

**DRIVING IN A NEW IMMIGRANT DESTINATION:  
MIGRANT RIGHTS AND STATE-LEVEL POLICY**

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## ABSTRACT

While Utah may seem an unusual place in which to set a case study of immigration, this state has in the past two decades become an increasingly important destination for people immigrating into the US. In this setting the paper examines how a community responds to very rapid growth in the economic and political challenges (and opportunities) created by immigration. We illustrate how lower levels of government have stepped into the void created by failures in immigration policy at the national level, particularly with regard to the treatment of undocumented immigrants.

The focus of the paper is Utah's HB 36 Law which allowed undocumented immigrants to obtain a driver license starting in 1999. In 2005, their access was restricted to a "Driver Privilege Card" which could not be used for any state identification purposes. In addition to providing an overview of the program, its evolution, and the characteristics of its participants, the paper places the policy within the context of the dominant theories of policy development. It helps refine our theoretical understanding of the role of ideas in public policy. Specifically, it serves as a case study to test the relevance of two prominent ideational approaches to politics: the narrative approach pioneered by Deborah Stone and Peter Hall's theory of social learning.

## **Introduction**

Economic performance in the United States between 1992 and 2007 was notable: the longest peace time expansion on record and remarkable resilience after the Dot-Com bubble deflation and the World Trade Center attacks of 2001. The effects were profound. We witnessed major changes in income distribution and experienced rare fiscal budget surpluses, only to undertake tax cuts and expenditure increases that restored the more familiar deficits.

One of the more permanent effects of the period was increased immigration into the United States, largely in response to the nation's growing prosperity. Annual immigration increased throughout the 1990's and peaked in 1999-2000 (Passel and Suro 2005; Martin and Midgley 2006). Immigration accounted for one-third of the population increase in the US during the 1990s, as foreign born residents increased from 20 million to over 31 million (Martin and Midgley 2006: 16).

The US styles itself a "nation of immigrants," and one of the past successes has been integrating successive immigrant waves into the nation. However, there has never been a uniform response to immigrants nor a policy for social integration. Immigrants elicit fear of identity loss in some natives, while others welcome the new energy and talent they bring to our mature society. Two characteristics of this new immigrant wave, beyond its sheer size, have amplified the contradictory responses and complicated the policy framework.

First, in the past, in-migration was directed to six destinations. The new migrants have dispersed much more widely, resulting in large percentage increases in cities and states with little recent experience of foreign in-migration. These are "New Destinations" (Massey 2008) or "New Gateways" (Singer 2004), and Utah is a prime example of this changed migration geography. For example, the foreign-born population of the Salt Lake City-Ogden metropolitan area grew by 174% during the 1990's (Singer 2004: 21). Utah had the sixth highest rate of increase of foreign born in the 1990s (Kochhar 2004:3). Such a rapid increase of migrants into areas with little immigration experience suggests that the

problems of policy and integration outcomes will be more complex and challenging than in the traditional six destinations.

Second, the composition of the in-migrants has changed, with the share of undocumented or illegal migrants increasing. Between 1992 and 1997, annual unauthorized immigration was only 77 percent of legal permanent immigration. In 1999-2000, it exceeded legal immigration by two percent, and from 2002-2004 it was seven percent greater (Passel and Suro 2005: 2). The shift toward unauthorized migration could only increase the policy and outcome challenges of immigrant integration.

In this paper, we examine the development of Utah's policy on immigrant integration, focusing on the policy which provides driving privileges and state identification to undocumented immigrants. We cover the period 1999-2008, when the challenges of integration became an important matter of state public policy. In this period, Utah, like other states, responded to the lack of comprehensive immigration reform on the federal level with a growing number of state policies responding to the complex opportunities and problems connected to immigration. For example, at the beginning period of this study – in 1999 – there was only one immigration bill passed by the Utah Legislature. By 2008, there were no fewer than 24 immigration bills under consideration.

Nationally, we see similar trends. State governments have displayed an unprecedented level of activity around immigration. In the past four years alone – between 2005 and 2008 – state-level immigration laws proposed increased from 300 to 1,305 bills (National Conference of State Legislatures (NCSL) 2005-2008). These bills range from the welcoming – such as providing in-state tuition benefits to the children of undocumented residents – to the repressive. Laws to deputize local law enforcement personnel to act as immigration agents are a casebook example. Nonetheless, the driver license program stands out as singularly important. Over the past several years, no issue has been more hotly contested than that of providing IDs – usually in the form of a driver license – to immigrants, with or without formal documentation. Between 2005 and 2008, no other policy area consistently attracted as much interest, including education, employment,

health, even law enforcement (NCSL 2005 – 2008). While this paper will help explain this policy development – with a focus on Utah – it will also underscore the tangible effects that providing a driver license has on immigrant integration. It not only provides access to private and public services, along with an identity document that can allay fears of the undocumented, but it also provides the mobility needed to access many elements of society, from jobs to health care.

Let us examine health care as an example. Non-citizen immigrants have lower access to health care than naturalized citizens, and undocumented immigrants are even worse off. This is clearest in terms of health insurance, but this disparity also means that undocumented immigrants are less likely to have a primary physician, or to have visited a physician or dentist in the past year, and more likely to have fewer medical visits “even after adjusting for health insurance and health status” (deRose, et al. 2007: 1260). Having a driver license and identification can partially correct this disparity. For example, one four-city survey of undocumented migrants found that up to 45 percent of the undocumented feared that they would be unable to obtain medical care when needed because of that status (Berk and Schur 2001:153). In addition, persons with such fears were up to four times more likely to have failed to receive medical care when needed during the previous year, including prescriptions, glasses, or dental care. There is also evidence that the stress of being undocumented tangibly affects health status. As Finch and Vega (2003: 115) put it: “In particular, legal status stress (largely but not *entirely* among the foreign born) has a significant effect on physical health net of control variables.”

Although health is only one dimension of immigrant integration, it serves to illustrate the significance of documentation, thus highlighting the importance of access to driver licenses and ID’s. We now consider the national controversy that resulted from proposals to provide driver licenses to undocumented immigrants.

### **Driver License Policy Plays the National Stage**

During the seventh Democratic presidential debate on October 30, 2007 in Philadelphia, immigration took front and center stage. At issue was whether the candidates supported the state-level provision of driver licenses to undocumented workers. While five of the seven candidates said they supported this measure, controversy swirled around Senator Hillary Clinton's response. When asked whether she supported then New York Governor Eliot Spitzer's driver license proposal, she noted its necessity, given the Bush administration's failure to pass comprehensive immigration reform. While she suggested this might not be the best action for a governor to take, she elaborated that she did "understand the sense of real desperation, trying to get a handle on this. Remember, in New York we want to know who's in New York. We want people to come out of the shadows. He's [Spitzer's] making an honest effort to do it" (Nagourney & Bumiller 2007: A1+). However, when pressed for a definite answer, Clinton equivocated: "Well, I just want to add, I did not say that it should be done, but I certainly recognize what Governor Spitzer is trying to do" (Nagourney & Bumiller 2007: A1+).

