

Immigration Restriction in the States: Pushing the Boundaries of Federalism

Abstract: Recent policy initiatives in several states have create an expanded immigration law enforcement role for state and local officials, unleashing a debate over preemption of federal authority that is now playing out in the courts. We explain the increasingly contested boundaries of federalism with regard to immigration policy by focusing on how a restrictionist policy coalition has pursued new methods to block unauthorized immigrants' access to employment, housing, or public services at the state level. Four cases (Arizona, Texas, Florida, and North Carolina) illustrate our argument about the key role of two factors in advancing restrictionist policy innovations. First, restrictive policies reflect the success of a coalition of state and national actors who have placed immigration at the top of the policy agenda within state Republican parties, usually at the expense of business interests that favor facilitating access to unauthorized immigrant labor. Second, direct democracy has been crucial to the diffusion of restrictive policies, both by facilitating policy adoption and by providing policy models to be emulated even in states that lack ballot initiatives.

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State Politics and Policy Conference
Houston, Texas
February 2012

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State and local government is now the central arena in immigration-related policymaking in the US—and the past year saw heightened conflict concerning the boundaries of state versus federal jurisdictional authority. The present controversy centers on laws enacted in Arizona, Utah, Indiana, Georgia, South Carolina, and Alabama that require state and local officials to investigate and report violations of federal immigration law while also creating criminal penalties for business and labor transactions involving unauthorized immigrants. Arizona, Alabama, and South Carolina’s new laws have elicited a challenge from the U.S. Justice Department, which argues that the new laws violate the federal government’s preeminent authority to enforce immigration law.

The more assertive law enforcement approach of recent state immigration laws, and the ensuing federal challenge, speak to several changes in the federal-state relationship with regard to immigration policymaking that have been developing over the past two decades. First, increased immigration policy activism by state government reflects the growth of immigrant populations in “new gateway” states (places such as North Carolina, Georgia, Alabama, Virginia, Nevada, Tennessee, Arkansas, Utah) that had little experience with immigration until about the 1990s. Second, the growth of unauthorized immigration in these states, and the failure of comprehensive immigration reform proposals at the federal level in 2006 and 2007 to address this issue, added an incentive for policy responses at the state and local level.

Finally, the focus on a law enforcement approach to unauthorized immigration reflects an opening that the federal government offered to state and local governments : Section 287(g) of the 1996 Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) invited collaboration between federal and state authorities in policing immigration violations, blurring a

long-standing distinction between the enforcement of *criminal* violations of immigration law--deemed a state prerogative--versus the enforcement of *civil* immigration law, traditionally a federal prerogative.¹ Lines of authority were further blurred by the 2002 opinion of the Justice Department under Attorney General John Ashcroft, which determined that state and local authorities did indeed have the authority to enforce both civil and criminal immigration violations (Waslin 2010).

However, none of the above-mentioned factors explain the particular zeal with which a few states have asserted immigration law enforcement authority beyond the bounds of state-level 287(g) agreements with the federal government. As a rule, state-federal conflict has not been the norm as more states have waded more deeply into immigration-related policy: states have tended to confine their initiatives to policy areas (such as education and licensing) in which jurisdictional authority is not contested (Newton and Adams 2009).

In explaining the emergence of conflict-laden federalism we emphasize the central role of state-level politics in promoting (or dampening) an increasingly assertive restrictionist immigration policy agenda. At the broadest level, the choice of accommodating versus restrictive policy approaches derives from a distinction between those state actors that frame immigration issues (including unauthorized immigration) as primarily a matter of adjusting existing law to the realities of the labor market versus those who perceive immigration (and immigrants) as a looming threat to law and order and social cohesion. We argue that the success of the restrictionist framing of immigration reflects two factors. First, restrictionist policies reflect the ability of local actors, usually in conjunction with national groups, to place immigration restriction to the top of the policy agenda within state Republican parties. In order to do so, this

¹ Section 287(g) of that Act allowed for voluntary partnerships between state or local law officials Immigration and Customs Enforcement (ICE): at present, ICE has 69 separate 287(g) such “Memoranda of Understanding” agreements at both the state and municipal level, in 24 states. At present, state-level 287(g) Memoranda of Agreements exists between ICE and Alabama, Arizona, Connecticut, Delaware, Florida, Georgia, Minnesota, Missouri, New Mexico, and Tennessee,

“restrictionist coalition” has had to triumph over business interests within state Republican parties that generally seek to facilitate access to immigrant labor. Second, direct democracy has been crucial to the success of the restrictionist agenda in two ways: first, by promoting restrictionist entrepreneurs and policy adoption (in those states that have access to ballot initiatives) and second, (in those states that may not have the institutions of direct democracy) by modeling policy innovations that could be emulated by advocates in other states.

Empirically, we use four case studies (Arizona, Texas, Florida, and North Carolina) to illustrate the underlying, and often complex, political mechanisms that drive state immigration policy. These four cases were chosen with an eye to maximizing variance in the structure of state political institutions, the pace of immigration growth, border state status, differences in party competition, and existing levels of cooperation with federal authorities. The cases illustrate that restrictionist tendencies reflect the salience of immigration as a state issue (versus as a national issue) as well as factionalism in the Republican party. The conclusion considers the future of restrictionist immigration proposals at the state level. There are some hints that the tide may be turning against further restrictive measures due to the declining salience of immigration as a state issue, growing business opposition, and future electoral considerations within the Republican Party.

The Politics of Immigration Restriction at the State Level

While immigration admissions and deportation policies are the exclusive domain of the federal government, state and local governments influence immigration patterns through policy choices that affect the ability of immigrants to live and work within their jurisdiction and the quality of their lives. What we refer to as “restrictionist” laws are those that aim to restrict immigration by: (1) denying immigrants’ access to employment, housing, and public services, (2) creating penalties for business transactions involving unauthorized immigrants; or (3)

intensifying efforts to identify and apprehend unauthorized immigrants. By contrast, “accommodating” policies seek to facilitate the ability of immigrants—including unauthorized immigrants—to secure employment, housing, public services, and seek to integrate immigrants into society by protecting them from abusive business or labor practices.

Since 2005, state governments have become more active in promulgating both restrictive and accommodating immigration policies. Heightened immigration policy activism by the states is consistent with recent trends in other policy areas: states have been driven to increased policy activism as the federal government has been handcuffed by partisan polarization and multiple institutional veto points (Dinan and Krane 2006. Karch 2006). In addition, state policy activism appears to have increased during the presidency of George W. Bush as states sought to moderate or challenge federal directives (Krane 2007).

However, existing explanations for increased state policy activism can explain neither the varying pace nor varying direction (restrictive versus accommodating) of state policy in filling the void of federal inaction or challenging unwanted mandates. In fact, the pattern of immigration policies, both within and across states, shows an often contradictory response to federal inactivity that defies easy characterization. As we show below, even among the new gateway states, where immigration has increased rapidly and one could expect pressures for policy responses to be the most intense, state governments often produce a mix of both restrictive and accommodating approaches toward immigrants (sometimes in the same legislative session). Meanwhile, a few states (such as Arizona, Alabama, and South Carolina) have pursued methods to restrict immigration that seemed designed to invite a challenge from the federal government. Likewise, local and county government approaches to immigration can differ drastically across a single state, often in counter-intuitive ways: cities that have experienced intense immigration growth may enact the most accommodating policies (such as policies that prohibit local law enforcement

from pursuing civil violations of federal immigration law); meanwhile, cities relatively untouched by immigration may adopt the most aggressive tactics to restrict immigration.

