Salience, complexity and state resistance to federal mandates

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Abstract: Although state resistance to federal mandates is a prevalent characteristic of contemporary American federalism, little is known about the factors that separate resisting states from states that do not oppose federal policy. This article examines state resistance through a framework that classifies public policies by salience and complexity and identifies societal interests and government officials who are hypothesised to influence policy making on issues of varying types. These hypotheses are investigated in the context of state resistance to four federal laws – the Patient Protection and Affordable Care Act, No Child Left Behind Act, Help America Vote Act and REAL ID Act. The results of the statistical analysis demonstrate the centrality of the characteristics of citizens, elected officials and specialised interest groups in conditioning state resistance to federal mandates. These results suggest that state resistance can be characterised as a strategic response to federal mandates that varies systematically across types of public policies.

 Key words: complexity, federalism, policy typology, salience, state resistance

Throughout American history, states have resisted the mandates of the federal government. Such resistance has entailed lobbying for policy changes, requesting waivers from regulations, appealing for increased funds and bringing legal challenges against federal actions (Gormley 2006; Regan and Deering 2009). In recent years, the character of state resistance has evolved in two respects. First, contemporary state resistance occurs in an environment in which coercion rivals cooperation as an underlying principle of federalism (Kincaid 1990; Posner 2007). Second, the passage of nullifying legislation has become a common means of staking out opposition to federal mandates (Derthick 2001; Krane 2007; Posner 2007; Dinan 2008).

The evolution of state resistance to federal mandates has attracted the attention of researchers (Palazzolo et al. 2008; Shelly 2008; Regan and Deering 2009). This research has produced valuable insight into the politics of state resistance, such as the role of societal interests and government officials in influencing decisions to resist federal policy. The precise patterns of political influence, however, vary substantially across instances of decision making, thereby making it difficult to come to overall judgements about the operation of resistance as a strategic response to federal action.

This article examines state resistance to federal mandates through the lens of a well-established public policy framework. This framework classifies policies by salience and complexity and makes claims about the distinctive nature of the politics of policies falling into various categories (Gormley 1986). In the context of state resistance, the typology is used to develop expectations for policies of varying salience and complexity regarding the influence of societal interests and government officials over decisions to resist federal policy. These expectations are then assessed in four policy areas – health care reform under the Patient Protection and Affordable Care Act (ACA), education reform under the No Child Left Behind Act (NCLB), the provision of voter verifiable paper records (VVPR) under the Help America Vote Act (HAVA) and the modification of standards for drivers' licenses and identification cards under the REAL ID Act. By bringing together instances of varying salience and complexity under a unifying framework, the analysis examines the extent to which disparate findings on state resistance, which have to this point appeared anomalous, are in fact consistent with an overarching perspective on the politics of public policy. The results demonstrate that state resistance is a strategic response to federal action for which the underlying parameters – specifically, characteristics of citizens, elected officials and specialised interest groups – vary in systematic ways across broad classes of policies.

Research on state resistance

Given its emerging importance, state resistance to federal policy has been the focal point of a number of recent studies. This research emphasises the importance of societal interests and government officials in conditioning state resistance. In 2002, for example, Congress enacted HAVA in response to the 2000 presidential election crisis. One issue that HAVA did not resolve was the provision of paper records in electronic voting (Palazzolo et al. 2008). Given HAVA's silence on VVPR, some state governments enacted VVPR provisions of their own (Palazzolo et al. 2008). Research demonstrates that the adoption of VVPR provisions is associated with such

factors as Democratic control of state legislatures and the presence of VVPR advocacy organisations (Palazzolo et al. 2008).

In 2005, with the support of the 9/11 Commission, Congress enacted an emergency supplemental appropriations bill that included the REAL ID Act (Regan and Deering 2009). REAL ID required state-issued drivers' licenses and identification cards to include a number of standard features, such as front-facing photographs (Homeland Security New Wire 2013) and security measures to prevent tampering, duplication and counterfeiting (National Conference of State Legislatures 2005). Research demonstrates that states with larger numbers of interest groups per capita were more likely to resist REAL ID (Regan and Deering 2009).