Spitzer was having similar problems. He had said: "As long as I am governor, we will not pretend that they do not exist, we will not cut them off from participating in our society, and we will not become part of a myth that is propagated at the federal level that they are not here" (Schuster and Enriquez 2007). Very quickly Spitzer was forced by the Department of Homeland Security to reconsider a one-size-fits-all license and reached an agreement with the Federal government to issue three sorts of licenses, directed at three different constituencies, from U.S. citizens to undocumented immigrants (Barrett 2007). Spitzer's plan – already pared down from its original proposal to grant a single type of license to both legal residents and illegal immigrants – was ultimately withdrawn after 32 Republican New York Assembly members filed a lawsuit against him. On November 13, 2007, Spitzer abandoned the proposal. Failure to enact this program was considered one of the most important defeats of Spitzer's first year as governor (Confessore & Hernandez 2007: B3; Paumgarten 2007).

Clinton's debate performance and Spitzer's retreat demonstrate the controversy and confusion that surrounds immigration. And the debate around extending driver licenses to

undocumented workers or illegal immigrants – depending on which side one is on – is a microcosm of the larger immigration integration debate in the US. While New York was the most prominent state to become a battleground over providing identification to undocumented immigrants, other states also addressed the issue.

States have felt the urgency to tackle immigrant integration because while the federal government establishes immigration policy – determining entrance criteria and establishing quotas – state governments are often required to respond to the challenges and opportunities posed by migration, and to provide services. This helps explain the recent surge of state-level immigration laws, more than a 400% increase in the last four years alone (NCSL 2005-2008). As states work to puzzle through the immigration labyrinth, they generally develop either a pro- or an anti-immigration tendency. In immigration, there is little neutral ground. This is where the case of Utah is instructive. While it has taken a strong nativist turn in recent years, it remains one of the most progressive states in terms of immigrant driving policy. Indeed, according to the National Immigration Law Center, Utah is one of the least restrictive states regarding the extension of official driving privileges to immigrants. As of October 16, 2008, it was one of only five states that did not have a “lawful presence requirement,” one of five (different) states that accept the individual tax identification number (ITIN) as an alternative to the SSN, and one of only six states that accept the Mexican *matricula consular* or other foreign ID card as a form of ID. Importantly, Utah – not ordinarily considered a trailblazer on immigration policy – began exploring this driver license territory in 1999, well before this recent wave of immigration mania hit other states.

### **Utah Models the Identification/Integration Debate**

In 1999, Utah Governor Michael Leavitt signed into law “HB 36-Driver Identification Law,” paving the way for “undocumented” or “illegal” residents to gain access to an important identity document. Passel (2005) estimated that up to 50 percent of the new international immigrants into this “new destination” state in recent years were undocumented. The law allowed undocumented persons to obtain a driver license. This

then permitted them not only to drive legally and acquire car insurance, it also served as a form of identification to open bank accounts, to access state services, and to engage in a range of consumer activities such as purchasing health care and health insurance. However, after initial success and scant opposition, by 2003 the tide had turned and opposition to the program was widely expressed, along with a desire to repeal the program. By 2004 the harsh criticism, including allegations that the ID card facilitated illegality and could even be used to support terrorism, insured that repeal of the driver license law was on the legislative agenda. When it looked like the repeal would be successful in 2005, a compromise measure was passed. This essentially revoked the driver's license and its use for state identification and replaced it with a "driver privilege card (DPC)," valid only for driving and obtaining car insurance. Private sector entities could choose whether to accept it as identification. Even this pared-down version of an identity document for immigrants has faced opposition in subsequent legislative sessions. However, its importance for migrant rights is underlined by the numbers of undocumented who took advantage of the program.<sup>1</sup> As Table 1 shows, 98,355 persons were able to obtain some form of

TABLE 1 ABOUT HERE

documentation under the program between 1999 and April of 2008. The numbers increased every year from the 1999 inception through 2004, the last year before driver privilege cards were instituted. Even in the face of the 2005 change in the law, the undocumented continue to participate in the program, which specifically flags their immigration status. This indicates that the DPC is important to the exercise of immigrant rights. And because this program began earlier here than in other parts of the nation, it has put Utah in the forefront of the debate on immigration integration and the role of social policy.

Utah's experiment with driver's licenses for undocumented migrants – its initial success, subsequent attacks and ultimate retrenchment – provides insight into many important elements of the immigrant integration debate. First, it helps explore the range of rights ascribed to immigrants and serves as an excellent window into the decade's evolution of US policy and opinion toward immigrants. Second, it sheds light on the promise and

limitations of state solutions to problems that arguably are more national in scope. Finally, it helps refine our theoretical understanding of the role of ideas in public policy. Specifically, it serves as a case study to test the relevance of two prominent ideational approaches to politics: the narrative approach pioneered by Deborah Stone and Peter Hall's theory of social learning.

### **Understanding Policy Development from Utah's Experience**

We begin with an overview of how the causal story and social learning literatures explain the genesis and evolution of state public policy. We then examine Utah's experience with the provision of undocumented driver licenses since 1999, adding detail from a unique database that allows us to describe how the program actually has functioned. We note in this section several areas where the Utah experience informs the theoretical literature, as well as its relevance for the wider national debate over undocumented immigrant "rights and policies." Finally, we consider specifically the areas where this social policy experience and the two theoretical literatures correspond or differ. We offer some suggestions for this divergence and highlight why this is relevant for immigration policy generally and immigrant rights in particular. And as we noted above, these rights and policies have definite implications for integration outcomes, such as the health of immigrants.

The national immigration debate will continue in coming years. Our study of Utah's driver license debate has implications for the evolution of national immigration policy and the possibility of reaching consensus. While finding evidence for the link between causal stories and social policy, this study concludes that causal stories don't always precede social policy. In some instances, social policy can be more progressive; it can work to prevent social problems before they escalate rather than being exclusively a reactive device. On the other hand, both Utah and the nation show that a redefinition of the social problem can invert the causal story and potentially reverse the social policy. As we will argue – in the Utah case – the absence of a compelling causal story to explain and promote HB 36 left it unprepared for the opposition that later surfaced. Had a strong

causal story accompanied this policy proposal, it might have more successfully weathered the opposing narrative that equated “undocumented” and “criminal.” The same could be said of the national debate on immigrant integration.

