that they are willing to commit to experimentalism in the design of legal rules, or that they value the generation of empirical data

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[89] *See* Fagan & Bilgel, *supra* note 3, at 3.
[90] *See id.* at 2.

and revisiting policies (which may create the perception that the law is itself more evidence-based).

III.   An Empirical Test of Sunset Clauses

We used a randomized experimental vignette study to assess the effects of sunset clauses and conditional sunset clauses on support for proposed legislation, perceived legitimacy of legislation, and perceived good faith of legislators. In general, we hypothesized that including both types of sunset clauses would increase support for legislation, increase perceived legitimacy, and increase perceived good faith. We also varied the political valence of legislation to identify whether the impact of sunset clauses varies depending on whether the legislation aligns with political viewpoint. Here, we hypothesized that sunset clauses may reduce support for laws that align with someone's political viewpoint, but that they may increase support for laws that run contrary to political views. The remainder of this Part describes methods, participants, and findings of the empirical study.

A.   Design

Our goal was to identify how the inclusion of a sunset provision, or a conditional sunset provision, changes how U.S. adults react to proposed legislation. We were principally interested in whether sunset clauses facilitate compromise, such as by changing the extent to which people supported laws that differed from their own political preferences. We also sought to identify whether a conditional sunset provision—wherein an agency must certify on the basis of research that a law is "effective"—may change how people perceive the good faith of legislators, the evidentiary basis for the proposed law, and the likelihood that Congress will keep the law on the books if it proves to be harmful.

The design of the study was complete factorial experiment, in which participants read a vignette that differed along three different dimensions. The design is summarized in Appendix A. Each participant read only one vignette, which described a proposed law to address a public health problem. All participants subsequently answered questions about their support for the law, which was the primary study outcome. Secondary outcomes included predicted impacts of the law (from very harmful to very helpful), perceived good faith of the legislators, likelihood of the law's passage, perceived fairness of the law, likely strength of the existing evidence about the law, and the likelihood that the legislature would keep the law on the books if it proved to be ineffective. Outcomes were assessed on seven-point Likert scales. We also collected data on key political covariates (i.e., political party, political leaning, registration to vote, chosen candidate in the 2016 presidential election, frequency of reading political news, trust in Congress, trust in federal agencies, faith in science) as well as demographic characteristics

(i.e., state, gender, sexual orientation, religion, ethnicity, family income, and salience of each of the public health concerns from the vignettes). We constructed a dichotomous variable for liberal (liberal vs. not liberal), specifying that people who reported being Moderately Liberal, Liberal, or Very Liberal in their political leaning would be considered liberal for the analysis. We used an analogous classification for conservatives. We also created a single variable with three levels to denote people who identified as liberal, conservative, or neither (people who did not know were considered to be neither).

The study format was a survey administered via the Qualtrics online platform. We enrolled n = 1639 U.S. adults recruited via Amazon MTurk, an online web portal that connects interested individuals to online tasks. According to our pre-specified power calculation, this sample size was sufficient to identify a group difference of four percent, with a significance level of 0.05 and ninety percent power. Importantly, although the study as a whole was fully powered, subgroup analyses (e.g., analyses of liberals only, or conservatives only) are not. This is a limitation of findings, and the subgroup of conservatives was somewhat smaller than the subgroup of liberals. Our tests of explanatory mechanisms are exploratory in nature because they were not specified a priori, but they are also exploratory because they may be underpowered.

Each participant received three dollars as reimbursement for time spent taking the survey, which lasted approximately fifteen minutes. All participants provided informed consent in advance of beginning the study. In order to be eligible for the study, participants had to be at least eighteen years of age and based in the United States, and they had to have completed at least one hundred prior online tasks on MTurk with a ninety-five percent approval rating. Anyone reporting an age younger than eighteen was excluded from the study. Participants also answered an "attention check" question early in the study to ensure that they were following instructions. Data were collected in smaller batches on different days and times over the course of one week, but were not analyzed until we had reached our pre-specified enrollment. We prohibited repeat enrollment in Amazon MTurk, and our Qualtrics settings used cookies to bar repeat survey-taking. To preserve the anonymity of study participants, we did not collect internet protocol ("IP") addresses. Procedures were approved by the Yale and Columbia institutional review boards ("IRBs").

We manipulated vignettes along three dimensions, and participants were randomly assigned to different conditions in each of the three dimensions. Full vignettes are provided in Appendix B. The three dimensions were area of legislation, political valence of the law, and the type of sunset clause, as follows.

First, participants were randomly assigned to one of two separate areas of legislation, both in health law: (1) Medicaid policy, for which the goal was to improve the health of Medicaid beneficiaries, and (2) drug policy, for

which the goal was to reduce deaths from drug overdoses. We chose these areas because current policy debates are highly politicized and controversial in both fields, and we used two separate areas to ensure that our findings are not an artifact of a single field.

Second, participants were randomized to read a proposed law with a liberal, neutral, or conservative political valence. For Medicaid policy, the three laws were as follows: (1) the liberal law proposed to expand Medicaid benefits, and to expand Medicaid eligibility to some undocumented migrants; (2) the neutral law proposed new rules that would provide all Medicaid beneficiaries with more information about their benefits; and (3) the conservative law proposed that many beneficiaries would be required to work or volunteer as a condition of enrollment. For drug policy, the three laws were as follows: (1) the liberal law proposed legalizing safe injection facilities, where people can use drugs lawfully in the presence of medical help; (2) the neutral law proposed new training for people who respond to overdoses; and (3) the conservative law proposed increasing criminal penalties for all drug possession. For each law, we specified that the law would not increase any costs to states, and that the law would include a research study to evaluate whether it advanced the goal of improving Medicaid beneficiary health or reducing deaths from drug overdoses.

We verified that the laws did have the expected political valence by testing whether participants who identified as liberal versus conservative displayed predictable patterns of support—for example, a liberal participant would be expected to support liberal legislation and oppose conservative legislation. No pattern of support was hypothesized for neutral legislation. This check confirmed that participants interpreted the policy valence of the different laws as intended (Appendix B).

Third, participants were randomized to receive one of three conditions for a sunset clause. These were (1) no sunset clause, where the vignette ended after describing the law; (2) a standard sunset clause, which specified that the law would expire in five years unless Congress renews it; and (3) a conditional sunset clause, which specified that the law would expire in five years unless the Department of Health and Human Services certifies that it worked to improve Medicaid beneficiaries' health or reduce drug overdose deaths. For the sunset clauses, the vignette clarified that if the new law expires, then the law would revert to the way it is today.

We had several hypotheses for this study, which we divided into main effects and interactions between independent variables.

Main effects: Overall, we hypothesized that compared to the no-sunset condition, each of the sunset clauses would increase support for the law, perceived good faith of the legislators, perceived likelihood of the law's passage, perceived fairness of the law, and perceived strength of evidence underlying the law. We thought that the sunset clause would also decrease the perceived likelihood that the legislature would leave the law in place if it proved ineffective. Compared to a standard sunset provision, we thought a

conditional sunset provision would result in an even greater increase in support for the law (i.e., a greater compromise effect), because tethering renewal to evidence of effectiveness would appeal to people who valued the goals of the law.

Interaction effects: We believed that among people who disagreed with the political valence of the law (e.g., their own political leaning was liberal, but the law in the vignette was conservative, or vice versa), the sunset provision would increase support for the law. We will refer to this as the compromise effect. It was possible, but we thought not probable, that the sunset provision would decrease support for the law among people who agreed with the political valence, such that they would want the law to be entrenched and would dislike the thought of its expiration.

We hypothesized that participants from each political leaning would be equally susceptible to the compromise effect (that is, among ideological opponents of a law, we did not predict that liberals and conservatives would differ in the extent to which they support the law in the presence of a sunset). We thought, however, that the compromise effect would be larger for people with greater faith in science and greater trust in Congress. We also anticipated several additional covariates of the compromise effect of sunset clauses, including frequency of following political news and salience of the public health problem in the vignette.

We analyzed data using Stata, conducting regression models according to an a priori analysis plan. We did not correct for multiple statistical tests here, and we are mindful that five percent of tests will reach statistical significance by chance alone. But we note throughout that our principal findings tended to be consistent across multiple outcome measures (e.g., support for a law, belief that the law is supported by evidence), which gives us some comfort that our results were not a matter of chance.

