

Papers Please: State-Level Anti-Immigrant Legislation in the Wake of Arizona's SB 1070

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"I will not back off until we solve the problem of this illegal invasion. Invaders, that's what they are. Invaders on American sovereignty and it can't be tolerated."

Former Arizona State Senator Russell Pearce, Sponsor of Arizona SB 1070, April 2010

THE QUOTATION ABOVE FROM THE SPONSOR of Arizona's SB 1070, former Senator Russell Pearce, exemplifies the Republican rhetoric focused on the problem of undocumented immigration and border security that has dominated discussions of immigration over the past decade. The negative media coverage and controversy among constituents eventually bubbled into a push to recall Senator Pearce, which was successful in the November 2011 elections.¹ Arizona's SB 1070 criminalizes failure to carry proof of legal immigration status as a state misdemeanor; requires the police to determine the immigration status of a person detained in a lawful stop, detention, or arrest if there is a reasonable suspicion that the person

¹Marc Lacey and Katharine Seeyle, "Recall Election Claims Arizona Anti-Immigration Champion," *The New York Times*, 10 November 2011, accessed at <http://www.nytimes.com/2011/11/10/us/politics/russell-pearce-arizonas-anti-immigration-champion-is-recalled.html?pagewanted=all>.

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might be undocumented; and prohibits local and state officials from limiting or restricting enforcement of federal immigration laws. In essence, the law is broad in its attack on undocumented immigrants and grants substantial power and discretion to the state and local level for enforcing immigration laws.

During the legislative process, SB 1070 began to generate controversy in the political sphere due to the scope of the bill and criticism of being anti-immigrant and encouraging racial profiling. After its passage and the subsequent rapid introduction of nearly identical bills in other state legislatures, it became a highly salient point of discussion in the national immigration debate. A high level of national saliency in addition to near identical replication in many other state legislatures is a unique attribute of SB 1070. Drawing on the work examining local governments' decisions to institute restrictionist policies toward undocumented immigrants, such as Ramakrishnan and Wong,² this article asks what factors influence states' decision to introduce SB 1070-type legislation. The results indicate that Republican control of the legislature and unemployment are key predictors of bill introduction, whereas demographic changes, the presence of Latino legislators, and large Spanish-dominant populations are less influential.

To address the origins and determinants of recent state-level legislation in this area, this article is organized as follows. The first section examines the failure of recent federal immigration legislation in conjunction with previous state attempts to regulate immigration. The second section examines the theoretical factors that may influence the introduction of SB 1070-type legislation, in particular the role of party control, assimilation, economic concerns, representation, and demographic changes. In the third section, the article turns to the statistical analysis of bill introduction. Finally, it concludes with a discussion of the results and the implications of the findings.

LEGISLATIVE BACKDROP AT THE FEDERAL AND STATE LEVELS

Recent legislative action in Arizona and other like-minded states must be understood in the context of broader federal efforts at regulating immigration. A number of highly salient proposals have been introduced in the U.S. Congress since 2005, but none have been able to muster enough support from both chambers and the executive branch to lead to successful passage.

²Karthick Ramakrishnan and Tom Wong, "Partisanship Not Spanish," in Monica Varsanyi, ed. *Taking Local Control* (Palo Alto, CA: Stanford University Press, 2010).

In the absence of new federal legislation on immigration and failure to enforce existing legislation by the executive branch, several state legislatures have sought to propose and pass their own measures to address immigration issues that vary significantly in scope and statutory language.

In the last five years, two pieces of federal immigration legislation stand out as the most-salient in terms of public opinion polls, media coverage, and activism. First, H.R. 4437, in 2005, commonly known as the Sensenbrenner bill, was an extensive immigration bill aimed at immigrant status, aid, detention, and enforcement. The bill successfully passed through the House of Representatives in December 2005. In January 2006, it was introduced to the Senate but failed to be acted on in committee, effectively terminating the bill once the congressional session ended. Critics of the legislation focused on the bill's criminalization of the status of being an undocumented immigrant as a felony, criminalizing the actions of individuals and organizations who seek to aid undocumented immigrants, and granting local and state law enforcement agencies authority to enforce immigration laws. In response to the bill, opponents mobilized nearly 400 protests across the country in both rural and urban locations in the spring of 2006.³ The largest marches were estimated to involve 500,000 to a million participants. The broad scope of the bill, which punishes people who assist undocumented immigrants in actions as simple as providing transportation, is a crucial component explaining widespread mobilization on the issue.⁴ The immigrant rights marches demonstrate the salience of immigration as a national issue that was able to provoke large-scale political participation that is rarely demonstrated by the populace. With regard to the research question of this article, it is critical to recognize that this historical political action came in response to the introduction of such a controversial bill and the potential for passage during the legislative process. It was not retrospective action after the bill had already become law.

In 2010, the DREAM Act was approved in the House, but stalled in the Senate due to opposition by Republican Party leaders. Unlike H.R. 4437, this bill sought to address a different segment of the immigration debate by offering a path to citizenship for undocumented minors who entered the country before age 16 and were enrolled in university or military service. In many ways, this bill was seen as the least-controversial measure of recent

³Sophia J. Wallace, Chris Zepeda-Millán, and Michael Jones-Correa, "Spatial and Temporal Proximity: Examining the Effects of Protests on Political Attitudes," *American Journal of Political Science* 58 (April 2014): 433–448.

⁴J. Chris Zepeda-Millán, "Dignity's Revolt: Threat, Identity, and Immigrant Mass Mobilization" (Ph.D. diss., Cornell University, 2011).

immigration proposals, owing to its limited scope and concern for minors who bear no culpability for the decisions of their parents, yet continue to face the negative consequences of undocumented status. One can interpret the failure of the DREAM Act as a strong signal that the likelihood of federal legislation on any significant or controversial component of immigration is unlikely to be successful because of partisan polarization over the issue. Moreover, existing legislation, such as the Immigration Control Reform Act of 1986, contains provisions for workplace sanctions and broad interior enforcement powers that are frequently not enforced by executive agencies. In the wake of the failure of immigration reform at the federal level in conjunction with limited enforcement of existing legislation, state legislatures have recently increased both the number and scope of immigration bills.

The introduction of immigration legislation and initiatives at the state level is not a new phenomenon.⁵ However, the frequency and intensity of anti-immigrant legislation has increased. States have asserted their right to legislate in this area under the 10th Amendment, alongside inaction by the federal government to address what they perceive as significant problems posed by immigration as well as failure to enforce existing laws.⁶ Assessing the role of federalism in immigration policy is necessary, given the conflict over the domain of the issue by various levels of government.⁷ It appears that from the perspective of the national government, they retain the supreme right to regulate immigration. Whereas states embrace a more marble cake federalism approach, where there are federal, state, and local-level policies in the issue area and that they can co-exist in harmony. One reason for states' views on this issue may be several aspects of the realities of immigration in terms of incorporation. For example, education and health services fall more clearly within domains of public policy that states have traditionally been able to regulate and that were respected as state domains. Additionally, states may view themselves as more directly absorbing the direct effects of immigration on their population. For example, the perceived economic costs for communities receiving large numbers of immigrants is one of the many

⁵Alexandra Fillindra, "Bringing the States into the Immigration Debate: The Role of Political Institutions and Interest Groups in State-Level Immigration Policy Formation" (paper presented at the annual meeting of the Western Political Science Association, San Diego, Calif., March 2008); Alexandra Filindra and Daniel J. Tichenor, "Beyond Myths of Federal Exclusivity: Regulating Immigration and Noncitizens in the States" (paper presented at the American Political Science Association, Boston, Mass., August 2008).

⁶Peter J. Spiro, "Federalism and Immigration: Models and Trends," *International Social Science Journal* 53 (March 2001): 67–73; Peter J. Spiro "The States and Immigration in an Era of Demi-sovereignties," *Virginia Journal of International Law* (1994–1995): 121–178; Peter Skerry, "Many Borders To Cross: Is Immigration the Exclusive Responsibility of the Federal Government?" *Publius* (Summer 1995): 71–85.

⁷Peter Schuck, 2007. "Taking Immigration Federalism Seriously," University of Chicago Law Forum, 57–92.

reasons offered by state legislatures to justify addressing the issue within their chambers.⁸ In practice, immigration legislation and policy at the state and local levels have chiefly translated into bills on access to services, cooperation with federal enforcement, availability of driver's licenses, and sanctuary cities.⁹ Some scholars have argued that state attempts to regulate immigration are not rooted in conflict with the federal government but are, instead motivated by desires for cooperation across all levels of government.¹⁰ However, given the current rise of SB 1070 copycats, states appear to have entered a new era of conflict with federal authorities.

