

**Framing the DREAM: A Comparative Analysis of State Legislative Issue Framing  
on Tuition Rates for Undocumented Students**

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Paper prepared for presentation at the 2007 Annual Conference on State Politics and Policy,  
February 23-24, 2007  
University of Texas at Austin

## Introduction

As immigration flows have dispersed across the United States, education policy debates stemming from illegal immigration have become prominent in a number of states. Currently, ten states have responded to the increase in undocumented high school graduates by granting these students in-state tuition status at public colleges and universities; 18 states have rejected similar proposals.<sup>1</sup>

This article focuses on two states, Kansas and Arkansas, that have become popular destinations for undocumented workers in the last decade. In both cases, state legislatures have recently considered laws granting undocumented high school graduates in-state tuition status—and come to different conclusions. In May 2004 the Kansas state legislature approved House Bill 2008 (hereafter HB 2008), making Kansas the eighth state in the nation to grant in-state tuition status to the children of illegal immigrants; in 2005, the Arkansas legislature considered, and ultimately rejected House Bill 1525 (hereafter HB 1525), a nearly identical piece of legislation. Therein lies the focus of this paper: how do we explain these different policy outcomes in such similar states?

Our argument focuses on the dynamics of legislative issue framing in both cases. We contend that the challenge for supporters of in-state tuition in both states was to frame the proposed legislation in a manner that cast its benefits in the broadest terms possible—as benefiting all state residents—while simultaneously downplaying its fiscal costs. For proponents of in-state tuition, such issue framing was necessary in order to shield the legislation from negative feelings for undocumented workers and instead focus attention on

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1 The ten states that have passed in-state tuition for undocumented high school graduates are Texas, California, Utah, Washington, New York, Oklahoma, Illinois, Kansas, New Mexico, and Nebraska. The proposed federal legislation that would amend federal immigration law and remove any questions about the appropriateness of such state laws is nicknamed the DREAM Act.

supporting the education of state residents, an issue with broader legislative and electoral appeal. By contrast, the task for opponents of in-state tuition was to emphasize the fiscal costs of such a program while casting the beneficiaries as narrowly (and negatively) as possible. As we show through the use of interviews, debate transcripts, and roll call analysis, the issue frames used in both states followed this general pattern with remarkable consistency. We attribute the difference in outcomes to the more effective use in Arkansas of an argument—compliance with federal immigration law—that was effectively nullified in Kansas. In particular, during debates over the Arkansas legislation, the Attorney General issued an opinion that gave a noteworthy legal (and locally-based) clout to opponents' arguments about compliance with federal law; by contrast, in Kansas, arguments about compliance with federal law were anticipated by the bill's supporters and no prominent state official offered a contrary position.

This paper is organized into two main sections. First, we discuss issue framing in the context of legislative decision-making, arguing that advocates engaged in legislative issue framing must strategize at two levels: on one level, issue frames attempt to appeal to value preferences of legislators; on another level, advocates present frames so as to tap into legislators' electoral preferences. In light of that discussion, we point out the problems and opportunities facing both sides in the debate over in-state tuition for the children of undocumented workers.

The second section of the paper provides empirical applications of these arguments to Kansas and Arkansas. The nature and impact of issue framing strategies are demonstrated both through interviews with key legislative players and through a multivariate analysis of roll call votes. The mix of quantitative and qualitative data used in this article enhances our ability to

observe the influence of issue framing on how the policy proposal was presented to legislators, the terms of legislative debate, and legislative voting behavior.

## **2. Legislative Issue Framing : The Challenge of Pro-Immigrant Policy**

Issue framing refers to how conditions or events in society come to be understood by the public and political elites (Gamson 1992). Framing involves the selective use of aspects of a "perceived reality" by actors in order to promote a particular problem definition, causal understanding, and moral evaluation (Entman 1993: 52). Given limited human cognitive capacity, and the fact that issues are often marked by informational complexity, issue framing is useful in allowing actors to make sense of policy problems. Framing is also useful as a low-cost resource for issue advocacy.

The strength of the issue frames approach is that it affords a systematic approach to analyzing policy adoption when the longitudinal data requirements of other approaches (such as the Advocacy Coalition, Policy Diffusion, or Punctuated Equilibrium Frameworks) are less relevant or not feasible. The analysis of issue frames is prominent in the policy literature including studies on welfare policy (Smith 1987), affirmative action (Kinder and Sanders 1990, Gamson and Modigliani 1989), government spending (Jacoby 2000; Nelson, and Kinder 1996), civil liberties (Chong 1996; Nelson, Clawson and Oxley 1997), and gun laws (Haider-Markel and Joslyn 2001). Issue framing has also appeared in the literature on legislative policymaking, albeit under the concept of "issue definition" (Wood and Doan 2003, Talbert, Jones, and Baumgartner 1995, Baumgartner and Jones 1991) or "interpretations" (Lau, Smith, and Fiske 1991, Smith 1984).<sup>2</sup>

Following Smith (1984), we see the legislative issue framing process as involving two

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<sup>2</sup>Although we use the term "issue framing," our work owes as much, conceptually, to the other two conceptualizations, and we seek here to incorporate these other two frameworks into the work on issue frames.

evaluative dimensions: first, policy problems tap into legislators' personal value preferences, eliciting a policy position; second, these policy positions tap into electoral preferences. On this second dimension, legislators' career interests—their desire for re-election or advancement to other elective office—requires them to weigh the public perception of their positions. On the level of value preferences, we assume that frames provide elected officials with a convenient short-hand by which to make sense of policy problems and options, and thus certain frames resonate more profoundly than others. Like the general public (Converse 1964), legislators have political predispositions of varying intensity that affect their receptivity to information; thus, frames that conflict with intensely held political predispositions are unlikely to generate support (Iyengar and Kinder 1987, Zaller and Feldman 1992). In addition, receptivity to frames varies according to their degree of specificity: Jacoby (2000) argues that general frames—those that focus on governmental activity with little or no attention paid to sources or policy effects—are less effective than specific frames. Specific frames discuss the reasons for policy actions, their consequences, and link government policy directly to targeted groups (either beneficiaries or victims). Following Jacoby, we argue that specific interest frames are more likely to resonate with legislators, especially to the extent that they elicit sympathy (or antipathy) toward specific groups in society.