B.   Participants

Our sample included 1,639 adults from throughout the United States, and forty-nine states were represented. 41% of participants were women, 81% identified as heterosexual, and they identified their races and ethnicities as 72% White, 13% Black, 5% Hispanic/Latinx, 6% Asian or Pacific Islander, 2% Mixed Race or Other, and 1% Native American or Alaska Native. 77% reported having a four-year college degree or higher, and median income was between $50,000 and $59,000. Although we recognize that MTurk samples differ from the U.S. general population[91]—they tend, for example, to be younger, better-educated, and have greater access to broadband

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[91] *See* Yanna Krupnikov & Adam Seth Levine, *Cross-Sample Comparisons and External Validity*, 1 J. EXPERIMENTAL POL. SCI. 59, 60–62 (2014).

internet, and they may be less naïve about experimental methods[92]—prior studies have found that decision-making biases among MTurk participants are comparable to populations in other settings, and they are more demographically diverse than both college students and other web-based samples.[93] The sample was somewhat more liberal than conservative, with a mean political leaning of 4.41 on a scale from 1 (very conservative) to 7 (very liberal), and a political identity distribution of 52% liberal, 34% conservative, and 14% neutral.

Importantly for the generalizability of these findings, MTurk participants may differ in their decision-making compared to the active legislators who vote on proposed legislation. Legislators are likely to differ along attributes including policy interests, demographics, repeat experiences with inter-party conflicts and legislative efforts, past experiences with sunset clauses (e.g., as garnering support or hiding budget impacts), and beliefs about other legislators. Our goal, however, is to begin disaggregating the decision processes that occur in the presence of a sunset clause, and a preliminary test with a lay population gave us the statistical power we needed to identify small effects. Lay adults are also voters; they may have occasion to vote for ballot actions or constitutional amendments that include sunset provisions. Moreover, because cognitive biases for legislators resemble those of lay people, we anticipate that legislators are likely to reason similarly to lay people, at least in the earlier years of their position.

C.   Results

Group means and main effects for overall support are in Tables 1 and 2 respectively, using ordinary least squares ("OLS") regressions to assess how topic area, political valence of the law, and sunset clause type affected support for the law. Model 1 provides main effects without interaction terms. Model 2 adds the interaction between valence and sunset clause type; we did not hypothesize that sunset clauses would interact with topic area and so did not include a topic-by-sunset interaction. Model 3 adds covariates including political leaning and the interaction between political leaning and valence of

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[92] *See* Jesse Chandler, Pam Mueller & Gabriele Paolacci, *Nonnaïveté Among Amazon Mechanical Turk Workers: Consequences and Solutions for Behavioral Researchers*, 46 Behav. Rsch. Methods 112, 114 (2014).

[93] *See* Michael Buhrmester, Tracy Kwang & Samuel D. Gosling, *Amazon's Mechanical Turk: A New Source of Inexpensive, Yet High-Quality, Data?*, 6 Persps. on Psych. Sci. 3, 5 (2011); Krista Casler, Lydia Bickel & Elizabeth Hackett, *Separate but Equal? A Comparison of Participants and Data Gathered via Amazon's MTurk, Social Media, and Face-to-Face Behavioral Testing*, 29 Computs. Hum. Behav. 2156, 2159 (2013); Joseph K. Goodman & Cynthia Cryder, *Data Collection in a Flat World: The Strengths and Weaknesses of Mechanical Turk Samples*, 26 J. Behav. Decision Making 213, 221–22 (2013); Elizabeth Hoffman, David Schwartz, Matthew Spitzer & Eric Talley, *Patently Risky: Framing, Innovation and Entrepreneurial Preferences*, 34 Harv. J. L. & Tech. 192, 245 (2020); Gabriele Paolacci & Jesse Chandler, *Inside the Turk: Understanding Mechanical Turk as a Participant Pool*, 23 Current Directions Psych. Sci. 184, 187 (2014).

the law. Model 4 adds other covariates, including frequency of following political news, trust in science, trust in Congress, and personal salience of the health problem.

1. Main Effects: Little Impact of Sunsets Overall

As Table 2 shows, participants tended to be more supportive of neutral laws compared to laws with liberal *or* conservative valence. Pairwise comparisons showed that participants were significantly more supportive of neutral laws compared to those of either political valence, but also that they significantly preferred liberal laws to conservative laws. This seems reasonable given the political distribution of the sample.[94] The topic area made no difference to overall support for legislation. Across all participants, we found that adding a sunset clause or a conditional sunset clause did not significantly affect overall support for the law, holding political valence and topic area constant. Unsurprisingly, when we added political ideology as a covariate in Model 3, we found that ideology did not predict support for legislation on its own, but rather predicted differential support for policies based on whether they were congruent with ideology. However, this did not change overall findings for sunset. Adding all other covariates in Model 4 also did not change main effects for sunset. Our overall hypothesis that sunset provisions would increase support across the board was not supported.

Using Model 2 for analysis of other outcome variables, we also determined that adding a sunset did not affect overall beliefs about the strength of evidence, perceived fairness, perceived good faith of the legislature, or perceived likelihood that the law would pass. We did find, however, that adding a sunset clause significantly increased the belief that the law would be effective for its stated purpose, compared to no sunset clause (p < 0.05). The conditional sunset clause did not have this effect. We also found that the sunset clause significantly reduced the perceived likelihood that Congress would keep the law on the books if it proves ineffective (p < 0.05). This was true for both the standard sunset and the conditional sunset, compared to no sunset.[95]

2. Interactions: Sunsets Increased Support for Conservative Legislation

Of key interest for our analysis in Table 2 was the interaction between political valence and sunset clauses. We predicted that sunsets would equally increase support for legislation that was liberal, conservative, and neutral in valence. Our findings, however, consistently showed that the sunsets tended to increase support for conservative laws more than they increased support for laws that were liberal or neutral in valence. Findings were marginally

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[94] *See* discussion *supra* Section III.B.
[95] The two sunset formulations did not differ from each other in this impact.

significant in Model 2 and reached significance in Models 3 and 4. Pairwise comparisons showed that when the policy was conservative, a sunset clause and a conditional sunset clause each significantly increased support compared to no sunset. The two forms of sunset did not significantly differ. Both sunsets appeared to have no effect on support for laws of other political valences.

Interaction effects between political valence and sunset for other outcome variables (i.e., predicted effectiveness, evidence strength, fairness, good faith, likelihood of passing, and likelihood of staying on the books if ineffective) were not significant.

D.   Disagreers, Agreers, Liberals, and Conservatives

We hypothesized that sunset clauses would increase support for laws in the subgroup who disagreed with each law's political valence (the compromise effect). To test this impact, we continued to use the regression approach in Model 2 (Table 2), and we restricted the set of observations to four subgroups: (1) people who should disagree with the law based on political leaning; (2) people who should agree with the law based on political leaning; (3) self-identified liberals; and (4) self-identified conservatives. These subgroups overlap—each person was in two subgroups—but address slightly different questions. We created a dummy variable for each of these four subgroups:

> Disagreers: Participants were "Disagreers" (coded 1) if they were liberals and had read a vignette with a conservative valence, or if they were conservatives and had read a vignette with a liberal valence. All others were coded 0.
> Agreers: Participants were "Agreers" (coded 1) if they were liberals and had read a vignette with a liberal valence, or if they were conservative and had read a vignette with a conservative valence. All others were coded 0.
> Liberals: Participants were "Liberals" (coded 1) if they identified as liberal in the continuous measure of political leaning (i.e., greater than four on a seven-point Likert scale). People expressing neutral leaning were coded 0.
> Conservatives: Participants were "Conservatives" (coded 1) if they identified as conservative in the continuous measure of political leaning (i.e., less than four on a seven-point Likert scale). People expressing neutral leaning were coded 0.

Among each of the four subgroups, we examined the effect of area, sunset, and valence, as well as the interaction between sunset and valence, using the same regressors as Model 2 in Table 2, followed by pairwise comparisons for the sunset-by-valence interaction. Means for analyses of support are provided in Table 3 and represented in Figures 1–2. Figures 1–2 suggest

that across all four of these subgroups, inclusion of sunset clauses tends to increase support for conservative laws but does not seem to affect support for liberal laws. The following analyses show a number of compromise effects brought on by sunset clauses, but these were most often seen in interactions with valence, such that the use of a sunset clause induced compromise beliefs when the policy was conservative, but not when it was liberal.

