IMMIGRATION POLICY IN THE AMERICAN STATES: AN EVENT HISTORY

ANALYSIS OF STATE ADOPTION AND DIFFUSION OF THE COOPERATIVE

IMMIGRATION ENFORCEMENT 287G PROGRAM

By

LAURA B. BOZOVIC

STEPHEN BORRELLI COMMITTEE CHAIR
RICHARD C. FORDING
J. NORMAN BALDWIN
CAROL A. CASSEL
TYRONE CHENG

A DISSERTATION

Submitted in partial fulfillment of the requirements
for the degree of Doctor of Philosophy
in the Department of Political Science
in the Graduate School of
The University of Alabama

TUSCALOOSA, ALABAMA

2012

ABSTRACT

It is generally assumed that the federal government has total plenary power over immigration policy; however, there is much interaction amongst federal, state, and local governments. The result is a "multilayered jurisdictional patchwork" of immigration enforcement, where authority is overlapping and occasionally conflicting rather than systematically applied in a cohesive manner. The existence of subnational immigration policy raises important questions about what role, if any, state and local governments should play in regulating illegal immigration and whether subnational policy is cooperative or conflicting with federal efforts. The focus of this dissertation is to determine which states have chosen to cooperate with the federal government to enforce immigration laws. In order to identify why certain states are aligning with the federal government, an event history model is utilized to test state level factors leading to adoption of the 287g cooperative immigration enforcement program. The study concludes that the costs associated with sudden population growth increases the likelihood of state level immigration enforcement efforts, while, local level adoptions of the 287g program reduces the likelihood of statewide adoption.

DEDICATION

This dissertation is dedicated to my dad and mom.

LIST OF ABBREVIATIONS

B   Beta Coefficient

DHS   Department of Homeland Security

EHA   Event History Analysis

EMTALA   Emergency Medical Treatment and Labor Act

Exp(B)   Exponentiated value of the beta coefficient: odds ratio

ICE   Immigration Customs and Enforcement

IIRIRA   Illegal Immigration Reform and Immigrant Responsibility Act

INA   Immigration and Nationality Act

IRCA   Immigration Reform and Control Act

LEA   Law Enforcement Agent

MOA   Memorandum of Agreement

NGA   National Governor's Association

NCLB   No Child Left Behind

p   p-value of significance

PRWORA   Personal Responsibility and Work Opportunity Reconciliation Act

UDI   Undocumented Immigrants

SE   Standard Error

VIF   Variance Inflation Factor

<   Less Than

ACKNOWLEDGMENTS

My greatest thanks of all go to my dissertation committee for their patients and guidance. Without their collective advice this would not have been completed. I am especially grateful to the committee chair, Dr. Borrelli, for all of his guidance through the research process and editing on a tight deadline. Many thanks go to my family. First, to my Aunt Susan, for always providing much needed grammar checks and proofreading. The most thanks are to my husband, for his love, support, and listening ear throughout the entire process; but, more importantly through his own immigration experience I was guided to this policy area and his willingness to leave his country so that I could pursue my goals is a sacrifice to which I am endlessly grateful. Last but not least, I was able to start and finish this project because of the unconditional and continuous support from my parents, for that reason and many more this dissertation is for them.

CONTENTS

LIST OF TABLES

LIST OF FIGURES

CHAPTER 1: INTRODUCTION

It is generally assumed that the federal government has total plenary power over immigration policy; however, there is much interaction amongst federal, state, and local governments. The result is a "multilayered jurisdictional patchwork" of immigration enforcement, where authority is overlapping and occasionally conflicting rather than systematically applied in a cohesive manner.[1] By addressing undocumented immigrants within their respective borders, state and local immigration laws have been met by fierce opposition with claims of unconstitutionality and preemption. The debate on how subnational governments should participate with the federal effort to control the level of immigrant populations through enforcement measures is playing out at various levels of government. The existence of subnational immigration policy raises important questions about what role, if any, state and local governments should play in regulating illegal immigration and whether subnational policy is cooperative or conflicting with federal efforts. The focus of this dissertation is to determine which states have chosen to cooperate with the federal government to enforce immigration laws. In order to identify why certain states are aligning with the federal government, an event history model is utilized to test state level factors leading to policy adoption. While this research remains interested in traditional diffusion research questions of why immigration enforcement policy choices spread from one state to another influenced by pressures from geographic neighbors, it also is concerned with federal to state as well as local to state vertical diffusion. It incorporates the effects of local laws on state level adoption by testing if state action is more

---

[1] Multilayered Jurisdictional Patchwork or MJP is the emerging confusion and often contradictory geographical dispersion of immigration enforcement authority in the United States.

likely or less likely when lower level adoptions exist and tests for the influences of the national government.

This chapter begins with a brief introduction of a federal enforcement program set up specifically to promote cooperative efforts, demonstrating state involvement in immigration enforcement policymaking. In contrast with this scenario discussion of recent clashes between the state and federal governments regarding immigration policy is highlighted in the cases of Arizona's senate bill 1070 and Alabama's house bill 56. In these state level examples, one can see where state measures are being passed and challenged in federal court and how this dynamic reveals "cracks" in the federal system which to date have yet to be clearly resolved. Further discussion outlines the literature on state immigration policymaking combining elements from the fields of sociology, demography, federalism and policy diffusion.

Immigration law enforcement references policies which regulate individuals who violate civil or criminal provisions of the Immigration and Nationality Act (INA) enforcement measures. The authority for state and local law enforcement officials to enforce immigration law has been construed to be limited to the criminal provisions of the INA. Civil provisions include apprehension and removal of deportable aliens and have strictly been viewed as a federal responsibility with states playing a supporting role. Congress has amended the INA to include authority for state and local law enforcement officials to enforce immigration, and some recent statutes have begun to carve out possible state roles in the enforcement of civil matters.

An example of national devolvement of immigration civil matters is the 287g program, allowing for state and local law enforcement agencies to join federal immigration authorities to help identify and remove foreign nationals who commit crimes or otherwise pose a threat to Americans' well being. The 287g program created in the Illegal Immigration Reform and

Immigrant Responsibility Act (1996) provided for the then Immigration and Naturalization

Service (INS) the authority to enter agreements with state, local, and tribal law enforcement

agencies enabling state and local police to assist federal authorities in the investigation, arrest,

detention, and transportation of illegal aliens. The 287g programs are established through a

Memoranda of Agreement (MOA), which are negotiated written agreements that outline the

authorities and responsibilities of both the individual law enforcement agency (LEA) and its

supervisors in Immigration and Customs Enforcement. The MOA's broaden the immigration

investigations and enforcement powers of the participating LEA, beyond the powers established

through inherent police authority, granting latitude to gather evidence and pursue investigations

(Khashu, 2009).   The 287g program also provides full-scale immigration officer training to

chosen local or state law enforcement officers providing additional enforcement authority such

as the ability to charge illegal aliens with immigration violations and beginning the process of

removal. Most importantly, the agreement ensures the cooperation and coordination in certain

immigration related enforcement activities. As of November 2008 there were 67 active 287g

jurisdictions, and more than 950 officers had been trained and certified in immigration law

enforcement and were responsible for identifying more than 81,000 removable aliens between

January 2006 and November 2008.[2] Table 1 list each of the state level 287g program adoptions

for the period under analysis.

Immigration Policy in the states of Arizona and Alabama

In April of 2010, Arizona Governor Jan Brewer signed SB 1070 into law which

established the nation's most restrictive immigration policy at that time. Arizona's SB 1070,

entitled the "Support Our Law Enforcement and Safe Neighborhoods Act" called for local police

---

[2] Analysts viewing the 287g program as a criminal alien enforcement program misconceive the initial conception
surrounding the program's creation. Other DHS programs operated under ICE are designed for criminal alien
enforcement such as Secure Communities.

to check the immigration status of people they encounter if they had "reasonable suspicion" to think they were in the country illegally.[3] Additional provisions made it a state crime to be in Arizona without proper documentation, made it illegal for state or local officials to adopt policies restricting enforcement of federal immigration laws (so called sanctuary policies), and made it illegal to shelter, transport or give work to undocumented immigrants. Its provisions, while having foundations in federal immigration law, marked the first time any state immigration resolution was created to manage the daily lives and actions of immigrants.[4] More importantly it focused attention on whether federal law preempts any state immigrant laws and brought the immigration debate into the foreground of national and state politics.

Arizona's SB 1070 was challenged with a flood of lawsuits, including a federal lawsuit challenging the measure on the grounds that its provisions were pre-empted by federal law. Portions of the bill were blocked by federal judge Susan Bolton so as when the law went into effect it did so only partially. The most controversial provisions that were blocked included a clause allowing police to check for immigration status. In doing so the judge largely sided with the federal government's claims that the law interferes with longstanding federal authority over immigration and could lead to harassment of citizens and legal immigrants. This ruling was upheld in appeals court and is now set to go before the US Supreme Court.

Following in Arizona's lead, other states have attempted to adopt or have adopted copycat laws. Almost a year later Alabama passed HB 56 a similar anti-immigration bill signed into law by Alabama Governor Robert Bentley in June of 2011. Alabama's HB 56 basically

---

[3] The "reasonable suspicion" clause was particularly controversial, as critics pointed out it opened the door for racial profiling as police have no other way of distinguishing between foreign nationals and nonwhite US citizens and legal residents.
[4] For example, The Border Protection, Antiterrorism, and Illegal Immigration Control Act of 2005 (HR 4437), an "enforcement-only" bill authored by Rep. F. James Sensenbrenner Jr. (R-WI) and passed by the U.S. House of Representatives on Dec. 16, 2005, would have criminalized technical violations of immigration law by making unlawful presence in the U.S. a felony.

combines the harshest provisions of anti-immigrant ordinances that have been adopted thus far by Arizona and others in recent years. Like Arizona's SB 1070, Alabama's HB 56 law would allow local police to check the immigration status of people they detain, as well as mandatory confirmation of one's status for employment purposes. This copycat legislation went even further than Arizona's SB 1070 in pushing the limits of state authority over immigrants within the state's borders by requiring K-12 public schools to verify students' legal status and report this to the state education board. The Alabama law also excludes undocumented immigrants from attending public colleges, makes it illegal to rent housing to undocumented immigrants, and makes certain contracts that undocumented immigrants sign unenforceable.

Legal challenges surmounted over Alabama's HB 56; however, unlike portions of SB 1070, a federal judge in Birmingham, Alabama, upheld many of the law's most controversial clauses. In the case of federal challenges to Arizona's and Alabama's immigration bills, contradictory rulings by federal court judges on similar or stricter issues pose real strain on the federal immigration system setting the stage for forced decisions at the federal level on whether states can or cannot implement immigration laws. Most importantly, all states have been involved in this policy domain in various facets. In 2011 alone the National Conference of State Legislatures reported that there were 1607 bills and resolutions relating to immigrants and refugees in all 50 states and Puerto Rico. This pattern is likely to continue as the states take the lead in defining the state federal relationship, trending toward states (rather than the federal government) making the final determination of policy affecting immigrants' ability to function in society (Newton & Adams, 2009).

Immigration and Subnational Governance

In 1994 Fix and Passel made a definitional distinction between immigration policy which encompasses admissions and criteria of entry, and immigrant policies which regulate the lives of immigrants while within the US. Skerry in 1995 and Wishnie in 2001 both argue that all policies regarding immigration and/or immigrants fall under the immigration policy umbrella, and thus are under federal control. Nevertheless, states and local government are enacting policies which impact immigrant populations. Lina Newton and Brian Adams find that states exercise influence over immigration policy in two ways: 1) using their discretion in completing tasks delegated to them by the federal government and 2) creating immigration policy in areas not directly associated with immigration but still under the purview of state and local governments.[5] Subnational immigration policies either assist immigrant incorporation into society or marginalize them, and are typically characterized as pro-immigration policies which affect the cultural and economic incorporation or anti-immigration policies which attempt to deter settlement or control migratory flows.

An underlining theme of immigration politics is the reconciliation of choices between integration or assimilation and enforcement or isolation of immigrant populations. On the subnational level, many important services that citizens receive are provided by state and local governments. Policy decisions made at each level of government have an effect on the quantity and quality of those services and the reality is that immigrants arrive to the US in need of massive amounts of social services and language training. The burden of these costs lies on the shoulders of the state and local governments where immigrants choose to locate. Different states take different approaches to immigration control and immigrant integration. States can allow or

---

[5] State policies that are anti or pro immigrant in content are either within the subnational governments' authority or the subnational role has been clearly defined by Congress, especially in the case of healthcare and welfare.

deny immigrants access to a variety of state and federal programs, fund nonemergency healthcare programs for pregnant undocumented women, or admit undocumented immigrant students to state colleges at instate tuition rates.

On the other hand, the state role in the area of immigration control and immigrant law enforcement has been more experimental because it is less clearly defined by the federal government. Variation of enforcement policies provides important insights to the study of immigration politics and federal-state relations, yet explanations of subnational immigration policy have been minimal. Further discussion is needed to determine what factors may lead governing institutions to adopt restrictive policy in general in order to further explore enforcement adoptions. While a more in depth discussion is provided later in this work, the highlights of previous studies are introduced below.

Historically immigrant populations have settled in a handful of states, collectively referred to as the gateway states of California, Texas, Florida, Illinois, New York and New Jersey. Newton (2008) and others have suggested the foreign born population in these "big six" states have reached a critical mass that requires political actors to take immigrants into account because of electoral value or pressures for integrative policies. As contemporary immigrant populations are flowing into all areas of the country, these new destinations have less experience with immigrant populations and lack the infrastructure to provide services for an increasing population. The increase in immigrant populations may overwhelm the integration capacity of native populations and breed intergroup conflict. In settings where the native population believes or perceives immigrants as a threat to the communities, steps may be taken politically as an attempt to discourage immigrant settlement. Group threat has been used to explain English-only state initiatives, noting that white Americans with little interaction with immigrant

populations are more likely to feel threatened by their presence (Tatalovich, 1995; Branton et al., 2007; Tolbert & Hero, 2001; Tolbert & Grummel, 2003; Pantoja & Segura, 2003). Additional studies conclude that immigration attitudes seem rooted substantially in group identity and prejudice (Citrin et al., 1997; Kinder, 2003).

Ramakrishnan and Wong (2010) reports similar findings as race relation literatures which linked the changes in racial diversity as an important factor in immigration policy adoptions, as does Tolbert and Hero's (1996) study of county level votes for California's Proposition 187 anti-immigration "Save our State" initiative.[6] A study of Arizona, Georgia, Tennessee, and Texas revealed that the characteristics of the representative's district had a more clear effect where legislators with districts containing higher percentages of whites and those that represented districts with higher levels of population growth were much more likely to sponsor or cosponsor anti-immigration legislation (Pearson-Merkowitz & Yoder, 2010). Graefe et al.'s (2008) analysis indicates that a high rate of growth of the immigrant population is associated with less liberal welfare policies.

The position states take in relation to federal policy has important ramifications for the state-federal relationship and in immigration federalism. Filindra and Kovacs (2011) confirm that there is no uniformity in the way decision makers think about and speak about immigration in the American states. A recent review of the Bush Administration's record on federalism notes the federal government's centralization efforts in immigration (Conlan & Dinan, 2007) while another article identifies state immigration policy initiatives as a form of state "signaling" to the federal government (Krane, 2007). Others have noted benefits from state and local activity, such

---

[6] Tolbert and Hero note that in California alone in 1986, 1994, 1996, and 1998 through Proposition 63, Proposition 187, Proposition 209, and Proposition 227 surveys indicate that a majority of whites supported each policy, while minority groups opposed them. They argue that California's initiatives allowed voters to circumvent legislators who were perceived as being overly responsive to minority groups.

as states acting as laboratories of policy innovation and who have greater capacity to address immigration issues (Parlow, 2007; Rodriguez, 2008; Skerry, 1995). The balance in distribution of authority over immigration policy between the states and federal government is a constant swinging pendulum in American history. Even though much of the discussion and analysis of contemporary immigration policy making focuses on the federal level, scholars have identified important ways in which state and local governments have acted on their own in response to immigration, both legal and unauthorized. States are actively involved in immigration policy and politics, where state and local conditions affect the shape and content of immigration rhetoric and resulting policy. As Filindra and Kovacs (2010) conclude "all politics is local" even when it comes to this seemingly federal only policy domain. Spiro (2001) has argued that state involvement in immigration is valuable because it allows states to deal with specific problems they face without recourse to a national policy that may not be desired by other states. In this sense, state activity acts as a "steam-valve," allowing for incremental policy change at the state level and avoiding political confrontations nationally (Newton and Adams, 2009).

Justification and Significance of Research:

While the subnational immigration policy literature is limited in volume most all studies recognize immigration policymaking activity, at either the state or local level of government, as a reaction to a 'void' left by federal government policy inaction. However, no studies have directly evaluated intergovernmental influences on state level immigration policy adoption, particularly national influences. This research seeks to bridge this gap by modeling state adoption of immigration policy to account for national influence on policy adoption to examine if the federal-state government dynamic impacts state cooperation in subnational immigration policy. Scholars of federalism, intergovernmental relations, American politics, and public policy

9

will be interested in the findings, as the position states take against the federal government has important ramifications in the American system and the balance or sharing of powers in the federal system impacts the formation of immigration policy.

The passing of immigration policy from the federal to state and local governments is occurring in the broader context of devolvement of many governmental responsibilities and is a indicative of the broader restructuring of the ever changing American federalism system. Unlike many other issues where the trend has been increasing federal involvement in policies traditionally dominated by states, immigration has historically been under the federal domain, with courts upholding the principle of federal exclusivity (Rodriguez, 2008). Despite this assertion of federal control, states are now attempting to assert themselves in this policy area; this coupled with devolved governance provides an important platform for the study of immigration federalism. A function of the devolution of policy responsibilities is that it allows subnational governments some degree of flexibility to mold and shape policy and to experiment in the hopes of forming better policy. The devolution of immigrant and immigration policy responsibilities to states is unique in that it is a previously unexplored policy area for most states and is still a work in progress. Therefore, studying state responses to immigrant populations is important to the overall study of devolution of policy responsibilities.

