

# Immigrant legislation, across and within the United States

Gary Reich

Research and Politics  
October-December 2017: 1–11  
© The Author(s) 2017  
Reprints and permissions:  
sagepub.co.uk/journalsPermissions.nav  
DOI: 10.1177/2053168017742005  
journals.sagepub.com/home/rap  


## Abstract

State governments are now the principal source of immigrant legislation in the US. Existing research presents contradictory findings concerning the sources of pro- and anti-immigration state legislation. However, research has not adequately accounted for the multidimensional nature of immigrant legislation and the fact that many variables hypothesized to affect state legislation encompass both within-state, time-varying effects and time-invariant, cross-sectional effects. Measurement and research design strategies to address these problems are applied to a dataset of state immigrant legislation approved between 2005 and 2012. The findings are important because they show that partisan, demographic, and economic effects are often different within versus across states and may differently affect the volume versus the relative tenor of legislative output.

## Keywords

Immigration policy, state politics and policy, immigration

## Introduction

The paralysis of US immigration policy at the federal level now means that policymaking is centered at the state level, where legislatures have passed thousands of laws addressing immigrant-related issues over the past decade. Explaining disparate state responses to immigration has been the focus of a growing body of research, with some researchers focusing on the rise of anti-immigration state laws (Ybarra et al., 2016; Zingher, 2014; Marquez and Schraufnagel, 2013; Reich and Barth, 2012; Turner and Sharry, 2012; Schildkraut, 2001) and others emphasizing the relative mix of pro- and anti-immigrant state legislation (Gulasekaram and Ramakrishnan, 2015; Rivera, 2014; Monogan, 2013; Nicholson-Crotty and Nicholson-Crotty, 2011; Boushey and Ludtke, 2011).

Because the growth of state immigration legislation followed the expansion of immigration flows into states that had little past experience with immigration, a key issue within existing research has been the extent to which state activism reflects demographic pressures resulting from increases in immigration versus a politically-motivated shift towards either punitive or accommodating policies (Gulasekaram and Ramakrishnan, 2015). Existing research has yielded contradictory findings. Gulasekaram and Ramakrishnan find restrictive legislation unrelated to state demographic change but rather a function of polarized partisan politics. By contrast,

Monogan (2013), Nicholson-Crotty and Nicholson-Crotty (2011), and Boushey and Luedtke (2011) generally find partisanship unrelated to state legislation, with Boushey and Luedtke presenting evidence that larger immigrant populations induce more integrative state legislation. However, their results also suggest that larger foreign-born populations were significantly related to *restrictive* legislation and that the growth of immigration was positively related to *both* integration and control policies. Zingher (2014) finds that both legislative conservatism and the growth of immigration propelled restrictive legislation while Marquez and Schraufnagel (2013) and Ybarra et al. (2016) present evidence of a more focused backlash against Hispanic immigrants. However, Marquez and Schraufnagel's results again suggest a contradiction, with the growth of state Hispanic populations also associated with increases in *pro-immigrant* legislation.

An unresolved problem in existing research is the failure to address two sources of causal heterogeneity. First, existing studies often fail to consider whether increased

---

Department of Political Science, University of Kansas, USA

### Corresponding author:

Gary Reich, Department of Political Science, University of Kansas, 1541 Lilac Lane, Lawrence, KS 66045, USA.  
Email: greich@ku.edu



legislative activity necessarily alters the overall tenor of state legislative output. Because immigrant legislation spans multiple issue areas (education, health care, law enforcement, labor laws, professional licensing, welfare benefits), states produce varying mixes of accommodating and restrictive legislation. As a result, an increased volume of one type of law (restrictive or accommodating) may not necessarily change the relative tenor of state immigrant legislation. Thus, research designs should consider whether variable effects are presumed to affect the volume of immigrant legislation, the overall tenor of legislation, or both.

Second, researchers have generally ignored cross-state versus within-state causal effects at the state level. Individual predictors at the state level often simultaneously encompass short-term changes observed within a state over a given period of time—such as changes in the growth of immigrant populations or partisan control of government—and cross-sectional effects that are static over the course of most observational studies: the same variable also registers that some states are whiter, more Republican, or have larger immigrant populations than others. The problem is that in the presence of both causal effects, as Bell and Jones (2015) show, a single measure represents an uninterpretable, weighted average of these two effects. In situations where variables encompass both a time-varying, “within-unit” process as well as a time-invariant, “between-unit” effect, Bell and Jones argue for a random effects estimation strategy that separately measures these two effects. This approach creates separate coefficients that distinguish time-variant and time-invariant effects. “Within-unit” effects for each time-varying independent variable are calculated by subtracting the (in this case) state mean from the value of each observation:

$$x_{ij} - \bar{x}_j$$

where each  $i$  represents an observation—here, a legislative year—of variable  $x$  in state  $j$  and  $\bar{x}_j$  is the mean of that variable across all observed years in state  $j$ . “Between-unit” (i.e., cross-state) effects can then be estimated using the mean value of the same variable at the state level  $\bar{x}_j$ , in addition to any other exclusively time-invariant measures,  $z_j$ . In this manner, average contextual differences across states can be distinguished from time-varying within-state effects. This “between” versus “within” hierarchical approach is presented below for a dataset of state immigration laws approved between 2005 and 2012. The models separately measure the absolute number of each type of law produced as well as the relative balance of accommodating versus restrictive legislation. At the same time, variable effects are measured so as to distinguish within-state changes over time from more time-invariant, cross-state differences.