Research on state resistance also highlights factors separate from societal interests and government officials as determinants of state resistance. In 2002, President Bush signed into law the NCLB. NCLB required states to foster accountability through instruments such as testing, school choice and the certification of teachers.[1] States that failed to implement NCLB measures were faced with the loss of federal funding (Shelly 2008). Research demonstrates the importance of overarching demographic characteristics, such as state wealth, as correlates of resistance to NCLB mandates (Shelly 2008).

Taken together, existing research suggests that the influence, or lack thereof, of societal interests and government officials over state resistance varies substantially across policy-making contexts. As a means of advancing understanding of this variation, this article conceptualises state resistance through the notion that characteristics of public policies affect the politics of government decision making (Lowi 1964). Specifically, the salience and complexity of policies are hypothesised to affect the political factors that condition state resistance to federal mandates (Gormley 1986). Grounded in this framework, the article develops a unified approach to the study of state resistance that establishes general expectations and, concomitantly, informs measurement decisions and analytical specifications across instances of resistance. This approach makes it possible to interpret variation in state behaviour as a reflection of characteristics of broad classes of public policy.

Salience, complexity and the politics of public policy

Originally developed in the context of regulatory politics, the salience-complexity framework has proven its utility in generating insight into

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[1] US Department of Education, No Child Left Behind, http://www2.ed.gov/nclb/landing.jhtml.

political participation and policy outcomes more generally (Meier and McFarlane 1993; Eshbaugh-Soha 2006; Nicholson-Crotty 2009). Salient issues are conceptualised as those that affect large numbers of people "in a significant way" (Gormley 1986, 598). For an issue to be considered salient, it must be both broad in scope and intense in conflict, as in the case of threats to necessities, cultural values and economic well-being (Gormley 1986). Examples of typically salient issues include energy, environment, employment and health and safety, with issues such as transportation, finance, commerce and communications ordinarily not generating intense, widespread attention (Gormley 1986).

Complex issues are conceptualised as those raising factual questions that "cannot be answered by generalists or laypersons" (Gormley 1986, 598). Complexity pertains to the technical aspects of issues, rather than administrative or other sources of uncertainties and difficulties (Gormley 1986). The presence of monopolies and emergence of new technologies are common indicators of complexity (Gormley 1986). Issues in policy areas such as energy, finance, environment and transportation are often high in complexity, with issues in housing, employment and consumer protection typically characterised as relatively straightforward from a technical point of view (Gormley 1986).

Both salience and complexity can vary across issues in given areas of public policy. Some health care issues, such as nursing home inspections, are less complex than other aspects of health care provision, insurance and regulation (Gormley 1986). In addition, the salience and complexity of issues can vary across time periods, as when new problems emerge, demographic conditions change and issues are redefined (Gormley 1986). Such variations imply that specific issues in particular time periods are relevant units of classification for the application of the salience-complexity typology.

The classification of salience and complexity can be approached in two basic ways. The first approach is argumentation. Such an approach was utilised when the typology was first articulated, with dozens of regulatory issues impressionistically placed into salience and complexity categories (Gormley 1986). Subsequent research also has relied heavily on argumentation as a means of classification (Meier and McFarlane 1993; Eshbaugh-Soha 2006; Nicholson-Crotty 2009). In many instances, such arguments are relatively straightforward, as when the abortion issue is classified as high in salience and low in complexity (Meier and McFarlane 1993).

Salience and complexity also have been established through quantitative indicators. Researchers have measured salience as the amount of coverage issues have received in media outlets (Gerber and Teske 2000; Ringquist et al. 2003; Nicholson-Crotty 2009). Complexity has been operationalised

as the length of laws and regulations (Gerber and Teske 2000). Although such quantitative measures are different in orientation from impressionistic classifications, research has demonstrated a high level of association between the two approaches (Gerber and Teske 2000).

Classifying state resistance

Both argumentation and quantitative measurement are utilised as a means of classifying the four episodes of state resistance considered in the article. Three of the episodes have been the subject of existing studies of state opposition (Palazzolo et al. 2008; Shelly 2008; Regan and Deering 2009). The aim in reconsidering NCLB, REAL ID and HAVA is to analyse these instances through the unifying lens of the salience-complexity framework.