State attempts at regulation in this area have often been met with legal challenges. For example, California's attempt in 1994 via Proposition 187, which sought to restrict access to health care, public education, and other social services for undocumented immigrants, was struck down as unconstitutional in federal court. Similar to Proposition 187, Arizona's SB 1070 was challenged in federal courts by various interest groups, such as the American Civil Liberties Union (ACLU), as well as the Department of Justice (DOJ). The DOJ asserts that the Arizona law interferes with immigration regulations exclusively vested in the federal government and violates the Constitution under the supremacy clause and federal preemption.¹¹ Portions of the law were placed under injunction after an Arizona federal court ruling. In August 2011, attorneys, on behalf of the Arizona Governor, Jan Brewer, asked the U.S. Supreme Court to rule on the constitutionality of SB 1070, given the confusion between states' rights and federal supremacy.¹² In June 2012, the Supreme Court ruled in *Arizona v. United States* that several sections of SB 1070 were preempted by federal law. However, it allowed the most controversial portion of the law to stand, requiring individuals to carry proof of their immigration status.

⁸Skerry, "Many Border to Cross"; Roberto Suro, "States Take Immigration Woes to Capitol with Pleas for Relief; Lawmakers Offer Governors Everything but Money," *The Washington Post*, 25 June 1994.

⁹The number of state-level policies governing immigration is vast. For examples, see Maine Executive Order 2004, "An Order Concerning Access to State Services by All Entitled Maine Residents" for formal declaration as a sanctuary city. See California SB 976 in 1993 on restriction to driver's licenses for undocumented immigrants. See Tennessee 2004 provision for issuing driving certificates to people who cannot meet citizenship requirements for licenses, but which was later revised by Gov. Bredesen in 2006 to restrict access to undocumented persons.

¹⁰Lina Newton and Brian Adams, "State Immigration Policies: Innovation, Cooperation, or Conflict?" *Publius: The Journal of Federalism* 39 (April 2009):408-431.

¹¹Department of Justice, "Citing Conflict with Federal Law, Department of Justice Challenges Arizona Immigration Law," press release, 10 July 2010, accessed at <http://www.justice.gov/opa/pr/2010/July/10-opa-776.html>.

¹²Ginger Rough, "Arizona Asks High Court to Rule on SB 1070," *Huffington Post*, accessed 10 August 2011 at <http://www.azcentral.com/arizonarepublic/news/articles/2011/08/10/20110810arizona-immigration-law-supreme-court-deadline.html>.

Critics of this type of legislation argue that it encourages and promotes discrimination, prejudice, and racial profiling of immigrants,¹³ in addition to seeking to regulate a domain that is strictly under the purview of the federal government.

Despite the legal challenges to SB 1070 as unconstitutional, this has not deterred other states from introducing copycat legislation. Twenty-three additional state legislatures have introduced legislation similar to SB 1070 since the passage of Arizona's law. I define a bill as a copycat if it contains provisions requiring people to produce documentation of their legal status to local law enforcement. Colloquially, this is referred to as "Show me your papers" laws. Of the 24 total bills introduced, six states had passed and signed these measures into law as of December 2011. Those states include Arizona, Alabama, Georgia, South Carolina, Utah,¹⁴ and Mississippi. A table listing all states that introduced SB 1070-type legislation and those that have not is included in Appendix 1. Alabama's HB 56 is being called by many pundits and activists an "SB 1070 plus" because it is even harsher than Arizona's law in criminalizing every aspect of an immigrant's life, including housing, education, and employment, in addition to similar components to SB 1070. In August 2011, the DOJ filed suit against the Alabama law in a manner similar to earlier actions against SB 1070. Provisions of laws passed in Georgia and Utah have also been blocked by federal judges. Immigration activists are also preparing their own lawsuits in Alabama and South Carolina. Legal challenges have, in effect, prevented the bills that have been passed from being enforced until the issue has been fully adjudicated. This analysis turns toward the variety of factors that may contribute to the introduction of SB 1070-type bills.

THEORY: FACTORS INFLUENCING STATE-LEVEL IMMIGRATION LEGISLATION

State-level immigration policies that emulate Arizona's law vary in their language, provisions, and date of introduction, but share a focus on the requirement to produce proof of legal status when asked by local law

¹³Michael A. Olivas, "Immigration-related State and Local Ordinances: Preemption, Prejudice, and the Proper Role for Enforcement," *University of Chicago Legal Forum* (2007): 27-56; Michael J. Wishnie, "Laboratories of Bigotry? Devolution of the Immigration Power, Equal Protection, and Federalism" *New York University Law Review* 76 (May 2001): 493.

¹⁴I included Utah in this list even though Utah's bill is somewhat different from those of the other states. Utah did pass a "show me your papers" law that expanded the powers of local law enforcement. However, the governor also signed into law two other bills at the same time that promote relations with a region in Mexico that sends substantial number of immigrants to Utah, along with creating the state's own guest worker program to allow undocumented people a way to obtain appropriate documents.

enforcement. While many activists and members of the media have been quick to decry such legislation as “anti-immigrant,” little research has sought to understand the factors leading to the introduction of these bills at the state level. A considerable amount of scholarly attention has focused on explaining local-level anti-immigrant policies, finding varied explanations for the policies, including partisanship¹⁵ and salience of the issue, in conjunction with sudden demographic shifts.¹⁶ Drawing on prior work in this area, I test whether threat caused by demographic shifts, Spanish language usage, economic concerns, representation, and partisan control of state legislatures influence state-level anti-immigrant initiatives in the case of SB 1070 copycats. This analysis focuses on the state level, since this legislation is introduced in state legislatures and it is the domain of a state-level legislative institution to take the critical steps toward passage or failure of the legislation.

Before turning to the theoretical framework, I focus on the question of bill introduction for several reasons. Only six states have successfully navigated the entire legislative process to pass an SB 1070-type bill, thus making passage a rare event to date. An alternative might be to consider passage through one legislative chamber; yet this would only increase the total number of positive instances to eight. Second, bill introduction has meaningful consequences for the policy process by shaping the scope of debate and the types of policies that eventually get adopted.¹⁷ As seen in the case of Congressional bill HR 4437, in the spring of 2006, full bill passage was not necessary to elicit mass mobilization of Latinos or media attention to the issue. Third and most importantly, bill introduction is not merely symbolic in the case of SB 1070 copycats. While some scholars may argue that this type of action is purely symbolic to signal to groups concerned about immigration that the state cares about the action,¹⁸ the actions, from this perspective, are purely for signaling. Rather, legislators and the Republican Party introduce these bills because they want the bills to become law and sincerely believe that passage is possible because it is a ripe legislative climate. National interest groups, such as the Federation for American Immigration Reform (FAIR) and its legal arm, the Immigration Reform Law Institute, have played a critical role in supplying legislators with talking points, writing legislation, supporting the legislation, and assisting in

¹⁵Ramakrishnan and Wong, “Partisanship Not Spanish.”

¹⁶Daniel Hopkins, “Politicized Places: Explaining Where and When Immigrants Provoke Local Opposition,” *American Political Science Review* 104 (March 2010): 40–60.

¹⁷Wendy Schiller, “Senators as Political Entrepreneurs: Using Bill Sponsorship to Shape Legislative Agenda,” *American Journal of Political Science* 39 (February 1995): 186–203.

¹⁸Murray Edelman, *Symbolic Uses of Politics* (Champaign, IL: University of Illinois Press, 1985), 193.

defending constitutional challenges to the bills.¹⁹ The legal costs incurred to defend passed legislation demonstrate their commitment to the bills as more than simply symbolic actions. Finally, rhetoric used by political elites is becoming more anti-immigrant in its language, reflecting beliefs and exasperation over what they perceive as an immigration problem that has spiraled out of control. The language used in the legislative debate is not without consequence and affects Latino public opinion.²⁰

Immigration scholars from a variety of disciplines have debated whether we are currently in an anti-immigrant era that can be characterized by nativism, a fear of people who are different from natives, particularly regarding immigrants from Latin America.²¹ For Latino immigrants, the rhetoric in media outlets and public discourse has shifted toward metaphors of war and conflict, such as the invasion of Mexican and undocumented immigrants coming across the border into border states and flooding current native populations.²² Fear of immigrants can be a strong, widespread public sentiment. When it is politically advantageous, politicians have at times tapped into nativist attitudes to gain political support for their policies. Scholars have also argued that nativism is often closely intertwined with xenophobic attitudes, which are defined as fear or hatred of foreigners.²³ While proponents of anti-immigrant legislation, such as former Sen. Pearce (AZ) and interest groups like FAIR, do not explicitly use the terms nativist and xenophobic in defending their policies, it is evident that the rhetoric they utilize reflects these concepts by over-exaggerating the dangers that immigrants pose in terms of criminality and abuse of public welfare programs, as well as greatly overestimating the number of immigrants.²⁴

One of the central questions surrounding the introduction of SB 1070 copycat legislation is the degree to which nativism and perceptions of threat have influenced the legislative process. Concerns over immigrants and more specifically, Latino population growth and fertility rates, are central themes

¹⁹Federation for American Immigration Reform, SB 1070 Resource Center, 2011, accessed at http://www.fairus.org/site/PageNavigator/sb1070_resource_center.