Among Disagreers, we found that support was higher for liberal policies compared to conservative policies. But sunset clauses did not affect overall support, predicted effectiveness, strength of evidence, perceived fairness, perceived good faith, or likelihood of passing. There was, however, an interaction between sunset clause and valence. When the policy was conservative, both types of sunset provision decreased the perceived likelihood that Congress would keep the law on the books if it failed, compared to no sunset provision. The sunset provisions did not change this belief when the policy was liberal. This suggests that among Disagreers, sunset provisions may increase the confidence that Congress will change the law later if it fails when the law is conservative.

Among Agreers, we found a significant main effect of conditional sunsets on support, such that conditional sunsets increased support for a policy that people agreed with, compared to no sunset. But the interaction term between valence and sunset showed that this was only true for conservative policies. When the policy was liberal and people agreed, including a sunset actually decreased support for the policy at marginal statistical significance ($p < 0.10$). But when the policy was conservative and people agreed with it, including a conditional sunset increased support for the law, compared to no sunset ($p < 0.05$). We also observed an interaction effect in the same direction for predicted effectiveness of the law. When the policy was conservative, including a standard or a conditional sunset increased participants' belief that the law would be effective, compared to no sunset ($p < 0.05$). Sunsets had no effect and no interaction with valence for perceived strength of evidence, perceived good faith, perceived likelihood of keeping an ineffective law, and likelihood of passing. Taken together, these findings suggest that among those who agree with a policy, sunset clauses improve opinions of legislation when the policy is conservative but may undermine support when the policy is liberal.

Among Liberals, sunsets had significant compromise effects for conservative but not liberal policies across a range of outcomes. When we restricted the analysis to liberal participants, we found that either type of sunset significantly increased support for a conservative policy ($p < 0.05$). But neither sunset increased support for a liberal policy; the sign on these coefficients was negative but not significant.[96] Among Liberals considering

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[96] The consistent negative sign here suggests that sunsets may, at the margins, reduce liberals' support for liberal laws. Interestingly, we do not see a corresponding pattern in how sunsets affect conservatives' support for conservative laws. If willingness to accept a sunset

conservative laws, both types of sunset provisions increased the belief that the law would be effective, compared to no sunset clause ($p < 0.05$). This effect was not observed for liberal laws. Again, among Liberals considering conservative laws, the sunset clause increased the belief that the laws' sponsors were acting in good faith, such that a standard sunset clause led to marginally significantly higher perceptions of good faith compared to no sunset ($p < 0.10$). Findings also showed that among Liberals considering conservative laws, including either sunset condition also increased the belief that the law would pass ($p < 0.05$), and either condition also decreased the perceived likelihood that Congress would keep the law on the books later if it proved ineffective ($p < 0.05$).

Sunset provisions did not affect the way that Liberals considered liberal laws nor did they affect beliefs about the strength of evidence and the fairness of the laws. Considered together, these findings suggest that for Liberal participants, including sunset clauses induces compromise beliefs when laws are conservative, and these beliefs include increased support for the laws and increased optimism about the sponsors' good faith and future actions.

Finally, among Conservatives, we found that sunsets produced a narrower range of compromise beliefs for liberal laws and served to increase support for laws that were already conservative. Sunsets had no main effect on support, but among Conservatives considering conservative policies, conditional sunsets marginally increased support ($p < 0.10$). Both types of sunset clauses led to significantly greater belief that the law would be effective, holding political valence constant ($p < 0.05$); they also reduced the perceived likelihood that Congress would keep the law on the books if it proved ineffective ($p < 0.05$ for standard sunsets, $p < 0.10$ for conditional sunsets). But neither type of sunset clause affected beliefs about fairness, the strength of evidence, or the likelihood that a law would pass. Finally, we observed interaction effects regarding good faith. When Conservative participants considered a liberal law, including a conditional sunset marginally increased the belief that the law's sponsors were acting in good faith, compared to no sunset.

We also ran these analyses among participants of both political leanings considering neutral laws alone. Here, we found that where policies are neutral, sunset clauses did not affect overall support, strength of evidence, fairness, good faith, or passing. Compared to no sunset clause, a standard sunset increased predicted effectiveness of the law compared to no sunset, and both types of sunset reduced the perceived likelihood that Congress would keep the law on the books if it did not work.

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clause is another indication of compromise, then perhaps conservatives' stable support for conservative laws demonstrates that they are willing to give up some of the laws' durability in exchange for passage.

IV.   Why Do Liberals Compromise?

Our principal finding—namely, that sunsets increased Liberals' support for conservative legislation, but did not change Conservatives' position on liberal legislation—was contrary to our hypotheses. We had not, therefore, planned a series of a priori tests to examine possible causal explanations for this effect. This Section explores possible mechanisms post hoc, and should be considered hypothesis-generating rather than hypothesis-testing. Further work is needed to replicate and confirm these findings. We begin by characterizing types of support for legislation, which may differ between liberals and conservatives: consequentialist support, deontological support, and expressive-politics support. We also consider the possibility that liberals are more invested in evidence-based practice, affected by contemporary party dynamics, or characterized by some trait that motivates both liberal ideology and compromise.

A.   *Consequentialist Support*

We define "consequentialist support" as support for legislation based on commitment to its end goal. ("Instrumental support" or "goal-oriented support" are useful synonyms.) People display consequentialist support when they prefer a law because they think it will achieve its policy purpose. (Implicit in this type of support is that the supporter approves of the purpose of the policy as a worthy goal.) Consequentialist support should be responsive to empirical tests of effectiveness—if people's beliefs about a law's impacts are proven wrong (i.e., they thought it would help, and instead it was ineffective or harmful), they should change the direction of their support. A consequentialist supporter, that is, should be more interested in legislation with a conditional sunset because the law's duration depends on effectiveness. That person may also be more interested in legislation with a standard sunset because it opens space in the future for an empirically driven debate about effectiveness.

We did not ask participants to define the nature of their support or opposition to the law. But we did ask the extent to which they thought the given policy goal "should be a priority," on a scale from one to five. We asked this item after participants read the description of the proposed law, so this may be endogenous to our independent variables (political valence, type of sunset).[97] But as an exploratory matter, we compared group means for perception of priority across Liberals and Conservatives, using a two-tailed t-test. Across both policy goals, Liberals thought that the goal was a more

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[97] When we tested for treatment effects on perceived priority, we found that participants gave significantly higher priority to improving the health of Medicaid beneficiaries compared to reducing drug overdose deaths. But sunset conditions did not significantly affect perceived priority, nor did political valence of the law. Interactions between sunset and political valence were nonsignificant.

important priority than did Conservatives, with means at 3.68 and 3.34, re-spectively (t(1411) =-6.202, p $<$ 0.000).

We then added policy priority as a covariate to the regression we ran among Liberals above (Table 4). Model 1 in Table 4 displays the initial re-gression, which was followed by pairwise comparisons for the sunset-by-valence analysis. Model 2 includes participants' belief that the policy goal (i.e., reducing drug overdose deaths, increasing the health of Medicaid par-ticipants) should be a priority for Congress. Perceiving the goal as a higher priority was a highly significant predictor of greater support for the policy (p $<$ 0.000). In pairwise comparisons following Model 2, adding a condi-tional sunset clause significantly increased support for conservative legisla-tion (p $<$ 0.05); however, adding a standard sunset now had only a marginally significant impact (p $<$ 0.10). This is consistent with the predic-tion that consequentialist supporters would be more interested in legislation where renewal depended on effectiveness. But because including policy pri-ority as a covariate did not change the significance of the sunset-by-valence interaction, we suggest that the perception of policy priority is not the sole explanatory factor for why liberals may be more affected by sunsets than conservatives.

Notably, Liberals did not report more support for liberal legislation with a sunset or conditional sunset clause. This would run counter to the hypothesis that liberal support is simply consequentialist; if liberals were motivated primarily by consequentialist support, then adding a conditional sunset should increase support for *any* legislation supporting the policy goal. Ceiling effects may have interfered with the ability to measure a marginal impact of sunset clauses in this group, if policy support for any reason was already at its maximum without a sunset clause.

