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The Majority Rules: The Origins of Voter ID Laws and Their Role in Electoral Strategy
Today

A dissertation submitted in partial satisfaction
of the requirements for the degree
Doctor of Philosophy in Political Science

by

Tye Anthony Rush

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ABSTRACT OF THE DISSERTATION

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Tye Anthony Rush

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Professor Matthew Alejandro Barreto, Chair

Some states implement voting laws that make it harder to vote. Today, despite evidence that voter impersonation is rare, 34 states have implemented some form of voter ID. I ask: 1) Where do restrictive voting policies come from? 2) Why do state legislators pass restrictive voting policy? What conditions make legislators more likely to sponsor and support these policies? Few studies examine what factors contribute to state legislator support for restrictive voting requirements. I investigate how demographic threat impacts state legislator support for voter identification legislation. I argue that voter identification laws are elite-driven devices that legislators use to retain political power when changing demographics disfavor them and pose an existential threat to their electoral viability, particularly when it is unfeasible for legislators to successfully win support from racial minority voters. The restrictive voting laws prior to the civil rights movement were explicitly racially discriminatory, but in order to overcome legal challenges restrictive voting laws today are written to be race neutral and to produce a racially discriminatory effect. This study takes a holistic approach, examining legislator intent behind voter identification laws, by using historical context around restrictive voting laws to establish the link between the restrictive voting laws of the past and those of today in the literature. First, I examine archived sources to un-

derstand how voter identification laws developed from other discriminatory tests and devices. Findings indicate that early voter identification laws were implemented in places where large nonwhite populations enjoyed strong political organization and power, and modern voter identification laws are adopted similar contexts. Next, I examine why state legislators vote for and sponsor these laws. I find evidence that state legislators respond to demographic threat with restrictive voter identification legislation. Many scholars examine voter identification laws through voter fraud and partisanship, but I argue that this ignores 150 years of targeted voter suppression against Black people, Latinos, and immigrants. These findings have broad implications for understanding how state legislators respond to demographic change.

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*For my Family, both by blood and those chosen along the way, who believed in me when I
needed it.*

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Chapter 1

Introduction

1.1 Considering Voting Laws in Electoral Strategy

What influences legislator behavior? Scholars studying legislator behavior and democratic theory have long been motivated by this question. To date, legislator behavior is one of the most widely studied areas in political science, leading to a rich literature that shows the most significant factors that contribute to legislator behavior in considering legislation. Research identifies the extent to which legislators make decisions in response to pressures stemming from constituencies, institutions, and personal preferences (Fenno 1973; Fiorina 1974; Ferejohn and Fiorina 1974; Aldrich and others 1995; Mayhew 1974; G. C. Jacobson 2004).

In pursuit of research that better understands what factors impact legislator behavior, prevailing theory fails to explain why there has been a recent uptick in legislator support for bills that make voting in elections harder. These explanations fall especially short in explaining legislator behavior regarding one of the most notorious types of restrictive voting legislation today, voter identification requirements. It has long puzzled scholars why legislator behavior may be congruent with constituent preferences on some bills and may depart significantly from these constituent preferences on other bills. Generally, voter preferences account for only a small sliver of legislator behavior (S. D. Levitt 1996) and preferences from their districts more often do not impact their behavior either (Ansolabehere, Snyder, and Stewart 2001). To explain this phenomena across all

legislation, scholars have proposed theories that highlight how reelection concerns are integral in understanding legislator behavior. Legislators may deem some groups in their districts as more important to securing the legislator's own reelection and they act accordingly (W. E. Miller and Stokes 1963; Fiorina 1974; Fenno 1978; Goff and Grier 1993; Krehbiel 1993; Bishin 2000). Studies attempt to explain the recent uptick in the introduction and passage of voter identification bills. This body of literature establishes that partisanship, demographics, and electoral competition are associated with legislator support on restrictive voter identification bills (Bentele and O'Brien 2013; Hicks et al. 2015; Hicks, McKee, and Smith 2016, 2016; Biggers and Hanmer 2017).

However, little attention has been paid to the role that the impact or expected impact of voter identification legislation could have on legislator behavior in considering such legislation. The literature predicts that legislators also pursue reelection through legislation but largely does not investigate legislator behavior on election legislation, bills that may have a direct impact on their election prospects. Some studies focus on measuring the impact of voter identification requirements (Rocha and Matsubayashi 2013; Hajnal, Lajevardi, and Nielson 2017; Fraga and Miller 2022; Grimmer and Yoder 2019; Henninger, Meredith, and Morse 2021) but only recently has this work sought to measure the correlates that impact legislator behavior on these bills. While these studies find that constituents' race and ethnicity are associated with legislators' support for restrictive voter identification legislation, scholars conducting this research conceptualize the impact of race or ethnicity at a fixed moment in time, the year that the restrictive voter identification legislation is either introduced or receives a floor vote in the legislature. In the years before legislators have the chance to cast a vote, sponsor, author, or introduce legislation, racial demographics fluctuate, elections are held across the country, and voters' partisan preferences may change, all impacting legislators' own election prospects or the prospects of their party. Moreover, the literature identifies the impact of changing demographics on elections (Enos 2017; Reny 2017; Kaufmann and Goodwin 2018; Hill, Hopkins, and Huber 2019; Collingwood, DeMora, and Long 2022), but political science has not yet conceptualized how changing racial demographics may impact legislator behavior on voter identification legislation. Therefore, a comprehensive study of legislator

behavior regarding voter identification legislation is long overdue.

There is a rich history of vote denial in the United States, particularly for racial minority groups. The Fifteenth Amendment was ratified to guarantee the right to vote regardless of “race, color, or previous condition of servitude.” However, Jim Crow and other restrictions imposed by state and local jurisdictions explicitly abridged racial minority groups’ access to voting up until the Voting Rights Act (VRA) of 1965 as a direct response to how this enfranchisement changed the electorate. Scholars often mark the implementation of the VRA as the moment when universal suffrage was achieved, but even since it passed in 1965, the VRA has been amended several times to account for how restrictive voting policy has evolved and evaded VRA-related challenges (B. Grofman, Handley, and Niemi 1992; Garza 2008; B. N. Grofman and Davidson 2011). Additionally, states and local jurisdictions to this day have lost VRA lawsuits over restrictive voting policy that they have enacted (United States Department of Justice 2022). Current research has typically divorced the historical relationship between increased racial diversity in the electorate and the passage of restrictive voting laws.

Today, states are enabled to enact racially discriminatory voting laws, so long as they do so through disproportionate impact, and restrictive voter identification laws have become popular among some state legislators. When voting laws make voting more restrictive and harder to access the ballot box, it has a disproportionate impact on racial minority groups (Matt A. Barreto, Nuno, and Sanchez 2009), who are more sensitive to these changes in voting laws (M. S. Williams 2000; B. N. Grofman and Davidson 2011). Restrictive voter identification laws negatively impact turnout (Fraga and Miller 2022; Grimmer and Yoder 2019). A combination of disproportionately lower levels of access to the required form of identification under the most restrictive voter identification laws among racial minority groups (Matt A. Barreto, Nuno, and Sanchez 2009; Matt A. Barreto, Sanchez, and Walker 2012; Matt A. Barreto and Sanchez 2014; Citrin, Green, and Levy 2014; Henninger, Meredith, and Morse 2021) and racially disproportionate enforcement of voter identification requirements at polling places (Ansolabehere 2009; Cobb, Greiner, and Quinn 2010; Rogowski and Cohen 2014; A. R. White, Nathan, and Faller 2015) lead to a disproportionately

negative impact among racial minority groups (R. Michael Alvarez, Bailey, and Katz 2008; Rocha and Matsubayashi 2013; Hajnal, Lajevardi, and Nielson 2017; Kuk, Hajnal, and Lajevardi 2022). While it is possible that either this impact on racial minority groups or the expectation of this impact (Hasen 2012) are unrelated to legislator behavior regarding voter identification legislation, rapidly changing demographics and both legislators' and political parties' ability to remain competitive in elections may incentive the passage, sponsorship, and authorship of restrictive voter identification legislation.

This project addresses shortcomings in the literature, discussed above, regarding legislator behavior on voter identification legislation. First, this project ties the political science literature on modern restrictive voting laws back into the scholarship on voting rights and race. Second, this project addresses a gap in the literature that has failed to explain the recent wave of restrictive voting bills in state legislatures across the United States. This project does so by examining the extent to which demographic change impacts state legislator behavior regarding voter identification legislation. More specifically, it investigates how demographic change may change state legislators' electoral calculus and whether that impacts their bill sponsorship and roll call voting behavior on voter identification legislation. Third, this project analyzes a broader array of voter identification legislation. While prior studies have only analyzed the voter identification legislation that would enact a new restrictive requirement, a highly partisan environment where legislators' behavior is highly visible, this project also incorporates voter identification legislation that more incrementally amends existing requirements. This serves to capture the entire voter identification debate in state legislatures beyond the most visible and partisan bills. To that end, the analyses in this project rely on a unique dataset of legislator behavior on bills that either amend existing voter identification requirements or legislate new voter identification laws. Moreover, this project lays out a theoretical framework for understanding the recent wave of voting legislation, providing an outline for where and when to expect legislators to introduce and support restrictive voting legislation.

1.2 Why Voter Identification Legislation

Voter identification laws in their most basic form are laws “requiring a voter to provide proof of his or her identity as a registered voter before casting a ballot.”¹ The first voter identification law was adopted in 1950 in South Carolina, a state with one of the largest black populations and where black political organizing was among the strongest in the nation. Soon after, several other states with similar characteristics and large nonwhite populations followed suit.² Over time, voter identification laws have become more restrictive and supplanted other more common restrictive voting laws that targeted nonwhite communities. These requirements are race-neutral, but are more likely to impact racial minority voters, making them a potentially powerful tool against the impact of demographic change. Moreover, lawmakers have justified these laws, arguing that they are aimed at securing the integrity of elections and the Supreme Court has upheld the constitutionality of voter identification laws on the grounds that curbing fraud is a legitimate state interest, despite evidence that voter impersonation is extremely rare.³

Prior to the Voting Rights Act (VRA) of 1965, jurisdictions freely implemented tests and devices in their voting and election laws, creating barriers that prevented racial minorities from participating in elections. With the passage of the VRA, the federal government took on a proactive role in eliminating contemporary tests and devices to voting, leading to the development of devices and tests that produced discriminatory effects but that were written with race neutral language. While the VRA was amended to strike down devices and tests that proved to have discriminatory effects, lawsuits challenging such laws still struggled. Ever since the *Shelby County v. Holder* (2013) ruling, the federal government has largely lost the proactive authority granted by the preclearance provision of the VRA, relegating federal response to a reactive role again. As a result, it has become more difficult to successfully challenge voting and election laws for discrimination under the VRA. In turn, voter identification laws have spread quickly and have become even more strict, with some

¹Brennan Center for Justice. “Voting Laws Roundup: February 2023” February 27, 2023. <https://www.brennancenter.org/our-work/research-reports/voting-laws-roundup-february-2023>

²North Carolina NAACP v. McCrory - 831 F.3d 204 (4th Cir. 2016)

³Veasey v. Abbott - 830 F.3d 216 (5th Cir. 2016)

35 states now requiring or requesting a form of identification in order to vote in elections. These laws have become arguably one of the greatest challenges to voting rights since the discriminatory tests and devices that the Voting Rights Act outlawed in 1965.

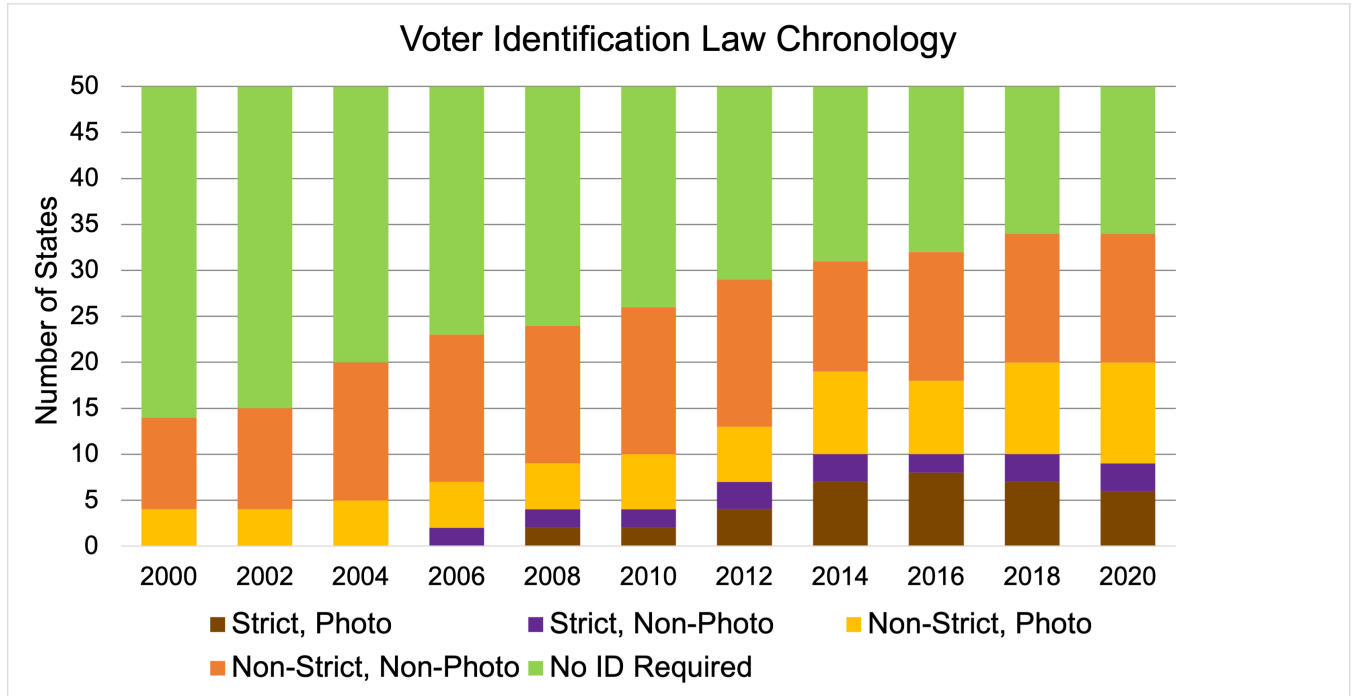


Figure 1.1: Source: National Conference of State Legislatures (2021)

1.3 Argument

Political science has yet to fully understand why some states have dedicated significant effort to electoral reform efforts that make voting in elections less accessible. Why do state legislatures consider and pass restrictive voting legislation? What conditions make legislators more likely to sponsor and support these policies? This project investigates these questions, presenting a theory for understanding how demographic change might impact legislator behavior on voter identification legislation, and this theoretical approach is different from that of the prevailing literature. In this approach, this project utilizes a unique dataset of legislator behavior on voter identification bills, roll call votes and bill sponsorship. This project investigates the conditions under which legislators sponsor voter identification legislation and the factors that influence their roll call votes when these

bills receive a floor vote in the legislature. To investigate these questions, this project examines how demographic threat impacts legislator behavior. The literature on demographic threat argues that increases in the proportion of racial or ethnic groups in an area can be seen as threatening when it has the ability to change the political, social, or economic hierarchy of that area. I apply this theoretical framework to understand when and where legislators may perceive demographic change as a threat and how this impacts their behavior on voter identification legislation.

Democratic Theory argues that there is a strong link between legislators and their constituents, often assuming that there is an electoral connection between the two where legislators adopt policy positions that reflect constituents' preferences (Urbinati and Warren 2008). However, the political environment around voter identification legislation suggests that political elites lead the push for restrictive voting laws. People generally do not have much information on voter identification laws and support for these requirements is malleable, where support depends on what information people are exposed to about voter identification (David C. Wilson and Brewer 2013; David C. Wilson and Brewer 2016). More specifically, support for voter identification requirements increases when people are manipulated by information priming them to feel fear (Banks and Hicks 2015). Moreover, people are more likely to believe fear priming information, like accusations of voter fraud, when this information is about majority minority cities (Morris and Shapiro 2023). Political elites, like state legislators lead, often lead public opinion on policy issues rather than the other way around (Lenz 2013) and evidence suggests that this may also be the case with voter identification legislation.

Demographic change is integral to understanding the most recent wave of restrictive voting legislation. More specifically, how demographic change impacts legislators' electoral fates in an electorate with stark partisan polarization in each election cycle and where partisan attitudes among racial minority groups are becoming increasingly more crystallized. These make demographic change threatening to legislators and political parties when it impacts their ability to hold power. When elections and control over the legislature is more competitive and demographic change disfavors particular candidates or their party, these actors pursue legislation that advantages themselves.

Political parties work to get their members elected and to assemble a majority in a legislative chamber in order to pursue their policy goals. Likewise, in order for legislators to enact their policy goals, they pursue reelection and dedicate considerable resources to increase their odds of reelection.

1.4 Dissertation Outline

This dissertation examines how demographic change, when it becomes a threat to political power, impacts legislator behavior on voter identification legislation. Using a theory on demographic threat, I focus on the relationship between race and restrictive voter identification legislation. Demographic change on its own does not necessarily present a threat to the political power of state legislators or their political parties, but when that change challenges the balance of power, legislators react to this threat by pursuing policy that helps to stave off political change. I argue that state legislators respond to this demographic threat with restrictive voting laws.

In Chapter 2, I present the theory on demographic threat and how it impacts support for restrictive voting legislation. I begin this chapter by defining demographic threat and its place in the literature on legislator behavior. Then, I discuss the role of demographic threat in recent efforts to enact restrictive voter identification legislation. Politicians in general are motivated by policy, power, and other goals, but their primary goal is to get elected. Both legislators and political parties commit scarce resources to achieving their re-election goals. I argue that voter identification laws are elite-driven response to demographic threat that legislators use to retain political power when changing demographics disfavor them and pose an existential threat to their electoral viability. This electoral strategy mirrors the disenfranchisement of the pre-Civil Rights movement era as a means to power when it is unfeasible for these legislators to reach racial minority voters. Additionally, in this chapter I lay out expectations about when and why state legislators are likely to respond to demographic change with restrictive voter identification legislation.

In Chapter 3, I examine the implications of demographic threat and the impact it has had on voting laws across the history of the United States. I briefly lay out a history of the franchise and

suffrage in the United States and the role that race played in efforts to deny racial minority groups the vote and to dilute their voting power. I then conduct a more in depth examination of this history for just a couple of states that have been significant in the evolution of modern voter identification requirements. South Carolina is the first state to have adopted a modern voter identification law in 1950 and Texas, a state that has consistently pursued restrictive voting laws, enacted one in 1972. Using South Carolina and Texas as case studies, I examine evidence in the historical record that political elites and political parties used restrictive voting laws to preserve the status quo political power structure in response to Black and Latino enfranchisement. In doing so, I link modern restrictive voter identification laws with the history of other prerequisites to voting. This chapter shows that political elites have routinely responded to demographic threat with restrictive voting laws.

In chapter 4, I empirically test the demographic threat hypotheses developed in the preceding chapters. Using a unique dataset of legislator behavior on voter identification legislation, I investigate the impact of demographic threat on state legislators' voting behavior, looking at roll-call votes for voter identification legislation. In this analysis, I operationalize a measure for demographic threat, the intersection of demographic change and electoral contexts where this change is most likely to threaten state legislators and/or their political party, and I deploy it to compare legislator behavior on restrictive voter identification legislation across variation in threat. I show evidence that supports the theory on demographic threat, that state legislators vote for restrictive voter identification legislation in response to threat. In states that hold a vote on restrictive voter identification legislation, legislators respond to Latino demographic threat differently than they respond to Black demographic threat. I conclude this chapter with a discussion about the role of demographic threat and how it helps to improve our understanding of why legislators pursue restrictive voter identification laws.

In Chapter 5, I examine the impact of demographic threat on restrictive voter identification bill sponsorship among state legislators. In this final empirical chapter, I rely on a unique dataset of state legislator bill sponsorship behavior (2010-2020) that includes voter identification bills that make voting more accessible and bills that make voting more restrictive. Not only do I test the

impact of demographic threat on restrictive voter identification bill sponsorship, but i also include tests to understand why legislators sponsor bills that would make satisfying voter identification requirements easier. This is the first study in political science to investigate why legislators sponsor voter identification legislation. Findings indicate mixed evidence that only partially supports the hypotheses extended from the demographic threat theory. These findings show that Republicans sponsor restrictive voter identification legislation in response to Black demographic threat but tread more carefully in their voter identification response to Latino demographic threat. I conclude this chapter with a discussion about what these results suggest and explain how these findings fit into the prevailing literature.

I conclude in chapter 6 with an overview of the argument and key takeaways made in this dissertation. I weigh these key takeaways and spell out contributions to the literature. Finally, I outline the limitations of the analyses to be addressed in future research.

Chapter 2

Demographic Threat and the Strategy of Electoral Advantage

2.1 Introduction

Prevailing theories on legislator behavior demonstrate that legislators spend a significant amount of time and other scarce resources in pursuit of re-election, building and maintaining a winning electoral coalition. While legislators are motivated by policy, power, and other goals (Fenno 1973), their primary goal is to get elected and then re-elected. Mayhew (1974) describes legislators as “single-minded seekers of reelection” because they are motivated by the danger of losing in an election and use their power to improve their chances of re-election. Moreover, political parties are just as motivated get their candidates elected and deploy strategies to achieve this goal (Aldrich and others 1995). Incumbent legislators spend their time maintaining their winning electoral coalition, either building up their base of support or protecting their existing voter bases (G. C. Jacobson 2004). Both of these scenarios assume that legislators can feasibly maintain their base or attract new voters.

However, districts across the United States are becoming more racially diverse (Frey 2020) and, through persuasion, it has become harder for some Republican politicians and parties to attract voters from racial minority groups, who increasingly identify with the Democratic party and vote

for Democratic candidates (Tolbert and Hero 2001; Sears, Danbold, and Zavala 2016; Doherty et al. 2016; Daniel J. Hopkins, Kaiser, and Perez 2022). The fierce partisan polarization that characterizes the political landscape today makes campaign efforts to persuade and attract voters of rival parties a difficult strategy (Berelson, Lazarsfeld, and McPhee 1954; Bartels 1993; Kalla and Broockman 2018) that requires more resources than campaigns are able to spend (Cardy 2005). As a result, campaigns instead turn to strategies that mobilize voters from their own coalition (Issenberg 2012; Hersh 2015). The asymmetric impact of demographic change presents a major challenge for the Republican party in competitive environments where the impact of growing racial minority populations may threaten their chances at re-election. Legislators who perceive themselves or their party as unable to successfully appeal to voters from growing racial minority populations, unable to broaden their appeal, or unable to mobilize a winning coalition of the voters who are already predisposed to vote for them, may pursue strategies that maximize turnout among their own coalition and that simultaneously shrinks turnout among their opponent's electoral coalition. It is in their short-term interest to retain power by excluding voters who are predisposed to support their opponent.

Studies attempt to explain why more states are passing and enacting restrictive voter identification bills without addressing demographic change. This body of literature establishes that partisanship, demographics, and electoral competition are associated with legislator support on restrictive voter identification bills (Bentele and O'Brien 2013; Hicks et al. 2015; Hicks, McKee, and Smith 2016, 2016; Biggers and Hanmer 2017), but these studies frame their analyses as an investigation into which factors matter more rather than positing a theory and tests that understand how these three factors work together in a more parsimonious explanation. Legislatures controlled by Republicans are more likely to adopt restrictive voter identification bills but this probability increases in states that are electorally competitive (Bentele and O'Brien 2013; Hicks et al. 2015). In states where the governorship and state legislature switches to Republican party control, they are more likely to adopt a restrictive voter identification law and in states with large Black and Latino populations, this likelihood increases (Biggers and Hanmer 2017).

In this dissertation, I argue that demographic threat offers a mechanism by which partisanship, race, and electoral competition all fit together neatly to explain state legislator support for restrictive voter identification legislation. When demographic change threatens legislators' electoral prospects, they support efforts to make voting more restrictive that disproportionately disadvantage racial minority groups. In doing so, they strategically secure their own electoral interests and the interests of their political parties.

2.2 When Change Becomes Threat

Plenty of work examines legislators' campaign messaging in response to demographic threat and the outcomes of those elections (Smidt 2017; Hill, Hopkins, and Huber 2019), focusing on how politicians build and maintain their electoral coalitions, but few studies investigate how demographic threat impacts legislator behavior on bills that impact their electoral coalitions. Prior research overlooks how demographic threat impacts legislator behavior on restrictive voting bills.