A fuller accounting of preferences for restrictive versus accommodating policies, and the assertiveness that had led some states into conflict with the federal government, requires attention to the political processes that have placed immigration-related issues at the top of the policy agenda within a given locale. In this regard, recent research emphasizes subjective factors--such as threat perceptions, the nature of political discourse, and issue framing--that inform how the public regards immigrants and the salience of immigration as a policy issue. For example, Newton (2008) argues that cyclical changes in US immigration policy reflect the relative dominance of two competing political discourses: immigrants are portrayed either as “proto-citizens” or, alternatively, as “criminal aliens.” Similarly, Reich and Ayala (2008) and Reich and Barth (2010) invoke competing social constructions of immigrants and competing interpretations of state jurisdictional authority to laws granting undocumented immigrants in-state tuition status. Hopkins (2010a, b) explains variation in anti-immigrant attitudes in the US and the UK via the notion of “politicized places,” or geographic areas where a rapid increase in the immigrant population is accompanied by national rhetoric that frames immigration as a policy problem. Boushey and Luedtke (2011) show that state policies to control immigration are driven by public perceptions that immigrants constitute a threat, which become more intense in states that have experienced recent increases in immigration.

We follow in the vein of this work by emphasizing two competing frames that inform state immigration policy. The first frame is that immigrants, including unauthorized immigrants, are a morally neutral reflection of a free market that matches employers with a labor force, to the benefit of producers and consumers. This frame lends itself to the view that immigration policy requires closing the gap between the workings of the labor market and existing legal restrictions on immigration. The second frame, by contrast, assesses immigrants primarily through the lens of

law and order, perhaps reinforced by underlying racial/ethnic bias: unauthorized immigrants are portrayed as criminal aliens who seek to illegally reap the benefits of US citizenship.² This frame leads to an emphasis on intensifying efforts to identify and punish violations of existing immigration law and restricting future immigration.

In explaining how either of these competing frames comes to dominate policymaking within a particular state, we emphasize two political factors. First, the balance toward restrictive versus accommodating issue frames has primarily been driven by an ideological struggle within state Republican parties between a conservative, grassroots movement that has promulgated a restrictionist immigration agenda over the last 20 years and a pro-business coalition that wishes to retain access to immigrant labor (and perhaps the growing bloc of Latino voters as well). Second, we emphasize the role of direct democracy in providing a mechanism by which entrepreneurs at the state level have been able to advance a restrictionist agenda. As a result, in direct democracy states immigration tends to become a highly salient *state* issue, rather than merely following the direction of national rhetoric. Just as important, direct democracy states have provided models for restrictionist legislation that have been duplicated in other states, even those lacking institutions of direct democracy. Thus, we focus next on each of these two factors.

Conservatism and the Restrictionist Agenda

Negative perceptions of immigrants, and preferences for preventing immigrants from remaining in the US, are strongest among conservative Americans (Chandler and Tsai 2001,

² In the ensuing analysis, we focus on the political and institutional factors that shape issue framing; thus, we do not focus on the extensive body of research concerning underlying, psychological motives that inform issue framing. However, we note that racial and ethnic bias may often invigorate negative perceptions of immigrants, particularly in locales with large and growing Latino populations. The work of V.O. Key, Jr. (1949) and subsequent scholars (for example, Blalock 1957; Giles 1977; Giles and Evans 1985; Giles and Buckner 1993; Giles and Hertz 1994; Glaser 1994; and Baybeck 2006) suggests that majority group perception of minority groups are driven by a sense of personal and political “threat.” There is increasing evidence that similar patterns prevail when the minority group is Latinos (see Tolbert and Grummel (2003) on the role of the “Latino threat” in shaping outcomes in the California Proposition 209 election).

Wilson 2001, Citrin et al. 1997). The conservative preference for restriction likely reflects two factors. First, conservatives are more likely to believe that immigrants constitute a threat to national security and social stability (Wilson 2001; Hetherington and Weiler 2009). Second, conservative preferences for restrictive immigration policies are consistent with concerns about the fiscal costs of immigration and a preference for smaller government. Hero and Preuhs (2007), examining state policies after the 1996 welfare reform, find that liberal states are more likely to opt to include immigrants within the Temporary Assistance for Needy Families (TANF) program. Similarly, McGehee and Neiman (2010) note that Californians who consider immigration as the most important policy problem facing the state are also more likely to want a smaller government that provides fewer government services.

The conservative preference for restriction means that party affiliation is correlated with immigration attitudes and preference, with Republicans more likely to support restrictive measures than Democrats. However, this primarily reflects an ideological, rather than purely partisan, effect. Chavez and Provine (2009) found that restrictionist state policies enacted between 2005 and 2006 were best explained by the degree of conservatism among the state's population (contrary to other research, racial, and economic threat variables provided no explanatory power in their study). Indeed, not all Republican voters respond to negative frames about immigrants: Knoll, Redlawsk, and Sanborn (2010), in an experiment conducted with participants in the 2008 Iowa presidential caucuses, found that negative framing of immigrants only affected the policy preferences of conservatives who already tended to view immigration as an important policy issue. Furthermore, in some contexts, Democrats may express similar concerns as Republicans about perceived negative effects of immigration on social programs and health care (Neiman, Johnson, and Bowler 2006).

As a rule then, support for restrictionism requires an understanding of how immigration came to be a highly salient issue among conservatives at the state level. We focus on the rise of

an advocacy coalition, comprised of both local and national actors, that became increasingly prominent in Republican party politics in the 1990s and early 2000s. During the 1990s, anti-immigrant lobbying and research groups, such as the Federation for American Immigration Reform (FAIR) and the Center for Immigration Studies (CIS), began working in conjunction with a growing grassroots movements in the principal immigrant-receiving states of California, Texas, and Florida (Tichenor 2002, 275-285). The movement's biggest success was the passage of Proposition 187 in California in 1994. Dubbed the "Save Our State" initiative by its proponents, Proposition 187 cut off educational and non-emergency medical services to undocumented individuals. The success of the initiative, which passed by a 59% majority (but was later overturned in federal court), was owed to a network of volunteers who gathered the signatures required to place the proposal on the ballot (Wroe 2008, 114-115). In a pattern we see repeated more recently, Proposition 187 spawned similar restrictionist measures in other states, as well as within the post-1994 Republican-dominated Congress, culminating in the passage of the 1996 immigration and welfare reforms.

However, a brake was put to the restrictionist immigration agenda after Republican election losses at the state and national level in 1996. Especially in states with large Latino electorates, the "free market expansionist" wing within the Republican Party, allied with key interest groups (such as the American Farm Bureau, Business Roundtable, National Association of Manufacturers, and the CATO Institute) pushed back against the restrictionist agenda (Tichenor 2002). George W. Bush was emblematic of a more accommodating Republican stance toward immigrants: Bush opposed Proposition 187, supported a modified version of bilingual education in Texas, and provided temporary emergency aid to elderly and disabled legal immigrants to remedy a glitch in the 1996 welfare reform. Indeed, as president, one of Bush's most ambitious domestic initiatives (and biggest failures) was his support for an immigration

reform that would have created a path to citizenship for approximately 10 million unauthorized immigrants.

While restrictionist tendencies became muted in national Republican politics in the early 2000s, the anti-immigration movement found success in the new gateway states. Indeed, the movement was sustained by the efforts of individual activists, often operating out of their own homes, who used the World Wide Web and conservative talk-radio to garner support for restrictionist laws in states that had experienced the largest increases in immigration. Often, these policy entrepreneurs attracted the attention of national organizations, who provided additional training and financial support: throughout the early to mid-2000s, FAIR lent organizational and financial support to several local, anti-immigration groups, while continuing to spend money on anti-immigration candidates.³ Recognizing the changing demographics informing immigration politics, FAIR's national field director stated in 2007, "Every state is now a border state."⁴ The combined efforts of national and local actors resulted in dozens of cities passing restrictive local ordinances that, among other things, made English the official city language, or compelled businesses and landlords to verify the immigration status of employees and tenants.