The fourth episode consists of state resistance to the mandates of ACA. Signed into law by President Obama in 2010, ACA addressed a number of issues related to health care coverage and its associated costs (Stolberg and Pear 2010). Key provisions included the issuance of health insurance without regard to preexisting conditions, a mandate that individuals not covered by government or employer-sponsored plans purchase approved insurance and the expansion of Medicaid eligibility to millions of families with incomes in the vicinity of the poverty level (Kaiser Family Foundation 2012).

In a number of respects, ACA is one of the most significant social policies enacted in recent decades. According to both supporters and opponents, ACA is a defining accomplishment of the Obama administration (Zelizer 2013). ACA has been the subject of a landmark Supreme Court decision in which the justices upheld the constitutionality of the act's individual mandate (Negrin and De Vogue 2012). By any metric, ACA meets the standard of an issue that is both broad in scope and intense in conflict. As it affects a large number of Americans "in a significant way" (Gormley 1986, 598), ACA is an archetypal example of an issue that is high in salience.

ACA also serves as a benchmark for classification as high in complexity. ACA is 906 pages in length and requires the promulgation of dozens, if not hundreds, of regulations by the Department of Health and Human Services and other federal agencies.[2] ACA is complex from a technical standpoint, as it raises economic and medical questions that cannot be readily resolved by individuals without specialised training (Gruber 2011).

By a number of metrics, it is straightforward to classify NCLB as high in salience. NCLB was discussed in 52 *New York Times*' articles, whereas

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[2] The text of ACA can be accessed at http://www.gpo.gov/fdsys/pkg/BILLS-111hr3590 enr/pdf/BILLS-111hr3590enr.pdf. Information about ACA-related regulations is available at http://americanactionforum.org/rodeo-database.

neither REAL ID nor HAVA were mentioned in more than 10 articles.[3] NCLB continues to be viewed as one of the major legacies of the Bush administration, as evidenced by the fact that media outlets across the country discussed NCLB when covering the dedication, in April 2013, of the George W. Bush Presidential Library and Museum.[4] Given this sustained attention, NCLB is categorised as high in salience.

By contrast, REAL ID is classified as low in salience. REAL ID was mentioned far fewer times in the *New York Times* than NCLB. A search of the website of the Gallup organisation reveals large numbers of surveys addressing ACA and NCLB. Not a single result is returned, by contrast, for the term "REAL ID". Although the establishment of a national identification card is a concern for civil liberties advocates (Regan and Deering 2009), it is not likely that large numbers of ordinary citizens were aware of the passage of REAL ID.

Despite the seminal nature of the 2000 presidential election crisis, HAVA attracted little coverage in the *New York Times*. The provision of paper records in electronic voting is a rather specific manifestation of election reform that is not likely to resonate deeply with large numbers of ordinary citizens. For example, public hearings on a VVPR pilot project in Georgia produced "very limited" participation (Office of the Secretary of State, Georgia 2007, 24). Given the article's focus on state activism on the particular issue of VVPR, HAVA is categorised as low in salience.

HAVA also is classified as low in complexity. The foremost challenges in replacing punch card voting systems are not technical, but rather administrative in orientation. Such challenges are illustrated by the law's main objectives:

- *to establish the Election Assistance Commission to assist in the administration of Federal elections and to otherwise provide assistance with the administration of certain Federal election laws and programs;*
- *to establish minimum election administration standards for States and units of local government with responsibility for the administration of Federal elections.*[5]

NCLB also is classified as low in complexity. In the original application of the salience-complexity framework (Gormley 1986), education

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[3] These articles were identified by searching the *New York Times* for the terms "No Child Left Behind", "REAL ID" and "Help America Vote" in the year before and subsequent to the enactment of each of the laws.

[4] A search in LexisNexis reveals that 52 articles published from January to April 2013 included the following combination of terms – "No Child Left Behind", "Bush" and "library".

[5] The text of HAVA can be accessed at http://www.eac.gov/assets/1/workflow_staging/Page/41.PDF.

regulation was categorised, as a general matter, as low in complexity. NCLB's overarching aim is to reduce the achievement gap between white and minority students through instruments such as choice and accountability (Dillon 2009). This aim is to be specifically achieved by implementing initiatives designed to foster parental choice, increase the quality of teachers, provide language instruction for students of limited English proficiency and improve accountability through regular administration of standardised testing.[6] Although administratively complex, such issues can be readily understood by ordinary citizens, the vast majority of whom have spent many years of their lives in the education system as students and parents.

