

# DO LAW TITLES AFFECT THEIR FAVORABILITY AND MEMORABILITY? AN EMPIRICAL ANALYSIS OF TACTICALLY TITLED STATUTES

*Brian Sheppard\**  
*Andrew Moshirnia\*\**  
*Charles Sullivan\*\*\**

*For the last fifty years, Congress has embraced a tactical approach to naming its legislation. In that span, a distinctly American lawcraft has emerged, with official short titles frequently taking the form of acronyms (e.g., the USA PATRIOT Act), victim names (e.g., Megan's Law), or other evocative phrasings (e.g., the Ryan White CARE Act). What was once mundane and routine has become yet another opportunity for political messaging. At their best, tactical titles may be cute, clever, or even moving, but they still fail to provide useful insights about their underlying directives. It is hardly surprising, then, that they have become an object of scorn or ridicule, with scholars, commentators, and occasionally legislators calling for measures to curb the practice.*

*If tactical titles lack the power to change the likelihood of a law's passage, then we might be able to disregard the phenomenon as a silly, if trivial, pastime. But what if titles have the power to manipulate people's opinions of the laws so named? What if titles give laws an advantage by making them more likely to be noticed or remembered? Then these titles become a threat to democratic principles by harming the electorate's ability to make informed conclusions about laws and those who support them.*

*Remarkably, there has never been an empirical study of the effect of tactical titling on Americans. To fill that void, we have designed a novel experiment that isolates the effects of common title types (acronyms, victim names, sponsor names, and generic titles) on favorability and memory. This experimental design further reveals how these effects are moderated or enhanced by the political ideologies of those who read them.*

---

\* Professor of Law, Seton Hall Law.

\*\* Associate Professor & Director of Education, Business Law & Taxation, Monash University.

\*\*\* Professor of Law, Emeritus, Seton Hall Law. The authors thank Brian Christopher Jones, Kevin Tobia, Doron Dorfman, Nicholas Almendares, and the participants in the Georgetown Lab for the Empirical Study of Law & Language for their invaluable feedback, as well as Alexandra Hronas, Cara Bieber, and Neeharika Thuravil for their research assistance. We are also grateful for data provided by Jason Eiseman of the Lillian Goldman Law Library at Yale Law School and for research grants from Monash University and Seton Hall University.

*Our results indicate that tactical titles have the power to change people's opinions of underlying laws. Troublingly, this effect appears to be ideologically asymmetrical: Left-leaning participants' opinions did not exhibit a titling effect, but Right-leaning participants gave higher ratings to a law with an acronym title and lower ratings when the very same law had a victim-named title. Moreover, the effect was limited to a conservative law; we did not observe it on either a liberal or nonpartisan law. Our results also showed that, regardless of the participant's or the law's political leaning, participants were better at recalling acronym titles than our other title types.*

*The magnitude of the effect was substantial. Regarding opinion, our results indicated an average shift in the favorability of a law from a six to a nine on a ten-point scale. As to memory, participants were nearly twice as likely to remember the names of laws with acronym titles than generic titles.*

*These findings dovetail with political psychology research on negativity and in-group biases. And most importantly, they provide empirical justification for measures that seek to put an end to tactical titling.*

INTRODUCTION . . . . .	613
I. BACKGROUND . . . . .	618
A. Trends in Law Titling . . . . .	618
B. Possible Motivations for Non-Generic Short Titling . . . . .	624
1. Tactical Titling and Increasing Enactment . . . . .	627
2. Tactical Titling and Increasing Reelection . . . . .	628
3. Enactment and Reelection Strategies Coalesce Around Favorability and Memory . . . . .	630
II. AN EXPERIMENTAL APPROACH TO IDENTIFYING THE DIFFERENTIAL EFFECTS OF STRATEGIC SHORT TITLES . . . . .	631
A. Research Questions . . . . .	632
B. Hypotheses . . . . .	633
C. Study Design . . . . .	633
1. Independent Variables . . . . .	634
2. Dependent Variables . . . . .	639
3. Participant Variables . . . . .	640
D. Participants . . . . .	641
E. Readability of Scenarios . . . . .	642
III. RESULTS . . . . .	643
A. Summary of Key Findings . . . . .	643
B. Hypothesis Testing and Finding . . . . .	645
1. Acronym Effect on Perception: Right-leaning Participants Indicated a Significantly Higher Preference for an Acronym Title than a Victim Title in a Conservative Law . . . . .	646
2. Acronym Effect on Memory: Participants Who Received an Acronym Title Were Significantly	

More Likely to Remember the Title of the Law .....	649
IV. POTENTIAL EXPLANATIONS, LIMITATIONS, AND IMPLICATIONS .....	652
A. Potential Explanations .....	653
1. Findings on Favorability .....	653
2. Findings on Memory .....	659
B. Limitations of this Study and Potential Counterarguments .....	661
1. MTurk Sampling is not Necessarily Nationally Representative .....	661
2. Laws Provided may not have been Sufficiently Divisive or Broad Ranging .....	662
3. Acronyms Provided May Not have Signaled Rallying Values for Left-Leaning Individuals .	663
4. Single Exposures to Titles and Immediate Measurements are Insufficient to Gauge Long- Term Effect.....	664
C. Study Implications .....	664
CONCLUSION AND MATTERS FOR FUTURE STUDY .....	667
APPENDIX .....	669

