

# Politics, unemployment, and the enforcement of immigration law

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**Abstract** Immigration control-related audits and their resulting sanctions are not solely determined by impartial enforcement of laws and regulations. They are also determined by the incentives faced by vote-maximizing politicians, agents acting on their behalf, and workers likely to compete with immigrants in the local labor market. In this paper, we use a unique data set to test the extent to which congressional oversight determines the bureaucratic immigration enforcement process. We examine the decisions made at each stage of enforcement from over 40,000 audits from 1990 to 2000. This includes analysis of (1) whether a firm is found in violation, (2) whether a fine is issued, (3) the size of the fine issued, and (4) how much of a dollar reduction fined employers were able to negotiate. We find that the number of audits conducted increases with local unemployment. We also find that a congressman's party affiliation and its interaction with committee membership and party majority status, as well as firm size and local union membership, correlate to decisions made at every stage of enforcement.

**Keywords** Immigration · Regulation · Enforcement · Congressional oversight

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Immigration law is a frequent part of the national political discussion, particularly in election years. While immigration laws do not change with every election, this does not

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imply that the regulatory institutions that implement and enforce these laws are free of political capture. Given the discretion allowed in the enforcement of immigration laws, bureaucratic decisions made can reveal the underlying motivations of both the government bodies overseeing immigration enforcement, and the civilian population whose tips and complaints initiate the majority of investigations.

While the incentives that lawmakers face in forming immigration laws is explored in a growing literature (Facchini and Steinhardt 2011; Gimpel and Edwards 1999; Shughart et al. 1986a, b), the determinants of enforcement remain underexplored. Hanson and Spilimbergo (2001) examine the determinants of border enforcement efforts and apprehensions and find evidence that enforcement is endogenous to the economic performance of sectors dependent on undocumented immigrants. Hanson (2006) further argues that enforcement reflects political interests. To date, this hypothesis has not been systematically tested. It remains an open question whether immigration laws are enforced with the sole intent of ensuring proper documentation of employees, or whether enforcement reflects the shifting political tides, the business cycle, and unemployment.

The politics of immigration are subject to concentrated costs and diffused benefits. While a country as a whole is likely to benefit from additions of both skilled and unskilled labor, for some domestic workers immigrant labor is a substitute, reducing the market price for their labor. The politics of immigration law may also be affected by the vicissitudes of popular opinion regarding immigrants. While most economists take the view that immigrants are a valuable part of the work force, contributing to economic growth and the long run welfare of the nation they are joining (Borjas 1995), the popular attitude is often one of resistance, pressuring politicians to enact stricter immigration legislation (Caplan 2002; Mayda 2006).

The enactment of the Immigration Reform and Control Act (IRCA) of 1986 was at least to some extent motivated by the aforementioned political pressures. Beyond the establishment of laws and penalties, the IRCA also built a significant amount of officer discretion into the enforcement mechanism of the law. Enforcement with officer discretion can be an appealing institutional arrangement for legislators. It grants them an opportunity to influence the *de facto* enforcement of the law to satisfy constituency demands. Thus, depending on the views of voters in their congressional district, congressmen may intervene to encourage bureaucrats to vary the strictness by which they apply enforcement procedures. Officer discretion may provide a means to political gain for the intervening legislator through congressional oversight.

Moreover, the IRCA enforcement process provides additional opportunities for political gain to legislators. After an auditing official finds an employer in violation and issues a monetary fine, the employer has the opportunity to negotiate with the INS in the hopes of negotiating a lower fine. This negotiation can be brokered by the constituent services branch of the local congressman's staff.

There is a growing body of evidence that discretion in law and regulatory enforcement is endogenous to a system of political, electoral, and budgetary incentives (Jung and Makowsky 2013; Makowsky and Sanders 2013; Makowsky and Stratmann 2009, 2011; Powell 2012; Young et al. 2001). The dedication of congressional staff resources towards “constituent services” is a phenomenon that has been noted by journalists as more elected officials offer their services as “mediators” in dealing with regulatory agencies and the federal bureaucracy (Bland 2014; Lieber 2012).<sup>1</sup> In this broader context, we test whether

<sup>1</sup> For examples, see Senator Rob Portman's site <http://portman.senate.gov/public/index.cfm/help-with-federal-agencies> or Senator John Cornyn's site <http://cornyn.senate.gov/public/index.cfm?p=HelpWithFederalAgencies>. (Accessed on 1/16/2014).

there are interdependencies between Congress and the Federal Bureaucracy. There exists a longstanding question as to who controls the bureaucracy, the mechanisms used to exercise influence and power, and their efficacy.<sup>2</sup> We contribute to the literature on congressional oversight, testing whether congressional power, such as majority status, and oversight authority, such as membership on the judiciary committee, are correlated with decisions taken by the agents of the bureaucracy. Often, we do not know whether an agency makes decisions in anticipation of what Congress wants or whether Congress intervenes directly in the process. But, by testing whether there is a correlation between political power and oversight and enforcement outcomes, we can establish whether politics has an influence over the bureaucracy in day to day decisions, and if so, for which decisions.

We use records from 42,405 worksite audits from 1990 to 2000 to investigate the economic and political determinants of IRCA enforcement efforts, specifically the I-9 employment verification audit (Rojas 2002), the initiation of audits, the discretionary issuing of fines by investigating officers, and the negotiated reduction in issued fines. We test the hypotheses that enforcement is partly determined by local economic and political conditions with respect to the (i) frequency of worksite audits, (ii) probability of being found in violation of the law, (iii) probability of being issued a monetary penalty, (iv) the size of the monetary fines issued, and (v) the negotiated reduction in issued fines.

At each stage of the auditing process, we find support for the hypothesis that both political interests and labor market conditions influence the discretionary enforcement of immigration laws. For example, the number of audits increases with the local unemployment rate. Further, party affiliation, rank, and committee membership of the local congressional Representative have a statistically significant effect on forgiveness, issued fines, and negotiated reductions. We find effects of party affiliation when the Representative's party is in the majority in the US House. During a Republican majority, we find that federal agents in Republican districts issue larger fines, and that the subsequently negotiated reductions of these fines are larger in Republican districts. Several of our other variables, such as firm size and the union membership within the state, have statistically significant effects when interacting with the Representative's party affiliation.

## 1 Background on institutions

The IRCA of 1986 requires employers to verify the citizenship status and employment eligibility of their employees. The Act creates sanctions, both civil and criminal, for employment-related violations (Form I-9 Inspection Overview: Worksite Enforcement Unit Office of Investigations November 19, 2009). Prior to IRCA, employers bore no requirement to verify the citizenship status of their employees nor did they face any penalty for employing undocumented immigrants. After the IRCA was passed, there was significant confusion among employers and human resources departments with respect to proper I-9 compliance. The subsequent mistakes made by firms contributed, at least in part, to an increase in allegations of discriminatory hiring practices (Briggs 1990). The Immigration Act of 1990 (IMMACT) was an attempt to address these issues and imposed additional civil fines for violations of IRCA's antidiscrimination provisions (2006).

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<sup>2</sup> There is a large literature on congressional oversight in economics and political science. Important works include Kiewiet and McCubbins (1991), Weingast and Moran (1983), McCubbins and Schwartz (1984), McCubbins et al. (1987), Moe (1989), Balla and Wright (2001), Huber and Shipan (2002), Moe (2012) for an extensive and thorough review of the literature.