²⁰Gabriel Sanchez, "Immigration Policy is Personal for Latinos," *Latino Decisions*, 18 July 2011, accessed at <http://latinodecisions.wordpress.com/2011/07/18/immigration-policy-is-personal-for-latinos/>.

²¹Leo Chavez, *The Latino Threat* (Palo Alto, CA: Stanford University Press, 2008), 21–43; Douglas Massey and Magaly Sánchez, *Brokered Boundaries: Creating Immigrant Identity in Anti-Immigrant Times* (New York: Russell Sage Foundation, 2010), 58–81; Derba Sabia, "The Anti-Immigrant Fervor in Georgia: Return of the Nativist of Just Politics as Usual," *Politics & Policy* 38 (February 2010): 53–80.

²²Leo Chavez, *Covering Immigration* (Berkeley, CA: University of California Press, 2001), 53–81.

²³Daniel Tichenor, *Divided Lines: The Politics of Immigration Control in America* (Princeton, NJ: Princeton University Press, 2002), 45.

²⁴Chavez, *The Latino Threat*.

in anti-immigrant rhetoric put forward by national interest groups such as FAIR that are responsible for crafting much of the statutory language of this legislation. Moreover, perceptions of Latino threat are often framed by both state legislators and interest groups in terms of rapid demographic changes in the Latino population in states and the potential negative consequences of those population changes that contain a strong nativist tone. This analysis operationalizes nativists' concerns of Latino threat by including a state measure of the Latino population changes over time. 2010 Census data indicate that in some Southern states, such as South Carolina, the Latino population increased by 147.9 percent between 2000 and 2010. If the rhetoric that legislators, political parties, and interest groups use to justify these types of bill are true, then we should observe states that have undergone significant demographic changes to be more likely to introduce these kinds of bills. This leads to the first hypothesis that measures the degree to which fears over threat or invasion by immigrants leads to the introduction of anti-immigrant bills.

H₁ States with greater increases in the percent of the Latino population between 2000 and 2010 will be more likely to introduce SB 1070 copycat bills.

While nativist concerns can dominate discussions of immigration politics and policy, assimilation has also become a key issue. Rather than nativism or threat of immigrants themselves, it may be that motivations for this type of legislation are driven by assimilationist desires. Questions regarding what constitutes assimilation, how the concept should be measured, and the relative costs and benefits remain hotly contested among scholars.²⁵ Yet most agree that some level of assimilation is desirable and important for the integration of immigrants into the receiving country's society, even if that process takes several generations. One of the principal measures of assimilation concerns English language usage and acquisition. For example, researchers often ask what percentage of a new immigrant group speaks English well, and how frequently they use English in their everyday lives. While there are multiple reasons that English is viewed as a critical component of assimilation, such as symbolizing a unified cultural identity, one of

²⁵Richard Alba and Victor Nee, *Remaking the American Mainstream* (Cambridge, MA: Harvard University Press, 2003); Milton Gordon, *Assimilation in American Life* (New York: Oxford University Press, 1964); Alejandro Portes and Rùben G. Rumbaut, *Immigrant America: A Portrait* (Berkeley: University of California Press, 1996). Nathan Glazer and Daniel Moynihan, *Beyond the Melting Pot* (Cambridge, MA: MIT Press, 1963); Samuel Huntington, *Who Are We? The Challenges to America's National Identity* (New York: Simon and Schuster, 2004).

the dominant explanations for the benefits of English for immigrants is its connection to higher economic or educational outcomes. The reasoning behind this argument is the dominance of English in the United States, despite not being the official language. The majority of scholars concur that speaking English is probably advantageous, although they continue to disagree about the role that English should play in immigrants' daily lives.

Some scholars might argue that English language knowledge does not satisfy their criteria for full assimilation. Debates over language policy are often rooted in preserving ethnic identity and national unity.²⁶ Huntington has vociferously argued that Latinos, and by extension most immigrants in the United States, threaten the very nature of American culture with Spanish language usage in their daily lives.²⁷ Legislators who concur with this viewpoint may be motivated in turn to pass bills aimed at immigrants. Latino immigrants' English language acquisition between first and second generations does not substantially differ from other current immigrant groups,²⁸ which provides little variation for a quantitative analysis. This analysis thus utilizes Spanish language usage as a better measure to analyze potential public concerns over the assimilation of Latino immigrants. To assess assimilationist fears as the motivation for immigration legislation, the models utilize a measure of the percentage of people in a given state that report using Spanish language in their homes, essentially the rate of Spanish-dominant homes. If politicians and political parties are motivated by concerns rooted in cultural preservation and fears of Spanish dominance, then states with higher levels of Spanish language usage may be more likely to introduce SB 1070 copycat legislation. Thus my second hypothesis is:

H₂ States with a higher percentage of people who speak Spanish in their homes will be more likely to introduce SB 1070 copycat bills.

Another component of the immigration debate involves the economic effect of immigrants on the United States. This question is approached from both the perspective of the perceived benefits²⁹ as well as the costs of

²⁶Ronald Schmidt, *Language Policy and Identity Politics in the United States* (Philadelphia, PA: Temple University Press, 2000); Deborah Schildkraut, *Press "ONE" for English: Language Policy, Public Opinion, and American Identity* (Princeton, NJ: Princeton University Press, 2007).

²⁷Huntington, *Who Are We*, 221–256.

²⁸Alba and Nee, "Remaking the American Mainstream," 227.

²⁹Douglas Massey and Jorge Durand, *Beyond Smoke and Mirrors: Mexican Immigration in an Era of Economic Integration* (New York: Russell Sage Foundation, 2002).

immigration.³⁰ The United States has a long history of economic dependence on the supply of labor accompanying migrant flows, such as the Bracero Program in the 1940s–1960s. International migration is often characterized by economists in terms of factor flows, where countries with an oversupply of labor should expect workers to migrate to countries where there is an undersupply of labor and higher demand for workers.³¹ Individual states within the United States may utilize state-level immigration legislation as a device to control the flow of migrants, given the lack of federal legislation and perceived negative consequences of immigration for their native workers.

Questions of duty and moral obligations complicate discussions of immigration policy not just with regards to economic concerns, but also for border control.³² The perceived detrimental effects of low-skilled immigrant workers on wages, along with increased competition over jobs with low-skilled natives, are particularly worrisome for some scholars such as Borjas.³³ Briggs³⁴ argues there is a national obligation on the part of the receiving country to protect native workers' access to employment. However, the negative consequences of immigrants on natives' employment opportunities are not universally accepted. For example, Waldinger and Lichter³⁵ contend that low-skilled immigrants are employed in positions and sectors that are undesirable to native workers for a variety of reasons, such as social stigma, and are thus not directly decreasing wages or the availability of jobs for natives. Nevertheless, fears over the effect of immigrants, particularly undocumented immigrants, on employment opportunities may influence the decision to introduce state legislation targeting immigrants.

The economic collapse in 2008 led to substantial increases in unemployment rates and home foreclosures, though the effects have not been uniform across states. Subsequently heightened concerns over economic

³⁰George Borjas, "The Labor Demand Curve Is Downward Sloping: Reexamining the Impact of Immigration on the Labor Market," *Quarterly Journal of Economics* 118 (November 2003):1335–1374; George J. Borjas, *Heaven's Door: Immigration Policy and the American Economy* (Princeton, NJ: Princeton University Press, 1999); Vernon Briggs, *Mass Immigration and the National Interest* (Armonk, NY: ME Sharpe, 2003).

³¹David Card, "Immigrant Inflows, Native Outflows, and the Local Labor Market Impacts of Higher Immigration," *Journal of Labor Economics* 19 (January 2001): 22–64; Borjas, "Labor Demand."

³²Stephen Macedo, "The Moral Dilemma of U.S. Immigration Policy: Open Borders Versus Social Justice?" in Carol Swain, ed., *Debating Immigration* (Cambridge, MA: Cambridge University Press, 2007.)

³³Borjas, *Heaven's Door*.

³⁴Vernon Briggs, "Illegal immigration and immigration reform: Protecting the employment rights of the American labor force (the native born and foreign born) who are eligible to be employed," (paper presented at Undocumented Immigrants in the Workplace: Exploring the Rights and Reforms of America's Shadow Labor Force (Hartford: University of Connecticut School of Law, 2010).