By contrast, REAL ID, as an application of emerging technologies (Gormley 1986), is classified as high in complexity. Key provisions of REAL ID require the use of specialised knowledge to address technical issues associated with the creation of enhanced drivers' licenses and identification cards.[7] For example, data stored on identification cards must be recorded in a machine-readable format. In addition, identification cards must incorporate security features designed to prevent fraudulent uses of encoded information.[8] Overall, REAL ID requires the resolution of factual questions that "cannot be answered by generalists or laypersons" (Gormley 1986, 598).

Expectations for political influence

As summarised in Figure 1, the four episodes of state resistance each occupy a distinctive location in the salience-complexity typology. According to the typology, each combination of salience and complexity is associated with expectations regarding the societal interests and government officials who influence policy making (Gormley 1986). Issues that are high in salience and high in complexity, such as ACA, are characterised by influence on the part of citizens and elected officials (Gormley 1986). In addition, the technical complexities associated with such issues provide specialised interest groups with opportunities to influence policy making (Gormley 1986).

Citizens and elected officials are equipped to influence issues, such as NCLB, that are high in salience and low in complexity (Gormley 1986). Although specialised interest groups possess strong preferences regarding policy outcomes in such areas, these preferences are constrained by the

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[6] The text of NCLB is available at http://www2.ed.gov/policy/elsec/leg/esea02/107-110.pdf.

[7] The text of REAL ID can be accessed at http://epic.org/privacy/id_cards/real_id_act.pdf.

[8] In the particular context of its emphasis on security features and fraud prevention, REAL ID shares similarities with banking and insurance regulations, both of which are high in complexity (Gormley 1986).
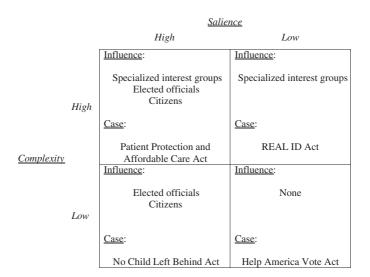
Salience

	High	Low
High	Influence: Specialized interest groups Elected officials Citizens Case: Patient Protection and Affordable Care Act	Influence: Specialized interest groups Case: REAL ID Act
Low	Influence: Elected officials Citizens Case: No Child Left Behind Act	Influence: None Case: Help America Vote Act

Complexity (left axis label, between High and Low rows)

Figure 1   Salience, complexity and political influence.

imperative to respond to politicians and public opinion (Gormley 1986). By contrast, issues that are low in salience and high in complexity, such as REAL ID, are characterised by professionalised decision making on the part of specialised interest groups and their allies in government (Gormley 1986).

Finally, issues that are low in salience and low in complexity, such as HAVA, typically experience little mobilisation of any sort (Gormley 1986). Citizens, elected officials and specialised interest groups are, for the most part, not actively involved in the policy-making process for such issues (Gormley 1986). The end result is decision making independent of such political considerations (Gormley 1986).

Operationalising state resistance

Consistent with state resistance as a general matter (Gormley 2006; Regan and Deering 2009), opposition to federal policy in the context of ACA, NCLB, HAVA and REAL ID has been manifested through a variety of instruments. This article focuses on legislative and executive resistance as the primary outcomes of interest. In recent years, the passage of legislation and signing of executive orders have been common means of opposing federal policy (Derthick 2001; Krane 2007; Posner 2007; Dinan 2008), as well as the focal point of research on state resistance (Palazzolo et al. 2008; Shelly 2008; Regan and Deering 2009). As legal actions of state governments, legislative and executive enactments are distinct in character

from alternative forms of state resistance, such as lobbying efforts and committee hearings.