Established by the IRCA, the I-9 employment verification process requires the presentation of documents by potential employees to employers that proves their identity and work eligibility. On the I-9 form, employees must attest that they are U.S. citizens, permanent residents, or aliens authorized to work in the U.S. Employers must certify that they have reviewed employee documents, that the documents appear genuine, and that they relate to the individual in question. Employers are found IRCA-compliant if they have followed the I-9 verification process. In the event that an unauthorized alien presents fraudulent documents that appear genuine, employers are found compliant so long as there is documentation to prove that they have followed the I-9 verification process, and that they have made a “good faith” attempt to inspect the documents (Lowell and Jing 1994). The difficulty in assessing whether an employer who hired an employee with fraudulent documents made a “good faith” attempt is one of the reasons that there is auditor discretion with respect to enforcement, including the option to issue a warning when an employer is found in violation. The opportunity for plausible deniability and non-compliance without financial penalty, however, is one possible reason why a significant number of employers illegally hire people with fraudulent documents (ICE 2009).

During the time span of our data (1990–2000), the Immigration and Naturalization Services (INS) conducted employment verification audits. The INS was a part of the Department of Justice. In 2003, the INS ceased to exist, and was subsumed by the U.S. Citizenship and Immigration Services. Employment verification audits now fall under the jurisdiction of the Immigration and Customs Enforcement (ICE),<sup>3</sup> which is a unit within the Department of Homeland Security (DHS). The enforcement units of the INS and ICE, with respect to employment verification audits, are largely identical, and thus we will refer to documents that describe enforcement procedures under both agencies.

According to the Worksite Enforcement Unit, ICE Office of Investigations, “The administrative inspection process is initiated by the service of a Notice of Inspection (NOI) upon an employer compelling the production of Forms I-9. ICE typically will allow three business days to present the Forms I-9. Often, ICE will request that the employer provides supporting documentation, which may include a copy of the payroll, list of current employees, Articles of Incorporation, and business licenses” (ICE 2009). If any errors, technical or procedural, are found, the employer is given ten days to make corrections. If it is determined that the employer knowingly hired unauthorized workers, or continues to employ unauthorized workers identified by the federal enforcement agency, employers may be fined, prosecuted criminally, and debarred from participating in federal contracts and other government benefits (ICE 2009).

Monetary penalties for hiring violations range from \$375 to \$16,000 per violation, with repeat offenders receiving larger fines. Penalties for technical or procedural violations, such as failing to produce a Form I-9, range from \$110 to \$1,100 per violation. “In determining penalty amounts, ICE considers five factors: the size of the business, good faith effort to comply, seriousness of violation, whether the violation involved unauthorized workers, and history of previous violations” (ICE 2009). The enforcement agency notifies the audited employer in writing of the results of the inspection once completed. We summarize the most common notices in Table 1.

In instances where the INS serves a Notice of Intent to Fine (NIF), the charging documents specify the violations committed by the employer. The employer has the

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<sup>3</sup> In March 2003, INS was merged into the Department of Homeland Security and its immigration functions were divided between U.S. Citizenship and Immigration Services, U.S. Immigration and Customs Enforcement, and U.S. Customs and Border Protection. U.S. Immigration and Customs Enforcement is responsible for managing and implementing the worksite enforcement program (GAO-06-895T, testimony before the Subcommittee on Immigration, Border Security, and Citizenship, Committee on the Judiciary, U.S. Senate).

**Table 1** Audit outcomes

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- (1) *Notice of Inspection Results* also known as a “compliance letter,” used to notify a business that they were found to be in compliance
  - (2) *Notice of Suspect Documents* advises the employer that based on a review of the Forms I-9 and documentation submitted by the employee, ICE has determined that the employee is unauthorized to work and advises the employer of the possible criminal and civil penalties for continuing to employ this individual. ICE provides the employer and employee an opportunity to present additional documentation to demonstrate work authorization if they believe the finding is in error
  - (3) *Notice of Discrepancies* advises the employer that based on a review of the Forms I-9 and documentation submitted by the employee, ICE has been unable to determine their work eligibility. The employer should provide the employee with a copy of the notice, and give the employee an opportunity to present ICE with additional documentation to establish their employment eligibility
  - (4) *Notice of Technical or Procedural Failures* identifies technical violations identified during the audit and gives the employer 10 business days to correct the forms. After 10 business days, uncorrected technical and procedural failures will become substantive violations
  - (5) *Warning Notice* issued in circumstances where substantive verification violations were identified but circumstances do not warrant a monetary penalty and there is the expectation of future compliance by the employer
  - (6) *Notice of Intent to Fine (NIF)* may be issued for substantive violations, including (i) uncorrected technical failures, (ii) knowingly hired undocumented employees, and (iii) and employing previously identified violations
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All audit outcomes from the Form I-9 Inspection Overview as of November 19, 2009. See Appendix A for a flow chart overview of the I-9 inspection process.

opportunity to either negotiate a settlement with the enforcement agency or to request a hearing within 30 days of receipt of the NIF. If the employer takes no action after receiving a NIF, the INS issues a Final Order. If a hearing is requested, the Chief Administrative Hearing Officer assigns the case to an Administrative Law Judge and sends to all parties a copy of a Notice of Hearing and the government’s complaint.

As late as 1988, the Government Accountability Office (GAO) reported that INS officials allocated 60 % of their enforcement resources for employment verification audits directed toward employers who were suspected of employing unauthorized aliens (e.g., audit initiation was information driven). The remaining 40 % of enforcement resources, however, was devoted to a program of random selection of employers for I-9 compliance inspections (Government Accountability Office 1988). Since then, and for the period analyzed in our study, immigration enforcement policy has shifted from random investigations towards a policy of only conducting investigations of employers based on outside information.

The information that leads to a worksite investigation comes from an array of sources—tips from the public, reports from a company’s current or former employees, and referrals from other law enforcement agencies. Cases relevant to national security or public safety receive top priority, as do investigations involving allegations of egregious worker exploitation and threats to worker safety (ICE 2009). Most audits are conducted by federal agents from the INS/ICE. The remaining enforcement is conducted by local officers; subsection 287(g) of the IRCA permits the delegations of immigration authority to local officers.<sup>4</sup>

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<sup>4</sup> “The 287(g) program cross-designates state and local officers to enforce immigration law as authorized through section 287(g) of the Immigration and Nationality Act. Scores of state, county and municipal agencies nation-wide have requested 287(g) memorandums of agreement with ICE and hundreds of officers have been trained under the program.”—(ICE *Agreements of Cooperation in Communities to Enhance Safety and Security* ICE ACCESS Fact Sheet).

## 2 Modeling the determinants of IRCA audits and sanctions

### 2.1 Data

Our dataset includes observations from all fifty states across 425 of the 435 congressional districts.<sup>5</sup> In Fig. 1 we show a map of the U.S., shaded by the total number of audits conducted from 1990 to 2000.<sup>6</sup> The largest number of audits occurs in the southwest, from Texas to California. The next largest numbers of audits are in New York and Florida, likely due to their large immigrant communities. The Midwestern states have similarly large numbers of audits, which may reflect the season to season demand for migrant labor. Figure 2 presents the number of audits per capita. Contrary to the total number of audits in Fig. 1, the number of audits per capita is relatively uniform. Thus, proportional to population, audits are not confined to specific geographic U.S. regions.

### 2.2 Audit frequency

We hypothesize that the frequency of worksite enforcement of immigration law is in part determined by local economic conditions, rather than solely by the letter of the law. The INS depends on local intelligence (e.g., tips) for initiation of worksite investigations. It has been shown that immigration preferences correlate with the condition of the economy and the skill makeup of the labor force (Mayda 2006). Therefore, more tips are likely to come from areas where residents perceive that they are negatively affected by immigrant labor, and more tips leads to more audits. Further, if constituents are more likely to complain to their Representatives that immigrants are reducing employment opportunities for citizens, then Representatives may in turn encourage INS to pursue stricter enforcement of immigration laws when the economic conditions deteriorate.