³⁵Roger Waldinger and Michael Lichter, *How the Other Half Works* (Berkeley: University of California Press, 2003), 157.

stability and the effects of large macro-economic events on the lives of citizens may be more salient, thus creating opportune moments to enact restrictive policies. Pointing to dire economic conditions with national unemployment rates at 9.2 percent in 2011, political elites are actively using rhetoric to blame immigrants for competition over jobs. In March 2011, Rep. Elton Gallegly (R-CA), chairman of the House Judiciary Subcommittee on Immigration Policy & Enforcement, argued during a committee hearing that “the real victims of the failed immigration policies are low-skilled legal workers and priority should be ensuring every U.S. citizen who is willing to work has a job instead of filling jobs with foreign laborers.”³⁶ I hypothesize that the relationship between economic concerns and immigration is as follows:

H₃ States with greater unemployment rates will be more likely to introduce SB 1070 copycat bills.

Another possible factor in explaining bill introduction relates to descriptive representation. There is evidence that the presence of Black,³⁷ Latino,³⁸ and female³⁹ representatives can increase the likelihood of bill introductions in areas that are favorable to their respective groups and the interests of these groups. For Latinos, immigration has become the most salient public policy issue. According to recent survey evidence conducted by Latino Decisions in May 2011, Latinos are overwhelmingly united against anti-immigrant actions.⁴⁰ In the case of bills aimed at immigrants, which are generally contrary to Latino public opinion on the issue, Latino legislators would likely oppose this type of measure and rally significant media attention against the proposed legislation. Despite the increasing number of Latino legislators through provisions of the Voting Rights Act, the total number of Latino legislators remains small in many states, thus limiting their potential influence within the legislative chamber if they do not constitute a large enough coalition such that other members would have to consider their potential legislative power. Moreover, a sizeable portion of the Latino electorate is not eligible to vote, so concerns over potential backlash from

³⁶Suzanne Gamboa, “GOP: Illegal Immigrants Taking Minorities’ Jobs,” *Associated Press*, 1 March 2011, accessed at <http://abcnews.go.com/US/wireStory?id=13030979>.

³⁷Kerry Haynie, *African American Legislators in the American States* (New York: Columbia University Press, 2001).

³⁸Michael Rocca and Gabriel Sanchez, “The Effect of Race and Ethnicity on Bill Sponsorship and Co-Sponsorship in Congress,” *American Politics Research* 36 (January 2008): 130–152.

³⁹Michael Swers, *The Difference Women Make: The Policy Impact of Women in Congress* (Chicago, IL: University of Chicago Press, 2002).

⁴⁰Latino Decisions Poll, June 2011. http://faculty.washington.edu/mbarreto/ld/June_banners.html.

the Latino electorate may be limited in states with a smaller number of Latino legislators. However, the presence of a large number of Latino legislators within a legislative body could possibly serve as a deterrent to other politicians from mobilizing against them over such a controversial issue. If a legislative body has a significant number of Latino representatives, this may decrease the likelihood of bill introduction; whereas states that do not have this institutional check may feel less constrained in putting forward anti-immigrant bills. This leads to the following hypothesis:

H₄ States with a larger percentage of Latino representatives in the state legislature will be less likely to introduce SB 1070 copycat bills.

The final alternative theory explaining the introduction of immigration legislation concerns partisan politics and control of the state legislature. The role of parties as the dominant source of power and control over the legislative agenda is well documented in the legislative institutions literature.⁴¹ According to this view, the party acts as a legislative cartel through which benefits and goods are distributed to members who adhere to the party line. Moreover, parties can effectively influence voters by setting the agenda and priming them to focus on particular policies through a process of elite manipulation. Within a legislative body the party who controls each chamber ultimately has control over the range of possible legislative outcomes that can emerge. While much of the literature focuses on the U.S. Congress, there is evidence that the majority party in state legislatures exerts similar control over legislative outcomes.⁴² The presence of a unified state legislature may increase the range of viable policy outcomes, and may induce the introduction of more radical policies that face fewer obstacles compared to a divided party legislature.

In the case of immigration legislation and policies, partisanship can play a critical role in increasing restrictionist measures at the local level.⁴³ At the state level, party can operate to influence the introduction of legislation given the divergent views of Democrats and Republicans towards

⁴¹Gary W. Cox and Mathew D. McCubbins, *Setting the Agenda: Responsible Party Government in the US House of Representatives* (New York: Cambridge University Press, 2005); Gary Cox and Mathew McCubbins, *Legislative Leviathan: Party Government* (Berkeley: University of California Press, 1993).

⁴²Gary Cox, Thad Kousser, and Mathew D. McCubbins, "Party Power or Preferences? Quasi Experimental Evidence from American State Legislatures," *Journal of Politics* 43 (July 2010): 799–811; Wendy Schiller, "Senators as Political Entrepreneurs: Using Bill Sponsorship to Shape Legislative Agenda," *American Journal of Political Science* 85 (February 1995): 186–203; Gerald Wright and Brian Schaffner, "The Influence of Party: Evidence from the State Legislatures," *American Political Science Review* 96 (June 2002): 367–390.

⁴³Ramakrishnan and Wong, "Partisanship Not Spanish."

immigration. The Democratic Party platform on immigration is focused on border control, workplace enforcement, and a path towards legalization for undocumented immigrants.⁴⁴ In contrast, the GOP platform on immigration is framed in terms of national security and the rule of law at the border and throughout the nation.⁴⁵ Similar to Democrats, Republicans also cite the importance of border control and workplace enforcement.

A key distinction between the Party platforms is the extensive nature of the GOP agenda to specifically identify policies it finds unacceptable or in violation of the rule of law, in addition to policies necessary for adequate immigration enforcement. These policies include several provisions that specifically target the undocumented population, such as rectifying delays in deportations, encouraging cooperation of federal, state, county, and local officials in immigration enforcement, limiting federal funds to sanctuary cities, and limiting the access of undocumented immigrants to driver's licenses, in-state tuition, and social security. Regarding amnesty, the party's position is explicitly stated as one of opposition because "the rule of law suffers if government policies encourage or reward illegal activity."⁴⁶ The language is in stark contrast to the Democrat position due to its focus on legality, limiting access to services, and refusal of a pathway to legalization for the undocumented population. This platform is crafted by leaders of the national Republican Party and serves as an important cue for state GOP legislators, particularly those in leadership positions.

Moreover, examining recent statements by Republican political elites demonstrates the increasing anti-immigrant rhetoric used by members of the party. For example on 14 March 2011 in a discussion of spending on a feral hog program that involves shooting the animals from a helicopter, State Rep. Virgil Peck (R- KS) suggested that "it looks to me if shooting these immigrating feral hogs works, maybe we have found a solution to our illegal immigration problem."⁴⁷ U.S. Rep. Mo Brooks (AL- R) told people at a town hall meeting, and then repeated his comments to a reporter when asked about undocumented immigrants, that he would promise to "do anything short of shooting them."⁴⁸ The vitriolic and sometimes violent

⁴⁴See Appendix 2 for party platforms, and http://www.democrats.org/issues/immigration_reform for more details on the Democratic Party and immigration.

⁴⁵See Appendix 2 for party positions and <http://www.gop.com/2008Platform/NationalSecurity.htm> for more details on Republican Party and immigration.

⁴⁶Ibid.

⁴⁷See <http://news.change.org/stories/kansas-state-rep-virgil-peck-advocates-slaughtering-immigrants-like-pigs> for story; and see <http://www.youtube.com/watch?v=aPsoepCjWG4> for audio recording.

⁴⁸Interview with WHNT News in Alabama available at <http://thinkprogress.org/justice/2011/06/29/257324/mo-brooks-anything-but-shoot-immigrants/> and see <https://www.youtube.com/watch?v=az1uwp4wQ2k> for video recording.

language provides evidence of a stance by the GOP that is consistent with the provisions of SB 1070 type legislation. Given the more restrictive positions of the Republican Party on immigration compared to Democrats, I theorize that partisan control of the legislature will play a critical role in the introduction of SB 1070 copycat legislation, thus leading to the final hypothesis.

H₅ States with Republican controlled states legislatures will be more likely to introduce SB 1070 copycat bills.

DATA AND METHODS

To analyze state-level SB 1070 copycat legislation, I constructed a data set containing independent variables to measure assimilation, economic, partisan, representation, and demographic change theories, in addition to data on states that introduced these types of bills. The unit of analysis is the individual state, meaning there are 50 separate observations. The state is the appropriate unit of analysis because this study compares legislative behavior across state legislative institutions. The dependent variable is the decision of each state whether or not to introduce legislation similar to SB 1070. It is measured as a discrete event within a particular period of anti-immigrant sentiment from January 2010 to December 2011.⁴⁹ Bills introduced in other states quickly followed Arizona's SB 1070. To be included as an Arizona-style bill, the bill must allow local law enforcement the ability to ascertain immigration status and require people to produce legal proof of status if it is requested. Failure to carry proof of immigration status is criminalized and police are granted authority to detain people whom they suspect are in the country without legal authorization. Laws vary regarding the circumstances under which police can stop a person or ask for papers. This analysis does not distinguish the severity of law, but rather whether the critical components of local law enforcement powers and criminalization of failure to have appropriate documentation were present. Due to the nature of the dependent variable as dichotomous, the appropriate statistical estimator is logistic regression. The model is constrained to the smallest number of independent variables possible to test the hypotheses because of the limited number of total observations due to the maximum population size of 50 states.