A weakness of this study is that both policy goals were fairly liberal in their emphasis. A useful follow-up test for this concept would be to repeat this test with a manipulation that considers more overtly conservative policy goals, such as strategies for improving border security, minimizing waste in medical spending, or strengthening religious exemptions.

B.   *Deontological Support*

In contrast to consequentialist support, "deontological support" can be defined as preferring legislation based on its inherent characteristics—for example, its basis in an appealing theory or philosophy apart from whether it is effective for its stated policy ends ("inherent support" would be a syno-nym). Deontological supporters evaluate a law's merit according to criteria other than whether it works for its stated goal. For example, someone may support all tax cuts because they have libertarian beliefs—regardless of what policy ends those tax cuts might serve.

We would not predict deontological support to increase in response to either standard or conditional sunsets. Someone who supports a law for its

deontological characteristics may even be less supportive of that law if it were time-limited, since it would be less durable (and less likely to entrench a preferred theory or legislative characteristic) than permanent legislation. We did not include any variables that measure deontological compared to consequentialist support. But one possibility is that people who are more extreme in their liberal leanings have more deontological support for liberal legislation, and people who are more extreme in their conservative leanings have more deontological support for conservative legislation.

If liberals are less extreme overall than conservatives, then their support for legislation may be less dependent on deontological support, and therefore more responsive to sunset clauses. We tested this in two ways.

First, we tested whether conservatives are on average closer to the extreme pole (approaching "very conservative") than liberals (approaching "very liberal"). We found, instead, that the opposite was true; in our sample, the 857 Liberals reported extremeness of 3.00 on an extremeness scale (where 1 is neutral, and 4 is extreme), while the 556 Conservatives reported extremeness of 2.89. A t-test showed that Liberals declared themselves to be significantly more extreme in their views than Conservatives, on average $(t(1411) = -2.83, p < 0.01)$. If our assumption is correct—namely, that people with more extreme political leanings are likely to show more deontological support—then this result suggests that liberals should draw on deontological support *more* than conservatives, and should therefore be less responsive than conservatives to sunset clauses.

We then added extremeness of political views as a covariate in the regression model for liberals (Table 4, Model 3). Because extremeness of political views should affect support for policies differently depending on their valence, we also included an interaction term between extremeness and policy valence. We found that extremeness alone was not significantly predictive of Liberals' support for legislation, although the interaction between extremeness and valence was highly significant—as Liberals grew more extreme their liberal views, they supported liberal policies more and conservative policies less, holding sunset condition constant. Notably, now that the model controls for extremeness of political views, the interaction between valence and sunset is now only marginally significant $(p=0.056)$; pairwise comparisons showed that a conditional sunset increased support for conservative legislation, but a standard sunset did not.

We also thought to test this idea by running the standard model (Model 1 in Table 4)[98] among subgroups of Liberals: the most extreme (n=247), the average (n=367), and the most centrist in their views (n=243). In these analyses, conditional sunsets only induced significant compromise support for conservative policies among Liberals who were average in the strength of their views. Sunsets did not cause the most extreme liberals to compromise, nor did they budge the most centrist.

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[98] Same as Model 2 in Table 2.

These explorations run contrary to the suggestion that liberals are less extreme in their political leanings, at least in this sample. Additional research might further consider whether extremeness of political views moderates people's willingness to compromise in the presence of a sunset clause.

C. *Expressive-Politics Support*

Expressive-politics[99] supporters give to or withhold support from a law based on their perceptions of a law's political winners and losers; this form of support depends neither on a law's internal structure (deontological support) nor on its effects (consequentialist support), but rather tracks people's commitment to the party seeking to pass legislation. This form of support requires people to classify laws ex ante as either Democratic or Republican in nature, so that they support laws that they believe advance victory for their preferred side.[100] Although political partisans likely also believe that their own political party has better theories and more effective solutions to national problems, expressive-politics support derives from group affiliation. Where support is characterized by expressive politics, we anticipate that it will be less influenced by sunset clauses; any legislative victory for one's own side (and any defeat for the opposition) will be desirable.[101] We also do not anticipate any difference in the effect of conditional versus standard sunsets for this group.

In this study, we did not ask participants about their desire to see their own political party win or to see the opposing party lose. We also did not assess whether they identified specific policies as Democratic or Republican. We therefore have few tools to distinguish expressive-politics support from other forms of support. But one approach to exploring this possibility is as follows.

We start with the premise that more partisan people (i.e., those with stronger Democratic vs. Republican identity) are more likely to support or oppose laws on expressive-politics grounds. Then, we suggest that people with more extreme liberal or conservative views are more partisan as a matter of Democratic vs. Republican identity than people with centrist views. Finally, we assume that people were able to identify the likely party supporting each law as Democratic or Republican.

Upon considering the extremeness of liberal vs. conservative views alone, it is difficult to disentangle expressive-politics support from deonto-

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[99] Borrowing the term here from Richard McAdams, who discusses expressive-politics signaling as one expressive impact of law. *See* RICHARD H. MCADAMS, THE EXPRESSIVE POWERS OF LAW 13 (2017). "Partisan support" might be a good alternative.

[100] This may not occur only on the liberal/conservative divide—someone could select laws ex ante based on perceived victory for any interest group they care about. But our focus has been squarely on liberal vs. conservative political valence.

[101] People who oppose a law on expressive-politics grounds might hope that the law will expire in the future (given inertia and gridlock that favor nonaction), but we do not suspect that this will increase their support in the moment.

logical support for the law (see above). The breakdown of extremeness by party identity, however, was somewhat different than the breakdown by ideology. Democrats described their views as more extreme (n = 718, mean = 3.01), compared with Republicans (n = 427, mean = 2.94), but the two means were not statistically different (t(1143) =-1.38, p = 0.17).

We decided to locate the most likely expressive-politics supporters by analyzing people who are extreme in their political views *and* who disclosed a party affiliation. We would not expect this group to be moved by sunset clauses, since this is the group most likely to seek a win for its own political party (and a loss for its opponents). Our findings are aligned with this suggestion. When we ran our standard regression analysis (Model 1 in Table 4) with Democrats who had the most extreme liberal views (n = 212), sunsets made no difference to support for conservative legislation (β= 0.12 (SE = 0.63), p = 0.850 for conditional sunsets by conservative legislation). When we ran the model with Republicans who had the most extreme conservative views (n = 122), sunsets again made no difference to support for liberal legislation (β =-0.33 (SE = 1.08), p = 0.761), although the size of this subgroup was small. There were too few Democrats and Republicans with centrist views to run regressions in this group (n = 24 and n = 16, respectively).

These findings provide some support for the suggestion that people motivated more by expressive-politics support will be less responsive to the compromising effect of sunset clauses, which appeared true for both Democrats and Republicans. But because Democrats in this study were overall more extreme in their ideological views than Republicans, we would have expected Democrats to be less responsive to sunsets overall when they disagreed with legislation. This was not the case. Some of our assumptions may be faulty—for example, people may not have reliably identified the political valence of the policies in the prompt. At present we lack the data to explore this further, but future work could take on the question.

Thus far, we have distinguished between consequentialist, deontological, and expressive-politics support. All three may converge; to take our vignettes, a conservative-leaning person may: (1) care about overdose deaths and believe that criminal penalties for drug possession will reduce them (consequentialist); (2) support criminal penalties because she prefers the philosophy of law-and-order solutions (deontological); and (3) identify the law as a potential conservative victory that validates her group identity (expressive-politics). But the three types of support may appear in different proportions among liberals compared to among conservatives. This would benefit from further testing.

D.   *Commitment to Evidence-Based Legislation*

Several scholars have characterized sunset clauses as pathways to optimally effective legislation, because they ensure the opportunity to revisit and

change laws over time in response to new knowledge about policy effectiveness. The language and approach of "evidence-based" policy was highly aligned with President Obama's administration,[102] and the Trump years (particularly the COVID-19 experience) have caused many to worry that the Executive Branch and other Republican officials are no longer consulting science or technocratic expertise in making policy decisions. Pew polls have also shown greater faith in science among liberals than conservatives in recent years,[103] and the shift to the Biden administration this year is already swinging the pendulum back toward scientific and technocratic expertise.[104] If liberals see sunset clauses—particularly conditional sunset clauses—as advancing evidence-based practice generally, then they will be more inclined to support laws with sunsets because they bring legislative practice closer to the evidence-based ideal.