#### INTRODUCTION

There was a time when the names of federal laws served primarily to describe their function. A characteristic example, The Act to incorporate the Foundation of the Federal Bar Association, bears a name that is also an effective summary of that law’s content, even if it is a bit cumbersome and dull. But as the volume of laws grew, so too did interest in shorter names. By the early 1970s, legislators began consistently to provide official short titles for proposed laws.

What might have been a sensible attempt at brevity, however, quickly became another staging ground for politics. In the decades that followed, short titles frequently served as rallying cries or memorable slogans, memorials for victims of tragedy,<sup>1</sup> or self-tributes of their sponsors. Working within such narrow lexical confines forces legislators to be clever, and acronyms (like the stirringly titled USA

---

1. Professor Chris Sagers lists laws named for “exploited or murdered children,” including Aimee’s Law, Jeanna’s Act, Jennifer’s Law, Kristen’s Act, Megan’s Law, Masha’s Law, Suzanne’s Law, and the Jacob Wetterling Act. *A Statute by Any Other Name Might Smell Less Like S.P.A.M., or, The Congress of the United States Grows Increasingly D.U.M.B.*, 103 GEO. L.J. 1307 (2015).

PATRIOT Act<sup>2</sup> or the aptly titled TLDR Act<sup>3</sup>) and possessive names (like Megan’s Law<sup>4</sup> or David’s Law<sup>5</sup>) have proven to be attractive solutions. Perhaps the best illustration of the evolution toward tactical titling is former Congressional Representative Jim Kolbe’s multi-decade effort to round cash transactions to the nearest nickel: he first sponsored the Price Rounding Act of 1989;<sup>6</sup> then, with a bit more flair, the Legal Tender Modernization Act<sup>7</sup> of 2001; and finally, the ostentatiously acronymic Currency Overhaul for an Industrious Nation (C.O.I.N.) Act<sup>8</sup> of 2006.

As of today, tactical titles are a distinctly American institution—commonplace on Capitol Hill but rarely seen in other countries.<sup>9</sup> Indeed, at least one country, Australia, initially dabbled in the practice only to curb it under the pressure of public outcry.<sup>10</sup> Unsurprisingly,

---

2. Uniting and Strengthening America by Providing Appropriate Tools Required To Intercept and Obstruct Terrorism (USA PATRIOT Act) Act of 2001, Pub. L. No. 107-56, §505, 115 Stat. 272, 365–66 (codified as amended at 18 U.S.C. § 2709(b) (2006)).

3. Terms-of-service Labeling, Design, and Readability Act, S.350, 117th Cong. (2021-2022).

4. Pub. L. No. 104-145, 110 Stat. 1345 (1996) (codified at 42 U.S.C. § 13701 note (2012)).

5. H.R.133, 117th Cong. (2022).

6. H.R.3761, 101st Cong. (1989) (containing provision for rounding to nearest 5-cent multiple in cash transactions).

7. H.R.2528, 107th Cong. (2001) (containing provision for rounding to nearest 5-cent multiple in cash transactions as well as provisions for commemorative \$2 federal reserve notes, fixing the design of \$1 federal reserve notes, and granting Treasury power to engrave documents for foreign governments, and clarification of seigniorage law).

8. H.R.5818, 109th Cong. (2006) (containing provision for rounding to nearest 5-cent multiple in cash transactions as well as provisions for commemorative \$2 federal reserve notes; clarification of seigniorage law, recognition of demand for \$1 coin, study on alternative metal compositions for circulating coins and effects of increasingly cashless economy, transfer of the United States Mint and Bureau of Engraving and Printing to the Federal Reserve Board, paper for currency, obsolete coins, and issuance of redesigned quarter dollars honoring the District of Columbia and each of the territories). While it is true that the breadth of the proposed legislation expanded across its three iterations, it was certainly possible for the first iteration to bear the name of an acronym, such as “N.I.C.K.L.E.” for National Implementation of Counting and Keeping Loot Easily, and the third iteration could have kept the title of the second, the “Legal Tender Modernization Act.” without sacrificing accuracy.

9. See Adam Liptak, *Laws Deserve More Than Those Cute Names*, N.Y. TIMES (Dec. 31, 2013), <https://www.nytimes.com/2013/12/31/us/colorful-names-for-laws.html>. (quoting Professor Brian Christopher Jones that the tactical titling phenomenon was “distinctively American, a reflection of our national genius for promotion.”).