However, in a system of competitive elections, even ideologically-driven politicians must consider the public explanation of their positions: in particular, legislators must consider how their position is consistent with the interests and preferences of key audiences (Smith 1994: 46). Two considerations, routinely invoked in the study of legislative behavior, are especially important. First, the targeting of benefits looms large: policies that allow legislators to claim credit for helping electorally strategic constituencies are more likely to generate

support than those that benefit inactive or unresponsive constituencies. Second, the apportioning of costs influences responsiveness: low-cost policies or (as in pork barrel projects) policies in which benefits are concentrated within a legislator's district with costs apportioned across all constituencies, are more likely to engender constituency support than those that impose large costs on constituents.

Our aim is not to evaluate how politicians balance value and career preferences when they are in conflict but rather to stress that the effectiveness of a given issue frame within the legislative arena involves both dimensions. A specific issue frame may resonate with a legislator's personal values, but the resulting policy position may be unappealing if it imposes large costs on key constituents, or is targeted in a manner unlikely to produce electoral benefits. By contrast, legislators may be favorably inclined if policies can be presented as costing little (or costs are widely diffused), and readily-identifiable and electorally significant constituencies are seen as the beneficiaries.

The two dimensions of issue framing suggest the enormous challenge facing supporters of in-state college tuition for children of undocumented workers. On the level of value preferences, existing research suggests that Americans are overwhelmingly opposed to policies favoring immigrants, especially undocumented immigrants. A strong majority of Americans oppose allowing undocumented immigrants work permits and oppose allowing their children to attend public universities at the same cost as other students; these negative feelings toward immigrants increase the more Americans feel that immigrants threaten national security, jobs, and economic security (Wilson 2001). On the level of electoral preferences, undocumented immigrants and their children, because they cannot vote, offered few discernible electoral benefits to legislators. Thus, a specific issue frame, emphasizing the benefit to undocumented

immigrants, would seem destined to generate little legislative support. By contrast, the task for opponents of in-state tuition would appear less daunting: tap into negative attitudes toward the intended beneficiaries of policy change and focus on the electoral costs of the policy, especially the transfer of tax revenue from citizen voters to "non-taxpaying" aliens.

However, supporters of in-state tuition were not without resources in constructing an alternative frame. The direct beneficiaries of in-state tuition, children of immigrants, offer a potentially more sympathetic policy target. Given that the recipients of in-state tuition would be graduates of state high schools—in many cases, children who had spent nearly their entire lives in either Kansas or Arkansas—supporters could redirect attention away from their parents and toward the plight of their children. Indeed, the attitudes of Americans toward the children of undocumented workers are less negative than those toward their parents (Wilson 2001: 489).

More importantly, a focus on the children of immigrants could tap into legislators' support for public education, an issue with a potential electoral payoff. For example, support for public education is high among residents of both states: survey evidence suggests that Kansas and Arkansas voters are even willing to increase their tax burden for the sake of greater public education funding (University of Kansas Public Research Institute 2001: 5).<sup>3</sup> Furthermore, the cost of granting in-state status would be apportioned across all legislative districts, thereby attenuating opposition from any single group or district that might bear a disproportionate share of its cost.

In short, the supporters of in-state tuition could reframe policy change to create an alternative issue frame—public education funding for children—that was more likely to appeal

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3 Arkansas data on this issue found in the 2003 Arkansas Poll conducted by the University of Arkansas Survey Research Center.

to legislators and constituents; furthermore, the low fiscal impact of the resulting policy option could be emphasized. Such a reframing of in-state tuition could short-circuit antipathy toward illegal immigrants and undercut efforts to portray the legislation as a benefit to "aliens" living outside the law. The following section presents an analysis of debates in Kansas and Arkansas that illustrates this two-level framing game.

### **3. Empirical Analysis: Kansas and Arkansas**

The analysis in this paper is a mix of qualitative and quantitative data, which allows us a broader empirical basis for discerning issue framing and evaluating its impact. The primary sources of qualitative data are committee hearing testimonies, semi-structured interviews with state legislators, and newspaper accounts. These sources provide insight into the contending frames presented to legislators and help us assess how legislators understood the issues at hand. We then use logistic regression models of roll call votes to demonstrate the systematic effects of education framing relative to other explanatory factors, such as policy values, political ideology, and district demography.

#### **3.1 Kansas**

**Background.** HB 2008, the bill granting undocumented Kansas high school graduates in-state tuition status, went through a long and complex route to passage. The bill was introduced (as HB 2145) to the Kansas House in January 2003 and was passed on 27 February 2003, by a vote of 81 to 43. The Senate failed to act on the bill before the end of the 2003 legislative session, but during the 2004 legislative session approved its own version of an in-state tuition bill (then known as HB 2008). This amended version added a provision requiring students to file an affidavit showing that they had applied for legal residency and that they were not eligible for in-state tuition in another state. This substitute version was approved by the Senate by a vote of 25 to 15 on 26 February 2004, and sent back to the House.

However, an attempt was then made to kill the bill by the Republican Speaker of the House, Douglas Mays, who ruled that the Senate version constituted a material change and sent the bill to the Conference Committee on Education, where it was expected to die. However, supporters countered by introducing HB 2008 as an amendment to the House Budget Bill, which resulted in the bill being redirected to the Conference Committee on Budget. As the 2004 legislative session ended, Mays was forced strike a deal: he would allow the substitute version of HB 2008 to receive a separate floor vote in the House in exchange for Conference Committee approval of the 2005 budget bill. Thus, HB 2008 passed its final House vote by a 68 to 54 margin on 4 May 2004 and was signed into law that same month by Governor Kathleen Sebelius.