Additionally, intergovernmental political competition can be informative in conceptualizing policies which calls for joint provisions of a public good by both state and national governments in the US federal system (Bednar, 2007; Bailey & Rom, 2004). An important feature in the intergovernmental arrangement is that governmental actors and decision makers at each level of governance compete over credit for provision of goods to citizens while at the same time trying to avoid the blame associated with the perceived problem. States and

localities feeling the pressure to "do something" about the perceived immigration problem may enact policies which are intended to encourage immigrant populations to move, discourage other immigrants from moving into the jurisdiction, or send a message that the federal government needs to address broken immigration system. In some instances states may choose to take a confrontational approach attempting to circumvent the federal government and push the boundaries of federal exclusivity in the immigration realm but these instances are rare. However, in the example of the 287g program states have the option of being supportive of federal immigration enforcement measures that are already in place without extending their reach to the creation of rules and regulations. Enforcement measures in cooperation with the federal government is a way to control the growing number of illegal immigrants residing in the US, and allows the national and subnational governments to work together in attempting to solve problems affecting their joint constituencies. Therefore, understanding the circumstances under which states cooperate with the federal government is of fundamental importance to the study of federalism and balancing of power in the currently turbulent immigration federalism system.

However, assumptions characterizing a state federal relationship as conflicting in all facets of immigration policy overlook cooperative programs and policies which assist national goals. Adams and Newton (2008) found state effort to legislate in the area of immigration during the 2006 and 2007 years have largely complemented federal policy. Specifically in regards to immigration law enforcement the 287g program option is supportive of federal measures without encroaching on issues of federal exclusivity. While the enforcement of immigration laws in the interior of the United States has certainly been controversial it does not conflict with federal initiatives; but, it has created a checkerboard of conflicting laws. Furthermore, many of the subnational immigration policies may have already generated

discriminatory backlashes against Hispanics[7] who are not illegal immigrants.[8] Scholars Chishti (2002) and Pham (2004) note that the devolution of immigration policing erodes hard built police community relationships by discouraging cooperation from immigrant communities out of fear that they or their family members will be at risk of removal if they make contact with law enforcement officers. The integrative functions that state and local jurisdictions provide to immigrant populations conflicts with the primary federal function of immigration control and increased nonfederal involvement in immigration could potentially harm public safety by stretching already limited state and local resources. As all law enforcement agencies believe that trust and support are vital components of effective policing, various cities and agencies have adopted "sanctuary laws," which are policies that have stated the jurisdiction will not require or permit local law enforcement officials to enforce federal immigration laws. The widespread adoption of cooperative and non-cooperative policies across the country is an intriguing puzzle because it demonstrates the divergence of adopted policies in the federal system. Furthermore, diverging policies at the subnational levels are only likely to proliferate in the absence of federal directives and makes acceptance of any eventual national policy reform less acceptable as locales wish to continue their already adopted immigration policies.

However, national immigration policy reform may not be on the horizon. Immigration policy is complex and currently evolving where partisan leaders in the national government struggle to decide upon how to control illegal immigration and the appropriate levels of enforcement. The controversy surrounding the passage of state laws in Arizona and Alabama

---

[7] It is important to note the large, if not practically complete, overlap between the immigrant community and Latino community. For all practical purposes, at least at the national level, the public sees immigrants as overwhelmingly Latino and the undocumented population at least is largely Latino, although it has been diversifying in recent years (Citrin et al., 1997; Passel & Cohn, 2009).

[8] "What certain states and communities are doing is taking matters into their own hands that should be dealt with on a national level in a consistent manner," said Ricardo Meza, a lawyer in Chicago for the Mexican American Legal Defense and Educational Fund, which brought the Valley Park case. "Where we see the big danger with these laws is that they put a bulls-eye on every Hispanic's forehead (Preston, 2008)."

demonstrated that at least everyone on all sides of the political debate agree that the current immigration system is broken. While there is disagreement as to the best way to "fix" the system, greater attention to programs like 287g is important in highlighting the cooperative aspects of immigration federalism and provides an example by which cooperative federalism could prevent such subnational dissention developing in the current system.

Conclusion

With the increase of state policy activism, contemporary immigration politics is reconfiguring within the intergovernmental context where varying policies exist in light of the states' political cultures, demographic makeup, and distance from the border. Ultimately, many state governments believe that the federal government is not doing enough to deter undocumented immigration and are more eager to act to control illegal immigration. The battle over state enforcement of immigration law is ultimately a battle over government power and which branch gets to exercise it with many costly consequences for immigrants that will continue in an absence of any clear federal directive. As states and localities continue to adopt diverging immigration policies, any compliance with any later enacted national policy will become more and more difficult. This intergovernmental dynamic is captured in the previously unexplored area of immigration policy devolvement. As there is already a widespread adoption of cooperative and non-cooperative policies across the country, the discussion that follows and the model used for analysis explicitly accounts for the intergovernmental context of state level policy adoption. This dissertation examines state level adoption and diffusion of the 287g program in the American states. By merging studies of immigration policymaking and state policy diffusion the primary focus is to examine explanations for enforcement policy innovation, as well as diffusion of a federal initiative uncomplicated by financial incentives or mandates. It

13

considers adoption as a state response to intergovernmental systemic factors by modeling adoption and diffusion on internal and external dynamics. Based on the literature of immigration policymaking, federalism, and policy diffusion, this analysis examines variables leading to adoption at the state level within the institutional context of federalism and how this program diffuses through the states. The argument made here is that federal inaction to provide meaningful illegal immigration control leads to state policy adoption when the burden of caring for and integrating immigrants becomes too heavy.

CHAPTER 2: HISTORICAL AND THEORETICAL BACKGROUND

In order to understand the current environment of immigration policy, it is important to first review how the existing policies came into being. This chapter briefly reviews federal immigration policy from a historical perspective, the principal debate about state and local immigration policy, and the legal doctrines associated with the expanding role of subnational authorities in enforcement of immigration policies. This section closes with a review of immigration federalism in development of a theoretical framework for analysis of immigration lawmaking and devolution of enforcement authority from federal to state and local jurisdictions.

National Immigration Policy

In the 1980s the federal government of the United States began adjusting immigration policy towards efforts to control the rise of immigration and trended towards limiting immigrant rights. Beginning with the Immigration Reform and Control Act (IRCA) of 1986 national legislation created sanctions against employers who knowingly employ undocumented immigrants.[9] The IRCA also allowed most undocumented immigrants currently living in the United States to apply for legal status. However, the IRCA failed in its attempt to decrease illegal immigration through restrictive measures of employer sanctions because it did not meet the economic demands of the US labor market by providing access to legal immigration causing the illegal immigration population to steadily increase.[10] While previously, much of the

---

[9] Prior to 1986 immigration control policy consisted of interception at the border or apprehension on jobsites, however this act changed that by making the hiring of illegal immigrants a civil and in some cases a criminal violation.

[10] The 1990s saw a steady incremental growth in the size of the immigrant population with mostly immigration flows from Latin America and Asia.

immigration flow was from Europe, the migration flows of the 1980s were from every part of the world effectively increasing the diversity of the immigration flows.[11]

In contrast, the Immigration Act of 1990 revised legal immigration statutes increasing total admissions by forty percent, though this increase was allocated mostly to highly skilled immigrants and for family reunification.[12] The 1994 Violent Crime Control and Law Enforcement Act gave the Attorney General discretion to prioritize deportation standards and increased border patrol appropriations. In 1996 the US government continued immigration control efforts with passage of The Antiterrorism and Effective Death Penalty Act giving local police the authority to arrest previously deported noncitizen felons. Additionally, The Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) of 1996 dramatically scaled back legal immigrants' access to publicly funded social services including Food Stamps, Medicaid, Supplemental Security Income, and Temporary Assistance to Needy Families. The PRWORA or Welfare Reform Act authorizes, but did not require, states to deny a range of public benefits to immigrants devolving responsibilities to lower tiers of government for the well-being of immigrants.[13] The Welfare Act limited immigrants' access to social public benefits to emergency health care, short term emergency disaster relief aid, and public health assistance for immunizations.

---

[11] The Refugee Act of 1980 allowed for asylum claims by an alien who met the refugee conditions of "physically present in the US or at a land border or port of entry, irrespective of such alien's status", thus in addition to the influx of Cuban immigrants, more than 200,000 Indochinese and other refugee groups were resettled in the US during the 1980s (Tichenor, 2002).

[12] This was due to arguments that global economic competition made it imperative for US businesses to have access to the world's most skilled workers. International pressures on immigration policy increased due to geopolitics and traditional foreign policy concerns, but also the perceived demands of promoting US fortunes in global trade. It also contained provisions for increased border patrol and protection, and provided for the admission of immigrants from "underrepresented" countries to increase the diversity of the immigrant flow.

[13] The Welfare Act's authorization of state discrimination against immigrants was an attempt by Congress to devolve some of the exclusively federal immigration power to the states, and with it the substantial immunity from ordinary judicial scrutiny that had stopped previous state attempts of immigration policy. Although this devolution of authority is not explicit, Wishnie (2001) argues that it would have been impossible for state governments to instate any such welfare policies spawned after the Welfare Act due to their inevitably being deemed invalid under rule that state welfare discrimination against legal immigrants is unconstitutional.

Another major piece of national immigration legislation was the Illegal Immigration

Reform and Immigrant Responsibility Act of 1996 (IIRIRA), which addressed enforcement at

the US-Mexico border as well as in the interior United States. The IIRIRA bestowed authority

on the Attorney General to deputize state and local police to enforce federal immigration laws

through the creation of the 287g program.[14] This act marked the beginning of the federal

government's encouragement and willingness to co-opt state and local participation in

immigration control (Stumpf, 2008). Because of increased border patrol protection, a higher rate

of illegal immigrants stayed in the United States due to inability to leave and return again. This

condition swelled the immigrant populations at the border pushing migration out away from the

border and into the interior United States. This dispersion of immigrant populations away from

the borders referred to as the "new geography of US immigration," impacted traditional

immigrant receiving states and non-border interior states where these immigrants ultimately

settled (Marrow, 2005).[15]

The federal policies described above did not decrease the rate of undocumented entrances

to the U.S. and may have actually boosted it by continued failure to address the demand for

immigrant labor. The IRCA and IIRIRA were indicative of the federal government's

multifaceted approach to marginalizing and criminalizing immigrants. Consequently, the

relationship between the national and state governments shifted during the 1990s towards the

position of state and local governments as important partners in domestic policy for the federal

government (Dilger, 2000). The lack of comprehensive enforcement of illegal immigration has

---

[14] It bears noting that this wave of 1996 immigration policies were partially due to a state level voter-passed immigration proposition in California (Prop 187); while the California proposition did not withstand legal challenges it did serve as a strong signal to the federal government of the need for national immigration policy reform.

[15] Prior to 1995 three-fourth of immigrants to the US settle in just six states: California, Texas, Illinois, Florida, New York, and New Jersey known as the gateway states. Since the mid 1990s, the fastest growth in immigration settlement occurred in new destination states such as North Carolina, Georgia, Virginia, Nevada, Tennessee, Arkansas, Utah and Arizona.

rechanneled the flow of immigrants and permanent settlement to states all over the country (Massey et al., 2002; Cornelius, 2001).

<center>Federal-State Relations and State Responses to Immigration</center>

In recent American history, state government policies addressing immigration related issues have proliferated; this activity increased greatly in the last decade. As states responded to Congressional legislation, various policies emerged from state to state, with many of these building on the national legislation's guidance. This section examines the breadth, scope, and variation of these policies. The debate over law enforcement's role in controlling illegal immigration was introduced above and is certainly part of the American states' increased policy activism; distinguishing immigration regulation from regulating immigrants is addressed further in this section. Enforcement policies are further explored in the closing of this section and are the main focus of this dissertation.

The states' role in immigration policy is so often overlooked because of the ingrained perception of immigration as a federal policy domain. This assumption dates back to 1889 in the US Supreme Court decision regarding the Chinese Exclusion Act, where the court ruled that the federal government held exclusive authority over "entry and abode."[16] The federal government was designated as the sole sovereign over immigrants, responsible for determining not only who is allowed to enter, who is barred, and who can be expelled, but also what rights noncitizens have while present in the United States. According to the Court's assessment, "over no conceivable subject is the legislative power of Congress more complete than it is over [immigration and naturalization]."[17] Once the federal government's authority in this policy area was established, the states were generally reluctant to challenge this arrangement.

---

[16] *Chae Chan Ping v. United States*, 130 US 581 (1889)
[17] *Oceanic Navigation Co. v. Stanahan* 214 US 320 (1909)

While the United States has a significant body of law and regulations defining *immigration policy*, the United States does not have an *immigrant policy* addressing assimilation and integration processes. The nation's immigration policies determine who comes, who goes and in what numbers. Immigrant policies passed at the federal, state, and local levels influence the integration of immigrants after they have arrived. Immigrant policies include eligibility standards for public benefits as well as spending on integration programs like bilingual education. Policy decisions made at all levels of government affect the quantity and quality of services for immigrants arriving in the US, and many of these immigrants need costly social services and language training.

State legislatures and local governments battled with a number of immigration related issues during the 1980s and 1990s but crafted legislation that was largely symbolic (Adams & Newton, 2008) and aimed at sending anti-immigrant messages to immigrant populations attempting to deter settlement or requesting the federal government to compensate states for the costs of immigrant related services. Many states enacted policies which identified immigrants in the prison population and transferred them to Immigration and Naturalization Service (INS) custody as a way to save money. States also debated the exclusion of legal immigrants from welfare benefits programs and California's Proposition 187 went as far as to exclude undocumented immigrants from all public services, including public education, nonemergency healthcare and welfare – but the measure did not hold up to legal challenges.

Also during this time period, Texas, Florida, California, Arizona, New Jersey and New York sued the federal government for "its continuing failure to enforce or rationally administer its own immigration laws since 1980" and demanded compensation for the costs on services to

immigrants (Huntington, 2008).[18] These lawsuits made it clear that the states viewed

immigration as the exclusive responsibility of Washington and the costs of caring for, educating,

and incarcerating undocumented immigrants constituted an unfunded mandate. However, the

cases were ultimately thrown out as the federal courts considered the suit to be more political in

nature without legal merit. Nevertheless, these state actions served as signals and were

ultimately successful in provoking the national government into creating the 1996 immigration

policies. The federal response came in a series of 1996 legislation and helped to ease growing

tensions by providing enhanced ability for states to create immigrant legislation. However,

states grappled with their newfound welfare authority and tensions mounted once again under the

fiscal pressures of tight state budgets and stagnant local economies. State governments argued

that the federal government's right to control legal and illegal immigrant flows and to mandate

state payments for cash welfare and Medicaid should carry with it the responsibility to provide

sufficient financial support to cover immigrant costs.[19]

Entering into the new millennium, statewide immigration policies started surfacing again

as Arizona voters passed Proposition 200 "Protect Arizona Now," and the Florida Department of

Law Enforcement signed the nation's first Memorandum of Agreement (MOA) with federal

immigration authorities under the 287g section of IIRIRA. Arizona's Proposition 200 required

individuals to provide proof of citizenship before voting and applying for state funded public

benefit programs. The proposition was strategically drafted in a way as to thwart the same types

of legal challenges that had invalidated California's previous immigration policy effort in

Proposition 187. The Florida MOA allowed for state troopers to receive training to enforce civil

---

[18] *Texas v. United States,* 106 F. 3d 661(5th Cir. 1997); *New Jersey v. United States,* 91 F. 3d 1095 (9th Cir. 1997); *Arizona v. United States*, 104 F. 3d 1095 (9th Cir. 1997); *Padavan v. United States,* 82 F. 3d 23 (2nd Cir. 1996); *California v. United States*, 104 F. 3d 1086 (9th Cir. 1997)
[19] The Emergency Medical Treatment and Labor Act of 1986 (EMTALA) legislated health care providers to provide emergency care to anyone regardless of immigration status.

immigration laws in collaboration with federal enforcement agencies and was the first one signed since the program's inception six years prior.

Continuing into the decade, the federal government had yet to pass sweeping immigration legislation, states continued to receive influxes of immigrant populations, and the spread of state level immigration related measures accelerated. In 2005, state legislatures considered approximately 300 bills relating to immigrants and passed around 50. In 2006, 500 bills were considered 84 of which became law; and the amount of legislation increased again in 2007 with 1,562 pieces of legislation introduced with 240 becoming law. In the 2009 legislative year, every single state house in all 50 states considered immigrant related laws and resolutions, with a total of 353 enacted.[20]

Recent state level policies run the gamut, being both restrictive and welcoming in nature.[21] Arizona, Georgia, Oklahoma, and Colorado have enacted laws of varying toughness limiting public services to undocumented immigrants, blocking their access to forms of identification, and imposing sanctions on employers who hire them.[22] On the other hand, eleven state legislatures have granted undocumented high school students in-state tuition rates that attend post secondary schools. Arizona, Alabama, Georgia, and Nebraska passed omnibus legislation addressing employment/worksite enforcement, law enforcement, and requirements to provide verification of lawful presence to receive public benefits.

---

[20] National Conference of State Legislatures Immigration Law Report available at http://www.ncsl.org/issues-research/immig/state-laws-related-to-immigration-and-immigrants.aspx.
[21] Examples of restrictive policies include range from state level employer sanctions, laws that penalize employers who knowingly employ illegal immigrants, laws preventing undocumented residents from receiving driver's and business licenses, and laws excluding undocumented students from in-state tuition benefits at public colleges and universities.
[22] In these cases legislation was driven by mainly Republicans, with the democrats split. But the debates exposed new rifts in the GOP party, between business communities (concerned about cheap labor pools) and an emerging breed of new republicans who did not really care what business thinks.

While subnational immigration policies may face court challenges, the likelihood of challenge alone has not deterred states from passing immigrant and immigration related laws. Instead, state drafters of policy have displayed true craftsmanship in writing such policies using careful language which is more probable to withstand legal challenges. In other words, states are passing measures which do not conflict with federal intent so as to withstand preemption challenges and in areas which they have previously established authority (such as employment regulations, licensing, and public benefit eligibility) already delegated to them from the central government.