Immigrant labor is often a close substitute for members of the preexisting local labor pool, particularly in high GDP per capita countries such as the United States (Mayda 2006).<sup>7</sup> A simple model of the local labor market, based on the empirically demonstrated premise than that there is a high elasticity of substitution between native and immigrant labor (Card 2001; Okkerse 2008), predicts that individuals from the local pool of native labor will benefit from increased frequency of I-9 audits. Audits can reduce the supply of

<sup>5</sup> With the abandonment of the INS and transition to ICE, some of the documentation for the data we use in our analysis went missing. Specifically, an official codebook of our audit data has proven to be unavailable. However other information allows us to identify the fields in our dataset that are relevant for testing our hypotheses. Using the information contained in the official I-9 inspection overview, as summarized in the flow chart in Appendix A, and remaining basic summary documentation graciously provided by the Department of Homeland Security (available from the authors upon request), we can identify key variables in our data set. Specifically, we can determine the “Administrative Disposition,” i.e., the outcome of the audit. The audit outcomes are Warnings, Notification of Intent to Fine (NIF), dollar fine issued, and the dollar amount collected. The NIF and dollar fine issued is associated with the Tier code assigned to the offense (1, 2, or 3), with higher tiers correlating to larger fines. Given the aggregate data available, it appears that our data set, at the very least, approaches the entire universe of completed investigations. There is, however, no means available to us to confirm that our data set contains the results of all investigations.

<sup>6</sup> Brownell (2005) notes a decline, from 1999 through 2003, in the number of IRCA enforcement fines and administrative worksite arrests. Our data set includes 1999 and 2000, and we observe this decline as well. ICE has attributed this decline to various factors, including the widespread use of counterfeit documents that make it difficult for ICE agents to prove that employers knowingly hired unauthorized workers Government Accountability Office (2006).

<sup>7</sup> While there is increasing evidence that immigrant labor is strongly complementary to existing labor, this remains a far from a popular view Borjas (1995).

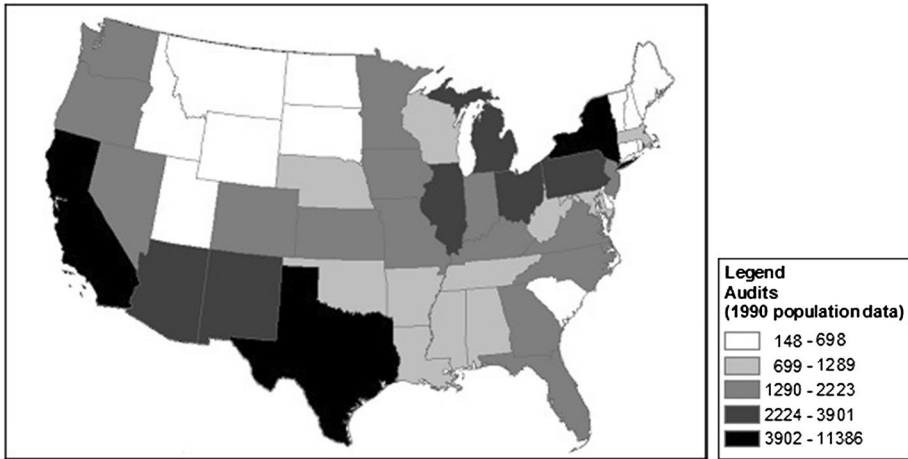


Fig. 1 Total audits

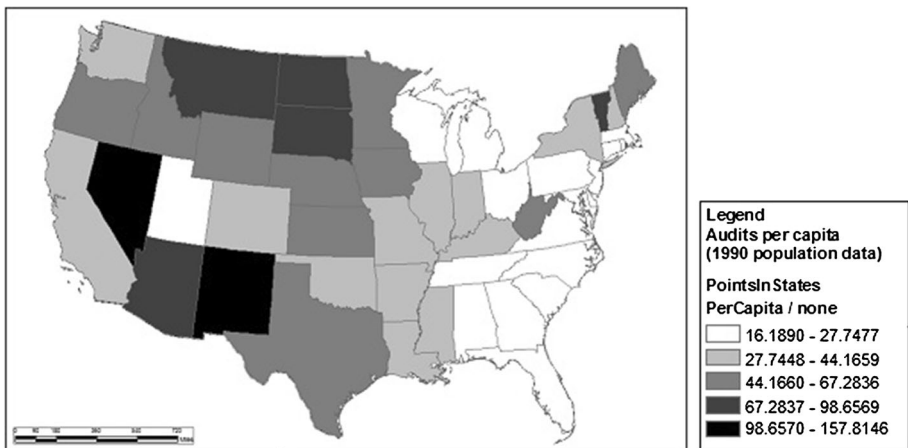


Fig. 2 Audits per capita

immigrant labor both directly via deportations and indirectly as the increased possibility of deportation encourages immigrants to move to alternative markets. Audits can also benefit native labor by increasing the net cost of hiring immigrants, through sanctions, fines and the resources lost contesting them.

For firms, being audited and potentially fined increases the costs of hiring immigrant labor, both legal and illegal. The number of audits largely reflects the number of tips being given by locals to INS/ICE officials. A simple model of native and immigrant labor as close substitutes, where the demand for native labor will increase if the supply of immigrant labor decreases, predicts that the number of tips, and in turn number of audits, will increase with unemployment.

To test the hypothesis that immigration enforcement is a function of unemployment, we organize the data as a state-year panel, and have as our outcome variable the total number of audits conducted within the state  $k$ , during year  $t$ .

$$\begin{aligned} \text{TotalAudits}_{kt} = & \beta_0 + \beta_1 \text{Unemployment}_{kt} + \beta_2 \text{Union}_{kt} + \beta_3 \text{Demographic}_{kt} \\ & + \text{Log Population}_{kt} + \text{State}_k + \text{Year}_t + \varepsilon_{kt} \end{aligned} \quad (1)$$

In this specification, there is some concern with respect to reverse causality. Specifically, that the larger the number of audits, the less likely employers are to hire immigrants, resulting in a lower overall measured native unemployment rate. To address this concern, we estimate (1) with Two-Stage Least Squares (2SLS), in addition to Ordinary Least Squares (OLS).

In the 2SLS specifications, our instruments for the annual state unemployment rate are the levels and annual changes in the sum of state and local government compensation spending within a state, as reported by the Bureau of Economic Analysis. The rationale for choosing this instrument is that while government hiring affects the unemployment rate, government-funded positions, at the local and state level, are not accessible to illegal immigrants, and as such are not influenced by the IRCA enforcement audits. In all specifications, we include year and state fixed effects, and cluster the standard errors by state.

In our regression equation (1), we include the current unemployment rate in the state, as reported by the Bureau of Labor Statistics ( $\text{Unemployment}_{kt}$ ), and the percentage of survey respondents from state,  $k$ , who report being a member of a labor union ( $\text{Union}_{kt}$ ), as reported by the Current Population Survey. We further include a vector of state demographic variables ( $\text{Demographic}_{kt}$ ), all obtained from the Current Population Survey and aggregated to the state level. This vector includes state average household income, as well as the Hispanic and non-Hispanic minority ethnicity fractions of respondents, and the fraction of respondents without a high school diploma.