## Independent variables

*Between-state variables.* Many variables that have figured prominently in recent research differ *across* states, but not (over the course of existing observational studies) *within* states, including the following variables:

- (1) Institutions of direct democracy (Turner and Sharry, 2012; Reich and Barth, 2012; Schildkraut 2001). Differences in the presence and strength of direct democracy are captured here via Lewis’s (2011) “Direct Democracy Impact” measure, normalized to range from 0 (No citizen initiatives) to 5 (Highly influential direct democracy).<sup>1</sup>
- (2) Legislative professionalism (Monogan, 2013). Squire’s (2007) measure of legislative professionalism (measured here as 0 through 100) captures differences between professional and citizen legislatures over the period 2005 through 2012. This variable is a weighted combination of legislative salary, days in session, and staff per legislator (as compared with members of Congress during the same year).
- (3) The growth of the state Latino population, 2000–2010 (Ybarra et al., 2016; Marquez and Schraufnagel, 2013). This variable is included to capture the specific effect of Latino immigration, which may differ from that of immigration among all nationalities (see below) and has been linked to restrictive legislation.<sup>2</sup>
- (4) Citizen ideology (Monogan, 2013). This is measured as the percentage of the state population in 2005 that self-identified as liberal, based on public opinion data used by Pacheco (2011).
- (5) Immigrant State Welfare Eligibility (Filindra, 2013; Hero and Preuhs, 2007). The 1996 Personal Responsibility and Work Opportunities Reconciliation Act (PRWORA) afforded states discretion to define standards for immigrant welfare eligibility. The welfare policies that states established in the period following PRWORA can be seen as establishing a baseline level of accommodation or restriction that may influence subsequent legislation; thus, the direction of legislation between 2005 and 2012 may display continuity with immigration welfare policy regimes established post-PRWORA. State variations in defining immigrant welfare eligibility are captured via Hero and Preuhs factor-score measure, which is based on nine welfare-related policy items and ranges from -1.11 (exclusive) to 1.67 (inclusive).<sup>3</sup>

*Within-state variables.* Other variables identified in recent research contain *both* a cross-sectional and a time-varying effect, with the time-varying component measuring changes within states between 2005 and 2012:

- (1) Percent foreign-born population (Nicholson-Crotty and Nicholson-Crotty, 2011; Boushey and Ludtke, 2011; Monogan, 2013).<sup>4</sup> Note that the cross-state average measures the “stock” of immigrants between 2005 and 2012, while the within-state variable measures changes in the size of the immigrant population (the “flow” component) during that same period.
- (2) Change in per capita state income, lagged one year (Filindra and Pearson-Moskowitz, 2013; Ybarra et al., 2015).<sup>5</sup>
- (3) Republican party control (Zingher, 2014). Two measures operationalize this effect: the percentage of Democratic state legislators (averaged over both state legislative chambers), and Republican control of both the executive and legislative branches (measured dichotomously).
- (4) Latino legislative representation (Preuhs, 2007), measured as the percentage of Latino state legislators, averaged over both legislative chambers.<sup>6</sup>

### Dependent variable and estimation procedure

The dependent variables are derived from an original coding of 1393 laws approved by state legislatures between 2005 and 2012.<sup>7</sup> The data is grouped by state and legislative year, yielding 371 observations across 8 years (see Table A1 in online appendix for additional information on the coding protocol and a summary of laws approved in each state).<sup>8</sup> Two types of laws are analyzed. Accommodating legislation sought to make public services, employment, state licenses, and housing more accessible to immigrant populations, regardless of their legal status. Restrictive legislation sought to bar access to the same goods and outcomes and/or enlisted state and local law enforcement in efforts to identify unauthorized immigrants. Following most recent work on state immigration legislation (Ybarra, 2015; Marquez and Schraufnagel, 2013; Nicholson-Crotty and Nicholson-Crotty, 2011; Boushey and Ludtke, 2010), unweighted counts of each type of law are used; the presumption is that counts of legislative output speak meaningfully to the importance of immigrant-related issues across legislatures as well as the policy intentions of legislators.<sup>9</sup>