10. The bulwark of social pressure is perhaps best typified in the treatment of the Industrial Relations Act in Australia and its eventual renaming to the Fair Work Act. The law was first enacted at the foundation of the commonwealth, Conciliation and Arbitration Act 1904 (Cth), and was modernized in 1988 by the Industrial Relations

the shift away from the banal and descriptive and toward the inspirational or memorable has not escaped notice. Typically, commentary has been critical. For example, a 2015 article left little doubt as to the author's view of the use of acronyms: *A Statute by Any Other Name Might Smell Less Like S.P.A.M., or, The Congress of the United States Grows Increasingly D.U.M.B.*<sup>11</sup> Other commentators have seen it as a wasteful practice, citing anecdotal evidence that Congressional staffs frequently spend significant resources on these titles, perhaps even more than they spend on the underlying laws, themselves.<sup>12</sup> Worse yet, some commentators have accused legislators of using tactical titles as smoke screens to conceal or even misrepresent the laws they name.<sup>13</sup>

These efforts suggest one reason behind the use of particular varieties of titles: to develop support for a bill that might not achieve

---

Act 1988 (Cth). At that time, the primary commission on arbitration of labor disputes was renamed the Australian Industrial Relations Commission. However, in 2005, John Howard government's amendments of the WRA began injecting rhetorical language, like the "WorkChoices" amendment. Workplace Relations Amendment (WorkChoices) Act 2005 (Cth). While WorkChoices ultimately failed, Labor prevailed in the 2007 elections and injected additional rhetoric in the repeal of WorkChoices, as the political-value-signaling Fair Work Act 2009 (Cth) substantially revised Australia's labor approach and coincided with the renaming of the Australian Industrial Relations Commission to Fair Work Australia, an omnibus agency which superseded six commissions (and was later renamed to Fair Work Commission in 2013). The initial use of WorkChoices and the subsequent government's responsive change of title of the IR commission and the industrial relations/workplace relations law brought about significant public commentary. The "Fair Work" language tracked campaign rhetoric that brought the government to power ("Forward with Fairness"), and commentators regarded as inappropriate the renaming of a commission in line with political slogans. This sort of criticism was renewed whenever FWA was viewed as performing suboptimally. "Titles and names matter when they are associated with confused roles, let alone associated with public ridicule." *ACCI urges 'neutral' name for Fair Work*, ABC News (Apr. 18, 2012), <https://www.abc.net.au/news/2012-04-18/acci-calls-for-fair-work-australia-to-be-renamed/3958480>.

11. Sagers, *supra* note 1, at 1307.

12. Chrissie Long, *Lawmakers Turn to Catchy Names for Bills*, THE HILL (Apr. 21, 2005, 12:00AM EDT), <https://thehill.com/homenews/news/8710-lawmakers-turn-to-catchy-names-for-bills/> (quoting senator's communications director that "it probably took our legislative assistant longer to come up with the title [the "SACRIFICE Act"] than the legislation itself."). Legislators these days rarely draft the bills they sponsor, which may be devised and revised by lobbyists or staffers for individual Members or for congressional committees. Presumably, however, the sponsors approve the original bill, including any name.

13. Sagers, *supra* note 1, at 1309 ("Many of these titles—so seemingly happy and clever—conceal legal substance that is at best trivial, and sometimes fairly malevolent. The case here will be that they betray a more general malaise of the men and women who govern us. The lesson the words teach in this case is that trading in symbols, for their own sake, has come to replace even bare familiarity with substantive policy or responsibility for its consequences.").

passage were it more accurately named.<sup>14</sup> An advantage of that sort could be a function of whether the title is noticed and remembered, which in turn could make the underlying law more favorable in the minds of a relevant constituency. If tactical titling provides an advantage, then there is reason to believe that the practice will not stop without external pressure. If it does not, then legislators might decide to end it on their own.

The time is ripe to examine this phenomenon in light of recent efforts to tame the practice. For example, in 2019, South Carolina state senators banned themselves from attaching the names of people or animals to bills “in an effort, they say, to keep emotions out of policy making.”<sup>15</sup> They are even considering striking names from bills sent over by the state House of Representatives, which does not have a similar rule.<sup>16</sup>

If these stimulating but uninformative titles affect voter opinion and, in turn, proposed legislation is eventually enshrined into our system of laws, then reform efforts to curb their use would be justifiable protections of the democratic process. That threshold question is, of course, an empirical one. Yet, despite the fact that tactical titling is a regular practice in the United States, there has never been a published scientific study of whether Americans are receptive to them.<sup>17</sup>

---

14. Sagers, *id.* at 1325 (“But there is little doubt that the naming of bills in this country has come to be part of a crass game in service of goals like legislative victory and campaign-trail self-congratulation.”); Brian Christopher Jones, *The Congressional Short Title (R)Evolution: Changing the Face of America’s Public Laws*, 101 KY. L.J. O. 42, 62 (2012–13) (suggesting that “titles are no longer merely referential points but have multiple purposes,” including as legislative tactics and ability to affect the passage of legislation); Jess Bravin, *Congress Finds, in Passing Bills, That Names Can Never Hurt You*, WALL ST. J. (Jan. 14 2011), at A1, <http://online.wsj.com/article/SB10001424052748703820904576057900030169850.html>. See also Brian Christopher Jones, *Drafting Proper Short Titles: Do States Have the Answer?*, 23 STAN. L. & POL’Y REV. 455, 460 (2012) (reporting interviews with individuals involved in the federal legislative process in which a majority believed that “bill titles may be affecting whether or not a measure becomes law. A majority of my interviewees took this viewpoint. Even lawmakers stated without hesitation that bill names do indeed influence legislative outcomes, including voting tallies.”).