**Public hearings.** Two sets of public hearings—one in the House and one in the Senate—were held in early 2003. The House Higher Education Committee held hearings on February 12 and March 19, and featured testimony from professional lobbyists, immigration lawyers, teachers, school district officials, and students. The Senate Education Committee hearings were held on March 11 and March 20. The testimonies in support of the HB 2008 are notable for two features. First, the bulk of the advocates were educational professionals, members of education advocacy groups, or students. These groups included Kansas Families United for Public Education (a political action committee supporting public education in Kansas), MAINstream Coalition (an advocacy group supporting funding for public education in Missouri and Kansas), the University of Kansas Board of Regents, and dozens of high school students.

Second, a consistent theme sounded in the testimonies was access to educational opportunities. Dozens of students, teachers, and school counselors voiced the message that the educational aspirations of the children of undocumented workers were stymied by the

prohibitive cost of higher education. The testimony from a member of the Migrant Community Resource Coordinator in Emporia, Kansas provides an example of the emotional nature of many of these stories:

It hurts me personally to hear the pleas and see the tears on the faces of some of these students. A student came into my office once and told me how mad he was because he could not go to college. He had lived in Kansas since he was three years old and his goal and the goal of his parents was for him to get an education (Kansas Senate Committee on Education, 2003c).

Repeatedly, the testimonies emphasized that the beneficiaries of the bill were not only children, but Kansan children. However, alongside the emotional and value-laden language of educational access was an emphasis on the fiscal impact of the bill. In particular, supporters argued that the cost of in-state tuition was likely to be minimal due to the small numbers of students likely to avail themselves of the program; they also recast the benefits widely, arguing that the business community would be a primary beneficiary. Melinda Lewis, of *El Centro* cited U.S. Census Bureau data to argue that the number of students eligible for in-state status would comprise one percent of total enrollment in Kansas's post-secondary schools. Likewise, Mary Prewitt, General Counsel for Kansas University Board of Regents, predicted no net fiscal impact or increased financial burden on registrars or admissions officers resulting from the bill (Kansas House Committee on Education 2003a).<sup>4</sup>

Consistent with this cost-benefit language was supporters' claim that the state's business community would be a primary beneficiary of the legislation. Winston Brooks, Superintendent of Wichita Public Schools, noted that:

The bill before you today is not only in the best interest of the students involved, it is in the best interest of Kansas business and our communities. An educated citizenry is the basis of an orderly society. At a time when business is clamoring for highly skilled, well educated workers, the policy of this state should be to make college attainable for all students, not

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4. In the fall of 2005, the actual number of students who received in-state status under the new law was 221, according to the State Board of Regents.

just some. (Kansas House Higher Education Committee, 2003a)

Brooks cited a US Census Bureau document to argue that the bill would increase tax revenue in the long run because educational attainment would translate into greater earning capacity among Kansas taxpayers.

Advocates clearly had a head start in framing the issue. Opposition to the bill was slow to react and was not presented until the Senate Education Committee hearings. The bulk of this testimony was presented by Susan Tully, a representative of the Federation for American Immigration Reform (FAIR). Consistent with issue framing expectations, Tully's testimony focused on antipathy toward undocumented immigrants. Indeed, Kansans' attitudes are consistent with the negative national perceptions of illegal immigrants. A statewide survey in 2001 found strong anti-immigrant sentiment: on a 0 to 100 "feeling thermometer" scale (with 0 considered the "coldest," or most negative, response), undocumented immigrants received an average score of 27, the lowest of any group surveyed in the state (University of Kansas Policy Research Institute 2001: 50). Tully repeatedly referred to the bill as the "illegal alien tuition scheme" and linked undocumented immigrants to concerns about terrorism and national security, pointing out that those responsible for the suicide attacks of September 11, 2001 were illegal aliens who had overstayed student visas.

In addition to painting illegal immigrants in an unfavorable light, Tully's testimony appealed to norms of fairness under the law, arguing that the bill granted special accommodation denied to American citizens. With regard to existing laws, Tully specifically cited Section 505 of the Illegal Immigration Reform and Immigrant Responsibility Act, which she argued prohibited illegal immigrants from receiving post-secondary education benefits on the basis of their residence. As a result, she argued that the bill would "constitute a practice of unlawful resistance to federal immigration law." This breach of federal law, according to Tully,

unfairly penalized legal residents of Kansas, who might be refused a seat in college given to an illegal immigrant:

In essence the legislature will be telling many young people whose parents played by the rules "We're sorry, but we've given your seat to someone who is in the country illegally and, by the way, we'd like you to help pay for it." (Kansas Senate Committee on Education, 2003d).

Just as supporters had done, Tully also offered her own account of the fiscal impact of the bill:

[This bill] flunks any test of sound public policy. Kansas is enduring its worst state budget crisis in a generation and the nation has not yet recovered from the September 11th attacks carried out by people who were living illegally in the United States under the guise of being students, yet the Kansas Legislature seems prepared to offer lavish subsidies to an unrestricted number of illegal aliens. (Kansas Senate Committee on Education, 2003d)

In summary, supporters and opponents of HB 2008 offered legislators two distinct issue frames by which to evaluate the bill. In both cases, efforts were made to frame the bill in terms of emotional appeals concerning the bill's beneficiaries. Supporters framed the issue as one of 'Support for Kansan children desiring a public education', thereby attempting to focus legislative debate on educational policy. Opponents adopted the frame of 'Taxpayer support for criminal aliens' so as to direct attention toward immigration policy. However, both of these emotion-laden appeals were supplemented with arguments that tapped into the electoral calculus behind legislative decision-making. Supporters cast the benefits of in-state tuition widely, presenting the bill as a labor training policy that would be appreciated by the business community, while emphasizing the low fiscal impact of the bill. Opponents highlighted the political risk of offering a benefit to the families of illegal immigrants, especially as the cost would be borne by legislators' native, taxpaying constituents, both in the form of the direct fiscal cost of the bill as well as the indirect cost of increased competition for public college admission.