As is common with panel data, the counts of accommodating and restrictive state legislation are “overdispersed” (the variance is greater than the mean). Following Gelman and Hill (2007: 326) and Bell and Jones (2015: 147), overdispersion is incorporated directly by including random effects at both the state and the observation level, yielding a three-level, Poisson regression:

$$Y_{ij} \sim \text{Poisson} \left( e^{\alpha_j + \beta_1(x_{ij} - \bar{x}_j) + \varepsilon_{0ij} + \varepsilon_{1ij}(x_{ij} - \bar{x}_j)} \right) \quad (1)$$

$$\alpha_j = \mu + \beta_2 \bar{X}_j + \beta_3 z_j + u_j$$

In this model, the number of laws approved in legislative year  $i$  in state  $j$  ( $Y_{ij}$ ) is a function of the vector of “between-state” ( $\alpha_j$ ) and “within-state” covariates,  $\beta_{ij}$ . The between-state components include the state-level means ( $\bar{x}_{ij}$ ), time invariant measures ( $z_j$ ), and a random state-level effect ( $u_j$ ). The variance at the observation level,  $\varepsilon$ , includes the additional random effect  $\varepsilon_{1ij}(x_{ij} - \bar{x}_j)$  that captures variation beyond that explained by the Poisson regression (i.e., overdispersion). The random effects are assumed to be distributed normally.<sup>10</sup> Posterior means and standard deviations are estimated via Bayesian Markov Chain Monte Carlo (MCMC) resampling.<sup>11</sup> Because immigration-related legislation (both restrictive and accommodating) increased steadily in almost all states between 2005 and 2012, a linear trend is included, with each year indexed as one through eight. The year index was statistically significant for both pro- and anti-immigration legislation, while also improving the overall fit of the models, as indicated by a lower Bayesian deviance information criterion.<sup>12</sup> The Woolridge test for autocorrelated errors in panel data (Woolridge, 2002) failed to reject the null hypothesis of no serial correlation.

### Findings: Revisiting state legislation

Table 1 provides both the incidence rate ratio (IRR) and standard deviations for each variable, with asterisks indicating particularly robust directional effects: for a positive (negative) posterior mean, it indicates that less than 5% of its posterior distribution contains negative (positive) values.<sup>13</sup> Models 1 and 2 illustrate the importance of distinguishing cross-sectional from time-varying effects. Model 1 suggests that the count of accommodating legislation increased with the share of Democratic legislators within a state: each percentage increase in Democratic legislative representation increased the count of accommodating laws by approximately 5% per year. However, the “between state” coefficient shows that states that averaged higher Democratic representation over the period 2005 to 2012 were actually associated with a 2% reduction in the annual count of accommodating legislation.

Demographic and economic effects are also marked by different within- and between-state effects. Within states, restrictive laws increased by 52% for every percentage increase in the immigrant population. But states with larger immigrant populations passed more of both types of immigrant legislation: the average size of the immigrant population was associated with a 5–7% annual increase in *both* restrictive and accommodating legislation. Changes in state per capita income were also related to immigration legislation, consistent with Ybarra et al. (2016). However, their study only examined punitive state laws. By contrast, Models 1 and 2 show that each percentage increase in per capita income (the “within-state” effect) is associated with, respectively, a 4% and 8%

**Table 1.** State immigration legislation, 2005–2012 (Markov Chain Monte Carlo posterior incidence rate ratios and standard deviations).

	(1) Accommodating legislation (count per year, with time trend)	95% Credible interval	(2) Restrictive legislation (count per year, with time trend)	95% Credible interval
Within-state effects:				
Foreign-born population	1.24 (0.27)	[0.79, 1.85]	1.52* (0.33)	[0.97, 2.26]
Latino legislators	0.95 (0.05)	[0.85, 1.05]	0.90* (0.06)	[0.80, 1.01]
Democratic legislators	1.05* (0.02)	[1.02, 1.08]	1.01* (0.02)	[0.98, 1.04]
Republican control	1.33 (0.41)	[0.70, 2.29]	0.97 (0.29)	[0.51, 1.65]
Per capita income growth	0.92* (0.02)	[0.87, 0.96]	0.96* (0.03)	[0.91, 1.01]
Between-state effects:				
Foreign-born population	1.07* (0.03)	[1.01, 1.14]	1.05* (0.03)	[0.99, 1.11]
Latino legislators	1.03 (0.02)	[0.98, 1.07]	1.01 (0.03)	[0.97, 1.05]
Democratic legislators	0.98 (0.01)	[0.96, 1.00]	1.00 (0.02)	[0.97, 1.02]
Republican control	0.51 (0.29)	[0.16, 1.27]	1.12 (0.54)	[0.43, 2.48]
Per capita income growth	1.13 (0.18)	[0.82, 1.52]	0.83 (0.12)	[0.61, 1.08]
Direct democracy impact	1.10 (0.09)	[0.94, 1.28]	1.21* (0.09)	[1.05, 1.39]
Change in Latino population	1.00 (.01)	[0.99, 1.02]	1.00 (0.01)	[0.99, 1.01]
Legislative professionalism	1.00 (0.01)	[0.97, 1.02]	0.98 (0.01)	[0.96, 1.01]
Citizen liberalism	0.94 (0.05)	[-0.85, 1.05]	0.90* (0.04)	[0.81, 0.99]
Immigrant welfare eligibility	1.62* (0.35)	[1.02, 2.42]	1.05 (0.22)	[0.67, 1.54]
Constant	0.73 (0.79)	[0.06, 2.92]	0.59 (0.54)	[0.08, 2.02]
Random effects:				
State-level variance	0.47 (0.19)	[0.19, 0.93]	0.35 (0.14)	[0.13, 0.69]
Observation-level variance	0.42 (0.12)	[0.22, 0.68]	0.59 (0.12)	[0.39, 0.86]
Bayesian DIC	1024.92		1108.19	
N	371		371	

Mean and standard deviation estimates based on a burn-in period of 10,000 iterations and 200,000 post burn-in samples.