### 2.3 Audit outcomes

We hypothesize that the outcomes of worksite inspections are in part determined by local political and economic conditions, rather than solely by the letter of the law. Legislators have a number of mechanisms by which they can influence the actions of federal agencies, including setting agency budgets, leadership appointments, new legislation, and the altering of agency jurisdiction (Bawn 1995; Ferejohn and Shipan 1990; Shughart et al. 1986a, b; Weingast and Moran 1983). While officers have some discretion in whether they find a firm's employee documentation in compliance with the IRCA, the primary form of officer discretion is the determination of whether an out of compliance firm will be issued a monetary fine or a warning. The decision to issue a warning may reflect the pressures of legislators. For example, members of Congress can directly influence the reduction in issued fines, because congressional staff may participate in negotiations between firms and the INS. Jung and Makowsky (2013) found that both presidential and congressional party affiliation impacted the outcomes of OSHA worksite inspections. Given that immigration inspections are similar in terms of regulatory protocol, while at the same time being more politicized than OSHA inspections, we hypothesize that Congressmen have similar, and likely stronger, incentives to make use of their influence over the bureaucracy.

For legislators seeking reelection, stricter enforcement of immigration laws may offer the possibility of garnering additional votes for being "tough on illegal



immigration.” When voters in congressional districts voice an anti-immigrant sentiment or complain to Congressmen that immigrants are “taking their jobs,” these legislators may have an incentive to encourage individuals in the enforcement agency to more strictly follow procedures and exercise their discretion in a less forgiving manner. At the same time, the same Congressmen may also respond to complaining firms in their district, i.e., firms that were found in violation of IRCA, by encouraging the INS to lower the fines that were issued by the auditors. Congressmen must weigh these incentives when deciding whether to motivate strictness or leniency in agency discretionary decision-making.

These incentives are, in turn, a function of the individual legislators’ position and constituency. Representatives from different districts, particularly those from large populations of unskilled laborers, union members, or Hispanic citizens may face very different public sentiment towards immigrant labor than other Representatives. At the same time, legislators will have differing abilities to act upon those incentives, depending on their party membership, whether their party is in the majority in the House, their status within the party, and their committee membership.

To test these hypotheses, we estimate one regression for each of the four stages of the audit process,<sup>8</sup> modeling the determinants of the outcome of an audit  $i$ , of employer  $j$ , conducted in congressional district  $k$ , in state  $m$ , in year  $t$  as

$$\text{Audit Outcome}_{ijkmt} = \beta_0 + \beta_1 \text{Unemployment}_{kt} + \beta_2 \mathbf{Firm}_j + \beta_3 \mathbf{Demographic}_{mt} + \beta_4 \text{Union}_{mt} + \beta_5 \mathbf{Politics}_{kt} + \text{CongressionalDistrict}_k + \varepsilon_{ijkmt} \quad (2)$$

$$\text{Fine}_{ijkmt} = \beta_0 + \beta_1 \text{Unemployment}_{kt} + \beta_2 \mathbf{Firm}_j + \beta_3 \mathbf{Demographic}_{mt} + \beta_4 \text{Union}_{mt} + \beta_5 \mathbf{Politics}_{kt} + \text{CongressionalDistrict}_k + \varepsilon_{ijkmt} \quad (3)$$

$$\% \text{Amount}_{ijkmt} = \beta_0 + \beta_1 \text{Unemployment}_{kt} + \beta_2 \mathbf{Firm}_j + \beta_3 \mathbf{Demographic}_{mt} + \beta_4 \text{Union}_{mt} + \beta_5 \mathbf{Politics}_{kt} + \beta_7 \text{Violation\_tier}_{ijkmt} + \text{CongressionalDistrict}_k + \varepsilon_{ijkmt}, \quad (4)$$

$$\% \text{Reduction}_{ijkmt} = \beta_0 + \beta_1 \text{Unemployment}_{kt} + \beta_2 \mathbf{Firm}_j + \beta_3 \mathbf{Demographic}_{mt} + \beta_4 \text{Union}_{mt} + \beta_5 \mathbf{Politics}_{kt} + \beta_7 \text{Violation\_tier}_{ijkmt} + \text{CongressionalDistrict}_k + \varepsilon_{ijkmt}, \quad (5)$$

Depending on the specification,  $\text{Audit Outcome}_{ijkmt}$  is whether a violation was found,  $\text{Fine}_{ijkmt}$  is whether a fine was issued given that a violation was found,  $\% \text{Amount}_{ijkmt}$  is the dollar amount if a fine was issued, and  $\% \text{Reduction}_{ijkmt}$  the percent reduction of the fine obtained by the firm given that a fine was issued.  $\text{Audit Outcome}_{ijkmt}$  equals one if the auditor determines that the employer is in violation of IRCA employment documentation requirements.  $\text{Fine}_{ijkmt}$  equals one if an employer found in violation is issued a fine and equals zero if that employer is issued a warning. A warning is an officially documented issuance that does not include any monetary or criminal penalty.

We assume that the error terms in these regressions are not correlated, allowing us to estimate each model with OLS.  $\text{Unemployment}_{mt}$  is the state unemployment rate. We cluster standard errors by location. We use congressional district and year fixed effects

<sup>8</sup> In the absence of any variable that can be reasonably be expected to correlated to  $\text{Fine}_{ijkmt}$ , but uncorrelated to  $\% \text{Amount}_{ijkmt}$ , we have opted to use a simple “subsample OLS” modeling strategy, rather than a Heckman selection model Puhani (2000).

control for yearly and local idiosyncrasies, such as a criminal culture and ethnic tensions. In specifications where political interaction variables do not sufficiently vary over time, we drop year fixed effects. In our models of the audit outcome we only use observations after the 1992 redrawing of congressional district boundaries.

*Firm<sub>it</sub>* is a vector of variables specific to the employer being investigated, and includes the number of employees at the investigated location, and a variable indicating whether the firm is in a high alien industry.<sup>9</sup> In some specifications we include the variable *ViolationTier*, which is a measure of the severity of the violation as determined by the auditing official. *ViolationTier* takes a value of 1, 2, or 3, with larger values assigned to violations by repeat offenders, instances of observed abuse or exploitation, and egregiousness on the part of violating employers.

*Politics<sub>kt</sub>* is a vector of variables to test our political economy hypotheses regarding congressional oversight. Using ArcGIS, we matched congressional districts to the zip codes of the inspected firms, as reported in the audit records. For the 103rd through the 108th Congresses, we matched the latitude and longitude of the central point in each zip code with the geographic maps of congressional boundaries, provided by the US Census Bureau. For the 102nd Congress, we used data made publicly available by the Missouri Census Data Center.<sup>10</sup> *Politics<sub>kt</sub>* further includes variables from Stewart and Woon (2012), including indicator variables for the party membership of the Representative (equaling one if Republican, zero otherwise), whether he or she is assigned to House Judiciary Committee, whether his or her party is currently the majority party in the House of Representatives, and the Representative's party rank. The party rank variable orders the members of a congressional committee based on the Resolution that appointed the members. Higher ranking members have the lower rank numbers. The chair and ranking member of each committee always have a rank of one. In some of our specifications we also include interaction variables.

The congressional oversight hypothesis predicts that a House judiciary committee appointment is an important predictor of bureaucratic decisions. We predict that the influence of the judiciary committee membership and variables measuring political power, such as majority status, increases with each stage of the enforcement process.

We predict that the largest effect of oversight is at the final stage of the enforcement process—that is, when fine reductions are negotiated between the agency and the firm found in violation. It is at this final stage that congressional staffers (or the Representatives themselves) can participate in the negotiation process. Their ability to affect the incentives facing agents of the bureaucracy is likely to have the greatest impact here. Conversely, due to their indirect participation, we predict a less pronounced effect of Representatives on decisions made in the earlier stages of the enforcement process.