State resistance to NCLB and REAL ID is measured as passage of a statute or resolution in opposition to the respective federal mandates. Both statutes and resolutions are legal enactments, with statutes placing states in direct defiance of federal law and resolutions petitioning the federal government for policy modification (Shelly 2008). Eight states have enacted statutes or resolutions in response to NCLB, whereas 21 states have utilised such approaches to oppose the mandates of REAL ID.[9] State resistance to ACA is operationalised as the enactment of statutes or constitutional amendments opting out of ACA or challenging mandatory ACA provisions. A total of 21 states have opposed ACA through such instruments.[10] In the context of HAVA, state action consists of the enactment of VVPR policy in the absence of federal legislation. A total of 29 states have engaged in this form of opposition, either through the passage of legislation or signing of an executive order.[11]

In all four cases, state resistance manifested relatively quickly. The majority of resistance to NCLB occurred during 2003 and 2004 (Shelly 2008). Similarly, state challenges to REAL ID were all enacted within an 18-month period (Regan and Deering 2009). Statutes and constitutional amendments in opposition to ACA occurred between 2010 and 2013.[12] Finally, the adoption of VVPR policy was concentrated in the 2004–2007 period (Palazzolo et al. 2008).

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[9] Information about enactments is taken from research on state resistance to NCLB (Shelly 2008) and REAL ID (Regan and Deering 2009). In an alternative specification for which the results are not substantively different, *Connecticut v. Spellings*, a lawsuit challenging NCLB, is included as a manifestation of state resistance.

[10] Information about ACA enactments is taken from the National Conference of State Legislatures (http://www.ncsl.org/documents/summit/summit2013/online-resources/State-Legislation-Opt-out.pdf). In an alternative specification, participation as a plaintiff in the *National Federation of Independent Business v. Sebelius* challenge to health care reform is used as a measure of state resistance to ACA. This lawsuit culminated in the Supreme Court ruling that upheld the overall constitutionality of ACA while striking down specific provisions. The list of states that participated in the lawsuit is available at http://www.healthcarelawsuit.us/. All 26 plaintiff states, as well as Oklahoma and Virginia, which filed separate challenges to health care reform, are operationalised as resisting states. The results of this alternative specification are not substantively different from the results of the primary analysis.

[11] Information about VVPR enactments is taken from research on state responses to HAVA (Palazzolo et al. 2008), as well as http://www.verifiedvoting.org/. Two states passed VVPR provisions in 1994, nearly a decade before the enactment of HAVA. These states – New Hampshire and South Dakota – are classified as resisting states, with the results not substantively different if these states are not classified as resisting.

[12] http://www.ncsl.org/documents/summit/summit2013/online-resources/State-Legislation-Opt-out.pdf.

Explanatory variables

To assess expectations of policy-making influence derived from the salience-complexity typology, measures of state-level characteristics of citizens, elected officials and specialised interest groups are used. As laid out in Figure 1, citizen characteristics are expected to influence government decision making on issues of high salience such as ACA and NCLB, but not in the context of low salience issues such as HAVA and REAL ID. According to this expectation, citizen characteristics are expected to influence high-salience policy making as a general matter, without regard to particular directional, substantive effects. Citizen characteristics are operationalised as the political ideology of the state's population. This variable, *Liberalism*, is constructed such that larger values denote more liberal populations (Berry et al. 1998).[13]

A similar expectation holds for elected officials. Specifically, characteristics of officeholders are hypothesised to influence, without regard to substantive direction, state resistance to federal policy on issues of high salience such as ACA and NCLB, but not low salience issues such as HAVA and REAL ID. Elected official characteristics are measured as the number of institutions of state government that are controlled by the Republican Party. This variable, *Republican*, ranges from 0 in states in which neither chamber of the state legislature nor the governorship is controlled by the Republican Party to 3 in states in which all three institutions are under Republican control.[14]

According to the salience-complexity typology, characteristics of specialised interest groups are expected to influence policy making, without regard to direction, on issues of high complexity such as ACA and REAL ID, but not in the context of low complexity issues such as NCLB and HAVA. Characteristics of specialised interest groups are operationalised as the prevalence of interest groups active in state policy making (Gray and Lowery 1996). This variable, *Interest Groups*, which has been utilised in research on state resistance (Regan and Deering 2009), is specifically measured as state population divided by the number of registered lobbying organisations.[15]

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[13] Citizen ideology data are available at http://rcfording.wordpress.com/state-ideology-data/. This variable, as well as all explanatory variables that vary on an annual basis, is measured for the year in which the respective statute was enacted (i.e. 2002 for NCLB and HAVA, 2005 for REAL ID and 2010 for ACA).