The study’s contribution to understanding social learning produces a similar finding. Despite received wisdom that policy innovations typically occur within a policy paradigm, this case demonstrates how policy innovation can precede the creation and consolidation of a paradigm. Nonetheless, once a policy is in place, we find evidence for many of the six stages of policy paradigm creation suggested by the social learning model. On the other hand, supporting other research in the social learning tradition, any explanation for policy change needs to weigh more heavily the role of political entrepreneurs, exogenous variables, and the importance of timing. These factors can largely undo the social learning and lead to policy reversal, even if the policy “works.” This helps explain both the dilution of Utah’s driver license policy – despite its success – and New York’s abject failure to even launch its own driver license program. Both cases negatively affected the integration prospects of undocumented migrants. Exploring this policy trajectory in Utah – and the theoretical insights that the causal story and social learning literatures provide – will shed light on the national immigration debate because it provides both an empirical and theoretical foundation for engagement. We highlight the role of ideas in politics, exploring the causal story and social learning explanation of public policy, as this approach has the necessary tools to assess this complex phenomenon.

### **The Rise of Ideational Analysis of Politics**

Interest-based, institutional, or structural accounts of politics long viewed the role of ideas – at best – as a secondary explanation of how public policy emerges and develops over time. At worst, ideas were seen as epiphenomenal, detracting from the real causal explanations of politics. Currently, political analysis is undergoing a “contemporary ideational renaissance” (Berman 2001), as scholars explore how ideas rise to political prominence, how they become embedded in institutions and collective identities, and

how they ultimately influence political behavior. As a result, there is growing awareness that public policies emerge out of the intersection of ideas, institutions, and interests (Clarke and Gaile 1997). As key variables in explaining public policy, “interests” identify specific, material advantages that an actor or group will gain from a particular policy (Cohen and Rogers 1983; Zysman 1983). “Institutions” speaks to inter- and intra-group relationships and to the formal and informal rules and procedures of an organization (Campbell 1998). The third component of the policy trinity, “ideas,” has been explored from several perspectives, most importantly the narrative and the social learning approaches.

Deborah Stone pioneered the narrative approach. She argued that “Our understanding of real situations is always mediated by ideas; those ideas in turn are created, changed, and fought over in politics” (Stone 1997: 282). Many political contests revolve around “public facts, statements about an aggregate of events, which we do not and cannot experience personally” (Gusfield 1981: 51). Because so much of the voting and tax-paying public has no direct personal experience in issues of public policy, such as immigrant integration, it has to rely on media stories, public officials and expert reports to form an opinion (Schram and Soss 2001).<sup>2</sup>

A tried and true tactic for garnering political support is to transform an issue into a political problem through composing stories. Stone argues that a critical first step in policy making is when political actors “compose stories that describe harms and difficulties, attribute them to actions of other individuals or organizations, and thereby claim the right to invoke government power to stop the harm” (Stone 1989: 282). What Stone and collaborators call “causal stories” function like an accusation; they place blame, assign responsibility and usually include a fix (Stone 2006). If successful, causal stories typically “frame” a political problem. Borrowing from Benford and Snow (2000; Snow *et al.* 1986), framing “serves to simplify the complicated reality of a social issue to something more manageable by the human mind.” It makes sense to simplify the problem, because smaller, well-defined problems are easier to solve than bigger, ill-defined ones” (Stone 2006: 130-131). For example, in her analysis of how state

governments could more effectively address racial/ethnic disparities in health outcomes, Stone suggests that policymakers should eschew complex explanations of racial politics and social stratification in favor of a unifying frame of addressing the medical needs of all (Stone 2006). Framing, as a narrative device, commonly contains elements found in fiction to help simplify public issues.

One common device is the use of synecdoche, where a single part is used to represent the whole. In their explanation of the 1996 welfare reform, Schram and Soss (2001) argue that “dependency” became the synecdoche for a whole tangle of social problems associated with poverty in the US. After many discursive battles to define the terms of the welfare debate, “dependency” was the winning term. And once the numerous social problems associated with poverty in America were simplified to a problem of dependency, the solution was clear: reduce the welfare rolls. Indeed, this was the primary goal of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA). If dependency – rather than poverty and social inequality – were the problem, then the solution need not focus on reducing poverty, enhancing employment, reducing inequality or expanding educational opportunities for the poor, arguably more difficult and complex solutions. So the discursive process helped create a specific political outcome. These discursive processes also influence future social policy: “Beliefs about which policies are known failures and which have been shown to succeed set the parameters for reasonable debate over the shape of future legislation” (2001: 62).

Metaphor, a figure of speech comparing two unlike entities, is another narrative device central to causal stories. In public policy, metaphors typically function to humanize, or to make concrete, a more abstract issue or idea. For example, a key moment in the internationalization of the Brazilian rubber tappers movement was the death of noted activist Chico Mendes (Keck 1995). His life, struggle and murder embodied and gave meaning to the fight for environmental sustainability and social justice in a way that other activist strategies had not. Keck described the impact of Mendes’ murder: “Its power as a metaphor lay in its ability to make concrete in human terms the rather abstract notion of sustainable development” (1995: 420).

Ideational analysis of politics suggests that such devices simplify and make concrete the need for change. However, when considering the creation of causal stories as a precursor to the passage of social policy, one must ask whether causal stories are always necessary for the emergence of social policy? Are there circumstances in which policy innovations occur without the aid of a causal story? And do causal stories sometimes emerge in response to social policies rather than at the outset? While affirming the utility of the narrative approach, the Utah experience suggests that the sequence suggested by Stone is more fluid than frequently thought. It also suggests that the narrative devices usually ascribed to policy makers – framing and the use of synecdoches and metaphors – are equally available and useful to actors, such as political entrepreneurs, outside of policy circles. Indeed, as Utah’s driver license policy demonstrates, opponents of the policy innovation of HB 36 more successfully framed immigration than the original policy makers who sought immigration reform. As a result, the opponents of immigrant integration possessed the ascendant causal story.

The social learning approach is a second prominent interpretivist method. Based on a comparative analysis of social policies in Britain and Sweden, Heclø argued that “Politics finds its sources not only in power but also in uncertainty – men collectively wondering what to do” (1974: 305-306). He went on quite famously to conclude that governments not only “power,” they also “puzzle”; they study and learn in an attempt to devise appropriate social policy based on past experience, current challenges and future predictions. Peter Hall’s work on social learning built upon Heclø’s foundation. He defined social learning as the “deliberate attempt to adjust the goals or techniques of policy in response to past experience and new information” (Hall 1993: 278). For Hall, social learning happens in the context of a policy paradigm, “an overarching set of ideas that specify how the problems .... are to be perceived, which goals might be attained through policy and what sorts of techniques can be used to reach those goals” (Hall 1993: 279).