<center>Concerns of State Engagement in Immigration Policy</center>

Immigration policy is unique in that it blurs the distinction between domestic policy and foreign affairs and raises diverse issues at each level of American government and on the international stage. The devolution of immigrant policy from the federal to state and local governments is occurring at a time when many governmental responsibilities are moving away from the central government. Nevertheless, there are many moral, social, and legal questions regarding the decentralization of immigration and enforcement policy which are discussed in this section.

Wishnie (2001) views states as "laboratories of bigotry" where social policy targeting immigrants is potentially unfair. However, Schuck (2007) argues that immigration policy making at the state and local level is not necessarily any more hostile towards immigrants than federal policy. Nonetheless, a number of public policy concerns are raised in opposition of subnational enforcement of immigration policy. Many argue that federal immigration code is arguably too complex for state or local police to enforce without a high degree of training, and participation in immigration law enforcement opens the door for mistakes and discrimination

<center>22</center>

through racial profiling (Bosniak, 1994; Motomura, 1994; Olivas, 1994, 2007). This complexity may lead agents to try to simplify their duties in order to circumvent the difficulties in identifying and processing illegal immigrants, undermining the civil rights of citizens and noncitizens alike (Stumpf, 2008; Collins, 2007; Wishnie, 2001). These complications as well as humanitarian violations that may develop at the state level could potentially undermine international diplomacy efforts and foreign policy.

Increased nonfederal involvement in immigration could potentially harm public safety by stretching already limited state and local resources. Scholars Chishti (2002) and Pham (2004) note that the devolution of immigration policing erodes hard built police community relationships by discouraging cooperation from immigrant communities out of fear that they or their family members will be at risk of removal if they make contact with law enforcement officers. As all law enforcement agencies believe that trust and support are vital components of effective policing, various cities and agencies have adopted "sanctuary laws," which are policies that have stated the jurisdiction will not require or permit local law enforcement officials to enforce federal immigration laws. Therefore, these communities have taken steps to define or limit the involvement of local authorities in the implementation of federal immigration law.[23] There are those who argue for state involvement, either as a necessary "force multiplier" due to increasing work load (Kobach, 2005) in ongoing counterterrorism efforts because a uniform regulatory scheme is not possible or desirable (Rodriguez, 2008), or because it allows for a greater deal of flexibility and adaptability in the face of differing local needs and concerns (Collins, 2007).

---

[23] Some of these sanctuary laws prohibited expending resources; other strictly prohibited asking about immigration status, while still others resembled a "don't ask, don't tell" policy (Rodriguez 2008).

At debate here is the proper balancing between tough law enforcement sanctions, foreign policy considerations, and humanitarian concerns.[24] The passing of immigration policy from the federal to state and local governments is occurring in the broader context of devolvement of many governmental responsibilities and is still a work in progress. Ultimately, many state governments believe that the federal government is not doing enough to deter undocumented immigration and are more eager to act to control illegal immigration. The battle over state enforcement of immigration law is ultimately a battle over government power and which branch gets to exercise it with many costly consequences of illegal immigration that will continue in an absence of any clear federal directive.

<div align="center">The Role of State and Local Enforcement Control of Illegal Immigrants</div>

The American states have begun "resurgency" into the immigration policy arena (Dinan, 2008). Pressures from the high costs of providing services for illegal immigrants[25] has prompted states to "fill the void" left by the federal government's failure to control immigration populations pushing state and local governments to take action toward solutions to the immigration problem.[26] In general local police do not enforce federal civil laws, but they do have the authority to arrest foreign nationals who have committed crimes and may report them to federal immigration authorities for possible deportation.[27] In order to *actively* control immigration by removing illegal immigrants within their border, subnational law enforcement agencies must enter into cooperative agreements with the federal government to remove

---

[24] Waslin (2003) notes that the delegation of immigration enforcement authority contradicts decades of federal case law and policy and are of "dubious" constitutionality.

[25] The impact of immigration costs vary by level of government with pressures increasing at each lower level. Overall, illegal not legal immigrants are more likely to generate an overall negative fiscal impact (Fix & Passel, 1994).

[26] Chief among them has been the cost of providing public services to undocumented immigrants.

[27] For example, an individual who is present in the U.S. without authorization is in violation of immigration civil law, while an individual who crosses the border without inspections is in violation of immigration criminal law – the act of crossing the border is the criminal violation, remaining in the U.S. without proper documentation is the civil violation.

unauthorized immigrants.[28] The authority delegated to state and local law enforcement agencies to enforce civil immigration laws is provided through the 287g program by entering a formal Memorandum of Agreement (MOA) with the Department of Homeland Security (DHS). Such 287g authority includes not only the power to arrest, but also the power to investigate immigration violations, the power to collect evidence and assemble an immigration case for prosecution or removal, the power to take custody of aliens on behalf of the federal government, and other general powers involved in the enforcement of immigration laws. The mechanism to delegate such authority and effectively deputize members of state or local law enforcement agencies to perform such "function(s) of an immigration officer" was created by Congress in the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, which added subdivision (g) to section 287 of the Immigration and Nationality Act.

The MOAs set out the scope and nature of the federal-state arrangement, including the amount of training officers will receive, who they will report to within DHS, and which immigration laws they are authorized to enforce. State and local officials negotiate the terms of the agreement with the federal government, but they must be signed by either the head or political executive over the enforcement agency.   The United States Immigration and Customs Enforcement (ICE) is the subsector of the Department of Homeland Security (DHS) responsible for enforcing federal immigration laws. While ICE has many partnerships with state and local agencies, only the 287g program allows state and local officers to directly perform specific immigration functions in place of ICE officers. 287g officers are authorized to question aliens as to their immigration status and removability, serve warrants for immigration violations, and issue immigration detainers for state and local detention facilities to hold aliens for a short time after

---

[28] Despite having additional authority to identify immigrants unlawfully present, state and local police remain dependent on federal immigration authorities to actually pick up, process (possibly including trial and appeal), and deport anyone they detain on immigration violations.

completing their sentence. Officers also prepare charging documents for ICE agents' signature

that are used in immigration courts, process aliens for removal and transport aliens to ICE

detention facilities. Many are also authorized to arrest aliens attempting to unlawfully enter the

United States, as well as aliens already unlawfully present.

It was the actions and legislation on the federal level in the section 287g of IIRIRA which

led state and local level agencies to enforce immigration law by the opportunities allowed under

national provisions. Opponents of such policy note that while the subnational governments may

have authority to enforce immigration law, they are not obligated to do so. However, state and

local enforcement agents do have an obligation to enforce laws to protect the public, and it is

reasonable to assume these agencies would promote policies within their jurisdiction which assist

them in public protection. In some jurisdictions local official may feel they need to keep the

peace and suppress opposition to immigrant minorities, by promoting enforcement and removal

policies. On the other hand, in areas where immigrant populations are a large proportion of the

population, local law enforcement measures could hinder law enforcement's ability to perform

their jobs effectively.[29] Some states and many localities have designated themselves "sanctuary

cities," refusing to use state and local resources to implement federal immigration laws and/or

prohibiting law enforcement officials from inquiring as to an individual's immigration status

while investigating possible crimes.

<center>Immigration Federalism: Cooperation or Conflict?</center>

The past few decades has witnessed an apparent change of the expected roles of the

federal and subnational governments in immigration policy. Interior immigration enforcement

dynamics continue to develop beyond what the above examples can properly demonstrate. In

---

[29] In such a diverse policy environment, law enforcement might certainly prefer to show potential victims of crimes
they are not interested in their legal status so these individuals feel comfortable coming forward to discuss crimes
against them or details about injustice against others.

July 2009 Secretary of The Department of Homeland Security (DHS), Janet Napolitano, issued a

directive establishing a new set of policy guidelines which significantly altered the 287g program

to focus upon top priority and criminal aliens.   This memo signaled a change in policy direction

from the new Obama administration towards standardization of local enforcement of

immigration law. The new policy direction also established the mandatory pursuit of all charges

prior to being reviewed for removal by federal authorities as an attempt to prevent arrests for

minor offenses as a precursor to initiate removal proceedings.   This decision deprived

participating sub-national governments of a flexible partnership with which they could address

and customize illegal immigration enforcement efforts in their communities.

The changes in the 287g program described above marked a noticeable shift in the

program's original intent as established by Congress. The intent of the 287g creation was to

intentionally give local law enforcement agencies a tool to help compensate for the federal

immigration agency's limitations. Representative Lamar Smith (R-Texas) said of the bill "The

goal was to really enable those local law enforcement authorities who wanted to enforce the

immigration laws in whatever way they thought best, and that might or might not include those

who have committed serious crimes."[30] Essentially the new standardized program of placing

focus on identification of criminal aliens for removal enables federal authorities to potentially

reject transfer requests of detained illegal aliens if their criminal record does not meet the new

priority levels.   These changes initiated by the federal government marked a departure in the

established role of state and local law agencies in the enforcement of immigration policy and in

subnational governments' ability to combat illegal immigration. Furthermore, by placing

criminal activity as a specification of removability relegated the program to one which is

---

[30] Pg.3 "The 287g Program: Protecting Home Towns and Homeland" by Jessica M. Vaughan and James R.
Edwards, Jr. October 2009 Center for Immigration Studies: Backgrounder

essentially no different than a variety of other programs which already target only criminal aliens.

The worthiness of the 287g program to be classified as a flexible program and a model for cooperative federalism were diminished by the actions of the federal government. The new ultimatum set by the federal government has effectively reduced the mutual benefits it offered to both subnational and federal government. Subnational governments have sought and continue to seek alternative means to discourage illegal immigration, as SB 1070 and HB 56 demonstrate. Ironically, the federal government is now beginning to sue the states for violating the plenary power of the federal government. However, much of the enacted state immigration legislation in the Arizona and Alabama examples essentially mirrors federal legislation by criminalizing illegal immigration. If the state laws are upheld, it would ultimately allow the usage of inherent police powers to replace the authority taken from them with the revocation and alterations of the 287g memorandums of agreements. It is reasonable to assume that the lack of cooperation from the federal government directly resulted in the escalation of immigration criminalization laws at the state level, as Alabama and Arizona were two of the first three states to adopt a jurisdiction wide 287g program.

State policy and programs regarding immigrants or in relation to immigration policy are largely reactions to an intergovernmental setting created by a lack of clearly defined governmental roles and comprehensive policy by the federal government. In 2009 the Immigration Reform Policy Committee of the National Conference of State Legislatures stated "the impact of the federal government's immigration policy decisions are directly felt by the states." The report goes on to state this impact is a direct result of the requirements of states and localities to provide federally mandated services to address the specialized needs of immigrants

which encourage their integration into the economic, social and civic life in America. The NCSL finds the fiscal costs on subnational governments are in the areas of education, health, and law enforcement systems. Therefore, with no ability to tailor participatory requirements for federally mandated programs - the main goal of subnational immigration policies is to affect the migration flows of illegal immigrants by deterring settlement within state borders or through their own enforcement efforts that leads to removal. Not surprisingly, such subnational measures vary in regards to their scope and stringency towards the targeted immigrant population.

Currently the state and local law enforcement's role remains less clearly defined and more controversial than any other area of subnational immigration policy. The inherent authority for law enforcement agents to arrest individuals for violation of federal criminal or civil immigration violations has not been expressly preempted by Congress. Congress's exclusive authority to define the laws that govern immigration matters does not necessarily imply the exclusive authority to enforce those laws. The President has the constitutional authority to enforce federal immigration laws in any manner he or she sees fit, so long as in doing so he does not frustrate the will of congress.[31] Still, Congress has the authority to deny the states any role in immigration law enforcement, yet it has never done so.[32] Furthermore, the federal government has never established that local and state police are required to enforce immigration law. At most, it has asked state and local governments to make the decision. Thus, local officials and policy makers have a choice.

---

[31] The executive branch also adopted this civil-criminal distinction in defining the proper role of subnational enforcement agents. However, in 2002 an announcement by the Department of Justice moved away from the previous civil-criminal distinctions in declaring that states have "inherent authority" to enforce the civil provisions of immigration law in addition to the criminal provision.

[32] Congress has amended the Immigration and Naturalization Act of 1952 many times since its original inception, however it has never defined where federal regulation ends and state regulation begins.

For many states and local law enforcement agencies, this choice means entering into Memoranda of Agreement with federal authorities in a collaborative effort to control immigration through law enforcement; others have passed laws to direct law enforcement's role away from federal immigration matters in general, while others have simply maintained the status quo. Miriam Wells (2004) notes that the "effective enforcement" of immigration laws depends on lower levels of government. Yet, the current system is characterized as a "multilayered jurisdictional patchwork"[33] of immigration enforcement where policy may change depending on where one stands.[34] In contrast to the enforcement efforts highlighted in the Arizona and Alabama examples, other commentators state that the real obstruction to the federal government's ability to enforce immigration laws lies in the various sanctuary policies across subnational jurisdictions.[35] A report written under a pseudonym by a retired government official with former experience in immigration administration notes that the federal government does nothing to discourage sanctuary policies – even at a time when it has sued other states for trying to assist the federal government in enforcement efforts. When viewed through a federalism lens, noncooperation policies are seemingly the conflicting policies while the 287g program serves as a successful example of prevailing cooperative federalism. Yet, the enforcement of illegal immigration seems far more controversial than the non-enforcement policies.

State legislative activity concerning illegal immigration has increased significantly over the past several years, a trend that is only likely to continue or accelerate due to changing federal priorities. Since states cannot align themselves as part of a functional federal partnership in the federal immigration law, aggressive immigrant policy is likely to continue to discourage illegal

---

[33] Multilayered Jurisdictional Patchwork or MJP is the emerging confusion and often contradictory geographical dispersion of immigration enforcement authority in the United States.
[34] This description is emphasized by Monica Varsanyi, Paul Lewis, Doris Provine, and Scott Decker in their writings for the National Science Foundation.
[35] W.D. Reasoner. Center for Immigration Studies

immigration at the state level.   State elected officials are likely to strategically implement laws which criminalize illegal immigrants' presence within their borders as well as actions which hope to deter settlement and migration patterns away from the state through laws affecting illegal immigrants' daily lives. The next section provides a discussion of the federalism and policy diffusion literatures in an effort to explore the policy adoption dynamics between the federal government and American states.

<div align="center">Federalism, Diffusion, and Immigration Policy Adoption</div>

The impact of immigration costs vary by level of government with pressures increasing at each lower level. Overall, illegal not legal immigrants are more likely to generate an overall negative fiscal impact (Fix & Passel, 1994).   The distribution of authority in a federal system is by design a division amongst many levels of government, who does what when and how, is the result of a complex negotiating process between levels of government. The system eliminates a narrow set of options, but it allows actors to select from a wide variety of other strategies and possibilities. Systematically thinking, the decentralization of immigration authority is a characteristic of a federalist system where states and localities are increasing their involvement. Peter Spiro (1997) has argued that even the most discriminatory state policies may be beneficial by performing a "steam valve" function in which immigrant pressures are satisfied through lower level actions thereby relieving pressures for similar national reform which may be undesirable to others.

The opportunistic character of American federalism promotes cooperation between levels that agree on similar solutions to a common problem. The experimentalism afforded by federalism means that policy ideas may come from many sources. What scholars refer to as bottom-up federalism (Shipan & Volden, 2006), is where local laws influence statewide policy

adoptions. However, if too many actors in the system refuse to cooperate, the balance of power becomes asymmetrical causing a shift toward more central control. Learning how to balance uniformity with experimentalism is not a new debate in federalism discussions; the separation of powers creates a "matrix of intergovernmental relationships" in the US which maintains simultaneous room for competition and cooperation between tiers of government (Elazar, 1984). This description is currently the case with immigration enforcement policy, where states may choose to participate through cooperative MOAs, but many more localities have enacted non-enforcement policies. Some states and communities have developed immigrant friendly regulations including state funded benefits programs, prenatal care programs for undocumented mothers, migrant day laborer centers, sanctuary laws and instate tuition options for undocumented immigrant children. Research on California cities found that immigration incorporations, as measured by pro immigrant law enforcement policies, are likely to be initiated by professional bureaucrats, rather than through legislative or executive means (Lewis & Ramakrishan, 2007).

Theories of federalism note that governments are power maximizing actors. Given the power differential between the central government and the states, the temptation for national politicians to encroach on state authority is quite formidable and extreme encroachment can destroy a federation (Bednar, 2004). However, self-interested state actors are also interested in maintaining their power, and therefore a balance of power would develop as a result of competition between levels of government. This arrangement most likely produces coordinated action between them. Martha Derthick (1987) has echoed this concept with her theory of executive federalism. She notes that the executive branches of the national and state government act as an administrative dimension of federalism, and have greater power by virtue of increases

in the use of administrative tools and techniques that can enhance their roles and responsibilities in domestic public affairs. Control over the presidency and a few governorships can be a sufficient base to launch important policy innovations where coordination can be achieved through intergovernmental bargaining where such negotiations rarely involve the legislative branch (Bakvis & Brown, 2010). The party system aids in streamlining this process and could really be viewed as a system itself because it acts as a force or factor of the decentralization process.

Essentially, the American federalism system is complex where actors at each level interact within the federalist structure to produce policy. Federalism is not a static system but a set of institutional structures that provide some primary rules of conduct. One cannot understand the whole without examination of its parts – federal government, state governments, and local governments – and how they are interconnected. Subnational governments provide a great deal of variation to test theories of policy innovation and governmental decision making.

Studies of policy diffusion have considered the impact of external factors on state policymaking; diffusion theory tends to focus on policy innovation where a program or policy being adopted is new to the jurisdiction adopting it. The notion that policies spread from one state to another is referred to as "policy diffusion" and was pioneered by political scientists Jack Walker (1969) and Virginia Gray (1973). Specifically, diffusion occurs when one government's decision about policy adoption is influenced by previous choices of other governments. Because of limited time and information, state level policymakers may rely on cognitive shortcuts such as communicating with or observing other state actions on any given policy consideration when making decisions. Studies of the horizontal diffusion process found evidence of policies spreading from geographical neighbor to neighbor (Berry & Berry, 1990) or across states with

shared similarities like race (Case, Rosen, & Hines, 1993), ideology (Grossback, Nicholson-Crotty, & Peterson, 2004), budgets (Volden, 2006) or religion, language, and culture (Simmons & Elkins, 2004).