Although we did not test commitment to evidence-based practice, we did assess the extent to which participants believed that scientific results are "trustworthy" on a seven-point Likert scale. If we use this as a proxy for commitment to evidence-based practice, a t-test comparing group means shows that Liberals found scientific results to be significantly more trustworthy than Conservatives did (n = 857 Liberals, mean = 5.93; n = 554 Conservatives, mean = 5.37; t(1409) =-9.31, p < 0.000). We then added this variable to the regression model (Table 4, Model 4). Trust in science was not a significant predictor of support for legislation, and including this covariate did not change the sign or significance of the interaction between sunsets and political valence of legislation.

We also note that if commitment to evidence-based policymaking explained Liberals' willingness to compromise on conservative legislation, then sunsets should also have increased their support for liberal legislation. We did not see this effect, although (again) ceiling effects may have made it difficult to detect.

E.   *Political Party Dynamics*

Liberals' willingness to compromise in the presence of a sunset may be an artifact of national politics in the fall of 2019. The national political landscape could have affected liberals' willingness to compromise in two ways:

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[102] *See* Underhill, *supra* note 83, at 173.

[103] *See* Cary Funk, *Key Findings About Americans' Confidence in Science and Their Views on Scientists' Role in Society*, PEW RSCH. CTR. (Feb. 12, 2020), https://www.pewresearch.org/fact-tank/2020/02/12/key-findings-about-americans-confidence-in-science-and-their-views-on-scientists-role-in-society/ [https://perma.cc/6JPV-S8JE]; Cary Funk, Meg Hefferon, Brian Kennedy & Courtney Johnson, *Trust and Mistrust in Americans' Views of Scientific Experts*, PEW RSCH. CTR. (Aug. 2, 2019), https://www.pewresearch.org/science/2019/08/02/trust-and-mistrust-in-americans-views-of-scientific-experts/https://www.pewresearch.org/science/2019/08/02/trust-and-mistrust-in-americans-views-of-scientific-experts [https://perma.cc/K2MB-R56X].

[104] *See* Exec. Order No. 14007, 86 Fed. Reg. 7615 (Jan. 27, 2021).

first, given the composition of the House and Senate, liberals had perhaps grown accustomed to lacking the national votes to pass legislation without compromising. Second, perhaps liberals and conservatives were making different predictions about which party would have a majority of control at the time when the law was scheduled to sunset. Third, perhaps liberals and conservatives understand sunset clauses differently. We here consider liberals and Democrats to be analogous, and conservatives and Republicans to be analogous.

The first explanation—that liberals had internalized a greater need to compromise—is possible. At the time of our survey, Democrats held a majority in the House, while Republicans held a majority of the Senate and the White House. The Democratic majority in the House was fairly new at the time, a result of the November 2018 elections. Prior to that, Republicans had controlled both houses since January 2015. Democrats may have grown accustomed to lacking the votes to pass legislation without compromise, while Republicans had just experienced several years in which no compromise was necessary.[105]

We have one way to explore this possibility. Our prompt asked participants about a bill introduced in Congress. But liberals and conservatives could also have developed their compromise beliefs from observing their state governments. Because participants provided their state of residence, we were able to identify which participants lived in states that were under one-party legislative control at the time of the survey, as well as which states had a trifecta (one-party control of both legislative houses and the governor's seat).[106] We classified one-party and trifecta control as "hostile" if the participant was liberal and the controlling party was Republican, or if the participant was conservative and the controlling party was Democratic. If people have a larger instinct for compromise when they are in a minority

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[105] Even after Republicans lost a filibuster-proof majority in the Senate, they could still pass budget reconciliation on a simple majority, and Republican Senate leadership decided to allow the confirmation of judicial candidates by a simple majority as well. Bipartisanship, therefore, was unnecessary to accomplish many goals.

[106] At the time of the survey in early fall 2019, Democrats had one-party control over state legislatures in California (trifecta), Colorado (trifecta), Connecticut (trifecta), Delaware (trifecta), Hawaii (trifecta), Illinois (trifecta), Maine (trifecta), Maryland (not a trifecta), Massachusetts (not a trifecta), Nevada (trifecta), New Hampshire (not a trifecta), New Jersey (trifecta), New Mexico (trifecta), New York (trifecta), Oregon (trifecta), Rhode Island (trifecta), Vermont (not a trifecta), Washington (trifecta), and Washington, D.C. Republicans had one-party control over state legislatures in Alabama (trifecta), Alaska (trifecta), Arizona (trifecta), Arkansas (trifecta), Florida (trifecta), Georgia (trifecta), Idaho (trifecta), Indiana (trifecta), Iowa (trifecta), Kansas (not a trifecta), Kentucky (trifecta), Louisiana (not a trifecta), Michigan (not a trifecta), Mississippi (trifecta), Missouri (trifecta), Montana (not a trifecta), North Carolina (not a trifecta), North Dakota (trifecta), Ohio (trifecta), Oklahoma (trifecta), Pennsylvania (not a trifecta), South Carolina (trifecta), South Dakota (trifecta), Tennessee (trifecta), Texas (trifecta), Utah (trifecta), Virginia (not a trifecta), West Virginia (trifecta), Wisconsin (not a trifecta), and Wyoming (trifecta). *See* NAT'L CONF. LEGS, STATE & LEGIS. PARTISAN COMPOSITION (2019), https://www.ncsl.org/Portals/1/Documents/Elections/Legis Control2019February%201st.pdf [https://perma.cc/RZ6J-BD84].

role in government, then we would expect people in hostile one-party states and people in hostile trifecta states to compromise more in the presence of a sunset clause.

In a comparison of liberals and conservatives using chi-squared tests, we found that liberals are significantly more likely than conservatives to live in a state with a legislature controlled by the opposing party (56.6% of liberals compared to 35.1% of conservatives, chi2(1) = 62.56, p < 0.000), and to live in a state with an opposing-party trifecta in government (37.2% of liberals vs. 31.8% of conservatives, chi2(1) = 4.30, p < 0.05).

When we added "hostile one-party control" as a covariate to our regression among liberals, this variable was not a significant predictor of support for policy, and it did not change the significance or sign of the interaction effect between sunset and political valence of the policy. The same was also true when we added "hostile trifecta," which we predicted would be an even more powerful influence (Table 4, Model 5). We also ran each of these regression models with the full sample, including both Conservatives and Liberals. We found that being in a state with a hostile one-party legislature or a hostile trifecta had no effect on support for legislation, and no effect on the interaction between sunset and political valence.

The second political economy explanation suggests that in the fall of 2019, liberals were more likely than conservatives to predict that their own party would control Congress, or the White House, at the time when the given law would sunset. If this were true, liberals would expect to have their own policy preferences fulfilled at the time of the sunset, while conservatives would expect to have their preferences overruled at the time of the sunset. This could reduce liberals' opposition to conservative policies that sunset (the Democratic party can change them later), but would not reduce conservatives' opposition to liberal policies that sunset (the Republican party will not be able to change them later). We do not have a way to test this. But if this were true, we note we would expect that conservatives would be less supportive of conservative laws with a sunset, because they would expect those gains to be reversed in five years. We did not see a dip in conservatives' support for conservative laws when they included sunset clauses.

Finally, a third political economy explanation is that conservatives do not believe that sunsets will be effective, while liberals do. If sunsets are not observed—namely, if Congress always extends, reenacts, or makes permanent the underlying laws—then sunsets should make no difference to support for either liberal or conservative legislation. Tax cuts have been routinely reenacted and extended, and conservatives may be more aware of this precedent. We asked participants to predict the likelihood that the law will be kept in place if research finds that it does not achieve its goal (i.e., reducing drug overdoses, improving the health of Medicaid participants). This variable is endogenous to the independent variables—we had considered it to be an outcome rather than a covariate. But if conservatives are actually more skeptical of sunset clauses than liberals, then we would expect

to see conservatives predicting a higher likelihood of keeping the law when sunsets are present, compared to liberals' predictions. This in fact proved to be true. In conditions with any type of sunset clause, t-tests showed that Conservatives thought that Congress was significantly more likely to keep the law on the books (n = 570 Liberals, mean = 2.93; n = 360 Conservatives, mean = 3.60; t(928) = 5.25, p < 0.000). If sunsets are in fact unlikely to be observed, this is perhaps another sucker effect—not because conservatives use sunset clauses as subterfuge, but because liberals systematically make more predictive errors about the durability of sunsetting legislation.