⁴⁹An alternate way to measure the dependent variable would be in terms of time after Arizona introduced and used an event history model instead of a logistic regression analysis.

I draw on a wide range of data sources to operationalize the independent variables used to evaluate the hypotheses put forward. To examine how threat and nativism towards the immigrant populations influenced bill introduction as theorized in H_1 , I utilize the percent change in the Latino population based on demographic data from the 2000 and 2010 censuses. The logic is that rapid growth in the Latino population in particular states might have generated a backlash, thus leading to support for an anti-immigrant bill. While the percent change in Latino population is not a direct measure of changes in the total immigrant population, negative rhetoric toward immigrants is overwhelmingly aimed at Latin-American immigrants of whom the undocumented population is largely Mexican in origin.⁵⁰ The range of this variable was from 19.2 percent increase to an increase of 147.9 percent in the Latino population.

To test hypothesis H_2 and examine the relationship between concerns over assimilation on the likelihood of bill introduction, I use a question from the 2009 American Community Survey that examines what percentage of a state's population speaks Spanish in their homes. The strength of this variable is that it allows me to measure the prevalence of Spanish language usage. The values of the variable ranged from 0.9 percent of households being Spanish dominant to 26.9 percent of households. To analyze how economic concerns may have led states to feel more threatened by immigrants over job competition as hypothesized in H_3 , I employed data from the Department of Labor Statistics, which measures the average percentage of people unemployed in the state in 2009. The range of this variable was from a low of 4.3 percent to a high of 13.5 percent unemployment rate. To examine the effect of Latino legislators, I relied on information from NALEO and the National Council for State Legislatures, which measures the proportion of members of each state legislature that were Latino. It is critical to use the proportion of Latino members because state legislatures vary substantially in their size; thus, a direct numerical comparison is not appropriate. The lowest incidence of Latino legislators was 0 percent, whereas the highest was 44 percent of the total legislature.

Finally, to test the role of partisan politics, I include a dummy variable for whether the state legislature was controlled by Republicans in both chambers either in 2010 or 2011.⁵¹ The logic of control in either session is that in

⁵⁰Chavez, *The Latino Threat*; Massey and Sánchez, *Brokered Boundaries*. I argue that the percent change in the Latino population is the best measure to capture perception of Latino threat and invasions of immigrants. I also ran the models with the percent foreign born, which led to similar findings.

⁵¹One legislature, Nebraska, is unicameral and non-partisan. It was coded as non-Republican.

November 2010 after the mid-term elections, a significant number of legislatures became Republican-controlled. Republican-dominated legislatures would have a greater probability of legislative success on this kind of measure given the limited power of Democrats to create obstruction to passage. I now turn to the results of the statistical analysis and discuss the implications.

ANALYSIS AND DISCUSSION

To examine broader patterns across the data and between states that chose to introduce this type of legislation, it is worthwhile to first examine a series of cross-tabulations of bivariate relationships. I will then present the regression analysis incorporating all of the explanatory variables and discuss the substantive effects of the findings. Finally, I turn to an examination of the conditional relationships between party and several other salient factors.

A closer examination of the descriptive statistics suggests that there are some significant differences between states that choose to introduce copycat legislation compared to those who do not. The five key variables of interest are Spanish usage, Latino population change, unemployment rate, percentage of Latino legislators, and Republican-controlled legislature. When comparing the average Latino population change between states that introduced immigration bills compared to those that did not, the levels are strikingly similar with 72.3 percent in states that did not introduce and 75 percent in states that did introduce. The marginal difference of 3 percent in the context of more than a 70 percent average change in the Latino population across states provides preliminary indications that the relationship between demographic changes and bill introduction is quite weak. Decisions to introduce legislation may, in fact, be divorced from the real demographic changes that certain states are undergoing, thus providing little support for the threat hypothesis (H_1).

States that did introduce legislation had an average of 9.2 percent of their population that spoke Spanish in their homes compared to 6.2 percent for states that did not introduce legislation. This suggests there might be a relationship between Spanish language usage and introduction of legislation as hypothesized by the assimilationist mechanism (H_2), though the effect still appears moderate overall. Similarly, the percentage of Latino representatives in the state legislature between states that introduced bills and those that did not was not substantial as indicated by means of 3.9 percent in the former and 3.3 percent in the latter. Moreover, three of the four states with the highest percentage of Latino legislators introduced SB 1070 type bills. For instance, Arizona, the original mover in this policy

arena, has 14 percent Latino legislators. This data provides weak evidence for the effect of Latino legislators on reducing the chance of bill introduction.

The variation in average unemployment rate between states that introduced legislation compared to states that did not was 6.3 percent in the former and 5.5 percent in the latter. While the percentage difference between these states is numerically small and might appear slight, differences in unemployment rates of even 0.8 percent can have a significant impact on local economies, and unemployment shifts marginally from month to month. Table 1 summarizes the differences for the first four variables.

TABLE 1
Summary Statistics for Several Explanatory Variables, Introducing and Non-Introducing States

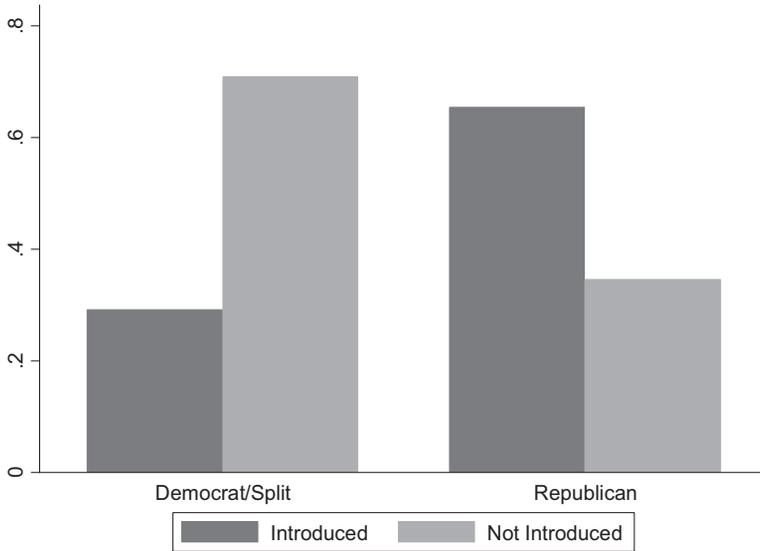
Variable	Average Value	
	Introducing States	Non-Introducing States
Latino population change	75	72.3
Spanish usage	9.2	6.2
Percentage of Latino legislators	3.9	3.3
Unemployment rate	6.3	5.5

Source: Data gathered by author on state-level characteristics and states that introduced SB 1070 legislation.

To examine the relationship between party control of the legislature and decisions to introduce legislation, Figure 1 illustrates differences in actions between legislatures that are Democrat or Divided Legislatures versus Republican controlled legislatures. Seven out of twenty-four (29 percent) states legislatures that were either Democrat-controlled or divided introduced copycat immigration legislation. By comparison, Republican-controlled legislatures resulted in a substantially higher percentage introducing immigration legislation with 17 of 26 (65 percent) state legislatures introducing a copycat bill during the period of study. Figure 1 provides strong support for the partisan hypothesis in H_5 and demonstrates the partisan differences on this type of legislation.

The findings from the bivariate analysis are only preliminary as they do not take into account the effects of each of the other explanatory variables. Model 1 in Table 2 presents the results from conducting a logit analysis that incorporates all of the explanatory variables involving the determinants of introducing SB 1070 type state legislation using Stata 12. The results suggest Spanish language usage and Latino population change are not statistically significant, though the coefficients are in the expected direction. For robustness, I also ran the models using the absolute levels of the Latino

FIGURE 1
Party Control of Legislature and Bill Introduction



Source: Graph generated using data on state legislature that introduced legislation and composition of legislature.

TABLE 2
Logit Analysis of Bill Introduction

	(1)	(2)	(3)
Spanish usage	0.23 (0.15)	0.05 (0.15)	0.26* (0.15)
Latino pop change	0.02 (0.02)	0.01 (0.02)	0.02 (0.02)
Unemployment	0.33* (0.19)	0.40* (0.23)	0.10 (0.30)
Republican legislature	2.12*** (0.80)	-1.66 (1.98)	-0.91 (3.33)
Latino legislators %	-0.14 (0.15)	-0.03 (0.12)	-0.15 (0.14)
Republican legislature x Spanish usage		0.94+ (0.52)	
Republican legislature x Unemployment			0.37 (0.40)
Constant	-6.40*** (2.24)	-5.38** (2.21)	-4.62 (2.84)
Observations	50	50	50
Log-likelihood	-25.29	-22.22	-24.86
Chi ²	18.65	24.79	19.52
Pseudo-R ²	0.269	0.358	0.282

Source: Analyses are based on state legislature introduction of SB 1070 bills.