[14] This variable is coded as missing for Nebraska, which has a unicameral, nonpartisan legislature. In an alternative specification, elected official characteristics are operationalised as the political ideology of state officeholders (Berry et al. 2010). These data are available at http://rcfording.wordpress.com/state-ideology-data/. The results of this alternative specification are not substantively different from the results of the primary analysis.

[15] Information about state-level interest group populations in 1999 was provided by Virginia Gray and David Lowery. In an alternative specification, for which the results are not substantively different, specialised interest groups are operationalised as state population divided by

In addition to being a function of factors derived from the salience-complexity framework, resistance to federal action is likely affected by the determinants of state policy making more generally. As a means of accounting for such determinants, measures of three types of state characteristics are incorporated into the analysis. These measures are not designed to assess specific expectations, but rather to ensure that the results regarding salience and complexity are robust to the inclusion of factors that are typically associated with state policy making.

The first category of state characteristics consists of population demographics – the percentage of the population composed of racial and ethnic minorities (*Non-White*) and percentage of the population that is 65 years of age and older (*65 Years*). The second category measures economic conditions – the per capita income of the population (*Income*) and percentage of the population living in poverty (*Poverty*).[16] The third category – the political capacity of the state's government – incorporates into the analysis an indicator of legislative professionalism (*Professionalism*) (Squire 2007).[17]

Analysing the correlates of state resistance

The dependent variables are dichotomous indicators of state resistance to each of the federal policies under investigation. Given this construction, logistic regression is utilised to model the determinants of state opposition (Aldrich and Nelson 1984). The logit analysis is applied to cross-sectional data, with the state as the unit of observation.[18] The results of the logistic regressions are reported in Table 1.

Overall, the results of the analysis are consistent with expectations for state resistance derived from the salience-complexity typology. In Table 1, the results highlighted in bold affirm expectations regarding the societal interests and government officials who influence decision making within

the number of registered lobbying organisations in the specific policy area under investigation (i.e. health for ACA, education for NCLB, good government for HAVA and law for REAL ID).

[16] *Non-White* is the percentage of the state population that is not classified as "white alone". *Income* is personal income per capita in current dollars, measured in thousands. *Non-White*, *65 Years*, *Income* and *Poverty* were all obtained from the *Statistical Abstract of the United States* (http://www.census.gov/compendia/statab/).

[17] *Professionalism* is the professionalism index score for the state in 2003 (Squire 2007).

[18] Given that state resistance manifested relatively quickly in all four cases, event history analysis (Box-Steffensmeier and Jones 2004), a common approach to modelling state policy making, is eschewed in favour of cross-sectional estimation. Given that relatively few states have enacted statutes or resolutions in response to NCLB, the robustness of the logit analysis of the determinants of NCLB resistance is assessed by the estimation of complementary log-log and rare event logit regressions (King and Zeng 2001). The results of these alternative estimations are not substantively different from the results of the primary analysis.

Table 1. Determinants of state resistance

Variables	ACA	NCLB	REAL ID	HAVA
Variables testing hypotheses				
Liberalism	−0.20 (0.08)***	0.08 (0.03)**	−0.02 (0.03)	0.03 (0.03)
Republican	1.15 (0.63)*	0.51 (0.71)	−0.12 (0.37)	−0.08 (0.33)
Interest Groups	0.0003 (0.0002)**	0.00007 (0.00009)	−0.0002 (0.00010)**	−0.00009 (0.00009)
Control variables				
Non-White	0.03 (0.03)	0.05 (0.04)	0.05 (0.03)*	−0.03 (0.03)
65 Years	0.32 (0.23)	−0.64 (0.28)**	−0.17 (0.30)	−0.13 (0.18)
Income	−0.18 (0.25)	0.06 (0.19)	−0.17 (0.21)	0.01 (0.12)
Poverty	−0.64 (0.46)	0.25 (0.27)	−0.17 (0.29)	0.04 (0.15)
Professionalism	−8.57 (7.04)	−11.90 (5.61)**	−2.34 (3.67)	4.60 (3.58)
Intercept	18.11 (15.46)	−2.62 (8.97)	12.12 (13.10)	0.41 (5.13)
Log pseudolikelihood	−14.17	−16.75	−26.15	−30.06
Wald χ^2	17.33**	10.76	11.70	3.99
Per cent correctly predicted	87.76	85.71	71.43	71.43
Per cent reduction in error	72.09	12.50	29.27	29.27
Pseudo R^2	0.58	0.23	0.21	0.09
Number of observations	49	49	49	49
Number of resisting states	21	8	21	29