F.   Compromise Traits

Finally, liberals may differ from conservatives in some fundamental attribute that makes them more likely to compromise. On this view, both standard and conditional sunset clauses are invitations to compromise, and perhaps liberals have some trait that makes them more willing to do so than conservatives. A common confounder may simultaneously make liberal ideology appealing, while also predisposing people to compromise. We did not collect any data that would assist in this comparison. Prior work suggests that liberals are more likely to express cultural values that tend toward egalitarianism and solidarity, while conservatives are more likely to express hierarchicalism and individualism.[107] Someone who tends to value solidarity and egalitarianism may find compromise more palatable, on the assumption that compromise is necessary to build community solidarity while maintaining egalitarianism. Another line of research has identified associations between liberal and conservative ideology and personality traits such as the Big Five (i.e., Extraversion, Agreeableness, Conscientiousness, Emotional Stability, and Openness to Experience).[108] This work has identified consistent associations between Openness to Experience and liberal ideology, and between Conscientiousness and conservative ideology.[109] If liberals are in fact more open to experience—that is, more likely to respond positively to novel stimuli—then they may react less negatively to competing proposals and be more willing to compromise.

Future work could assess and control for these personality attributes in analyses. Another useful experiment could compare multiple forms of invitations to compromise—for example, not only sunset clauses, but also concessions in the substance of the statute, horse trading (i.e., promising to support another initiative in exchange for compromise), and time pressure to reach agreements. If liberals are consistently more willing than conserva-

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[107] *See generally* Dan M. Kahan & Donald Braman, *Cultural Cognition and Public Policy*, 24 YALE L. & POL'Y REV. 147, 149 (2006) (arguing that cultural cognitions help to explain factual disagreements among ideological groups regarding various public policy issues).

[108] *See* Alan S. Gerber, Gregory A. Huber, David Doherty & Conor M. Dowling, *The Big Five Personality Traits in the Political Arena*, 14 ANN. REV. POL. SCI. 265, 266 (2011).

[109] *Id.* at 269.

tives to compromise regardless of the form of the bargain, cultural values or personality traits may be an underlying confounder.

V.   IMPLICATIONS

Our results suggest that sunset clauses do not affect all legislation equally. Instead, we suggest here that the impact of a sunset clause—namely, whether it induces compromise beliefs such as increased support, perceived good faith of the sponsors, belief that the law will be effective, and belief that it is reversible if it does not work—tends to depend on whether the law has a conservative or liberal valence. Sunset clauses induce a broader range of compromise beliefs and significantly more compromise support for conservative legislation compared to liberal legislation. Subgroup analyses suggest that this is because liberals find sunsets more compelling than conservatives do; among liberal participants, sunsets elicited compromise beliefs and increased support for conservative laws. Conservatives, however, were less moved by sunsets and less susceptible to the compromising effect.

If our results generalize to legislators as well as members of the general population, then over the long term,[110] these dynamics would predict that an increasing use of sunset clauses in Congress may yield the passage of more conservative bills, while leaving the passage of liberal legislation largely unaffected. This discrepancy leaves liberals open to the position of being "suckers"—willing to compromise where conservatives are not—even if compromising is an inadvertent effect of sunset clauses.

Some of the highest-profile examples of sunset clause legislation that received bipartisan support fit this mold, including the Patriot Act, tax cuts, and good governance clauses intended to tighten agency oversight and eliminate agencies after review. There are also examples, however, of liberal laws with sunset provisions that received some Republican votes, such as the Assault Weapons Ban in 1993; similarly, there are examples of conservative legislation with sunset clauses that failed to gain Democratic support. The Tax Cuts and Jobs Act of 2017 is one such example—this law received no Democratic votes in the Senate.[111] For this law, however, using sunset

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[110] We do not take this for granted, as discussed above in Section III.B. Legislators are likely to differ from U.S. adult online survey participants. But repeating this study among state legislators (there may be too few federal legislators to adequately power the study), or among individuals who are engaged in a voting function (e.g., through a direct ballot initiative, or through voting in their professional capacity—such as, perhaps, in faculty meetings), would be a logical next step in this line of research. Other variations, such as testing vignettes that focus on a policy goal more aligned with conservative values (e.g., securing the national border, deterring tort lawsuits), would also be important to probe the generalizability of findings. Given that prior studies with MTurk participants have found cognitive and behavioral biases similar to those of the population generally, we are optimistic that these findings may hold for other permutations.

[111] 167 CONG. REC. D1269 (daily ed. Dec. 1, 2017) (roll call vote on Tax Cuts and Jobs Act of 2017).

clauses enabled passage without the need for compromise, because sunset clauses allowed the sponsors to calculate costs in such a way that the bill qualified for the budget reconciliation process (requiring only a simple majority vote).[112] Sunset clauses have many functions beyond facilitating compromise, but we have shown that where they do invite legislators to cross the aisle, they may be more motivating to liberals than conservatives.

While compromise itself may be desirable, compromises that are systematically biasing may not be.[113] Liberal legislators may seek ways to debias themselves and their colleagues when a sunset clause is proposed, such as by educating themselves about this asymmetry before voting. Liberal legislators might seek to couple sunset clauses with other means of inviting compromise that may be more appealing to conservatives. Or conversely, liberals might cultivate skepticism about sunset clauses, questioning both whether the sunset will be observed, as well as the motivation for including a sunset (e.g., to hide budget impacts, or to harness a tendency to compromise). Extreme ideological views may reduce compromise; if the Democratic party is drifting leftward,[114] the compromise effect may be attenuated over time (a bad outcome for continued gridlock—but a good or bad outcome substantively depending on political leaning).

The recent swell of temporary legislation responding to the COVID-19 emergency should be a case study for future work. The public health and financial crises demanded many solutions that tended to be liberal in ideology—expanding federal health insurance coverage, making stimulus payments to individual households, and suspending administrative requirements for access to nutritional and cash assistance—but legislative responses needed buy-in from a Republican Senate, a Democratic House, and a Republican White House. Sunsets are likely more prevalent during legislation in times of emergency, and legislators may propose them for purposes other than garnering compromise. But COVID-19 legislation at the federal and state levels—and now, COVID-19 legislation with a Democratic trifecta controlling the House, Senate, and White House—provides a fascinating set of data for further work on how sunset clauses affect discussions and voting on controversial legislation.

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[112] *See How Did the TCJA Affect the Federal Budget Outlook?*, TAX POL'Y CTR.: BRIEFING BOOK, https://www.taxpolicycenter.org/briefing-book/how-did-tcja-affect-federal-budget-outlook [https://perma.cc/J9G8-BVCR] (last updated May 2020).

[113] Even if we are strictly politically neutral, we cannot know from this experiment how sunset clauses fit into a much larger landscape of compromise strategies and tendencies over time. If another compromise tactic serves liberals better than conservatives, then sunset clauses that favor conservatives may even the scales overall.

[114] *See* Maddie Sach, *Why the Democrats Have Shifted Left over the Last 30 Years*, FIVETHIRTYEIGHT (Dec. 16, 2019), https://fivethirtyeight.com/features/why-the-democrats-have-shifted-left-over-the-last-30-years [https://perma.cc/5EHP-DEUF].

VI. Conclusion

Although prior scholarship has suggested that sunset clauses induce compromise, no work had yet examined the ideological skew or the psychological mechanisms that may propel compromise beliefs. We took on these questions here, with the unexpected finding that sunsets encourage liberals to compromise on conservative legislation, but that they do not encourage conservatives to compromise on liberal legislation. We explored multiple causal mechanisms for this effect (largely to generate hypotheses for further work), and promising explanations may include a greater interest in policy goals, greater belief that the sunsets will be effective, and perhaps a different distribution of cultural values or personality traits that make liberals more willing to accept invitations to compromise.

The legislative response to COVID-19 is an unusual moment of high-frequency and urgent legislative activity, and future work should consider the ways in which the temporary nature of this legislation affected discussions and bipartisan compromises (or lack thereof). The Biden administration has already proposed a number of new time-limited policy responses, including measures requiring Congressional enactment.[115] We have aimed here to supply a vocabulary and a set of initial findings that set the stage for future research in this area.