States are cradled as the middle tier of the federalism system, thus the policies they create should be studied within this context (Krane, 2007). Many studies have shown the spread of specific policies horizontally, yet the diffusion process is inherently intergovernmental with newer studies examining vertical diffusion as well (Shipan & Volden, 2006). Vertical diffusion occurs because of "a search for ideas from within and pressures from below and outside to adopt policy innovations" (Sapat, 2004). In accordance with the steam valve pressure theory local 287g adoptions may relieve pressure for state governments to also enact policies. The horizontal diffusion of policy innovations in the federal system is embedded in the notion of competition where states are competing with each other in nearly every policy and program area; this competition fosters a creation of new programs or to replicate policies and programs implemented by other states. Horizontal diffusion theory notes the likelihood of policy adoption increases as neighboring states adopt the same policy. The diffusion of the 287g program offers the chances to not only explore politics within the state but also how and why the policy actions of other governments and political actors influences state level policy choices.

State policy decisions are influenced by multifaceted patterns of information exchange (Hale, 2011). In the American intergovernmental system, policy ideas which provide solutions to perceived problems may come from many different sources; local policies as well as national policy may inform state level actors. There have been a few studies of diffusion from locality to locality (Godwin & Schroedel, 2000; Knoke, 1982) and of policies bubbling up from states to the national government (Boecklman, 1992; Mossberger, 1999). Additional studies of vertical

diffusion have focused on the downward pressures from the federal government to states, such as through the effects of intergovernmental grant conditions (Welch & Thompson, 1980; Allen, Pettus, & Haider-Markel, 2004; McCann, Shipan, & Volden, 2010) all of which may encourage the diffusion of state policy adoptions. Shipan and Volden (2006) were the first to study the effects of local to state vertical policy, alongside state to state horizontal diffusion and nation to state diffusion, finding some evidence that policies do bubble up from city governments to state governments.

In a hierarchical system, top-down pressures as well as bottom-up pressures add a vertical component to horizontal diffusion in determining state level actions. Developments at the national level such as presidential elections, Supreme Court decisions, or congressional debates can affect the diffusion process (Roh & Haider-Markel, 2003) or send signals to the states concerning federal preferences (Allen, Pettus, & Haider-Markel, 2004) and the potential for preemption on future actions. Furthermore, developments at the national level affect all states and localities simultaneously.

The diffusion theory argues that there can be vertical movement of innovation as well as horizontal; while the policy choices considered by state actors may be influenced by the choices of other actors, the questions of why policies spread and why these policies vary are better explained as an internal function. State politics and policy literatures are discussed in the next chapter as well as how the specific characteristics of the immigration policy under examination relate to the decision making process. Also, the next chapter creates the model in which all of the above are incorporated and evaluated.

In 2011, Boushey and Luedtke compared state government adoptions of immigration control and integration measures from 2005 through 2007 and found the level of legislative

professionalism to be a significant predictor of both integration and control bill enactments, while the party control of state government did not reach significance for either type of policy enactments.[36] Chavez and Provine (2009) explore state level legislation from 2005 to 2006 using four perspectives as basis of the analysis of racial/ethnic threat, economic threat, criminal threat, and political/conservative ideology. Variables measured included the % unemployed 2004, median income 2004, percentage below poverty 2004, violent crime rate 2004, and property crime rate 2004 for examination in a bivariate relationship model. They find no support for arguments that restrictionist legislation is motivated by the economic threat or the criminal threat of immigrant populations. Also, they did not find any significant differences between pro-immigrant and restrictionist legislation in states on the government ideology scale or in states with Republican governor.

The Chavez and Provine (2009) analysis also utilized a multivariate analysis model including interaction terms and found that citizen ideology is the only factor that is significantly related to restrictionist immigrant legislation, where states with more conservative citizen ideology are more likely to impose restrictions on immigrants. More conservative state government ideology and having a Republican governor are not significantly associated with enacting restrictionist legislation. Furthermore, the interactions between percent Hispanic population and both citizen and state government ideology were not significant in the 2009 study.

---

[36] Other variables such as state per capita GDP and percent population with a BA were each also significant for integration and control bill enactments. Percent foreign born was significant for integration bill but not control bills, percent change foreign born population was significant for both but much more so for control enactments at the .005 level. A policy liberalism score is negatively correlated with both types of bill enactments, but is only significant for integrative measures. The percent gross state product from agricultures was not a significant predictor for either forms of immigration bill enactment.

Ramakrishnan and Lewis (2005) examine immigration related policies among California municipalities and conclude that population size and partisanship at the local level help explain the tendency to adopt immigration legislation, even after controlling for the proportion of the population that is foreign-born or recently arrived. Ramakrishnan and Wong (2007) consider the pattern of policy making across the United States by examining a variety of contextual variables, including demographic changes, local economies, and local political opportunity structures. They find that the factors associated with restrictionist and pro-immigrant municipal legislation differed, though in both situations, larger cities are the more likely ones to act, with pro-immigrant ordinances generally emerging from very large cities, and restrictionist ordinances being passed in medium-sized cities, while smaller places tended to be inactive. Demographic factors, such as growth in the Latino population, Latino proportion of the population, and poverty and economic disadvantage, had little explanatory value. Political factors, however, were relevant, with restrictionist legislation more likely to be proposed and passed in Republican areas, while Democratic areas were more likely to propose and pass pro-immigrant legislation.

CHAPTER 3: THEORIES AND HYPOTHESES

"American federalism is more than a maze of institutions; it is a matrix of reciprocal power" (Krane, 1993). The model presented here adopts this federal matrix concept by viewing state 287g adoptions as linkages across multiple levels of government in combination with state internal determinants. The first section notes the diffusion influences of state-to-state horizontal diffusion followed by identification of the influential characteristics that stimulate nation-to-state diffusion. Each of these diffusion processes are external influences on state policy adoption. Additionally, a local-to-state diffusion component is discussed where policy adoptions which take place within the state act as a stimulant or deterrent of state policy adoption. The third section details the internal state characteristics that are influential to 287g policy adoptions such as political, demographic, and fiscal burden factors. The last section of this chapter concludes by listing all proposed hypotheses to be tested.

Diffusion Influences

External Government Actions and Actors:

External diffusion theory postulates that external pressures for states to adopt a policy may be positive. In other words, states are more likely to adopt policies and programs when other governmental units have already adopted the policy (Berry & Berry, 1990). This diffusion pattern occurs because state level decision makers pay attention to and are influenced by the actions of other state governments for various reasons, such as to learn of good policy or to avoid negative spillover effects due to other states' actions. Immigration enforcement policies target unauthorized immigrants for removal, but they also heighten the threat of enforcement which

encourages immigrant populations to voluntarily leave that jurisdiction, known as self-deportation or a strategy of attrition through enforcement. Consequently, a spillover effect occurs due to outmigration from one state to another jurisdiction or a nearby state. If this host state or receiving state sees this spillover as negative it evokes pressures to also adopt a 287g program. Therefore, a state's geographical proximity is directly related to the horizontal diffusion process of 287g program adoptions from state to state, and it is expected that a state is more likely to adopt a 287g program if a neighboring state has already done so.

External diffusion of policy can also be from the top-down, occurring when national government involvement or actions attract attention to the policy consequently stimulating policy activity at the state level (Baumgartner, Gray, & Lowery, 2009). The vertical or national influences models show that state policy adoption is influenced by national government's policy adoption and non-policymaking activity by signaling preferences and potential for future action (Allen, Pettus, & Haider-Markel, 2004; Karch, 2008; McCann, Shipan, & Volden, 2010). The power for local agents to enforce civil immigration violations is legislatively granted through participation in the 287g program, but it is operated by the Department of Homeland Security under the president's executive leadership.[37] In this arrangement, the president functions as a national overseer and influences the extent of subnational actions. Because national activity does not necessitate a positive impact on all states (Mooney, 2001), changing presidential regimes may stimulate varying levels of state responsiveness and openness toward the cooperative enforcement program. While there are many state level political elites and politicians, the

---

[37] The power for local agents to enforce civil immigration violations is legislatively granted through participation in the 287g program, operated by the DHS under the president's executive leadership. Classic federalism studies note this pattern forms because of efforts to centralize control at the national level while simultaneously allowing flexibility or freedom of innovation for lower levels. Peter Schuck (2009) argues that contemporary federalism operates as a functional reality in a complicated federal-state relationship system where federal goals are served by sub federal implementation of Congressional legislation guided by an executive overseer. In this arrangement, the president has the greatest influence over agencies that are headed by his cabinet members (Moe, 1985; Wood & Waterman, 1994).

governor above all others has the ability to affect the adoption of a 287g program the most. A governor could veto any legislative action which called for the program's adoption; also, as head of the executive cabinet he could support or halt any bureaucratic steps toward adoption. When enforcement preferences align government executives will work together to form a program of mutual benefit (Agranoff & McGuire, 2004).[38]

However, the state's determination on whether or not to adopt the program creates an interdependent dynamic of intergovernmental relationships that Schuck (2009) refers to as a functional reality of contemporary federalism. The executives at different levels share exclusive influence over the adoption of 287g programs, an arrangement referred to as executive federalism (Derthick, 1987). Since the sharing of functions is the sharing of power and political parties themselves are institutions of power, the parties function as a tool of influence between the president and the governors. Thus according to the theories of executive federalism, it is hypothesized that party cohesion between the federal and state executives will have a positive influence on 287g program adoptions.

Local Policy Diffusion Influences:

Agenda setting theories note that lower levels of government adopt policies to keep issues on the policy agenda. In a similar way cities and local jurisdictions raise issues onto the state's agenda by adopting policies or by signaling to the state governments their preferences. As more and more localities adopt a policy it begins to get noticed by state officials who look to these localities for policy ideas to pull up to the state level. Relatedly, the spread of local adoption of similar policies gains momentum until they are ultimately adopted at the state level. For example, the governor of New Mexico issued an executive order prohibiting state law

---

[38] Through state voluntary participation in the 287g program "agents of the national government" are essentially placed on the streets, providing the federal government with the "quintessential force multiplier" expanding the illegal immigration enforcement efforts for all levels (Kobach, 2005).

enforcement from inquiring about immigration status following the adoption of similar provisions by its two largest cities. Other authors have referred to this process as the 'snowball effect' because each additional local level policy increases the chances of state level adoption (Shipan & Volden, 2006). Therefore, I might expect to find a positive relationship of local policies diffusing up to state level adoptions.

On the other hand, Shipan and Volden (2006) speculate that initiatives at one level of government may exert a weakening influence to similar initiatives at another level because they reduce the pressure to adopt the policy. A problematic issue requiring policy solutions may be isolated to a particular locale or geographical area, and once an adopted policy addresses the issue it is unnecessary for other governments to also adopt. When this process occurs, a "pressure valve effect" has taken place. For example, North Carolina and Virginia have the most locally active 287g programs but have not adopted similar policies at the state level. These adoptions may indicate the importance of this policy as relevant only to the cities and counties that adopted them. If the pressure valve theory is correct, I expect local level adoptions to relieve pressure on state decision makers, whereby such activity reduces the probability of state adoption.

Additionally, as geographical proximity of a state to the southern border of the United States may make it more susceptible to Hispanic/Latino immigrant groups. States which border with the southern hemisphere provide points of entry which make them uniquely positioned to be affected by immigrant populations entering the United States and settling these areas. Therefore, I expect states located on the southern border are more likely to adopt 287g programs.

Internal Determinants of State Level 287g Adoptions

External factors such as regional proximity or national influences can play a role in the diffusion of policy; however, they are not the only contributing factors of state policy adoptions. Internal factors can also play an important role. The internal determinants model posits that the decision to adopt policy is attributed to intrastate characteristics. The following discussion follows in this tradition and identifies the internal state explanations of 287g adoptions.

Political Factors:

Public opinion and political ideology literatures conclude that measures of public support on an issue or measures of state ideology are both relevant variables to predict state policy. In general, public opinion nationwide tends to be negative toward immigration with polls indicating majority support among the American public for new restrictions on both legal and illegal immigration (Burns & Gimpel, 2000). Furthermore, as David Mayhew (2008) notes "possibly no policy area has brought a greater mismatch between public opinion and government action than immigration".[39] Additionally, Cornelius and Rosenblum (2005) find that native citizens support reductions in the number of immigrants and support restrictions on immigrant access to public services by wide margins.[40] Despite public opinion toward immigration control and current views calling for a decrease in immigrant numbers, a national policy providing meaningful contraction in the volume of immigrant inflow has yet to pass.

Additionally, liberal and conservative cleavages do not cut consistently for immigration policy politics. For example, the need to enforce the rule of law and state's rights of authority

---

[39] P. 304. Mayhew, David. 2008. Parties and policies: How the American government works.
[40] Studies of welfare policies and immigrant access have concluded that a liberal public ideology is strongly correlated with inclusive welfare benefits for immigrants (Hero & Preuhs, 2007), but this could be a demonstration of a liberal culture's willingness to extend welfare benefits in general. Similarly, Graefe et al. (2008) also found the ideological leanings and political preferences of citizens to be a statistically significant determinant of immigrant welfare policy.

are values that would resonate with a conservative public. However, undocumented workers

provide needed labor for employers, and this condition is notably a pro-business rationale that is

also important to conservatives. Thus, the liberal or conservative orientation of a state's decision

makers may not be a valuable predictor of 287g program adoptions because of this split that is

particularly relevant to immigration policy. Furthermore, partisanship divisions within the

Republican Party present a particular dilemma in that they must balance the party's current

constituents without alienating any potential future voting blocs (Hawley, 2011), as when

immigrants have naturalized they overwhelmingly have voted with the Democratic Party (Taylor

& Fry, 2007). Basically, the Republican Party must juggle the tensions that exist between a

fairly intense anti-immigration component in its base and a more open-borders inclination among

some of its business allies.[41]   In keeping with the findings of the Chavez and Provine (2009)

who found that citizen ideology as the only factor significantly related to restrictionist

immigration legislation, it is hypothesized here that states with a more conservative citizen

ideology are more likely to adopt 287g programs.

Demographic Context:

Racial and ethnic diversity is a defining characteristic of state politics; therefore, the size

and composition of state populations may impact policy adoptions (Key, 1949; Hero, 1998).

Ayers, Hofstetter, Schnakenberg, and Kolody (2009) conclude that racial attitudes matter for

immigration policy positions finding that attitudes related to Latino aversion and Latino context

were among the strongest associations involving immigration policy preferences.[42] The

importance of context has long been recognized in the "racial threat" hypothesis literature where

---

[41] National security concerns have also complicated the immigration issue (Neiman, Johnson, & Bowler, 2006).
[42] Much of immigration policy and politics has previously focused on the effects of personal finances and economic evaluations as influences on immigration attitudes and Latino aversion theories – however, Ayers et al. data do not support previous studies finding associations between these two items.

negative political responses against increased demands by minority groups may result or culminate through public policy, often referred to as a racial backlash (Key, 1949; Radcliff & Saiz, 1995). Additionally, Huntington (2004) notes that nativist reactions from residents toward immigrants, even in areas of low immigration, has led to the passage of illegal immigration control measures. Therefore, the level and presence of minority immigrant populations may lead to demand for enforcement measures.

In new growth states, the native population may react to immigration as a political or cultural threat and support immigration control efforts. A similar phenomenon of "clotting" of immigrants as described by Money (1997)[43], particularly UDIs, who are Hispanic, is occurring in regions of the U.S that previously have either been homogenous racially and culturally or had only two main racial groups in their societies. For example, Audrey Singer (2004) documented the growth of new immigrant gateways such as Salt Lake City, Utah and Raleigh, North Carolina in the 1980s and 1990s. These new gateway cities with relatively limited Hispanic populations are now experiencing among the highest rates of growth in new Hispanic immigration when compared with older gateway cities such as Cleveland, Buffalo, and New York City.[44]

The contact theory suggests that personal interactions with individuals from other demographic groups will tend to decrease negative feelings toward that group (Allport, 1954). The contact theory would predict that reactions to sudden demographic changes would precede any meaningful contact with new populations of differing cultures and ethnic demographics. Similarly, Esbenshade (2007) concludes that it is the pace of demographic change, rather than the relative proportions of immigrants to the total populations, that induce demands for

---

[43] Jeannette Money's (1999) study of immigrants settling in just a few counties in the United Kingdom highlighted the importance of political geography, where immigration into heavy immigrant districts lead to greater salience of public discontent with liberal immigration policies.
[44] Andrew Thangasamy (2010) http://site.ebrary.com/lib/alabama/Doc?id=10430481&ppg=24

restrictions on immigration. There are many studies of the US localities that examine the

dynamics between policy adoptions and demographics, finding that the paces of demographic

change rather than the level of immigrant populations that influence implementation of local

anti-immigration policy (Esbenshade, 2007; Esbenshade & Obzurt, 2008). Shahani and Greene

(2009) in their case study of local participants in the 287g program find that the rate of growth of

the Hispanic populations was above national averages for local areas where the program was

adopted. Additionally, Wong (Forthcoming) also examines the 287g program in localities

through examination of requests to participate in the program and the localities where the

program was implemented. After consideration of crime rates, demographic context, political

partisanship, households speaking Spanish, and economic competition between Hispanic/Latinos

and African Americans he finds that that as the Hispanic/Latino share of the population grows

counties become more likely to pursue formal cooperation with ICE and localities with

Republican majorities were highly likely to request participation in the program.[45] These

findings indicate that it may not be immigration that the public opposes but who the immigrants

are that churns desires for immigration enforcement measures. It is likely that increasing

changes in the states demographics makes 287g program adoptions more likely.[46]

Financial Considerations:

        Discussions about illegal immigrants frequently focus on costs that are imposed on state

and local governments often depicting unauthorized immigrants as a burden (Passel & Fix,

1994). State and local governments provide services for the public, and immigrants arrive to the

---

[45] Wong considers foreign-born population characteristics with measures of the percent per jurisdiction population and change in foreign-born population within local jurisdictions and also accounts for the level and change in the racial/ethnic makeup of the locality as percent Hispanic/Latino population as well as change, finding only percent change in the Hispanic/Latino population is positively related to local cooperation with federal immigration enforcement authorities.