### 3 Results

The top panel of Table 2 shows descriptive statistics for our socio-economic variables at the state level, as well as the number of audits per state. We observe on average 79 audits per state and per year. There is a large variation in audits rates. For example, across states,

<sup>9</sup> High Alien industries include agriculture, hospitality and accommodations, food service, and textiles Hill and Pearce (1990).

<sup>10</sup> In the event that a zip code was split across congressional boundaries with the data from the 102nd Congress, we assign the zip code to the Congressional district based with the greater overlapping area.

audits range from zero to 1,386 per year. In our state-year panel dataset, about 19 % of the observations include zero recorded audits.<sup>11</sup>

The bottom panel of Table 2 shows descriptive statistics at the lowest level of aggregation, i.e., at the audit level. It shows that of all audits, 47 % resulted in a violation. When a violation was found, 76 % of those firms were fined, carrying an average penalty of \$4,385. Further, on average, firms negotiated their fines down by about 8 %.

The descriptive statistics show that about half of all audits are conducted in districts with a Republican Representative, and 10 % of all audits are conducted in districts of members of the House Judiciary Committee. When estimating regressions when the dependent variable is the number of audits at the state level, we average our explanatory variables at the state level.

Table 3 shows results from the regressions with the log of audit counts<sup>12</sup> by state as the dependent variable. The first four columns show the OLS specifications and the next two columns show the 2SLS specifications. When we include only state and year fixed effects in the OLS regression, we find a statistically significant positive correlation between unemployment and the number of audits (Table 3, column 1). That correlation remains statistically significant when we include control variables, but the magnitude of the point estimate is smaller (Table 3, column 2). In Table 3, column 3 we limit the model to only observations from low alien states, within which 10.4 % of the observations equal zero audits.<sup>13</sup> Estimating the model with this subset is one means of addressing endogeneity concerns. That is, because immigration enforcement is less likely to impact the economy and the unemployment rate in states with low numbers of undocumented aliens. In this specification, the point estimate on unemployment is positive, but not statistically significant. In Table 3, column 4 we include lagged unemployment instead of contemporaneous unemployment, and we find that the correlation between unemployment and audits remains positive and is statistically significant at the five percent level. These findings are consistent with the hypothesis that higher rates of regional unemployment are associated with larger numbers of audits by federal agents.

If an increase in audits makes employers more cautious in hiring immigrant labor and thus leads to lower measured unemployment, our OLS estimates on unemployment in Table 3 are biased downwards. Because of this concern, we estimate our model with 2SLS. Our instrument is level of state and local government compensation spending. We use this instrument because audit frequency has no direct effect on employment created by the local and state government. We show the first stage results in Table 8. We find the predicted negative effect, that is, increases in state and local government employee-related spending within a state reduces state unemployment. Further, the *F* tests show that we have strong instruments.

The specification in Table 3, column 5 corresponds to the first stage model in Table 8. Here we find that the coefficient on unemployment has increased to 1.004. This magnitude implies that a 1 % point increase in unemployment rate, *ceteris paribus*, doubles the average number of expected audits within a state. Thus, while all specifications in Table 3 find the number of audits to be increasing with unemployment, controlling for reverse

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<sup>11</sup> Because zero constitute only 19 % of observed values, a Poisson or negative binomial model was unnecessary.

<sup>12</sup> We define log audits as  $\log(\text{audits} + 1)$  to avoid dropping the zero values.

<sup>13</sup> Low alien states are all states other than Texas, California, Illinois, Florida and Arizona Hill and Pearce (1990).

**Table 2** Summary Data

Variable	<i>N</i>	Mean	SD	Min	Max
State level					
Audits per year	561	79.25	168.79	0.00	1,386.00
High alien state	561	0.10	0.30	0.00	1.00
Unemployment (state) <sup>a</sup>	561	5.31	1.59	2.20	11.20
Union membership <sup>b</sup>	561	0.14	0.06	0.00	0.35
Average household income <sup>b</sup>	561	47,477.09	9,781.19	27,998.60	77,916.23
Percent without H.S. diploma <sup>b</sup>	561	0.41	0.04	0.33	0.52
Percent hispanic <sup>b</sup>	561	0.07	0.08	0.00	0.41
Percent minority ethnicity (non-Hispanic) <sup>b</sup>	561	0.16	0.14	0.00	0.74
Population (1,000 s) <sup>c</sup>	561	5,197.37	5,754.67	453.59	33,871.65
Audit records					
Violation	42,405	0.47	0.50	0	1
Fine	19,948	0.76	0.43	0	1
Fine amount (\$)	5,013	4,385.05	10,511.43	10.00	365,000
Fine reduction % ( <i>n</i> = 4,599)	4,601	0.08	0.19	0	1
Employees	42,405	87.10	4,793.88	0.00	950,100
High alien SIC <sup>d</sup>	42,405	0.43	0.50	0	1
House republican <sup>c</sup>	42,405	0.48	0.50	0	1
Judiciary Committee <sup>c</sup>	42,405	0.10	0.30	0	1
Party Rank <sup>c</sup>	42,405	11.97	8.46	1	38
Majority Party <sup>c</sup>	42,405	0.57	0.50	0	1

<sup>a</sup> Bureau of Labor Statistics

<sup>b</sup> Current Population Survey

<sup>c</sup> U.S. Census

<sup>d</sup> Hill and Pearce (1990)

<sup>e</sup> Stewart and Woon (2012)

causality (i.e., audits reducing unemployment) using state and local government spending as an instrument increases the size of the coefficient on unemployment.

The results in Table 3 are consistent with the hypothesis that audit activity within a state is correlated with economic conditions, and are consistent with the hypothesis that more people report potentially illegal employment to the enforcement agency when state unemployment is high. This finding sheds some light on the mechanism that underlies other findings that show that immigration falls as unemployment increases (Passel and Cohn 2010; Winegarden and Lay Boon 1991; Withers and Pope 1985). Our findings suggest that immigration falls because immigrants may have a greater expectation of being reported in times of high rates of unemployment.

Table 4 presents the results from regressions testing hypotheses regarding determinants of whether an audit resulted in the firm being found in violation. These regressions have the audit as the unit of observation. All specifications include congressional fixed effects, but only columns 1–3 include year fixed effects. We omit year fixed effects in column 4 to allow for the interaction of the Republican Party indicator with other key variables. The

**Table 3** State unemployment and number of audits in the state

	(1) OLS	(2) OLS	(3) OLS	(4) OLS	(5) 2SLS
Unemployment	0.137** (0.061)	0.105* (0.057)	0.085 (0.062)		1.004** (0.508)
Unemployment, t-1				0.145** (0.072)	
Union membership percent		-0.181 (1.279)	-0.066 (1.229)	-0.383 (1.228)	0.210 (2.270)
Log Household Income		-2.162* (1.212)	-1.886 (1.242)	-1.775 (1.107)	-0.117 (1.551)
Percent Hispanic		0.598 (2.699)	0.112 (2.915)	-0.145 (2.657)	-1.773 (3.237)
Percent without Diploma		-2.819 (2.598)	-3.069 (2.630)	-2.556 (2.568)	-2.277 (3.758)
Percent Minority		2.211 (3.670)	2.223 (3.705)	2.153 (3.545)	0.485 (3.739)
Log Population		3.279 (2.129)	3.709* (2.183)	3.634* (2.029)	2.124 (2.673)
Constant	-0.712* (0.381)	-25.273 (34.047)	-33.741 (34.500)	-34.955 (31.938)	
Year and State Fixed Effects?	Yes	Yes	Yes	Yes	Yes
Error Clustering by State	Yes	Yes	Yes	Yes	Yes
Angrist-Pischke F Stat					10.11
Anderson-Rubin					$p < 0.01$
Observations	561	561	506 <sup>†</sup>	561	561
R <sup>2</sup>	0.836	0.841	0.822	0.842	0.608