Certainly, the trend toward restriction was not uniform in the new gateway states: many cities passed local ordinances that declared their intention to only punish criminal (not civil) violations of immigration law (what has been somewhat misleadingly called a "sanctuary city" policy) or they created day labor centers for immigrants seeking temporary work; some new gateway states enacted policies that allowed drivers' licenses for unauthorized immigrants, provided bilingual state services, or granted in-state tuition status to undocumented high school graduates; and, throughout the country, large pro-immigrant rallies occurred in 2006 and 2007 in support of

³ Eric Schmitt, "Pockets of Protest Against Immigration," *The New York Times*, 9 August 2001: <http://www.nytimes.com/2001/08/09/us/pockets-of-protest-are-rising-against-immigration.html>

⁴ Susan Tully, quoted in Julia Preston, "Grass Roots Roared and Immigration Plan Collapsed," *The New York Times*, 10 June 2007, <http://www.nytimes.com/2007/06/10/washington/10oppose.html>

immigration reform. However, by the mid-2000s the forces of immigration restriction seemed to have a motivational and organizational advantage over the proponents of immigration reform. In explaining the failure of the 2006 and 2007 immigration reform proposals, a policy analyst for an organization supporting the immigration reform stated that “You got the sense of a deafening silence from the supporters, and the roar of the opposition.”⁵

The roar of those opposing immigration reform was loudest within state Republican parties. Two facts highlighted the ability of restrictionist forces to shape the policymaking agenda within the Republican party. First, anti-immigration ordinances were more likely to be approved in cities where Republicans constituted electoral majorities, which Ramakrishnan and Wong (2010) attribute both to the preferences of citizens in Republican-dominated municipalities, as well as the work of entrepreneurs that pushed immigration as a local policy problem. Second, as groups mobilized in opposition to the federal immigration proposals of 2006 and 2007, they began to influence party organizations at the state level, particularly with regard to fundraising . Prominent Republicans lawmakers who supported the immigration reform bills were flooded with angry calls and e-mail petitions organized by opponents of the bill. And, during a period when fundraising by the national Republican party was declining, state parties were finding that anti-immigration positions and candidates translated into large increases in donations.⁶

While the forces of immigration restriction were able to influence both national and local Republican party politics, their continued influence depended on their ability to keep immigration restriction salient to Republican voters and to translate grassroots activism into policy outcomes at the state level. With regard to both of these factors, we argue that the institutions of direct democracy have played a key role.

⁵ Christopher Sabatini of the Americas Society/Council of the Americas, quoted in Preston, 2007.

⁶ “Opposition to Illegals Bill Aiding Grass-Roots GOP,” *The Washington Times*, 4 June 2007, <http://www.washingtontimes.com/news/2007/jun/4/20070604-123003-3583r/?page=all>

Direct Democracy and the Salience of Immigration

The supply of state immigration policies is affected by the ease with which demands can be translated into policy. In 24 states (and many more localities) state legislators are not the sole policymakers: voters themselves can directly alter policy through the initiative process (and its cousin, the popular referendum).⁷ As a result, the initiative process presents another “point of entry” into the policymaking process for those who have an interest in promoting immigration-related policies.

Existing research suggests three routes by which direct democracy promotes issue salience and policy action. First, because the targets of issue framing become rank-and-file voters, rather than political elites, initiatives increase policy salience in the eyes of the public. Every stage of the initiative process (initial proposal, the petition gathering process, the approval for the ballot, and the campaign itself) garners public attention for the underlying issue. As a result, politicians view initiative movements as a means of gaining credit for promoting an issue (Magleby 1995) and the result is more responsive legislators and policies that move toward the median voter (Lascher, Hagen, and Rochlin 1996; Gerber 1996; Gerber 1998). Of course, policies that reflect majority hostility toward ethnic and sexual minorities may also become more likely (Gamble 1997), although this claim is disputed (Donovan and Bowler 1997, 1998; Frey and Goette 1998).

Second, initiatives become a means by which policy entrepreneurs, defined as “advocates for proposals or for the prominence of an idea” (Kingdon 2003: 122), either individuals or groups, can achieve their goals when stymied by the slower-moving legislative process. As a result, initiatives promote the formation and mobilization of interest groups devoted to an issue: indeed, the size and diversity of interest groups increases in initiative states, with more of these

⁷ For a complete overview of the initiative requirements in each state, go to pertinent sections of the National Conference of State Legislatures website: <http://www.ncsl.org/programs/legismgt/elect/SigReqs.html>.

groups likely to represent citizen, rather than economic, interests, enhancing the congruence between citizen preferences and policy (Boehmke 2002). Once on the policy agenda, an issue with multiple facets (like immigration policy) can remain on the agenda as long as the public reaffirms its view that the issue has yet to be remedied. Indeed, the net impact of the initiative process is to reverse the logic of Hopkins (2010) argument concerning immigration policy: rather than being driven by national rhetoric, the politicization of immigration in specific locales becomes decoupled from national rhetoric. States become “politicized places” in which immigration debates assume a local character. Third, successful passage of citizen initiatives in one state can encourage policy innovations in other states, including those that may not have the institutions of direct democracy. Direct democracy enhances the role of federalism as a “laboratory of democracy,” motivating innovations that may have not previously been considered.

Indeed, all three effects of the initiative process are observable in the wake of Proposition 187 in California. The initiative was credited with increasing media coverage of immigration in a manner that enhanced negative perception of immigrants and perceptions of the economic costs of immigrants (Ono and Sloop 2002, Santa Ana's 1999). The issue also attracted the attention of politicians who were not involved in the initial push for the initiative: Governor Pete Wilson used the initiative process to assist in his reelection and to promote his presidential ambitions (Broder 2000). The increased politicization of immigration in California prompted subsequent, related initiatives, such as Proposition 209 (1996), which limited affirmative action, and Proposition 227 in 1998, which banned bilingual education. Finally, the success of Proposition 1987 spurred “copycat” legislation in Colorado, Georgia, North Carolina, Oregon and South Carolina (some of which did not have citizen initiatives).⁸ Indeed, as we discuss below, the increasing politicization

⁸ Angelica Quiroga, “Copycat Fever: California's Proposition 187 Epidemic Spreads to Other States,” *Hispanic*, Vol. 8 (3), April 1995, 18-24.

of immigration in Arizona is owed in large measure to an effort to duplicate Proposition 227. And restrictionist policies in Arizona—especially SB 1070—have spurred nearly identical measures in other states.

In the following section, we empirically explore the roles that restrictionist coalitions and direct democracy played in four states. We use a case study approach in order to afford a context-rich understanding of the political dynamics that informed policy over time, from the first visible signs of a backlash against immigration to the present controversy over preemption of federal authority. We recognize the limitation of a case study approach in testing multicausal phenomena; however, our goal here is to deepen our understanding of the varying coalitional and institutional configurations that shaped state-level policy process. We nonetheless endeavored to enhance the explanatory leverage of our study by carefully selecting cases according to variation along several key explanatory variables.

As a first cut in selecting cases, we distinguished between states that have traditionally been destinations for immigrants versus new gateway states. Based on existing literature, we expected that the surge in immigration in states with little previous history of immigration would present a different policymaking context than those more accustomed to receiving immigrants. We focused on the period from 1990 to the mid-2000s, when immigration growth was most intense in the new gateway states. We also expected different policymaking dynamics in states that serve as points of entry for unauthorized immigrants: we therefore distinguished states that border Mexico--the prime point of entry for unauthorized immigrants--versus those removed from the US-Mexico border.

Once states were distinguished according to immigration patterns and border state status, we then selected according to key political variables. Consistent with our argument, we distinguished between states with institutions of direct democracy versus those lacking citizen- or legislator-sponsored ballot initiatives. Finally, in order to determine whether existing levels of

cooperation with federal authorities influenced policy outcomes, we distinguished between states that adopted cooperative law enforcement strategies with federal immigration authorities (via the signing of state-level 287-g Memoranda of Understanding with ICE) versus those in which no state-level agreement existed (although county-level agreements might exist). This process suggested four cases--Texas, Arizona, North Carolina, and Florida--that offered the most variation along variables and thus might provide the most leverage in explaining immigration policy outcomes.