When demographic change becomes a threat to politicians, it shifts legislator behavior in the legislature (Hayes, Hibbing, and Sulkin 2010; Miler 2016), demonstrating that legislators are responsive to changes among the electorate that could impact their electoral futures. However, demographic change impacts legislators differently depending on their political party affiliation. The Republican party has become more White (Olson 2008; Hajnal and Rivera 2014) and Black and Latino voters increasingly identify with the Democratic party (Doherty et al. 2016; Daniel J. Hopkins, Kaiser, and Perez 2022), so demographic change becomes a threat to the Republican party in states where control over the legislature turns over to a different political party more easily from election to election.

In places with large racial minority populations, conflict and demographic threat are more likely to occur. Large racial minority populations compete for scarce resources and threaten the majority group (Bonacich 1972). Outside of the economic sphere, sizeable racial minority populations represent a threat to White people (Blalock 1967). Others argue that threat comes from the rate

of growth among those racial minority groups, rather than the size of them (Newman 2013; Newman and Velez 2014), and that when the influx of these groups is more sudden, it reinforces threat (Daniel J. Hopkins 2010). Regardless, an important precondition for racial threat is that people perceive the out-group as a threat to their own in-group (Wong 2007).

In the past, how inaccessible voting laws are in a state or a jurisdiction has been closely linked to the racial demographics of that state or a jurisdiction. This was often backlash in response to Black and Latino enfranchisement. In fact, access to the ballot box in the United States has historically been tied to race (Stoney 1940; Kassinger 1974; Kousser 2000; Valelly 2009; B. N. Grofman and Davidson 2011; Vandewalker and Bentele 2015). Even restrictive voting laws that appear to be race neutral on their face have been linked to race (Behrens, Uggen, and Manza 2003; Keyssar 2009). Racial minority voters have been routinely deprived of the right to vote in the name of election integrity (Berman 2015).

Shifts in racial demographics change the political landscape and legislators are responsive to that change. Changes from immigration and patterns of internal migration shift campaign strategy and candidate messaging. In the face of demographic change, some candidates find the threat of the changing political landscape to be effective in mobilizing voters for short-term electoral gains (Dancygier and Donnelly 2013; C. S. Parker and Barreto 2014; Mutz 2018; Reny, Wilcox-Archuleta, and Nichols 2018), with Republican candidates incorporating anti-racial minority messaging into political campaigns to drum up support (Newman 2013; Hajnal and Rivera 2014; Sides, Tesler, and Vavreck 2018) and Democrats engaging in pro-racial minority messaging in response to the same demographic changes. Scholars address the impact of Latino population growth on candidate messaging and outreach (Collingwood, Barreto, and Garcia-Rios 2014) but in the past, as Black populations gained access to electoral institutions, the political landscape similarly shifted (Collingwood 2020). Legislators respond to these shifts when they pose a threat to their electoral futures.

The Republican party has already responded to recent demographic change by pursuing strategies that increase Republican power in legislative bodies. Specifically, in 2010 the Republican State

Leadership Committee strategically targeted state legislative races to increase Republican control in these legislatures so that they could adopt Congressional and State Legislative maps that strategically advantage Republican prospects in the future and disadvantage Democrats. This strategy, the Redistricting Majority Project (REDMAP), also known by shorthand as project REDMAP, flooded state legislative races in 2010 with resources to win a majority in as many legislatures as possible (Daley 2016). Prior to the 2010 election, Democrats comprised a majority in 60 state legislative chambers while Republicans controlled just 36 chambers; after the 2010 election, Democrats controlled only 40 chambers to Republicans' majority in 55 chambers, with a tie in two chambers (RSLC 2012). Race has been a motivating factor in other attempts to legislate a partisan advantage in electoral institutions. In *Common Cause v. Lewis* (2018),¹ the North Carolina General Assembly drew state legislative districts that the plaintiff's challenged, arguing that the Republican majority legislature had adopted this plan because it advantaged White Republicans. Email records and other files from the Republican redistricting consultant's hard drive revealed that there was a party-level effort to advantage White Republicans in the redistricting plan that the legislature had adopted, compelling the three-judge panel to strike down the redistricting plan and cite this evidence in their decision.² These files contain evidence of party-level efforts to advantage White Republicans beyond North Carolina in redistricting plans across several key swing states and including a citizenship question on the Decennial Census, aimed to decrease Latino representation in Congress by reducing Latino response rates in the redistricting data file (Daley 2019).

2.3 Restrictive Voting Laws

Over the past three decades, the federal government has pursued measures aimed towards making voting and the voter registration process easier for eligible Americans. In 1993, the National Voter Registration Act (NVRA) expanded the opportunities available to Americans to register to vote by offering voter registration at state Department of Motor Vehicles (DMV) agencies, through mail-in

¹Common Cause v. Lewis, No. 19-1091 (4th Cir. 2020).

²Common Cause v. Lewis, 358 F. Supp. 3d 505 (E.D.N.C. 2019).

applications, and at various state and local governmental offices, in addition to standardizing the voter registration process and the lists of registered voters kept by states.³ In response to the failures in voting systems made clear in the 2000 general election, most notably the “hanging chad” debacle with Votomatic-style punched card ballots in Florida, Congress sought to pass sweeping reforms to standardize election administration and the voting process, Congress passed the Help America Vote Act of 2002 (HAVA), creating a federal agency to assist with election administration, providing vital funds to states to improve election administration and voting systems, and standardizing election key elements of election administration.⁴ Some states have followed suit, adopting provisions for early voting, more widely available voter registration, permanent absentee voting, same day voter registration, etc.

More recently, a wave of states have pursued restrictive voting legislation that makes voting and registering to vote harder for some groups of people eligible to vote. In particular, states have passed restrictive voter identification laws, which raise the cost to electoral participation by requiring voters to show a valid, approved form of identification, according to each state’s specific law requires, in order to cast a ballot.

Voter identification requirements do not present an additional barrier for people who already have valid identification, but for others without this same level of access to valid forms of identification, it typically entails an additional trip to the Department of Motor Vehicles, a passport-granting agency, etc. to pay a fee, fill out an application, wait, and have additional supporting documents like a birth certificate and/or a social security card with them to obtain identification that complies with these requirements. Even programs that supplement voter identification card fees require an additional application and verification process, making the overall process more costly and complicated. For example, in order to receive a free voter identification card from a county registrar’s office or a Georgia DMV, people must provide “[a] photo identity document or approved non-photo identity document that includes full legal name and date of birth”, “[d]ocumentation showing the voter’s

³United States Department of Justice. “National Voter Registration Act of 1993 (NVRA).” 2022. <https://www.justice.gov/crt/national-voter-registration-act-1993-nvra>

⁴United States Department of Justice. “Help America Vote Act of 2002.” 2023. <https://www.justice.gov/crt/help-america-vote-act-2002>

date of birth”, “[e]vidence that the applicant is a registered voter”, and “[d]ocumentation showing the applicant’s name and residential address.”⁵

This is systemically a problem for racial minorities who are less likely to have access to a valid form of identification in the first place. Advocates of restrictive voter identification laws argue that these reforms would increase election security by preventing voter fraud. However, there is a disconnect between this justification and the evidence. Several comprehensive studies probing voter fraud find that voter fraud is extremely rare. First, between 2002 to 2005, only eight people were convicted of or pleaded guilty to voter fraud (Minnite 2007). In a study on voter impersonation, the type of voter fraud that proponents of restrictive voter identification laws argue that these laws are positioned to combat, there is evidence of only thirty-one credible incidents of voter impersonation in an investigation of over one billion votes cast (J. Levitt 2012). Moreover, in a study comparing voter fraud in states with the fewest voting restrictions to voter fraud in states with the most voting restrictions, evidence demonstrates that there is no difference in levels of voter impersonation (Ahlquist, Mayer, and Jackman 2014). In fact, the proportion of the population reporting voter impersonation is no different from the proportion of people who report that they were abducted by extra-terrestrial beings. If restrictive voter identification requirements solve a problem that does not exist, why do state legislatures pursue this legislation, allotting precious time and other scarce resources that could be used pursuing other legislation for their constituents?

Reducing access to the ballot box with restrictive voter identification laws reduces political participation. When the cost of voting increases without an equivalent increase to the benefits of voting, people are less likely to participate (Downs 1957). Restrictive voter identification impose higher costs on voting and decrease the likelihood of participation, leading to lower turnout. There is a disproportionately negative impact among Black and Latino people, who are less likely to possess or have access to the valid forms of identification required so satisfy restrictive voter identification requirements (Matt A. Barreto, Nuno, and Sanchez 2009; Matt A. Barreto, Sanchez, and Walker 2012; Rogowski and Cohen 2012; Citrin, Green, and Levy 2014; Matt A. Barreto and Sanchez

⁵Georgia Voter Identification Requirements. 2022. http://sos.ga.gov/index.php/elections/georgia_voter_identification_requirements2

2014). Disproportionate access to valid identification translates into a disproportionately negative of restrictive voter identification on turnout for Black and Latino voters (R. Michael Alvarez, Bailey, and Katz 2008; Rocha and Matsubayashi 2013; Hajnal, Lajevardi, and Nielson 2017; Kuk, Hajnal, and Lajevardi 2022).

Proponents of restrictive voter identification laws argue that they are meant only to deter voter fraud but evidence shows voter fraud to be a rare phenomenon. In court, states argue that their voter these laws are meant to combat fraud but in *Crawford v. Marion County Election Board* (“Crawford v. Marion County Election Board” 2008), the first Supreme Court challenge for modern restrictive voter identification laws, the state of Indiana could not point to any evidence that in-person voter fraud happened in any election within the state in defense of their strict, photo identification requirement. Scholars have found nothing to indicate that voter fraud is a pervasive issue that needs to be remedied with onerous restrictive identification requirements (Minnite 2007; J. Levitt 2007; Ahlquist, Mayer, and Jackman 2014). In the Heritage Foundation’s database of voter fraud, a conservative think tank, there are only 20 instances of voter impersonation at the polls in the entire database, spanning from 1979 to 2022.⁶ If restrictive voter identification requirements solve a problem that does not exist, why do state legislatures choose to allot precious time and other scarce resources to pass restrictive voter identification bills? There is clearly something more driving this wave of restrictive voter identification legislation.

In the United States, political institutions have historically guaranteed voting rights to white people and have only done so for racial minorities recently and in a limited capacity. The Reconstruction-Era Constitutional Amendments⁷ were ratified to bar certain forms of discrimination in the electoral process but it took the enforcement mechanisms legislated in the Voting Rights Act (VRA) of 1965, passed almost a century after Reconstruction, to more broadly enforce racial inclusion in elections and voting. The VRA initially targeted voter suppression and disenfranchisement where discriminatory devices were written in election laws to explicitly target

⁶“Election Fraud Database.” The Heritage Foundation (2023), <https://www.heritage.org/article/about-the-election-fraud-database>.

⁷United States Constitution, amend. 13; United States Constitution, amend. 14; United States Constitution, amend. 15.

people based on race because this type of explicit exclusion was normalized at the time. In the following couple of decades after the VRA, amendments were made to cover disenfranchising devices where all that could be proven with evidence was racially-discriminatory effects, due to shifts in norms away from including racially explicit language in these voting and election laws. Evolution in the way the VRA was applied to jurisdictions' election and voting laws to cover disenfranchisement in both racial intent and racial effects helped to broaden racial inclusion in electoral systems across the country, but a recent wave of restrictive voting and election laws now prevents progress in guaranteeing voting rights to racial minorities.

The recent, stricter voter ID laws we see more widely used today are effective because they block eligible voters from successfully casting a ballot. It is a winning strategy in close elections for legislators who are not able to attract voters from racial minority groups due to partisan disadvantages created at the national level that trickle down to the reputations of state parties. This strategy has been made more available to state legislators after *Shelby v Holder (2013)* gutted the provisions of the Voting Rights Act of 1965 that gave the federal government authority to proactively strike down discriminatory voting and election laws. Where these laws would previously have been vetted and halted by the Voting Rights Act's preclearance requirement-- states that have previously used racially discriminatory devices in their voting and election laws and/or in states that have failed to more fully incorporate racial minority groups in the electoral process⁸--they have evaded federal legal scrutiny due to court decisions like *Crawford v. Marion County Election Board* and *Shelby v Holder (2013)*. These landmark Supreme Court decisions cleared the way by allowing states to implement changes in election and voting laws without demonstrating that they do not produce a racially discriminatory effect. While there have been recent court decisions that have struck down some of the most egregiously restrictive voter ID laws, without VRA preclearance enforcement, these laws have gained more legitimacy through the courts and have once again become a viable electoral strategy to preserve political power.

⁸Voting Rights Act of August 6, 1965, Pub. L. No. 89-110, 79 Stat. 1965.

2.4 Conclusion

This chapter served to provide a theoretical lens with which to investigate state legislator behavior regarding restrictive voter identification legislation. In this chapter, I outline demographic threat and how legislators respond to that threat. In the past, legislators have responded to demographic threat by pursuing legislation that is hostile towards growing racial groups. The literature thoroughly examines how legislators respond to demographic threat in their campaign messaging, but has yet to systematically examine the extent to which it might impact the election legislation that they pursue. This is especially troubling given that at every instance in the United States in which voting rights protections or expanded access to the vote enfranchised racial minority voters, it was met with efforts to enact new restrictive voting laws. Scholars must consider the more than 150 year history of racial discrimination in studies that aim to understand how legislators respond to demographic threat.

I argue that state legislators support restrictive voter identification laws when their power is threatened by demographic change. More specifically, state legislators support restrictive voter identification bills to retain their jobs and control over state legislatures in the face of demographic change. In 2013, the Republican National Committee’s “Growth and Opportunity Project” argued that the party needed to appeal to racial minority voters in order to achieve more electoral success⁹ but the party has moved in the opposite direction, failing to build a new majority coalition that incorporates more people of color (Galvin 2020). Republican state legislators’ lack of success in courting more support among the racial minority groups that drive demographic change becomes a threat when electoral competition is fierce, underscoring the need for an alternative approach. Legislators have taken to restrictive election legislation, like restrictive voter identification, to help them compete in elections. Partisanship is not a driving force in legislator support for restrictive voter identification laws, it is instead illustrative of a broader consequence of partisan polarization: that Republicans curtail the impact of demographic threat when they no longer see voters of color as

⁹Republican National Committee. “Growth and Opportunity Project.” (2013). <https://www.documentcloud.org/documents/624581-rnc-autopsy.html>

persuadable. In chapters 3, 4, and 5 I test the implications of demographic threat on state legislator behavior regarding restrictive voter identification legislation.

Chapter 3

The Legacy of Restrictive Voting Laws in the United States

3.1 Introduction

Where do restrictive voting policies come from? The current discussion on voter identification laws in the literature primarily focuses on the last two decades. However, this takes for granted the context in which these laws emerged and how they tie into trends in ballot access. Specifically, throughout the history of the franchise in the United States, states have teetered back and forth between making voting more accessible and making it harder to cast a ballot. The kinds of voting laws that states are able to implement today is impacted by both prior legislation and how the political actors, including state and federal courts, have responded to these laws in the past and what precedents were set. Historical context matters, not just for the sake of background information, but it helps shed light on path dependence in state legislatures and how that path dependence may impact legislative behavior today.

Reconstruction, lasting from about 1865 to 1877, is the period after the Civil War when the federal government attempted to integrate newly freed Black people into economic, social, political institutions (Foner 2022). Three amendments were made to the Constitution, known as the Reconstruction Amendments, that abolished slavery and extended important civil rights to newly freed

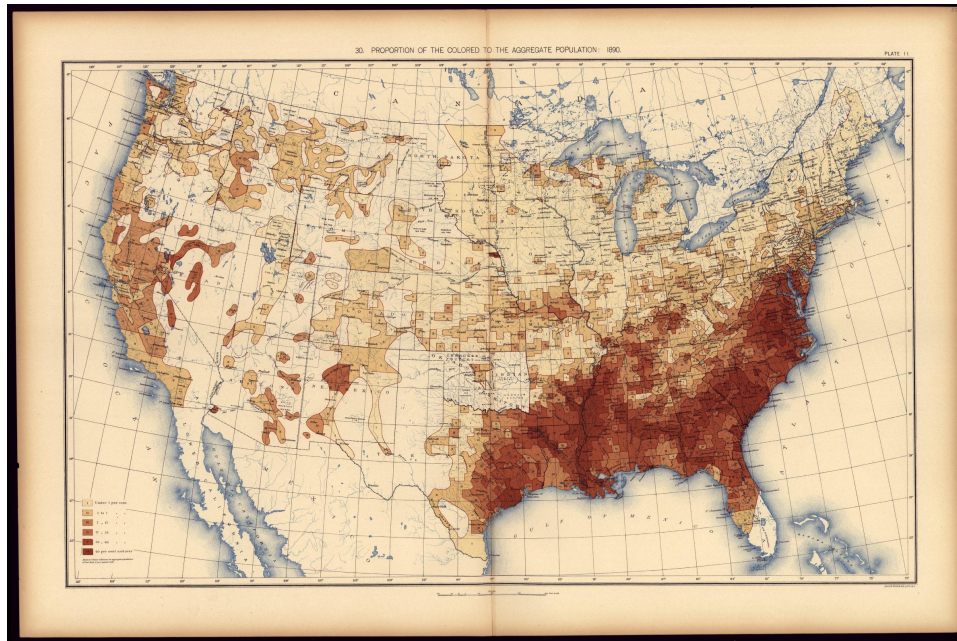


Figure 3.1: United States Census Office. 11Th Census, 1890, and Henry Gannett. Statistical atlas of the United States, based upon the results of the eleventh census. Washington, Govt. print. off, 1898. Map. <https://www.loc.gov/item/07019233/>.

Black people. The Thirteenth Amendment abolished slavery, the Fourteenth Amendment granted equal protection under the law regardless of race, among other things, and the Fifteenth Amendment guaranteed the right to vote, regardless of race (Maltz 1990). 3.1 depicts the distribution of Black people across the United States around Reconstruction, according to the 1890 Decennial Census, showing the potential impact that these amendments would have on state and local political systems across the South. During this time, through a Republican Party coalition made of Black and White voters (Foner 1982),¹ Black enfranchisement led to major gains in representation in state and local governments across the South (B. N. Grofman and Davidson 2011). While White people in these states resisted these changes throughout the entirety of Reconstruction, the removal of federal troops in 1877, ending Reconstruction and the federal government could not guarantee the enforcement of the Fourteenth and Fifteenth Amendments,² so they were again free to disenfranchise Black people. Until the Voting Rights Act of 1965, the federal government would not

¹Brennan Center for Justice. “Voting Laws Roundup: February 2023” February 27, 2023. <https://www.brennancenter.org/our-work/research-reports/voting-laws-roundup-february-2023>

²North Carolina NAACP v. McCrory - 831 F.3d 204 (4th Cir. 2016)

have the effective enforcement mechanisms necessary to combat the wave of Jim Crow Laws that followed the end of Reconstruction.

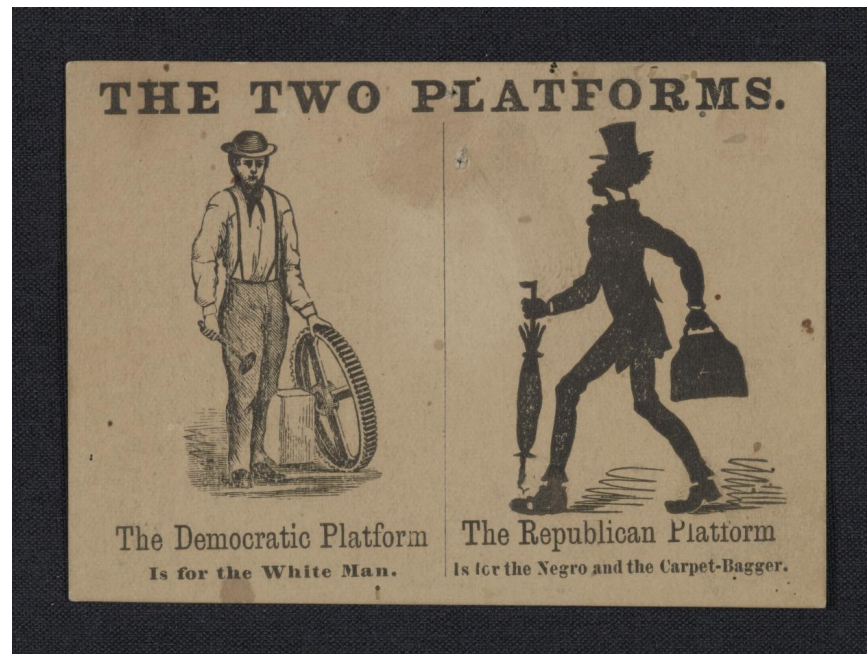


Figure 3.2: Lincoln, A. Abraham Lincoln papers: Series 4. Addenda, -1948: Political card, 'The Two Platforms', undated. Manuscript/Mixed Material Retrieved from the Library of Congress.

Prior to the Voting Rights Act of 1965 (VRA), the franchise was largely left up to the states, loosely and a patchwork of legal precedent set by the judicial system. This approach was only marginally successful, as it relied on racially conservative district and circuit court judges across the South to even take up these cases when filed (B. N. Grofman and Davidson 2011). Through strong enforcement mechanisms aimed at the Jim Crow Era restrictive voting laws, the VRA finally enacted protections that extended suffrage, forbidding any racially discriminatory test or device that deny or abridge the right to vote.³ Unlike prior voting rights legislation, the VRA made it possible to enforce the Fifteenth Amendment by requiring certain states and jurisdictions to clear any changes in voting and laws with the federal government and to prove that they would not discriminate before these changes could be implemented, a process known as preclearance (Kousser 2000). In addition, the VRA identified states and jurisdictions that had used discriminatory tests or devices in

³Veasey v. Abbott - 830 F.3d 216 (5th Cir. 2016)

the past and prescribed a coverage formula to identify additional states and jurisdictions that failed to enfranchise Black voters, requiring these entities to also go through preclearance to change laws related to elections or voting. While the VRA proved to be an effective tool in efforts to combat voting laws that had a discriminatory purpose, so states and jurisdictions shifted to practices that have a discriminatory impact (Davidson and Grofman 2021). Subsequent amendments to the VRA in 1970, 1975, and 1982 addressed these new tests and devices, extending protections to address discrimination against language minority groups and to include voting laws that have discriminatory effects (O’Rourke 1983; F. R. Parker 1983; B. N. Grofman and Davidson 2011).

The Voting Rights Act of 1965 has been effective in challenging discriminatory barriers that disenfranchise voters from different racial minority groups, but recent court rulings have eroded the VRA’s protections, allowing a new wave of restrictive voter identification laws. *Crawford v. Marion County Election Board (2008)* challenged Indiana’s strict photo identification law, one of the first strict voter ID laws in the country. The Supreme Court ruled that photo identification requirements reasonably attempt to curb voter fraud, therefore states may pass laws requiring photo identification on election day.⁴ This provided further legitimacy to strict photo identification requirements. The decision in *Shelby County v. Holder (2013)* further eroded key VRA protections, striking down the preclearance formula, one of the most powerful tools in combating voter disenfranchisement.⁵ The Supreme Court ruled that current threats to the franchise do not justify the “burdens” placed on jurisdictions by the coverage formula for preclearance. In the dissenting opinion, Justice Ruth Bader Ginsburg described the impact of the decision: “[t]hrowing out preclearance when it has worked and is continuing to work to stop discriminatory changes is like throwing away your umbrella in a rainstorm because you are not getting wet” (“*Shelby County v. Holder*, 570 U.S. 529 (2013),” n.d.). These rulings have cleared the way for a wave of states to implement restrictive voter identification laws (Tokaji 2005; Eyer 2019).

⁴Republican National Committee. “Growth and Opportunity Project” (2013). <https://www.documentcloud.org/documents/624581-rnc-autopsy.html>

⁵Brennan Center for Justice “Voting Laws Roundup: May 2022” (2022). <https://www.brennancenter.org/our-work/research-reports/voting-laws-roundup-may-2022>

3.2 Case Studies

In this chapter, I give rich historical context to modern restrictive voter identification laws. I explore the history of restrictive voting practices in several states that have played a significant role in the evolution of voter identification laws up to today. First, I focus historical research on South Carolina, where, in 1950, the first state voter identification requirements emerged in 1950 (Hood and Buchanan 2020), following a long legacy of racial exclusion in the electoral process. Next, I turn to the history of restrictive voting laws and restrictive voter identification requirements in Texas, the second state ever to have any voter identification law and the third to require photo or non-photo identification (Biggers and Hanmer 2017). Although Texas's law received judicial scrutiny, it remains one of the strictest photo voter identification requirements in the country. Additionally, Texas has consistently been one of the most difficult states to vote in, with a long history of restrictive voting practices. Together, these states add rich context to understanding modern restrictive voter identification legislation.