Much like a gestalt, a policy paradigm provides a framework for addressing social issues that is its own universe, with a theory of social relations, related goals, and a

complementary set of techniques to achieve them. For example, in his study of economic policymaking in Britain in the 1970s and 1990s, Hall illustrates two distinct paradigms: Keynesianism and Monetarism. While Keynesianism saw the state and the economy as interlocked and mutually beneficial, Monetarism preached that inflation – for some the economic kiss of death – most frequently resulted from government intervention in the economy. Based on the shift from Keynesianism to Monetarism in Britain, Hall devised a six-stage model to describe how policy evolves. The first stage – *reigning orthodoxy* – involves the institutionalization of policy. During this time, policy adjustments are made by a closed group of experts and public officials. When outside developments – such as the rising rate of inflation concurrent with rising unemployment, as happened in Britain from the late 1970s – violate a dominant paradigm, policy enters the next stage, the *accumulation of anomalies*, when events question the reigning wisdom. This leads to a transitional third phase – *experimentation* – when policy adjustments occur within the framework of the old paradigm. When unsuccessful, the fourth stage – *fragmentation of authority* – is likely, when some authorities are discredited and new authorities emerge. *Contestation* is the fifth stage, when debate spills into the public arena and incorporates the larger political process. This leads to the sixth stage – *the institutionalization of the new paradigm* – in which advocates of a new paradigm “secure positions of authority and alter existing organizational and decision-making arrangements in order to implement the new ideas now circulating in the policy community” (Hall 1990).

With some modifications, Hall’s model for paradigm shift has helped explain changes in transportation policy in Great Britain, a shift in Canadian policy toward Aboriginal people, and the rise of neoconservatism in Israel under Netanyahu. For example, in his study of policy paradigms in Israel, Ben-Porat (2005) finds evidence for Hall’s six stages, but claims he gives insufficient attention to the role of political entrepreneurs, those who use “ideas as ‘weapons’ to promote and justify a self-interested agenda – who are capable of persuading others of their merits” (Ben-Porat 2005: 228; Berman 2001). Individual agency is important here, highlighting the role of personal charisma and influence in the rise of ideas. But agency has its limits. Ben-Porat also criticizes Hall for not giving enough weight to outside forces. He concludes, “The success of political entrepreneurs,

however, is also a question of timing or historical circumstances often beyond their control” (Ben-Porat 2005: 228). In Ben-Porat’s estimation, the role of political entrepreneurs and the importance of timing are two factors inadequately considered in Hall’s work.

Howlett also tests Hall’s model in the case of the paradigm shift in Canadian policy toward Aboriginal people, a debate with obvious relevance to the US immigrant integration debate. He documents a change from an “assimilationist” paradigm to a new policy of “self-government” and “peaceful coexistence” over more than a century. While all six stages are present throughout this process, the fragmentation of authority preceded the experimentation phase, a reversal of Hall’s suggested sequence. When Aboriginal issues were heard in court – rather than in a specific “policy subsystem” – the monopolistic, state-dominated set of policies changed. “While Hall and others have suggested that external ‘crises’ – whether economic, social, or political – ultimately can be responsible for paradigm changes, they are not very specific about their source or the nature of their impact on policy communities” (Howlett 1994: 642). This underscores the importance of exogenous variables in paradigm shifts and the need to study and classify them more systematically.

Finally, Greenaway and Grantham’s (2000) study of shifts in transportation policy in Norwich, UK, examined the link of local and national policy change. They caution that the local paradigm shift from car centered to environmental centered did not necessarily penetrate national policy. They support Hall’s model, though they argue that it suffers from a neglect of the complexity of central/local relations. Social learning that takes place on the national level may not translate to the local level and vice versa. They argue that “learning at the international and national level was not automatically translated into new policy at the local level where participants had their own perceptions and interests” (Greenaway and Grantham 2000: 830).

So the social learning approach to ideational analysis stresses that policymakers work within particular paradigms as they “puzzle” through real life challenges. When the

challenges accumulate and traditional authorities are tested, a paradigm shift is possible, opening up a new policy world. In many respects, the social learning approach is uniquely tailored to answer the challenge posed by Berman for scholars of ideas in politics: “To understand ideational change, it is necessary to focus on the reasons why ideas are discredited, new ideas are advocated by important carriers, and some ideas and not others achieve public resonance” (Berman 2001: 236). But there are caveats. Social learning may not have sufficiently incorporated the role of political entrepreneurs, the importance of timing, the specific influences of exogenous variables and the fact that social learning on one scale may not translate to another. The Utah experience with undocumented driver licenses will both highlight the theoretical shortcomings and show the usefulness of the basic categories for understanding policy development that we have described above.

### **Utah’s Driver License Policy and the Undocumented Beneficiaries**

Discussion now turns to the policy trajectory of Utah’s driver license initiative, and its implications for the status and rights of undocumented workers. In 1999, when Governor Michael O. Leavitt signed into law HB 36, Driver Identification Law, he opened the road to driver license “documentation” for many residents of Utah who had been “undocumented” or “illegal.” To receive a driver license, they simply needed to provide their ITIN (individual tax identification number), a document provided by the Internal Revenue Service to prove taxpaying status.

Why Utah enacted this law is an important question because of its implications for immigrant rights. . In addition, the law can shed light on the “causal story literature that attempts to understand the transformation of issues into social problems amenable to solution (Stone 1989) and for the pattern of “social learning” that tries to explain the evolution of state policy toward complex public issues (Hall 1993). Most importantly, an understanding of the law’s enactment and its subsequent attacks will provide an excellent window into the evolution of US policy and opinion toward immigrant integration in the last decade.

Utah changed its law on undocumented persons and driver licenses during the January-March, 1999, legislative session. Allowing the undocumented to obtain a Utah driver license only required insertions of the language “or temporary identification number (ITIN) issued by the Internal Revenue Service for a person who does not qualify for a Social Security number,” at three places in the existing five page law governing the identification necessary to obtain a driver license.<sup>3</sup>

The legislative history of HB 36 was quite unexceptional and non-controversial. This now highly contested policy was adopted with no policy analysis, no policy debate, and no reference to experience in other states or to the status of undocumented immigrants. Indeed there were no objections registered to the proposed change. Most importantly, there was no causal story or paradigm that provided a context for the change. Rep. David Ure introduced the bill, encouraged by a Park City activist who worked with immigrants. He was surprised at the absence of opposition. “Ure was prepared for an onslaught of criticism after he sponsored the bill. He was expecting lawmakers to ask, ‘Well, they are here illegally, why are we helping them?’ But the bill passed with little opposition” (Foster 1999). Certainly one factor was the low public awareness of the growing presence of immigrants, documented and undocumented in Utah, a “new destination” for immigrants.

Nonetheless, other elements of the Utah community also supported the change, arguing that it improved public safety and the health of immigrants.<sup>4</sup> Many Salt Lake City police officers agreed with Ure's effort. “A valid driver license, insurance and proper registration,” said Officer James Washington. “That's what we want everyone to have.” Shelley Weiss, the Park City activist who works with Latinos, said “We have immigrants who are working and living here and who cannot get driver licenses. It's a health, welfare and safety issue. Besides, if people are paying taxes they should be allowed to drive here legally” (Foster 1999). Finally, the Utah Department of Health also weighed in, saying “Many Latinos are not receiving adequate health care. In rural areas, if you cannot drive, you cannot get care” (Foster 1999).