[46] Wong found that the non-citizen percentage of the total population was not significantly related to local cooperation with federal immigration enforcement authorities; it was a positive relationship but never reached statistical significance.

United States in need of social services. When demands for public services outweigh the revenues available to pay for them, these governments experience fiscal stress.

According to a recent nonpartisan Congressional Budget Office report, state and local taxes paid by illegal immigrants fail to offset the costs of public services, and subnational governments have limited options for avoiding or minimizing those costs. The National Conference of State Legislatures' immigration reform committee has stressed the costs of immigration to the states are greatest in the areas of healthcare and education. As the federal government legislated it mandatory for emergency healthcare to be provided to anyone regardless of immigration status in the Emergency Medical Treatment and Labor Act of 1986, healthcare costs are a source of cost passing from the federal government to the subnational governments of immigrant populations. Additionally, healthcare costs also increase when states provide free immunizations to immigrant children, which is beneficial to the public at large, and prenatal care for immigrant women. A 2006 report by researchers at UNC-Chapel Hill studying immigrants' impact on the state of North Carolina listed healthcare costs as a primary source of state spending on the Hispanic immigrant population in the state (Nguyen & Gill, 2010). Thus, the burden for providing healthcare to immigrant populations is likely to be positively associated with the adoption of enforcement programs.

The costs of illegal immigration for education are particularly "unavoidable" because of federal education initiatives and Supreme Court decisions. For example, The Supreme Court has determined that illegal immigrant children have a right to free public education, and the national No Child Left Behind (NCLB)[47] initiative requires implementation of certain programs that will

---

[47] The No Child Left Behind Act of 2001, mandates annual testing of all students in grades three through eight and requires that schools make annual progress in meeting student performance goals for all students and for separate groups of students characterized by race, ethnicity, poverty, disability, and limited English proficiency. The federal government then rewards schools that succeed in meeting state-imposed achievement goals and sanctions schools

particularly be accessed by immigrants, such as English Language educational programs. [48]

Therefore, the fiscal impact of immigrants legal and illegal is beginning to be regarded as a type

of unfunded mandate (Skerry, 1995). Providing educational services to unregulated illegal

immigrants has lead to the penultimate unfunded mandate for state and local governments.

Gray (2004) notes that states with a large population like California are able to provide

services equivalent to those of nation-states. Yet, Senator Barbara Boxer of California has

wondered whether her state could afford to educate the children of illegal immigrants (Schrag,

2010). States with smaller populations do not have the same advantages afforded by economies

of scale and are limited in what they can provide in services for undocumented immigrants.

State and local governments bear the greatest fiscal responsibility in regard to immigration,

primarily through the cost of educating children and providing services in a second language (Fix

& Passel, 1994; Furuseth & Smith, 2007). The motivation or willingness to participate in 287g

agreement is driven by the fiscal burden that undocumented immigrants impose upon states, and

it is proposed here that in accordance with the tax burden hypothesis that greater fiscal stress on

the state's education system increases the probability of state 287g adoptions.

Education expenditures for the last twenty years have consistently averaged about 22

percent of states' budgets; but, as Murray, Rueben, and Rosenberg (2007) explain the NCLB Act

and related federal mandates have placed upward pressures on education spending. Additionally,

rapid growth in the population of children of immigrants may create challenges for schools in

meeting NCLB's academic assessment requirements (Ruiz-de-Velasco & Fix, 2000). Given

these federally mandated constraints, maintaining the quality and quantity of educational services

---

that fail. The combination of cuts in state funding for education, the inability to adequately raise property taxes, and the rising costs of meeting new student performance standards suggests that over the next few years, there will be a significant increase in both the number of schools classified as failing and the number of students receiving an inadequate education (Reschovsky, 2004).

[48] Plyler v. Doe, 457 US 202 (1982).

provided to the public depends largely on the ability and willingness to increase funds distributed

to the education system. However, because state governments are required to maintain a

balanced budget, enhancing education funds may require increasing taxes or reallocating funds

within the budget. Raising taxes is generally a politically unpopular idea and is likely to be

unsuccessful if put to a popular vote.[49] Findings in education reveal further constraints having

demonstrated that in comparison to younger portions of the population, the elderly appear to

have weaker preferences for K-12 education spending (Vinovskis, 1993); they are less willing to

vote favorably on certain school bond referenda (Button, 1992) and are more willing to support

property tax limitations (Ladd & Wilson, 1982). Poterba (1997) found that, other factors held

constant, the higher is the proportion of people over 65 in a state, the lower is the amount the

state spends (including both state and local spending) per child on K-12 education. Also

noteworthy is the growing racial diversity between the younger and older generations. Other

scholars have noted that the percentage of the school age population that was Hispanic in 1995

was 13 percent, while the percentage of the elderly population that was Hispanic was 5 percent.

Ayers et al. (2006) find that attitudes of aversion to Latinos are more common among older

respondents.[50] Relatedly, Ladd and Murray (2001) find a reduction in per child education

spending when the elderly and the school age populations are members of different racial groups.

The tax burden hypothesis observes that public negative assessment of immigration's impact on

monetary costs or availability of government benefits will engender support for reducing

immigration (Citrin, Green, Muste, & Wong, 1997). Thus, it is expected for the elderly

---

[49] Alabama and Oregon voters chose to reject tax increases even though it was widely recognized in both states that
without additional tax revenues spending on school would be reduced.
[50] The authors evaluated survey responses among Anglos to determine aversion towards Latinos and immigration
policy preferences for legal immigration, Mexican immigration, and granting amnesty to illegal immigrants finding
that opposition to immigration increased slightly when respondents were prompted to consider Mexican immigration
specifically.

proportion of a state's population to increase pressure on state governments to adopt the 287g

program through their lack of support to increase funding to public service programs.

State immigration policy preferences are shaped by the perceived or real strain that

immigrants place on the states integration systems that are federally mandated to be provided to

immigrant populations, such as education and healthcare policy. State capacity to integrate

immigrants has become an increasing burden, and the ability to provide services is stressed. As

this burden of integrating new immigrants into society increases, states will be more likely to

seek enforcement measures.

Hypotheses:

The following list formally restates the assumptions presented above and are the
hypotheses to be tested by the methods and measurement variables detailed in the next chapter of
this dissertation.

*Horizontal Diffusion H₁: A state level 287g adoption is more likely when a neighboring state has
also adopted a 287g program.*

*Top-Down Diffusion/Executive Federalism H₂: The 287g program is more likely to be adopted
by states where the governor is of the same political party as the President.*

*Snow-Ball Federalism H₃: Adoption of local laws increases the likelihood of statewide
adoption; therefore states are more likely to adopt the 287g program if other localities have
already done so*

*Steam Valve Federalism H₄: Adoption of local laws decreases the likelihood of statewide
adoption; therefore states are less likely to adopt 287g program when localities have already
done so.*

*Citizen Political Ideology H₅: States with conservative citizenry are more likely to adopt 287g
programs.*

*State Government Partisanship H₆: States with Democratic representation in state government
leadership positions will be less likely to adopt 287g programs.*

*Hispanic/Latino Population / Racial-Ethnic Threat H₇: States with larger proportions of
Hispanic/Latino residents will be more likely to adopt 287g programs.*

Rate of Growth H$_8$: States experiencing new rates of growth in Hispanic/Latino populations are more likely to enter into 287g programs.

Fiscal Stress H$_9$: Increasing levels of state fiscal stress due to the growing burden of public services in education and health will increase the likelihood for states to enter 287g programs.

Tax Burden/Service Support H$_{10}$: A higher proportion of the state's elderly population increases the likelihood of statewide 287g program adoption.

Geographic Proximity H$_{11}$: States located on the Southern border of the United States will be more likely to adopt the 287g enforcement program.

CHAPTER 4: METHODOLOGY, MODELS, AND MEASUREMENTS

The task of this chapter is to present the model and methodology used for analysis of state level 287g program adoptions and diffusion study. The content of this chapter opens with an introduction to the methodology used for analysis followed by model specifications of the 287g program and concludes with measurement descriptions of each variable used to test the previously discussed hypotheses.

A similar exploration has been presented by Creek and Yoder (2010), but no other study on the adoption and diffusion of state level 287g programs has been conducted. The previous research was presented as an American Political Science Association conference paper and examined a number of economic, sociological and political variables. The previous article finds having a Republican governor, local 287g adoptions, and percent of state budget for public welfare and police and corrections to each be positively and significantly related to state level adoptions. However, the census data information used to code the previous study's demographic data are now outdated and as discussed below, the analysis here utilizes post census 2010 data estimates and represents the most accurate available demographic information available for the time period under study. Since the specific concern here is with analysis of the intergovernmental dynamics of state policy adoption as influenced by national as well as local governments, an explanatory variable utilized here includes national pressures on state governments which were not considered by Creek and Yoder. Additionally, both studies of 287g state adoptions include measures of local policy adoptions. However, the one utilized here is measured is as the percent of the state population living under the program, whereby, the

previous article uses a count variable of the number of localities in the state that have adopted. Lastly, examined here is a variable accounting for local level sanctuary policy adoptions which may go against the wishes of the state government to determine if diverging local policies influence state level adoption and this too was not included in the previous study.   Also, their dataset includes the states of Alaska and Hawaii which is inappropriate of inclusion in diffusion studies, as they have no contiguous bordering states to potentially influence adoption through the diffusion process which they did not find to be a significant factor in state adoptions. Therefore, the current analysis extends on this previous research by including national influences of vertical diffusion, conceptualizes many determinant variables differently, and includes only the 47 continental states, with the exception of Nebraska which is excluded in both studies due to its nonpartisan legislature.

<div align="center">Research Methodology: Event History Analysis</div>

Simply put, Event History Analysis (EHA) is a method used to study events of change across subjects using longitudinal data to analyze not only if an event occurs but when it happens by incorporating causal variables and modeling their effects over a period of time. This methodology is used in many fields to test theories and analyze social science processes. In political science, it has been popularly used for policy adoption and diffusion studies.   Event history analysis of policy adoption typically focuses on the hazard rate function, which demonstrates the potential per time interval for the event to occur given that the event has not occurred prior to the start of the interval for each observation. In other words the hazard rate "varies by year but is the same for each state in each year" (Allison, 1984).

Most event history analysis models must take into consideration censored events, a type of data incompletion for observations that do not experience the event of interest. In policy adoption studies, states that have not experienced the event of interest by the end of the study are considered right censored. Even though an event may not occur, all information per state is included in the data set up until the observation period has ended because each state is at risk of experiencing the event and not experiencing the event is meaningful too.

Events may occur in discrete time intervals, such as yearly, as the exact timing of an event may or may not be precisely recorded. However, social processes are ongoing or continuous in nature but are often measured in discrete intervals as well, such as unemployment rates by month, quarter, or year for example. Therefore, an analysis may use a discrete time method for modeling a continuous time process. For example, in state policy diffusion studies, the issue is not knowing exactly when the policy was adopted (event occurrence) but rather when it was adopted in relation to other state governments. In summary, policy adoption may be a continuous time process, given the nature of adoption at any time during the year by various governments; therefore, the discrete time method is sufficient for analysis[51] and using the year as the unit of analysis is "sufficient to demarcate the occurrence of an event" (Box-Steffensmeier & Jones, 1997).

Discrete Time Model Options

Berry and Berry (1990) note that EHA may produce significant results when it is applied to the adoption of a policy which may or may not occur. The 287g program is such a policy as consideration of the program is not mandatory, and there are no financial incentives which would

---

[51] Balla 2001; Berry and Berry 1990,1992; Hays and Glick 1997; Mintrom 1997; Mintrom and Vergari 1998; Mooney and Lee 1995; True and Mintrom 2001 used discrete time models for continuous time processes in modeling the time path of policy adoptions.

otherwise encourage state adoption.[52] Alternatively, states may not find it necessary to adopt

programs which address federal immigration issues. Therefore, state adoption of a 287g

program is such an event which may or may not occur. There are a few options for modeling

adoption. The different models are described below along with their potential usage for 287g

analysis.

The first option is a repeated events model where observations of the same event may

happen more than once. For example, in policy adoption a state may experience the first

adoption of a program in any interval year and then adopt another program again in a later year

interval. In repeated events models, once an observation experiences the event of interest, it does

not fall out of the data set because it may be at risk of experiencing the event for a second time.[53]

The state of Arizona adopted a task force model in 2005 and then later in 2007 added a statewide

jail enforcement 287g program, and is the only state to have repeated statewide adoption of a

287g program. Therefore, a discrete time model of repeated events would not produce a reliable

analysis since only one state in the dataset experienced a repeated event and is not utilized in this

study.

Second, multiple or competing risks models show that at any time interval each

observation is at risk of experiencing two or more different kinds of events. Multiple events

models are useful when there is reason to believe effects of the explanatory variables differ

among the events and allow for analysis of not only if the event occurs but what kind of event

occurred. When considering the 287g program, there are three types of possible adoptions: task

force, jail enforcement, or both. For states that adopted a statewide 287g program between 1997-

2008, seven states have adopted a task force program, two states have adopted a jail enforcement

---

[52] Policy adoption speeds are increased when the federal government offers financial incentives.
[53] Models of repeated events must also account for the effects of heterogeneity and many methods have developed for dealing with events which are not entirely independent of one another.

program, and no states have adopted a combination of both programs as their first adoption event. While a multiple events model of 287g adoption is interesting, there are too few cases to produce reliable analysis. Lastly, the third option is a non-repeated event model, which is a onetime change in status from non-adoption to adoption of a policy by a state in an observation year. This model is utilized for the current purpose of determining 287g program adoption and is explored in further detail in the following section. The model presented here incorporates both the internal determinants and diffusion determinants of 287g adoption.

<div align="center">Discrete Time Model Construction of 287g Program Adoptions</div>

Event history analysis has been shown to be particularly useful for examining policy innovations because it "can assess the effects on the probability of adoption of characteristics" (Berry & Berry, 1990) and has the added advantage of being able to analyze dependent variables that are right censored (Singer & Willett, 2003). Because the event of interest occurs at discrete time points, each case is represented as a state-year in the dataset as the unit of analysis in policy adoption modeling. It is also important to "have a theoretically sound reason for hypothesizing when a social process for an observation can begin" which is when time starts (Box-Steffensmeier & Jones, 1997). The 287g program can be adopted only once it is created, and it is unlikely that any state could have adopted the program in the same year it was initiated by the federal government. Therefore, the obvious starting time is the first full year after the program's creation, or 1997, and the ending point for this study is 2008 the year before the Obama policy changed the program.

The states which are at risk of adoption include only the 48 contiguous states, minus Nebraska. Alaska and Hawaii are not included because their non-contiguity to other states makes them inappropriate for modeling diffusion patterns. States that do not experience the

<div align="center">55</div>

event by the end of the time period are right censored. The event of interest is the first adoption

of any 287g program on the state level. The analysis will illustrate which independent variables

are significant predictors of adopting a 287g program and whether the risk of adoption

systematically differs across states. The next task, illustrated below, is to define the variables for

testing the previously presented hypotheses.

<center>Measurements and Data Collection</center>

The dependent variable is whether a state entered into a 287g program or not. It is a

dichotomous variable where '0' denotes non-adoption in a given time interval and '1' indicates

adoption.[54] Once a state adopts the policy, it is no longer at risk of adopting and falls out of the

dataset. But, states not adopting the policy prior to the last year represented in the data set are

presumed to remain at risk of adopting through that date and are right censored if they have not

adopted by 2008. The dependent variable's time series for each state consists of a series of 0's

beginning in the first year of the data set and ends with a 1 in the year of 287g program adoption.

For a state not adopting the policy by the last year of analysis, the time series has no variation; it

is a series of 0's starting in the first year through the last year of the entire series. Data for

determining an adoption occurrence and the year were collected from the Immigration and

Customs Enforcement's (ICE) Delegation of Immigration Authority Section 287g Immigration

and Nationality Act's fact sheet.[55] The available information includes all state signed

agreements, the dates signed, the participating law enforcement agency, and the type of program.

Only the state level adoptions for the year that the agreement was signed are indicated by the

dependent variable.

---

[54] Jones, Bradford and Regina P. Branton. 2005. "Beyond Logit and Probit: Cox Duration Models of Single, Repeating and Competing Policy Adoption." State Politics and Policy Quarterly, Vol. 5, No.4, Winter, pp. 420-443.
[55] http://www.ice.gov/news/library/factsheets/287g.htm

Independent Variables

External Diffusion Pressures Variables:

Since the national government may influence state policy adoption (Allen et al., 2004; Mooney, 2001), an executive unity variable is included to indicate when the president and the governor are of the same party. The party of the president from 1997-2010 is well known; however, the determination of gubernatorial parties represented in each state for every year was collected from two sources: the *Book of the States* and the National Governors Association (NGA) Roster.[56] This variable is measured dichotomously denoted as a '1' to indicate when the governor and the president are from the same party and '0' when they are not. It is expected for the alignment between the two executive offices to be positively associated with adoption.

A second external influence on state level adoptions is the actions of other state governments. This influence was measured through the horizontal diffusion variable as a running count of total bordering states with an existing 287g program at the start of each state-year. The data collected from Immigration and Custom's Enforcement provided a record of all 287g programs adopted at the state level. This measure will capture the horizontal diffusion and spillover effect present in the spread of 287g programs through the American states.