3.2.1 South Carolina

At the beginning of Reconstruction, as a condition to re-enter the union after the Civil War, the state ratified a new constitution that integrated black people for the first time in economic, political, and social society. The Constitution of 1865 removed long-standing requirements to voter eligibility that previously barred even free Black people from participating. Prior to Reconstruction, South Carolina is noted for strong, long-standing Black political organization, but during Reconstruction, more black people, both free and former slaves, were elected to political office throughout the state and had considerable success in winning seats in the state legislature (W. C. Hine 1983; Biesecker-Mast 2019). However, any progress was reversed when Reconstruction abruptly ended; state and local governments implemented racially discriminatory election and voting laws to restore White political control. Towards the end of this Jim Crow Era of racial discrimination and segregation, more innovation created restrictive voting laws that would stand up to judicial scrutiny, birthing the

country's first restrictive voter identification law. In 1950, South Carolina implemented a restrictive voter identification law.

South Carolina has a long history of racial disenfranchisement through restrictive voting laws. Black people were the first racial group disenfranchised in South Carolina in 1716, then a colony, when the law was changed to explicitly mandate that only White people were allowed to vote.⁶ Prior to this, the only qualifications were that a person be free and possess property, valued above a certain threshold, (S. B. Weeks 1894). It was not until 1759 that this racial requirement also applied to candidates, barring Black people from holding any elected posts. This racial requirement remained unchanged until Reconstruction. The state fought hard against any changes to the racial order in South Carolina politics, voting almost unanimously in the legislature (95 to 1) to reject the Fourteenth Amendment, and fought as vigorously to oppose Black integration and enfranchisement even after finally being readmitted into the Union in 1868 (Edgar 1998).

Although Reconstruction codified Black enfranchisement in South Carolina, the government that this electorate chose was largely seen as illegitimate by the White people across the state (Zuczek 1996). In fact, Attorney General (Chamberlain 1870) at the time described White opposition as “the old governing class of the State, chafing still under defeat, regarding universal suffrage as the last folly and indignity of their conquerors, and determined to lend no aid, no countenance, no support to the new Government.” Moreover, White people across the state challenged the Reconstruction state government with violent tactics. The Klu Klux Klan, one of the main perpetrators of this violence, not only targeted the Republican Party and its supporters, but in 1871 they also managed to intimidate Governor Robert Kingston Scott into disbanding black militia units across several counties as a compromise to the violence (L. F. Williams 1993).

Tensions reached a boiling point the final gubernatorial election in the Reconstruction Era, resulting in a contested election rife with efforts to rig the results. In 1876, South Carolina Republicans nominated incumbent, Daniel Henry Chamberlain, while the Democratic Party nominated Wade Hampton III, a former Confederate Army General who campaigned on White solidarity (Kassinger

⁶Only men were allowed to vote and hold office.

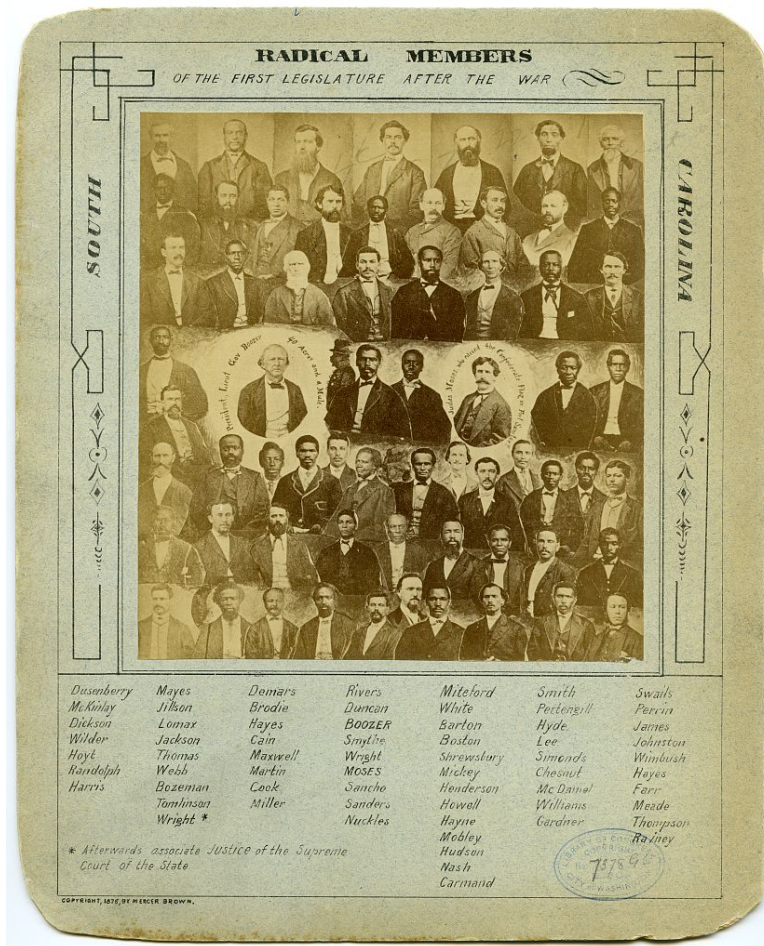


Figure 3.3: Radical members of the first legislature after the war, South Carolina. South Carolina, ca. 1876. Photograph. <https://www.loc.gov/item/97504690/>.

1974). Hampton was described as “tolerant when it came to racial matter-as long as black Carolinians did not threaten the white minority’s control of state government” (Edgar 1998). Chamberlain was declared the winner in the initial vote count, but after the South Carolina Supreme Court ordered that votes previously rejected by the State Canvassing Board be counted, Hampton led Chamberlain and was declared the winner (Sobel and Raimo 1978). Rampant fraud called into question the integrity of the election results. In one instance, significantly more votes were cast in a county than were voters,⁷ according to the previous year’s state census (Edgar 1998), leading both candidates to declare victory and assume the office, although Hampton was the official Governor, until shortly after when President Rutherford B. Hayes withdrew federal troops and ended Reconstruction.

Although Black voters had achieved historic representation in state government and enfranchisement in South Carolina, the end of Reconstruction would ultimately erode this. Following the withdrawal of federal troops in 1877, Black elected state officials resigned en masse (Burke 2006), preceding a series of laws changes to the law that were enacted to disenfranchise Black voters and to restore White voting power and representation. Not only were basic practices, like voter registration, made to be as onerous as possible with the aim of deterring eligible Black people from voting, but innovation led to new restrictive voting devices, like precinct assignment practices that drew some voting precincts such that Black voters would have to walk all day in order to vote (Edgar 1998). The new state constitution, adopted in 1895, officially codified the state’s ability to continue to disenfranchise (Wallace 1896; “The Decline of Voter Suppression in South Carolina, 1900–1965” 2020) and it took sporadic judicial intervention to check the most heavy handed restrictive voting laws.

Obstacles to the ballot box worked together in an interlocking system of restrictive voting practices to disenfranchise Black voters (B. N. Grofman and Davidson 2011). One of the most effective tools in disenfranchising Black voters post-Reconstruction was the “All-White” Primary. In order to get elected in the South after Reconstruction, candidates had to run in the Democratic primary and win since, as a result of the stranglehold the Democratic Party had over politics in the South, the

⁷In Edgefield County, the 1875 state census record a total of 7,122 voters and 9,374 votes were cast in that county in 1876. For more information, see (“Recent Election in South Carolina” 1877).

Democratic nominee almost always won the general election (Bartlett 2008; Collingwood 2020). In 1896, South Carolina became one of the first states that required candidates to first be nominated through primary elections. Soon after, Benjamin Tillman, who served as U.S. Senator of South Carolina from 1895-1918 and had served as Governor of South Carolina from 1890-1894, led the charge to officially enact the All-White Primary system, aimed at strengthening White voting power in the state (Kantrowitz 1995). The All-White Primary reigned over Black voters in South Carolina until *Elmore v. Rice* (1947).⁸ The District Court for the Eastern District of South Carolina killed the state's All-White primary when it applied the Supreme Court ruling from *Smith v. Allwright* (1944),⁹ striking down the All-White primary in Texas (Lawson 1999).

Two other notable obstacles were the poll tax, a tax that must first be paid in order for a voter to be eligible to cast a ballot,¹⁰ and the literacy test, a test for assessing a person's ability to read and write.¹¹ The South Carolina Constitution of 1895 codified into state law a poll tax and a literacy test, among other restrictive voting prerequisites designed to discourage Black voters (Moore 1996). This poll tax only applied to general elections, not primary elections (Stoney 1940), impacting Republican candidates the most because Black voters could only had participate in general elections due to the All-White primary. The poll tax stood for a long time, in part due to the legitimacy the federal judicial system lent it in lawsuits across the country. In *Breedlove v. Suttles* (1937),¹² a case challenging the poll tax in Georgia, the Supreme Court ruled that poll taxes were constitutional. This precedent applied to all states that required a poll tax as a prerequisite to vote. The poll tax was repealed by a state constitutional amendment that the legislature ratified in 1951 ("South Carolina Ends Poll Tax" 1951). The success of literacy tests can be attributed to the subjectivity with which they were applied. The 1895 Constitution codified that "Persons who are idiots, insane, paupers supported at the public expense, and persons confined in any public prison" were disqualified from participating in elections (South Carolina 1900). The legislature would institute

⁸Elmore v. Rice, 72 F. Supp. 516 (E.D.S.C. 1947).

⁹Smith v. Allwright, 321 U.S. 649 (1944).

¹⁰Britannica, T. Editors of Encyclopaedia. "poll tax." Encyclopedia Britannica, July 28, 2022. <https://www.britannica.com/topic/poll-tax>.

¹¹Volle, A. "literacy test." Encyclopedia Britannica, March 1, 2023. <https://www.britannica.com/topic/literacy-test>.

¹²Breedlove v. Suttles, 302 U.S. 277 (1937).

a literacy test that required a voter to be able to read any section of the state constitution that was provided to them and to also understand and explain its meaning. Poll workers used wide discretion in administering these literacy tests. They applied the test differently, depending on the race of the voter, assigning more complicated passages to Black voters (Trinkley 2023). The success of these tests in disenfranchising Black voters is in part due to differences in literacy rates across race, perpetuated by inequalities in South Carolina’s segregated school system (“The Decline of Voter Suppression in South Carolina, 1900–1965” 2020). Additionally, voters could satisfy the literacy test by either proving that they owned significant property or by proving that their ancestor had been eligible to vote before the Civil War, known as the Grandfather Clause.¹³ In 1915, the Grandfather Clause was struck down everywhere by the Supreme Court decision in *Guinn v. United States* regarding Oklahoma’s use of this device.¹⁴ In South Carolina, literacy tests were legal until the VRA of 1965 was enacted, which eliminated these tests only in some places. It wasn’t until the 1970 VRA amendment that literacy tests were outlawed everywhere in the country (B. Grofman, Handley, and Niemi 1992).

Between 1949-1950, South Carolina Governor Strom Thurmond led efforts to reform state election law. First, the 88th General Assembly created a committee in 1949 to study current election laws, focusing in part on measures that would curb voter fraud (Thurmond 1949). The resulting omnibus bill, titled “Election Law”, passed both chambers of the legislature and on April 20, 1950, Governor Thurmond signed it into law as Act No. 858.¹⁵ The bill centered on election integrity, enacting several provisions to curb election fraud and corruption. By enacting a voter identification a request-only measure, this law revived a proof of precinct residency requirement from the 1895 Constitution (Moore 1996), which had been used Post-Reconstruction to penalizing former slaves who often moved frequently for agricultural work, like sharecropping (Tindall 1952). Governor Thurmond, noted for throwing the full influence of his office behind the 1950 omnibus election

¹³Britannica, T. Editors of Encyclopaedia. “grandfather clause.” Encyclopedia Britannica, July 22, 2020. <https://www.britannica.com/topic/grandfather-clause>.

¹⁴*Guinn & Beal v. United States*, 238 U.S. 347 (1915).

¹⁵The South Carolina 88th General Assembly (1949-1950) Passed Act No. 858 in the Second Legislative Session in 1950, which Governor Strom Thurmond signed into law.

law bill (Thurmond 1950), is known today for his opposition against key civil rights and voting rights legislation in Congress. As a United States Senator from South Carolina, Thurmond filibustered the Civil Rights Act of 1957 for a record 24 hours and 18 minutes and voted against the Civil Rights Act of 1964 and the Voting Rights Act of 1965 (Crespino 2012).

The VRA of 1965 was successful in combating restrictive voting laws South Carolina. The state had been subject to preclearance requirement, meaning that in order to change any election law, the state had to prove to either the Attorney General or the United States District Court for the District of Columbia that the proposed changes did not have discriminatory purpose and would not have a discriminatory effect (United States Department of Justice 2015). In 2011, South Carolina passed Act 27, a new voter identification requirement that failed preclearance because the state failed to carry its burden of showing that its voter ID law would not “have the effect of denying or abridging the right to vote on account or race or color.”¹⁶ After amendments to the Act, the state was able to enact a new voter identification requirement. *Shelby County v. Holder (2013)* struck down the coverage formula that identified jurisdictions that were required to submit new election laws for preclearance, clearing the way for states to enact more onerous voter identification requirements. While first modern voter identification law can be traced back to South Carolina, several recent Supreme Court decisions have paved the way for states to successfully implement new, more restrictive voter identification requirements by further weakening the provisions of the VRA that helped combat the most onerous restrictive voting laws.¹⁷ In 2021 alone, 160 voter identification bills were introduced in state legislatures across 39 states.¹⁸

3.2.2 Texas

On December 29, 1845 Texas was admitted into the Union and officially seceded in 1961 to join the Confederacy, despite being a relatively young state. Nonetheless, in order to re-enter the Union

¹⁶See *South Carolina v. United States*, 898 F. Supp. 2d 30 (D.D.C. 2012).

¹⁷See *Shelby County v. Holder*, 570 U.S. 529 (2013) and *Brnovich v. Democratic National Committee*, 594 U.S. (2021).

¹⁸See National Conference of State Legislatures. “Voter ID: Where Are We Going, Where Have We Been?” (2021).

following the Civil War, Texas adopted a new state constitution in 1869 that enfranchised racial minority voters, defining the electorate as any male citizen who is 21 years-of-age or older (McKay 1952). The constitution enforced a strict residency requirement, mandating that a voter must have lived in the state for at least a year and must have lived in the county they are voting in for at least sixty days. Following the abrupt end of Reconstruction, White supremacist groups like the The Klu Klux Klan terrorized Black and Mexican American populations with violence and lynchings across the state, intimidating them from participating in elections (Cantrell 1990). At the same time, Texas swiftly enacted laws aimed at stripping civil and voting rights away from newly freed Black people and other racial minority groups.

The new interlocking system of restrictive voting laws worked together to produce mass disenfranchisement for Black and Mexican American voters after Reconstruction. Among these devices came use of the “All-White” primary became one of the most effective tools in Texas with which to exclude Black and Mexican American voters. In many Southern states after Reconstruction, the Democratic party dominated general elections up until party realignment in the 1950s-1970s (Collingwood 2020). During the time, Texas became a *de facto* one-party state and primary elections ultimately determined who would win in the general election. As a result, the state pursued legislation that barred Black voters from primary election participation, known as the “All-White” primary, and each time this device was struck down in court, the state implemented a new version that would continue to bar Black and Mexican American voters from primary elections. In 1905, the state government worked to reform the nominating processes of political parties in Texas in order to disenfranchise Black voters. The state enacted the Terrell Law in 1905, which required a statewide direct primary for all state, district, and county elected offices (O. D. Weeks 1976), and primary elections became the front line for vote denial. The law allowed parties to decide who could participate in their primaries, leading to the “All-White” primary, which kept Black and Mexican American voters from having meaningful electoral influence over candidates for state, district, and county elections. When the non-partisan ban on Black voter participation in primary elections was declared unconstitutional, the Terrell Law was amended to ban Black voters from participating in

Democratic Party primaries and Texas codified this “All-White” primary in state election law in 1925 (Hainsworth 1933). In 1927, *Nixon v. Herndon*¹⁹ struck down this version of the “All-White” primary. Texas enacted new versions of the “All-White” primary two more times (D. C. Hine, Lawson, and Pitre 2003) until the Supreme Court ruling from *Smith v. Allwright (1944)*²⁰ struck down their last attempt at the “All-White” primary (Lawson 1999).

Another major obstacle to Black and Mexican American enfranchisement in Texas were literacy tests and language requirements, a test for assessing a person’s ability to read and write.²¹ While these tests elsewhere were originally aimed at Black voters after Reconstruction, in a fit of anti-immigrant sentiment and Mexican American backlash, the state used language requirements to discriminate against Mexican American voters. In 1918, the state enacted a new anti-immigrant voting law aimed at combating Mexican American voting power. This law made it illegal to receive assistance from an interpreter at the polls when casting a ballot, unless the voter had been a citizen for at least 21 years prior (Garcia 2020). Language based discrimination in elections would not be curbed until the Voting Rights Act was amended in 1975, creating Section 203. This addition to the VRA treats English-only language requirements the same as other devices outlawed in Section 2 (B. N. Grofman and Davidson 2011). When a language minority group becomes large enough in a jurisdiction, officials are required to provide election materials in that language in addition to English. However, more recently, Texas tried to restrict access to language interpreters at polling places, requiring that language interpreters must be registered voters in the same county in which the voter they are helping is registered. In 2017, the U.S. 5th Circuit Court of Appeals ruled that this law violates the Voting Rights Act and the requirement was struck down (Ura 2017).

¹⁹*Nixon v. Herndon*, 273 U.S. 536 (1927).

²⁰*Smith v. Allwright*, 321 U.S. 649 (1944).

²¹*Ibid* at note 11.

Table 3.1: Spanish Origin in Texas (1970). United States Census Bureau. 1970 Decennial Census.

Spanish Origin or Descent Indicator		
Total Population:	11,195,416	
Spanish Origin or Descent	2,059,671	18.4%
Not of Spanish Origin or Descent	9,135,745	81.6%

One other powerful obstacle that disenfranchised Black and Mexican American voters in Texas was the poll tax, a tax that must first be paid in order for a voter to be eligible to cast a ballot.²² After Reconstruction, Texas ratified a new constitution in 1869 that strip away Reconstruction era voting protections for Black people who wished to vote. The new constitution permitted the state legislature to impose a poll tax (McKay 1952). In 1902, the Texas state legislature codified the poll tax requirement in the state constitution itself (Texas Legislature 1902). The poll tax was equivalent to a many Black and Mexican American workers’ daily wage, deterring many Black and Mexican American workers from paying it in order to vote. Legitimacy was granted by the Supreme Court for the poll tax in *Breedlove v. Suttles* (1937)²³ when the court ruled that the poll tax in Georgia was constitutional, prolonging the use of a poll tax in Texas. Although the state kept the poll tax until the Voting Rights Act of 1965 ultimately made this prerequisite illegal, voters had the chance to end the poll tax in 1963. In a special election for an initiative that would amend the Texas state constitutional to repeal the poll tax requirement, Texans voted down the amendment after a counter campaign labeled this initiative as communist during a time when the public was especially susceptible to the “Red Scare” (Loftus 1963). However, the poll tax was overturned soon after the United States Attorney General in 1966 argued that the state’s poll tax was in violation of the Voting Rights Act of 1965.²⁴

In 1971, the Twenty-Sixth Amendment was ratified, reducing the minimum voting age from 21

²²*Ibid* at note 10.

²³*Ibid* at note 12.

²⁴*United States v. State of Texas*, 252 F. Supp. 234 (W.D. Tex. 1966).

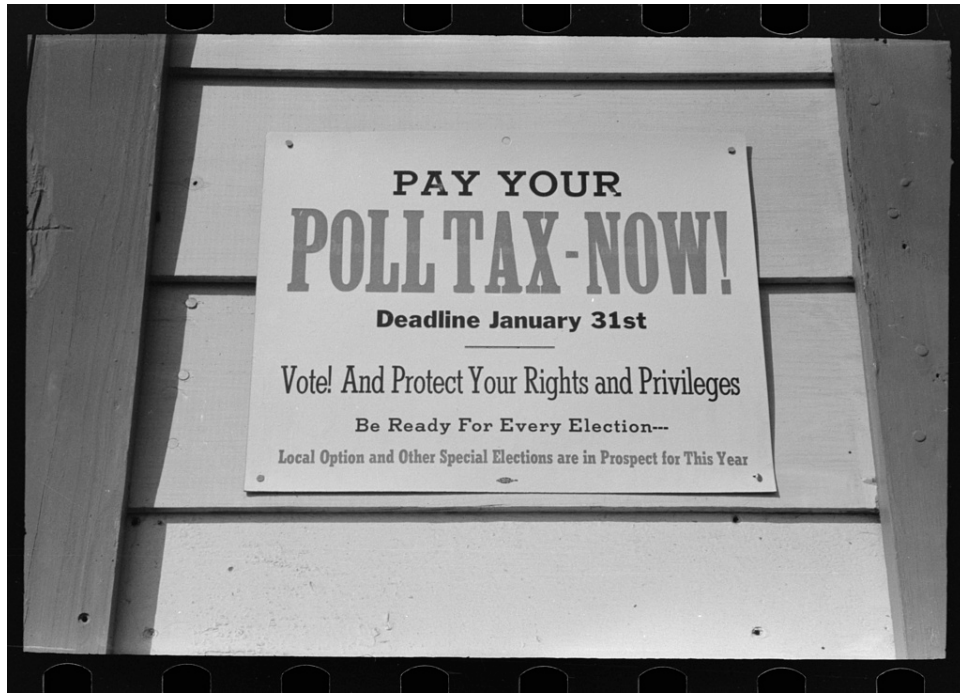


Figure 3.4: 'Pay Your Poll Tax' sign in Mineola, Texas (1939). Library of Congress. <http://www.loc.gov/pictures/resource/fsa.8a25062/>

years-old to 18,²⁵ but counties across the state fought back against newly enfranchised young Black voters where it threatened White political power. Following this change to the minimum voting age, Waller County, Texas went from majority White voting age population (VAP) to majority Black voting age population (VAP), threatening to shift politics in the county. The student population of Prairie View A&M University, the oldest historically black college or university (HBCU) in Texas, drove this change in VAP. In response, the Waller County government systemically denied the right to vote to students of Prairie View A&M University (Troy 2006). To stave off the wave of newly eligible Black voters, county officials fought for years to keep students at Prairie View A&M University from accessing the polls. A registration questionnaire was administered to Black students who attempted to register to vote but the county justified this prerequisite test, claiming it was to assess who the legitimate residents of the county were. After years of legal challenges spearheaded by the U.S. Department of Justice, in *Symm v U.S. the United States* (1979),²⁶ the

²⁵See S. Doc. 112-9 - Twenty-Sixth Amendment - Reduction of Voting Age Qualification. <https://www.govinfo.gov/app/details/GPO-CONAN-REV-2016/GPO-CONAN-REV-2016-10-27>

²⁶*Symm v. U.S.*, 439 U.S. 1105 (1979)

Supreme Court affirmed that the prerequisite questionnaire was unconstitutional but this was not the end of county efforts to disenfranchise students from Prairie View A&M University.

Soon after Waller County's registration questionnaire was struck down, the county drafted voting precinct maps that cracked the campus into several voting precincts and selected polling place locations that were distant from campus, deterring students from the university from voting (Ura 2021). Waller County's District Attorney attempted prosecute Prairie View students in 1992 for voter fraud just before an election where Black candidates challenged a White, 16-year incumbent. County District Attorney Oliver Kitzman published a letter in a local newspaper threatening to prosecute students at Prairie View for voter fraud, alleging that students are not automatically considered to be county residents and, as such, would be voting illegally (Kliewer 2004). In 2002, the county adopted map plans for county commissioner, justice of the peace, and constable that failed preclearance under the Voting Rights Act because the county failed to prove that the proposed plan did not dilute minority voting power (United States Department of Justice 2002). In the lead up to the 2008 Presidential Election, the county implemented new voter registration practices that were not precleared under the Voting Rights Act and that led the county to disproportionately reject applications from Black voters (George 2008). Today, Prairie View students are still fighting discriminatory county voting and election rules. HBCUs were founded to provide Black students with access to higher education when other institutions barred Black people from seeking college degrees at their campuses, but, like Prairie View, several other HBCUs in Texas posed a threat to White voting power across the state.

Table 3.2: Age and Race in Waller County, Texas (1970). United States Census Bureau. 1970 Decennial Census.