Note: Standard errors in parentheses.

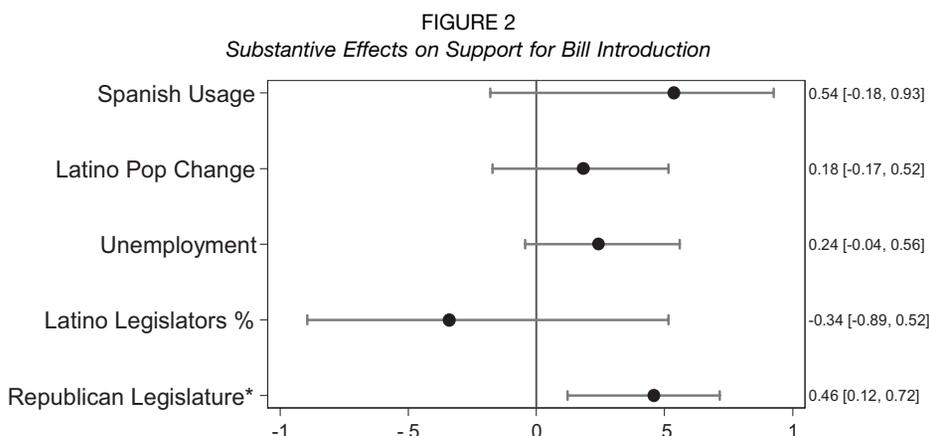
*p < 0.10, **p < 0.05, ***p < 0.01.

population from the 2010 Census instead of the Latino population change. This result was also not statistically significant. The coefficient for Latino legislators is also not significant, but the results are also in the expected direction with more Latinos representatives decreasing the likelihood of bill introduction. The level of unemployment in a state does increase the probability of introducing immigration legislation mirroring SB 1070, and is significant at the 10 percent level. This finding indicates that economic concerns may have some influence over decisions to pursue restrictive immigration legislation. However, the strongest result is reserved for the role of party. The effect of a Republican-controlled legislature is in the anticipated positive direction and is also statistically significant at the 1 percent level. Republican-controlled legislatures were thus much more likely to introduce anti-immigrant legislation compared to legislatures that were either divided or Democratically controlled.

It should be noted that in an analysis with such a small number of observations it is quite difficult to have findings that reach statistical significance at the conventional 5 percent cutoff. The fact that the analysis reveals statistically significant findings for a Republican-controlled legislature and unemployment, albeit at the 10 percent level for the latter, is still very suggestive of a strong relationship between these covariates and the propensity to introduce anti-immigrant legislation. Taken together, the results offer support for both H_3 and H_5 confirming the effect of economic concerns and party control on bill introduction.

To get a better sense of the substantive effects of the findings, Figure 2 reports the change in the predicted probability of introducing SB 1070 type legislation when changing the values for each independent variable, while holding all others constant at their medians. All values were generated using Clarify.⁵² The accompanying lines on each side of the point estimates for the first differences represent 95 percent confidence intervals. Spanish usage, Latino population change, unemployment rates, and percentage of Latino legislators are continuous variables, and the estimate shows the first difference on the probability of introducing legislation when moving from one standard deviation below the mean to one standard deviation above the mean for each variable. The change in predicted probabilities in Spanish usage is an increase of 54 percent in the likelihood of SB 1070 copycat legislation. This suggests that as Spanish language increases, there is substantial impact on the decision to introduce this kind of legislation. Increases

⁵²Gary King, Michael Tomz, and Jason Whittenberg, "Making the Most of Statistical Analyses: Improving Interpretation and Presentation," *American Journal of Political Science* 44 (April 2000): 341–355.



Source: Analysis of variables substantive effect on bill introduction

Note: First differences represent a change from 1 SD below the mean to 1 SD above it.

Variables with a * are discrete - FD is a change from 0 to 1.

Lines represent 95% confidence intervals.

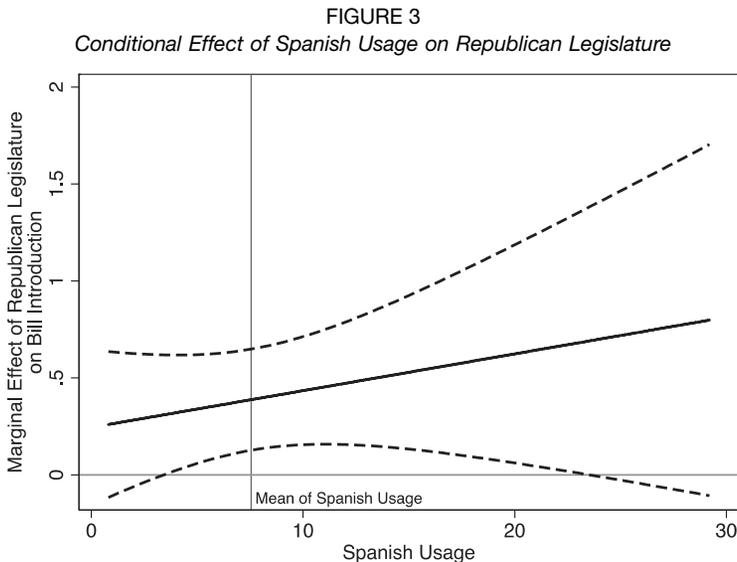
in the Latino population change results in sizeable shift in the probability of bill introduction with an 18 percent increase, however, it is smaller than the effect for any of the remaining explanatory variables. As the proportion of Latino legislators increases, the probability of bill introduction drops by 34 percent. Nevertheless, similar to the regression results, Spanish usage, Latino population, and Latino legislators demonstrate wide confidence intervals that include zero, or no apparent substantive effect.

Both unemployment and party control of the legislature are statistically significant and also exhibit large substantive effects. The change in unemployment results in a 24 percent increase in the probability of introducing legislation, however the confidence interval includes zero due to limiting to 95 percent instead of 90 percent confidence intervals. This sizeable change nevertheless provides support for the effect of economic concerns on the introduction of immigration legislation. Lastly, Republican-controlled legislature is dichotomous and represents a change of 0 to 1, indicating a switch from non-Republican controlled to a Republican controlled body. The resulting change is associated with a 46 percent increase in the probability of bill introduction. This represents a sizeable impact of party control on the likelihood of bill introduction and is significantly larger than the effect of unemployment rates. The analysis examining substantive effects offers strong evidence that partisan control of the legislature, and to a lesser extent unemployment, are the main determinants of bill introduction.

The analysis so far has assumed that each of the independent variables exerts a straightforward and direct effect on the likelihood of introducing

SB 1070 copycat legislation. To explore possible interactive effects between certain key independent variables, I also examine the effect of Republican control of the legislature conditional on Spanish language usage and unemployment given their roles in the overall logit model.⁵³ The results from the interaction models are reported in Models 2 and 3 in Table 2. Neither of the coefficients attains conventional levels of statistical significance, and only the interaction term between Republican control and Spanish usage is significant at a level of 10 percent. However, interpreting results based solely on the regression output is problematic because interactive effects can be present at substantively interesting values for the explanatory variables even if the coefficient for the interaction term fails to be statistically significant.⁵⁴

In order to more effectively evaluate the existence of possible interactive effects, Figure 3 displays the marginal impact of Republican-controlled legislature on the probability of bill introduction, conditional on different levels of Spanish-language usage.⁵⁵ The results indicate that only when Spanish language usage rises above 3 percent is there a positive and



Source: Analysis of conditional relationship on bill introduction

Note: Dashed lines give 95% confidence interval.

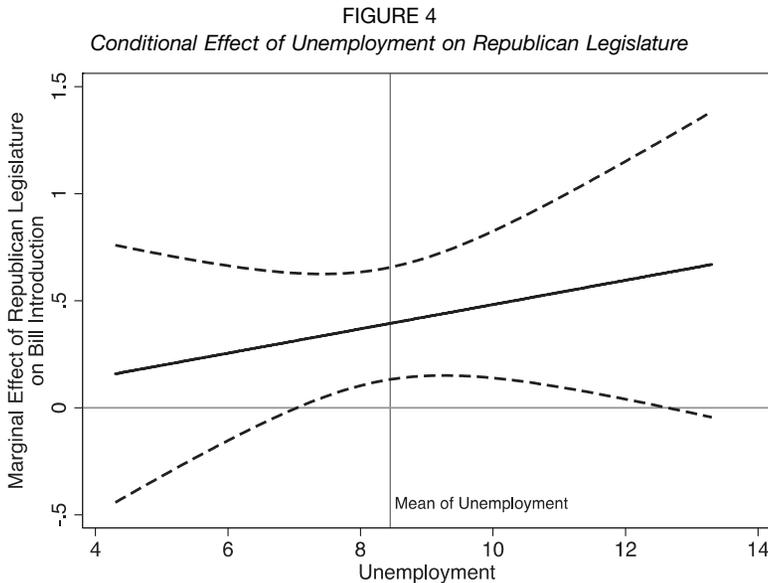
⁵³I also examined the conditional effect of Republican legislature on Latino population changes and Latino legislators and found no relationship. Full results available from the author upon request.