---

[56] For most instances the indication of the Governor's party is obvious, and for most states if a change in partisanship occurs from year to year it is due to an election where the winning administration's term typically began in January of the next year. There were a few cases where the governor did not complete a typical term due to appointment to a higher office, or resignation and were replaced by the Lieutenant governor of the same party. However, while rare, there were a few cases when the political party of the governor changed during the year. For example, the recall of Democratic Governor Gray Davis of California in October of 2003 resulted in his replacement with a Republican Governor Arnold Schwarzenegger who assumed office in November 2003. In this example, and in any other similar cases, the political party of the governor in office for the majority of the year was the political party coded for that state year. Since there was a Republican president during 2003, California's executive unity variable code for 2003 is 0, and is a 1 for 2004. The NGA Roster was used to indicate when there was a change in governor's political party that occurred outside of the typical election cycle.

Political Determinant Variables:

State politics and policy studies note that ideology and partisanship affect public policy. However, for immigration policy the partisan divides are unclear with findings across multiple studies of immigration policy utilizing various political variable measurements have been mixed. The model presented here uses a measure of partisan control of state government calculated by using Klarner's (2003) state partisanship database by summing the totals of partisan control across the State House, State Senate, and Governorships. Higher values indicate greater Democratic influence in the state government. Additionally, Chavez and Provine (2009) in their comparison of state restrictionist and pro-immigrant legislation declare the most notable finding in their analyses is that "citizen ideology is the only factor that is significantly related to restrictionist immigrant legislation".[57] Therefore, utilized here is the Berry et al. (1998) time series measure of state citizen ideology which is an index which reflects state voter ideology on a conservative-liberal continuum ranging from 0-100 where high scores indicates liberalism.[58]

Demographic Variables:

Scholars have shown the size and the diversity of a state's race and ethnic populations are important determinants of many policies (Fellowes & Rowe 2004; Tolbert & Hero, 1996). It would be ideal to include a measure of unauthorized immigrants, but the very nature of unauthorized immigration makes this population difficult to measure as they are undocumented and difficult to trace and count.[59] Therefore, here a variable of the percent population per state of Hispanic origin was calculated as a proxy. This variable provides a measure of the presence

---

[57] Pg. 88

[58] The measure is based on the ideological position of each member of congress as indicated by interest group ratings by American for Democratic Action (ADA) and Americans for Constitutional Action (ACA). Average ideology scores for the incumbent and challenger are then weighted by their respective voter support within a particular district and averaged to produce the state citizen ideology score.

[59] Calculating the undocumented population is difficult. Because of their illegal status they are reluctant to present themselves to be counted and documented as illegally present in the US.

of group or racial threat from the population toward a minority population. Data for this variable were obtained from the United State Census Bureau's state demographics from the 2010 post-census database[60], and the level of the Hispanic population is expected to have a positive influence on 287g program adoptions. As new growth states are expected to be more likely to adopt enforcement programs, an additional rate of growth variable is also included (Shanani & Greene, 2009; Tolbert & Hero, 1996). The rate of growth variable was measured using the information collected from the level of Hispanic population for each year and calculating the rate of growth from the Hispanic population from 1990 for each state.

Financial Considerations Variables:

Fiscal stress at the state level occurs due to increased demands for a public good. It is hypothesized here that demands on the state budgets in areas that are mandated by the federal government but that do not allow for states to tailor recipient of public benefits, will be related to adoption of the immigration control program. Additionally, to capture demands placed on the budget, variables of percent state budget allocated to education and health are included and the willingness to support this spending is measured as percent older population variable. The data for state health and education spending was collected from *The State and Local Government Finances Report* issued from the US Census Bureau in the Statistical Abstract of the United States by various years. This percent older population is measured as the population share aged 65+ by state year and the data was collected from the United State Census Bureau.

Existence of Locality with a 287g Program Adoption:

Local program adoptions are associated with the probability that a state may or may not adopt a policy (Shipan & Volden 2006, 2008), either through the snowballing effect or pressure valve effect respectively. This is measured as the proportion of the state population residing in a

---

[60] U.S. Bureau of the Census, *Estimate of the Population of States by Race and Hispanic Origin*: *Various Years.*

locality that has already agreed to participate in the 287g program at the start of each year. This variable measures if either the snowball or steam valve effect of bottom up federalism is influential in 287g adoptions. If the snowball effect is detected in the model in would be indicated with a positive coefficient, but if the steam valve effect is occurring there will be negative coefficient for the Local287g variable.

Existence of Locality Banning Cooperation with Federal Immigration Control Officials:

In continuation of the local adoption influences, a variable indicating if localities with "sanctuary policies" influence state level adoption of enforcement programs at the state level is also included. The National Immigration Law Center's collection of "Laws, Resolution, and Policies Instituted across the US Limiting Enforcement of Immigration Laws by State and Local Authorities" was utilized to collect data on local sanctuary policy.[61] This list, as the name implies, indicates which states, counties, and cities have adopted or made formal resolution regarding the expectations of that jurisdiction's law enforcement agency in exercising immigration enforcement authority or policy when interacting with immigrants. These policies do range in potency and some argue that they merely clarify police expectations without being in direct conflict with federal policy. However, their impact on public perception sends a clear signal as to those localities' immigration stance as either more or less welcoming toward immigrants. Only those localities with policies adopted or renewed since 1997 were included in this analysis. The measurement was calculated by determining the combined total of the populations living in a sanctuary jurisdiction at the start of each year and dividing this sum by the state population.

Local policy adoptions may either apply pressure or reduce pressure to adopt at the state level; therefore, there are conflicting expectations on whether local adoptions of immigration

---

[61] www.nilc.org/document.html?id=203

enforcement policy will be negative or positive. The variable measuring local adoptions of sanctuary policy is included to determine if there is any influence at all as this is important within an intergovernmental setting. Also, determination of such influences may be applicable to future studies of similar intergovernmental policy adoptions.

A program or policy adoption by a state is an event that may or may not occur in any given time period, conditional on not having previously adopted said program or policy in any prior time period of observation. It is extremely important to account for time trends or duration dependence when using discrete-time event history analysis (Box-Steffensmeier & Jones, 1997; Buckley & Westerland, 2004). Since state adoptions of 287g programs may be time dependent or occur within time, the analysis uses a counter variable to count time in years from the first year in the risk set to the last year for each state series. The cumulative distribution chart displayed in Table 1 demonstrates the increasing risk of adoption as time increases, thus the time count variable is appropriate (Buckley & Westerland, 2004).

Finally, issues hypothesized to culminate in the 287g program adoption are more likely to be intensely felt in states on the southern border of the United States where Latino/Hispanic migratory flows are long standing. Furthermore, southern Border States are the first states of contact for migrant populations and are the most probable location for settlement. Therefore, a geographic variable indicating whether a state is on the southern border, with Mexico and the Gulf, of the United States is included.

CHAPTER 5: EMPIRICAL FINDINGS

Data for all the variables described in the previous chapter were collected and coded into a pooled data set of state-year observations. The estimation for the models presented below utilized a discrete time event history analysis of policy adoption. Because the dependent variable is a dichotomous code, a binary logistic regression was performed using SPSS 19.0. The descriptive statistics for each variable are reported in Table 1. Table 3 displays the descriptive statistics of the variables used to test the hypotheses concerning adoption of state level 287g programs.

As scholars of state politics frequently encounter cases where the explanatory variables in a model are highly related to each other (Arceneaux & Huber, 2007), tests of collinearity were conducted by estimating a linear regression with the independent variables from the model and examining the variance inflation factor (VIF) and the results are reported in Table 4. Low tolerance levels correspond to high multicollinearity among the independent variables. Tolerance levels ranged from .526 for the Citizen Ideology Variable to .887 for the Health Variable, therefore in this model none of the tolerance levels are near zero. Examination of The Variance Inflation Factors (VIF) column in Table 4 indicates that none of the variables exceed the 2.1 mark and is well below accepted 10 point threshold (Allison, 1999). Thus, the tolerance and variance inflation factors indicate that multicollinearity is not a major concern in the analyses. The results of the event history analysis are presented below. There are several findings evident from the model and the following discussion interprets the findings of this study.

Variables measuring percent Hispanic and Percent Change in Hispanic Population are included to test the hypothesis that the levels of the Hispanic/Latino population or rate of change in population influence the adoption of 287g programs. The role of vertical diffusion is measured from the top down through the government alignment variable and from the bottom up through local 287g policy adoption and local sanctuary policy adoption. Horizontal diffusion is measured through the neighbor's variable. Also included are variables to measure fiscal stress and the tax burden hypothesis through the percent of state budgets allocated to Education and Health and percent of the population age sixty-five and older. Finally to assess the influence on adoption of citizen ideology and the partisanship of state leaders, variables measuring Citizen Ideology and Party Government Partisanship at the state level are included.

Table 5 shows the results from the binary logistic regression. The model has a 99.0% correctly predicted overall rate; in comparison to the null model, which shows that if you simply guessed that no state would ever adopt it would be correct 98.2% of the time. The odds ratio, expressed in the Exp(B) column, provides an interpretable measure of the relative importance of the variables in a logistic regression model. For dichotomous variables this means that the likelihood of adoption occurring for one category against non-adoption for the other category. When reviewing continuous variables with a positive Beta coefficient, the odds ratio column represents the odds of adoption for a one unit increase in the observed variable, all else being equal.

The explanatory variable measuring the level of Hispanic/Latino population in the states has no significant predictive power on 287g program adoptions. The rate of change in the Hispanic/Latino population is significant (p<.023), and the odds of adoption are 1.5 times more likely in states experiencing a 1 percent rate of change in their Hispanic/Latino population.

These findings support those of Shahani and Greene (2009) who linked participation in the 287g program with demographic changes in the Hispanic/Latino population.

Importantly the model suggests a significant relationship between several of the financial considerations on state policy adoptions. The fiscal stress variables of Education and Health each display p-values of less than .05 and .01, each with positive coefficients (B=.429 and B=1.854). However, the effect of Health spending is larger than the effect of Education spending. Specifically, for a one percentage increase in a state's education spending the odds of that state adopting a 287g program are 6 times more likely than no adoption. Additionally, the model finds a positive and significant relationship between the percent elderly population per state and the adoption of state level 287g program adoptions (B=1.089, $p < 0.05$). This indicates that states with larger percentages of the population over the age of sixty-five are likely to find support for immigration enforcement programs. Adoption of 287g programs are almost 3 times more likely to occur in states with a one percentage increase in the states elderly population. The significant finding of the percent education and health spending of the state's budget differs from those of Creek and Yoder (2010), who did not find the percentages of education and health significant.

Of the diffusion variables, the measures to capture the impact of horizontal diffusion and steam-valve federalism are significant with p values each below 0.05. The coefficient of the Neighbor's variable measuring horizontal diffusion is positive, and indicates that as surrounding states adopt the 287g enforcement program it increases the likelihood of bordering states to also adopt the program. Specifically, for states that share a border with a state that adopts the 287g program, the odds of adoption are 6 times more likely that they will also adopt the program. Also, the bottom-up federalism hypothesis is confirmed to perform a steam-valve function as

indicated by the negative coefficient of the Local287g variable. Specifically, each percentage increase in the state's population living in local jurisdictions that have adopted a 287g program lowers the odds of statewide adoption. On the other hand, the LocalSanctuary Variable does not reach levels of significance indicating that local sanctuary policies does not impact state level adoption of 287g program adoptions. Consistent with the expectation that the probability of states on the Southern border are more likely to adopt the enforcement policy, there was a positive and significant relationship between adoption and geographical location on the US Southern border ($B = 3.513$, $p < 0.05$) as indicated in the SouthernBorder Variable. The odds of adopting the 287g program for states on the Southern border are 34 times higher than a state not on the Southern border.

The political variables of Citizen Ideology and Government Partisanship do not reach significant levels; although their coefficient are in the predicted direction, little inference regarding state adoption can be made from these variables. This replicates the findings of Boushey and Luedtke (2011) who found little connection across various political variables, including state government party, as influential in state level adoptions of restrictive immigration policy in state legislatures. Lastly, the Time variable coefficient is positive ($B=1.402$) and significant ($p<.003$), indicating that policy adoption is more likely as time increases.

Table 1: State Level Participating Jurisdictions

287g State Jurisdiction Participants		
State	Participating Agency	Date MOA Signed
Florida	Florida Department of Law Enforcement	2002
Alabama	Alabama Department of Public Safety	2003
Arizona	Arizona Department of Corrections	2005
Colorado	Colorado Department of Public Safety	2007
Georgia	Georgia Department of Public Safety	2007
New Mexico	New Mexico Department of Corrections	2007
Missouri	Missouri State Highway Patrol	2008
Tennessee	Tennessee Highway Patrol/Department of Public Safety	2008
Minnesota	Minnesota Department of Public Safety	2008

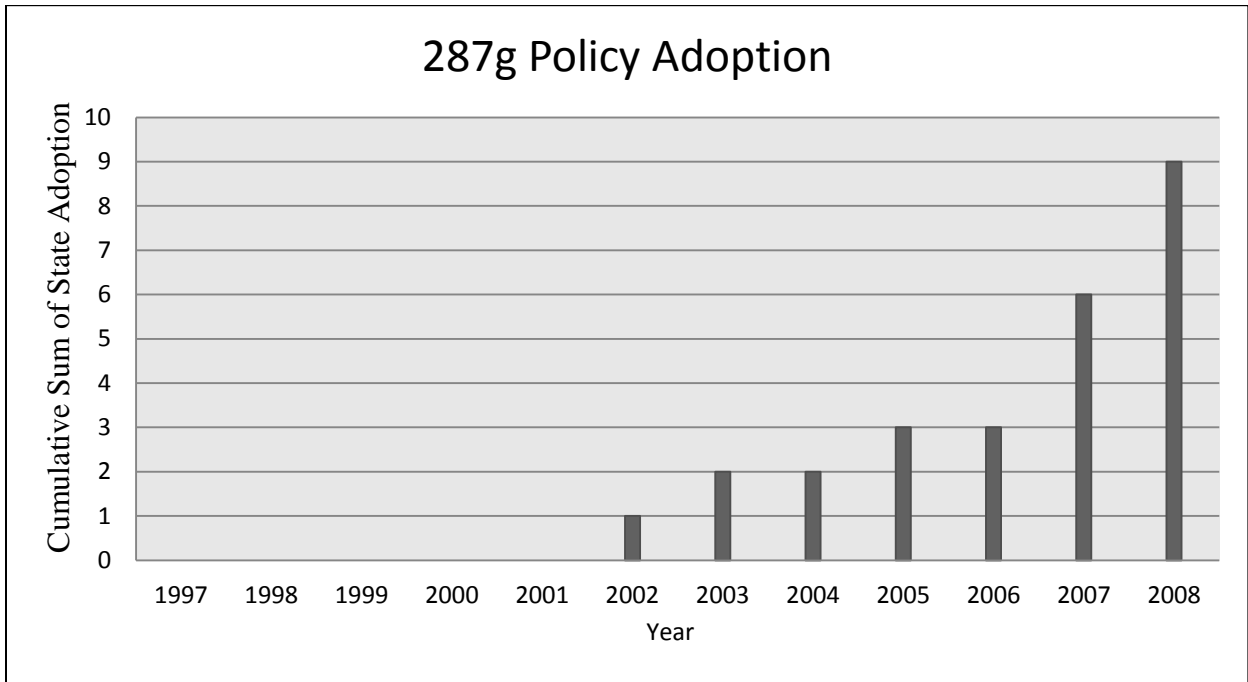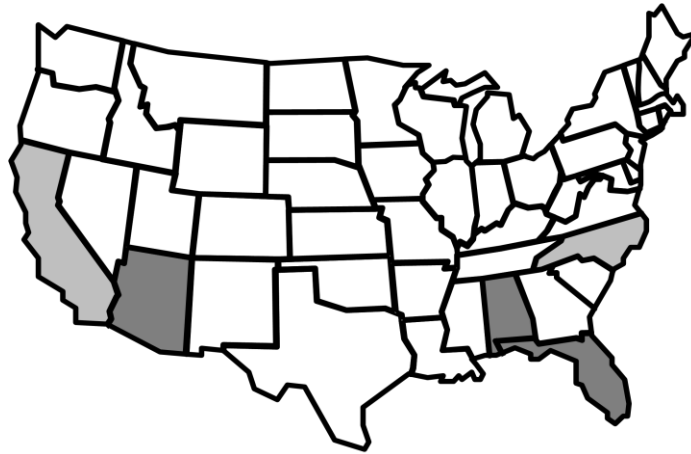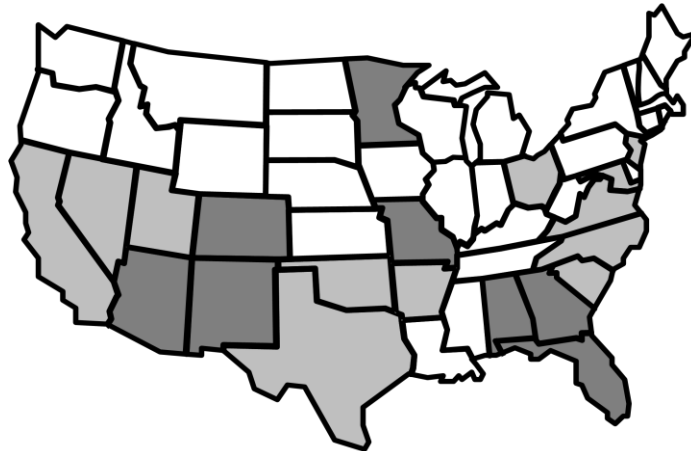**Table 2: Cumulative Sum of State 287g Policy Adoption**

287g Policy Adoption

Figure 1: 287G Program Adoptions For All Jurisdictions

2004

2006

2008

Table 3: Descriptive Statistics of Variables in the 287g Program Adoption Model					
	N	Minimum	Maximum	Mean	Std. Deviation
Policy Adoption	500	0	1	.02	.133
Time	500	1998	2008	2002.89	3.143
Southern Border	500	0	1	.15	.353
Neighbor	500	0	3	.09	.344
Executive Alignment	500	0	1	.45	.498
Local287g	500	0.00	46.24	.8777	4.81684
LocalSanctuary	500	0.00	63.00	2.9609	7.80888
Rate of Change	500	-58.90	855.01	152.1036	136.94914
Hispanic/Latino Population	500	.31	44.86	8.3994	9.23534
Elderly Population	500	8.42	17.59	12.6438	1.52900
EDUCATION	500	19	44	32.30	5.252
HEALTH	500	1	7	3.30	1.280
Citizen Ideology	500	8.45	95.97	52.1770	15.52703
Government Partisanship	500	0	3	1.48	1.063
Valid N (listwise)	500				

Table 4: Collinearity Statistics of Independent Variables in the 287g Program Adoption Model		
	Collinearity Statistics	
	Tolerance	VIF
Time	.642	1.557
Southern Border	.546	1.832
Neighbor	.714	1.400
Executive Alignment	.861	1.161
Local287g	.802	1.247
LocalSanctuary	.749	1.336
Hispanic/Latino Change	.669	1.494
Hispanic/Latino Population	.487	2.051
Older Population	.577	1.734
EDUCATION	.650	1.539
HEALTH	.887	1.128
Citizen Ideology	.526	1.900
Government Partisanship	.723	1.383

Table 5: Classification Table of No Adoption				
		Predicted		
		adopt policy		
Observed		No Adoption	adoption	Percentage Correct
adopt	No Adoption	491	0	100.0
policy	Adoption	9	0	0
Overall Percentage				98.2
Constant is included in the model, no predictor variable are included.				