**Floor debates and interviews.** However, a key question remains: Was there any room for issue

framing to influence legislator opinions? In fact, legislators who played key roles in the passage of HB 2008 stated that a significant number of legislators remained undecided about the bill as deliberations began, and thus open to persuasion. A key proponent of the bill, Republican Senator Dwayne Umbarger, stated that:

There were three different camps on this: Those who were obviously biased against the bill, and those are the ones that [FAIR lobbyist Susan] Tully resonated with; those who may have been biased for the bill, and I don't even know if this group existed; and those who wanted to study this issue. (Author interview)

In addition to the undecided group of legislators who, at least in theory, might have been affected by the framing of the bill, legislators argued the bill in terms that echoed the issue frames that emerged in the testimonies. For example, Umbarger stated that the key to passage of HB 2008 was convincing undecided legislators that the focus of the bill "was not encouraging illegal immigration. It was dealing with the concerns of people who have come to be a part of our society and to get a good education so that they can be contributors to our society" (Author interview). Another Republican explained his support for the bill by arguing that "The alternative, if we don't give them a right to an education, is that they will become a drain, if not a threat, to society. This bill is about education and the opportunity each one of us wants for each of our children" (Hanna 2004).

In a similar manner, arguments about the fiscal impact of HB 2008 also emerged frequently in floor debates, usually by opponents of the measure. During the Republican caucus on HB 2008, Representative Arlen Seigfried noted that there were strong views on both sides of the bill, reflecting the fact that "We were being told that there would be huge numbers of people taking advantage of this" (Author interview). However, Umbarger felt that FAIR's arguments about the program's fiscal costs were undermined by their lack of credible numbers; as Representative Sue Storm, the bill's sponsor noted, "FAIR's numbers were not very

hard to challenge. They just gave people who wanted to oppose another reason to do so" (Author interview).

Thus, although the strain on the state budget was a commonly cited reason for opposing the bill in debate transcripts, these comments may have been camouflaging another rationale for opposing the bill, one put forward by Susan Tully in her testimony: the concern that granting illegal immigrants the same privileges as legal residents could become a political weapon against supporters. A Republican legislator conveyed the tenor of the electoral concerns driving fiscal arguments, stating that "An illegal alien comes in, works at a lower wage and takes a job away from our Kansas workers and then wants to go to school at the expense of the taxpayers. That's offensive to the people in my district" (Hanna 2004). Another opponent of the bill offered the political calculus more pointedly: "You've got an issue that every John Doe in the street is going to understand come election time" (ibid).

In addition to arguments about educational opportunities, fiscal costs, and concerns about granting illegal immigrants the same rights as legal citizens, some legislators cited concerns about violating federal immigration law and the fear that terrorists would exploit the law (Kansas State Legislature, 2004a-d). However, FAIR's arguments may have been dissipated by their late response to the bill and the absence of individual lobbying of legislators. In particular, its arguments about the bill's violations of federal law had largely been pre-empted by bill supporters.<sup>5</sup>

Thus, there is evidence that legislators considered the bill in terms that closely reflected the frames presented by bill supporters and opponents. Furthermore, as we show

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<sup>5</sup>Mary Prewitt, of the University of Kansas Board of Regents, noted that HB 2008 contained no reliance on residency to identify the targeted beneficiaries of the bill, thereby complying with federal legislation (Kansas Senate Committee on Education, 11 March 2003). Melinda Lewis pointed out that Texas, Utah, New York, and California already had similar laws on the books that were not deemed to be in violation of federal laws.

below, there is also evidence that voting behavior can be explained, at least in part, by the issue frames.

**Roll call analysis.** In order to assess the importance of issue framing relative to other factors, we perform a logistic regression on the final House and Senate votes on HB 2008 (the House and Senate votes are combined together). We code votes so that a "Yes" vote for HB 2008 is equal to "1" and a "No" vote is equal to zero. Six explanatory variables (discussed below) are used to predict voting behavior party, including support for public education funding, party affiliation, demographic features of the legislators' district (percentage Hispanic voters, urbanization), pro-business voting, and religious affiliation.

If framing HB 2008 as an issue of access to public education was important in its passage, we would expect that past support for public education funding to be a significant predictor of voting behavior. Thus, we constructed an "Education Policy Index" by tallying each legislators' support for ten public education bills supported by the Kansas National Education Association (KNEA). As a check on this measure, we also use an index created by the KNEA, drawn from 18 bills in 2003 that the organization considered important to public education. The data are based on the KNEA's 2003 "Check the Record" publication, which ranked legislators on 18 issues, using a weighted formula developed by that organization (Hellebust 2004). For both variables, the higher the percentage score, the more a legislator is considered supportive of public education funding, and the more likely that the legislator should support HB 2008.

In addition to the public education issue frame, much of the debate about HB 2008 centered on its fiscal impact. While supporters attempted to portray the bill as a low-cost, labor training tool benefiting the business community, opponents argued that it would be a

costly (fiscally and politically) tax burden imposed on native taxpayers. Thus, we include a Pro-Business Index in order to gage the impact of these arguments. We use the Kansas Chamber of Commerce and Industry Legislative Voting Record score, which assigns each legislator a percentage score based on five bills considered crucial to the interests of Chamber's members. If the pro-business appeals of bill supporters were influential, we would expect the variable to be positively related to support for HB 2008; on the other hand, if the arguments of opponents were more influential, we would expect a negative relationship, reflecting concerns about the added tax burden.<sup>6</sup>

Apart from the impact of framing, we expect party affiliation to be a strong predictor of voting on legislative issues (Clausen 1973, Kingdon 1989). In particular, we expect Republicans to generally have more negative attitudes toward illegal immigration and to be less supportive of social welfare spending than Democrats. Thus, the dichotomous variable party affiliation takes the value of 1 for Democratic members of the Kansas legislature and 0 for Republicans. We expect the variable to be positively related to support for HB 2008.