⁵⁴Thomas Brambor, William Roberts Clark, and Matt Golder., "Understanding Interaction Models: Improving Empirical Analyses," *Political Analysis* 14 (Winter 2006): 63–82.

⁵⁵Figures were generated using Fred Boehmke's "Gritter" utility for Stata, available at <http://myweb.uiowa.edu/fboehmke/methods.html>.

statistically significant effect of a Republican legislature on bill introduction. After Spanish usage attains 25 percent the marginal impact of party is no longer statistically significant, though only three states in the country fall into this category. The three states above 25 percent Spanish-speaking are California, New Mexico, and Texas. The figure demonstrates that for a large number of states, as the usage of the Spanish language increases, the effect of a Republican legislature on bill introduction becomes even stronger, but only up to a point.

Turning to economic factors, Figure 4 indicates a strong interactive effect between party across a wide range of unemployment rates. Whichever party controls the legislature does not appear to have a substantial impact at lower levels of unemployment. Only after the state unemployment rate rises above 7 percent does party have a significant and increasing effect on anti-immigrant bill introduction. Party ceases to have a significant effect once the unemployment rate goes beyond a little over 12 percent, but similar to Spanish usage few states fall into this extreme category. The lack of significance of party over 12 percent is not surprising given that once states reach such a high level of unemployment they are in dire economic straits, where party is not likely to be the key determinant of legislative activity. The figures thus provide an indication of some of the demographic and economic conditions under which partisan control of the legislature is likely to have its most dramatic effects.



Source: Analysis of conditional relationship on bill introduction
 Note: Dashed lines give 95% confidence interval.

CONCLUSIONS

The empirical analysis indicates that both economic concerns and party control of the legislature play a vital role in states' decision to introduce SB 1070 copycat legislation. For economic concerns, rising unemployment increases the likelihood of bill introduction. This result is consistent with a wealth of scholarly attention to the potential negative economic effects of immigrants on native wages and employment opportunities. Scholars, activists, and politicians have long speculated that immigrants hurt natives by providing an oversupply of low-skilled labor and consequently exert downward pressure on incomes due to their willingness to accept lower wages. However, the empirical evidence to support these concerns is mixed at best. Whether or not immigrants actually affect unemployment rates is not what appears to be the primary factor motivating the introduction of legislation that targets immigrants. Rather, it is the threat or perception that immigrants are causing already tough economic times to be even worse for natives. In essence, Republican legislators may feel motivated to introduce legislation that can be perceived as allaying economic concerns. Immigrants become the scapegoat to explain economic difficulties and reduced access to employment. Ironically, analyses performed by state legislatures to estimate the economic impact of SB 1070 copycat legislation indicate that these measures would be extremely costly to implement.⁵⁶ Moreover, recent reports indicate that Arizona has incurred substantial economic losses as a result of passing SB 1070, including declines in tourism, business, and convention revenues.⁵⁷ Despite the potential economic fallout from these bills, there is a clear connection between rising unemployment rates and the propensity of states to introduce this kind of legislation.

Similarly, Republican-controlled legislatures lead to a significantly higher incidence of introduction of legislation targeting immigrants. The question is why do GOP-controlled legislatures result in more detrimental policy outcomes for immigrants? Is the answer simply that the GOP is anti-immigrant and proposes this type of legislation? The data suggests a more complicated story. The Republican Party is known for its advocacy of small government with the exception of national security and defense spending. Given that the party has framed immigration as a national security issue with the threat

⁵⁶For example, the Kentucky state legislative staff estimates that SB 6 would cost the state of Kentucky \$40 million a year. See <http://www.kentucky.com/2011/01/14/1597995/immigration-bill-would-cost-state.html>.

⁵⁷Valeria Fernandez, "A Year on States Draw Back from SB 1070 Legislation," New Media Report, 29 July 2011, accessed at <http://newamericamedia.org/2011/07/a-year-on-states-draw-back-from-sb-1070-legislation.php>.

faced by undocumented immigrants flooding through unsecured borders, the rhetoric and provisions of SB 1070 are not inconsistent with the party's stated agenda on immigration and attitudes concerning the size of government. Republicans face the electoral concerns of voters and have to craft a way to address these issues while remaining consistent with party ideals. Republicans can take action on immigration legislation that is consistent with their policy views, hoping that it will resonate with general economic fears or latent nativist feelings. When examining the potential conditional effects, the effect of a Republican-controlled legislature appears to increase as the unemployment rate and Spanish language usage rise. Economic and assimilationist measures interact with partisan control to create a higher likelihood of bills that target immigrants.

However, the Republican strategy to pursue this type of immigration legislation is unlikely to be without consequences. GOP legislation and anti-immigrant policies are not popular among certain portions of the electorate, particularly growing Latino constituencies, and this could severely curtail the Republican Party success in the future. The period after the introduction of these bills and in the lead up to the 2012 election demonstrated a shift away from the Republican Party and a growing skepticism held by Latinos toward the party.⁵⁸ Without Latino support in future elections, Republicans will have difficulty winning the presidency and other elected offices, such as Senate seats, that encompass a large geographic area of voters. As a result of lower support among Latino voters in the 2012 elections, Republicans in 2014 have been actively strategizing on how to better appeal to Latinos as a group, since demographic changes in the U.S. mean that the size and influence of the Latino electorate will likely only continue to grow in the future.

One of the most striking results of this analysis is the limited role of demographic changes in motivating bill introduction. The immigration debate is filled with metaphors of invasion of Latin American immigrants, yet changes in the Latino population at the state level have no significant impact on decisions to introduce legislation despite the consistent salience of the issue across the time period analyzed. In other words, even states that underwent a 145 percent change in the Latino population are not significantly more likely to introduce legislation than states with as small as a 10 percent change. It is not the case that states that have had a particularly heavy inundation of immigrants are more prone toward introducing this

⁵⁸Sophia J. Wallace, "It's Complicated: Latinos, President Obama, and the 2012 Election," *Social Science Quarterly* 93 (December 2012): 1360–1383.

type of measure. The results indicate that decisions to introduce legislation are rooted less in the reality of dramatic demographic shifts that are affecting states. Rather, a perception that immigrants are numerous and somehow harmful appears to be a rhetorical tool used by political elites to induce policy changes motivated by other concerns.

It is also important to note that descriptive representation, measured by the relative presence of Latino legislators, failed to significantly deter bill introduction. State legislatures with a larger percentage of Latino legislators are not statistically less likely to introduce these measures. It might be the case that the presence of Latino legislators becomes more important when the percentage of Latino legislators reaches a critical electoral mass such that it would be difficult to ignore these members. This may explain why New Mexico with 44 percent Latino representatives has managed to stave off bill introduction, while the other top three Latino legislator states have not.

To further investigate the mechanisms that motivate Republican legislatures to be more receptive to SB 1070 type legislation, an analysis at the local level and of individual representatives would provide more traction. This study at the aggregate level of the state provides a good sense of overall trends, but can be complemented by a more in-depth analysis of the types of legislators who introduce and co-sponsor, as well as those that oppose, this class of immigration bills. For example, are members who sponsor this legislation from districts that have undergone dramatic shifts in the Latino population, or have higher unemployment rates? Even if individual members may represent areas that perceive substantially negative effects of immigrants on their locality, it still does not explain why Republican legislatures are significantly more likely to introduce this type of legislation. An extension of this project that would further refine the motives of the Republican Party would include individual attitudinal data towards immigration. This would allow the ability to assess whether assimilationist, economic, or demographic concerns are in fact rooted in nativist and xenophobic attitudes, and how they are connected to objective changes on the ground. The causal story may be that Republican majority legislatures are more likely to embrace this type of legislation, since it is congruent with their policy agenda, and the GOP feels this is a unique policy window whereby it can secure support for otherwise controversial legislation by resonating with certain underlying anti-immigrant feelings.

While the question of the constitutionality of SB 1070 has been settled by the Supreme Court as the final arbitrator in that specific case, this has not resolved questions concerning the ability of states to regulate immigration nor has it thwarted other states such as Alabama to continue in their

defense of similar bills, and introduce new and even more harsh legislation. It has also not stopped interest groups such as the ACLU and FAIR, and the federal government from forging ahead in their challenges along with defenses of these types of laws, thus indicating that the *Arizona v. United States* case did not settle the issue for all other instances. Rather, it appears that the courts at least at the state supreme court and federal court levels will be left adjudicating the issue on a piecemeal basis rather than offering a clear ruling that settles the matter. For example, Alabama's HB 56 was partially invalidated by the 11th Circuit Federal Appeals Court in *HICA v. Bentley* by blocking several major provisions, such as checking immigration status of children in schools, but allowed others like the "show me your papers" provisions to stand.