	Native Born White	Native Born Black
Native:	6,076	7,615
Under 18 years	1,904	2,163
18 years	63	601
19 years	39	586
20 years	70	839
21 years and over	4,000	3,426

In Texas, the right to vote has been systemically and routinely challenged for racial minority voters even after the Voting Rights Act of 1965 was enacted. The state boasts more Section 5 preclearance violations and Section 2 challenges under the Voting Rights Act than any other state (Perales, Figueroa, and Rivas 2007). More recently, Texas has committed a significant amount of resources in pursuit one of the most notorious modern restrictive voting laws, strict photo voter identification. In its first attempt to pass one of the most restrictive voter identification requirements in the nation, Republican state legislators’ rhetoric characterized the Latino population as a threat to the integrity of elections in Texas. They argued that undocumented immigrants across the nation posed a direct threat to the legitimacy of elections. In a letter from Texas Lieutenant Governor David Dewhurst meant to advocated for HB 218, legislation that would enact a restrictive photo identification law, Dewhurst made the heavy-handed claim that the principle of one person, one vote was in danger if they failed to enact HB 218:

“Inexplicably, this legislation has drawn sharp criticism from Democrat Party operatives and affiliated groups. Yesterday all 11 Democrat members of the Texas Senate voted against the bill and blocked it from going forward. I think this is an outrage against all Americans. With eight to 12 million illegal aliens currently living in the U.S., the basic American principle of one person, one vote, is in danger. While crit-

ics say the legislation isn't necessary because voter fraud isn't a problem in Texas, the facts tell a different story.” - Texas Lieutenant Governor David Dewhurst . Open Letter Regarding HB 218, May 16, 2007.

Other Republican Party leaders in the legislature espoused this perception that large groups of noncitizens threaten the legitimacy of elections, aimed at the growing Latino population:

“Closing the 6-hour-long debate, Rep. Betty Brown of Henderson County in East Texas said her proposal was ‘designed to keep illegal aliens, noncitizens and other people otherwise not qualified’ from voting.” - J. Morgan Kousser Expert Report on Texas Representative Betty Brown Regarding HB 218, 2007.

After multiple attempts to pass one of the most restrictive voter identification requirement, spanning multiple state legislative sessions, in 2011 Texas enacted a restrictive photo identification law that accepted only six forms of valid photo ID. After Texas failed to prove that their identification law would not discriminate against racial minorities, it initially failed preclearance. After the Supreme Court in *Shelby County v. Holder (2013)* struck down the coverage formula that identified jurisdictions that were required to submit new election laws for preclearance, Texas was free to enact their restrictive voter identification requirement in the 2014 elections. An analysis of its impact determined that this ID requirement disproportionately impacted Black and Latino voters in Texas (Fraga and Miller 2022). In the years since *Shelby County v. Holder (2013)*, states have been empowered to enact restrictive voting legislation. In 2016, this voter identification law was ruled to be discriminatory, but Texas implemented it with some relaxed provisions (Malewitz 2016). Today, in the wake of several key recent court decisions eroding Voting Rights Act protections, states are able to pass restrictive voter identification requirements.

Chapter 4

Voter Identification Bill Roll Call Behavior

4.1 Introduction

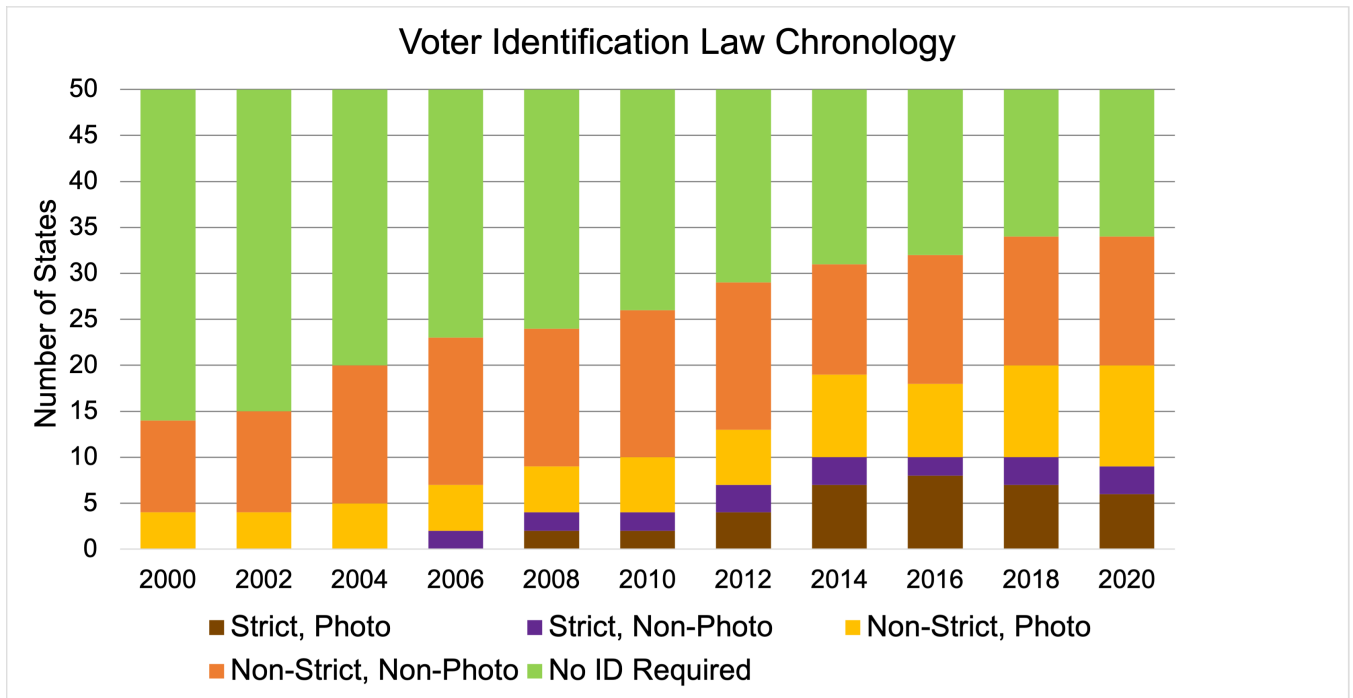


Figure 4.1: Source: Voter ID Law Chronology. National Conference of State Legislatures (2021)

Proponents of restrictive voter identification laws argue that they are meant only to deter voter fraud but evidence shows voter fraud to be a rare phenomenon. In court, states argue that these laws are meant to combat fraud but in “Crawford v. Marion County Election Board” (2008), the first

Supreme Court case challenging modern restrictive voter identification laws, the state of Indiana could not point to any evidence that in-person voter fraud happened in any election within the state in defense of their strict, photo identification requirement. Scholars have found nothing to indicate that voter fraud is a pervasive issue that needs to be remedied with onerous identification requirements (Minnite 2007; J. Levitt 2012; Ahlquist, Mayer, and Jackman 2014). In the Heritage Foundation’s database of voter fraud,¹ a conservative think tank, there are only 20 instances of voter impersonation at the polls in the entire database, spanning from 1979 to 2022. If restrictive voter identification requirements solve a problem that does not exist, why do state legislatures choose to allot precious time and other scarce resources to pass restrictive voter identification bills when they could pass other bills?

Despite evidence that voter impersonation is extremely rare, 34 states have implemented some form of a voter identification. Across all 50 states, 35 have adopted a new restrictive voter identification bill, requiring voters to prove their identity in order to cast a ballot in an election. A growing body of research seeks to understand why some legislatures pass voter identification legislation while others never even schedule a vote on these types of bills. Do racial demographics influence legislators’ behavior on voter identification bills? In this chapter, I demonstrate that state legislators support restrictive voter identification bills and oppose bills that soften existing voter identification requirements when changing demographics threaten their party’s ability to win a majority of seats in an election to control their legislative chamber. State legislators under the direct threat of losing power, as a byproduct of demographic change, vote to restrict access to the ballot box, not to expand it, using their legislative powers to give their party an electoral advantage. These findings challenge the conventional theory that partisanship alone drives support for restrictive voter identification laws by demonstrating that legislators respond to threat, driven by demographic change, when it comes to voter identification bills. They understand how demographic trends impact their electoral success and act on those interests.

I argue that state legislators support restrictive voter identification bills to retain power, when

¹Brennan Center for Justice. “Voting Laws Roundup: February 2023” February 27, 2023. <https://www.brennancenter.org/our-work/research-reports/voting-laws-roundup-february-2023>

demographic change threatens their ability to win. Demographic change becomes a threat in elections where the groups driving demographic change become pivotal in deciding 1) who controls the legislature and 2) the winning candidate in individual elections. When it becomes too difficult to attract substantial support among growing racial minority voters through voter outreach, these groups become a threat to their power and they support restrictive voter identification laws. Demographic threat, demographic change in an electorally competitive environment, influences state legislators to support the most restrictive voter identification bills and oppose bills that ease the burden on voters, except for those voters who are in their coalition, so they can remain in power. This theory explains why some Republican controlled state legislatures never hold a vote on a restrictive voter identification bill while Republican controlled legislatures in other states seem to hold a vote on several voter identification bills in the span of a couple of legislative sessions.

The impact of demographic threat on state legislators' roll-call votes on voter identification bills demonstrates that legislators react to demographic trends by passing restrictive voting laws. Prior studies focus on electoral competition, racial demographics, and the overall partisan composition of state legislatures separately to understand why voter identification laws pass and find that Republican control over a state legislature and the governorship greatly influence both the introduction and adoption of restrictive voter identification laws (Bentele and O'Brien 2013; Hicks et al. 2015; Biggers and Hanmer 2017). They show that this likelihood increases in electorally competitive states (Bentele and O'Brien 2013; Hicks et al. 2015) and in states with large Black and Latino populations (Biggers and Hanmer 2017). Biggers and Hanmer (2017) explain the probability that a state adopts a restrictive voter identification law, noting that when Republicans take control over state legislatures and win the governorship, they are more likely to do so. These studies consistently find evidence of a partisan effect, but the party in control of the legislature determines the agenda and schedules votes on legislation when they have broad support among the majority party (G. W. Cox and McCubbins 2005), so these studies measure the "when" not the "why." In this chapter, I show that demographic change is the threat that drives legislators to vote to restrict on voter identification bills.

To assess the impact of racial trends on state legislators' behavior regarding voter identification bills, I use data from state legislature roll-call votes between the years 2010 and 2020. Many state legislatures have held a vote on a restrictive voter identification bill in this time period, but many more bills that modify existing voter identification laws, both those that make voter identification requirements more onerous and those that soften existing requirements, have received a floor vote. I leverage variation in the types of voter identification bills to cut through the party cohesion that is characteristic of many high-profile bills in general, to better understand legislator behavior. Lower-profile bills, like those that add to the list of acceptable forms of identification or that issue free forms of voter identification, may have bipartisan support when state legislators' goals are about the policy itself but when the goals are to minimize their opponents' coalition and to maximize their own, they may only support bills that advantage their party. Cases challenging voter identification laws in North Carolina² and Texas³ demonstrate that these details can uncover more about legislator intent. As such, I define a vote either in favor of a restrictive voter identification bill or against a bill that would soften voter identification requirements as a "vote to restrict" and I rely on this term for the remainder of this chapter. To assess the impact of racial trends on legislator roll-call votes on voter identification bills, I use *probit regression* and find that state-level Black and Latino demographic threat increases the probability that a state legislator votes to restrict. I test for this at the district-level and find mixed evidence that district demographic trends impact legislators' votes on voter identification bills, suggesting that restrictive voting bills are a party-level strategy aimed at retaining control of the legislature, much like racial gerrymandering in cycles of redistricting.

4.2 Demographic Change and Threat

State legislators support restrictive voter identification laws when their power is threatened by demographic change. More specifically, state legislators support restrictive voter identification bills 1) to retain control over state legislatures in the face of demographic threat and 2) to advantage

²North Carolina NAACP v. McCrory - 831 F.3d 204 (4th Cir. 2016)

³Veasey v. Abbott - 830 F.3d 216 (5th Cir. 2016)

themselves in district-level elections. In 2013, the Republican National Committee’s “Growth and Opportunity Project” stated that the party needed to appeal to racial minority voters in order to achieve more electoral success,⁴ but the party has moved in the opposite direction, failing to build a new majority coalition that incorporates more people of color (Galvin 2020). Republican state legislators’ struggle to efficiently court significant support among growing racial groups, which becomes a threat to their power when electoral competition is fierce. As such, it has become imperative to find an alternative approach to achieving their electoral goals, taking to efforts to change election laws in order to stay competitive in elections. Partisanship is not a driving force in legislator support for restrictive voter identification laws, it is instead illustrative of a broader consequence of partisan polarization: that Republican legislators no longer see voters from certain racial groups as persuadable, at least in the short-term, and instead incorporate strategies that minimize the voting power of growing racial minority groups by making it harder to access the ballot box in ways that disproportionately impact these groups.

4.3 Hypotheses

I test this argument against prevailing theories in the literature. According to the argument that I have laid out, I expect that demographic threat, which I operationalize as growing racial minority populations in fiercely competitive electoral contexts, drives roll-call votes on voter identification bills. Following consistent evidence from the literature that state-level characteristics drive action on voter identification bills, my theory focuses on the intersection between these two factors at the state level because a party needs to win a majority of seats in either chamber in the state legislature to control the chamber or the entire legislature, and this goal is threatened by demographic threat. I lay my expectation out more explicitly in the following hypothesis: **H1a**: increases in racial threat at the state-level increases state legislator support for voter identification bills that restrict access to voting. If racial threat, fierce electoral competition and increases in racial diversity, drivse support

⁴Republican National Committee. “Growth and Opportunity Project” (2013). <https://www.documentcloud.org/documents/624581-rnc-autopsy.html>

for restrictive voter identification among state legislators, then it is reasonable to expect a similar association in districts with these pressures. **H1b**: increases in district-level demographic threat increases state legislator support for voter identification bills that restrict access to voting. The effects described in **H1a** and **H1b** are expected to be independent of the impact of Legislators' party affiliation and their race, alternate explanations offered by prior work. For these two considerations, **H2a** Black and Latino state legislators are more likely to oppose voter identification bills that restrict access to voting. **H2b**: Republicans are more likely to support voter identification bills that restrict access to voting.

Additionally, macro-level theories predict that support for restrictive voter identification is determined by Republican control over the legislature or by a switch to Republican control. Therefore, **H3a**: legislators pass restrictive voter identification laws when the legislature is unified under Republican party control, and **H3b** legislators pass restrictive voter identification laws after control over the legislature switches to the Republican party. In the remainder of this chapter, I detail an empirical analysis that tests these hypotheses and the results from those tests.

4.4 Data and Methods

For this study, I analyze data from roll-call votes on voter identification bills in state legislatures across all 50 states between 2010 and 2020. I include voter identification bills that received a floor vote in at least one state legislative chamber and that either make voting more restrictive and those that expand voting. To more easily communicate the intent of legislators' roll-call votes on voter identification bills, I define a term, "vote to restrict", that describes a vote to support a restrictive voter identification requirement or a vote to oppose a bill that softens or eliminates a restrictive voter identification requirement. When a legislator votes to restrict, the vote yes on restrictive voter identification requirements and no on softening or eliminating those requirements.

Some states allow voters to circumvent these restrictive identification requirements through alternative channels, like allowing voters to sign an affidavit attesting that they are the voter indicated

on the voter rolls and even allowing neighbors or poll workers to vouch for the voter when they do not possess the required forms of identification. Removing these channels further restrict a voter's ability to cast a ballot. Voter identification laws that expand voting do the opposite of these restrictive bills. They soften existing restrictive voter identification requirements through provisions that do things like repeal a photo requirement, add new types of identification that will be accepted, remove or modify the requirement that identification be unexpired, provide free identification to voters, require that states or counties verify a voter's identity if they lack identification at the polls, etc.

Voter identification bills were collected from the "50-State Searchable Bill Tracking Database" on Elections through the National Conference of State Legislatures. At the time of data collection, the database only includes information on voter identification bills that were file between 2010 and 2022, but with state legislatures still convened for the 2021-2022 legislative session, this dataset spans bills from 2010 to 2020. The bulk of the roll call vote information for this catalog of 94 voter identification bills come from LegiScan, a nonpartisan legislative tracking and reporting service. When information from this service was missing or incomplete, I acquired it directly from the website of the state legislature where the bill was introduced. The dependent variable, a roll-call vote on a voter identification bill, is coded as a 1 when a legislator votes either "yes" on a bill that makes voting more restrictive or when they vote "no" on a bill that expands voting, and this variable is coded as a 0 when a legislator votes "no" on a bill that makes voting more restrictive and "yes" on a bill that expands voting. In summary, a value of 1 indicates a vote to restrict voting and a 0 indicates a vote to expand voting on voter identification bills.

Studies contend that legislators support stricter voter identification legislation to gain a partisan advantage in elections or when they hail from states that have large racial minority populations. I argue that demographic threat, operationalized here as demographic change in electorally competitive states or districts, drives legislators to support voter identification bills that restrict the vote and to oppose voter identification bills that expand voting. To construct an analysis that positions my theory against other competing explanations in the literature, I include other independent vari-

ables in my model, in addition to standard control variables. These come from several datasets at the state, district, and legislator levels. For the macro-level influences that come from the state and legislative chamber, top-down, I used election and electoral competitiveness data from Louis Jacobson’s State Legislative Election Ratings (L. Jacobson, Klarner, and Oldham 2020) and from the United States Election Project (McDonald 2022). For the partisan composition of state legislatures and characteristics about those legislatures, I collect data from the National Conference of State Legislatures website. I collect demographic data on state legislative districts from the Census Bureau’s American Community Survey (ACS) and use the State Legislative Elections Returns dataset for any district-level electoral activity(Klarner 2020). Lastly, I use data from the Legislator Diversity dataset (Neville and Flick 2022) to include information, such as party affiliation, race or ethnicity, etc. for the individual state legislators who are casting the corresponding roll-call votes. The resulting dataset spans from 2010 to 2020.

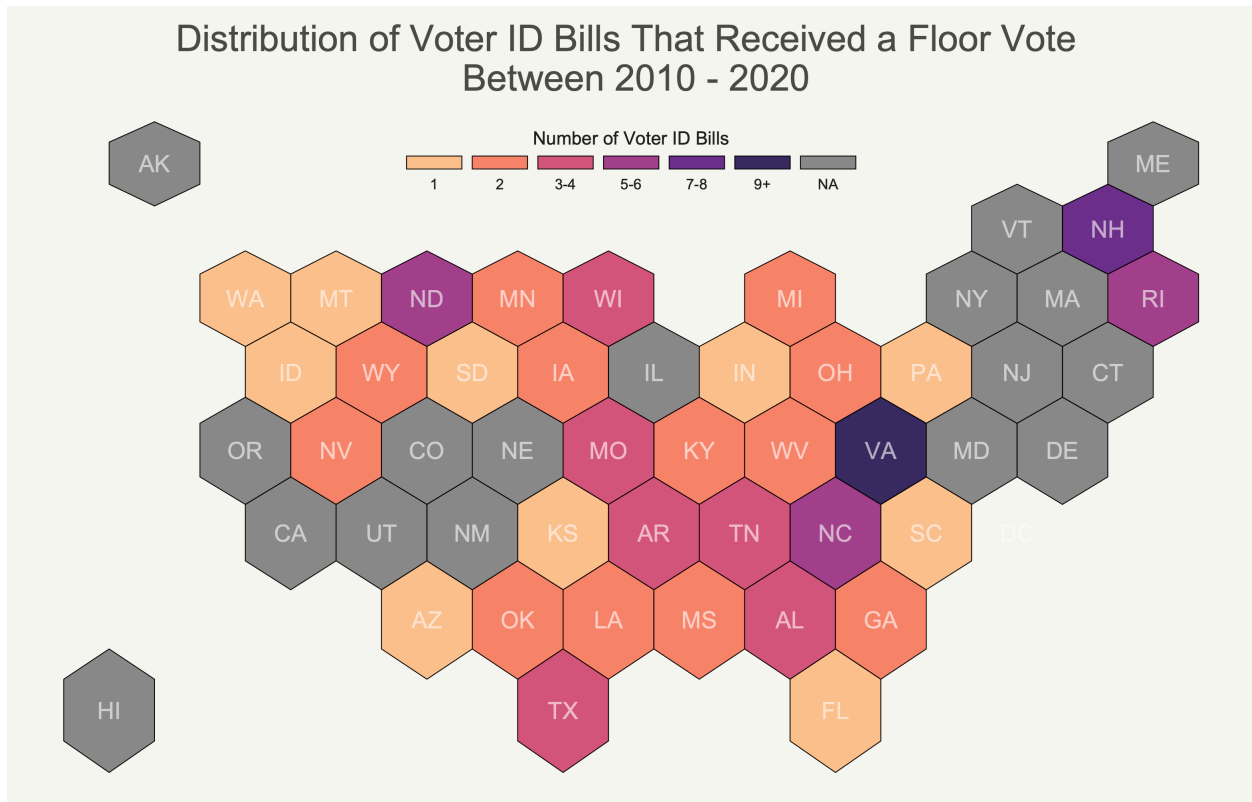


Figure 4.2: Distribution of Voter Identification Bills That Received a Floor Vote (2010-2020)

State legislators are the unit of analysis, and the dependent variable is binary. I use probit re-

gression to assess how demographic change in an electorally competitive context, along with the cumulative impact of other factors, impacts state legislator support for voter identification bills. Electoral competition and racial demographics impact support for these bills, according to the literature, but I contend that these studies have yet to properly operationalize these factors in the way that legislators understand them in their strategic calculus. First, legislators have the tools to understand trends over time and have access to the analytic resources necessary to proactively pursue on their electoral interests. I operational demographic threat with the interaction term for the change in the proportion of Black and Latino populations over the five years leading up to a floor vote on a voter identification bill and electoral competition. Second, electoral competition can be operationalized at the district-level or statewide, as individual legislators fight for their seat in an election while their party's caucus fights for a majority in one chamber, in both chambers, or for the governorship. I use Jacobson's State Legislative Election Ratings to flag a chamber as competitive, in an indicator variable, if it is projected to be competitive—lean Republican, lean Democrat, or a complete toss-up—in the months leading up to an election. This is important because it accurately portrays competition over the legislature in states where district maps favor one party and in states where these maps do not advantage one party over another. I also capture district-level competitiveness in an indicator variable that flags whether the vote margin between the Republican candidate and Democratic candidate fell within 10 percentage points (i.e. the Republican candidate received 55 percent and the Democratic candidate received 45 percent of the two-party vote share). Both indicator variables are coded 1 when electorally competitive and 0 when not electorally competitive. I report the impact of state/chamber-level and district-level factors below in two different probit regression models.

4.5 Results

4.5.1 State-Level Analysis

Results from the state-level analysis and the district-level analysis are displayed in Table 4.1 and Table 4.2 respectively. In both tables, I report results from three model specifications: the first column details results from the model specification that includes legislators from all political parties, the second column reports results from the model that includes only Republican legislators, and the third column reports results from the model specification that includes only Democratic legislators. For interpretability, I model predicted probabilities for statistically significant findings in the relationship between my explanatory variable, the interaction between electoral competition and change in the proportion of Black and Latino populations, and the outcome variable, a roll-call vote on a voter identification bill. Recall that this outcome variable is coded 0 for a roll-call vote in favor of expanding access to voting and 1 for a roll-call vote in favor of restricting access to voting on voter identification bills that received a floor vote. I first present results from the state-level model.

Results from the state-level model support **H1a**, that increases in racial minority populations in electorally competitive states increases the likelihood that a state legislator votes to restrict on a voter identification bill. The change in racial minority population is measured separately for Black and Latino people as the change in the overall percentage of the population over the last five years prior to the roll-call vote. If the Black population comprises 25 percent of the total population in 2010 and then 28 percent of the population 2015, when a floor vote on a voter identification bill was held, then the change variable for black people would equal “+3.” Looking first at the impact of Black population trends in electorally competitive states, we see in the “All Parties” model specification where state legislators of all political parties are included, Column 1 of Table 4.1, that there is a clear relationship between roll call votes and Black population growth in competitive states. This relationship is observed across partisan affiliation. I subset this model by Republican party legislators and Democratic party legislators, shown respectively in Column 2 and 3 of Table 4.1. The subset model specifications reveal a relationship that comports with expectations from the liter-

ature on race and partisanship. In response to growing Black populations statewide in competitive states, Republican state legislators are more likely to vote to restrict on a voter identification bill. Conversely, Democratic state legislators in this environment are more likely to oppose a vote to restrict on a voter identification bill. Black voters are often described as “steadfast Democrats” (I. K. White and Laird 2020) and a constituency “captured” under the Democratic party (Frymer 2010), recognizing that Black people overwhelmingly identify with the party and support their candidates in elections (Haynie and Watts 2010). This isn’t to say that Black voters can’t be persuaded to vote for Republican candidates, but that persuasion, which is constrained by the party’s reputation, requires a significant commitment of scarce resources that campaigns likely are not able to commit to Black persuasion.

Results from a probit regression are not easily interpretable as the raw coefficients displayed in Table 4.1, so I provide predicted probability plots to facilitate the interpretation of statistically significant results. To compute predicted probabilities, change in the racial composition of states is allowed to vary across the range of values for this variable in the dataset and two separate lines are generated for states that are electorally competitive, representing demographic threat, and for those that remain noncompetitive, representing demographic change. All other variables from the model are set to their mean. Figure 4.3 reports the relationship between Black population demographic threat, the x-axis, and probability that a legislator votes to restrict on a voter identification bill, the y-axis, for Republican and Democratic state legislators separately.