Table 1 shows the how the four states that we selected differ in terms of key variables, as well in the nature of their policy responses. Arizona and North Carolina are new gateway states that had little experience with immigrant communities until the mid-1990s, when both experienced a rapid increase in the percentage of their foreign-born population (which we use a proxy for the growth of both authorized and unauthorized immigrants) By contrast, Texas and Florida are traditional destinations for immigrants, accustomed to large immigrant populations, and the growth of immigration in those two states was closer to the national average. Two cases—Texas and Arizona—are border states in which arguments about immigration often invoke security, safety, and fiscal concerns unique to areas that serve as entry points. The recourse to direct democracy also varies: citizen initiatives are available in Florida and Arizona, but not in North Carolina and Texas. Finally, it is worth noting that the states also adopted differing approaches to cooperation with ICE: while Florida and Arizona signed state-level 287(g) agreements with ICE, such agreements only exist among a few county or municipal governments in North Carolina and Texas. We turn next to explaining the varying policy outcomes in each state, which reflect the conjoining of demographic and institutional context with partisan political dynamics.

Immigration Politics and Policy Across Four States

Over the past seven years, the number and tenor of immigration policymaking has been markedly different in Arizona, North Carolina, Texas, and Florida. Arizona was, by far, the most active among these four states in promulgating legislation related to immigration, approving 56 different measures between 2005 and 2011, almost all of which sought, in some way, to restrict immigration. North Carolina, in spite of experiencing the highest increase in its foreign-born population of all four states, approved the fewest policies related to immigration. Florida and Texas both approved a similar amount of legislation related to immigration (not as high as Arizona, but considerably above North Carolina); however, the pattern of policies constituted more of a mix of restrictive and accommodating policies than in the other two states.

[Table 1 about here]

How do we explain these diverse outcomes? Advocates for restriction could find ample support among the general public in all four states. Furthermore, in all four states we find evidence that the recourse to ballot initiatives, which allowed restrictionist actors, when stymied by opposition from a Democratic governor and prominent Republicans, to find alternative routes to enact policy; and (3) strong public interest in immigration, in part due to issues accompanying its border state status, but also due to the politicization of immigration via ballot initiatives. By contrast, in the other three states, even when public opinion was quite receptive to restrictionist measures, and prominent state officials supported the movement's goals (which commonly occurred), successes were few and hard-won. These other states may, in fact, be more representative of the limits to restrictionist policies at the state level.

In understanding both the number of restrictionist policies produced in Arizona, as well as its more confrontational approach to issues of federalism (e.g. SB 1070), we highlight one telling difference: among the four states, Arizona stands out in the degree to which, over the

period studied here, immigration became defined as a *local* issue. As one gauge of the level of interest in the issue of immigration in the states, we analyzed the content of all immigration-related stories in the *Arizona Republic*, *Charlotte Observer*, *St. Petersburg Times*, and *Austin American-Statesman* during the period from 1999 through 2008. Each is the largest and/or state capital newspaper in the four states that are the focus of our analyses. We used the papers' online archives to carry out the analysis. For every month between January 1999 and December 2008, a full-story search was carried out for the terms "immigration" and "immigrants." We only used stories in which one of these two terms appeared in the title or first paragraph of all immigration-related stories available for analysis. Appendix A provides more detailed analysis of our coding scheme. We found no evidence of independent media framing effects in any of the four newspapers.⁹ As a result, we used the total amount of immigration-related coverage across the four newspapers, shown in Figure 1, in order to gauge the salience of immigration in each state during the period 1999 through 2008.

[Figure 1 about here]

In Arizona, the overall upward linear trend in coverage of immigration, dramatically outpacing the other states' papers, also includes episodic spikes in coverage. As policy debates at all levels—federal, state, and local—occurred news coverage of those proposals became common. Yet, in Arizona, these spikes were considerably more likely to be driven by debates over *state* immigration policy proposals, and opinion pieces and letters to the editor about them. The pattern of spikes in immigration-related articles is consistent with Baumgartner and Jones (1993) finding that media attention sometimes proceeds, and sometimes follows, governmental attention to an issue. Here it appears that public discussion and media attention to a policy issue

⁹ We appreciate the assistance of Kyle Bradbury and Christopher Weaver in the coding of portions of this data.

reinforce each other. As a result, by the mid-2000s immigration had become a thoroughly “Arizona” policy issue.

As can be seen, in the other three major papers, there is a general stability in the coverage of immigration issues, and at considerably lower levels as compared to Arizona. Moreover, while news coverage spiked in response to local issues (e.g. the arrest of a large number of undocumented individuals working for the Charlotte airport), most of the surges in coverage were in response to *national* issues and policy debates (notably, congressional proposals for comprehensive immigration reform). Moreover, these other papers lack the burst of opinion pieces and letters to the editor seen in Arizona, suggesting less public engagement in North Carolina, Florida, and Texas. As we discuss next, the intensity of immigration as a state-level issue reflected the role of state politics and institutions in determining whether immigration grew in salience as a state issue (Arizona) or ebbed and flowed more in reaction to national debates (Texas, North Carolina, and Florida).

Arizona

Arizona has been perhaps the most active state in regulating immigration. Between 2005 and 2011, over 70 separate bills or resolutions related to immigration were approved by the Arizona legislature. This legislation touched upon a range of issues, from restricting employment opportunities for undocumented workers, to barring their access to state-funded services, to enlisting local law enforcement in arresting immigrants. The successes of the movement speak both to strong public support, grassroots mobilization, and the ability of restriction advocates to combine legislative action with citizen- and legislative-sponsored ballot initiatives, which are both allowed under Arizona's constitution.¹⁰

¹⁰ In Arizona, 10 percent of votes cast for governor in last election is the necessary number of signatures on petitions for an initiated act to be put to the people. This represents the modal percentage for initiative states. A higher percentage of signatures—15 percent of the votes cast for governor in the preceding election—is necessary for an initiated constitutional amendment in the states; this is one of the highest percentages in the country. The legislature may also send measures to the people for its consideration.

Arizona occupies a unique position among states that have experienced large increases in immigration due to its emergence as the primary point of entry for unauthorized immigrants, which created fertile ground for the restrictionist movement to enlist public opposition to immigration.¹¹ For example, border ranchers have complained that immigrants using their property to enter the U.S. have caused damage, leading to confrontations between immigrants and ranchers. Prisons and hospitals along the border complain that they are financially overburdened with the costs of incarcerating immigrants and treating those who fall ill during the treacherous trek across the Sonoran desert into Arizona, which results in scores of deaths each year. On Arizona's roadways, immigrant smugglers (*coyotes*) endanger the lives of immigrants and motorists through their use of overcrowded and poorly ventilated trucks. Disputes have arisen over Border Patrol raids and arrests conducted in schools and the propriety of using local officials to enforce federal immigration laws. Concerns over enforcement fostered the rise of a citizen vigilante group, the Minutemen, whose tactics have been challenged by those concerned about the mistreatment of immigrants and the possibility that stricter border enforcement will simply force immigrants to pursue ever riskier paths across the desert. In addition to the unique problems attending from its border status, the surge in immigrants in Arizona has resulted in conflicts that typically accompany the arrival of new immigrants, such as disputes over the cultural and linguistic assimilation of immigrants, the nature and scope of public services that should be available to illegal immigrants, and disputes over the economic costs and benefits of immigration.

¹¹ The ramifications of the growth of Arizona's immigrant population have perhaps been more profound than in other gateway states. In the wake of stricter border enforcement in California during the mid-1990s, immigrant entries from the Arizona border increased dramatically. Indeed, every year since 1998, the U.S. Border Patrol's Tucson sector has accounted for the largest number of apprehensions of illegal immigrants in the nation: in 2006, the Tucson sector accounted for 36 percent of all border apprehensions nationwide, while the Yuma sector accounted for additional 11 percent. Thus, Arizona accounts for 47 percent of nationwide border apprehensions; by contrast, Texas, with a much longer border, accounted for 33 percent of border apprehensions and California accounted for 19 percent. Percentages computed by authors based on border apprehension data in Department of Homeland Security, *2006 Yearbook of Immigration Statistics*, (Washington, DC: Department of Homeland Security, Office of Immigration Statistics, 2007), p. 93.