15. Avery G. Wilks, *SC Senators Ban Naming Laws after People, Animals*, THE STATE (Apr. 23, 2019), <https://www.thestate.com/news/politics-government/article127903459.html>.

16. *Id.*

17. The closest analog we were able to locate was a 2013 study involving Scottish graduate students participating in an experiment with different experimental variables than ours and which did not identify the political lean of the participants, among other differences. Brian Christopher Jones, *Manipulating Public Law Favorability: Is It Really This Easy?*, 2 BR. J. AM. LEG. STUDIES 511, 511–32 (2013).

To address this gap in the literature, we designed an online survey experiment that isolates the effect of tactical law titles and we evaluated the responses of 524 American adults.<sup>18</sup> Our results give credence to the fear that simply changing the title of a law can alter opinions regarding the desirability of that law. They further suggest that this effect is ideologically asymmetrical. Specifically, Right-leaning participants showed higher opinions of a conservative law when that law had an acronym title than when the same law had a victim-named title, but Left-leaning participants maintained the same opinions regardless of a law's title or its ideological valence. This effect was substantial—on average, it was the difference between participants giving a six and giving a nine on a ten-point scale of favorability. This study also revealed evidence that tactical titling can affect memory. Our participants were better able to remember acronym titles regardless of the political lean of the participant or the law—acronym titles were significantly easier to remember than generic titles. These results should invigorate efforts to change federal titling practices.

This Article proceeds in four parts. In Part I, we explore the background of tactical titling, outlining the trends in law titling and the possible motivations for non-generic short titling: a desire to in-

---

18. We use an experiment to test intuitions regarding the consequences (and probable motivations) for a legislative practice that has been accused of running afoul of shared normative commitments. Broadly speaking, then, our project may be categorized as work in the emerging field of experimental jurisprudence or “XJur.” See Kevin Tobia, *Experimental Jurisprudence*, 89 U. CHI. L. REV. (forthcoming 2022) (manuscript at 4), [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3680107](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3680107), citing Julie Dickson, *Ours Is a Broad Church: Indirectly Evaluative Legal Philosophy as a Facet of Jurisprudential Inquiry*, 6 JURISPRUDENCE 207 (2015) (describing the field of experimental jurisprudence and following Julie Dickson in defining the jurisprudence component broadly to include, among other things, normative questions about what law should be). But this characterization might seem an odd fit. Borrowing H.L.A. Hart’s famous framework, contemporary jurisprudence is frequently occupied with concepts that are pertinent to Hart’s idea of a secondary rule of recognition (such as inclusive and exclusive legal positivism) or that have arisen pursuant to interpretation of substantive law (such as causation, reasonableness, or punishment). H.L.A. HART, *THE CONCEPT OF LAW* 90–92 (1961). Our project, by contrast, makes contact most directly with Hart’s secondary rules of change, which govern legislative amendment, repeal, and creation. *Id.* at 93. That is, we are most concerned with how empirical data will bear upon the appropriateness of a legislative practice—namely, tactical titling. Therefore, it might be most helpful to describe this project as operating within a sub-specialty of XJur—namely, experimental legisprudence. Cf. Julius Cohen, *Towards Realism in Legisprudence*, 59 YALE L. J. 886, 897 (1950) (“Realism in jurisprudence calls for a working arrangement between science and judicial law. Realism in legisprudence calls for a similar arrangement with legislative law. Both are but facets of a single purpose—the illumination of the pathways of policy-making with the best light that human knowledge and experience can possibly provide.”).

crease the likelihood of the law's enactment and of the drafters' reelection. Part II outlines the experimental design used to evaluate the effectiveness of different law titles on the reader's perception of the law and the retention of information about the law. Part III provides the results of that experiment, with the main finding that titles can have an impact on reader perception, with that impact evident in Right-leaning subjects considering a conservative law, and on the retention of the law title itself. Part IV discusses explanations, limitations, and implications of those results, including the asymmetrical impact of titles. We conclude by evaluating the potential for title misuse and highlighting issues for future study.

## I.

### BACKGROUND

Since Capitol Hill politicians are singular in their fondness for tactical titling, this Article seeks to use behavioral experimentation to isolate the role that distinctly American political traits play in naming law. Its experiment tests whether plausible titling choices from American lawmakers affect the things that those lawmakers likely care about. More particularly, the experiment's independent variables track popular short titling choices in the United States Congress, where the phenomenon of evocative titling has been best documented. Its dependent variables reflect outcomes that those lawmakers are likely to want when the act of selecting a short title is early enough in the legislative process to permit the widest span of influence. Moreover, participants' Right/Left political lean served as a variable, a meaningful distinction in America's binary political ecosystem.<sup>19</sup> In the following sections, we consider these items in turn, focusing first on the manner in which titling practices have changed over time and thereafter on the possible motivations for these changes.