\* The direction (+/-) of the posterior mean has a greater than 95% probability, based on posterior distribution.

decrease in *both* accommodating and restrictive legislation, suggesting that immigrant legislation became less salient to legislators as state income grew. These distinctions were not possible in existing research, either because researchers collapsed state legislative output over multiple years (losing the time component) or did not distinguish within- versus between-state variable effects.

Other variables in Models 1 and 2 are more closely associated with one type law than the other. Citizen ideology, direct democracy, and the share of Latino legislators are strongly associated with counts of restrictive legislation, but less so with accommodating legislation. In Model 2, restrictive legislation increased by 21% for each unit increase in Lewis's six-point "Direct Democracy"



index, and decreased by 10% for each percentage increase in citizen liberalism and Latino representation. The credible interval indicates a greater than 95% posterior probability of these directional effects. By contrast, accommodating legislation is closely associated with more generous welfare benefits for immigrants: each percentage increase in the IW eligibility scale increased the count of accommodating laws by 61%, which translates into 1.7 more accommodating laws per legislative year from the lowest to highest observed values of the scale. Still other variables commonly cited in existing research, such as legislative professionalism, the growth in state Latino populations, and Republican control, had more ambiguous effects, with wide credible intervals that encompassed both increases and decreases in each type of immigration legislation.

Of course, as argued above, changes in the volume of each type of law do not address shifts in the relative balance of legislative output. Table 2 uses a multinomial logistic model to compare three legislative outcomes. In some instances, legislatures approved more restrictive (R) laws than accommodating (A) laws. This outcome, R>A, constitutes the base category in Table 2, and is contrasted to outcomes in which accommodating legislation predominated (A>R), and accommodating and restrictive laws were approved in equal numbers (A=R).<sup>14</sup> Relative risk ratios (RRR) estimate the effect of a one-unit change in each variable on the probability of the A>R and A=R outcomes relative to the base category, holding all other variables constant.

The results suggest that partisan effects were important to the relative balance of laws, consistent with Gulasekaram and Ramakrishnan (2015), but in nuanced ways. In states where Republican control of legislative and executive branches was more common, the odds of a relatively accommodating outcome (A>R) were 81% lower (RRR = 0.19) compared to the “restrictive dominant” (R>A) outcome, a directional effect with a greater than 99% posterior probability (PP). A similar, but weaker directional effect occurs between the “neutral” outcome (A=R) and the R>A base category (RRR = 0.45, PP = 82%). Thus, although Table 1 suggests that Republican control of state government was not strongly associated with the *volume* of either accommodating or restrictive legislation, Table 2 suggests that it moved the *balance* of legislative output in a restrictive direction. Likewise, within states, each percentage increase in Democratic legislative representation increased the odds of the accommodating outcome over the restrictive base outcome by 8% (PP = 99%) and by 5% for the A=R outcome (PP = 83%). However, legislatures that averaged higher Democratic representation across the period 2005 to 2012 were actually *less* likely to shift toward a relatively more accommodating stance. Taken together, Tables 1 and 2 suggest an interesting legislative dynamic: more Democratic-leaning states were actually less likely to adopt a more accommodating tone toward

immigrants, *except* as the share of Democratic legislators within the state increased.

Table 2 further clarifies the directional effects of economic and demographic variables. As the average size of the foreign-born population increased, states were more likely to be, on balance, accommodating (RRR = 1.06, PP = 92%) or neutral (RRR = 1.12, PP = .95%) rather than restrictive. Likewise, each percentage increase in average per capita income increased the odds of the more accommodating outcome (A>R) over the restrictive outcome by 59% (PP = 99%), and the neutral outcome by 90% (PP = 99%). Thus, larger average foreign-born populations raised legislative output while higher average per capita income reduced output (Table 1); however, both variables were positively associated with a shift toward less restrictive outcomes, consistent with Boushey and Luedtke (2011) and Filindra and Pearson-Merkowitz (2013).

Table 2 also suggests hypotheses regarding the political processes producing each outcome. The odds of the A>R outcome compared to the R>A base outcome approximately doubled (RRR = 1.96, PP = 99%) for each unit increase in the Immigrant Welfare State and increased by 5% with average Latino legislative representation (PP = 99%). Each percentage increase in Latino representation within states further increased the relative probability of the accommodating outcome over the restrictive outcome by 18% (PP = 88%). Thus, growing Latino representation decreased the volume of restrictive legislation (Table 1) and tilted state legislation toward a relatively more accommodating balance (Table 2). By contrast, more direct democracy decreased the odds of the accommodating and neutral outcomes by, respectively, 11% (PP = 87%) and 20% (PP = 92%) compared to the base outcome. In short, a restrictive outcome was less likely where states implemented more inclusive post-PRWORA welfare benefits for immigrants and where Latinos were a larger and growing share of state legislators. By contrast, stronger institutions of direct democracy reduced the odds of either the accommodating or neutral outcomes compared to the more restrictive outcome.