However, conflicts between newly-arrived immigrant communities and established, native communities are fairly common in other gateway states. What is striking in Arizona is the extent to which restrictionist forces were successful in enacting a slew of policy measures. The first significant sign of policy backlash against immigration was Proposition 203, a 2000 ballot initiative that banned bilingual education in the state's public schools. Proposition 203 highlighted the influence of policy entrepreneurs in fueling this backlash: funding for Proposition 203 was provided primarily by Ron Unz, a Silicon Valley entrepreneur who led the successful passage of an identical ballot initiative in California in 1998. The measure passed by a comfortable 63% of votes, even though opponents of the initiative outspent its proponents.

The success of Proposition 203 spurred more initiatives. In November 2004, voters approved Proposition 200, an initiative that required proof of citizenship before Arizonans could receive public benefits or vote. Proposition 200's formal name, "The Arizona Taxpayer and Citizen Protection Act," reflected the view that public services enticed illegal immigration and imposed a fiscal loss on citizen taxpayers. The initiative drive was spearheaded by Protect America Now, a group founded in 2003 by Phoenix resident Kathy McKee and Rusty Childress (a Phoenix car dealer). McKee described the group's motivation as "protecting the voting process and prohibiting welfare fraud. Nothing more, nothing less."¹² As with Proposition 203 four years earlier, out-of-state interests played a significant role in financing Proposition 200, although one not uniformly appreciated by McKee. FAIR bankrolled a six-figure campaign in support of Proposition 200.¹³ Two additional out-of-state groups, Americans for Immigration Control and Popstop, Inc., a Maryland-based organization that promotes population control and the reduction of immigration, also spent money in support of Proposition 200. Financing against Proposition

¹² Quoted in Charles LeDuff, "Immigration Measure Taps Frustrations in Arizona," *New York Times*, <http://www.nytimes.com/2004/10/26/national/26arizona.html>.

¹³ McKee objected to what she saw as FAIR's attempt to take over the movement and she split with Childress, who formed a rival group, Yes on 200.

200 also came from out-of-state interests, specifically from the Service Employees International Union, which contributed \$250,000.

However, not all state Republicans or business interests were on board with the restrictionist agenda. The opposition to Proposition 200 included not only Democratic Governor Janet Napolitano, but the Arizona Farm Bureau, the Arizona Chamber of Commerce, and Senators John McCain and John Kyl. In spite of its prominent critics, Proposition 200 passed by a comfortable 56% to 44% margin. However, disputes over the meaning and range of “public benefits” that would be prohibited under Proposition 200 opened up a series of new battles. Attorney General Terry Goddard issued a ruling that the new law only applied to four public programs (a cash-assistance program for the disabled and their caregivers, a program for the visually impaired, and two utility-assistance programs). Supporters of the initiative wanted an expansive definition of “public benefits” that would apply to public housing, food assistance, in-state tuition, and employment benefits.

Partly as a response to the restricted interpretation of Proposition 200, several state legislators drafted a series of policies designed to clarify the restrictions on the use of public services by non-citizens, increase the power of state and local officials to apprehend and prosecute illegal immigrants, and prohibit linguistic accommodation of non-English speaking residents. During the 2005 legislative session, 15 separate pieces of immigration-related legislation were considered by the Arizona legislature. Governor Napolitano often used her veto power to defeat these policy initiatives: of the 11 bills approved by the legislature in 2005, only two were signed into law by the Governor and seven were vetoed. Napolitano's vetoes raised the ire of those seeking to restrict undocumented immigration. Randy Pullen, one of the backers of Proposition 200, stated that “the Governor doesn't get it. She still thinks people don't want tougher laws against illegals.” He also warned that Napolitano's bid for re-election the following

year would be affected by the vetoes: “She’ll find out how badly she misinterprets the issue.”¹⁴

Republican leaders with ties to the business community who had voiced concerns about earlier efforts began to silence themselves as fellow Republicans led the fight for sharp restrictions on undocumented immigrants.

Restrictionist proponents found a powerful way around Napolitano's opposition: ballot initiatives. Three of the bills Napolitano vetoed were subsequently approved by the legislature for inclusion as ballot initiatives in the November 2006 election, including Proposition 100 (denying bail to undocumented immigrants accused of a crime), Proposition 102 (denying civil lawsuit awards to illegal immigrants), Proposition 103 (establishing English as the official state language), and Proposition 300 (which prohibited unauthorized immigrants access to state-funded child-care, adult education classes, and in-state tuition). In explaining his sponsorship of Proposition 300, State Senator Dean Martin stated that “The public is tired of all this tough talk about illegal immigration. They want to see something done about it.”¹⁵ Indeed, the public seemed to concur with Martin's assessment. An examination of media coverage of immigration in Arizona during this period illustrates the success of the movement in making immigration a highly salient state issue; and all four ballot initiatives passed by overwhelming margins ranging from 71 to 77 percent.

The restrictionist coalition's strength was again highlighted by the passage of SB 1070 (The Support Our Law Enforcement and Safe Neighborhoods Act), signed into law by Republican Governor Jan Brewer in April 2010. However, recent controversies following the passage of SB 1070 also suggests the potential limits of the the restrictionist agenda in Arizona. In the wake of public outcry against the bill, both within and outside of Arizona, and the Justice

¹⁴ Elvira Diaz, “Governor's Vetoes Seen as a Wedge Issue,” *The Arizona Republic*, 22 May 2005: B1.

¹⁵ Quoted in Chris Ramirez, “At a Glance: Immigration Initiatives,” *The Arizona Republic*, 8 November 2006: A4.

Department lawsuit against the law, business interests in the state began to voice concerns that SB 1070 might undermine the tourism and convention businesses. While the Arizona Chamber of Commerce remained neutral during debates over SB 1070, in 2011 60 Arizona business CEOs publicly lobbied against five new restrictive measures, helping to defeat them in the Arizona Senate.¹⁶ The growing concerns of business groups that are traditionally influential in Republican politics suggests that, even in a state with perhaps the most favorable climate for restrictive immigration measures, there are limits to the restrictionist agenda.

North Carolina

North Carolina experienced one of the highest growth rate of its foreign-born population of any state in the country during the period from 1990 to 2009. However, its legislature was decidedly less active in immigration policymaking than Arizona: North Carolina passed just 13 immigration-related laws in the six years between 2005 and 2011. The tenor of those policies was generally restrictive—nine of the laws placed restrictions on access to state licenses or state benefits for immigrants or they provided for more coordination of state officials with federal immigration authorities—but they added up to just over one-fifth of the total legislation approved in Arizona (not including laws enacted at the ballot box).

North Carolina's pattern of policymaking with regards to immigration reflects a pattern of initial accommodation giving way to efforts to discourage immigration and deny state funds and services to undocumented immigrants. As in Arizona, the sudden growth of immigrant communities elicited rising social tensions between immigrants and native residents. In the late 1990s and early 2000s state newspapers regularly carried accounts of legal problems and cultural misunderstandings accompanying immigration. For example, law enforcement officials complained of the difficulty investigating crimes or helping crime victims who spoke only

¹⁶ Tim Gaynor, "A Year On, Divisions Linger Over Immigration Law," 22 April 2011, *Reuters*. <http://www.reuters.com/article/2011/04/22/us-immigration-arizona-idUSTRE73L2Q820110422>

Spanish; some state hospitals complained that immigrants left them with unpaid medical bills; in some communities residents complained about immigrants who slaughtered chickens or goats in residential neighborhoods. Drunk driving accidents—including several deaths caused by undocumented immigrants under the influence of alcohol—became a special focus of media coverage.