Table 6: Classification Table of 287g Program Adoption				
		Predicted		
		adopt policy		
Observed		No Adoption	adoption	Percentage Correct
adopt	No Adoption	491	0	100.0
policy	adoption	5	4	44.4
Overall Percentage				99.0
Overall model prediction, including predictor variables.				

	B	Standard Error (SE)	Sig.	Exp(B) Odds Ratio
Time	1.402	.469	.003	4.062
Southernborder	3.513	1.752	.045	33.543
Neighbor	1.863	.915	.042	6.440
Executive Alignment	2.019	1.724	.242	7.527
Local287g	-.397	.184	.031	.672
LocalSanctuary	.042	.076	.580	1.043
Rate of Change	.007	.003	.027	1.007
Hispanic/Latino Population	.094	.068	.169	1.098
Older Population	1.089	.446	.014	2.972
EDUCATION	.429	.195	.028	1.536
HEALTH	1.854	.669	.006	6.386
Citizen Ideology	-.038	.047	.413	.962
Government Partisanship	-.040	.738	.957	.961
Number of Observations	500	500	500	500
Percent Predicted Correctly	99%	99%	99%	99%

Table 7: Estimates of the Logistic Regression EHA Model for 287g program adoptions

Note: The dependent variable equals 1 if a state adopts a 287g Program and zero otherwise. Coefficients are the results of a Binary Logistic Regression with significance <.01, <.05, <.10, two tailed.

CHAPTER 6: SUMMARY AND FUTURE RESEARCH DISCUSSION

Authority over enforcement control measures is granted to the federal government in the plenary power doctrine. This argument stems from the federal government's established plenary power in which control over immigration was defined by the Supreme Court giving the federal government sole authority over creation and enforcement of immigration policy. Wishnie (2001) argues that immigration power is an exclusively federal determination and is a "nondevolvable" power where Congress and the President are constitutionally bound to maintain immigration lawmaking and other foreign affairs-related activities. However, federal legislation passed in 1996, namely The Illegal Immigration Reform and Immigrant Responsibility Act and Personal Responsibility and Work Opportunity Reconciliation Act, opened the door for cooperation in enforcement of immigration policy and devolved authority regarding immigrant benefits to the states. Even though states seemed hesitant to enter the immigration policy arena, a surmounting amount of scholarship is evidence of increased state and local government activity. However, state and local immigration policies continue to raise many constitutional and legal questions regarding the degree to which subnational governments are allowed to produce immigration measures and opponents of such ordinances have filed federal lawsuits challenging their legitimacy (Sandler, 2007). The federal government's challenge of the Arizona Senate Bill 1070 and Alabama's HB 56 discussed in the opening was only the latest in a long line of state activities that have crisscrossed with the federal sphere of influence over immigration.

The devolution of immigration powers to state and local governments is important for several reasons. One, subnational policies may vary in the extent that they are compatible with

national policies and could ultimately impact national policy adoption. For immigration enforcement an emerging divergence is becoming apparent, from cooperative to non-cooperative. Second, there is growing tension between the federal government and the state and local governments, a scenario which is currently being settled in the judiciary. Third, subnational policies and a lack of uniformity for immigration policy enforcement can have significant human impacts in relation to immigrant safety and quality of life. While many state adoptions of immigration policies are largely a response to federal inaction, it does not explain why these policies vary across the states.

The goal of this dissertation was to determine why states adopt the 287g program. As states depend on the national government to deport undocumented immigrants, the adoption of a 287g program occurs within a larger federalism system. Therefore, this research promoted state policy adoption as an intergovernmental process. While research on policy adoption and diffusion has been developing for more than 30 years, Shipan and Volden (2006) began viewing state adoptions as both bottom-up and top-down processes. While not all policy areas will be appropriate for such intergovernmental framework considerations, immigration policy is a field that is particularly interesting for an intergovernmental framework. However, more research is needed to identify common threads of simultaneous national and local influences on state adoption.

Findings in this study are consistent with past studies that suggest states are influenced by internal and external determinants; however, the vertical diffusion influence of the national government on state adoption was lacking. I hypothesized that there would be a relationship between president's party, governor's party, and participation in 287g. However, this analysis does not reveal a significant relationship. Since national forces are influential to adoption during

74

the negotiation process, future studies may benefit from measuring the locations of ICE regional field offices on state policy adoption through Geographic Information System technology and spatial analysis.

The internal determinants found to effect 287g state program adoptions were the rate of Hispanic growth, percent older population, and percent state spending on education and health. The rate of Hispanic growth on state policy adoption was expected to be influential on adoption in 'new growth' states, as opposed to traditional gateway states with an already present Hispanic population, and proved to be a significant predictor of state policy adoption. The percent of the elder population had a positive effect on state adoptions, as well as, the percent of state spending on education and health. The external influences from neighboring states confirmed the theory of horizontal diffusion, demonstrating state adoption is more likely if a bordering state has already adopted. Additionally, the susceptibility of Southern Border States to the impacts of immigration was confirmed. However, many of the independent variables did not aid in explaining the propensity for states to adopt a 287g program. The level of Hispanic/Latino population, citizen ideology, and government partisanship was not a significant predictor of the adoption of the cooperative enforcement program at the state level.

The 287g program provides a program of flexibility for states to contribute to a common problem, a unique characteristic of cooperative federalism. However, a new directive recently issued by Secretary Napolitano and the Obama administration promoted a change in the standardized Memorandum of Agreement. This change of policy direction, issued in a July 2009 memo, established a new set of policy guidelines that significantly altered the 287g program to focus its efforts and resources upon criminal aliens implementing a scheme classifying dangerous criminal aliens as top priority. The new policy direction also established the

mandatory pursuit of all charges prior to being reviewed for removal by federal authorities, as an attempt to prevent arrests for minor offenses as a precursor to initiate removal proceedings. This decision deprived participating sub-national governments of a flexible partnership with which they could address and customize illegal immigration enforcement efforts in their communities. Arguably, this created an asymmetrical partnership with the federal government dictating program conditions and removing the flexibility previously offered to states. While many jurisdictions have chosen to adjust to the prioritized program created under the modified 287g program, state and local governments bearing the burdens of illegal immigration have sought and continue to seek alternative means to discourage illegal immigration, as SB 1070 and HB 56 demonstrate. Since states cannot align themselves as part of a functional federal partnership in the enforcement of criminal immigration law, aggressive immigration policy at the state level is likely to continue to discourage illegal immigration.

Just as the states serve as laboratories of democracy for the national government, their localities do too. The findings in this study show that lower level adoption relieves the pressure for upper level adoption of 287g programs. Thus, it is possible that the national government could have avoided the increased level of immigration policy activity that ensued in 2009 and 2010 by leaving the 287g program intact and maintaining a degree of partnership with subnational governments. Therefore, continuing to study immigration policy at the state and local level may inform our understanding of any broader restructuring of state power in relation to the federal government.

Additionally, there is not only a growth in the level of state and local immigration policy activity, but also an apparent growth in divergent activity among subnational jurisdictions. This activity is likely to continue as state officials seek to tailor policies to fit their needs. Thus, the

localities' effect on state adoption could be predictive of the states' effect on national policy adoption and monitoring the growing number of currently diverging immigration policy positions will remain important for intergovernmental relations and policy adoption. Moreover, additional questions may arise. For example, will continued policy activism in the states make comprehensive immigration reform more or less probable at the national level? If national comprehensive immigration reform is established, would the states easily relinquish their newfound power over immigration enforcement and policymaking? The future of immigration enforcement and immigration policy remains uncertain and ripe for future research possibilities in this growing field.

Future research should also consider differing determinants specifically related to the type of enforcement program and variations in implementation. Adoption of the program varies between the options of jail enforcement, task force, or both and the determinants on policy choice have yet to be explored. The level of coordination and cooperation required to implement the program differs across the type of programs. Therefore, variations in the willingness to cooperate may also be revealed through studies of the type of program adopted. Relatedly, in depth case studies would aid in revealing determinants that are specifically related to the type of program adopted.

As the rate of change was a significant predictor of immigration enforcement, coupled with significant findings of the fiscal stress variables, a conclusion is that immigration enforcement policy has less to do with keeping immigrants out as it does with questioning who should pay for the costs to integrate immigrants. While the fiscal impact of immigrants on state and local budgets may aid in explaining the adoption of enforcement programs, it does not explain the causes for immigrant settlement in a particular jurisdiction that lead to fiscal stress.

Migratory studies have long studied the push and pull factors associated with settlement patterns of immigrant populations; however, these factors are lacking explanation in state policy politics and policy adoption.

Potentially there are state practices and policies that have yet to be studied to evaluate if the reasons why immigrants settle into certain states has any related impact on state immigration policy. For example, the demands for labor in construction and service industries, as well as agricultural sectors are supplied by immigrant populations. These immigrant employment sectors may be vital to a state's economy and their continued employment has a ripple effect on the state's overall economic wellbeing by creating jobs in other sectors, such as real estate and mortgage finance. Thus, state governments too have an interest in the continued flow of available immigrant labor. Therefore, the characteristics of a state's economy may condition the extent to which state and local governments are willing to carry the burden of immigrant cost. Additionally, the costs of integrating immigrant populations simultaneously paired with the beneficial economic impact they offer creates a political divide between social conservatives and economic conservatives, which can complicate ideological divisions when it comes to immigration policy. Thus, the degree to which the political ideology of a state's citizenry and government has predictive power in state immigration policy studies may be aided by conditioning the extent to which the state's economy is dependent on the immigrant labor pool.

REFERENCES

Adams, Brian, and Lina Newton. 2008. State Laws Related to Immigration and Immigrants: Symbolism or Substance? Prepared for the 2008 Meeting of the American Political Science Association in Boston, MA.

Agranoff, Robert, and Michael McGuire. 2004. Another look at bargaining and negotiating in intergovernmental management. *Journal of Public Administration Research and Theory* 14(4): 495-512.

Allen, Mahalley D., Carrie Pettus, and Donald P. Haider-Markel. 2004. Making the national local: Specifying the conditions for national government influence on state policymaking. *State Politics and Policy Quarterly*. 4(3): 318-344.

Allison, Paul D. 1984. *Event History Analysis: Regression for Longitudinal Event Data.* Beverly Hills, CA: Sage Publications.

    1999. Logistic regression using the SAS system: Theory and application. Cary, NC: SAS Institute.

Allport, Gordon W. 1954. The Nature of Prejudice. New York: Doubleday Books.

Arceneaux, Kevin, and Gregory Huber. 2007. What to do (and not do) with multicollinearity in state politics research. *State Politics & Policy Quarterly.* 7(1): 81-101.

Ayers, John W., Richard C. Hofstetter, Keith Schnakenberg, and Bohdan Kolody. 2009. Is immigration a racial issue? Anglo attitudes on immigration policies in a border county. *Social Science Quarterly.* 90(3): 593-610.

Bakvis, Herman, and Doublas Brown. 2010. Policy coordination in federal systems: Comparing Intergovernmental processes and outcomes in Canada and the United States. *Publius* 40(3): 484-507.

Balla, Steven J. 2001. Interstate Professional Associations and the Diffusion of Policy Innovations. *American Politics Research. 29(3)*: 221-245.

Baumgartner, Frank R., Virginia Gray and David Lowery. 2009. Federal policy activity and the mobilization of state lobbying organization. *Political Research Quarterly.* 62(3): 552-567.

Bednar, Jenna. 2004. Authority migration in federations: A framework for analysis. *PS: Political Science and Politics,* 37(3): 403-408.

Berry, Frances Stokes, and William D. Berry. 1990. State Lottery adoptions as policy innovations: An event history analysis. *The American Political Science Review 84(2)*: 395-415.

   1992. Tax innovation in the states: capitalizing on political opportunity. *American Journal of political science 36(3)*, 715-42.

   1999. Innovation and diffusion models in policy research. In Paul Sabatier. Theories of the policy process. Boulder, CO: Westview Press.

Berry, William D., Evan J. Ringquist, Richard C. Fording, and Russell L. Hanson. 1998. Measuring citizen and government ideology in the American states, 1960-1003. *American Journal of Political Science.* 42(1): 327-348.

Boeckelman, Keith. 1992. The influence of states on federal policy adoptions. *Policy Studies Journal.* 20(3): 365-375.

Bosniak, Linda. 1994. Membership, equality, and the difference that alienage makes. New York University Law Review 69: 1047.

Boushey, Graeme, and Adam Luedtke. 2011. Immigrants across the US federal laboratory: Explaining state level innovation in immigration policy. *State Politics and Policy Quarterly*. http://spa.sagepub.com/content/early/2011/10/06/1532440011419286.

Box-Steffensmeier, Janet M. and Bradford D. Jones. 1997. "Time is of the Essence: Event History Models in Political Science." *American Journal of Political Science* 18: 155-195.

Box-Steffensmeier, Janet M. and Bradford D. Jones. 2004. Event History Modeling: A Guide for Social Sciences. Cambridge, UK: Cambridge University Press.

Branton, Regina, Gavin Dillingham, Johanna Dunaway, and Elizabeth Miller. 2007. Anglo voting on nativist ballot initiatives: The partisan impact of spatial proximity to the US Mexico border. *Social Science Quarterly.* 88(3): 868-881.

Buckley, Jack, and Chad Westerland. 2004. Duration dependence, functional form, and correct standard errors: Improving EHA models of state policy diffusion. *State Politics and Policy Quarterly.* 57(1): 39-51.

Bureau of the Census. Statistical Abstract of the United States. Washington, D.C.:U.S. Department of Commerce, various years.

Burns, P., and Gimpel, J.G. 2000. Economic insecurity, prejudicial stereotypes, and public opinion on immigration policy. *Political Science Quarterly.* 115: 201-225.

Button, James W., 1992. A sign of generational conflict: The impact of aging voters on local school and tax referenda. *Political Research Quarterly.* 48: 79-99.

Case, Anne C., Harvey S. Rosen, and James R. Hines. 1993. Budget spillovers and fiscal policy interdependence: Evidence from the states. *Journal of Public Economics* 52: 285-307.

Chavez, Jorge M., and Doris Marie Provine. 2009. Race and the response of state legislatures to unauthorized immigrants. *The ANNALS of the American Academy of Political and Social Science.* 62(3):78-92.

Chisti, M.A. 2002. The role of state in US immigration policy. *New York University Annual Survey of American Law.* 58: 371-376.

Cho, Chung-Lae, Christine A. Kelleher, Deil S. Wright, and Susan Webb Yackee. 2005. Translating national policy objectives into local achievements across planes of governance and among multiple actors: Second order devolution and welfare reform implementation. *Journal of Public Administration Research and Theory.* 15: 31-54.

Citrin, Jack, Donald P. Green, Christopher Muste, and Cara Wong. 1997. Public opinion toward immigration reform: The role of economic motivations. *The Journal of Politics* 59: 858-881.

Collins, Davon M. 2007. Toward a more federalist employment based immigration system. *Yale Law & Policy Reform* 25:249.

Collins, William. 2010. State legislative reactions to no child left behind: Education leaders in three states. PhD Dissertation for Educational Leadership and Policy Studies University of Kansas.

Conlan, Tim and John Dinan. 2007. Federalism, the Bush administration, and the transformation of American conservatism. *Publius: The Journal of Federalism.* 37(3): 279-303.

Cornelius, Wayne A. and Marc R. Rosenblum. 2005. Immigration and politics. *Annual Review of Political Science.* 8: 99-119.

Cornelius, Wayne A. 2001. Death at the border: The efficacy and "unintended consequences" of US immigration control policy, 1993-2000. *Population and Development Review.* 28: 661-685.

Creek, Heather and Stephen Yoder. 2010. With a little help from out feds: Understanding state/federal cooperation on immigration enforcement. Paper presented at the American Political Science Association 2010 annual meeting.

Derthick, Martha. 1987. American federalism: Madison's middle ground in the 1980s. *Public Administration Review* 47: 66-74.

Dilger, Robert. 2000. The study of American federalism at the turn of the century. *State &
Local   Government.* 32(2): 98-107.

Dinan, John. 2008. The state of American federalism 2007-2008: Resurgent state influence in
the national policy process and continued state policy innovation. *Publius: The Journal
of Federalism 38(3),* 1-35.

Dye, Thomas R. 1990. *American federalism: Competition among governments*. Lexington, MA:
D.C. Heath.

Elazar, Daniel. 1984. American federalism: A view from the states. 3rd ed. New York: Harper.

Esbenshade, J. 2007. Division and dislocation: Regulating immigration through local housing
ordinances. Washington, DC: Immigration Policy Center, the American Immigration
Law Foundation.

Esbenshade, Jill, and Barbara Obzurt. 2008. Local immigration regulation: A problematic trend
in public policy. *Harvard Journal of Hispanic Policy*. 20: 33-47.

Fellowes, Matthew C., and Gretchen Rowe. 2004. Politics and the new American welfare
states. *American Journal of Political Science.* 38: 437-54.