Among Republicans, as percent Black statewide increases in competitive states, the likelihood that a legislator votes to restrict on a voter identification bill is increased and this probability decreases in noncompetitive states, evidence that Republican legislators respond to demographic threat rather than demographic change. The impact of Black population change is the opposite among Democrats. Moving across the same range among Democratic state legislators, the likelihood that a legislator votes to restrict on a voter identification bill decreases in competitive states and this probability increases in noncompetitive states. In states like Alabama and Mississippi, the Black population has grown but these states remain noncompetitive statewide, heavily favoring Re-

Table 4.1: Impact of State Factors on Legislator Vote for Voter ID Bill

	Support for Restrictive Voter ID Bill		
	All Parties	Republicans	Democrats
	(1)	(2)	(3)
Republican Legislator	1.647*** (0.032)		
Percent Non-Citizen Statewide	-0.238*** (0.017)	-0.335*** (0.026)	-0.189*** (0.026)
Black Legislator	-0.059 (0.056)	-0.039 (0.330)	-0.053 (0.066)
Latino Legislator	-0.147 (0.095)	0.098 (0.161)	-0.276* (0.145)
Percent Latino	0.067*** (0.005)	0.104*** (0.007)	0.029*** (0.009)
Percent Black	0.041*** (0.003)	0.084*** (0.004)	-0.013*** (0.004)
Change in Percent Black	0.046 (0.056)	-0.180** (0.074)	0.460*** (0.105)
Change in Percent Latino	-0.610*** (0.058)	-0.503*** (0.092)	-0.490*** (0.095)
Percent Age 18-24	0.135*** (0.029)	0.184*** (0.038)	-0.002 (0.051)
Percent Age 65+	-0.137*** (0.011)	-0.145*** (0.015)	-0.122*** (0.020)
Upper Chamber	-0.037 (0.033)	-0.053 (0.043)	-0.077 (0.057)
Republican Unified Legislature	-0.730*** (0.041)	-0.337*** (0.056)	-1.274*** (0.063)
Republican Governor	-0.034 (0.030)	-0.219*** (0.043)	0.266*** (0.058)
Republican Legislature Switch	-0.124 (0.097)	0.341* (0.193)	-1.339*** (0.394)
Competitive Chamber	-0.560*** (0.072)	-0.270** (0.113)	-0.936*** (0.120)
Last Election Uncontested	-0.048 (0.030)	-0.029 (0.040)	-0.030 (0.053)
South	-0.731*** (0.047)	-1.590*** (0.065)	0.621*** (0.079)
Change in Pct Black × Competitive Chamber	0.246** (0.111)	1.287*** (0.171)	-1.510*** (0.260)
Change in Pct Latino × Competitive Chamber	0.797*** (0.094)	0.144 (0.149)	1.559*** (0.150)
Intercept	1.297*** (0.353)	2.379*** (0.461)	2.683*** (0.652)
Observations	12,642	7,740	4,902
Log Likelihood	-6,171.110	-3,631.814	-1,999.422
Akaike Inf. Crit.	12,382.220	7,301.629	4,036.845

Note:

*p<0.1; **p<0.05; ***p<0.01

publican candidates and Republican control in the legislature. Republicans control in these states is not threatened by Black population growth and Democrats do not rely on an influx of Black voters to get elected. We see clearly that increases in the Black population impact legislator behavior differently in an electorally competitive environment.

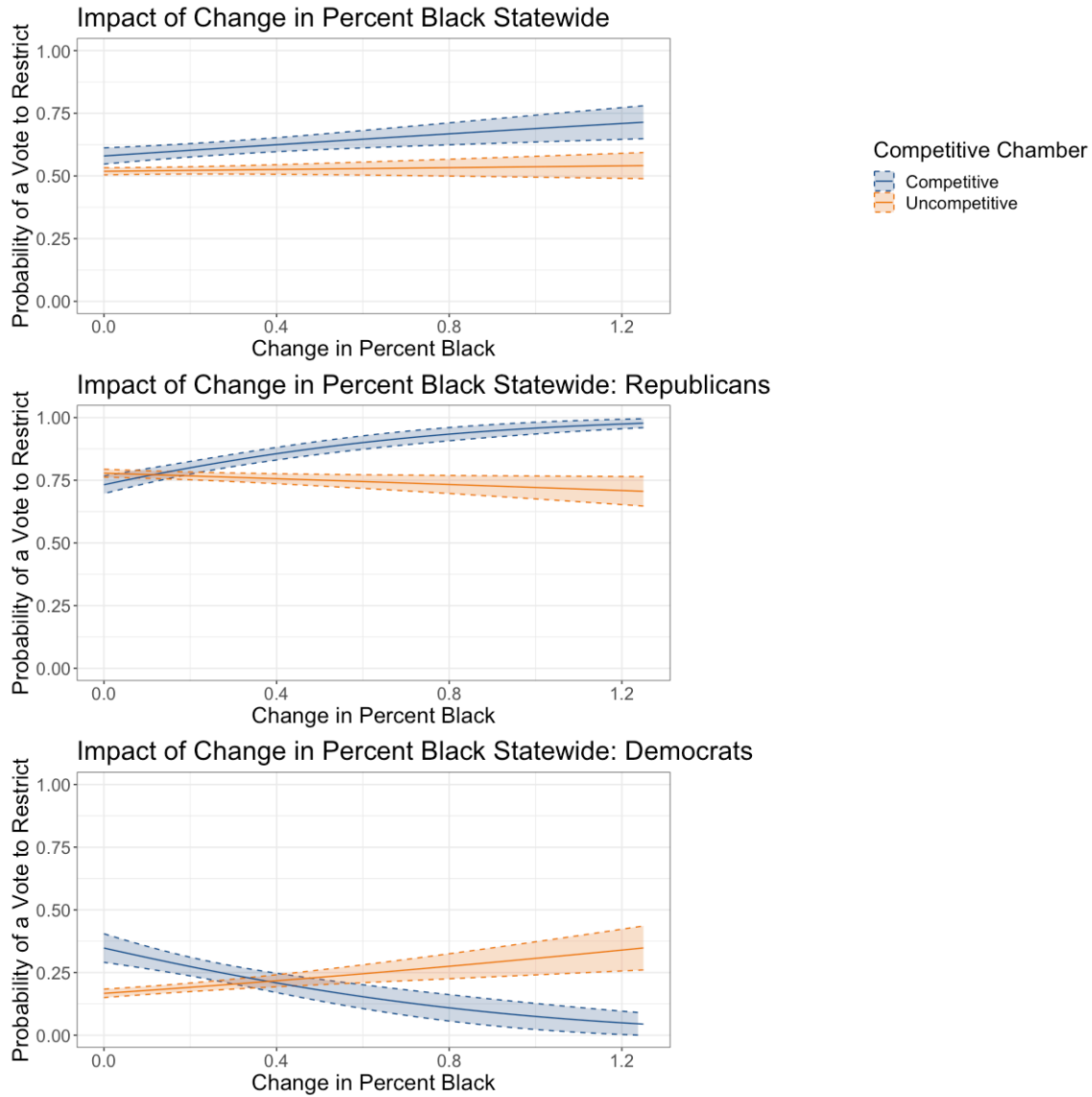


Figure 4.3: Predicted Probabilities for Impact of Change in Percent Black Statewide

Next, I examine the impact of demographic threat driven by Latino population growth. In the “All Parties” model specification, where state legislators of all political parties are included, results for Column 1 of Table 4.1 indicate evidence that only partially supports **H1a**. Increased demographic

threat, through Latino population growth, is associated with an increase the likelihood that a state legislator votes to restrict on a voter identification bill. An increases in the Latino population in electorally competitive states does increase the likelihood that a state legislator votes to restrict on a voter identification bill.

The model is subset by party, with results for the relationship among Republican legislators in Column 2 and among Democratic legislators in Column 3 of Table 4.1. The impact of demographic threat among Democrats suggests that these legislators may see Latino population growth in competitive states as threat. In competitive states, Latino population growth is associated with an increase in the likelihood that a Democratic legislator votes to restrict on a voter identification bill. Unlike partisan attachments among Black voters, partisanship among Latinos have only recently shifted away from the Republican party in favor of Democrats (Bowler, Nicholson, and Segura 2006; Morin, Macias Mejia, and Sanchez 2021; R. Michael Alvarez and Bedolla 2003). Legislators of both parties struggle to attract broad Latino voters' support in general elections (Matt A. Barreto and Segura 2014). Primary elections may offer another possible explanation for these results. Latino candidates are more likely to emerge in primary contests in areas where the Latino population is larger (Branton 2009) and their emergence mobilizes co-ethnic voters, increasing Latino turnout (Matt A. Barreto 2007). This may present a threat to the status quo in the Democratic Party. In the 2018 Democratic primary election for New York's U.S. House District 14, a district that elects the Democratic nominee in the general election by a landslide, newcomer Alexandria Ocasio-Cortez narrowly defeated the 10-term incumbent and House Democratic Caucus Chairman, Joe Crowley (Goldmacher and Martin 2018).

I provide predicted probability plots to accompany the results from Table 4.1. Figure 4.4 reports the relationship between Latino demographic threat, the x-axis, and probability that a legislator votes to restrict on a voter identification bill, the y-axis. First, the top panel of Figure 4.4 illustrates this relationship among legislators across all political parties. As percent Latino statewide increases in competitive states, the likelihood that a legislator votes to restrict on a voter identification bill is increased and this probability decreases in noncompetitive states. The bottom panel in Figure

4.4 breaks this relationship down by party and reports the impact of Latino demographic threat on Democratic state legislators' roll call votes. Democratic legislators in states with a growing Latino population behave differently when their state is electorally competitive compared to when their state is noncompetitive. The likelihood that a legislator votes to restrict on a voter identification bill increases in the competitive context as Latino population growth increases. Conversely, in noncompetitive states, the likelihood that a legislator votes to restrict on a voter identification bill decreases. These findings suggest that Democrats respond to state-level Latino demographic threat.

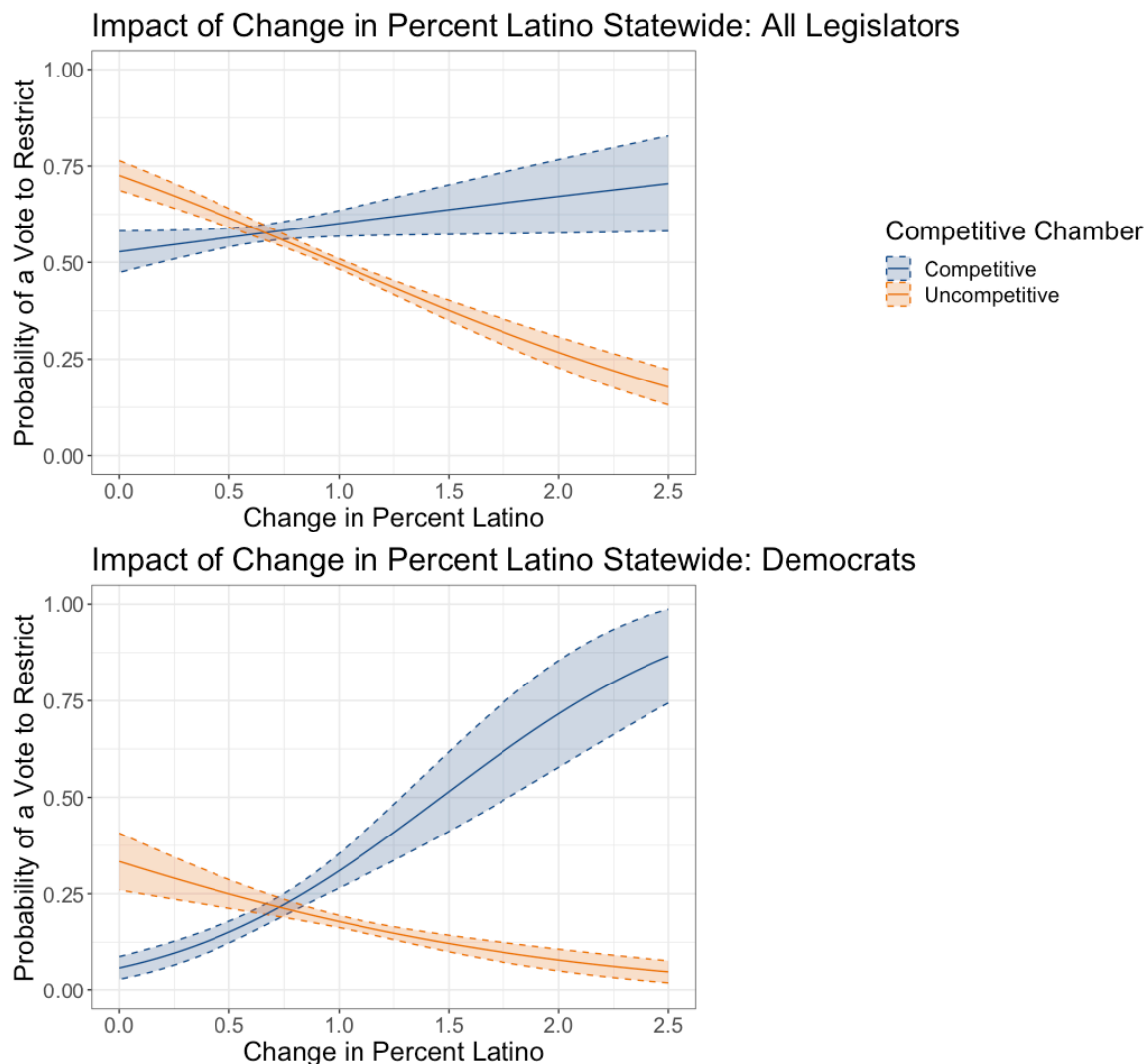


Figure 4.4: Predicted Probabilities for Impact of Change in Percent Latino Statewide

4.5.2 District-Level Analysis

Next, I turn to results from the district-level model, displayed in Table 4.2. I report results from the full model, legislators from all political parties, in Column 1. Again, I subset the sample based on state legislator party affiliation and run a probit regression with Republican legislators first and then with Democratic legislators separately and report those results in Columns 2 and 3 respectively.

Table 4.2: Impact of District Factors on Legislator Vote for Voter ID Bill

	Support for Restrictive Voter ID Bill		
	All Parties	Republicans	Democrats
	(1)	(2)	(3)
Republican Legislator	1.658*** (0.032)		
Black Legislator	-0.012 (0.071)	-0.179 (0.303)	-0.034 (0.086)
Latino Legislator	0.053 (0.105)	0.203 (0.167)	-0.232 (0.152)
Percent Latino	-0.012*** (0.002)	-0.013*** (0.002)	-0.009*** (0.002)
Percent Black	0.004*** (0.001)	0.016*** (0.002)	0.0002 (0.002)
Change in Percent Black	0.003 (0.002)	0.003 (0.003)	0.003 (0.003)
Change in Percent Latino	0.003 (0.004)	0.006 (0.005)	-0.0002 (0.006)
Percent Age 18-24	-0.007*** (0.003)	-0.009** (0.004)	-0.002 (0.003)
Percent Age 65+	-0.013*** (0.003)	-0.012*** (0.004)	-0.005 (0.007)
Upper Chamber	0.026 (0.031)	0.032 (0.039)	-0.070 (0.054)
Republican Unified Legislature	-0.211*** (0.034)	0.095** (0.045)	-0.689*** (0.051)
Republican Governor	0.173*** (0.026)	-0.006 (0.034)	0.607*** (0.049)
Republican Legislature Switch	0.210** (0.094)	0.806*** (0.184)	-1.158*** (0.377)
Competitive Chamber	-0.035 (0.037)	-0.104** (0.048)	0.009 (0.063)
Last Election Uncontested	-0.030 (0.029)	0.041 (0.037)	-0.125** (0.053)
South	-0.390*** (0.031)	-0.731*** (0.042)	0.145*** (0.054)
Change in Pct Black × Competitive Chamber	-0.013** (0.006)	-0.016* (0.009)	-0.024** (0.010)
Change in Pct Latino × Competitive Chamber	-0.016 (0.010)	-0.016 (0.013)	-0.018 (0.016)
Intercept	-0.412*** (0.079)	1.169*** (0.098)	-0.611*** (0.142)
Observations	12,575	7,664	4,911
Log Likelihood	-6,442.281	-4,106.831	-2,091.446
Akaike Inf. Crit.	12,922.560	8,249.662	4,218.891

Note:

*p<0.1; **p<0.05; ***p<0.01

Results from the state-level model show that legislators' behavior on voter identification laws is minimally impacted by district factors. Recall, **H1b**: increases in racial minority populations in an electorally competitive district increases state legislator support for voter identification bills that restrict access to voting. The district-level model finds evidence that Black demographic threat contributes to legislators' roll-call votes, but only when it is driven by Black population growth. Black population growth in an electorally competitive district is associated with a drop in the likelihood that a legislator votes to restrict on a voter identification bill. This relationship holds across partisan affiliation, suggesting that at the district-level, legislators respond to Black demographic change differently than at the state-level.

To better interpret this relationship, I provide a predicted probability plot in Figure 4.5. To compute predicted probabilities, recall that change in the racial composition of districts is allowed to vary across the range of values for this variable in the dataset and two separate lines are generated for districts that are electorally competitive, representing demographic threat or opportunity, and for those that remain noncompetitive, demographic change without threat. Figure 4.5 shows the relationship between Black population growth, the x-axis, in electorally competitive district and the probability that a legislator votes to restrict on a voter identification bill, the y-axis. As the Black population in a district increases, the probability of legislator support decreases in competitive districts and this probability remains unchanged in noncompetitive districts. The second and third panels show this relationship by legislator partisanship. In the Republican model specification, the odds of a vote to restrict are already relatively high and Black demographic change only slightly reduces this likelihood in the competitive district context. The likelihood that a Democratic state legislator votes to restrict is already low and the Black demographic change in the competitive district context further reduces that likelihood. The main takeaway from this comparison is that, while both parties are impacted by Black demographic change, Republicans are much more likely to support restrictive voter identification legislation. However, it is unclear with this analysis whether legislators are responding to district-level Black demographic change as an electoral opportunity, rather than a threat, or if their responses are a calculated effort to avoid backlash for these roll-call

votes that would threaten their chances of being re-elected (Arnold 1990).

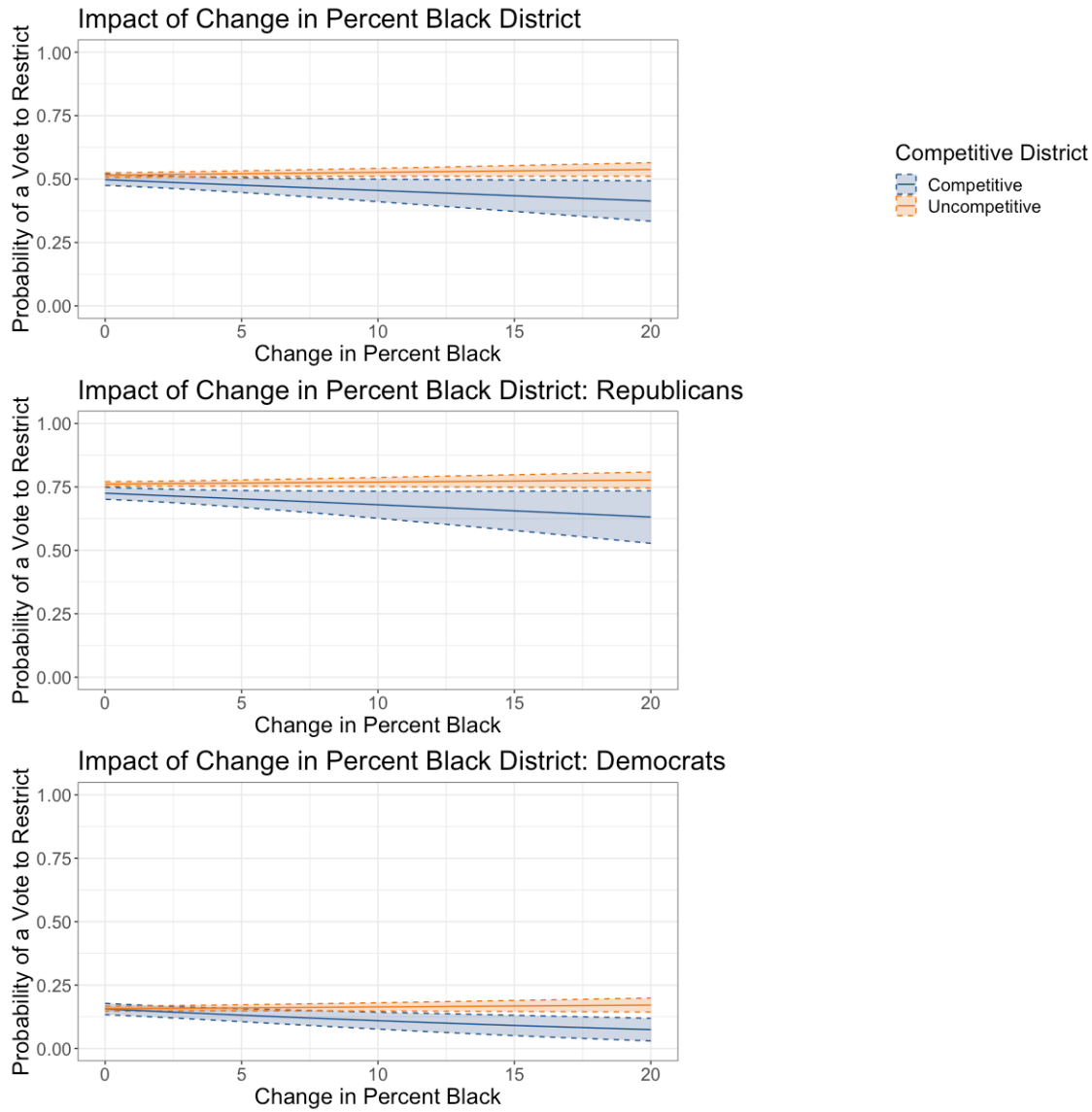


Figure 4.5: Predicted Probabilities for Impact of Change in Percent Black in District

4.5.3 Legislators and Institutions

I address alternative explanation in my analysis models, supporting the demographic threat argument and confirming that the impact of threat on legislator votes is independent of the impact of explanations from the literature. I include measures from alternative theories in both of my models and these explanations fail to falsify the hypotheses generated from my main argument. I repli-

cate findings from prior studies and show that racial minority growth in electorally competitive contexts influences legislators' votes on voter identification laws. My explanatory variable performs against explanations like legislators' background and institutional party control, supporting the demographic threat argument.

First, I explain the results that address expectations for how legislators' racial and ethnic backgrounds impact their roll-call votes on voter identification laws. Hicks et al. (2015) find that Black state legislators oppose restrictive voter identification laws in an analysis that examines voting behavior among legislators from the two major political parties, Democrats and Republicans. **H2a** Black and Latino state legislators are more likely to oppose voter identification bills that restrict access to voting. In the state-level model, there is no evidence that Black legislators are more likely to oppose restrictive voter identification bills in their roll-call behavior than are legislators of other racial groups. This is likely because the demographic composition of states and Black demographic change, are more likely to elect Black legislators. Therefore it is not possible to disentangle the causal mechanism in the present analysis. However, there is evidence that Latino state legislators in the Democratic Party are more likely to oppose restrictive voter identification and that this effect is independent of demographic change and the demographic composition of states. In Column 3 of Table 4.1, the model specification for legislators who are affiliated with the Democratic party, the coefficient on the Latino legislator variable is negative and statistically significant, indicating their opposition. Next, I address the impact of legislators' race or ethnicity on their roll-call votes on voter identification bills in the district-level model. This model, displayed in Table 4.2, detects no independent effect for Latino or Black state legislators. Overall, these null findings fail to support **H2a** and call into question the causal direction for the relationship between legislators' race and their voting behavior on voter identification legislation. The present analysis looks at roll-call behavior on all voter identification legislation, not just bills that enact a strict voter identification requirement, so this does not falsify findings from prior research on the impact of legislators' race on strict voter identification votes.