Notes: The numbers in the cells are parameter estimates from logistic regression equations. The numbers in parentheses are robust standard errors. All four equations were also estimated without *Republican*. This allows the analysis to include Nebraska, which has a unicameral, nonpartisan legislature. A number of multicollinearity assessments were conducted. Variance inflation factors, which were calculated for all four equations, indicate that multicollinearity is not a significant problem. *Income* and *Poverty*, however, are correlated at a fairly high level. All four of the equations were estimated with *Income* and *Poverty* dropped one at a time. In all alternative specifications, the results for variables testing state resistance hypotheses were not substantially affected. All hypothesis tests are two-tailed.
ACA = Affordable Care Act; NCLB = No Child Left Behind Act; HAVA = Help America Vote Act.
Statistically significant at *p < 0.1; **p < 0.05; ***p < 0.01.

particular classes of public policy. For example, the parameter estimates for *Liberalism*, *Republican* and *Interest Groups* are all statistically significant in the analysis of ACA resistance. These estimates confirm the expectation, presented in Figure 1, that citizens, elected officials and specialised interest groups all influence policy making in areas characterised by high levels of both salience and complexity.

The results also support the contrasting expectation that citizens, elected officials and specialised interest groups do not condition state resistance in areas that are low in both salience and complexity. This affirmation is demonstrated by the fact that none of the parameter estimates for *Liberalism*, *Republican* or *Interest Groups* are statistically significant in the analysis of HAVA resistance. Given that null expectations are being assessed in the context of these expectations, as well as some of the hypotheses regarding state resistance to NCLB and REAL ID, conventional standards must be adjusted as a means of ensuring appropriate evaluation. Rejecting the null hypothesis when the probability of committing a Type I false positive error is 5% stacks the deck in favour of failing to reject the null. In circumstances in which the null hypothesis is the expectation under investigation, a common approach is to utilise a more generous standard and reject the null hypothesis when the probability of committing a Type I error is at least 10% and perhaps as high as 25% (Blaylock 1979; Julnes and Mohr 1989; Hall and Grofman 1990). Given that such probability levels are exceeded in the analysis of HAVA resistance, the results confirm the null hypotheses in question.

Expectations regarding the societal interests and government officials who influence policy making vary across types of stakeholders in the context of mixed salience and complexity issues such as NCLB and REAL ID. For REAL ID, an issue that is low in salience and high in complexity, the expectation is that characteristics of specialised interest groups, but not of citizens or elected officials, affect government decision making. This configuration of expectations is confirmed by the fact that the parameter estimate for *Interest Groups* is statistically significant, whereas the estimates for *Liberalism* and *Republican* do not allow for the rejection of their respective null hypotheses.

The expectation for NCLB, an issue of high salience and low complexity, is that characteristics of citizens and elected officials, but not of specialised interest groups, separate resisting states from states that have not enacted statutes or resolutions in response to the Act. This pattern of expectations is affirmed by the statistically significant parameter estimate for *Liberalism* and the estimate for *Interest Groups* that does not cross the threshold of rejecting the null hypothesis. Among all of the variables that test hypotheses derived from the salience-complexity typology, only *Republican* in the

analysis of NCLB resistance does not match its theoretical expectation. Although elected officials are hypothesised to condition state resistance to NCLB, the estimate for *Republican* is not statistically significant.

Not only are the overall results of the analysis consistent with expectations derived from the salience-complexity typology, these results are substantively meaningful as well.[19] For example, a relatively conservative state in which *Liberalism* was one standard deviation below the mean had an 86.23% likelihood of enacting statutes or constitutional amendments opting out of ACA or challenging mandatory ACA provisions. The likelihood decreased to 4.61% for a relatively liberal state in which *Liberalism* was one standard deviation above the mean.[20]

Similarly, as the number of institutions of state government controlled by the Republican Party increased, states were substantially more likely to resist the mandates of ACA. A state in which the Republican Party did not control either chamber of the state legislature or the governorship had a 14.44% likelihood of ACA resistance. As the value of *Republican* increased to 1 or 2, the likelihood of ACA resistance increased to 30.28 and 56.04%, respectively. In states in which both chambers of the state legislature and the governorship were controlled by the Republican Party, the likelihood of enacting statutes or constitutional amendments in opposition to ACA reached 75.34%.