#### A. Trends in Law Titling

Congress' earliest statutes had cumbersome descriptive titles that did not serve as the popular names for those laws.<sup>20</sup> The absence of

---

19. See, e.g., LEE DRUTMAN, *BREAKING THE TWO-PARTY DOOM LOOP: THE CASE FOR MULTIPARTY DEMOCRACY IN AMERICA 2* (2020) ("America now has a genuine, fully sorted, two-party system. . . . This new era is qualitatively different: two distinct, national party coalitions organized around two distinct visions of American national identity, each claiming to represent a true majority.").

20. Indeed, Congress named its very first statute "An Act to regulate the Time and Manner of administering certain Oaths," and its contents reflect the name. 1 Stat. 23 (1789) (setting forth the oath's content and timing, as well as the positions for which it must be taken). The most careful history of federal naming conventions is Renata



an official short-hand available to refer to a federal statute was hardly a problem; the relatively small number of laws at that time made it unlikely that confusion about the law to which one was referring would occur.<sup>21</sup> As the number of laws grew, however, an unofficial convention arose in which laws were given the name of the legislator who sponsored them and, after that proved less useful, the addition of a brief subject matter descriptor.<sup>22</sup> On the official side, the long-winded system persisted until the mid-19th Century, when Congress adopted a chapter-based numerical index for its laws based on their collection in the *Statutes at Large*.<sup>23</sup> About five decades later, this system was supplemented, and eventually replaced, with one that organized laws by their public or private status.<sup>24</sup> Even with these changes, the official system was not particularly effective in reducing ambiguity and maximizing efficiency as it did not indicate the subject matter of a statute and the alternative of listing the long title proved inconvenient.<sup>25</sup> Nor did it replace the unofficial sponsor-descriptor naming convention that prevailed in ordinary talk.<sup>26</sup>

In 1920, however, Congress began the practice of declaring official short titles for statutes—a system that allowed it to provide authoritative, unique, concise, and substantive names for legislation—but it did so only in fits and starts over the next fifty years.<sup>27</sup> In the 1970s, Congress began to declare short titles consistently, and it has not deviated since.<sup>28</sup> As a consequence, the general public became much more likely to use official names, reducing the demand for alternative, unofficial names.<sup>29</sup>

This is not to suggest that the popular names for *all* federal legislation are set when Congress first declares an official short title. Sometimes, names pick up currency from the media or from other legislators during the enactment process.<sup>30</sup> The complexity of the pro-

---

E.B. Strause, Allyson R. Bennett, Caitlin B. Tully, Douglass Bellis & Eugene R. Fidell, *How Federal Statutes Are Named*, 105 *LAW LIBR. J.* 7, 14–17 (2013).

21. *Id.* at 15.

22. *Id.* at 16–17.

23. *Id.* at 14.

24. *Id.* at 14–15.

25. *Id.* at 18.

26. *Id.*

27. *Id.* at 20–25.

28. *Id.* at 25.

29. *Id.*

30. Jones, *Drafting*, *supra* note 14, at 474–75 (“Most bills usually attain colloquial names at some point in the process. . . . Inevitably, this is as much a part of the policy process as inscribing official short titles, as supporters, opponents, and others like to frame the issue from the most beneficial perspectives possible. These colloquial, or ‘popular,’ names are tracked just as official titles are tracked.”).

cess is apparent in the United States Code's POPULAR NAME TABLE and similar finding aids,<sup>31</sup> which show that frequently laws continue to have both official and unofficial titles. Famously, people are much more likely to call the Patient Protection and Affordable Care Act the "Affordable Care Act," "ACA," or even "Obamacare."<sup>32</sup> Further, not all statutes start life with the appellation they later acquire. Even aside from unofficial "popular names," some existing statutes are formally short-titled by subsequent legislation. For example, the Sherman Act was not generally so called in 1890 when it was passed, but it gained currency under that name over the next few decades and was finally retroactively given that official short title only in 1976.<sup>33</sup>

It is clear, however, that Congress's embrace of the official short title in the 1970s permitted that legislative body to become the chief architect of the popular names for its statutes. And that new power brought political opportunities. Up to that point, the evolution of official titling answered primarily to changing lexical and clerical needs. Once official titling took hold, however, Congressional naming more frequently adopted a style suggesting that members of Congress saw short titles as a means to advance political rather than organizational goals.<sup>34</sup> More often, Congress began devising what commentators have described as "clever"<sup>35</sup> "Rococo,"<sup>36</sup> "whimsical,"<sup>37</sup> "cute,"<sup>38</sup> or

---

31. Other sources have similar popular names tables. Jones, *Drafting*, *supra* note 13, at 474–75.

32. 161 CONG. REC. S8258 (daily ed. Dec. 2, 2015) (Statement of Sen. Lankford) ("It is interesting to me how now this is really called ObamaCare or the Affordable Care Act. Almost no one calls it the Patient Protection and Affordable Care Act, when that was originally its name, and now for some reason patient protection has been dropped from our vernacular when this bill is discussed.").