Indeed, public opinion polling in the early 2000s suggested that a majority of state residents wished to see more restrictive policies toward immigrants. A 2003 poll commissioned by the (Raleigh) *News and Observer* shows that 74% of North Carolinians believed that the US admitted too many legal immigrants; 73% believed that those in the country illegally should not be allowed to stay.¹⁷ However, while restrictionist proposals found support at the local level, most of the policy decisions taken by the North Carolina General Assembly through 2004 suggested a *de facto* accommodation to newly arrived immigrants, in spite of the generally negative attitude of many state residents toward immigrants. The state allowed immigrants to obtain driver licenses' without proof of citizenship (using a taxpayer identification number in place of a Social Security number), developed a program in 2000 to train Spanish-speaking court interpreters, and allowed immigrants to enroll in the state's public colleges and universities. A 2001 law sought to prevent to prevent public notaries from advertising their services in such a way as to create the impression that they could provide immigrants with legal advice.¹⁸

It was not until the 2004 election season that immigration policy started to become a more high profile policy at the state level. Both the Republican candidates for the US Senate, Richard Burr, and governor, Patrick Ballantine, cited illegal immigration as a policy problem to which Democrats had failed to respond. In a televised debate with Governor Mike Easley,

¹⁷ Michael Easterbrook, "Welcome mat not out for state's immigrants, poll shows," *The News and Observer* (Raleigh NC), 24 November 2003: A1.

¹⁸ This law was intended to prevent a confusion among Spanish-speaking immigrants for whom the title "*notario publico*" denoted someone with training akin to a lawyer.

Ballantine argued that "They're [illegal immigrants] draining our resources from emergency rooms and education systems, and we've got to get tough, and this governor has been lax. We are the laughingstock of America. We are the only state on the East Coast where you don't even have to show a Social Security number to get a driver's license." Democratic Governor Mike Easley called the Republican focus on immigration issues "pernicious."¹⁹

There was little evidence that immigration issues actually played a major role in the election: while Burr narrowly defeated his Democratic opponent, Easley won re-election handily over Ballantine. However, calls for restriction made an impact at the legislative level: a marked change in the tenor of state policies toward undocumented immigrants occurred after 2004. During its 2005 session, the General Assembly debated six bills that aimed to curtail state services to undocumented immigrants, including one measure, modeled after Arizona's Proposition 200, which would require proof of U.S. citizenship for voter registration and to receive public assistance from state and local governments.

The politically charged atmosphere surrounding immigration was reflected in debate over House Bill 1183, which proposed to allow in-state tuition status to undocumented high school graduates. Although the bill initially received support from former Governor Jim Hunt, school superintendents, the former president of the University college system, and was co-sponsored by 34 House members, it generated substantial public opposition. Demonstrating the link between national issues and local politics, the politics surrounding HB 1183 became especially sensitive after the bill became an object of scorn for national talk-radio host Rush Limbaugh. In the wake of Limbaugh's attention, legislators received a deluge of angry phone calls and e-mails and nine of the bill's original co-sponsors withdrew their support. Governor Easley's actions seemed to reflect the politically changed climate: he voiced his opposition to HB 1183 on the grounds that

¹⁹ Amy Gardner, "Immigration Issue Rears Its Head; With 10 Days to Go, GOP Candidates in N.C. Races Broach Subject to Win Votes In a Bid that Could Backfire," *The News and Observer*, 24 October 2004: B1.

the bill would not withstand a challenge to its constitutionality in light of federal law. Easley also ordered the state's Department of Motor Vehicles (DMV) to restrict the forms of identification deemed acceptable to obtain a drivers license, reversing earlier policy decisions adopted by the DMV.

During the same legislative session, several other restrictive measures were debated, including a Republican amendment to the state budget proposed to bar illegal immigrants who have petitioned the federal government for legal status from receiving in-state tuition rates at community colleges. However, in the end, only three relatively minor immigration-related bills were approved: a toothless resolution urging Congress to toughen sanctions against undocumented individuals, a law “permitting” the state’s legislative research bureau to study the impact of undocumented immigrants on the state, and a ratcheting up of state laws on human trafficking.

Unlike Arizona, the absence of a citizen initiative process did not allow rejected bills an alternative route to becoming law. Public opinion polling suggested the such measures might have attracted majority support: in a 2006 statewide poll, 77 percent of respondents said that immigration was an important issue and 53 percent agreed that immigrants took jobs, housing, and healthcare from state residents.²⁰ And, as in Arizona, anti-immigrant groups, county sheriffs, members of the North Carolina congressional delegation, and political candidates could attract media attention for proposing or implementing laws or ordinances designed to discourage immigration or deny state services. Republican US Representative Sue Myrick, who pushed for a law to deport immigrants accused of drunk driving, captured the growing attention to immigration policy, calling it "the issue of this year." However, the political impact of immigration was also fleeting, and, to date, its policy implications have been minimal. During

²⁰Veronica Gonzalez, “Immigration Issues Important to NC residents, They Say in Poll,” Star New (Wilmington, NC): 11 April 2006: 4A.

recent years only a handful of immigration-related laws were passed, and several of these simply called for further study, or voiced state support for federal action. The most consequential legislation, in 2010, bars the issuance of a state gun permit to an individual illegally in the United States. In North Carolina, Republican anti-immigration activists—at the grassroots and elite levels—have been denied a venue outside of the traditional legislative process to keep the issue a state-level issue.

Texas

Similar to North Carolina and Arizona, the push for restrictive policies toward unauthorized immigrants in Texas has come from rank-and-file Republican voters and legislators, who have pushed for more local enforcement of federal immigration policies and for policies to restrict unauthorized immigrants' access to employment, citizenship, and state services. However, in Texas, the combination of a sizable population of Latino voters, Democratic enclaves, and splits between business elites within the Republican party and rank-and-file voters has resulted in a varied mix of accommodating and restrictive policy initiatives.

On some grounds, Texas policies suggest a state accommodating to the presence of a large labor force of unauthorized immigrants: in 2001 Texas became the first state in the country to to grant in-state tuition status to undocumented graduates of Texas high schools (a law signed by Republican Governor Rick Perry). In addition, the Texas Department of Public Safety and several Texas cities—including Austin, Dallas, Forth Worth, Houston, and San Antonio—have explicitly stated their unwillingness to pursue violations of immigration laws absent the commission of other criminal offenses. The state legislature has also enacted policies that allow its Division of Motor Vehicles to recognize licenses issued by foreign governments, promoted the the work of community-based groups seeking to enroll Spanish-speaking children in the state's health insurance program (both approved in 2005), and approved a resolution lauding the

contributions of immigrants to the US and the organizers of the pro-immigration Dallas Mega March (2007).

At the same time, the push for restrictionist policies has become pronounced within the Republican party since the failed efforts to enact comprehensive immigration reform at the federal level. In both the 2009 and 2011 legislative sessions, Republican legislators proposed dozens of bills designed to discourage the hiring of unauthorized immigrants, repeal in-state tuition, and prohibit municipalities from selectively enforcing federal immigration laws. Indeed, the Texas Republican Party platform currently favors suspending automatic citizenship to the children of undocumented residents born in the US, eliminating laws requiring hospitals to provide non-emergency treatment to undocumented immigrants, deploying US troops to secure the border, and establishing criminal penalties for knowingly employing undocumented workers.

Public opinion suggests that there is broad support for many of these measures among the Texas voters. As Table 2 demonstrates, solid majorities of Texans oppose access to employment for unauthorized immigrants, oppose a path to citizenship as part of a comprehensive immigration reform, wish to end bilingual education, make English the official language of Texas, and rescind in-state tuition. Across all these issues, white Republican voters are the strongest proponents of restrictionist policies, with Democratic and Latino Texans generally adopting more accommodating stances. However, the ability to translate these policy preferences into law has been stymied by the difficulty of moving initiatives through the legislative process. In addition to the fact that regular sessions of the Texas legislature are only held every other year, restrictionist legislators have had to contend not only with Democratic opposition, but the opposition from prominent Republicans as well.