Naturally, the results here are time-bound, encompassing an eight-year period when the forces of immigration restriction were extremely influential in Republican state politics; and because there is no uniform standard for classifying state legislation, results may vary according to how researchers classify state legislation. However, the findings here suggest two guidelines that would provide more clarity and consistency to future research. First, given the multidimensional nature of immigrant legislation, causal arguments need to distinguish variable effects on the volume of legislation versus the relative balance of laws. Understanding whether states end up moving toward a relatively restrictive set of policies (e.g., Arizona), more accommodating policies (California), or some

**Table 2.** Relative balance of restrictive (R) versus accommodating (A) legislation (Markov Chain Monte Carlo posterior relative risk ratios and standard deviations).

Base category: R > A (n=138)	(1) Contrast group: A > R Relative risk ratio (standard deviation)	95% Credible interval	(2) Contrast group: A = R	95% Credible interval
<b>Within-state effects:</b>				
Foreign-born population	1.07 (0.42)	[0.47, 2.43]	0.47 (0.59)	[0.15, 1.48]
Latino legislators	1.18 (0.14)	[0.90, 1.57]	1.21 (0.25)	[0.73, 1.97]
Democratic legislators	1.08* (0.03)	[1.01, 1.16]	1.05 (0.05)	[0.96, 1.15]
Republican control	1.51 (0.68)	[0.39, 5.80]	1.11 (1.07)	[0.12, 8.38]
Per capita income growth	0.94 (0.06)	[0.83, 1.05]	0.99 (0.09)	[0.84, 1.18]
<b>Between-state effects:</b>				
Foreign-born population	1.06 (0.04)	[0.97, 1.15]	1.12* (0.07)	[0.98, 1.27]
Latino legislators	1.05* (0.03)	[0.99, 1.12]	0.97 (0.07)	[0.84, 1.08]
Democratic legislators	0.97* (0.01)	[0.94, 1.00]	0.95 (0.02)	[0.96, 1.15]
Republican control	0.19* (0.67)	[0.05, 0.70]	0.45 (0.85)	[0.12, 8.38]
Per capita income growth	1.59* (0.21)	[1.05, 2.40]	1.90* (0.29)	[1.10, 3.36]
Direct democracy impact	0.89 (0.10)	[0.73, 1.09]	0.80 (0.16)	[0.58, 1.10]
Change in Latino population	1.00 (0.01)	[0.99, 1.02]	1.00 (0.01)	[0.98, 1.03]
Legislative professionalism	1.01 (0.02)	[0.98, 1.02]	0.96 (0.03)	[0.90, 1.02]
Citizen liberalism	1.04 (0.07)	[0.91, 1.18]	1.14 (0.09)	[0.95, 1.36]
Immigrant welfare eligibility	1.96* (0.28)	[1.15, 3.39]	1.31 (0.39)	[0.61, 2.80]
Constant	1.37 (1.18)	[0.13, 14.92]	2.20 (1.65)	[0.09, 57.69]
	n=116		n=32	
N= 286				
Bayesian DIC: 533.01				

Mean and standard deviation estimates based on a burn-in period of 10,000 iterations and 200,000 post burn-in samples.

\* The direction (+/-) of the posterior mean has a greater than 95% probability, based on posterior distribution.

intermediate outcome depends on this distinction. Second, research would benefit from a clearer distinction of within- and between-state variable effects where variables encompass both processes. Substantively, many explanatory variables simultaneously measure the “pull of history”—relatively enduring contextual differences across states—as well as short-term economic, political, and demographic shifts. The forces may exert different directional effects on legislation, a fact that is obscured when research designs include no time component or when variables measure an uninterpretable average of both effects.

### Declaration of conflicting interest

The author(s) declared no potential conflicts of interest with respect to the research, authorship, and/or publication of this article.

### Funding

The author(s) received no financial support for the research, authorship, and/or publication of this article.

### Supplementary materials

The replication files are available at <http://thedata.harvard.edu/dvn/dv/researchandpolitics>.