Should future work confirm our findings that sunsets produce a skew toward conservative legislation over time, debiasing strategies—such as making legislators aware of this tendency, identifying multiple purposes for sunset clauses, or encouraging legislative counteroffers that induce more conservative compromise—might be deployed to diminish the disparity. Although compromise is essential in politics, the public might reasonably be concerned about compromise that skews predictably in one ideological direction. Even when asymmetrical compromising is unconscious and unintended, no one wants to be a sucker.

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[115] *See* Jacob Pramuk, *House Aims to Pass Covid Relief Bill Within Two Weeks as Budget Reconciliation Moves Forward, Pelosi Says*, CNBC (Feb. 5, 2021, 5:45 AM), https://www.cnbc.com/2021/02/05/senate-passes-budget-resolution-toward-1point9-trillion-covid-relief-bill.html [https://perma.cc/PD3A-ZCMA].

TABLES AND FIGURES

TABLE 1. MEAN SUPPORT (SE) FOR THE LAW AMONG ALL PARTICIPANTS, COLLAPSING TOPIC AREA OF LAW, $N = 1639$

	Liberal valence	Neutral valence	Conservative valence
No sunset	4.750 (0.144), n = 180	5.640 (0.100), n = 185	3.543 (0.149), n = 184
Standard sunset	4.494 (0.151), n = 180	5.560 (0.105), n = 182	3.869 (0.153), n = 183
Conditional sunset	4.678 (0.150), n = 180	5.500 (0.100), n = 182	3.923 (0.160), n = 183

TABLE 2. MAIN EFFECTS OF SUNSET CLAUSES ON SUPPORT FOR THE LAW, AMONG ALL PARTICIPANTS (OLS REGRESSION), N = 1639

	Model 1 Coefficient (SE)	Model 2 Coefficient (SE)	Model 3 Coefficient (SE)	Model 4 Coefficient (SE)
Topic area (reference = drugs)				
Medicaid	0.128 (0.091)	0.128 (0.091)	0.131 (0.087)	0.121 (0.085)
Political valence (reference = neutral)				
Liberal	-0.927 (0.112)***	-0.894 (0.193)***	-0.564 (0.334)‡	-0.531 (0.327)
Conservative	-1.790 (0.111)***	-2.100 (0.192)***	-1.915 (0.322)***	-1.887 (0.318)***
Sunset (reference = none)				
Standard	-0.003 (0.112)	-0.083 (0.192)	-0.072 (0.184)	-0.048 (0.179)
Conditional	0.056 (0.112)	-0.144 (0.192)	-0.139 (0.184)	-0.101 (0.180)
Interaction valence * sunset				
Liberal#standard		-0.172 (0.273)	-0.195 (0.261)	-0.249 (0.255)
Liberal#conditional		0.073 (0.273)	0.127 (0.261)	0.069 (0.255)
Conservative#standard		0.408 (0.272)	0.474 (0.260)‡	0.520 (0.255)*
Conservative#conditional		0.525 (0.272)‡	0.694 (0.260)**	0.665 (0.255)**
Ideology (reference = neutral)				
Liberal Person			0.214 (0.224)	0.035 (0.222)
Conservative Person			0.068 (0.236)	-0.030 (0.232)
Ideology * Valence				
LibPerson#liberal law			0.058 (0.328)	0.088 (0.321)
LibPerson#conservative law			-1.028 (0.315)**	-1.022 (0.311)**
ConservPerson#liberal law			-1.092 (0.345)**	-1.122 (0.338)**
ConservPerson#conservative law			0.832 (0.333)*	0.795 (0.329)*
Frequency of following political news				0.020 (0.047)
Trust in science				0.220 (0.040)***
Trust in Congress				0.324 (0.050)***
Salience of health problem to family				0.091 (0.086)
Intercept	5.487 (0.111)	5.579 (0.143)	5.440 (0.234)	3.249 (0.362)
Adjusted R^2	0.135	0.137	0.215	0.255

‡$p < 0.10$ *$p < 0.05$, **$p < 0.01$, ***$p < 0.001$

TABLE 3. MEAN SUPPORT (SE) FOR THE LAW AMONG SUBGROUPS OF PARTICIPANTS

	Sunset condition	Liberal valence	Conservative valence
Participants who disagree with the law	No sunset	3.917 (0.261), n = 60	2.697 (0.195), n = 89
	Standard sunset	3.741 (0.296), n = 58	3.247 (0.210), n = 93
	Conditional sunset	3.838 (0.278), n = 68	3.330 (0.208), n = 106
Participants who agree with the law	No sunset	5.242 (0.176), n = 99	4.479 (0.221), n = 71
	Standard sunset	4.919 (0.177), n = 99	4.881 (0.249), n = 59
	Conditional sunset	5.189 (0.177), n = 90	5.078 (0.247), n = 51
Liberal participants	No sunset	5.242 (0.176), n = 99	2.697 (0.195), n = 89
	Standard sunset	4.919 (0.177), n = 99	3.247 (0.210), n = 93
	Conditional sunset	5.189 (0.178), n = 90	3.330 (0.208), n = 106
Conservative participants	No sunset	3.917 (0.261), n = 60	4.479 (0.221), n = 71
	Standard sunset	3.741 (0.296), n = 58	4.881 (0.249), n = 59
	Conditional sunset	3.838 (0.278), n = 68	5.078 (0.247), n = 51

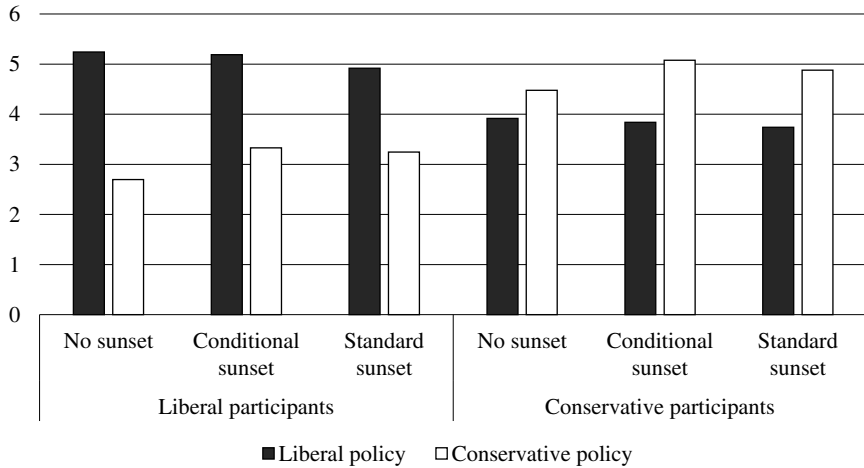FIGURE 1. LIBERALS' AND CONSERVATIVES' POLICY SUPPORT

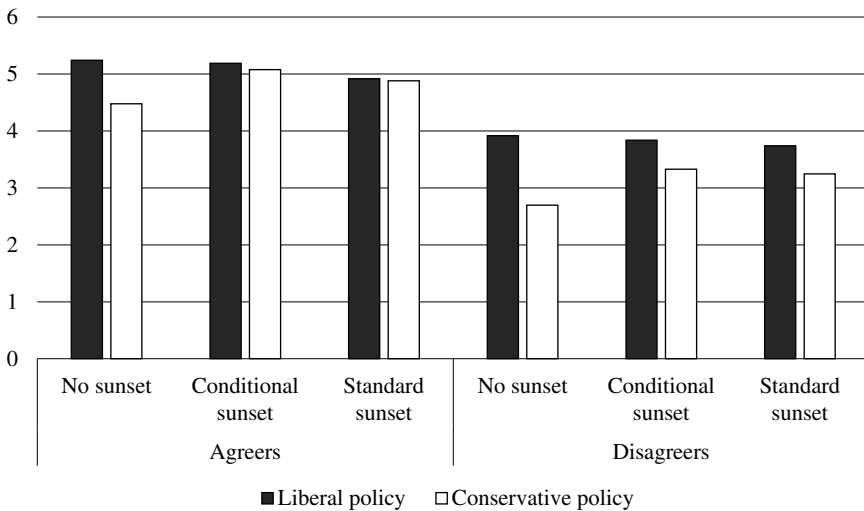FIGURE 2. AGREERS' AND DISAGREERS' POLICY SUPPORT

TABLE 4. EXPLORATORY TESTS OF EXPLANATORY MECHANISMS, PREDICTING POLICY SUPPORT AMONG LIBERALS (N = 857)