Our models also code for additional legislator and district characteristics. First, the majority of immigrants entering Kansas illegally are primarily from Catholic Latin America, and Catholic churches in the state have often become a space for interaction between new immigrants and local communities. Therefore, we created a dichotomous variable that takes the value of 1 for Catholic legislators, and 0 for all other legislators. We hypothesize that Catholic legislators, who may have come into closer contact with members of the immigrant community through their churches, would be more favorably predisposed toward HB 2008.

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6. The scores for the the 2003 KCCI Legislative Voting Record were based on the KCCI position on five bills, including support for a sales tax refund (HB 2287), a tax repeal (HB 94), a reform of the regulatory process governing energy production (SB 104), and opposition to a sales tax extension (HB 265), and a workers' compensation bill (Sub SB 181), and See Kansas Chamber of Commerce and Industry, Legislative Voting Record, June 2003, available at <http://www.kansaschamber.org>.

Second, we control for district demographic features that might affect perceptions of the electoral impact of HB 2008. We expect that legislators from districts with a higher percentage of Hispanics would be more likely to perceive an electoral benefit from supporting the bill and would thus be more likely to support it. Third, the 2001 University of Kansas Policy Research Institute survey suggested that respondents from urban areas were likely to have more positive feelings toward illegal immigrants than respondents from small towns and rural areas. Using the US Census Bureau's "urban core areas" classification scheme (Federal Register 2000), we placed each legislator's district into one of the three categories: rural (outside of a core-based urban area), micropolitan (part of an urban core of 10-50,000 inhabitants), and metropolitan (urban cores of more than 50,000 inhabitants). We predict a positive relationship between this variable and support for HB 2008, reflecting legislators' perceptions of their constituents' feelings toward undocumented workers.

**Results.** Table 1 shows two logistic regression models, differentiated from each other by the presence of either of the Public Education Support variables (the "Education Policy Index" in Equation 1 versus the KNEA index in Equation 2). Generally, the variables influence voting behavior in the predicted direction, except for the percentage of Hispanic voters (negative, but statistically insignificant) and the control for Catholic legislators (positive, as predicted, but statistically insignificant).

Party affiliation is a strong predictor of voting on HB 2008 in both models. Model 1 shows that the odds of voting for HB 2008 were 20 times greater for Democratic members of the legislature than for Republicans. In Model 2, "Party" no longer appears to be significant ( $p=0.341$ ) and changes sign. However, this change reflects the close correlation between the Public Education Support index used in Model 2 (the KNEA index) and party affiliation

(Pearson  $r=.81$ ): Democrats scored much higher, on average, on this particular index. Thus, compared to a "constrained" model (excluding Public Education Support), the overall model fit increases with the addition of the Education policy index in Model 2, even as the influence of the party variable is weakened due to collinearity.<sup>7</sup>

However, extra-partisan motives were also important in explaining voting behavior. Both models 1 and 2 suggest that legislators from more urbanized areas (District urbanization) were more likely to support the bill than their more rural colleagues, consistent with the view that legislators share their constituents' attitudes toward undocumented workers. More significant for our argument are the influences of Public Education Support and Pro-Business Index, both of which point to issue framing effects on voting behavior. Pro-business legislators—conceptualized in terms of their Kansas Chamber on Commerce and Industry ranking—were far more likely to oppose HB 2008: for every unit increase in the pro-business index, the odds of voting for the bill decreased by .97 in both models. Thus, the efforts of supporters of HB 2008 to offer the bill as cost-effective labor training for Kansas businesses did not appear effective: legislators who valued lower taxes and less business regulation were more likely to vote against the bill.

By contrast, past support for funding of public education was positively related to support for HB 2008, with each unit increase in this variable increasing the odds ratio by 1.07. The effect of this variable is statistically and substantively significant: the odds of supporting in-state tuition were 50 times higher for a legislator who received a perfect 100% score on the public education support index than for a legislator who scored 50%. The importance of education issue framing for passage of HB 2008 becomes more apparent when one considers

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7. The values for Pseudo-R<sup>2</sup> (0.57), Chi<sup>2</sup>, and LR Chi<sup>2</sup>(123.36) all increased with the inclusion of Public Education Support in the model.

that the Kansas legislature is generally populated by fiscally-conservative, rurally-based, Republican legislators. Even after controlling for the legislators' party affiliation, pro-business voting, and district demography, support for HB 2008 was partly a function of whether legislators tended to be strong past supporters of publicly-funded education.

Summing up, we have shown: first, legislative hearings and public testimonies suggest that two distinct issue frames were constructed around HB 2008, with each frame offering a differing perception of the targets of the legislation as well as a contrasting assessment of its electoral costs and benefits. Second, not all legislators had made up their minds about HB 2008 when it was introduced and appear to have been receptive to different arguments; indeed, legislators often stated their concerns or opinions about the bill in terms that echoed the competing issue frames. Finally, legislators voted in ways that conformed to these issue frames: in particular, legislators who tended to be strong supporters of public education in Kansas were more likely to support HB 2008, even after controlling for their party affiliation, the demographic features of their district. Meanwhile, pro-business legislators (those who tended to favor lower taxes and less business regulation) who more likely to oppose the bill.

### **3.2 Arkansas**

**Background.** An attempt to grant undocumented high school graduates in-state tuition in Arkansas followed a few months after the successful effort in Kansas. HB 1525 of the 2005 Regular Session of the Arkansas General Assembly, as originally introduced, would have granted such students both in-state tuition at public higher education institutions and access to state-funded need- and merit-based scholarship programs. The successful passage of HB 1525 in the state House of Representatives was largely a replay of the dynamics shown in the Kansas legislative battle, with the same competing frames employed in the debate. But the

derailment of the legislation in the state Senate appears to have been brought about by the insertion of a frame that had had limited relevance in the Kansas debate: the possible conflict between the legislation and federal immigration law.