Table 2: Immigration-related Public Opinion Polling in Texas, 2010-2011

<i>Issue/Polling Date</i>	<i>Strongly Support/Somewhat Support</i>	<i>Strongly Oppose/Somewhat Oppose</i>
Require Local Authorities to Check Immigration Status (February 2011)	55%/15%	17%/8%
Prohibit Businesses from Day Labor Recruitment (February 2011)	35%/17%	15%/19%
End In-State Tuition for Undocumented High School Graduates (May 2010)	67%/10%	11%/6%
Require Employers to Verify Employee Immigration Status (May 2010)	73%/15%	3%/4%
End Bilingual Education (May 2010)	45%/13%	23%/13%
Pass an English-only amendment to Texas Constitution (May 2010)	56%/12%	19%/9%

Source: Immigration Policy Archive of “Texas Politics” website, University of Texas/*Texas Tribune*, http://texaspolitics.laits.utexas.edu/11_5_3.html

Immigration is often a politically-charged issue in Texas state politics. The “law and order” frame surrounding immigration became especially prominent during the 2010 gubernatorial campaign when Governor Rick Perry highlighted the issue of local law enforcement of federal immigration policy. While Governor Perry had declared his belief that an Arizona-style, SB 1070 bill was “not right” for Texas, his re-election campaign against former Houston mayor Bill White emphasized the issue of repealing city policies that only allow local officials to enforce criminal violations of immigration law. Perry labeled Houston a “sanctuary city” and drew attention to the murder of a Houston policeman by an unauthorized immigrant. White had resisted past efforts to repeal the Houston ordinance for several years and pointed out that under Perry the Texas Department of Public Safety maintained a policy on enforcing federal immigration law that was essentially identical to the city of Houston's.

The “law and order” frame that Perry was tapping into had resonance with most Texans. A University of Texas/*Texas Tribune* poll from February 2011 found that 69% of Texas were

opposed to city government policies that called for selective enforcement of federal immigration policies, while only 17% approved of such policies. Interestingly, pluralities or majorities across party and ethnic lines expressed opposition to such policies: among Texan Republicans, 88% opposed such policies, as did 63% of Independents; however, 49% of Democrats also opposed such policies (with only 31% approving). Likewise, while 78% of White Texans and 57% of Black Texans opposed city government policies that refused to enforce immigration laws, so did a plurality of Latino Texans by a margin of 42% to 36%.²¹

With Perry's support, legislation seeking to repeal sanctuary cities was introduced during the 2011 legislative session. However, the bill failed, in large part due to opposition from business groups allied to the Republican party. Bob Perry, a prominent Texas homebuilder and Republican donor (no relation to the Governor) and Charles Butt, owner of Texas's largest grocery chain, H.E.B, both voiced their opposition to the measure. Bob Perry's opposition, coming from one of the Governor's largest campaign contributors (along with his wife, he donated nearly \$2.5 million to the governor's campaigns over ten years) was significant, especially since Perry and Butt hired a firm to lobby against the legislation.²² The fate of the "sanctuary city" legislation was a manifestation of the rift in the Texas Republican Party between restrictionist Republican lawmakers and business groups (such as the Texas Association of Business), which generally seek immigration reforms that do not hinder business access to immigrant labor and the goods and services immigrants consume.²³ While Republicans did manage to push through several other restrictionist measures, most of these dealt with relatively low-profile issues that posed little threat to the supply of immigrant labor in Texas.

²¹Immigration Policy Archive of "Texas Politics" website, University of Texas/*Texas Tribune*, http://texaspolitics.laits.utexas.edu/11_5_3.html

²² Patricia Kilday Hart, "Business opposition puts 'sanctuary cities' bill at risk," *Chron.com* (Houston Chronicle online), June 25, 2011, <http://www.chron.com/news/article/Business-opposition-puts-sanctuary-cities-bill-2080186.php>

²³ Jim Henson, "Immigration, Perry, and a Divided GOP," *The Texas Tribune*, July 27, 2011, <http://www.texastribune.org/texas-politics/2012-presidential-election/immigration-gop-vs-gop-and-perry/>

In short, immigration policy in Texas illustrates the potency of restrictionist measures in a conservative state, especially when these measures are tied to a compelling “law and order” issue frame. However, like North Carolina, Texas also illustrates the limits of anti-immigrant politics in a state where prominent economic interests affiliated with the Republican party seek to maintain a steady supply of immigrant labor and anti-immigrant activists do not have recourse to citizen initiatives when their proposals meet with legislative resistance.

Florida

It bears noting that even states with a longer history of immigration can adopt restrictive policies. Florida, although demographically similar to Texas, was the second most active among our sample, passing 36 pieces of immigration-related legislation across the period that is the focus of this project. Approximately half of the policies restricted access to state-issued licenses or services, although some legislation extended state services to immigrants (for example, Senate Bill 498, passed in 2005, established that child welfare services should be dispensed without regard to citizenship status). It also bears noting that a key institutional difference between Florida and Texas is the presence of the institutions of direct democracy in Florida that creates a legislative threat not seen in Texas.

Until 2011, however, a series of forces limited activity in the immigration arena more than would have been expected based on the public attitudes of Floridians discussed below. First, in 2002, the Florida Department of Law Enforcement and the U.S. Department of Justice entered a Memorandum of Understanding (MOU) that established a pilot program for Florida state and local law enforcement officials to carry out immigration enforcement following training by ICE. This MOU, which was seen as a model for other states to follow, was renewed in 2003 and has remained in place (Seghetti, Ester, and Garcia 2009). The fact that, from early in the decade, the state and national governments were cooperating in a high profile manner in Florida muted the

effectiveness of the “law and order” frame in elevating the demand for legislation that would allow state and local authorities “to do the federal government’s job” on immigration.

Second, while populist elements in the Republican party in Florida, as in Texas, have clearly pushed for aggressively restrictive policies with the failure of federal comprehensive immigration reform, the party’s coalition is decidedly different than in Texas. Two other elements in the state GOP legislative coalition have resisted the passage of measures proposed by anti-immigration colleagues. As in Texas, business elites in the Republican coalition have opposed the most restrictive of such legislation because of its potential impact on the business climate in the state. Indeed, this faction has actually promoted some accommodationist measures that provide a better environment in the state for migrant farmworkers and their children.

Even more important, though, is the presence of a significant Latino faction, mostly Cuban-American, in the Republican coalition in the state. This group has generally resisted restrictive legislation across this period, most notably in a 2011 battle over an SB 1070-type law.²⁴ No matter their partisan identification, Florida’s Latino population is accommodationist in its views on immigration laws. For instance, a 2010 opinion poll of the Latino electorate in the state showed that 72 percent of Latinos in the state felt that the passage of the DREAM Act was either “extremely” (39 percent) or “very” (33 percent) important.²⁵ This population is also very significant in shaping the state’s electoral environment as fully 15 percent of the state’s electorate was Latino in 2008 according to U.S. Census data, making it the second largest racial or ethnic group in the state.

Still, as in other states, 2010 marked a year in which immigration became a politically-charged issue in Florida state politics. In particular, in his ultimately successful campaign for governor, Republican Rick Scott repeatedly stated that he would bring an Arizona-style plan to

²⁴ Lizette Alvarez, “Florida Struggles With Arizona’s Immigration Plan,” *New York Times*, 4 May 2011.