The three-line change had a profound effect on the status and rights of undocumented immigrants. They now had an identification document, they were documented; this created rights previously difficult to claim. This document allowed them to open bank accounts, to access state and private services, to cash checks, and to have the mobility and identification to access health care. Most importantly, it allowed them to drive legally. As a result they could buy car insurance and avoid the risk of a ticket for failing to have a license if stopped for a traffic infraction. It was a small change, yet produced a large effect on the status of those who could not qualify for a social security card.

Close examination indicates that the genesis of the law fits neither interpretivist theory of policy development. The low degree of knowledge about immigrants into the state helped keep the issue from being cast as a “problem” that necessitated a causal story to suggest a solution. Rather, the law was perceived by other legislators as minor and hardly worth paying attention to, given the tenor of the process of its passage. In addition, no paradigm of immigrants’ rights had been developed to guide social learning. Indeed, the subsequent debate and attack on the driver license policy might have evolved differently had a causal story and paradigm been established when the law was enacted.

In the years following enactment, the program successfully accomplished its intent. The number of licenses issued to ITIN holders grew rapidly, as seen in Table 1. The data indicate that in the twenty years prior to 1999, the state had issued 960 licenses or ID's to ITIN holders, most likely legal immigrants waiting on a social security number or persons who refuse to obtain social security numbers on personal grounds. When HB 36 became law, the number of licenses began to increase as information was disseminated and the benefits were realized. In the first nine months of 1999, there were 7,481 licenses issued to undocumented; by 2004, 78,851 had obtained driver licenses. Undocumented persons continue to utilize the program. After the change to a Driver Privilege Card in 2005, our data indicate 17,200 new documents had been issued by April 2008. The total number of undocumented persons who received a driver license, a state issued ID, or a “driver privilege card” (after 2005) was 98,355.<sup>5</sup> That number gives some sense of the coverage of the undocumented population in our data base. Indirect estimates of the

undocumented population of Utah, based on the 2000 Census, put their numbers at over 45,000 in 2000 and between 55,000 and 85,000 by 2005 (Passel 2005: 6).<sup>6</sup> This does highlight the question of exactly whose rights were affected by the program. Table 2 provides a general description of our undocumented driver population and compares it with the US Born, the Foreign Born, those whose birthplace is not recorded, and the total Utah driving population. There we can see that the undocumented differ substantially from the other groups in a number of important dimensions.

#### TABLE 2 ABOUT HERE

The undocumented are far more likely to be male (66.4 percent compared to 51.2 percent of the US born and 53.3 percent of the other foreign born). Their average age is much younger, 34.3 years compared with 45.3 years in the US born and 44.7 years of the other foreign born. The undocumented's Body Mass Index (25.77), a measure of health, is the highest (worst) among the groups, followed by the foreign born (25.21). This apparent conflict with the usual finding that immigrants' health is better than the US population's is largely the result of the large share of young males in the undocumented group. The minuscule death rate of the undocumented is more consistent with expectations, and is largely attributable to their youth. As expected, for those whose birth country is available, Mexico accounts for 86.2 percent of the undocumented and 35.2 percent of the total foreign born. Finally, our data indicate that the undocumented are less mobile into and out of the state, though this measure is biased because it depends on their surrendering or getting a driver license in another state, often not feasible for them.

### **Social Learning and Causal Story Evolution**

Despite the program's success, it had unanticipated effects that contributed to a reaction against the presence and influence of "illegals," even though they were now documented. A causal story began to evolve and a process of "social learning" gradually took place that was detrimental to immigrants. There were several elements in the reaction. First, the belief grew that access to driver licenses attracted the undocumented to the state in order to get driver licenses, even if they had no residence in Utah and no intention of

establishing residence. All of the documents required by the driver license bureau, including the ITIN, were reportedly easily forged or obtained irregularly.<sup>7</sup>

Bart Blackstock, head of the Utah Driver License Division, had been quoted in 1999 to say “Our interest is highway safety...and another part of our job is to issue documents that are valid, to make sure that we are issuing the document to the right person—that the people are who they say they are” (Foster 1999). By 2003, Mr. Blackstock said “the agency has seen rashes of document falsification since Utah allowed undocumented immigrants to obtain driver licenses with a tax identification number in place of a Social Security number” (Sullivan 2003). This was based on the arrest of 13 “mostly Spanish speaking individuals” in St. George who had tried to obtain driver licenses with false documents. This is a graphic example of the use of synecdoche, i.e. representing the Latino community through the actions of a few, in this case thirteen individuals. By 2004, Sen. Lyle Hillyard, who had voted for the original bill said “I'm concerned about the number of non-Utahns coming here to get these driver licenses...until the Hispanic community can convince me that the law isn't being abused, I'm not sure I'd support it again” (Stewart 2004). So the causal story was developing, but now casting the “documented” immigrants as violators of the intent of the law rather than as persons attempting to respond as well as they could to their ambiguous status.

Another factor, an “anomaly,” that undercut support for the law was that Utah driver licenses were sometimes not accepted as valid forms of identification in other states. For example, by November 1999, Arizona required relocating Utahns to provide proof of citizenship before receiving an Arizona driver license (Meier 1999). Other states followed Arizona's lead and the criticism of the Utah license escalated after 9/11. For example, by 2005 Arizona required proof of “lawful presence” and would not accept licenses from 19 states. Nevada discounted documents from 24 states (Walsh 2005). Both included Utah in the unacceptable group. The theory of social learning would characterize this as a policy anomaly or an unintended consequence. While there had been no paradigm that guided the enactment of the law, the anomaly enhanced the perception that undocumented immigrants undermine the rule of law.<sup>8</sup>

On the other hand, the “experience” with the law was as proponents had predicted. Table 1 showed that large numbers of the undocumented came out of the shadows and were willing to risk the light in return for an identity document. In addition, supporters of the law could demonstrate that this identification policy produced public safety benefits. Although there were no specific studies of how many of the undocumented drivers had car insurance prior to the law, based on data provided by the Utah Driver License Division, in 1998, the state-wide uninsurance rate was ten percent. By 2007 – less than a decade after HB 36’s implementation – the uninsurance rate had dropped to 5.1 percent (National Immigration Law Center 2008). Later, more specific state audits of driver privilege card holders indicate that as of 2007, 76 percent had insurance, compared to a control group average of 81 percent. (Office of Legislative Auditor General 2006, 2008). So the public safety argument was validated. That a number of other non-government organizations, such as banks, accepted the documents as valid identification also supports their usefulness in regularizing the identity of their holders and ensuring some recognition of their rights.