Observations are from 1990 to 2000. Robust standard errors in parentheses. The dependent variable is the natural logarithm of audits

\*\*\*  $p < 0.01$ , \*\*  $p < 0.05$ , \*  $p < 0.1$ ; <sup>†</sup> column 3 excludes observations from the 5 states identified as “High Alien Population.”

resulting interaction terms are not sufficiently time variant to include both year and district fixed effects.<sup>14</sup>

We find that firms are more likely to be found in violation when unemployment is higher. A 1 % point increase in the unemployment rate correlates to a 2.5 % point increase in the probability of being found in violation, though this result is only statistically significant when we omit year effects (column 4). It is worth reiterating that firms are more likely to fail inspection in areas with greater unemployment, while at the same time the number of undocumented immigrants in the local population is decreasing as unemployment increases. The likelihood of being found in violation is higher for employers in high alien industries (Table 4, columns 1–4). This may be due to more severe violations in those industries, or because federal agents especially want to discourage violation of the law in those industries. Being in a high alien industry increases the probability of being found in violation by between 2 and 2.2 % points. At the same time, we find that the likelihood of

<sup>14</sup> We did not estimate the regressions in Table 3 at the congressional district level because it serves as too small a level of aggregation, dominated by zeros and small numbers, and for lack of good instruments for unemployment at the congressional district level.

**Table 4** Determinants of whether a firm was found in violation

	(1)	(2)	(3)	(4)
Unemployment	0.011 (0.014)	0.012 (0.014)	0.013 (0.014)	0.025** (0.011)
High Alien SIC	0.021*** (0.008)	0.022*** (0.008)	0.022*** (0.008)	0.020** (0.008)
Republican (=0,1)	-0.010 (0.023)	-0.005 (0.023)	0.772 (2.061)	0.484 (2.079)
Judiciary (=0,1)		-0.021 (0.032)	-0.020 (0.031)	-0.003 (0.057)
Judiciary*Republican				-0.015 (0.068)
Party Rank		-0.001 (0.001)	-0.001 (0.001)	-0.002 (0.002)
Party Rank*Republican				0.003 (0.002)
Majority		-0.010 (0.011)	-0.008 (0.013)	-0.025 (0.023)
Majority*Republican				0.031 (0.033)
Log employees	-0.062*** (0.002)	-0.062*** (0.003)	-0.057*** (0.003)	-0.057*** (0.003)
Log employees*Republican			-0.009* (0.005)	-0.009* (0.005)
Union membership percent	0.017 (0.231)	0.020 (0.233)	0.003 (0.298)	-0.036 (0.302)
Union membership*Republican			0.061 (0.301)	0.028 (0.308)
Log household income	0.176 (0.160)	0.161 (0.163)	0.199 (0.195)	0.032 (0.159)
Log HH income*Republican			-0.066 (0.184)	-0.044 (0.184)
Percent Hispanic	-1.371*** (0.441)	-1.385*** (0.440)	-1.466*** (0.453)	-1.657*** (0.383)
Percent Hispanic*Republican			0.125 (0.236)	0.056 (0.235)
Percent without diploma	-0.032 (0.469)	-0.052 (0.469)	0.107 (0.635)	0.508 (0.666)
Percent w/o diploma*Republican			-0.237 (0.714)	-0.250 (0.740)
Percent minority	-0.830* (0.435)	-0.825* (0.436)	-0.990* (0.509)	-1.481*** (0.490)
Percent minority*Republican			0.243 (0.324)	0.390 (0.337)
Constant	-1.096 (1.823)	-0.914 (1.848)	-1.362 (2.181)	0.403 (1.783)
Year fixed effects?	Yes	Yes	Yes	No
Observations	30658	30658	30658	30658
R <sup>2</sup>	0.221	0.221	0.221	0.219

Observations are from 1992 to 2000. All specifications include congressional district fixed effects and robust errors clustered by congressional district. The dependent variable equals one if a firm was found in violation and zero otherwise. Robust standard errors in parentheses

\*\*\*  $p < 0.01$ ; \*\*  $p < 0.05$ ; \*  $p < 0.1$

being in violation decreases in both the Hispanic and the non-Hispanic minority fraction of the state population.

We also find that the larger the firm, the less likely the firm will be found in violation. This is consistent with a hypothesis that larger firms have more recourse to appeal decisions, and thus the enforcing agency adopts extra care when deciding whether to fine a large firm.

In Table 4 we test whether congressional influence and oversight is a determinant of being found in violation with the immigration law. We do not find a statistically significant correlation between a firm being in a Republican controlled congressional district and being found in violation in any of our specifications. However, we do find that the probability of being found in violation decreases with the number of employees, and in columns 3 and 4, we find that this effect is larger in Republican districts, as shown by the negative sign on the interaction effect between log employees and whether the Representative is a member of the Republican party. For every log point increase in the number of employees at the violation site, the probability of a firm being found in violation decreases by roughly 6 % points in Democratic districts, and 7 % points in Republican districts.

Table 5 analyzes the subsample of audits that resulted in a violation. It shows the determinants of whether firms that were found to be in violation were issued a monetary fine or a warning. Similar to violations, our results show that larger firms are more likely to receive a warning. The probability of receiving a fine is increasing with the unemployment rate, but again this result is only statistically significant in the specification without year fixed effects (column 4). The probability of receiving a fine is decreasing with union membership across all specifications.

In Table 5, relative to the previous tables, an increased fraction of the political variables are statistically significant determinants of whether a firm receives a warning or a fine. This is consistent with our hypothesis that agencies and inspectors have relatively more discretion in the decision of whether to issue a warning or a fine, and as such there is greater scope for outside influence. The probability of receiving a fine is smaller when the local representative is a Republican (Table 5, columns 1 and 2). In columns 3 and 4 a number of interaction variables are significant, making the cumulative effect more complicated to compute. The base line effect of the Republican indicator is positive in columns 3 and 4, but there are large negative correlations with the Republican\*Percent Hispanic and Republican\*Log Household Income interaction terms. The net effect is that firms are less likely to receive a fine in most Republican districts, and that this effect is stronger in districts with wealthier and more Hispanic constituencies.<sup>15</sup>

The probability of receiving a fine is also lower when the local Representative has less seniority within his or her respective committees (columns 3 and 4). Firms are more likely to receive a fine when the local representative's party holds majority status, but this effect is only statistically significant in column 3.

Table 6 presents results for the subsample of firms that were issued a fine. In these regressions the dependent variable is the log dollar amount of the fine. Officers have some discretion with respect to the dollar amount of the fine levied, but that discretion is limited by explicit formulas (ICE 2009). The formula for reducing or increasing the fine, beyond the baseline dollar value assigned by law, includes both the size of the firm and the violation tier assigned by the officer. Consistent with these guidelines, our results show that

<sup>15</sup> The effect could, hypothetically, be positive in poorer communities with large minority (non-Hispanic) populations, but Republicans are rarely elected in such districts in the modern era.