## Notes

1. Lewis created this variable via a principal components factor score derived from three variables: (a) legislation insulation, (b) the degree of difficulty in qualifying an item on the ballot, and (c) the number of times citizen-initiatives were placed on state ballots between 1994 and 2006.
2. Data from the U.S. Census Bureau (2011).
3. The immigrant welfare (IW) scale is based on immigrant eligibility for state health and welfare programs as of 1999, including Temporary Assistance for Needy Families (both before and after the federally-mandated five-year ban), state cash payments, food stamps, Medicaid funds, Supplemental Security Income, and state health care programs. While there is a six-year gap between the IW measure and the start of the legislation examined here, the measure establishes whether a possible policy trajectory adopted after PRWORA (i.e., as of 1999) influenced post-2004 state legislation.
4. The percentage foreign-born population by state was obtained from data collected by Pew Research Center's (2014) Hispanic Trends Projection, based on American Community Survey data for 2012.
5. Real state gross domestic product per capita is measured in 2009 chained dollars and is derived from the US Department of Commerce Bureau of Economic Analysis (n.d.).
6. Data from the National Association of Latino Elected and Appointed Officials (2006, 2009, 2010, 2012)
7. Only laws approved by the legislature were considered, although the substantive results are substantially similar when resolutions are included. The data were obtained from National Council of State Legislatures (2017).
8. The N of 371 reflects the fact that not every state legislature produces legislation annually. Legislatures in Montana, Nevada, North Dakota, Texas, and Wyoming legislatures meet biennially, as did the Oregon legislature until 2012 and Arkansas until 2010. Nebraska's non-partisan legislature is excluded from the analysis.
9. Raw counts also avoid the problem of determining "policy relevance," which involves ambiguous criteria, such as: (a) the share of immigrants likely to be affected; (b) effects on current immigrants versus future arrivals; (c) gaps between legislative intent and implementation/enforcement, and (d) symbolic versus substantive effects.
10. The variances are assumed to be normally-distributed in the multilevel Poisson model. Alternatively, a negative binomial distribution can be used to fit overdispersed count data by including an overdispersion factor. However, such models use a single parameter to calculate Level 1 and Level 2 overdispersion, leading Rabe-Hesketh and Skondral (2008: 394) to advise against them. Regardless, the distributional assumption does not appear critical here: coefficients and standard errors reported below were virtually identical when the model was estimated via a negative binomial distribution.
11. Because the data represent a population, rather than a sample, the goal is to assess the goodness of fit of the models rather than infer a population value, as in classical hypothesis testing (Gill, 2001). Posterior means and standard deviations reported in Tables 1 and 2 are based on 200,000 simulations, following a "burn in" period of 10,000 iterations.
12. The significant time trend in Model 1 ( $b = 0.14, p < .001$ ) and 2 ( $b = 0.10, p < .004$ ) suggests unmeasured processes that are not easily captured. For example, state legislation may reflect the growing politicization of immigration nationwide during a period when Congress debated various immigration reform proposals or it may also reflect what Gulasekaram and Ramakrishnan (2015: 101) call "issue entrepreneur" effects.
13. The incidence rate ratio shows the change in the rate (count) of the dependent variable changes with each unit change in the independent variable, holding all other variables constant: an incidence rate ratio above 1.00 represents a percentage increase in the count, while numbers below 1.00 register a percentage decrease in the count.
14. For the purposes of this analysis, legislative years in which no immigrant legislation of any kind was approved are removed, yielding an N of 286. Distinguishing legislative outcomes according to the three categories, reduced the measured state-level variance in both Models 1 and 2 to zero. Thus, the multinomial logistic models in Table 2 are estimated as single-level models.

## Carnegie Corporation of New York Grant

This publication was made possible (in part) by a grant from Carnegie Corporation of New York. The statements made and views expressed are solely the responsibility of the author.

## References

- Bell A and Jones K (2015) Explaining fixed effects: Random effects modelling of time-series cross-sectional and panel data. *Political Science Research and Methods* 3(1): 133-153.
- Boushey G and Luedtke A (2011) Immigrants across the U.S. federal laboratory: Explaining state-level innovation in immigration policy. *State Politics and Policy Quarterly* 11(4): 390-414.
- Filindra A (2013) Immigrant social policy in the American states: Race politics and state TANF and Medicaid eligibility rules for legal permanent residents. *State Politics and Policy* 13(1): 26-48.
- Filindra A and Pearson-Merkowitz S (2013) Together in good times and bad? How economic triggers condition the effects of intergroup threat. *Social Science Quarterly* 94(5): 1328-1345.
- Gelman A and Hill J (2007) *Data Analysis Using Regression and Multilevel/Hierarchical Models*. New York: Cambridge University Press.
- Gill J (2001) Whose variance is it anyway? Interpreting empirical models with state-level data. *State Politics and Policy Quarterly* 1(3): 318-338.
- Gulasekaram P and Ramakrishnan S K (2015) *The New Immigration Federalism*. New York: Cambridge University Press.
- Hero R and Preuhs R (2007) Immigration and the evolving American welfare state: Examining policies in the U.S. states. *American Journal of Political Science* 51 (3): 498-517.
- Lewis D (2011) Direct democracy and minority rights: Same-sex marriage bans in the United States. *Social Science Quarterly* 92(2): 364-383.
- Marquez T and Schraufnagel S (2013) Hispanic population growth and state immigration policy: An analysis of restriction (2008-12). *Publius: The Journal of Federalism* 43(3): 347-367.