Last, I examine the impact of macro-level institutional party control. Biggers and Hanmer (2017)

address partisan polarization in strict voter identification legislation, arguing that Republicans support these bills to gain a partisan advantage in elections. They note that in the times when states adopted the most stringent voter identification laws, Republicans had unified control over the legislature and in almost every instance, the governor was a Republican. I address this expectation with **H3a**: legislators pass restrictive voter identification laws when the legislature is unified under Republican party control, and **H3b** legislators pass restrictive voter identification laws after control over the legislature switches to the Republican party. Since no state during the time frame in the dataset has taken up a vote on a voter identification bill right after a Democratic governor was replaced by a Republican governor, this variable is not included in any of the models. I do include independent variables for unified Republican control over the legislature, a Republican governor serving during a roll-call vote, and a switch in the legislature to Republican unified control. Results from the state-level and district-level models, Tables 4.1 and 4.2 respectively, show that institutional party control contributes to roll-call votes on voter identification bills and that the impact of these factors are detected at both levels of aggregation. Looking at the impact among Republican and Democratic state legislators independently, Columns 2 and 3 on both tables, unified Republican control over the legislature and a switch to Republican control of the legislature both increase the likelihood that Republican legislators vote to restrict and has the opposite impact on among Democratic legislators. However, serving under a Republican governor increases the likelihood that Democratic state legislators vote to restrict on a voter identification bill but this variable has no impact on Republican state legislators in this analysis. Both **H3a** and **H3b** are confirmed, reinforcing findings from Biggers and Hanmer (2017).

I show evidence that the legislators' votes on voter identification bills are impacted by demographic threat and I demonstrate that this effect is independent from the impact of legislator race/ethnicity, legislator partisanship, and institutional party control. In my models, I include variables that measure these other influences on legislators' roll-call votes and my explanatory variable consistently supports the hypotheses from the theory I outline in this chapter. Traditional explanations fail to fully explain legislators' roll-call votes on voter identification legislation and

overlook how racial trends this behavior. I show that legislators are influenced by racial trends when these trends threaten their power.

4.6 Discussion

This is the first analysis to operationalize demographic threat to the electoral prospects of state legislators. I argue that state legislators support restrictive voting laws when demographic change and electoral competition pose a threat to their ability to hold power. My analysis provides evidence to support this argument, demonstrating that state-level demographic change in electorally competitive states increases the likelihood that legislators vote in favor of restricting access to voting on voter identification bills. The political polarization present in these roll-call votes shows an intense fight to exclude Black and Latino voters as an electoral strategy in response to these patterns of racial minority population growth when that growth threatens partisan control over the legislature. State legislators fail to respond to the needs of Black and Latino constituents compared to their responsiveness to White constituents (Griffin and Newman 2007, 2008; Butler and Broockman 2011; Gell-Redman et al. 2018). This among other asymmetries cannot easily be easily overcome through campaign cycle messaging, especially among Latino voters, whose partisan attachments are more likely to be driven by policy differences (Nicholson, Pantoja, and Segura 2006; Nuño 2007).

State legislators demonstrate a similar strategic calculus every decade when they adopt new plans for legislative districts. They often adopt plans that advantage the party in power at the time of redistricting (Gelman and King 1994; Bangia et al. 2017; Stephanopoulos 2017). Gerrymandering produces maps that help the majority party keep control over state legislatures. In the past, Republican committees and consultants have pursued strategies to advantage their party through electoral institutions (RSLC 2012; Daley 2016), sometimes targeting non-White racial minority groups to achieve these ends (Daley 2019). While the bulk of the literature acknowledges patterns of partisan polarization in legislator behavior on legislation related to voting and elections, they fail to address

the “why?” Beyond the partisan advantage hypothesis (Biggers and Hanmer 2017), I operationalize electoral threat from demographic change and show that these votes are driven by demographic change. Even Republican legislators’ voting patterns on voter identification laws are impacted by electoral strategy, addressing why some Republican controlled legislatures never pursue restrictive voter identification legislation.

The ruling in *Shelby v Holder* (2013) struck down a key portion of the Voting Rights Act that gave the federal government the authority to proactively prevent states from enacting racially discriminatory laws. States are now free to enact these laws more freely and a recent ruling from *Brnovich v. Democratic National Committee* (2021) allow states to enact onerous election laws as long as they can argue that it is in their state’s interest to do so. Restrictive voting laws, like voter identification requirements, have become more common. During the 2021-2022 legislative session, legislators in 39 states considered 393 restrictive voting bills and in 18 states, legislators passed 34 bills that restrict access to voting.⁵ Theory and findings from this chapter shed light on what drives legislator behavior on bills that restrict access to the ballot box in elections.

⁵Brennan Center for Justice “Voting Laws Roundup: May 2022” (2022). <https://www.brennancenter.org/our-work/research-reports/voting-laws-roundup-may-2022>

Chapter 5

Voter Identification Bill Sponsorship

5.1 Introduction

In chapter 2, I outline a theory on demographic threat that addresses existing gaps in the literature. According to this theory, state legislators respond to rapid demographic change can threaten to upend the political status quo in their district or state. I argue that race is a central piece of legislators' electoral strategy and demonstrates how it may influence their behavior in the state legislature. Legislators are conscious of threat to their electoral success and respond accordingly. This analysis on restrictive voter identification bill roll call votes offers predictions for other avenues of action that legislators may take in response to demographic change when it becomes a threat to their electoral fates. In this chapter, I investigate the circumstances under which legislators may respond to demographic threat in their decisions to sponsorship bills.

Why do state legislators sponsor voter identification bills? Most legislation that is introduced fails (Gamm and Kousser 2013), but there has been an uptick in the number of restrictive voter identification bills introduced in state legislatures across the country. As of February 2023, 51 restrictive voter identification bills were introduced in 21 states.¹ Very few studies investigate bill sponsorship for restrictive voting legislation.

Legislators behave strategically in pursuit of re-election, calculating which choices lead to the

¹Brennan Center for Justice. "Voting Laws Roundup: February 2023" February 27, 2023. <https://www.brennancenter.org/our-work/research-reports/voting-laws-roundup-february-2023>

best chance at re-election (Fenno 1973; Mayhew 1974; Kingdon 1989). Beyond campaigning, bill sponsorship serves as an important tool for legislators that they use to pursue issues that are of particular interest to them. Sponsorship offers them an arena outside of roll call votes where they can take positions (Campbell 1982; Koger 2003). Not only do their decisions to sponsor certain bills signal what positions they take on particular issues, but legislators use sponsorship to construct their legislative agendas (Schiller 1995). As such, bill sponsorship is an important avenue for understanding legislator behavior beyond roll call votes. In this chapter, I examine the impact of demographic threat on voter identification bill sponsorship.

5.2 Demographic Change and Threat

Studies that assess reactions to demographic threat focus primarily on public opinion and racial attitudes. The very presence of non-White candidates on the ballot in elections primes hostile racial attitudes and predispositions (Tesler and Sears 2010) and these attitudes can graft onto the policies that those candidates support (Tesler 2012). In hyper local contexts, White voters respond to racial threat with racially exclusionary attitudes (Enos 2017). One explanation for this reaction is that demographic threat primes predisposed White people to pursue choices that benefit their in-group, other White people, over members of the out-group (Kinder and Kam 2010). Demographic threat can shape people's political preferences, identities, and electoral choices (Abrajano and Hajnal 2015).

Research that seeks to understand how political elites respond to demographic threat focuses on their pursuit of substantive policy changes that are hostile to racial minority groups. In response to demographic change, driven by Latino population growth and immigration, elected officials pursue harsh immigration policies, even symbolically when they do not have the jurisdiction to pursue immigration policy (Oaxaca 2023). Political parties and their candidates pursue a more racially conservative policy agenda (C. S. Parker and Barreto 2014) in response to demographic threat.

However, this literature primarily explores how politicians respond to demographic threat through their electoral behavior, like campaign messaging or communication on social media. With an incentive to attract a base of voters who feel threatened by demographic change (G. Miller and Schofield 2008), candidates make appeals that are harmful to racial minority groups (Newman 2013; Hajnal and Rivera 2014; Sides, Tesler, and Vavreck 2018). Despite the growing body of evidence that legislators respond to demographic threat hostile behavior towards racial minority groups, few studies address how this behavior impacts legislative behavior on legislation that sets the rules for elections. If legislators respond to demographic trends using roll call votes on voter identification bills, it is reasonable to expect that they respond to demographic threat using other avenues of behavior that are within their official powers.

5.3 Hypotheses

Few studies have examined state legislator responses to demographic threat through bill sponsorship. The majority party leadership has the power to set the agenda and schedule votes, so for this type of legislation receive a floor vote, there must be considerable support for it in the majority party (G. W. Cox and McCubbins 2005). Bill sponsorship does not share these underlying assumptions. Instead, sponsorship is a more individualistic action and is more often used by legislators to set their own legislative agendas (Schiller 1995). I adjust my hypotheses for the present analysis to reflect more district level.

According to the argument that I have laid out in chapter 2, demographic change is most likely to become demographic threat when it has the potential to upend the political status quo of the area that experiences that change. For this reason, electoral competition is key to detecting demographic threat. In particular, demographic growth in electorally competitive geographies should drive state legislators to respond with voter identification legislation. More specifically, since bill sponsorship is a more individualistic legislative act,

Starting with state level demographic threat and ending with district level threat, the following

set of hypotheses are tested in the analysis of this chapter. At the state level, a party needs to win a majority of seats in either chamber in the state legislature to control one or two chambers. This goal is threatened when increased state diversity impacts the ability of a party to win a chamber majority. **H1**: increased racial minority population in electorally competitive states increases the likelihood that legislators sponsor a restrictive voter identification bill. At the district level, state legislators may respond to demographic change by sponsoring a restrictive voter identification bill when this change threatens their odds of being re-elected in their district. **H2**: increased racial minority population in electorally competitive districts increases the likelihood that legislators sponsor a restrictive voter identification bill. Hypotheses **H1** and **H2** are expected independent of the impact of state legislators' party affiliation and their race. In the following analysis, I account for these legislator characteristics, as well as other macro level explanations from the literature. If demographic threat contributes to support for restrictive voter identification legislation, then this is a pattern that can be detected across bill sponsorship. I detail this empirical analysis and the results from it using the remainder of the chapter.

5.4 Data and Methods

In this chapter, I analyze bill sponsorship data from voter identification bills that were introduced in state legislative chambers across all 50 states between 2010 and 2020. State legislators are the unit of analysis. In this dataset, I include any voter identification bill that was introduced by a state legislator into a state legislative chamber, excluding bills that were introduced by a legislative committee. Not only do I included any voter identification bills that make voting more restrictive and those that expand voting, but in this dataset I also include bills that make no change in either direction.

I use the National Conference of State Legislatures' (NCSL) "50-State Searchable Bill Tracking Database" on Election related legislation to collect bills about voter identification requirements. During the data collection period for this project, the database included only voter identification

bills that were file between 2010 and 2022, I exclude the 2021-2022 legislative session from the resulting dataset because during data collection, legislatures remained in session and the resulting information was incomplete. The final dataset of voter identification bill sponsorship includes bills from 2010 to 2020. While most of the information on the voter identification bills in this dataset come from the nonpartisan legislative tracking and reporting service, LegiScan, I acquire it directly from state legislature websites when information is missing in LegiScan. I code the dependent variable, bill sponsorship, as 1 when a legislator sponsors a voter identification bill and a 0 for legislators in that chamber who do not sponsor that voter identification bill. I analyze sponsorship separately for bills that enact restriction and bills that enact more access.

In my analysis, I include several standard control variables and other variables that come from competing explanations in the literature. These control variables come from several different datasets at the state, district, and legislator levels. First, to capture macro-level explanations from the state and legislative chamber, I draw on election and electoral competition data from Louis Jacobson's State Legislative Election Ratings (L. Jacobson, Klarner, and Oldham 2020) and from the United States Election Project (McDonald 2022). Next, for information about state legislatures, such as partisan composition and legislature characteristics, I draw on data from the National Conference of State Legislatures website. I draw on several sources for demographic change. For state legislative districts, I use demographic data from the Census Bureau's American Community Survey (ACS) and I use electoral data from the State Legislative Elections Returns (SLER) dataset (Klarner 2020). Finally, data on legislators come from the Legislator Diversity dataset (Neville and Flick 2022). This dataset on state legislator bill sponsorship activity spans from 2010 to 2020.

To assess demographic threat, when demographic change threatens to impact elections, I use probit regression. I argue that prior studies fail to operationalize demographic threat. I argue that demographic threat occurs when demographic change threatens the outcome of elections. That is, without electoral competition, demographic change does not equal demographic threat. Not only do legislators have the tools necessary to understand demographic trends over time, but in their role they also have access to the resources and power necessary to pursue their electoral interests.

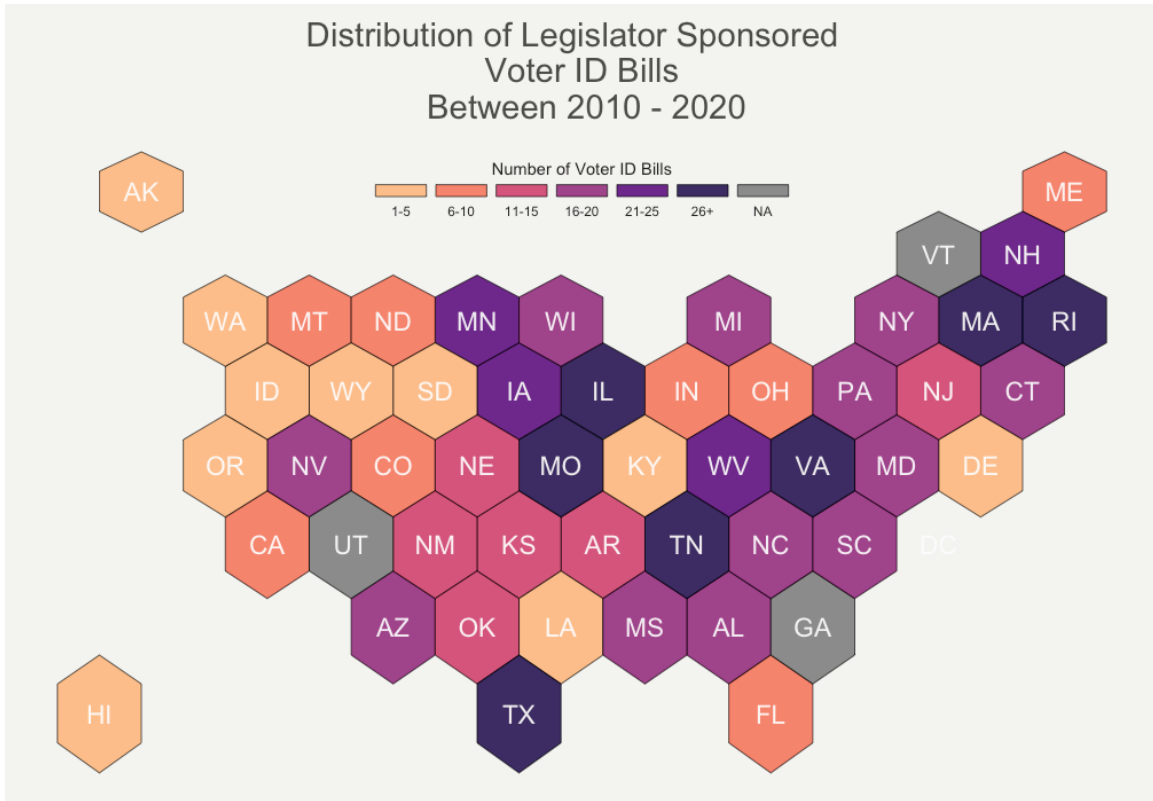


Figure 5.1: Distribution of Voter Identification Bill Sponsorship (2010-2020)

First, I operationalize demographic threat as demographic change in an electorally competitive environment. I measure demographic change with a variable that shows the change in the proportion of Black and Latino populations over the five years leading up to the introduction of a voter identification bill. Second, electoral competition can either be operationalized at the district-level, individual legislators fight for their seat in an election, or statewide, as their party's caucus fights for control over the legislature. For state-level competition, I use Jacobson's State Legislative Election Ratings to flag a chamber as competitive with an indicator variable if in the months leading up to an election a chamber is projected to lean Republican, lean Democrat, or if it is a toss-up. I measure district-level competitiveness more traditionally, with an indicator variable that flags whether the vote margin between the two major party candidates fell within 10 percentage points. For example, if the Republican candidate received at most 55 percent while the Democratic candidate received at least 45 percent of the two-party vote share or vice versa. Both indicator variables for electoral competition are coded as a 1 when electorally competitive and 0 when not electorally competitive.

I report the impact of state/chamber-level and district-level factors below in two different probit regression models.

5.5 Results

5.5.1 Restrictive Voter Identification Bill Sponsorship

Tables 5.1 and 5.2 show results from the probit regression estimating the impact of demographic threat on restrictive voter identification bill sponsorship. Table 5.1 one models the influence of state level demographic threat while Table 5.2 models district level threat. For each table Column 1 reports results from the model with no subset for legislators' partisan affiliations, while Columns 2 and 3 report results from models subset by state legislators' party affiliation. Column 2 reports results from a probit regression among Republican legislators only, and Column 3 reports results from a probit regression among Democratic legislators.

Impact of State-Level Demographic Threat

Results from Table 5.1, the model predicting restrictive voter identification bill sponsorship among state legislators using state-level demographic threat, suggests that statewide demographic threat impacts restrictive voter identification bill sponsorship differently than it does roll call votes on these bills. I measure change in racial minority population the same way as I did in chapter 4; change is measured separately for Black and Latino populations, and as the change in the overall percentage of the population over the five years prior to a voter identification bill's introduction in the legislature. For example, a change of "+3" can be an increase in the Black or Latino population from 25 percent of the total population in 2010 to 28 percent of the population in 2015.

Overall, demographic threat appears to reduce the likelihood that a state legislator will sponsor a restrictive voter identification bill. First, the observed effect is the opposite of what is expected in **H1**. Instead, an increase in Black demographic threat, represented by the interaction between Black population growth and statewide electoral competitiveness, is associated with a decrease in

Table 5.1: Impact of State Factors on Restrictive Voter ID Bill Sponsorship

	Sponsor Restrictive Voter ID Bill		
	All Parties	Republicans	Democrats
	(1)	(2)	(3)
Republican Legislator	0.730*** (0.028)		
Bill Passed	0.602*** (0.031)	0.573*** (0.037)	0.690*** (0.059)
Black Legislator	0.091** (0.046)	-3.888 (28.391)	0.042 (0.058)
Latino Legislator	0.216*** (0.052)	-0.293** (0.120)	-0.026 (0.079)
Percent Latino	0.017*** (0.001)	0.012*** (0.002)	0.027*** (0.003)
Percent Black	0.009*** (0.002)	0.012*** (0.002)	-0.003 (0.004)
Change in Percent Black	0.198*** (0.048)	0.287*** (0.057)	0.085 (0.100)
Change in Percent Latino	0.060* (0.033)	0.047 (0.040)	0.222*** (0.069)
Percent Age 18-24	-0.115*** (0.026)	-0.202*** (0.031)	0.187*** (0.051)
Percent Age 65+	0.015 (0.009)	-0.010 (0.011)	0.121*** (0.018)
Senate	0.300*** (0.027)	0.302*** (0.032)	0.297*** (0.055)
Republican Unified Legislature	-0.031 (0.028)	-0.299*** (0.032)	0.598*** (0.061)
Republican Governor	0.106*** (0.024)	0.062** (0.028)	0.237*** (0.055)
Republican Legislature Switch	-0.430* (0.241)	-0.568* (0.303)	0.029 (0.380)
Competitive Chamber	0.429*** (0.066)	0.427*** (0.079)	0.347*** (0.129)
Last Election Uncontested	-0.020 (0.023)	-0.078*** (0.028)	0.151*** (0.049)
South	0.022 (0.030)	-0.133*** (0.036)	0.538*** (0.066)
Change in Pct Black × Competitive Chamber	-1.020*** (0.120)	-1.482*** (0.146)	0.096 (0.243)
Change in Pct Latino × Competitive Chamber	-0.216*** (0.052)	-0.200*** (0.065)	-0.170* (0.097)
Intercept	-1.656*** (0.345)	0.590 (0.423)	-7.120*** (0.672)
Observations	36,580	18,635	17,945
Log Likelihood	-8,204.243	-5,924.476	-1,886.255
Akaike Inf. Crit.	16,448.490	11,886.950	3,810.511

Note:

*p<0.1; **p<0.05; ***p<0.01

the likelihood that a legislator sponsors a restrictive voter identification bill. Latino demographic threat has the same effect on bill sponsorship. However, a closer look at the role of legislators' partisan affiliations provides more context and differences between Black demographic threat and Latino demographic threat arise. Column 2, of Table 5.1, shows results for the model when subset to Republican legislators only and Column 3 shows the same for the Democratic legislator subset. Black demographic threat, or opportunity for Democrats as the literature suggests, does not seem to be associated with Democrats' decision to sponsor restrictive voter identification legislation. However, Black demographic threat is associated with a decrease in bill sponsorship for Republicans, suggesting that the results observed in the "All Parties" model specification, Column 1, are driven by demographic threat among Republicans. On the other hand, Latino demographic threat is negatively associated with restrictive voter identification bill sponsorship among both Republican and Democratic state legislators.

A closer look at the direct effects for the variables that operationalize demographic threat, Change in Percent Black or Latino and Competitive Chamber, shows that competition and demographic change independently increase the likelihood of restrictive voter identification bill sponsorship. However, Democrats only respond to Latino demographic change with bill sponsorship while Republicans only respond to Black demographic change. This suggests that when demographic change effects the ability to win a chamber majority, legislators are less likely to sponsor restrictive voter identification bills.

Since it is difficult to interpret the nuance of these relationships using the raw coefficients from probit regression, I calculate predicted probabilities for statistically significant results and provide this in the plots in Figure 5.2 and Figure 5.3. To compute these predicted probabilities, the change in the racial composition of states is varied from zero to the maximum value observed in the dataset for this variable. I generate two separate lines, one for the likelihood of voter identification bill sponsorship for states with fierce competition over the legislature and the other for those that are not competitive. On the y-axis is likelihood of voter identification bill sponsorship and the x-axis shows change in racial demographics statewide. Every other variable in the model is set constant

to their mean value.

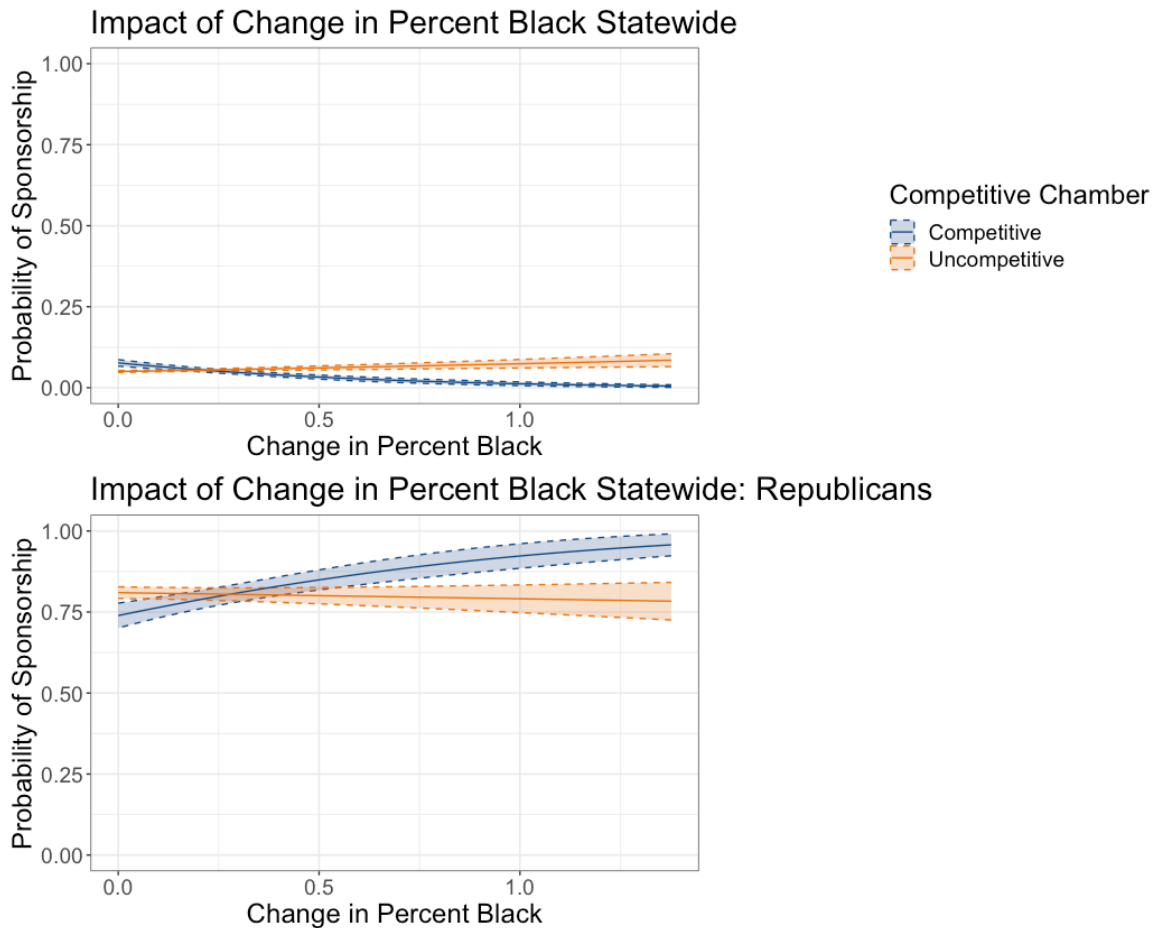


Figure 5.2: Predicted Probabilities for Impact of Change in Percent Black Statewide on Restrictive Voter Identification Bill Sponsorship

Figure 5.2 shows two important distinctions not included in the discussion above regarding the direction of these effects. First, the probability of sponsorship in the full model specification at the top is small and relatively flat across the x-axis, from no Change in Percent Black to a change of 1.5 percent. While competitiveness reduces the likelihood of restrictive voter identification bill sponsorship, it does so by a very small amount, suggesting that the impact is not substantively significant. Second, in the predicted probability plot for the Republican legislator model specification, the likelihood of sponsorship is already high, however, in the competitive state context, an increase in black population is associated with an increase in the likelihood that a legislator sponsors a restrictive voter identification bill. These findings suggest that Republican state legislators actually

may be responding to Black demographic threat by sponsoring restrictive voter identification bills, supporting the expectations laid out in **H1**.