In 2005, when it appeared that the driver license law would be repealed, a compromise was passed, an example of social learning. The legislature changed the law so that ITIN holders could only obtain “driver privilege cards” (DPC). The DPC is not accepted as official state identification, but is valid for driving and obtaining insurance. Additionally, some private sector entities still accepted DPC’s for identification, which led to a great deal of inconsistency. The licenses that had been issued to ITIN holders now expired on the person’s birthday following July 2005; they now had to be renewed annually, and ITIN holders could not obtain simple ID cards. Finally, the law increased the documentation for a license or DPC, requiring proof of Utah residence. As Table 1 shows, between 2005 and April, 2008, there were 49,294 DPC’s issued. Of those, 17,200 were new applicants, indicating that over 32,000 existing driver licenses were converted to DPC’s.

Interestingly, the driver license law, along with in-state tuition for undocumented students, provided anti-immigrant groups the focus they needed to develop an opposing causal story. Repeal of both has been on the legislative agenda every year since 2004, and the anti-immigrant reaction plays out annually in the Utah State Legislature.<sup>9</sup> By 2004, immigration policy had reached the point of fragmentation of authority and contestation, as posited by Hall (1990). Now rather than a process of causal story development and paradigm formulation, the social policy dynamic came to be dominated by “political entrepreneurs,” who used “ideas as weapons,” and by “external crises” such as the terrorist attack of 9-11. The absence of a causal story or paradigm to provide the undocumented with formal documentation and recognition of rights has fueled the anti-immigration sentiment that has long driven American politics. California's Proposition 187, an anti-immigrant referendum that passed in 1994 with close to 60 percent of the vote, seemed to be the crest of a new anti-immigrant wave. When a federal court subsequently overturned it and the California Republican party then became a minority party in the state, the anti-immigrant wave ebbed for a time. Individual politicians continued to make points with anti-immigrant rhetoric, but the California experience and the general prosperity of the 1990s kept them from the mainstream.

By 2002, national anti-immigrant feeling had resurged. The 2000 Census documented the increase in the number of foreign born, and the effort to count the undocumented more accurately through imputing their presence stirred the anti-immigrant pot. The usefulness of immigration as a wedge issue became apparent in the very competitive presidential election of 2000. The 2001 recession pushed unemployment up from 4.1 percent to 6.1 percent, and immigrants were a ready foil for those without jobs. Finally, the 9/11 terrorist attacks and the ambiguous immigration status of the hijackers sparked calls for better border control. In consonance with Greenaway and Grantham's (2000) conclusion, the national anti-immigrant context swamped the local (state) policy change of HB 36. David Ure was no match for the likes of Tom Tancredo, Lou Dobbs, or J.D. Hayworth and their anti-immigrant discursive weapons. Nor was the Governor of New York capable of using Utah's positive experience to create a causal story that would allow him to follow in Utah's wake.

### **Detailing the Utah Debate Over Immigration Policy**

The debate in Utah illustrates this dynamic and highlights the dominance of political entrepreneurs over social learning. An important Utah contestation was the perennial challenge to immigration moderate Rep. Chris Cannon. It began with the 2002 Republican convention challenge by Matt Throckmorton, the head of the anti-immigrant group, UFIRE (Utahns for Immigration Reform and Enforcement). In that election cycle, Cannon was not forced into a primary; however, in 2004 Throckmorton gained enough support at the Republican state convention to require a primary election, which Cannon won with 58 percent of the vote. Cannon's immigration stand pushed him into a primary again in 2006 and he faced two strong opponents in 2008, when immigration was again a matter of contention. In this case he was forced into a primary and lost to Jason Chaffetz in the general election. Though immigration was only one of the issues in dispute, the contrast between the two was graphic. For example, Cannon favored a guest worker program in agriculture. Chaffetz was accused of “insensitivity bordering on barbarism for his desire to deport all undocumented workers, regardless of their personal situations, and stick those who are criminally charged in fenced ‘tent cities’” (Rolly 2008)

The absence of a compelling story or paradigm to frame the provision of immigrant documentation allowed anti-immigrant groups using an “attrition through enforcement” or “firewall” strategy to scuttle the program and replace it with a Driver Privilege Card. In addition, in 2008 they passed SB 81, modeled on the extremely punitive anti-immigrant legislation of Oklahoma. Most notably this will involve local law enforcement personnel in enforcement of immigration laws, making the DPC an invitation to apprehension. With the fragmented authority in the area and the existence of competing stories of the role of immigrants, opponents of immigrant integration have been successful in their goal of insuring that undocumented immigrants “cannot obtain drivers’ licenses, open bank accounts or enroll in universities” (Schuster and Enriquez 2007). Nonetheless, Utah’s decision, thus far, to preserve these programs indicates that there are competing stories and paradigms, and the outcome may be more the result of the workings of the legislative process than the contestation of ideas.

## **Theory and Reality**

The debate over issuing driver licenses to undocumented immigrants has important implications for the broader issue of migrant rights. The Utah experience provides a tangible example of how this social policy has played out over nearly a decade. Examining the program in relation to the two ideational approaches to politics allows us to assess the evolution of the Utah program and to identify factors affecting the wider national debate.

Contrary to Stone's suggested sequence regarding causal stories and public policy innovation, HB 36 emerged without a causal story. Essentially, the justification for extending a driver's license to undocumented workers was that it would improve public safety and enhance immigrant health. Utah is car country, where most people who work must drive. That means that undocumented workers were most likely driving anyway, without insurance. In the minds of supportive policy makers and activists, granting them licenses would add an essential safety measure that would benefit the entire community. And because the license also operated as a state form of ID, it would allow immigrants to access routine health services, rather than waiting for an illness to escalate until it warranted the much more expensive services of a hospital emergency room. But this was far from a causal story about the role of immigrants in our society, and it left the debate open to counter stories and successful contestation.

Despite its success, by 2003 opposition to the driver license initiative had accelerated. Rather than continuing as a promoter of public health and safety, opponents began to claim that it contributed to the falsification of documents, criminality, possibly even terrorism. An emerging public safety and public health frame was replaced with a "fear of immigrants" frame. And this began with a causal story. The public harm was the fear that Utah was being inundated with undocumented people who were drawn to the state by the promise of an identity document. The allegation was that they were then engaging in "rashes of document falsification." This allegation largely stemmed from the 2003 arrest of 13 Latinos in St. George, detained for trying to obtain driver's licenses with false

documents. Thirteen people who broke the law became a synecdoche for the entire Latino community. The representation of an entire community by the actions of a few lawbreakers fed on the common misperception that immigrants – particularly Latino immigrants – commit crimes at greater rates than native-born people. Nothing could be farther from the truth. Nationally, immigrants are five times *less* likely to be in prison than the native born, according to a recent study conducted by criminologist R. Rumbaut (Immigration Policy Center 2008). And according to Sergeant Craig Harding, a Utah police department spokesman, while Latinos make up only 8 to 9 percent of arrests (Haynes 2007), their overall state representation was nearly 12 percent as of 2007 (Utah State Office of Ethnic Affairs 2008). Nevertheless, the public fear gained momentum, leading to demands for a policy fix. In this case, the policy fix was the repeal of HB 36, and the replacement of the driver license identity card with a pared-down “driver privilege card” (DPC), valid only for driving and obtaining car insurance.