- Monogan III JE (2013) The politics of immigration policy in the 50 US States, 2005–2011. *Journal of Public Policy* 33(1): 35–64.
- National Association of Latino Elected and Appointed Officials (2006) *National Directory of Latino Elected Officials*. Los Angeles, CA: NALEO Education Fund.
- National Association of Latino Elected and Appointed Officials (2009) *National Directory of Latino Elected Officials*. Los Angeles, CA: NALEO Education Fund.
- National Association of Latino Elected and Appointed Officials (2010) *National Directory of Latino Elected Officials*. Los Angeles, CA: NALEO Education Fund.
- National Association of Latino Elected and Appointed Officials (2012) *National Directory of Latino Elected Officials*. Los Angeles, CA: NALEO Education Fund.
- National Council of State Legislatures (2017) *State Laws Related to Immigration and Immigrants*. Available at: <http://www.ncsl.org/research/immigration.aspx> (accessed 30 June 2017).
- Nicholson-Crotty J and Nicholson-Crotty S (2011) Industry strength and immigrant policy in the American States. *Political Research Quarterly* 64(3): 612–624.
- Pacheco J (2011) Using national surveys to measure state public opinion over time: A guideline for scholars and an application. *State Politics and Policy Quarterly* 11(4): 415–439.
- Pew Research Center (2014) *Hispanic Trends Projection*. Available at: <http://www.pewhispanic.org/2014/04/29/statistical-portrait-of-the-foreign-born-population-in-the-united-states-2012/#foreign-born-by-state-2012> (accessed 2 February 2017).
- Preuhs RR (2007) Descriptive representation as a mechanism to mitigate policy backlash: Latino incorporation and welfare policy in the American States. *Political Research Quarterly* 60(2): 277–92.
- Rabe-Hesketh S and Skrondal A (2008) *Multilevel and Longitudinal Modeling Using Stata*. 2nd ed. College Station, TX: Stata Press.
- Reich G and Barth J (2012) Immigration restriction in the States: Contesting the boundaries of federalism? *Publius: The Journal of Federalism* 42(3): 422–448.
- Rivera MU (2014) Immigration, public opinion, and state policy (un)responsiveness: A case for analyzing policies that expand the rights of immigrants. In: State Politics and Policy Conference, Bloomington, Indiana, Indiana University, 15–17 May. Available at: <http://www.indiana.edu/~sppc2014/Papers/Rivera.pdf> (accessed 12 December 2014).
- Schildkraut DJ (2001) Official English and the States: Influences on declaring English the official language in the United States. *Political Research Quarterly* 54(2): 445–457.
- Squire P (2007) Measuring state legislative professionalism: The Squire Index revisited. *State Politics and Policy Quarterly* 7(2): 211–227.
- Turner RC and Sharry W (2012) From progressive pioneer to nativist crackdown: The transformation of immigration policy in Oklahoma. *Politics and Policy* 40(6): 1–36.
- U.S. Census Bureau (2011) *The Hispanic Population: 2010*. Census Brief, May. Available at: <http://www.census.gov/prod/cen2010/briefs/c2010br-04.pdf> (accessed 2 February 2017).
- U.S. Department of Commerce Bureau of Economic Analysis. (n.d.) Interactive Data. Available at: <http://www.bea.gov/itable/index.cfm> (accessed 2 February 2017).
- Woolridge JM (2002) *Econometric Analysis of Cross Section and Panel Data*. Cambridge, MA: MIT Press.
- Ybarra VD, Sanchez LM and Sanchez GR (2016) Anti-immigrant anxieties in state policy: The great recession and punitive immigration policy in the American states, 2005–2012. *State Politics and Policy Quarterly* 16 (3): 313–339.
- Zingher JN (2014) The ideological and electoral determinants of laws targeting undocumented migrants in the U.S. states. *State Politics and Policy Quarterly* 14(1): 90–117.

## Appendix

### Classifying State Immigration Laws

The data on immigration-related state legislation is derived from the National Council of State Legislature Immigration (NCSL) Immigration Policy Project. Since the intent is to assess both state legislative interest in immigration-related issues (i.e. the volume of legislation) and policy direction, we coded each law approved by the state legislature during the period 2005 through 2012, including those that may subsequently have been subject to partial (line item) or complete gubernatorial veto (approved laws with a subsequent gubernatorial veto constituted 3.5% of the total laws passed). In the case of omnibus bills that addressed more than one policy area related to immigration, each policy area addressed in the bill was included in the legislative count and coded separately for intent. This process yielded a total of 1,393 laws approved between 2005 and 2012.

State laws were placed into one of three categories: accommodating laws or resolutions were defined as those intending to provide legal protection and/or access to public benefits and employment to immigrants, regardless of their legal status (unauthorized or authorized), as well as those encouraging federal reforms designed to extend citizenship to, and/or discourage the deportation of unauthorized immigrants; restrictive laws were those intending to block or limit access to housing, employment, and/or public services to immigrants, regardless of their legal status (authorized or unauthorized), as well as those encouraging the federal government to enhance border security and/or the identification and/or apprehension of unauthorized immigrants. Neutral laws were defined as those that had no discernible restrictive/punitive or accommodating/integrative intent.