Figure 5.3 shows the substantive impact of Latino demographic threat on restrictive voter identification bill sponsorship. First, in each of the model specifications—the full model, Republican subset, and Democrat subset—the impact of Latino demographic threat is substantively minuscule. Across the range of change in percent Latino statewide in the dataset, the odds of restrictive voter identification bill sponsorship only increase or decrease by a few percent at most. In the full model specification, depicted in the top panel of the figure, change in percent Latino is associated with a decrease in the likelihood of bill sponsorship in the competitive setting. This relationship is substantively identical in the Republican subset model specification. However, in the Democrat subset model specification, there does not appear to be a substantive difference in legislators’ bill sponsorship behavior across competitiveness. Where there is difference, it accounts for only a 1 percent increase in the likelihood of restrictive voter identification bill sponsorship. In summary, while the substantive size of these effects are very small, it appears that Republicans respond to Latino population change in competitive states by sponsoring fewer restrictive voter identification bills. This runs counter to the expectations laid out in **H1A**, which is not supported in the findings for the analysis of the impact of Latino demographic threat.

Impact of District-Level Demographic Threat

Results from Table 5.2, the model predicting restrictive voter identification bill sponsorship among state legislators using district-level demographic threat, suggests that only district-level Black demographic threat impacts restrictive bill sponsorship. An increase in Black demographic threat at the district-level, represented by the interaction between Black district-level population growth and district electoral competitiveness, is associated with an increase in the likelihood that a legislator sponsors a restrictive voter identification bill. A closer look at the role of legislators’ partisan affiliations shows that these results hold across party lines, the effect predicted in **H2**. Column 2, of Table 5.2, shows results for the model when subset to Republican legislators only and Column 3 shows the

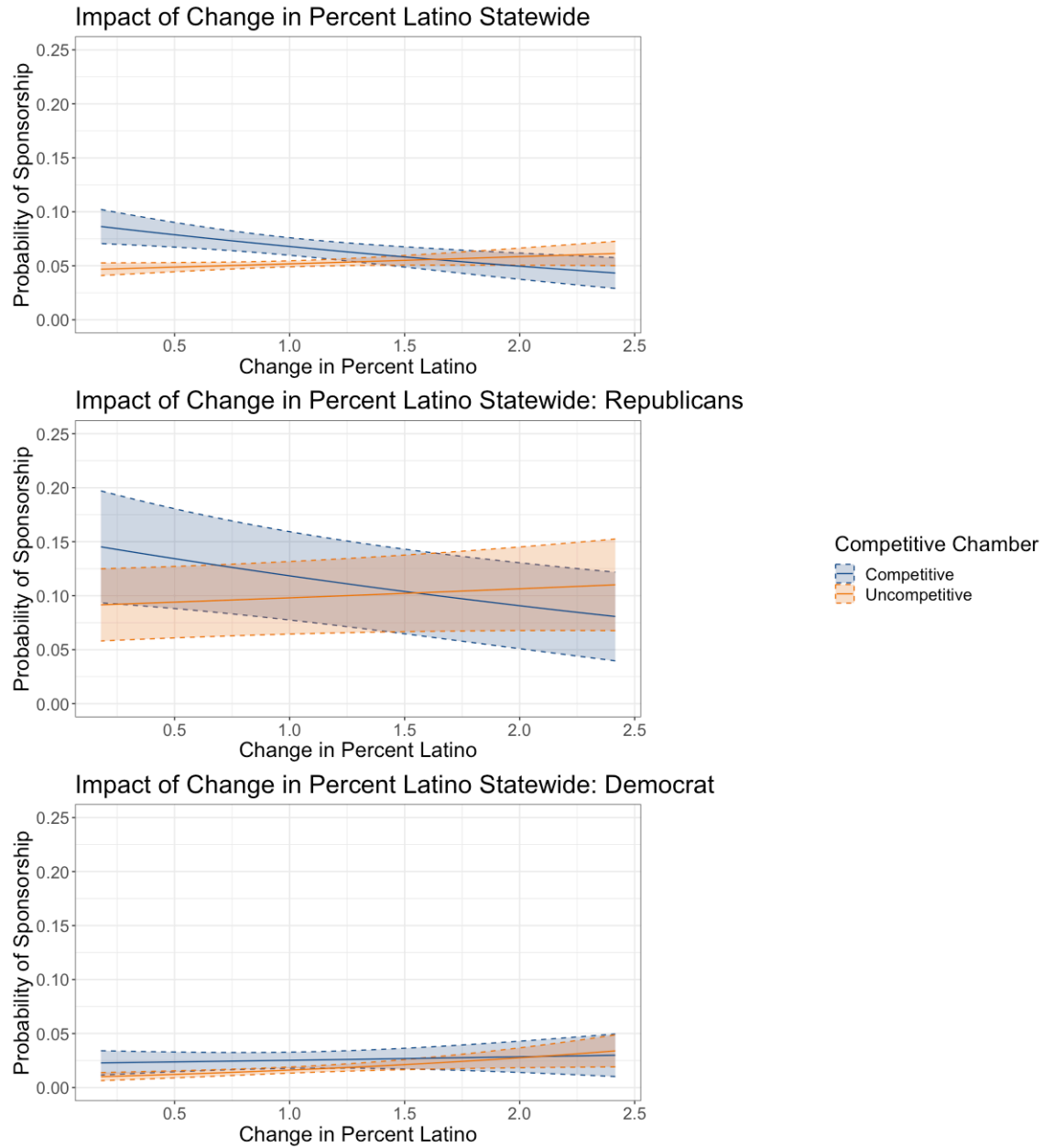


Figure 5.3: Predicted Probabilities for Impact of Change in Percent Latino Statewide on Restrictive Voter Identification Bill Sponsorship

Table 5.2: Impact of District Factors on Restrictive Voter ID Bill Sponsorship

	Sponsor Restrictive Voter ID Bill		
	All Parties	Republicans	Democrats
	(1)	(2)	(3)
Republican Legislator	0.741*** (0.030)		
Bill Passed	0.502*** (0.029)	0.453*** (0.035)	0.605*** (0.054)
Black Legislator	0.259*** (0.060)	-3.794 (29.054)	0.167** (0.080)
Latino Legislator	0.112* (0.063)	-0.199 (0.125)	-0.193* (0.101)
Percent Latino	0.007*** (0.001)	0.001 (0.002)	0.011*** (0.002)
Percent Black	-0.004*** (0.001)	-0.005** (0.002)	-0.005*** (0.002)
Change in Percent Black	-0.003** (0.001)	-0.005*** (0.002)	-0.0005 (0.002)
Change in Percent Latino	-0.003 (0.003)	0.011** (0.004)	-0.010** (0.004)
Percent Age 18-24	-0.001 (0.003)	-0.014*** (0.004)	0.011** (0.005)
Percent Age 65+	0.004 (0.003)	-0.0004 (0.004)	0.005 (0.007)
Upper Chamber	0.296*** (0.027)	0.315*** (0.032)	0.326*** (0.053)
Republican Unified Legislature	-0.101*** (0.024)	-0.374*** (0.027)	0.572*** (0.052)
Republican Governor	0.148*** (0.023)	0.093*** (0.028)	0.279*** (0.051)
Republican Legislature Switch	-0.566** (0.242)	-0.685** (0.304)	-0.355 (0.398)
Competitive District	-0.074** (0.035)	-0.086** (0.042)	-0.198*** (0.075)
Last Election Uncontested	-0.014 (0.024)	-0.085*** (0.029)	0.152*** (0.051)
South	0.201*** (0.025)	0.119*** (0.032)	0.431*** (0.050)
Change in Pct Black × Competitive District	0.016*** (0.005)	0.014** (0.007)	0.029*** (0.009)
Change in Pct Latino × Competitive District	0.003 (0.007)	-0.008 (0.011)	0.018 (0.011)
Intercept	-2.293*** (0.075)	-1.067*** (0.083)	-3.141*** (0.155)
Observations	35,562	18,020	17,542
Log Likelihood	-8,115.428	-5,865.718	-1,922.255
Akaike Inf. Crit.	16,270.860	11,769.440	3,882.510

Note:

*p<0.1; **p<0.05; ***p<0.01

same for the Democratic legislator subset. Black demographic threat is associated with a positive increase in bill sponsorship for Republicans and Democrats. To explore these relationships and the magnitude of these effects, I calculate predicted probabilities for statistically significant results and provide this in the plots in Figure 5.4. To compute these predicted probabilities, the change in the Black composition of districts is varied from zero to the maximum value observed in the dataset for this variable. I generate two separate lines, one for the likelihood of restrictive voter identification bill sponsorship for legislators with fierce district-level competition and the other for those that are not competitive. On the y-axis is likelihood of restrictive voter identification bill sponsorship and the x-axis shows change in Black demographics in a district. Again, every other variable in the model is set constant to their mean value. Across the range of change in percent Black in a district, the odds of restrictive voter identification bill sponsorship only increase by a few percent at most. Change in percent Black is associated with an increase in the likelihood of bill sponsorship in the competitive setting across all three model specifications, the full model, Republican subset, and Democrat subset. However, this relationship is substantively minute, increasing an already low likelihood of restrictive voter identification bill sponsorship, less than a 15 percent chance across the observed range of the demographic change variable in the dataset, by only about 5 percent. While the substantive size of these effects are very small, it appears to support **H2**, suggesting that legislators respond to district-level Black demographic threat.

5.5.2 Demographic Opportunity?

Tables 5.3 and 5.4 show results from the probit regression estimating the impact of demographic threat on accessible voter identification bill sponsorship. This is legislation that seeks to amend existing voter identification requirements to be more accessible. For example, a bill that adds new identification documents to the list of acceptable forms of identification in order to expand access, a bill that may allow the state to accept expired forms of identification, a bill that allows voters to sign an affidavit if they fail to meet the identification requirement, etc. For each table Column 1 reports results from the model with no subset for legislators' partisan affiliations. Columns 2 and

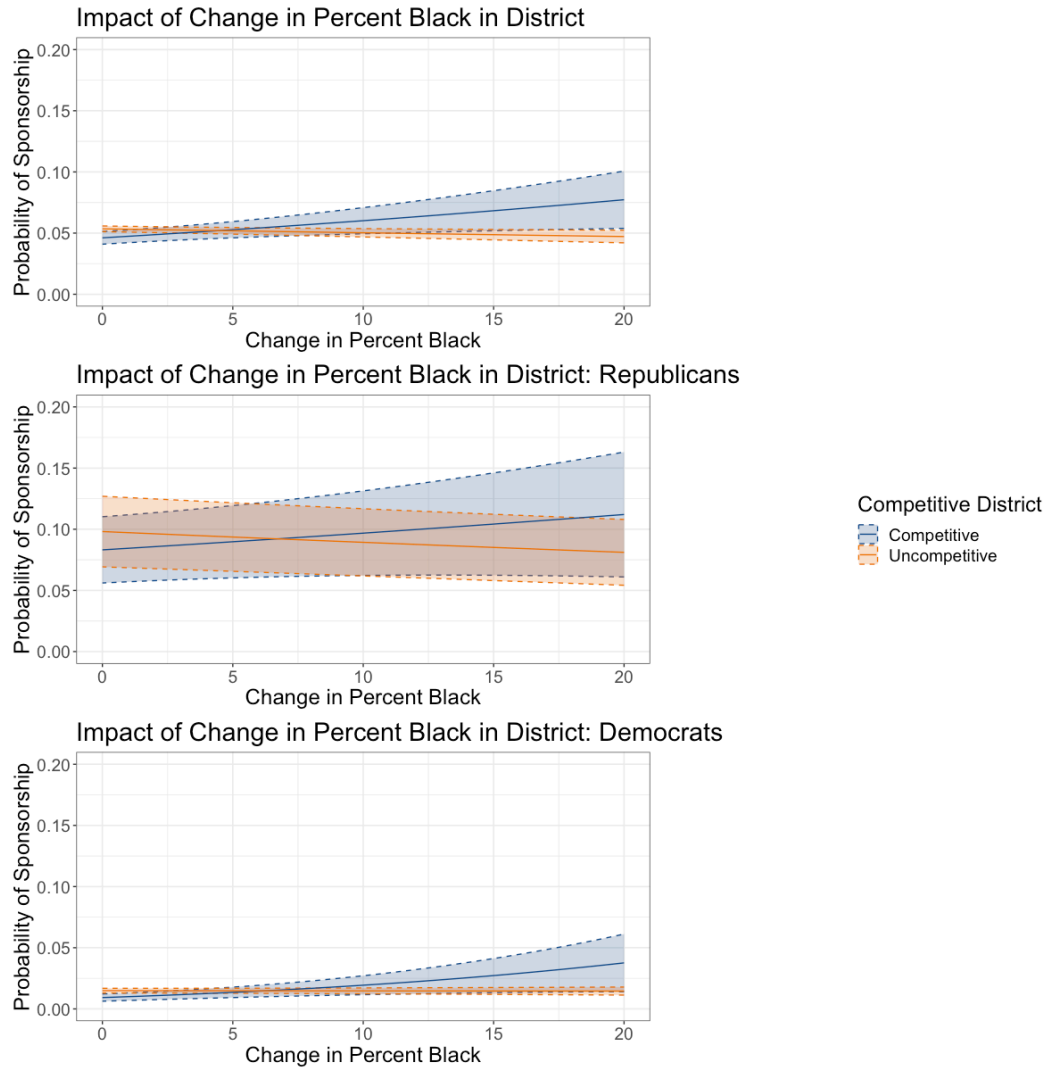


Figure 5.4: Predicted Probabilities for Impact of Change in Percent Black District on Restrictive Voter Identification Bill Sponsorship

3 report results from models subset by state legislators' party affiliation. Column 2 reports results from a probit regression among Republican legislators only, and Column 3 reports results from a probit regression among Democratic legislators.

Responding to State-Level Threat with Accessible Voter Identification Bill Sponsorship

Table 5.3: Impact of State Factors on Accessible Voter ID Bill Sponsorship

	Sponsor Accessible Voter ID Bill		
	All Parties (1)	Republicans (2)	Democrats (3)
Republican Legislator	-0.708*** (0.024)		
Bill Passed	-0.098** (0.039)	0.181*** (0.056)	-0.340*** (0.055)
Black Legislator	-0.026 (0.033)	-3.645 (27.787)	-0.031 (0.036)
Latino Legislator	0.116*** (0.044)	-0.233* (0.130)	0.130** (0.056)
Percent Latino	-0.012*** (0.002)	-0.014*** (0.002)	-0.012*** (0.002)
Percent Black	0.030*** (0.003)	0.055*** (0.004)	0.010*** (0.004)
Change in Percent Black	0.518*** (0.061)	0.670*** (0.092)	0.495*** (0.087)
Change in Percent Latino	0.580*** (0.041)	0.858*** (0.063)	0.397*** (0.056)
Percent Age 18-24	-0.306*** (0.033)	-0.488*** (0.058)	-0.129*** (0.042)
Percent Age 65+	-0.090*** (0.009)	-0.170*** (0.015)	-0.020* (0.012)
Senate	0.059** (0.027)	0.175*** (0.041)	-0.019 (0.037)
Republican Unified Legislature	0.978*** (0.048)	0.565*** (0.081)	1.178*** (0.062)
Republican Governor	-0.113*** (0.031)	0.214*** (0.052)	-0.345*** (0.042)
Republican Legislature Switch	-1.227*** (0.194)	-1.405*** (0.383)	-1.193*** (0.232)
Competitive Chamber	0.133** (0.068)	0.217** (0.110)	-0.056 (0.093)
Last Election Uncontested	0.177*** (0.022)	0.091*** (0.033)	0.192*** (0.031)
South	-0.676*** (0.044)	-1.128*** (0.068)	-0.264*** (0.059)
Change in Pct Black × Competitive Chamber	-0.489*** (0.102)	-1.667*** (0.203)	-0.027 (0.134)
Change in Pct Latino × Competitive Chamber	0.352*** (0.065)	0.191* (0.104)	0.589*** (0.089)
Intercept	2.126*** (0.402)	4.156*** (0.709)	-0.412 (0.517)
Observations	26,661	15,853	10,808
Log Likelihood	-9,372.441	-3,864.994	-5,294.610
Akaike Inf. Crit.	18,784.880	7,767.988	10,627.220

Note:

*p<0.1; **p<0.05; ***p<0.01

State legislators respond to state-level demographic threat with accessible voter identification bill sponsorship. First, Table 5.3 shows that Black demographic threat at the state-level is negatively associated with accessible bill sponsorship in the “All Parties” model, Column 1. Legislators exposed to Black demographic threat are less likely to sponsor legislation that softens existing voter identification requirements. Breaking this relationship down by legislator partisanship, Republican state legislators, Column 2, seem to be more sensitive to Black demographic threat.

To make assist in interpreting the magnitude and direction of these effects, I calculate predicted probabilities for statistically significant results and plot them in Figure 5.5. I plot two lines, one for the likelihood of voter identification bill sponsorship for states with fierce competition over the legislature and the other for those that are not competitive. The x-axis shows change in percent Black population statewide and the y-axis plots the corresponding predicted probabilities, the likelihood of accessible voter identification bill sponsorship. In the top plot, predicted probabilities from the model specification with all state legislators, Black demographic change in states without competition over the legislature is associated with a modest increase in accessible voter identification bill sponsorship. Examining this relationship by party, Republican legislators respond to Black population change by sponsoring legislation aimed at making voter identification more accessible. In the competitive statewide context, Black population growth increases the likelihood that a Republican legislator sponsors an accessible voter identification bill. Many of these access bills seek to add to the list of acceptable forms of identification. However, things are not as they seem. The types of identification added do not necessarily help Black voters 92 percent of the accessible voter identification bills sponsored by Republicans that add new forms of identification add a hunting license, veteran cards and military ID, concealed carry licenses, or exempt elderly voters. These forms of identification are less likely to help Black voters gain access to the ballot box, instead demonstrating that these states have existing some of the most restrictive voter identification laws that may prevent likely Republican voters from casting a ballot in competitive races.

Additionally, Table 5.3 shows that legislators respond to Latino demographic threat more opportunistically. State-level demographic “threat” that is driven by Latino demographic change is

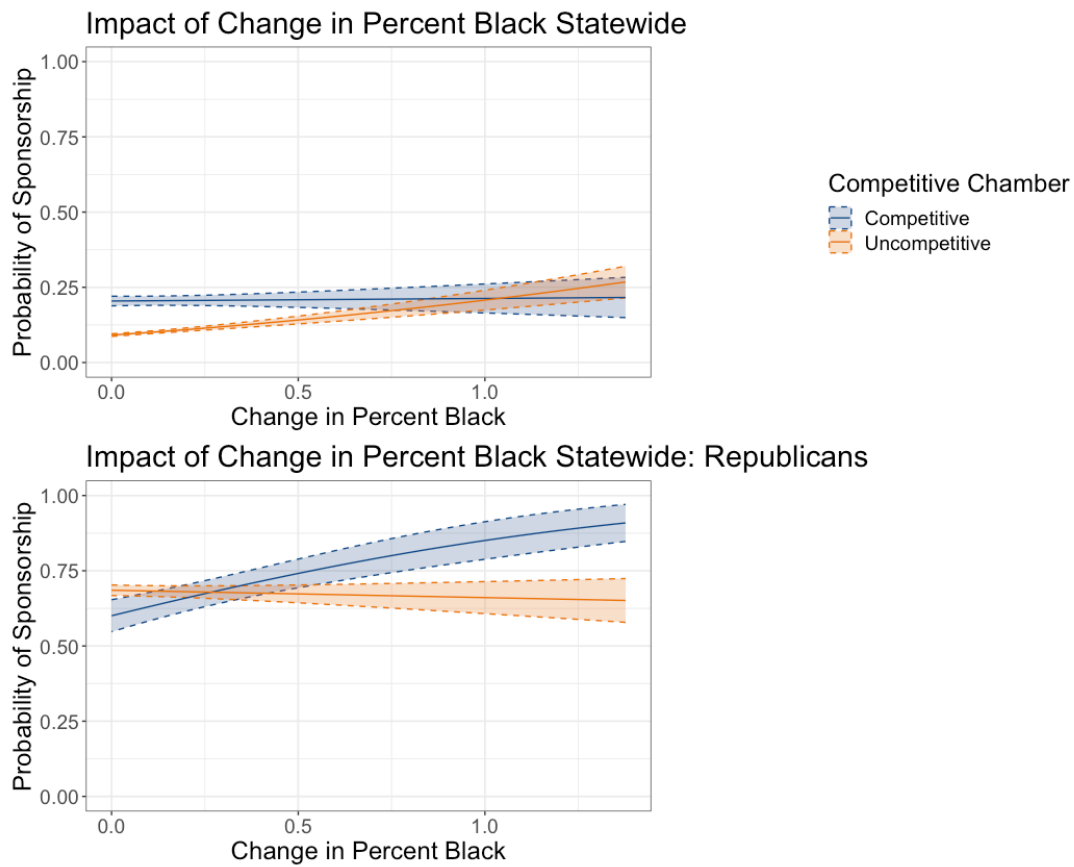


Figure 5.5: Predicted Probabilities for Impact of Change in Percent Black Statewide on Accessible Voter Identification Bill Sponsorship

positively associated with accessible bill sponsorship. Across partisanship, legislators exposed to Latino demographic threat are more likely to sponsor legislation that softens existing voter identification requirements. Figure 5.6, predicted probabilities calculated from the model in Table 5.3, shows the magnitude of this relationship across partisan affiliation. Looking at the top panel, the “All Parties” model specification, legislators exposed to Latino demographic threat react more like it is Latino demographic opportunity. In states where control over the legislature is competitive, an increase in percent Latino is associated with an increase in the probability that legislators sponsor accessible voter identification bills. Breaking down this relationship by partisanship, while Republican and Democratic legislators both respond to Latino demographic change by sponsoring bills that make voter identification more accessible, the magnitude of this effect is larger among Democrat state legislators. In the second panel for Figure 5.6, Republican legislators in the statewide competitive context are slightly more likely to sponsor accessible voter identification bills than are Republican legislators in the statewide noncompetitive context. However, among Democratic legislators, those in the statewide competitive context are much more likely to sponsor accessible voter identification bills than are Democratic legislators in the statewide noncompetitive context. This suggests that Democratic legislators see Latino demographic change as an opportunity, rather than a threat, and respond accordingly.

Responding to District-Level Threat with Access

Do district demographics impact state legislators’ bill sponsorship behavior? Table 5.4 reports results from the model estimating the impact of district-level demographic threat on sponsorship for bills that make voter identification more accessible. District-level Latino demographic threat does not seem to impact legislators’ decisions to sponsor accessible voter identification bills. However, Black demographic threat does. An increase in Black demographic threat is associated with an increase in the probability of accessible voter identification bill sponsorship.