**Table 5** Determinants of whether a firm was fined

	(1)	(2)	(3)	(4)
Unemployment	0.024 (0.021)	0.025 (0.020)	0.016 (0.019)	0.037*** (0.012)
High Alien SIC	0.008 (0.008)	0.008 (0.008)	0.008 (0.008)	0.008 (0.008)
Republican (=0,1)	-0.070** (0.033)	-0.065* (0.034)	5.504* (3.020)	5.147 (3.174)
Judiciary (=0,1)		0.005 (0.036)	-0.010 (0.039)	-0.022 (0.051)
Judiciary*Republican				0.022 (0.085)
Party Rank		-0.002 (0.001)	-0.002* (0.001)	-0.003* (0.002)
Party Rank*Republican				0.001 (0.003)
Majority		0.019 (0.013)	0.043*** (0.015)	0.008 (0.029)
Majority*Republican				0.068 (0.046)
Log employees	-0.064*** (0.005)	-0.063*** (0.005)	-0.059*** (0.006)	-0.059*** (0.006)
Log employees*Republican			-0.010 (0.009)	-0.010 (0.009)
Union membership percent	-0.662* (0.352)	-0.646* (0.349)	-0.896** (0.409)	-1.006** (0.417)
Union membership*Republican			0.551 (0.429)	0.630 (0.447)
Log household income	0.279 (0.300)	0.279 (0.285)	0.538* (0.308)	-0.051 (0.211)
Log HH income*Republican			-0.484* (0.266)	-0.450 (0.279)
Percent Hispanic	0.047 (0.533)	0.036 (0.535)	0.396 (0.585)	-0.533 (0.512)
Percent Hispanic*Republican			-0.493* (0.296)	-0.450 (0.317)
Percent without diploma	0.361 (0.709)	0.402 (0.711)	1.024 (0.879)	1.759** (0.885)
Percent w/o diploma*Republican			-1.186 (0.919)	-1.363 (0.964)
Percent minority	0.629 (0.618)	0.533 (0.630)	-0.001 (0.673)	-0.544 (0.628)
Percent minority*Republican			1.020** (0.451)	1.002** (0.463)
Constant	-2.371 (3.190)	-2.382 (3.042)	-5.315 (3.346)	0.845 (2.401)
Year fixed effects	Yes	Yes	Yes	No
Observations	13,486	13,486	13,486	13,486
R <sup>2</sup>	0.235	0.236	0.238	0.233

Observations are from 1992 to 2000. All specifications include congressional district fixed effects and robust errors clustered by congressional district. The dependent variable equals one if a firm was fined and zero otherwise. Robust standard errors in parentheses

\*\*\*  $p < 0.01$ ; \*\*  $p < 0.05$ ; \*  $p < 0.1$



**Table 6** Determinants of the fine (in logs) issued

	(1)	(2)	(3)	(4)
Unemployment	-0.036 (0.088)	-0.041 (0.089)	-0.047 (0.087)	0.060 (0.054)
Tier Code	1.070*** (0.100)	1.069*** (0.100)	1.070*** (0.096)	1.058*** (0.097)
High Alien SIC	0.068 (0.044)	0.068 (0.044)	0.064 (0.045)	0.061 (0.045)
Republican (=0,1)	-0.121 (0.192)	-0.122 (0.195)	-4.464 (12.781)	-7.948 (12.977)
Judiciary (=0,1)		-0.108 (0.265)	-0.054 (0.265)	-0.041 (0.394)
Judiciary*Republican				-0.024 (0.527)
Party Rank		-0.001 (0.006)	-0.001 (0.006)	0.003 (0.008)
Party Rank*Republican				-0.014 (0.012)
Majority		0.026 (0.051)	-0.010 (0.060)	-0.265** (0.110)
Majority*Republican				0.472** (0.184)
Log employees	0.288*** (0.017)	0.288*** (0.017)	0.317*** (0.022)	0.320*** (0.022)
Log employees*Republican			-0.066* (0.036)	-0.068* (0.036)
Union membership percent	0.243 (1.115)	0.186 (1.122)	1.176 (1.611)	1.561 (1.647)
Union membership*Republican			-2.650 (1.992)	-2.555 (2.059)
Log household income	1.092 (1.069)	1.124 (1.084)	0.658 (1.264)	-0.814 (0.800)
Log HH income*Republican			0.571 (1.125)	0.897 (1.139)
Percent Hispanic	2.367 (2.212)	2.350 (2.241)	0.835 (2.447)	-2.112 (1.943)
Percent Hispanic*Republican			2.589 (1.954)	2.760 (1.787)
Percent without diploma	-2.583 (3.069)	-2.418 (3.038)	-1.603 (3.422)	-0.882 (3.580)
Percent w/o diploma*Republican			-2.117 (4.810)	-2.114 (4.834)
Percent minority	-3.519 (2.748)	-3.631 (2.764)	-1.778 (3.007)	-4.414 (2.889)
Percent minority*Republican			-4.663 (2.893)	-5.106* (2.980)
Constant	-4.405 (11.950)	-4.756 (12.112)	-0.350 (13.901)	15.437* (8.900)
Year fixed effects?	Yes	Yes	Yes	No
Observations	3,296	3,296	3,296	3,296
R <sup>2</sup>	0.467	0.468	0.470	0.467

Observations are from 1992 to 2000. All specifications include congressional district fixed effects and robust errors clustered by congressional district. Robust standard errors in parentheses

\*\*\*  $p < 0.01$ ; \*\*  $p < 0.05$ ; \*  $p < 0.1$

**Table 7** Determinants of the percent fine reduction

	(1)	(2)	(3)	(4)
Unemployment	0.006 (0.016)	0.011 (0.015)	0.009 (0.016)	0.017 (0.012)
Log fine issued	0.048*** (0.007)	0.048*** (0.007)	0.048*** (0.007)	0.050*** (0.008)
Tier Code	0.009 (0.051)	0.010 (0.051)	0.009 (0.051)	0.008 (0.052)
High Alien SIC	0.025*** (0.009)	0.024*** (0.009)	0.024** (0.009)	0.024** (0.010)
Republican (=0,1)	-0.006 (0.033)	0.002 (0.033)	2.435 (2.333)	1.666 (2.661)
Judiciary (=0,1)		0.047 (0.059)	0.043 (0.055)	0.090 (0.076)
Judiciary*Republican				-0.067 (0.066)
Party Rank		-0.001 (0.001)	-0.000 (0.001)	-0.002* (0.001)
Party Rank*Republican				0.004 (0.003)
Majority		-0.010 (0.008)	-0.003 (0.009)	-0.129*** (0.022)
Majority*Republican				0.248*** (0.036)
Log employees	-0.010*** (0.003)	-0.010*** (0.003)	-0.009** (0.004)	-0.008* (0.005)
Log employees*Republican			-0.002 (0.006)	-0.000 (0.007)
Union membership percent	0.118 (0.248)	0.175 (0.246)	0.048 (0.297)	0.474 (0.365)
Union membership*Republican			0.218 (0.354)	0.246 (0.526)
Log household income	-0.214 (0.234)	-0.223 (0.234)	-0.136 (0.256)	-0.001 (0.164)
Log HH income*Republican			-0.186 (0.196)	-0.144 (0.229)
Percent Hispanic	-0.041 (0.389)	-0.021 (0.396)	-0.232 (0.453)	-0.462 (0.492)
Percent Hispanic*Republican			0.549 (0.398)	0.350 (0.444)
Percent without diploma	-0.989 (0.754)	-1.043 (0.744)	-0.673 (0.972)	1.157 (0.951)
Percent w/o diploma*Republican			-1.116 (0.970)	-0.860 (0.952)
Percent Minority	1.584*** (0.533)	1.611*** (0.524)	1.916*** (0.554)	-0.354 (0.588)
Percent minority*Republican			-0.613 (0.529)	-0.086 (0.582)
Constant	2.073 (2.555)	2.139 (2.558)	1.073 (2.866)	-0.758 (2.074)
Year fixed effects?	Yes	Yes	Yes	No
Observations	3,116	3,116	3,116	3,116
R <sup>2</sup>	0.401	0.402	0.403	0.292