The debate over HB 1525 took place in the context of a bitter dispute over Arkansas public policy's general attitudes toward undocumented individuals living in the state, a dispute that split the state's Republican party with its two most potent statewide vote-getters—Governor Mike Huckabee and state Senator Jim Holt (the party's nominee for the U.S. Senate in 2004)—on each side. In his State of the State address at the opening of the legislative session, Republican Governor Huckabee called for legislation to provide in-state tuition at public universities and access to state scholarship programs for undocumented students who graduated from the state's high schools. This proposal was another overt expression of a pro-immigrant worldview that separated him from most other Republicans.

Holt, received 44 percent of the U.S. Senate vote against the incumbent Blanche Lincoln, running a dramatically underfunded campaign focused on the issues of opposition to same-sex marriage and immigration. He had already pre-filed a bill requiring anyone seeking access to state services to prove their legal residency in the country. The bill, modeled on Arizona's Proposition 200, was immediately attacked by Huckabee as "inflammatory....race-baiting and demagoguery" (Hammer 2005) Questioning his fellow Republican's values, Huckabee emphasized his own compassionate conservatism, saying, "I drink a different kind of Jesus juice" (ibid.). "I don't understand how a practicing Christian can turn his back on a child from this or any other state," the Governor said (Thompson 2005a). The state senator responded to Huckabee's criticisms of his state services bill with a passionate critique of the Governor's in-state tuition proposal. He was joined by fellow Republican legislators and rank-

and-file Arkansans. Huckabee was challenged on a call-in radio show by one caller who asked the Governor if he did not “take an oath to uphold the law of the land” (ibid.).

Huckabee’s support for the provision surprised state Representative Joyce Elliott (D-Little Rock), who had been planning for over a year to introduce legislation like that endorsed by Huckabee; driven by conversations with Latino leaders; she had already drafted the measure. As Elliott said, “I had no idea Huckabee was going to mention it....I nearly fell out of my seat” (Author interview). When Huckabee legislative liaisons heard that Elliott had an interest in the issue, they approached her about cooperation because they were fearful of being unable to find a sponsor for the bill. This began nearly daily meetings among Elliott, Huckabee staffers and higher education officials, Latino leaders, Catholic Charities lobbyists, and a key Little Rock immigration attorney. As was typical with Huckabee’s oft-criticized hands-off legislative style, Elliott and Huckabee never had a face-to-face meeting about the legislation.

**House action.** While Elliott’s being chair of the committee which was assigned HB 1525 ensured that the bill would get a hearing, it did not ensure its success in committee. Elliott gave up her gavel to make the case for the legislation in committee; and, as Elliott said, “I did not have the votes when I went to the end of the table to present it” (ibid.). In her comments in committee, Elliott employed the education frame used in Kansas, emphasizing the link between education and economic development and the investment that the state was already making in the primary and secondary educations of those denied state aid in college. “We put them in a position to dream, and say, OK, now, we’ll turn it into a nightmare,” Elliott said. “We make sure they are in a position to dream and that they can’t go any further” (Blomeley 2005a)<sup>8</sup>

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<sup>8</sup> Arkansas’s legislature does not maintain a record of statements made either in committees or on the floor of the legislature. Thus, newspaper articles must be relied upon as a record of the proceedings.

Two other witnesses testified for the bill. Immigration attorney John Yates answered detailed legal questions and the state's chief higher education official made the case that funding the educations of undocumented individuals would not take from the moneys available to other Arkansans. A somewhat disorganized opposition failed to put on testimony and the bill received a "do pass" vote from the committee, including the votes of two members who had previously told Elliott that they could not support her bill, and was sent to the full House.

There, Elliott continued to emphasize the education frame in her remarks employing rhetoric similar to that used in her committee testimony. It was also the frame emphasized by Huckabee in his comments at the time, "And frankly we would want to make sure that [undocumented individuals'] kids were getting an education because an educated society is a society that can work and do a job and do a better job and make money" (Robinson 2005). Elliott, an African-American, and Huckabee also harkened back to another educational access issue in their comments on the legislation: the state's segregationist policies that had gained national attention in the Little Rock crisis. After the vote, Huckabee said "[The legislators] took a stand that Arkansas can be proud of. I think if we had taken a similar one in 1957, it would have made us proud for a long, long time" (ibid.). Elliott, in her remarks, noted how she had grown up with "the big boot of the government on my back" in her own educational opportunities as a child (ibid).

In questioning Elliott, opponents of the measure attempted to elevate the fiscal impact frame. One Republican opponent asked Elliott if the measure might not encourage illegal immigrants to flock to the state to take advantage of the state services. Elliott replied that she doubted that immigrants would view Arkansas as "the promised land" (ibid.). Another supporter attempted to blunt the fiscal impact argument by noting that those who lack

education are more likely to end up incarcerated and, thus, a financial burden on the state's taxpayers. But, the bill easily passed the House by a vote of 63 to 31 (with 4 members present but not voting).

**House roll-call analysis.** With the framing of the issue in the Arkansas House showing so many similarities to the debate in the Kansas legislature a year earlier, we would expect that the patterns of forces that shaped the roll-call vote on HB 1525 would parallel those from the Kansas legislative action on HB 2008. To a great degree, our logistic analysis of the vote (shown in Table 2) confirms this.