To better understand these estimated effects sizes, I calculate predicted probabilities. Figure 5.7 shows predicted probabilities for the results in Table 5.4. In the top panel, predicted probabilities

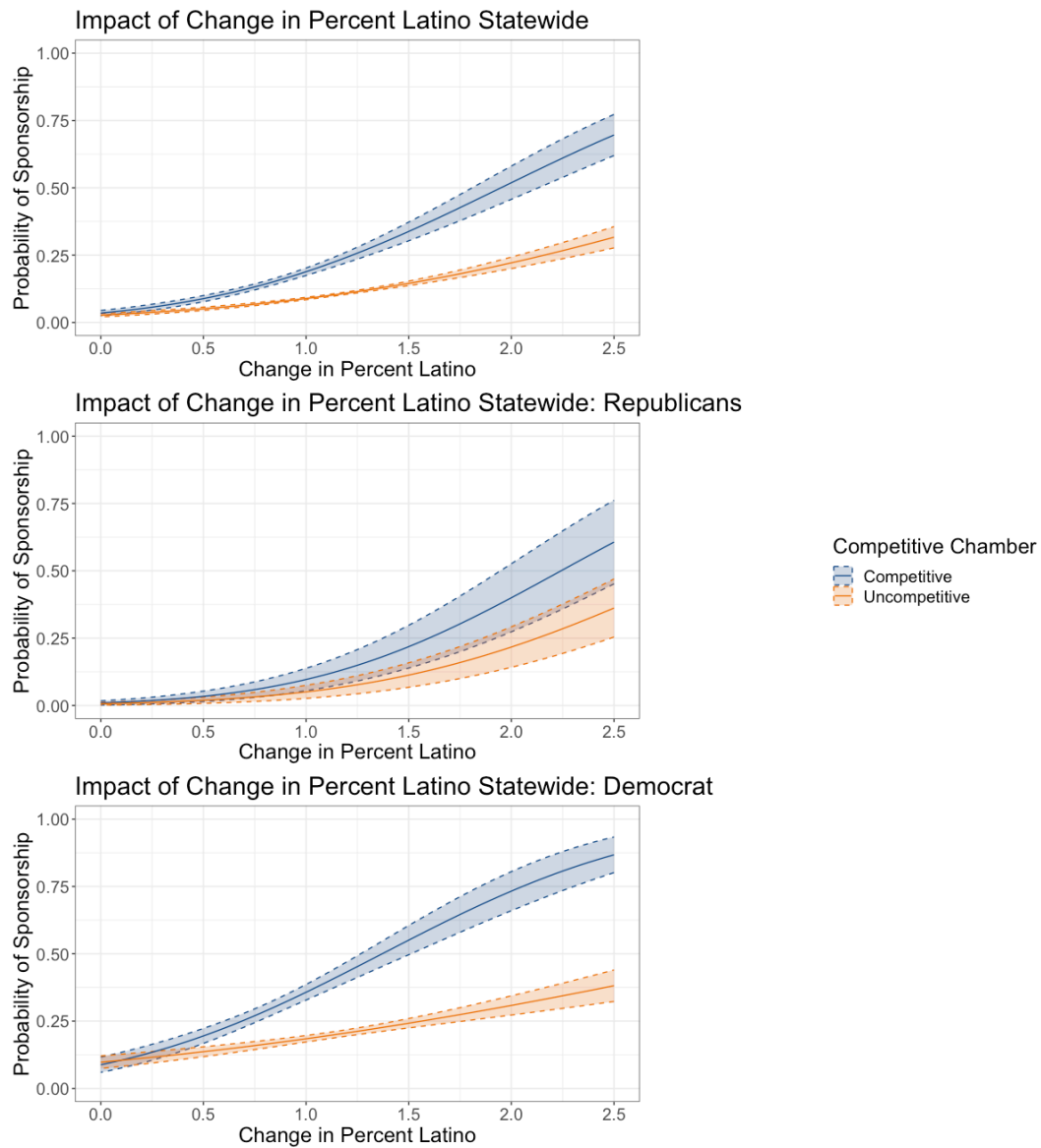


Figure 5.6: Predicted Probabilities for Impact of Change in Percent Latino Statewide on Accessible Voter Identification Bill Sponsorship

Table 5.4: Impact of District Factors on Accessible Voter ID Bill Sponsorship

	Sponsor Accessible Voter ID Bill		
	All Parties (1)	Republicans (2)	Democrats (3)
Republican Legislator	−0.704*** (0.026)		
Bill Passed	−0.138*** (0.039)	−0.005 (0.056)	−0.271*** (0.054)
Black Legislator	−0.004 (0.049)	−3.557 (27.894)	−0.082 (0.055)
Latino Legislator	0.056 (0.056)	0.020 (0.129)	−0.072 (0.069)
Percent Latino	0.001 (0.001)	−0.006*** (0.002)	0.005*** (0.001)
Percent Black	−0.001 (0.001)	−0.004 (0.003)	0.001 (0.001)
Change in Percent Black	−0.008*** (0.001)	−0.010*** (0.003)	−0.009*** (0.002)
Change in Percent Latino	0.003 (0.002)	0.017*** (0.005)	0.0002 (0.003)
Percent Age 18-24	−0.006** (0.003)	−0.007 (0.005)	0.0004 (0.003)
Percent Age 65+	−0.007** (0.003)	−0.023*** (0.004)	0.017*** (0.005)
Upper Chamber	0.027 (0.026)	0.040 (0.038)	0.013 (0.035)
Republican Unified Legislature	0.732*** (0.042)	0.191*** (0.072)	0.994*** (0.052)
Republican Governor	0.017 (0.028)	0.301*** (0.047)	−0.204*** (0.037)
Republican Legislature Switch	−1.167*** (0.194)	−1.246*** (0.387)	−1.172*** (0.232)
Competitive District	−0.055 (0.035)	0.006 (0.052)	−0.155*** (0.051)
Last Election Uncontested	0.154*** (0.023)	0.109*** (0.033)	0.178*** (0.032)
South	−0.329*** (0.024)	−0.388*** (0.038)	−0.251*** (0.035)
Change in Pct Black × Competitive District	0.060*** (0.007)	0.001 (0.012)	0.097*** (0.010)
Change in Pct Latino × Competitive District	−0.006 (0.006)	−0.006 (0.012)	−0.006 (0.007)
Intercept	−1.111*** (0.076)	−1.185*** (0.119)	−1.691*** (0.107)
Observations	26,132	15,509	10,623
Log Likelihood	−9,445.318	−4,026.644	−5,287.958
Akaike Inf. Crit.	18,930.640	8,091.288	10,613.920

Note:

*p<0.1; **p<0.05; ***p<0.01

from the “All Parties” model, an increase in the Black population in a competitive district, the interactive term for demographic threat, is associated with an increase in the likelihood that a legislator sponsors a bill that makes voter identification more accessible. The effect is rather large, increasing the likelihood of sponsorship by about 50 percent compared to a noncompetitive district experiencing the same demographic growth. In breaking down this relationship by state legislator partisan affiliations, it is revealed that this effect is driven by Democratic state legislators. In the bottom panel of Figure 5.7, I plot predicted probabilities for Democrats only, showing that the effect of demographic threat on voter identification access bills is even larger among Democrats. This calls into question the extent to which Black demographic change becomes threat. It is clear that, rather than threat, increases in Black population in competitive state legislative districts presents electoral opportunity for Democrats.

5.6 Discussion

I began this chapter with a discussion about demographic change and whether legislators respond to this change when it poses a potential threat to their electoral prospects. The analysis in this chapter examines the extent to which legislators respond to demographic threat, or opportunity, by sponsoring voter identification legislation. State legislators do appear to respond to demographic change in electorally competitive contexts, but their response depends on their partisan affiliation and the specific racial minority group they are responding to. There is evidence presented in this chapter that shows competition and demographic threat/opportunity at the district-level and state-level impacts legislator bill sponsorship behavior.

Demographic threat impacts voter identification sponsorship. Republican legislators respond to Black demographic threat, at both the state-level and district-level, with restrictive voter identification bills. Black voters tend to support the Democratic Party in elections (Frymer 2010; Haynie and Watts 2010; I. K. White and Laird 2020), making Black demographic change potential threat to Republican state legislators but an opportunity for Democrats in general elections. On the sur-

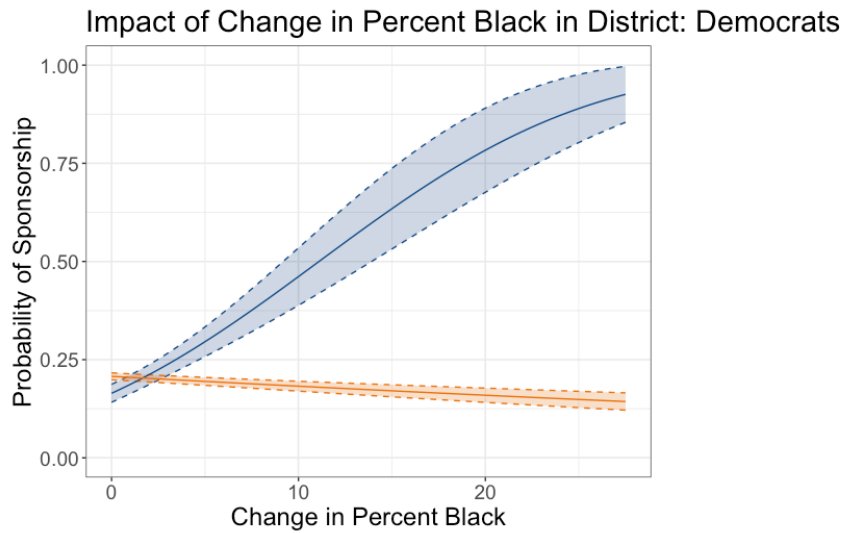
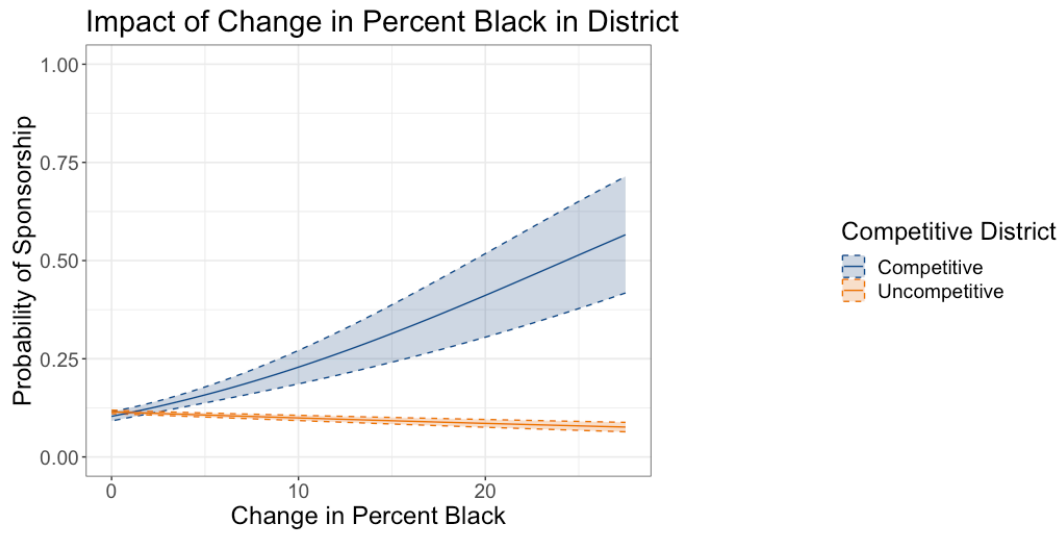


Figure 5.7: Predicted Probabilities for Impact of Change in Percent Black in District on Accessible Voter Identification Bill Sponsorship

face, it appears that Republicans also respond to Black demographic threat by sponsoring bills that make voter identification more accessible, but a deeper dive into the data shows that those bills are aimed at making it easier for groups that are more likely to vote Republican. This suggests that their actions are a response to how restrictive existing voter identification requirements are in those states, rather than an effort to court Black voters in competitive contexts.

State legislators are more strategic in their voter identification sponsorship responses to Latino demographic threat. Republican legislators respond to state-level Latino demographic threat by distancing themselves from restrictive voter identification bills. They are less likely to sponsor these restrictive bills, demonstrating a strategic electoral calculus which has precedent in the literature. Legislators consider the potential preferences of “inattentive publics,” constituents who could easily become mobilized against a legislator if they engage in behavior that an inattentive public opposes (Arnold 1990). The size of an inattentive public, the intensity of their preferences, and the probability that they will become activated are all factored into the choices that legislators make. Restrictive voter identification bill sponsorship can activate racial minority voters against the sponsoring legislator or their party, which can be detrimental to their re-election in close elections. In this instance, it can impact their party’s ability to win a majority in their legislative chamber and control the legislative agenda. Republican legislators appear to make similar considerations in their behavior on accessible voter identification legislation. They are more likely to respond to Latino demographic threat by sponsoring accessible voter identification legislation. More information on the effects of those bills suggest that these bills are a mix between responding to difficulty among likely Republican voters in complying with onerous voter identification requirements and an effort to court Latino voters. Past efforts in the Republican Party to pass legislation that is hostile to Latinos has been met with Latino backlash that has harmed Republican candidates in elections (Bowler, Nicholson, and Segura 2006; Matt A. Barreto and Segura 2014).

Political parties coordinate strategy to get their candidates elected (G. Cox 1999). When a party controls the legislative agenda, they can schedule a vote on legislation that is popular within their party and that is almost guaranteed to pass (G. W. Cox and McCubbins 2005). Therefore, roll

call votes are more reflective of party strategy. This chapter goes beyond party strategy in an attempt to examine how individual legislators respond to demographic threat by looking at voter identification bill sponsorship, a more individualistic behavior that legislators often use to express their legislative agendas and to signal not only which issues are important to them, but also their positions on those issues (Schiller 1995). Individual legislators lack party-level resources, like information on demographic change, when their behavior deviates from the party, but evidence in my analysis suggests that legislators still respond to demographic threat with voter identification bill sponsorship and that they respond differently to racial groups. This chapter demonstrates that it is vital to consider race in efforts to understand state legislator behavior on voter identification legislation.

Chapter 6

Conclusion

6.1 Overview

The goal for this project is to investigate why state legislators support restrictive voter identification legislation. While the literature has explored the relationship between legislator support for restrictive voting laws and partisanship, electoral competition, and race/ethnicity, it does so with each of these explanations in a vacuum alone and has yet to posit a theory that connects all three of these factors in a coherent theory. Prior research argues that legislators support election legislation that advantages their own party's electoral coalition (Biggers and Hanmer 2015, 2017), and that Republican legislators are more likely to pass restrictive voter identification requirements (Bentele and O'brien 2013; Hicks et al. 2015). Studies that examine the impact of race in state legislators' decisions to support restrictive voter identification find race to be a secondary factor (Bentele and O'brien 2013; Hicks et al. 2015; Hicks, McKee, and Smith 2016; Biggers and Hanmer 2017). However, to date studies have not systematically investigated the mechanisms by which race influences legislator behavior on voter identification legislation. I address this gap in the literature in this dissertation project, providing a coherent theory on the influence of demographic threat. This theory posits that racial demographic change is central to understanding the recent uptick in support for restrictive voting legislation. I argue that when demographic change threatens legislators' electoral prospects, they support efforts to make voting more restrictive that disproportionately disadvantage

racial minority groups. State legislators support restrictive voter identification requirements that preserve their own electoral interests and the interests of their political parties.

In chapter 2 of this dissertation, I lay out the theory of demographic threat and explain how it is central to understanding state legislator support for restrictive voter identification legislation. I explore why racial minority voting power is so critical to elites' decisions to restrict access to the ballot box, both historically and today. In the past, restrictive voting laws have been used to preserve the political status quo. Black and Latino voters have been met with hostility when they exercise their right to vote and when this threatens to upend the political power structure. Although the franchise has been extended to these groups, in practice, restrictive voting policy impedes large swaths of voters who are disproportionately marginalized racial minority groups. The narrative that these groups have homogeneous policy preferences, voting preferences, and partisan attitudes perpetuates perceptions of racial threat and political elites respond with restrictive voting laws as a short-term electoral strategy rather than responding with long-term commitment to persuasion and coalition building. This chapter illustrates when and why state legislators respond to demographic change with restrictive voter identification laws.

The theory on demographic threat, laid out in chapter 2, fills a gap in the political science literature that posits an explanation for why elites support restrictive voting laws like voter identification requirements. I argue that when demographic change poses an existential threat to the electoral prospects of legislators and their political party, they deploy short-term strategies to improve their chances of maintaining their political power. Among their strategic options is a strategy to shape the electorate so that it changes as little as possible, through restrictive voting laws like voter identification requirements, so that legislators and their party can retain political power. I argue that legislators and their parties demonstrate their capacity and willingness to use this strategy every decade in states where they control the redistricting process. In every redistricting cycle, the party that controls the legislature responds to population change by adopting district maps that advantage their legislators in elections. In states with growing racial minority populations, these maps are not just a response to population change, but are aimed at mitigating the impact of demographic

change when it threatens the political power structure. I theorized that both legislators respond to demographic change with restrictive voter identification legislation when that change threatens their chances of re-election and that parties pursue restrictive voter identification bills when that change threatens their ability to win a majority of legislative seats to control the legislature.

I tested the implications of this theory in several analyses in this dissertation project. In chapter 3, I detailed a brief history of the franchise in the United States, followed by a deeper dive into case studies on a couple of states that were significant to the evolution of voter identification laws today. In this chapter, I outlined evidence that in the past, in response to Black and Latino enfranchisement, elites pursued restrictive voting laws to preserve the status quo political power structure. This chapter unraveled the context around the first modern voter identification law and the history leading up to it. I linked this to the restrictive voter identification laws today now that significant Voting Rights Act protections today have been eroded. Evidence from this chapter shows that political elites have routinely responded to demographic threat with restrictive voting laws.

In chapter 4, I investigated the impact of demographic threat on state legislators' voting behavior, looking at roll-call votes for voter identification legislation. Prior research shows that factors like party, race, and electoral competition are all correlates of support for voter identification requirements but little is known about how those factors fit together. In this chapter, I operationalized a measure for demographic change and then deployed it to analyze the impact of demographic threat on state legislators' roll-call votes for restrictive voter identification laws. I laid out several expected outcomes according the demographic threat theory and the results of this analysis yielded evidence that supports this theory, that state legislators vote for restrictive voter identification legislation in response to threat. I found that they respond to Latino demographic threat differently than they respond to Black demographic threat, with Republicans seemingly responding to Black demographic threat with restriction and Democrats responded by pursuing more access. In all, these results underscored that demographic threat is crucial to understanding why legislators pursue restrictive voter identification laws.

In chapter 5, I analyzed the impact of demographic threat on state legislator voter identification

bill sponsorship, an avenue for legislator action that allows individual state legislators to declare their own agendas. To date, no study in political science has investigated why state legislators sponsor restrictive voter identification legislation. However, the prevailing literature has investigated what factors make legislators more likely to vote for voter identification bills and what characteristics of states make legislatures more likely to introduce and adopt this legislation. In this chapter, I applied my theory on demographic threat to investigate the extent to which it applies to voter identification bill sponsorship. Using the expectations I generated in chapter 4, the analysis of roll-call votes for voter identification bills, that state legislators sponsor restrictive voter identification legislation in response to demographic threat. In this chapter, I found mixed evidence that supports the demographic threat theory. In general, Republicans tended to sponsor restrictive voter identification legislation in response to Black demographic threat but they also sponsor voter identification bills that would make existing requirements more accessible. However, Republicans were less likely to sponsor restrictive bills in response to Latino demographic threat. In summary, these results suggest that legislators sponsor voter identification bills for more symbolic means.

6.2 Limitations and Future Work

In this dissertation, my goal was to empirically examine the impact of race on state legislator behavior regarding restrictive voter identification legislation. In pursuit of this goal, my research has several limitations. First, there is a selection bias in which state legislatures hold a floor vote on a restrictive voter identification bill. Some states never hold a floor vote on such legislation, while others seem to hold votes on these bills fairly frequently. Moreover, when roll-call votes are held, they are almost guaranteed to pass, suggesting that a floor vote is only scheduled when the majority party has the votes to pass it. In this dataset, almost all of the bills that fail did so because they were vetoed and legislatures failed to override the veto or the bill was passed in one chamber but either failed in the other chamber or was never scheduled for a vote in that second chamber. As such, it is difficult to tell if these results are generalizable to state legislators across the country or

if they describe state legislators in states that have the political capital to pursue this type of legislation. Future work will examine how exogenous shocks, like the COVID-19 pandemic influence state legislator behavior across a wider array of states, making the findings more generalizable. This pandemic forced many states to switch to all-mail elections and, as a result, many legislators in those states sponsored legislation to make mail-ballots harder to access, leading a lot of state legislatures to hold a roll-call vote on such legislation.

Additionally, I have operationalized demographic threat as demographic growth in electoral contexts where growing racial minority groups could be pivotal in deciding the winner. While this makes sense in the context of the literature on demographic threat, it is a more blunt measurement than past studies have used. In this choice to operationalize threat this way, I identify where threat is most likely to occur and may offer too conservative of an estimate than prior studies use. Enos (2017) makes the argument that demographic threat is most likely to develop in areas with high residential segregation, noting that the size of racial minority groups in those geographies does not necessarily determine demographic threat. According to this argument, there can be demographic threat in areas where the growing racial minority population is small and does not present a threat to legislators in elections. Future work can better isolate the mechanism by which demographic change may become threat for state legislators and political parties with these considerations in mind. This theory on demographic change involves conflict between and in-group and an out-group over resources and power. Legislators may respond to threat with other types of substantive legislation that is hostile to the racial minority groups that are driving demographic change, so future work in this area might explore those responses to demographic threat to better isolate the mechanism that is triggering state legislators' responses to threat.

Lastly, due to constraints with the data available for the analyses in this dissertation project, I only analyze a dataset of state legislator behavior between 2010 and 2020. However, in 2013, the decision in *Shelby County v. Holder* (2013) eroded a key piece of the Voting Rights Act that made it possible for the federal government to proactively protect voting rights for a lot of groups. In the wake of this monumental decision, many states who previously could not enact strict voter

identification laws were suddenly able to enact some of the most restrictive voter identification requirements in the country. This may have changed what options are available to legislator to respond to demographic threat, enabling them to pursue more restrictive legislation not previously viable. Future research should consider how the *Shelby County v. Holder (2013)* decision impacts legislative behavior, treating the periods before and after differently, as the focus on datasets that cover larger periods of time overlook that what influences legislator behavior on restrictive voting legislation may be different post-Shelby.

6.3 Contributions

This project makes a significant original contribution to the political science literature. First, I establish a link between race and state legislator support restrictive voting legislation, offering a more parsimonious explanation about how race, electoral competition, and partisanship all fit together to explain the recent efforts to pass restrictive voting laws across state legislatures. In doing so, I focus the literature back on legislator intent and electoral strategy, which has been long overlooked in work that examines election legislation. In doing so, I show that the threat or opportunity that demographic change poses influences state legislator behavior regarding voter identification legislation. Evidence indicates that when demographic change threatens state legislators' electoral prospects or their party's chances of winning majority control over the legislature, they are more likely to support restrictive voter identification bills. I also show that the influence of demographic threat may extend beyond roll-call votes to other avenues of legislator behavior, like bill sponsorship. This extends the literature by demonstrating why race, partisanship, and electoral competition are all associated with restrictive voting legislation. This project has broad implications for legislator behavior, examining the tools that legislators use to pick their electorate instead of the other way around. I demonstrate that race is central to understanding the range of strategic choices that legislators make in a rapidly diversifying country.

Second, the findings of this dissertation build on the literature on voting laws to consider the

impact of the legacy of racism on laws today. This gap in the literature takes for granted more than 150 years of racial exclusion in the U.S. to focus on restrictive voting laws today. Through this dissertation project's rich historical, holistic analysis, I tie scholarship on modern voter identification laws back into the scholarship on voting rights and race. In the past, political elites responded to Black and Latino enfranchisement, voting power, and representation by enacting restrictive voting laws that disproportionately impacts racial minority voters. After the Civil War, amendments to the Constitution extended civil rights and suffrage to Black Americans, enfranchising a wider array of racial minority groups than ever before, but it took federal military occupation in former Confederate states to enforce these changes. During the Reconstruction period, Black voters gained historic feats of representation across federal, state, and local offices. Afterwards, these gains were eroded through concerted efforts to enact restrictive election laws aimed at dismantling Black voting power. It wasn't until the passage of the Voting Rights Act of 1965 that universal suffrage was once again enforced in states that resisted these changes. Today, the federal government is not equipped to fully protect the right to vote for eligible members of marginalized groups. Several Supreme Court rulings have once again eroded voting rights protections and states are free to enact more restrictive voting legislation that disproportionately disadvantages racial minority voters. This dissertation takes a multi-pronged approach to assess the causes of one of the most notorious barriers to voters of color in elections today, voter identification laws.

Throughout this dissertation, I show that race is central to understanding why state legislators support restrictive voter identification requirements. In particular, when demographic threat impacts their electoral prospects, as a short-term electoral strategy, legislators pursue restrictive voting legislation that advantages themselves when persuasion is not likely to effectively court racial minority support. As partisan polarization increases and it becomes more difficult to attract substantial support from growing racial minority groups, legislators may continue to pursue election legislation that advantages themselves and their party.

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