Observations are from 1992 to 2000. All specifications include congressional district fixed effects and robust errors clustered by congressional district. Robust standard errors in parentheses

\*\*\*  $p < 0.01$ ; \*\*  $p < 0.05$ ; \*  $p < 0.1$

log employees and violation tier are statistically significant in all of our regression models in Table 6. Fines are increasing in size with the Tier Code (the nature of the violation, 1 being the least offensive, 3 being the most) and the number of employees exposed. Fines are also higher in high alien industries. Despite the more explicit limitations on discretion, the results offer evidence of Congressional influence on the dollar amounts of issued fines. The Republican indicator is not statistically significant in any of the specifications. The Republican\*Log Employees interaction term, however, is negative and statistically significant (columns 3 and 4). This suggests that, while there is less opportunity for political influence at the inspection stage where fines are set, the modifier for increasing fines with the size of the violation firm is sufficiently flexible to allow some agent discretion at the margin. Seemingly at odds with these effects, the coefficients on Majority and the Majority\*Republican interaction term are statistically significant. If the local Representative is a Democrat and they hold the majority in Congress, fines are an average of 30.3 % smaller. If the local Representative is a Republican and they hold the majority in Congress, fines are an average of 30 % larger.

Table 7 presents results for regressions modeling the determinants of the negotiated percentage reduction in the fine. Here we analyze the subsample of firms that were issued a fine. In all four specifications we find that the larger the fine, the smaller the percent reduction in the fine. Similarly, firms in high alien industries negotiate larger fine reductions. Conversely, firms with larger numbers of employees receive lower fine reductions. Neither the Republican indicator nor its interaction term with Log Employees is a statistically significant determinant of the size of fine reductions. However, if the local Representative is a Democrat and Democrats hold the majority in Congress, fine reductions are an average of 13 % points smaller. If the local Representative is a Republican and Republicans hold the majority in Congress, fine reductions are an average of 25 % points larger.

This finding is consistent with legislative oversight and the accompanying hypothesis that reelection concerns of politicians are involved in the administration of the law. We find that the importance of the Representative's party affiliation with respect to influencing *ex post* negotiated reductions of fines is heavily contingent on the current majority status of the party. This offers evidence supporting the hypothesis that the observed correlations are rooted in mechanisms of influence through which a Congressman might influence regulatory agencies.

#### 4 Concluding remarks

We show that the enforcement of current immigration law is determined, in part, by both economic and political conditions. The dependence of enforcing agencies on local tips to initiate audits leads to additional investigations where there is a greater number of unemployed, particularly recently unemployed, constituents. We find support for the hypothesis that Congress leverages its oversight authority to influence bureaucratic agencies. The larger the firm being audited, the more sensitive the audit outcome is to the party identification of the local Representative. Whether the Representative will aid in negotiating a significant reduction in an issued fine depends on both their party identification and whether they are members of the majority party. The importance of these predictors grows as the agency moves into stages of the enforcement process that allow for more discretion, consistent with legislators' increasing opportunities to directly influence agents of the bureaucracy.

There is a long running debate in political economy and political philosophy regarding the merits of writing laws that allow for discretion and those that do not (Barro 1986). A part of that debate that is often underemphasized is the incentives facing lawmakers themselves as they look forward. While formal models of delegation find that Congress prefer that laws are written with greater structural restriction and less administrative discretion (Moe 2012), this does not preclude Congress from benefiting from the administrative discretion that is built into these laws. Elected officials have the opportunity to serve different constituent groups at the various stages of the enforcement process. They can support stricter enforcement as a means to appeal to anti-immigrant and pro-native labor sentiment, while also serving local businesses by helping to negotiate larger reductions in fines that have been issued. By allowing federal officers discretion in how they enforce existing immigration law and *ex post* discretion in the reduction of fines paid by violating employers, lawmakers have created an additional means through which they can generate political capital, appealing to the preferences of their constituents and corporate supporters.

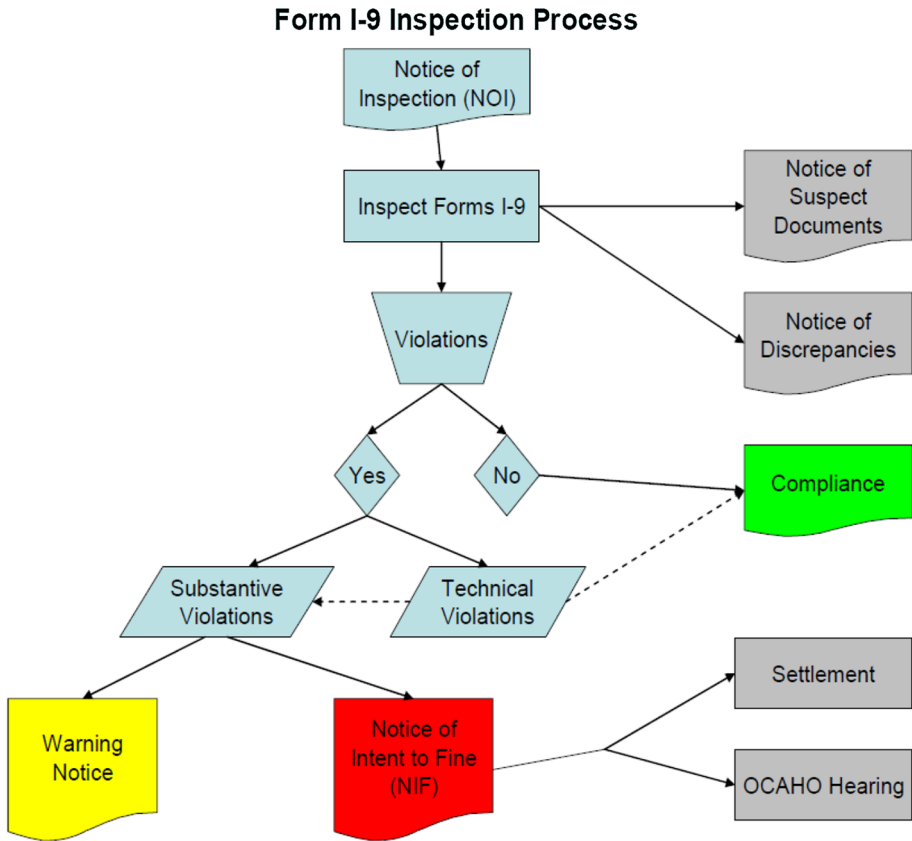
**Acknowledgments** We thank Peter Brownell and Bryan Baker for their assistance in acquiring and interpreting the data, Gina D’Andrea, Garrett Jones, and Alex Tabarrok for helpful comments, and Garrett Harmon for tremendous research assistance.

## Appendix

See Table 8 and Fig. 3.

**Table 8** First stage results: determinants of state unemployment rate

	(1)
State and local govt. compensation per 1,000	-1.393*** (438.014)
Union membership percent	-1.451 (2.002)
Log household income	-1.987 (1.365)
Percent Hispanic	2.168 (2.633)
Percent without diploma	-0.559 (3.121)
Percent minority	2.863 (2.681)
Log population	1.983 (1.624)
Constant	0.001 (28.029)
Year and state fixed effects?	Yes
Error clustering by state	Yes
Robust standard errors in parentheses	Angrist-Pischke F-stat 10.7
*** $p < 0.01$ ; ** $p < 0.05$ ; * $p < 0.1$	Observations 561
	$R^2$ 0.695



**Fig. 3** Form I-9 inspection workflow overview (ICE 2009)

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