This replacement suggests that a useful metaphor for the rights of immigrants was being abolished. Given that the driver license functioned as an identity document, it recognized the multi-faceted lives, needs and contributions of immigrants. Not only do they drive in Utah, they work, save and spend money in Utah, and they need to be able to access health and other services. The driver license law recognized this, giving immigrants a status almost on par with native-born citizens. But, the passage of the DPC removed the citizen metaphor; it took away the human face of immigration, significantly reduced immigrant rights, and forced them back into the shadows. This suggests that while metaphors can be powerful in framing an issue – and promoting a policy change – their retraction can help produce policy retrenchment.

Just as the policy history of HB 36 suggests that policy innovation can precede a causal story – even as narrative elements become crucial to its later policy trajectory - it also raises new questions about the role of paradigms in policy change. First, there is no evidence that HB 36 was proposed as part of a policy paradigm. There was no existing set of ideas shaping how a problem should be perceived, leading to specific goals and a set of related techniques to reach them. Rather, contrary to the social learning model, this

policy emerged from outside policy circles. Encouraged by activist Weiss – who Berman and Ben-Porat would call a political entrepreneur – state Representative Ure introduced the bill as a proactive measure to enhance the rights of undocumented workers and increase general public safety. There was no extensive discussion of an existing problem or a specific framework with which to understand it, but rather a straight-forward proposal to promote a social good.

However, once opposition to HB 36 developed, many of the stages in Hall's six-stage model for paradigm change were apparent. Skipping the "reigning orthodoxy" stage, we first see the accumulation of anomalies, revolving around fears of identity falsification. In addition to the arrest of the 13 immigrants in St. George, other states – including Arizona and Nevada – began to reject Utah driver licenses as acceptable forms of identification. While policy experimentation would be the next stage, we see the beginning of the fragmentation of authority with the 2002 electoral challenge of immigration moderate Chris Cannon by a strong anti-immigrant leader, forcing him into a primary run-off in 2004. It is only later that we see experimentation, when HB 36 faced almost certain legislative repeal in 2005 and the driver privilege card was created to replace the driver license as a compromise measure.

Whether these shifts will accumulate into a coherent policy paradigm depends on several factors. First we must consider timing. The terrorist attacks of September 11, 2001 – and the fact that all but one of the 9/11 hijackers acquired some form of U.S. identification – created a national climate of fear. To address this, the National Commission on Terrorist Attacks Upon the United States (the 9/11 Commission) recommended the implementation of stricter standards for identity documents in the hopes of restricting the circulation of criminally dangerous people (quoted in Congressional Research Service Report for Congress 2005). While Virginia – where seven of the nineteen hijackers secured driver licenses – was the first state to try to increase security by requiring new applicants to provide proof of citizenship or legal presence and proof of Virginia residency (Kumar 2007), other states have pursued similar measures. And state-level regulations may be rendered obsolete if the federal Real ID Act - legislation for national standards for state-

issued driver licenses and non-driver identification cards – is eventually implemented. Contrary to the old adage, timing may not be everything, but it is certainly critical.

Other exogenous factors that affect the adoption of a policy paradigm on immigration in Utah include the health of the economy and national electoral cycles. With the 2008 presidential elections as no exception, immigration serves as an excellent wedge issue. It was a hotly contested subject during the 2000 presidential election and re-emerged with the 2004 elections. During economic recessions, immigration questions become even more heated. Given the economic challenges the country currently faces – the near collapse of the banking sector, a constantly declining stock market, the home mortgage crisis, and an unemployment rate that may reach double digits – the prospects for the consolidation of a policy paradigm that restricts immigrant rights is likely. But this leaves open the question of whether and how national trends affect local policy. Despite the grim national economic performance, Utah has escaped the worst of the recession. For example, in January 2009 the state unemployment rate was 4.6 percent compared to that national average of 7.6 percent. The state's economic climate suggests that immigration fears might subside, creating space for policy innovation and perhaps a broader policy paradigm that more fully incorporates immigrants' rights. However, if the slowdown continues, momentum may move in the opposite direction.

The final issue to consider is how much the locus of learning matters. Given the national – and frequently global--sources of many social issues, states have limited influence in shaping policy on such issues as immigration, health care, welfare or the environment. States typically have the autonomy, but not the capacity to respond to national and global challenges. So states often have to provide stop-gap measures when national policy is absent or fails. This was the genesis of Utah's policy and even more-so New York's, where the failure to pass comprehensive immigration reform in 2007 led to state-level efforts to mitigate some of the social problems stemming from lack of immigrant documentation. But even as states are limited by the national scale of many problems, as Stone argues, given the nature of federalism, states can help define issues by sponsoring hearings, press releases, press conferences, speeches and other forms of symbolic

politics. When captured by the media, this helps shape public perception and can garner political sympathy or opposition. “And perhaps most important, in the context of American federalism, states can and do serve as incubators of ideas, laboratories of innovation, and modelers of new pathways for solving national problems” (Stone 2006: 129). Whether Utah can again serve as an incubator of progressive immigration policy is an open question. However, there is no question that the contest of ideas will continue.

Table 1: Number of Licenses or ID's Issued to Unique ITIN(SS#=9)Holders\*

	DLDSS#=9 First Date in DLD <sup>b</sup>	DLDSS#=9 Year of Current License <sup>c</sup>	DPC <sup>d</sup> First Date in DLD	DPC Year of Current License
1979-98 <sup>a</sup>	1655	960	563	
1999	7481	1577	4645	
2000	8167	2915	4557	
2001	10873	3850	6418	
2002	43044	4975	12082	
2003	1430	5131	607	
2004	7856	7072	3384	
1999-2004	78851	25520	31693	162
2005	4011	3101	3168	1738
2006	4665	3991	4588	3839
2007	6213	29071	6410	29283
2008	2960	14342	3034	14434
Total SS#=9, 1999-2008	96700	76025	48893	49456
Total SS#=9 (of which are ID's not DL)	98355 (21363)	76985	49456	49456

Source: Utah Population Data Base, Driver License Division database. Uploaded April, 2008. Accessed November 7, 2008 until April 2009.