²⁵ *America’s Voice*, “Highlights from a Recent Poll of Florida Latinos,” November 2010.

life in Florida if he were elected to the state's highest office. Such legislation was strongly supported by the Florida electorate: a poll just after Scott's election showed that 51 percent of the state's voters supported a Florida law similar to Arizona's SB 1070 with just 33 percent in opposition. Several bills in line with SB 1070 were introduced in early 2011 by legislators, like Scott, attempting to use the issue entrepreneurially. Despite overwhelming GOP majorities in the legislature, the legislation, however, ultimately bogged down in the legislature because of the fractures in the GOP coalition laid out above with streamlined measures being the only ones able to get through the legislature; both business interests and Latino groups opposed the more restrictive legislation and Tea Party activists in the state opposed any watering down of the legislation.²⁶

So, again, we see a state where significant majorities of voters favor restrictive state immigration policies in the absence of federal action. Looking forward, Florida differs from Texas in one large respect, the presence of a direct democracy system. A system for constitutional amendment in the state via the initiative process was created in the state when the constitution was revised in 1968. Florida is the relatively rare state where citizens have the privilege to initiate amendment to the state constitution via the petition process but lack that same opportunity with statutes. Still, Florida's citizens have used the power regularly across the last several decades, both commonly getting measures on the ballot and passing those proposals with regularity. Indeed, until a 2006 reform, four out of five initiatives were approved by Florida voters.²⁷ Measures referred to the voters by the legislature passed at an even higher rate. In 2006, a new

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Mary Ellen Klas, "Fla. Republican leaders back away from immigration reform plans," *Miami Herald*, 30 September 2011. <http://www.mcclatchydc.com/2011/09/30/125725/fla-republican-leaders-back-away.html#ixzz1cs3idEAr>

²⁷Abby Goodnough, "Florida Legislators Take On a Voter Right," *New York Times*, 26 April 2004.

measure was passed (via the initiative process) that requires a 60 percent affirmative vote for any proposal to become part of the constitution and places other limitations on the process, but the initiative process remains alive in the Sunshine State.

As indicated by the Arizona analysis, direct democracy enhances the salience of immigration only when it is employed. The key question, now, is after the 2010 election cycle and the failure of Florida legislators to put in place an Arizona-style piece of legislation in its aftermath, whether a policy entrepreneur will use the initiative process to bring a proposal to the people of the state creating the snowball effect seen in Arizona. Florida is clearly a different state—the immigrant population of the state is larger and better established than in Arizona being the most relevant electorally—but direct democracy create an opening for a “law and order” framed campaign to politicize immigration as a “Florida issue” in the election cycles to come.

Conclusion: The Waning of Restrictionist Immigration Policy?

In all four states that we examined, public support for restrictive immigration policies was strong by the mid-2000s. In part, support for immigration restriction represents the conservatism of voters in all four states, the growth of new immigrant communities, and the prominence of immigration in national political discourse. However, it bears noting that policy innovation in these four states--with the prominent exception of Arizona--was minimal and normally did not challenge the boundaries of existing jurisdictional authority. For the most part, the rhetoric surrounding immigration and unauthorized immigrants outpaced policy action by the states. In understanding the loose fit between public sentiment and policy, our cases suggest the shared roles of state Republican party politics and political institutions in mediating the translation of policy demands into action.

Of course, this is not to say that the movement for immigration restriction has not been successful. Indeed, at the national level, the movement was key to the defeat of immigration

reform in 2006 and 2007. At the state level, activists moved state Republican parties and candidates toward decidedly more restrictive stances toward immigration. Finally, new state approaches to immigration, such as measures to restrict public services to immigrants, punish business and labor transactions with unauthorized immigrants, and assert local authority to enforcement civil immigration violations, reflect the diffusion of ideas promoted by activists. Indeed, the current controversy over whether recent state laws--such as Arizona's SB 1070--constitute a preemption of federal authority reflect the success of activists in Arizona in propagating a provocative method by which to challenge perceived flaws in federal enforcement of immigration laws.

However, as our discussion points out, Arizona was, in many ways, the "best-case" scenario for immigration restriction. The combination of its border state status, rapid increases in immigration, and direct democracy provided an ideal climate for proponents of immigration restriction to dominate Republican-party politics and advance a policy agenda. Ballot initiatives were crucial in fanning the flame of public debate, ensuring a mutually reinforcing pattern of both more media attention and subsequent policy proposals. As a result, immigration became an issue of high salience to Arizona voters by the early 2000s. By contrast, in other states restrictionist policy proposals were often stymied by recalcitrant legislatures, Republican parties in which pro-business interests opposed restrictionist measures, and the waning of voter attention to immigration issues.

Immigration restrictionists are likely to remain the dominant force in state Republican primaries for the near future. Those seeking Republican nominations at the highest levels will be required to show their bona fides on immigration if they hope to gain GOP activists favor.²⁸

Moreover, as this paper suggests, where the institutions of direct democracy are open to them,

²⁸ Rick Perry's challenges early in the 2012 GOP nomination battle were clearly driven, to some degree, by his support for accommodationist policies in Texas during his time as governor.

activists can continue to have a prominent voice in shaping state policy. Barring the development of a comprehensive immigration reform package at the federal level, the desire for states to respond with the passage of immigration-related legislation will remain alive.

However, we are unlikely to see a sustained effort by the states to push the boundaries of immigration federalism in the coming years for two reasons. First, the Obama Justice Department's challenges to recent state laws may stymie additional legislation as states wait for legal proceedings to play out in the federal courts. However, even with federal ruling in favor of the states, a second factor may provide a more important brake on assertive state approaches to immigration: there is growing evidence that the restrictionist movement in the states is ebbing. Just as after the 1996 elections, Republicans are realizing that strict immigration laws lose Latino votes in key battleground states and disenchant key business constituencies. As U.S. Representative Raúl R. Labrador of Idaho recently said, "We Republicans are hearing more and more from businesses and the agricultural communities that this system isn't working....The subtle difference that I see right now is that more and more Republicans are saying that, yes, we need border enforcement, but we also need to create a guest-worker program that works at the same time."²⁹ Particularly troubling to business interests are the provisions in some laws that place new requirements on businesses (e.g. E-verify) and/or enhance penalties on businesses. In the wake of an economic recession, the voices of business interests are likely to reassert control greater over the Republican policy agenda. Even in Arizona a business-led backlash against immigration restriction has appeared. In perhaps a telling sign of the shift in Republican party priorities, the chief proponent of SB 1070, Arizona Senate President Russell Pearce, was ousted in a recall election in late 2011.³⁰

²⁹ Jennifer Steinhauer, "Beyond 2012 Field, Nuanced G.O.P. Views on Immigrants," *New York Times* 29 October 2011, <http://www.nytimes.com/2011/10/29/us/politics/tough-stance-on-immigrants-questioned-by-some-in-gop.htm? r=1>

Appendix A: Coding Scheme for Content Analysis of Immigration-Related Stories

Category I: Immigration/Immigrants as Societal Problem
Detentions, raids, smuggling operations Criminal activity by immigrants, or crime imputed to immigration (incl. terrorism) Immigration-related conflicts between/among militia groups, ranchers, immigrants Problems/challenges for bureaucracy, courts, police or litigation
Category II: The Plight and Promise of Immigrants
Mistreatment of immigrants by employers, smugglers; dangers of crossing border, families separated Success stories of immigrants (assimilation, pursuit of education, careers) Economic benefits of immigration or economic costs of deporting, not hiring immigrants
Category III: Immigration Policy and Politics
Statistics on immigration, public opinion surveys Comments by US or Mexican government officials Legislation/policies proposed (excluding problems of implementation) Actions/statements by pro- and anti-immigrant groups, individuals
Category IV: Opinion Pieces, Editorials, and Letters to Editor

³⁰ Marc Lacey and Katharine Q. Seelye, "Recall Election Claims Arizona Anti-Immigration Champion," New York Times 10 November 2011, <http://www.nytimes.com/2011/11/10/us/politics/russell-pearce-arizonas-anti-immigration-champion-is-recalled.html>.

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Table 1: Profile of Four States

	Immigrant Population (as % of state population), 2009	Foreign Born Population, % change, 1990-2009	Initiative?	Republican control (% GOP seats in legislature), 2011	Latino Population (% of population), 2010	State level ICE 287(g) agreements	State Immigration-related laws enacted, 2005-2011 (Restrictive/Accommodating/Neutral)
Arizona	14.0%	233%	Yes	68%	29.6%	Yes	56 (45/3/8)
Texas	16.1%	161%	No	66%	37.6%	No	35 (14/17/4)
North Carolina	7.1%	478%	No	58%	8.4%	No	16 (10/3/3)
Florida	18.8%	110%	Yes	68%	22.5%	Yes	36 (12/9/5)

Figure 1: Immigration-Related News Coverage Four Newspapers, 1999-2008