33. Mary Wishner, *What's in a Statute Name?*, 97 LAW LIBR. J. 169, 174–75 (2005).

34. Sagers, *supra* note 1, at 1323 ("There now exist so many clever acronomial statutes that it's hard to believe they provide any organizational value, and indeed several now even have the same clever acronym.").

35. *Id.* at 1309 n.11 ("But following the election of Democratic House leadership in 2006 and Democratic control of the White House and Senate in 2008, the pace of aspirationally clever, acronymically named statutes only quickened. Some acronym titles, like the DREAM Act and the signature "cash for clunkers" incentive program of 2009, formally called CARS, have been closely linked to the Obama White House itself.").

36. Strause et al., *supra* note 20, at 26 (describing uptick in tactical titling as "Rococco Efflorescence").

37. Brian Christopher Jones, *SCOTUS Short Title Turmoil: Time for a Congressional Bill Naming Authority*, 32 YALE L. & POL'Y REV. INTER ALIA 25, 25 (2013) (listing All-STAR Act of 2013, S. 1083, 113th Cong. (2013) (Students Achieving through Reform) and STOP IRS Act, H.R. 2565, 113th Cong. (2013) (Stop Targeting Our Politics), among others).

“emotion-laden”<sup>39</sup> names. In addition, and consistent with prior unofficial practice, they frequently named laws after the members who sponsored those laws.<sup>40</sup>

Two recent articles described titling conventions. One studied titles in the 93rd to 111th Congresses (1973-2011), sorting them into four categories.<sup>41</sup> Another compiled a searchable database that not only listed statutory titles, but also characterized them in a more granular way.<sup>42</sup> The database included six overlapping categories for names that bespeak political spin:<sup>43</sup> (1) laws named for the legislation’s sponsor,<sup>44</sup> (2) laws named for the victim of a crime, (3) laws named in honor of someone as a laudatory gesture,<sup>45</sup> (4) laws named after an individual whose behavior exemplifies what the law is intended to remedy, (5) laws with short titles that produce an abbrevia-

---

38. Liptak, *supra* note 9 (“Laws used to have boring names, like the Telecommunications Act of 1996. . . . For better legal marketing, consider the U.S.A. Patriot Act (for Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism), the Dream Act (for Development, Relief and Education for Alien Minors) and the Disclose Act (for Democracy Is Strengthened by Casting Light on Spending in Elections)”).

39. Irina Fanarraga, *What’s in a Name? An Empirical Analysis of Apostrophe Laws*, 21 CRIMINOLOGY CRIM. JUST. L. & SOC. 39, 39–40 (2020) (“Megan’s Law, the AMBER Alert Act, the Brady Act, Caylee’s Law, and the Adam Walsh Child Protection and Safety Act are a few of the most well-known and most often studied examples of apostrophe laws. . . . Although these laws tend to be dismissed as emotion-laden, reactive legislation with little substance, the present analysis demonstrates that more complex dynamics are at play.”).

40. Strause et al., *supra* note 20, at 19–20 (discussing unofficial titling with sponsor names through 19th and early 20th centuries).

41. Jones, (*R*)*Evolution*, *supra* note 13, at 46–49 (identifying four “particular styles, including: Personalized Titles, which includes a “wide range of names, from lawmakers to national heroes;” Key Action/Attribute Titles, which “explicitly state[s] an action will take place. Common words used in these titles are ‘prevention,’ ‘protection,’ and more recently, ‘improving;” Acronym Titles; and Bland/Technical Naming.”).

42. Strause et al., *supra* note 20, at 7.

43. *Id.* at 26.

44. *Id.* (“Although the use of sponsors’ names to identify legislation has been common practice for more than a hundred years, the practice of including the names of sponsors in an enacted short title took root in the 1970s. With few exceptions, statutes are known by a hyphenated moniker that nearly always includes the last names of the primary House and Senate sponsors.”).