\* (Total Records in Database= 2870164; 73297 of them could not be categorized because they were missing the Social Security Number; 182209 records were missing either the Social Security Number or the year the License was issued ; none of the ID only records have a Current License year)

- Immigrants with legal visas can obtain an ITIN until their situation regularizes and they obtain a regular Social Security number. The small number indicates that this is a small segment of the ITIN holders.
- The "First Date in DLD" indicates the first date that an individual enters the UPDB, through the driver license database. The "lumpiness" is an artifact of how records are added to the database.
- The "Year of Current License" is the most recent year that a driver license record is changed. After 2005, Driver Privilege Cards (DPC's) must be renewed yearly, accounting for the large numbers.
- Recipients of DPC's are flagged in the database. The "Year of Current License" captures the requirement that they renew yearly; the "First Date in DLD" captures all those who participated in the HB 36 program since its inception in 1999.

Table 2- Demographic Comparison of Undocumented

	<u>Undoc- umented</u>	<u>Foreign Born<sup>a</sup></u>	<u>Foreign w/o Undocs</u>	<u>U.S. Born<sup>a</sup></u>	<u>Unknown<sup>a</sup></u>	<u>Total<sup>a</sup></u>
<u>Number</u>	<u>98,355</u>	<u>244,648</u>	<u>146,293</u>	<u>1,882,152</u>	<u>743,364</u>	<u>2,870,164</u>
<u>Percent Male</u>	<u>66.4%</u>	<u>58.6%</u>	<u>53.3%</u>	<u>51.2%</u>	<u>54.0%</u>	<u>52.6%</u>
<u>Average Age(years)</u>	<u>34.3</u>	<u>40.5</u>	<u>44.7</u>	<u>45.3</u>	<u>46.1</u>	<u>45.1</u>
<u># Less than 16 years</u>	<u>859</u>	<u>859</u>	<u>0</u>	<u>2743</u>	<u>999</u>	<u>4603</u>
<u>Body Mass Index(BMI)<sup>b</sup></u>	<u>25.77</u>	<u>25.41</u>	<u>25.21</u>	<u>25.36</u>	<u>25.08</u>	<u>25.29</u>
<u>Change in BMI</u>	<u>3.1%</u>	<u>3.4%</u>		<u>4.1%</u>	<u>2.8%</u>	<u>3.9%</u>
<u>% Born in Mexico<sup>c</sup></u>	<u>86.2%</u>	<u>35.2%</u>	<u>24.8%</u>	<u>0%</u>	<u>NA</u>	<u>4.1%</u>
<u>% Moved from Other State</u>	<u>11.6%<sup>d</sup></u>	<u>17.2%</u>	<u>21.0%</u>	<u>16.8%</u>	<u>40.3%</u>	<u>22.9%</u>
<u>% Who Left State</u>	<u>3.1%<sup>e</sup></u>	<u>7.7%</u>	<u>10.8%</u>	<u>10.1%</u>	<u>24.0%</u>	<u>13.5%</u>
<u>Deaths</u>	<u>.2 %</u>	<u>3.5%</u>	<u>5.6%</u>	<u>9.0%</u>	<u>2.5%</u>	<u>6.9%</u>

Source: Utah Population Data Base, Driver License Division database. Uploaded April, 2008. Accessed November 7, 2008 until April 2009.

<sup>a</sup>Undocumented are included in Foreign Born and Unknown. Total is sum of these and the U.S. born.

<sup>b</sup>The high percentage of males in some categories biases this value upwards. It is illustrative and analytical comparisons will adjust for sex and age.

<sup>c</sup>This is calculated as percent of those whose birth country is recorded in the data file. This reduces the undocumented sample to 58,555 for example, and the Total group to 2,077,882.

<sup>d</sup> Since this is based upon surrendered driver licenses, it understates the intra-state mobility. It will allow us to gain some information on staged migration within the U.S.

<sup>e</sup> Since this is based upon surrendered driver licenses in other states, it understates the intra-state mobility. It will allow us to gain some information on staged migration within the U.S.

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<sup>1</sup> The driver license database contains the social security number of license holders; those that begin with a "9" do not have valid social security numbers but tax identification numbers, ITIN's, as permitted in the legislation. A few individuals legally in the country can use ITIN's to obtain licenses. The number is quite small, e.g. there were only 960 cases from 1979-1998 when the program started. Some of these were not licenses but state identification cards, in some cases obtained by parents for minors.

<sup>2</sup> In the section on the driver license policy in Utah, we rely heavily on newspaper treatments because the mass media is "both a mirror of public opinion and a magnifying glass for the issues it takes up" (Hall 1993, 288).

<sup>4</sup> This is Utah statute **53-3-205**, as last amended by Chapter 155, Laws of Utah 1995. The change was made through adoption of House Bill 36 (Utah State Legislature 1999).

<sup>5</sup> Interestingly, the law was passed amidst efforts to enact an "english only" law in Utah that began in 1997 and was finally passed as a result of a state-wide initiative in 2000. This reflected a growing awareness

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of the presence of immigrants as they were encountered in service jobs, e.g. restaurants, lawn care, etc.

This apparent contradiction also illustrates the absence of a paradigm of immigrant integration.

<sup>5</sup> Until at least until 2002, Utah had gone further than most states in encouraging the undocumented who applied for driver licenses to apply to the Social Security Administration for an ITIN (Oberbeck and May, 2001).

<sup>6</sup> These estimates for Utah are quite imprecise, but they should roughly correspond with our own. A number of adjustments would have to be made, e.g. since our data cover only driver license holders, i.e. persons 16 and over, we would have to adjust upward. On the other hand, we do not net out those who move out of the state. The immigrants tend to be a very mobile, and this would bring our figures into greater correspondence with others'. Further research is necessary to assess the different measures of the undocumented.

<sup>7</sup> While the law required the residential address be listed on the license, it only required "proof of every applicant's name, birthdate, and birthplace by at least one of the following means:

(a) current license certificate;

(b) birth certificate;

(c) Selective Service registration; or

(d) other proof, including church records, family Bible notations, school records, or other evidence considered acceptable by the division."

The 2008 audit found that the increased documentation reduced one measure of fraud, i.e. the number of licenses issued to one address. Under the earlier program, one address had been issued 65 licenses (Office of Legislative Auditor General).

<sup>8</sup> The 2002 passage of HB 144 that allowed undocumented students to pay in-state tuition at Utah universities under certain circumstances indicates that the anti-immigrant sentiment had not consolidated and that policies that served both immigrant and state needs could still gain some traction. From that date on, those who support such steps have been on the defensive, attempting to stop the policies from being completely reversed. For example, in the 2008 session, twenty-four immigration-related bills were proposed for consideration and the most punitive, SB 81 was passed. Efforts in the

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2009 session to limit its effect were unsuccessful and a “strike force” to capture undocumented felons was passed in addition.

<sup>9</sup> Efforts to repeal HB 36 and HB 144 have been unsuccessful, usually because of procedural blockages in the legislature. This has been largely in response to pressure from business backed proponents of the tuition benefit and the driver privilege card.