	Model 1 Coefficient (SE)	Model 2 Coefficient (SE)	Model 3 Coefficient (SE)	Model 4 Coefficient (SE)	Model 5 Coefficient (SE)
Topic area (reference = drugs)					
Medicaid	0.137 (0.119)	0.031 (0.118)	0.166 (0.117)	0.140 (0.119)	0.137 (0.119)
Political valence (reference = neutral)					
Liberal	-0.469 (0.248)‡	-0.455 (0.243)‡	-1.723 (0.615)**	-0.467 (0.248)‡	-0.469 (0.248)‡
Conservative	-3.010 (0.255)***	-2.948 (0.250)***	-0.694 (0.642)	-3.001 (0.255)***	-3.010 (0.255)***
Sunset (reference = none)					
Standard	-0.102 (0.256)	-0.150 (0.251)	-0.104 (0.250)	-0.108 (0.256)	-0.102 (0.256)
Conditional	-0.096 (0.250)	-0.130 (0.246)	-0.115 (0.245)	-0.085 (0.250)	-0.097 (0.251)
Interaction valence * sunset					
Liberal#standard	-0.220 (0.356)	-0.173 (0.350)	-0.205 (0.348)	-0.206 (0.356)	-0.220 (0.356)
Liberal#conditional	0.045 (0.356)	0.037 (0.350)	-0.014 (0.349)	0.032 (0.356)	0.045 (0.357)
Conservative#standard	0.647 (0.364)‡	0.616 (0.357)‡	0.515 (0.357)	0.663 (0.364)‡	0.646 (0.364)‡
Conservative#conditional	0.722 (0.354)*	0.725 (0.348)*	0.663 (0.347)‡	0.717 (0.354)*	0.723 (0.355)*
Policy priority		0.366 (0.063)***			
Extremeness of political leaning			0.200 (0.137)		
Extremeness of political leaning # political valence					
Liberal policy			0.443 (0.191)*		
Conservative policy			-0.740 (0.191)***		
Perceived trustworthiness of scientific results				0.096 (0.061)	
Lives in a state with hostile trifecta					-0.009 (0.124)
Intercept	5.645 (0.186)	4.353 (0.289)	5.025 (0.452)	5.067 (0.411)	5.649 (0.192)
Adjusted R-squared	0.285	0.311	0.312	0.286	0.284

APPENDIX A. STUDY OUTLINE

Each participant was assigned to one type of law (drug vs. Medicaid), one political valence of law (liberal vs. neutral vs. conservative), and one sunset clause (none, standard, conditional). There were 18 total groups in this 2x3x3 between-subjects design, with approximately 91 participants per group.
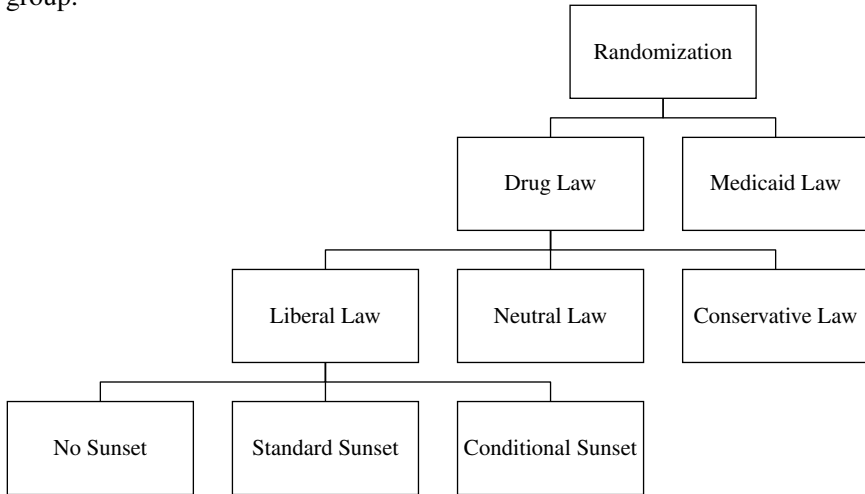
APPENDIX B. VIGNETTES

A.   Drug Overdose Vignettes

Drug overdoses lead to many deaths per year. Imagine that members of Congress have recently introduced a bill to reduce drug overdose deaths.
Policy valence

[Liberal:] The bill would change current drug policy by **allowing people to use drugs openly and legally in designated safe spaces, where they can get medical help if they overdose**. The bill includes funding for research to evaluate whether the new law reduces drug overdose deaths.

[Neutral:] The bill would change current drug policy by **requiring that police officers and paramedics receive training on how to respond to overdoses**. The bill includes funding for research to evaluate whether the new law reduces drug overdose deaths.

[Conservative:] The bill would change current drug policy by **increasing criminal penalties for any drug possession**. The bill includes funding for research to evaluate whether the new law reduces drug overdose deaths.

Sunset

[None: Vignette ends.]

[Standard Sunset:] This bill also contains a "sunset" clause. This means that the law will expire in five years unless Congress **decides to renew it**. If the new law expires, [safe spaces for drug use will once again be illegal / the training requirements for police officers and paramedics that respond to overdoses will go back to how they are today / criminal penalties for drug possession will go back to how they are today].

[Conditional Sunset:] This bill also contains a "conditional sunset" clause. This means that the law will expire in five years unless the Department of Health and Human Services **certifies that the law has worked to reduce drug overdose deaths**. If the new law expires, [safe spaces for drug use will once again be illegal / the training requirements for police officers and paramedics that respond to overdoses will go back to how they are today / criminal penalties for drug possession will go back to how they are today].

B.   Medicaid Vignettes

Medicaid is a health care program that is funded by states and the federal government. The program pays for health care for people who qualify due to having a low income or a disability. Imagine that members of Congress have recently introduced a bill to improve the health of Medicaid participants.

Policy valence

[Liberal:] The bill would change current Medicaid policy by **covering more people, including some undocumented migrants, and providing more generous benefits**. The bill includes funding for research to evaluate whether the new law makes Medicaid participants healthier.

[Neutral:] The bill would change current Medicaid policy by **providing more information to Medicaid participants about their benefits**.

[Conservative:] The bill would change current Medicaid policy by **requiring many Medicaid participants to spend time working or volunteering**. The bill includes funding for research to evaluate whether the new law makes Medicaid participants healthier.

Sunset

[None: Vignette ends.]

[Standard Sunset:] This bill also contains a "sunset" clause. This means that the law will expire in five years unless Congress **decides to renew it**. If the new law expires, [Medicaid eligibility and benefits will go back to how they are today / the Medicaid program will stop providing extra information to participants about their benefits / the Medicaid program will stop requiring participants to work or volunteer].

[Conditional Sunset:] This bill also contains a "conditional sunset" clause. This means that the law will expire in five years unless the Department of Health and Human Services **certifies that the law has worked to improve the health of Medicaid participants**. If the new law expires, [Medicaid eligibility and benefits will go back to how they are today / the Medicaid program will stop providing extra information to participants about their benefits / the Medicaid program will stop requiring participants to work or volunteer].

C.   *Validity Check*

Before analyzing findings, we tested whether the manipulations intended to be liberal, neutral, or conservative actually led to differential responses on the basis of political leaning (Appendix B, Figure 1). For each of the policies, we conducted t-tests to assess whether liberals had different levels of support compared to non-liberals, and again to see whether conservatives had different levels of support compared to non-conservatives. We did not expect to see differences by political leaning for policies deemed neutral, but we expected significant differences for our liberal and conservative policies. Our findings were as predicted: liberals supported liberal policies and opposed conservative policies significantly more than non-liberals did, while the reverse was true for conservative participants. Our one surprising finding was that liberals were marginally significantly more supportive of the neutral policy compared to non-liberals, but the difference was minor. We found that grouping participants into liberal vs. conservative groups by political leaning was a more useful match for policy valence than grouping participants into Democratic vs. Republican groups, so we used

liberal/conservative as our variable for political leaning in subsequent analy-
ses of sunset clause effects.

Appendix B, Figure 1