What these cases demonstrate is that states and the federal government disagree about which levels of government should be able to regulate immigration, and the courts have sent mixed signals on this issue by striking down provisions as preempted by federal law while allowing others. The relationship between states and the federal government is further complicated by the advent of programs that involve devolution of some police power to local geographies, such as the 287(g) program that created a partnership between local police authorities and Immigration Customs Enforcement (ICE) to grant local police officers powers of federal immigration officers. A similar dynamic is evident with the Secure Communities Program, which utilizes an electronic fingerprinting system to help identify immigrants who commit crimes and target them for removal proceedings.⁵⁹ In these instances the federal government appears to be a willing partner with states and localities on immigration as long as it is on the former's terms. In other cases, states have chosen at times to ignore federal immigration laws as evidenced by Sanctuary cities that are specifically designated as safe communities for undocumented immigrants, or simply refusing to implement federal laws due to the costly nature of the programs. At other times, states choose to go well beyond federal immigration laws to enact more stringent legislation, such as SB 1070 or HB 56, which have both been met by criticism by the national government. As state legislatures, particularly Republican controlled legislatures, and Governors continue to introduce, pass, and put into place policies in this area, the testing of federalism

⁵⁹Matthew Coleman, "The Local Migration State: The Site-Specific Devolution of Immigration Enforcement in the U.S. South," *Law and Policy* 34 (April 2012): 159–190. Monica Varsanyi, Paul G. Lewis, Doris Marie Provine, and Scott Decker, "Multi-Layered Jurisdictional Patchwork: Immigration Federalism in the United States," *Law and Policy* 34 (April 2012): 138–158. Tom K. Wong, "287(g) and the Politics of Interior Immigration Control in the United States: Explaining Local Cooperation with Federal Immigration Authorities," *Journal of Ethnic and Migration Studies* 38 (May 2012): 737–756.

and immigration laws will continue, and possibly it will become more clear which entities have the power to create, implement, and enforce immigration laws.*

Appendix 1: List of States by SB 1070–Type Bill Introduction

<i>Have Introduced</i>	<i>Have Not Introduced</i>
Alabama	Alaska
Arizona	Arkansas
California	Connecticut
Colorado	Delaware
Florida	Hawaii
Georgia	Idaho
Illinois	Iowa
Indiana	Louisiana
Kansas	Maryland
Kentucky	Massachusetts
Maine	Missouri
Michigan	Montana
Minnesota	New Hampshire
Mississippi	New Jersey
Nebraska	New Mexico
North Carolina	New York
Oklahoma	North Dakota
Pennsylvania	Ohio
Rhode Island	Oregon
South Carolina	South Dakota
Tennessee	Vermont
Texas	Virginia
Utah	Washington

Appendix 2: Political Party Positions on Immigration from Websites

Democratic Party

For more information see: http://www.democrats.org/issues/immigration_reform.

America has a long and rich heritage of immigration. Democrats have always embraced our country’s diversity, but we also recognize that our current immigration system is broken. In recent years, debate about immigration has often been portrayed as a false choice between amnesty and mass deportation. The real debate over immigration is whether we keep a broken system that undermines our economy and national security or whether we work together to fix it.

*The author would like to thank the editors, anonymous reviewers, Edwina Barvosa, Eric Gonzalez Juenke, and Geoff Wallace for their helpful suggestions and comments.

Democrats know that real immigration reform will require both parties to set aside partisanship and come together around our country's best interests. Immigration reform should reflect America's tradition not only as a nation of laws but also a nation of fairness and responsibility, compassion, and prosperity.

For years, Democrats have attempted to work across the aisle to pass comprehensive legislation. We need to bring the 11 million undocumented immigrants out of the shadows and create a legal, fair, and economically viable system that holds both immigrants and employers accountable and finally to ensure that our borders are safe.

Democrats support comprehensive reform grounded in the principles of responsibility and accountability:

- Responsibility from the federal government to secure our borders: The Obama administration has dedicated unprecedented resources to securing our borders and reducing the flow of illegal traffic in both directions.
- Responsibility from unscrupulous businesses that break the law: Employers who exploit undocumented workers undermine American workers, and they have to be held accountable.
- Responsibility from people who are living in the United States illegally: Undocumented workers who are in good standing must admit that they broke the law, pay taxes and a penalty, learn English, and get right with the law before they can get in line to earn their citizenship.

An orderly, controlled border and an immigration system designed to meet our economic needs are important pillars of a healthy and robust economy. Comprehensive immigration reform is essential to continue the tradition of innovation that immigrants have brought to the American economy and to ensure a level playing field for American workers. We must never lose compassion for those who wish to improve their lives through self-determination and the realization of America's promise.

Republican Party

For more information see <http://www.gop.com/2008Platform/National-Security.htm>.

Immigration, National Security, and the Rule of Law

Immigration policy is a national security issue, for which we have one test: Does it serve the national interest? By that standard, Republicans know America can have a strong immigration system without sacrificing the rule of law.

Enforcing the Rule of Law at the Border and Throughout the Nation

Border security is essential to national security. In an age of terrorism, drug cartels, and criminal gangs, allowing millions of unidentified persons

to enter and remain in this country poses grave risks to the sovereignty of the United States and the security of its people. We simply must be able to track who is entering and leaving our country.

Our determination to uphold the rule of law begins with more-effective enforcement, giving our agents the tools and resources they need to protect our sovereignty, completing the border fence quickly and securing the borders, and employing complementary strategies to secure our ports of entry. Experience shows that enforcement of existing laws is effective in reducing and reversing illegal immigration.

Our commitment to the rule of law means smarter enforcement at the workplace against illegal workers and lawbreaking employers alike, along with those who practice identity theft and traffic in fraudulent documents. As long as jobs are available in the United States, economic incentives to enter illegally will persist. But we must empower employers so they can know with confidence that those they hire are permitted to work. That means that the E-Verify system—which is an internet-based system that verifies the employment authorization and identity of employees—must be reauthorized. A phased-in requirement that employers use the E-Verify system must be enacted.

The rule of law means guaranteeing to law enforcement the tools and coordination to deport criminal aliens without delay, and correcting court decisions that have made deportation so difficult. It means enforcing the law against those who overstay their visas, rather than letting millions flout the generosity that gave them temporary entry. It means imposing maximum penalties on those who smuggle illegal aliens into the United States, both for their lawbreaking and for their cruel exploitation. It means requiring cooperation among federal, state, and local law enforcement and real consequences, including the denial of federal funds for self-described sanctuary cities, which stand in open defiance of the federal and state statutes that expressly prohibit such sanctuary policies, and which endanger the lives of U.S. citizens. It does not mean driver's licenses for illegal aliens, nor does it mean that states should be allowed to flout the federal law barring them from giving in-state tuition rates to illegal aliens, nor does it mean that illegal aliens should receive social security benefits or other public benefits, except as provided by federal law.

We oppose amnesty. The rule of law suffers if government policies encourage or reward illegal activity. The American people's rejection of en masse legalizations is especially appropriate given the federal government's past failures to enforce the law.

Embracing Immigrant Communities

Today's immigrants are walking in the steps of most other Americans' ancestors, seeking the American dream and contributing culturally and economically to our nation. We celebrate the industry and love of liberty of these fellow Americans. Both government and the private sector must do more to foster legally present immigrants' integration into American life to advance respect for the rule of law and a common American identity. It is a national disgrace that the first experience most new Americans have is with a dysfunctional immigration bureaucracy defined by delay and confusion; we will no longer tolerate those failures.

In our multiethnic nation, everyone—immigrants and native-born alike—must embrace our core values of liberty, equality, meritocracy, and respect for human dignity and the rights of women.

One sign of our unity is our English language. For newcomers, it has always been the fastest route to prosperity in America. English empowers. We support English as the official language in our nation, while welcoming the ethnic diversity in the United States and the territories, including language. Immigrants should be encouraged to learn English. English is the accepted language of business, commerce, and legal proceedings, and it is essential as a unifying cultural force. It is also important, as part of cultural integration, that our schools provide better education in U.S. history and civics for all children, thereby fostering a commitment to our national motto, E Pluribus Unum.

We are grateful to the thousands of new immigrants, many of them not yet citizens, who are serving in the Armed Forces. Their patriotism is inspiring; it should remind the institutions of civil society of the need to embrace newcomers, assist their journey to full citizenship, and help their communities avoid patterns of isolation.

Welcoming Refugees

Our country continues to accept refugees from troubled lands all over the world. In some cases, these are people who stood with America in dangerous times, and they have first call on our hospitality. We oppose, however, the granting of refugee status on the basis of lifestyle or other non-political factors.