45. *Id.* at 27–28 (“An additional convention for short titles is to honor individuals. Frequently the honorees are advocates associated with the fight for the legislation, such as the Lilly Ledbetter Fair Pay Act of 2009, named for the plant manager at Goodyear who famously sued the company for sex discrimination in its pay practices. . . . Other laudatory names honor recently deceased members of Congress or retiring members who are also the bill’s sponsor.”).

tion that is itself a word,<sup>46</sup> and (6) a “leftover” category of laws named with overtly political descriptions, but which do not fall easily into one of the other categories.<sup>47</sup>

Despite their differing typologies, both articles concluded that there had been a recent upsurge in political, non-generically descriptive short titles.<sup>48</sup> Other authors have focused on a single category of non-generic names and observed a similar increase in frequency. Professor Sagers focused on the explosive proliferation of acronymic federal statutes, observing that “[t]here appear to have been only three of these things in the entire history of the United States prior to 1988” but in “the twenty-seven years since then, there have been nearly one hundred.”<sup>49</sup> Irina Fanarraga, a researcher of victim-named laws at John Jay College, found that the first such law was enacted in 1990 but that nearly fifty of them had been enacted in the next three decades.<sup>50</sup>

State law titling has not received as much scholarly attention as its federal counterpart, but there is evidence that it exhibits the same trend. In a study of both state and federal law, Teresa Kulig and Francis Cullen noted that “[l]aws named after specific crime victims have become increasingly common”<sup>51</sup> and found significantly more state laws in that category than federal laws.<sup>52</sup> And in some states, such as New York, journalists have noted the increasing appeal of acronym

---

46. *Id.* at 28 (“As they began to have political salience, short titles grew long. People began to refer to these acts not by their lengthening short titles, but by acronyms based on abbreviations that were sometimes rather loosely drawn from those short titles. In effect, they developed short titles for the short titles.”).

47. *Id.* at 30 (“Names like the ‘Pro-Children Act of 2001’ or the ‘Justice for All Act of 2004’ put opponents of the legislation at a rhetorical disadvantage, implying they are anti-children or in favor of justice only for some.”).

48. Jones, (*R*)*Evolution*, *supra* note 13 at 56, 62. The article documents a marked shift over the period studied towards personalized and acronymic titles over the previous two decades. *Id.* at 56. Similarly, it notes a shift towards “Key Action/Attribute Titles and away from descriptive ones, including an upswing in the use of “evocative words.” *Id.* at 62; *see also* Strause et al., *supra* note 20, at 30 (“The use of official short titles in the United States remained rare until the 1970s but by the 1990s had become all but mandatory. However, their very popularity has led to their increasing use for political reasons rather than as a means of providing a needed short reference to a given law that otherwise has none.”).

49. Sagers, *supra* note 1, at 1308. Professor Sagers lists acronymic titles of dozens of federal statutes at 1315–20.

50. Fanarraga, *supra* note 39, at 45–47.

51. Teresa C. Kulig & Francis T. Cullen, *Where is Latisha’s Law? Black Invisibility in the Social Construction of Victimhood*, 34 *JUST. Q.* 978, 978 (2017).

52. *Id.* at Appendix.

titles to state legislators.<sup>53</sup> In other states, however, stricter drafting rules on short titles might be making it harder for lawmakers to deviate from ascribing generic descriptive names to legislation. Professor Jones found in 2012 that several such states were more likely than the federal government to have laws with plain, descriptive names.<sup>54</sup>

There are signs that the evolution in naming has entered a darker chapter. At their most manipulative, lawmakers have selected titles that have little to do with the content of the law they name, leading some commentators to accuse them of deceit<sup>55</sup> or malevolence.<sup>56</sup> Most recently, commentators have observed that non-generic naming has been more likely to be hostile or adversarial in tone, sometimes through the selection of short titles that mimic partisan slogans.<sup>57</sup> During the Obama Administration, Republican lawmakers sometimes introduced legislation under highly partisan short titles such as the “Revoke Excessive Policies that Encroach on American Liberties Act (REPEAL) Act” (attempting to overhaul Obama’s healthcare law),<sup>58</sup> the “Reducing Barack Obama’s Unsustainable Deficit Act,”<sup>59</sup> or “Reversing President Obama’s Offshore Moratorium Act.”<sup>60,61</sup> Not to be outdone, several Democratic lawmakers during the Trump Administration resorted to mocking or insulting monikers, pushing bills with short titles such as “the COVFEFE Act of 2017”<sup>62</sup> (referencing an infamous Trump tweet typo), “MAR-A-LAGO Act”<sup>63</sup> (referencing his

---

53. See, e.g., Rebecca C. Lewis, *Best Bill Acronyms, from SAFE and DREAM to TRUMP and CREEPER*, CITY & STATE NY (Jan. 14, 2018), <https://www.cityandstateny.com/policy/2018/01/best-bill-acronyms-from-safe-and-dream-to-trump-and-creeper/180889/>. (“The state Legislature considers hundreds of pieces of legislation every year, many of which never make it past committee. One way to make a bill stand out? Give it a snappy acronym as a name.”).

54. Jones, *Drafting*, *supra* note 13 at 472–73 (2012).

55. Liptak, *supra* note 9.

56. Sagers, *supra* note 1 at 1309 (“Many of these titles—so seemingly happy and clever—conceal legal substance that is at best trivial, and sometimes fairly malevolent. . . . The lesson the words teach in this case is that trading in symbols, for their own sake, has come to replace even bare familiarity with substantive policy or responsibility for its consequences.”).

57. Mark Abadi, *Democrats Are Finding a Creative Way to Sneak in Trump Insults*, Bus. Insider (June 18, 2017, 2:33PM), <https://www.businessinsider.com/bill-acronyms-titles-trump-congress-covfe-fe-act-2017-6>.