The variables included in this model of the Arkansas House are all reflective of those employed in the Kansas analysis. First, members' votes on HB 1525 serve as the dependent variable, coded the same as in Kansas with one exception. In Arkansas, the votes of a majority of the legislative body (51 votes in the 100-member house) are needed to pass a bill. Thus, members' absences or "present" votes count against a bill. And, there is ample evidence that strategic "not voting," i.e. "taking a walk," occurs regularly on the part of Arkansas legislators<sup>9</sup> Therefore, we code those members who were present but did not vote as "no" votes in this analysis. However, the members who were absent and the Speaker of the House, who does not vote on most legislation by tradition in Arkansas, were not included in the analysis.<sup>10</sup>

For the independent variables in the model, the party and religion of the member and the Latino percentage and urbanity are all coded in exactly the same manner as in Kansas. Unlike in Kansas, the state education lobby (the Arkansas Education Association) and state business lobby (the Arkansas State Chamber/AIA) do not publish legislative scorecards. However, the government affairs specialists for the interest groups did supply a record of the

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9 For an example of such strategic (in)action, see Blair and Barth (2005): 204.

10 The analysis was replicated using a more conservative approach removing all members who failed to vote for whatever reason from the dataset. The results affirm those reported here.

key votes followed by the groups during the 2005 session. We then created legislative scores using the roll call votes recorded on the official legislative website and in the *Arkansas Legislative Digest*.

As shown in Table 2, this model is quite similar to the Kansas model with a few noteworthy differences. First, as in Kansas, party and education support are both significant in shaping the roll call patterns with Republicans and generally pro-education legislators being more likely to support HB 1525. However, while party was the most potent force in the Kansas analysis, the divisions within the state GOP seem to have muted Republican opposition markedly in Arkansas. Similarly, the divisions in the Arkansas business community on immigration issues—with several of the state’s largest employers supportive of a more welcoming stance towards immigrants—also muted business opposition on fiscal grounds; legislators generally supportive of Chamber stances were not significantly more likely to oppose legislation although the relationship is in the hypothesized direction. Unlike in Kansas, the percentage of Latinos in a legislative district did shape voting with legislators from districts with large populations more likely to support HB 1525. Finally, a surprising result is shown related to a district’s urbanity. It is rural legislators in Arkansas who were actually significantly more supportive of the policy change than their urban colleagues. Still, on the variables that are at the focus of our inquiry—particularly education support—the results are in synch with our larger notion that framing of the issue does matter in shaping legislative behavior.

**A new frame enters the Senate debate.** If HB 1525 had been considered by the state Senate immediately following its late February passage in the House, it likely would have moved to Governor Huckabee’s desk for his signature. However, a crucial five weeks separated House and

Senate consideration of the measure, a period when an important new frame entered the stage.

On March 10, in response to an inquiry from Senator Holt, the Arkansas Attorney General issued an advisory opinion suggesting that HB 1525 might well be in conflict with federal immigration law. Specifically, Democratic Attorney General Mike Beebe wrote, “Although we do not have the benefit of judicial interpretation, it is my opinion that House Bill 1525 may violate 8 U.S.C. § 1623 if the courts read the high school attendance and graduation requirements as tantamount to residence. Additionally, I believe the bill may give rise to an Equal Protection challenge if it is enacted into law” (Arkansas Attorney General Advisory Opinion Opinion No. 2005-054, 2005). This allowed a frame, successfully tamped down by the Board of Regents in Kansas, to surface as a new weapon for opponents of the bill. Elliott also notes that, even prior to the official advisory opinion, Beebe—concerned about the issue as he looked forward to a 2006 gubernatorial campaign—had been raising questions about the legality of the measure in informal settings with legislators (Author interview.).

The early April debate in the Senate had much in common with that from the House. Both the pro-education and fiscal impact frames were clearly represented. The bill’s senate sponsor, Senator Hank Wilkins IV argued, “This bill is not only to keep us from wasting the state’s investment [in public education], but also not to waste human capital” (Thompson 2005b). In Senate committee testimony, the chair of the state Chamber voiced her organization’s support for the bill saying that it would help "promote a healthy business climate" (Blomeley 2005b). Key testimony for the legislation was also offered by college presidents from around the state, with one asking rhetorically "Which Hispanic college graduates do we not need?" (ibid.). Emphasizing the competing frame, the first public

comment during the meeting came from a concrete contractor who complained about "whole villages" of illegal aliens coming from Mexico to "settle in trailer parks" throughout Arkansas. He continued by telling the senators that they "represent the legal citizens of this state. You cannot use state money ... for people you do not represent" (ibid.).

But, the centerpiece of the opponents' arguments—both in the Senate Education Committee and on the floor—were the AG's advisory opinion and its contention, despite contrary arguments by the bill's supporters, that the state simply could not act in violation of federal law. As moderate Republican David Bisbee put it, "Representative Elliott and Senator Wilkins have found the right problem. Unfortunately, we don't have the power to fix it" (Thompson 2005b). Along the way to the final votes in the Senate, the bill was amended to change the definition of residency in the bill in direct response to Beebe's concerns.<sup>11</sup> But, the frame had been established by that point and opponents continued to raise legal questions about the legislation. Grassroots opponents suggested that the bill would be challenged in court, costing the state legal fees (Blomeley 2005c). Elliott recognized the power of the frame, herself admitted to being swayed by such advisory opinions in the past: "I remember being affected by [advisory opinions]. `Well, if the AG says we shouldn't do it, then we shouldn't...'" (Author interview.).

Two votes were cast in the Senate on the amended version of HB 1525. On April 5, the bill received only 13 votes (of the 18 affirmative votes are necessary for passage in the Senate). However, the proponents of the legislation got a second opportunity a week later, a week that featured a full court press by advocates on each side of the legislative battle. On April 13, however, the measure gained only 16 votes, 2 votes shy of a majority; 6 members were present

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<sup>11</sup> Another amendment in the Senate committee removed the state scholarship provisions from the bill, leaving its impact solely on in-state tuition access.

but failed to vote on the now decidedly controversial legislation. Going into the vote, proponents were confident of victory but lost the votes of two Democrats representing college communities; one voted no and the other failed to vote.