The prevalence of interest groups active in state policy making had a substantively significant impact on state resistance to ACA. A state in which *Interest Groups* was one standard deviation below the mean had a 15.41% likelihood of enacting statutes or constitutional amendments in opposition to ACA. The likelihood increased to 64.57% for a state in which *Interest Groups* was one standard deviation above the mean.[21]

In sum, the results offer evidence in support of expectations, drawn from the salience-complexity framework (Gormley 1986), regarding the importance of characteristics of citizens, elected officials and specialised interest groups in conditioning state resistance to federal mandates. Overall, the

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[19] To assess the substantive significance of the logit results, Monte Carlo simulations were conducted. In these simulations, all explanatory variables other than the variable of interest were held constant at their means.

[20] As another indication of the substantive importance of citizen characteristics, the likelihood of NCLB resistance increased by more than sixfold when comparing states in which *Liberalism* was one standard deviation below the mean to states in which *Liberalism* was one standard deviation above the mean.

[21] As another demonstration of the substantive significance of characteristics of specialised interest groups, a state in which *Interest Groups* is one standard deviation below the mean had a 59.68% likelihood of passing a statute or resolution in opposition to REAL ID. The likelihood decreased to 19.78% for a state in which *Interest Groups* was one standard deviation above the mean.

analysis suggests that state resistance can be characterised as a strategic response to federal action that varies in systematic ways across broad classes of policies.

State resistance and the politics of public policy

Over the past several decades, a significant shift has occurred in the character of American federalism. A long-standing emphasis on cooperation and fiscal tools has to some extent given way to coercion and regulation (Kincaid 1990). State resistance to the dictates of coercive federalism occurred with rising frequency during the presidency of George W. Bush (Krane 2007), a trend that has continued under the Obama administration (Metzger 2011). Despite its emerging importance, as well as insights generated by existing research (Krane 2007; Posner 2007), state resistance is not yet well understood as a general, strategic phenomenon. The aim of this article is to lay the groundwork, both theoretically and empirically, for analysing the overarching factors that separate resisting states from states that do not oppose federal policy.

The analysis utilises a well-established public policy framework (Gormley 1986) to develop expectations regarding the conditions under which states are likely to resist federal action. The framework identifies the societal interests and government officials who are hypothesised to influence policy making on issues of varying salience and complexity (Gormley 1986). The veracity of these hypotheses is confirmed in the context of state resistance to four federal laws (ACA, NCLB, HAVA and REAL ID).

Given the contemporary prevalence of the passage of nullifying legislation as a means of opposing federal mandates, the analysis of the four laws investigated in the article represents an initial evaluation of state resistance as a strategic response to coercive federalism. State officials have pursued nullification in a wide variety of policy areas. For example, dozens of legislatures pushed back against federal gun policy proposals in the aftermath of the 2012 Newtown, Connecticut mass shooting by introducing bills declaring such proposals null and void within state borders (Simon 2013). In Alabama, the Senate passed a bill stating that, "All federal acts, laws, orders, rules or regulations regarding firearms are a violation of the Second Amendment" (Associated Press 2013). Such examples suggest the importance of extending the research presented here across policy areas.

The article demonstrates the promise of the salience-complexity typology as an orienting framework for the analysis of state resistance. Salience and complexity condition the circumstances under which characteristics of citizens, elected officials and specialised interest groups influence state resistance. In this regard, the framework complements analyses of specific instances of state

resistance by drawing attention to factors that, as a general matter, separate resisting states from states that do not oppose federal policy.

More broadly, the application of the salience-complexity typology to state resistance illustrates the insights that can be derived from approaching issues in federalism from the perspective of the politics of the policy-making process. The typology theorises about the intersection of political mobilisation and characteristics of public policies. In making such connections, the typology, and by extension the article, integrates the study of state resistance into the wider research programme of utilising theoretical insights from political science to advance the understanding of the making and implementation of public policy.

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