Filindra, Alexandra. 2008. Bringing the states in to the immigration debate: The role of
political institutions and interest groups in state-level immigrant policy formation. Paper
presented at the Western Political Science Association Conference, San Diego, CA.

2009. E pluribus unum? Federalism, Immigration and the role of the American states.
Dissertation submitted to the Graduate School-New Brunswick.

Filindra, Alexandra, and Melinda Kovacs. 2010. All politics is local: State-level difference in
legislative immigration discourse. Online Document: http://www.olemiss.edu/depts
/political_science/state_politics/conferences/2008/papers/Filindra-Kovacs-final.doc

Filindra, Alexandra, and Melinda Kovacs. 2011. Analysing US state legislative resolutions on
immigrants and immigration: the role of immigration federalism. *International
Migration.* Online Early Publication DOI: 10.1111/j.1468-2435.2010.00658.x

Filindra, Alexandra, and Daniel J. Tichenor. 2008. Beyond myths of federal exclusivity:
Regulating immigration and noncitizens in the states. Paper read at American Political
Science Association, Boston, M.A.

Fix, Michael, and Jeffrey Passel. 1994. Immigration and immigrants: Setting the record straight.
Washington, DC: The Urban Institute.

Furuseth, Owen J., and Heather A. Smith. 2006. Latinos in the New South: Transformations of
Place.   Burlington, VT: Ashgate.

Godwin, Marcia L. and Jean Reith Schroedel. 2000. Policy diffusion and strategies for promoting policy change: Evidence from California local gun control ordinances. *Policy Studies Journal.* 28(4): 760-776.

Graefe, Deborah Roempke, Gordon F. De Jong, Matthew Hall, Samuel Sturgeon, and Julie VanEerden. 2008. Immigrants' TANF eligibility, 1996-2003: What explains the new across-state inequalities? *International Migration Review* 42(1):89-133.

Gray, Virginia. 1973. Innovation in the states: A diffusion study. *The American Political Science Review.* 67(4): 1174-1185.

Green, Paul E. 2003. The undocumented: Educating the children of migrant workers. Bilingual research Journal. 27(1): 51-71.

Grossback, Lawrence J., Sean Nicholson-Crotty, and David A.M. Peterson. 2004. Ideology and learning in policy diffusion. *American Politics Research.* 32:521-545.

Hale, Kathleen. 2011. How information matters: Networks and public policy innovation. Georgetown University Press, Washington D. C.

Hawley, George. 2011. Political threat and immigration: Party identification, demographic context, and immigration policy preference. *Social Science Quarterly.* 92(2): 404-422.

Hays, Scott P., and Henry R. Glick. 1997. The role of agenda setting in policy innovation: An event history analysis of living will laws. *American Politics Quarterly.* 25(4): 497-516.

Hoefer, Michael, Nancy Rytina, and Bryan C. Baker. 2010. Estimates of the unauthorized immigrant population residing in the United States: January 2009. Department of

Huntington, Clare. 2008. The constitutional dimension of immigration federalism. *Vanderbilt Law Review* 61: 787-853.

Isenburg, Bruno T. 2007. *Immigration Enforcement and Policies.* New York, NY: Nova Science Publishers, Inc.

Johnson, James H. and John D. Kasarda. 2006. The economic impact of the Hispanic population on the state of North Carolina. The University of North Carolina. January.

Karch, Andrew. 2006. National intervention and the diffusion of policy innovations. *American Politics Research.* 34(4): 403-426.

2007. Democratic laboratories: Policy diffusion among the American states. Ann Arbor: University of Michigan Press.

Key, V.O. 1949. Southern politics in state and nation. Knoxville, TN: University of Tennessee Press.

Khashu, Anita. 2009. The role of local police: Striking a balance between immigration enforcement and civil liberties. Washington, DC: Police Foundation Report.

Kinder, Donald R. 2003. "Belief systems after Converse." In <u>Electoral Democracy</u>, ed. Michael MacKuen and George Rabinowitz. Ann Arbor: University of Michigan Press, 13-47.

Klarner, Carl. 2003. The measurement of the partisan balance of state government. *State Politics and Policy Quarterly.* 3(3): 309-319.

Knoke, David. 1982. The spread of municipal reform: Temporal, spatial and social dynamics. *American Journal of Sociology.* 87(6):1314-1239.

Kobach, Kris. 2006. The quintessential force multiplier: The inherent authority of local police to make immigration arrests. *Alabama Law Review.* 179: 180-199.

Krane, Dale. 1993. American federalism, state governments, and public policy: Weaving together loose theoretical threads. *PS: Political Science and Politics.* 26(2): 186-190.

Krane, Dale. 2007. The middle tier in American federalism: State government policy activism during the Bush Presidency. *Publius: The Journal of Federalism.* 37(3): 453-477.

Krause, Rachel. 2010. Policy innovation, intergovernmental relations, and the adoption of climate protection initiatives by US cities. *The Journal of Urban Affairs Association.* 33: 45-60.

Ladd, Helen and Sheila Murray. 2001. Intergenerational conflict reconsidered: County demographic structure and the demand for public education. *Economics of Education Review.* 20: 343-357.

Ladd, Helen and Julie Wilson. 1982. Why voters support tax limitations: Evidence from Massachusetts Proposition 2. *National Tax Journal.* 35: 121-148.

Lieberman, Robert C. and Greg M. Shaw. 2000. Looking inward, looking outward: The politics of state welfare innovation under devolution. *Political Research Quarterly.* 53: 215-240.

Lewis, P.G. and Ramakrishnan, S.K. (2007). Police practices in immigrant-destination cities: Political control or bureaucratic professionalism? *Urban Affairs Review,* 42(5): 874-900.

Lowry, William. 2005. Policy reversal and changing politics: State governments and dam removals. *State Politics and Policy Quarterly.* 5: 294-419.

Massey, Douglas S., Jorge Durand, and Nolan Malone. 2002. <u>Beyond smoke and mirrors: Mexican immigration in an era of economic integration.</u> New York: Russell Sage Foundation.

Marrow, Helen B. 2005. New destinations and immigrant incorporation. *Perspectives on Politics.* 3(4): 781-799.

Mayhew, David. 2008. Parties and policies: How the American government works. Yale University Press: New Haven & London.

McCann, Pamela Clouser, Charles R. Shipan, Craig Volden. 2010. Intergovernmental policy diffusion: National influence on state policy adoptions. Paper prepared for the 2010 Midwest Political Science Association Meeting.

Miller, E. Willard and Ruby M. Miller. 1996. *United States immigration: A reference handbook.* The Pennsylvania State University Contemporary World Issues Series. Santa Barbara, CA.

Mintrom, Michael and Sandra Vergari. 1998. Policy networks and innovation diffusion: The case of state education reforms. *Journal of Politics.* 60(1): 126-148.

Moe, Terry M. 1985. Control feedback in economic regulation: The case of the NLRB. *American Political Science Review.* 79(4): 1094-1116.

Mohr, Lawrence B. 1969. Determinants of innovation in organizations. *The American Political Science Review.* 63(1): 111-26.

Money, Jeannette. 1997. No vacancy: The political geography of immigration control in advanced industrialized countries. *International Organization.* 51(4): 685-720.

Money, Jeannette. 1999. <u>Fences and neighbors: The political geography of immigration control in advanced industrial democracies.</u> Ithaca: Cornell University Press.

Mooney, Christopher and Mei-Hsien Lee. 1995. Legislative morality in the American states: The case of pre-Roe abortion regulation reform. *American Journal of Political Science 39(3)*, 599-627.

Mooney, Christonpher Z. 2001. Modeling regional effects on state policy diffusion. *Political Research Quarterly 54(1),* 103-124.

Mossberger, Karen. 1999. State-federal diffusion and policy learning: From enterprise zones to empowerment zones. *Publius.* 29(3): 31-50.

Motomura, Hiroshi. 1994. Immigration and alienage, federalism and Proposition 187. *Virginia Journalof International Law.* 35: 201-216.

Murray, Sheila, Kim Rueben and Carol Rosenberg. 2007. State Education Spending: Current pressures and future trends. Vol. LX, No. 2.

Nathan, Richard P. 2006. There will always be a new federalism. *Journal of Public Administration Review and Theory* 16: 499-510.

National Immigration Law Center. Laws, resolutions and policies instituted across the US limiting enforcement of immigration laws by state and local authorities. www.nilc.org.

Neiman, Max, Martin Johnson and Shaun Bowler. 2006. Partisanship and views about immigration in Southern California: Just how partisan is the issue of immigration? *International Migration.* 44: 35-56.

Nevins, Joseph. 2002. *Operation gatekeeper: The rise of the "illegal alien" and the making of the US-Mexico boundary.* New York, NY: Taylor and Francis.

Newton, Lina. 2008. Illegal, alien, or immigrant: The politics of immigration reform. New York, NY: New York University Press.

Newton, Lina and Brian E. Adams. 2009. State immigration policies: Innovation, cooperation, or conflict. *Publius: The Journal of Federalism.* 39(3): 408-431.

Olivas, Michael A. 2007. Immigration related state statutes and local ordinances: Preemption, prejudice, and the proper role for enforcement. *University of Chicago Legal Forum.* 56: 26-56.

Parlow, Matthew. 2007. A localist's case for decentralizing immigration policy. *Denver University Law Review.* 84:1061-1073.

Pantoja, Arian D., and Gary M. Segura. 2003. Does ethnicity matter? Descriptive representation in the statehouse and political alienation among Latinos. *Social Science Quarterly.* 84: 441-460.

Passel, Jeffrey and Michael Fix. 2004. Immigration and immigrants: Setting the record straight. Washington, D.C.: The Urban Institute.

Passel, Jeffrey and D'Vera Cohn. 2008. Trends in unauthorized immigration: Undocumented inflow now trails legal inflow. Washington, D. C.: Pew Hispanic Center.

Pearson-Merkowitz, Shanna and Stephen Yoder. 2009. Legislative minutemen: The politics of immigration policy in the US States. Paper prepared for the Spring Graduate Student Conference at the University of Maryland, Department of Government and Politics. May 8th, 2009.

Pham, Huyen. 2004. The inherent flaws in the inherent authority position: Why inviting local enforcement of immigration laws violates the constitution. *Florida State University Law Review.* 31: 965-1003

Poterba, James M. 1997. Demographic structure and the political economy of public education. *Journal of Policy Analysis and Management*. 16: 48-66.

Poterba, James M. 1998. Demographic change, intergenerational linkages, and public education. *American Economic Review*. 88: 315-320.

Preston, Julia. 2008. In reversal, courts uphold local immigration laws. *The New York Times.* Section A: National Desk. Pg. 22.

Radcliffe, Benjamin and Martin Saiz. 1998. Effects of public opinion on policy. *American Political Science Review.* 77: 175-190.

Ramakrishnan, S.K. and Wong T. 2007. Immigration policies go local: The varying responses of local government to undocumented immigrants. Unpublished paper. University of California. Retrieved from: https://2048berkeleyedu.libdata.lib.ua.edu/files /RamakrishnanWongpaperfinal%281%29.pdf

Ramakrishnan, S. Karthick and Paul G. Lewis. 2007. Police practices in immigrant-destination cities: Political control or bureaucratic professionalism? *Urban Affairs Review.* 42: 874-900.

Ramakrishnan, S. Karthick and Wong T. 2010. Immigration policies go local: The varying responses of local government to low-skilled and undocumented immigration. In Taking local control: Immigration policy activism in US cities and states. Edited by Monica W. Varsanyi, 73-93. Palo Alto, CA: Stanford University Press.

Reasoner, W.D. 2011. Which way New York? Will feds tolerate local interference or assert their authority? Center for Immigration Studies Memorandum.

Regan, Priscilla, and Christopher J. Deering. 2009. State opposition to REAL ID. *Publius.* 39: 476-505.

Rescovsky, Andrew. 2004. The impact of state government fiscal crises on local governments and schools. *State and Local Government Review.* 36(2): 86-102.

Rodriguez, Cristina. 2008. The significance of the local in immigration regulation. *Michigan Law Review.* 106: 567-642.

Roh, Jonghon, and Donald P. Haider-Markel. 2003. All politics is not local: National forces in state abortion initiatives. *Social Science Quarterly.* 84(15): 15-31.

Ruiz-de-Velasco, Jorge, and Micahel Fix. 2000. Overlooked and underserved: Immigrant students in US secondary schools. The Urban Institute.

Sandler, Michael. 2007. Immigration: From the capitol to the courts. *CQ Weekly* 10: 3644-3651.

Sapat, Alka. 2004. Devolution and innovation: The adoption of state environmental policy innovations by administrative agencies. *Public Administration Review.* 64(2): 141-151.

Shipan, Charles R., and Craig Volden. 2006. Bottom-Up Federalism: The Diffusion of Antismoking Policies from US Cities to States. *American Journal of Political Science.* 50(4): 825-843.

Schuck, Peter. 2007. Taking immigration federalism seriously. *The Forum: The Politics of Immigration Reform.* 7(3): Article 4.

Schrag, Peter. 2010. Unwanted: Immigration and nativism in America. Immigration Policy Center.

Shahani, Aarti, and Judith Greene. 2009. Local democracy on ICE: Why state and local governments have no business in federal immigration law enforcement. Justice Strategies Report.

Simmons, Beth, and Zachary Elkins. 2004. The globalization of liberalization: Policy diffusion in the international political economy. *American Political Science Review.* 98(1):171-189.

Singer, Audrey. 2004. The rise of new immigrant gateways. Center on Urban and Metropolitan Policy. The Brookings Institution, Washington D.C.

Singer, Judith D., and John B. Willett. Applied longitudinal data analysis: Modeling change and event occurrence. Oxford: Oxford University Press.

Skerry, Peter. 1995. Many borders to cross: Is immigration the exclusive responsibility of federal government? *Publius: The Journal of Federalism* 25(3), 71-85.

Soss, Joe, Sanford F. Schram, Thomas P. Vartanian, and Erin O'Brien. 2001. Setting the terms of relief: Explaining state policy choices in the devolution revolution. *American Journal of Political Science* 45(2), 378-95.

Spiro, Peter. 2001. Federalism and immigration: Models and trends. Malden, MA: Blackwell Publishers. UNESCO Report.

Stumpf, Juliet. 2008. States of confusion: The rise of state and local power over immigration. *North Carolina Law Review*. 86: 1557-1618.

Tatalovich, Raymond. 1995. Nativism Reborn: The official English language movement and the American states. Lexington, KY: University of Kentucky Press.

Taylor, Paul, and Richard Fry. 2007. Hispanics and the 2008 election: A swing vote? *Pew Hispanic Center.*

Thangasamy, Andrew. 2010. <u>State policies for undocumented immigrants : Policy-making and outcomes in the U.S. , 1998-2005.</u> El Paso, TX: LFB Scholarly Publishing LLC.

Tichenor, Daniel. 2002. <u>Dividing lines: The politics of immigration control in America.</u> Princeton, NJ: Princeton University Press.

Tolbert, Caroline, and John A. Grummel. 2003. Revisiting the racial threat hypothesis: White voter support for California's Proposition 209. *State Politics and Policy Quarterly.* 3(2): 183-202.

Tolbert, Caroline, and Rodney E. Hero. 1996. Race/Ethnicity and direct democracy: An analysis of California's Illegal Immigration Initiative. *The Journal of Politics.* 58: 806-818.

Tolbert, Caroline J., and Rodney Hero. 2001. Dealing with diversity: Racial/Ethnic context and social policy. *Political Research Quarterly.* 54(3): 571-604.

True, Jacqui, and Michael Mintrom. 2001. Transnational networks and policy diffusion: The case of gender mainstreaming. *International Studies Quarterly.* 52: 499-525.

Varsanyi, Monica. 2010. Taking local control: Immigration policy activism in US cities and states. Stanford University Press.

Varsanyi, Monica, Paul G. Lewis, Doris Marie Provine, and Scott Decker. 2012. A multilayered jurisdictional patchwork: Immigration federalism in the United States. *Law and Policy.* 34: 138-158.

Vinovskis, Maris A. 1993. An historical perspective on support for schooling by different age cohorts. In the changing contract across generations, edited by W. Andrew Achenbaum and Vern L. Bengtson, 45-65. New York: Aldine de Gruyter, 1993.

Volden, Craig. 2006. States as policy laboratories: Emulating success in the children's health insurance program. *American Journal of Political Science.* 50(2):294-312.

Walker, Jack L. 1969. The Diffusion of innovations among the American states. *The American PoliticalScience Review 63(3)*, 880-99.

Walker, Kyle, and Helga Leitner. 2011. The variegated landscape of local immigration policies in the United States. *Urban Geography.* 32: 156-178.

Waslin, Michelle. 2003. Immigration enforcement by local police: The impact on the civil rights of Latinos. The National Council of La Raza.

Welch, Susan, and Kay Thompson. 1980. The impact of federal incentives on state policy innovation. *American Journal of Political Science.* 24(4): 715-729.

Wells, Miriam. 2004. The grassroots reconfiguration of US immigration policy. *International Migration Review.* 38: 1308-1347.

Weyland, Kurt. 2005. "Theories of policy diffusion: Lessons from Latin American Pension Reform." *World Politics* 56:262-95.

Wishnie, Michael J. 2001. Laboratories of bigotry? devolution of the immigration power, equal protection, and federalism. *New York University Law Review 76*, 493-569.

Wishnie, Michael J. 2002. Introduction: Immigration and Federalism. *Faculty Scholarship Series.* Paper 932.

Wong, Tom K. Forthcoming. The politics of interior immigration control in the United States: Explaining local cooperation with federal immigration authorities. *Journal of Ethnic and Migration Studies.*

Wood, B. Dan and Richard W. Waterman. 1994. Bureaucratic dynamics: The role of bureaucracy in a democracy. Boulder, CO: Westview Press.

Wright, Deil S., and Cho, Chung-Lae. 2000. "State Administration and Intergovernmental Interdependency: Do National Impacts on State Agencies Contribute to Organizational Turbulence?" In Gargan, John J. (ed.), *Handbook of State Government Administration.* New York: Marcel Dekker.