**Senate roll-call analysis.** Table 3 shows the logistic analysis of the final roll-call vote in the Arkansas state Senate on HB 1525. The variables employed are just as in the House model with one exception: there were no Roman Catholics in the Senate in 2005, therefore the religion variable is removed from the model. As the analysis indicates, the education frame remains a force in the shaping of legislative decision-making. Otherwise, however, the key variables in the House model become insignificant. Most tellingly, the party variable—crucially important in the House model with Democrats more likely to support the legislation—became irrelevant in the face of the Democratic Attorney General’s official criticism of the legislation. As Elliott said, the advisory opinion became important for Democrats “looking for a way out” of voting for the legislation (Author interview.). In summing up the Senate outcome, Representative Elliott said: “Mike Beebe killed the bill” (Author interview).<sup>12</sup> Our roll-call analysis suggests that she is correct.

#### **4. Conclusion**

This comparative case study of the legislative process surrounding bills granting educational opportunities for undocumented high school graduates provides significant insight into the potency of framing in the legislative arena. The states of Kansas and Arkansas share many attributes. Located in the middle of the country, these decidedly rural states have Latino populations that are small but growing quickly.<sup>13</sup> In addition, the constitutional structures in each state (short legislative sessions, low pay, and limited staffing) ensure the

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<sup>12</sup> In late 2006 and early 2007, Elliott would serve as a member of Beebe’s gubernatorial transition team.

<sup>13</sup> According to Census data, Arkansas’s Latino population grew from 3.2 percent of the state’s population to 4.7 percent between 2000 and 2005. For Kansas, the numbers were 7.0 percent and 8.3 percent.

maintenance of a tradition of citizen-legislatures. These controls enhance our confidence that it was something about the dynamics of the legislative process, rather than structural differences, that led to success for the so-called DREAM Act in Kansas and its failure in Arkansas.

Moreover, a number of key differences during the legislative battle over the legislation in the two states would seem to have favored its passage in Arkansas. First, a Republican governor's support in Arkansas both provided a statewide elected official to lead the fight for the legislation (at least in the media coverage of the debate) and cut into Republican opposition generally. Second, the state Chamber, one of the most potent lobbies in Arkansas, actually favored the legislation and testified in support of it during the crucial Senate stage of its consideration.

The qualitative data included in this project suggests only one major difference between the legislative battles in the two states: the framing during the state Senate phase in Arkansas focused on the legislation's potential violation of federal immigration law, whereas in Kansas the bill's proponents managed to keep the debate centered on supporting the public education of Kansan high school graduates. Both interviews and our statistical analysis strongly suggest that the education frame played a significant role in attracting legislative support in both states, but that the federal immigration frame was vital in altering the debate during the final stage of the legislative process in Arkansas. If not for the action of Arkansas's Democratic state Attorney General, which produced this reframing, all evidence suggests that Arkansas would have joined Kansas in passing the legislation.

Thus, our findings suggest that advocates of public educational access for non-citizens would be advised to keep the focus on supporting the education of all state schoolchildren and

the general economic benefits that will result from an enhanced labor force. More important, our work adds additional weight to the argument that American state legislators are not automatons. Like their constituents, whose opinions on the issues of the day are shaped by the way those issues are presented, legislator voting behavior is often influenced by the manner in which policy options are presented to them.

**Table 1: Logistic Regression of Support for In-State Tuition, Kansas Senate and House Floor Votes (Yes=1)**

<i>Independent Variables</i>	<i>Coefficient (Standard Error)</i>	<i>Odds Ratio</i>	<i>Coefficient (S.E)</i>	<i>Odds Ratio</i>
Constant	-3.76 (2.56)		-1.51 (1.52)	
Party (Dem=1)	2.98** (1.08)	19.77	-.57 (1.39)	.56
Religion	.30 (.66)	1.34	1.04 (.76)	1.35
% Hispanic voters	-.02 (.035)	.98	-.026 (.045)	.98
Pro-Business Voting	-.03* (.017)	.97	.03* (.016)	.97
District Urbanization	.81** (.31)	2.26	.57* (.35)	2.26
Public Education Support, 0-100% (Author Index)	.06** (.025)	1.07	--	--
Public Education Support, 0-100% (KNEAIndex)	---	--	.07*** (.015)	1.06
Pseudo R <sup>2</sup>	.47		.57	
LR Chi <sup>2</sup> (d.f. = 6)	99.92		123.36	
Prob. > Chi <sup>2</sup>	.0000		.0000	
N	157		157	

\*\*\*p<.001, \*\*p<.01, \*p<.05 for one tailed tests

**Table 2: Logistic Regression of Support for In-State Tuition, Arkansas House Floor Vote (Yes=1)**

<i>Independent Variables</i>	<i>Coefficient (Standard Error)</i>	<i>Odds Ratio</i>
Constant	-1.79 (1.97)	
Party (Dem=1)	.98+ (.61)	2.68
Religion	-.96 (1.286)	.38
% Hispanic voters	.10+ (.074)	1.11
Pro-Business Voting	-.01 (.020)	.99
District Urbanization	-.72* (.386)	.49
Public Education Support, 0-100%	.06* (.020)	1.06
Pseudo R <sup>2</sup>	.21	
LR Chi <sup>2</sup> (d.f. = 6)	26.23	
Prob. > Chi <sup>2</sup>	.0002	
N	97	

\*p<.05, +p<.1 for one tailed tests

**Table 3: Logistic Regression of Support for In-State Tuition, Arkansas Senate Final Floor Vote (Yes=1)**

<i>Independent Variables</i>	<i>Coefficient (Standard Error)</i>	<i>Odds Ratio</i>
Constant	-15.54* (7.543)	
Party (Dem=1)	.23 (1.249)	1.25
% Hispanic voters	-.08 (.195)	.92
Pro-Business Voting	.07 (.067)	1.07
District Urbanization	-.06 (.759)	.95
Public Education Support, 0-100%	.13* (.057)	1.13
Pseudo R <sup>2</sup>	.21	
LR Chi <sup>2</sup> (d.f. = 6)	10.16	
Prob. > Chi <sup>2</sup>	.0709	
N	35	

\*p<.05 for one tailed tests

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