To assess the reliability of the categories, two coders separately classified all laws and legislation approved in 2012. Their initial evaluations substantially overlapped ( $r = .77$ ,  $p < .001$ ). Discordant codings most often related to laws placed in the “Neutral” category. Based on the initial coding, some clarifications were made to the categories. First, laws that stipulated clarifications to previously approved legislation, but that did not change the intent of the original law were coded as Neutral. Second, human trafficking laws,



whose intent could be construed as both accommodating or restrictive, were to be classified as “Neutral” unless: (a) they *only* contained punitive elements (e.g. punishments for human trafficking but no assistance for victims of human trafficking), in which case they were coded as Restrictive; or (b) they *only* focused on providing relief to victims of trafficking, in which case they were coded as Accommodating. Third, laws authorizing or releasing funds for programs previously approved were coded as “Neutral” provided no change was made to existing legislation.

Subsequent coding was done separately by each coder for each legislative year. In instances where coders had doubts about the proper classification of laws, these were noted and subsequent discussion among the research team followed, with the final decision made by the author. For purposes of the analysis here, “Neutral” were excluded (these comprised 244 of all laws over all states, or 17.4% of all laws approved between 2005 and 2012). Thus, the data analyzed in Table 1 was comprised of 1,149 laws that fell into the “Accommodating” and “Restrictive” categories. The three coding categories, and examples of laws placed into each category, are as follows:

### **I. Accommodating:**

Examples:

- Laws protecting immigrants from fraud, theft, abusive labor/business practices (e.g. a “notary public” cannot present him/herself as a lawyer) or aiding immigrants who are victims of some crime. -Laws that ensure that legal immigrants are not denied rights or liberties.
- Laws that state that immigrants and/or legal residents are allowed to practice a profession and/or acquire a state license.
- Laws that create a state program that targets or assists immigrants.

### **2. Restrictive:**

Examples:

- Laws that enlist state/local officials in identifying or apprehending immigrants or create partnerships with federal immigration law enforcement authorities.
- Laws that specifically exclude unauthorized or authorized immigrants from any state program. -Laws that specifically exclude unauthorized or authorized immigrants from any profession or occupation.
- Laws that mandate verification of immigration status for employment or access to state services. -Laws that defund programs targeted toward immigrants.

### **3. Neutral:**

Examples:

- Initiation of a cost study or information-gathering with no predetermined policy objective (either restrictive or accommodating).
- Allocation of money for an expense incurred as a result of immigration (either legal or illegal) or distributions of revenue accrued from immigrants.
- Human trafficking laws that provided some combination of penalties for traffickers and assistance to victims of trafficking.
- Provisions upholding existing legal requirements/standards (e.g. providing emergency first-aid services regardless of immigration status, banning of discrimination based on race, ethnicity). -Laws stipulating legal or technical clarifications to previously passed legislation that leave the substance of that legislation unaltered.

**Table A1.** Immigration-Related State Legislation, 2005–2012.

State	Accommodating Laws	Restrictive Laws
Alabama	3	25
Alaska	1	3
Arizona	11	67
Arkansas	6	8
California	78	11
Colorado	14	24
Connecticut	12	1
Delaware	6	2
Florida	15	16
Georgia	8	40
Hawaii	6	9
Idaho	3	12
Illinois	42	11
Indiana	8	15
Iowa	9	5
Kansas	8	11
Kentucky	4	4
Louisiana	12	10
Maine	9	11
Maryland	15	8
Massachusetts	3	4
Michigan	18	17
Minnesota	15	7
Mississippi	1	12
Missouri	14	21
Montana	3	9
Nevada	5	6
New Hampshire	3	4
New Jersey	1	3
New Mexico	7	5
New York	21	6
North Carolina	4	5
North Dakota	7	6
Ohio	3	3
Oklahoma	8	25
Oregon	10	10
Pennsylvania	19	7
Rhode Island	4	4
South Carolina	2	31
South Dakota	2	6
Tennessee	11	28
Texas	12	18
Utah	20	34
Vermont	7	2
Virginia	26	28
Washington	27	8
West Virginia	3	11
Wisconsin	3	2
Wyoming	2	3
<b>TOTAL</b>	<b>531</b>	<b>618</b>

**Table A2.** Summary of Variables.

	Minimum	Maximum	Average
Restrictive State Laws (# per legislative year)	0	15	1.67
Accommodating State Laws (# per legislative year)	0	15	1.43
Foreign-Born Population (% of state population)	1.1	27.4	8.50
Within-state variation (from state mean):	-1.4	1.36	0
Latino Legislators (% average, both chambers)	0	44	3.70
Within-state variation:	-4.55	5.65	0
Change in per capita income (% , previous year)	-10.3	10.1	.44
Within-state variation:	-8.63	8.35	0
Democratic Legislators (% average, both chambers )	15	90.6	51.2
Within-state variation:	-19.05	14.87	0
Republican-controlled Government	0	1	.25
Within-state variation:	-.5	.875	0
Change in Latino Population (% , 2000-2010)	19	148	73
Direct Democracy Impact (0-5)	0	4.99	1.39
Legislative Professionalism (0-100)	2.7	62.6	18.75
Citizen Liberalism (% , 2005)	13	30	20.6
Immigrant Welfare Eligibility, circa 1999	-1.11	1.67	.02