58. H.R.145, 112th Cong. (2011).

59. H.R.3140, 111th Cong. (2009).

60. H.R.1231, 112th Cong. (2011).

61. Richard Simon, *Congress Turns Bill Titles into Acts of Exaggeration*, L.A. Times (June 19, 2011, 12:00AM), <https://www.latimes.com/world/la-xpm-2011-jun-19-la-na-0620-titles-20110620-story.html>.

62. H.R.2884, 115th Cong. (2017).

63. H.R.1711, 115th Cong. (2017).

vacation property), “the No REX Act”<sup>64</sup> (referencing one of the Secretaries of State in the Trump Administration Rex Tillerson), and “No TRUMP Act of 2017.”<sup>65,66</sup> Notably, none of these examples became enshrined in federal law, but there can be little doubt that law titling has become a fertile ground for partisan political maneuvering.

If non-generic titles are serving partisan ends, and the two dominant parties in Congress pursue divergent ideologies, it is fair to wonder whether certain title types are more attractive to one party. While providing a comprehensive or exhaustive semiotic answer to this question is beyond the bounds of this Article, there is reason to believe that individual short title types are not equally appealing across party lines. There is evidence that Republicans are fonder of victim-based titles than are Democrats: Fanarraga analyzed victim-based laws between 1990 and 2019 and found that nearly twice as many were introduced by Republican sponsors, even though Democrats were the main sponsors of nearly sixty percent of all enacted laws during that period.<sup>67</sup> Acronym laws, however, appear to be a more popular choice for Democrats: journalist Noah Veltman’s database of all acronym bills introduced between 1973 and 2013 indicates that Democrats introduced over five hundred more acronym bills during that period than did Republicans.<sup>68</sup> Among lawmakers who introduced such bills, Democrats averaged 5.3 bills per lawmaker, whereas Republicans averaged only 3.1.<sup>69</sup> Ironically, we will see that there is some tension between these realities and our findings regarding probable reactions of voters aligning on either side of the political spectrum.<sup>70</sup>

### B. Possible Motivations for Non-Generic Short Titling

The creation of non-generic short titles can expend significant lawmaker resources.<sup>71</sup> Indeed, there is evidence that coming up with an evocative short title can take more effort or time than the drafting

---

64. H.R.2145, 115th Cong. (2017).

65. H.R.1452, 115th Cong. (2017).

66. See Abadi, *supra* note 57.

67. Fanarraga, *supra* note 39, at 49.

68. Noah Veltman, *Congressional Acronym Abuse, 1973-2013*, NOAH VELTMAN, <https://noahveltman.com/acronyms/#legislators> (last visited Apr. 20, 2022).

69. *Id.*

70. See discussion, *supra* Part III.

71. See Bravin, *supra* note 13 (stating that legislators “obsess” over finding “the most catchy, popular, emotional title they can come up with.”); Long, *supra* note 11 (“‘The naming of bills can take hundreds of minds,’ said Don DeArmon, legislative director for Rep. Lucille Roybal-Allard (D-Calif.). For the Sober Truth of Preventing Underage Drinking (or STOP Underage Drinking) Act of 2004, seven Hill offices were included in formulating the name of the bill.”).

or even considering the underlying legislation itself.<sup>72</sup> Insiders have characterized the hurried consideration of the jingoistic USA PATRIOT Act as such an example.<sup>73</sup> It is reasonable to assume, then, that these efforts occur because lawmakers believe doing so will yield some sort of benefit. We follow other scholars and dismiss the notion that this trend is primarily the byproduct of trivial motives, such as an increased interest in crafting aesthetically pleasing or funny law titles or staving off boredom.<sup>74</sup> But what are legislators seeking to maximize when they select short titles?

Before any attempt to untangle legislator motivation, it is necessary to clarify our aims. There is a vast literature, much of it coming from Public Choice theorists,<sup>75</sup> regarding legislator motivation.<sup>76</sup> Thankfully, our goal of providing the theoretical basis for our selection of dependent variables does not require us to divine the precise mix of motivations. Rather, we are primarily interested in whether the choice of a title impacts any of the basic goals that legislators are

---

72. See Long, *supra* note 11; cf. Strause et al., *supra* note 20 (“Rumor has it that staff spent a great deal of their time during the rather hurried consideration of the [PATRIOT Act] devising this short title.”).

73. *Id.*

74. Sagers, *supra* note 1, at 1322–23; Fanarraga, *supra* note 39, at 53.

75. William F. Shughart II, *Public Choice*, in CONCISE ENCYCLOPEDIA OF ECON. (2021), <https://www.econlib.org/library/Enc/PublicChoice.html> (discussing formation of the field over fifty years ago and stating one of its central tenets is “bureaucrats strive to advance their own careers; and politicians seek election or reelection to office.”).

76. Scholars in that field typically fall into three camps: (1) those who believe that legislators act exclusively to advance their view of the public interest, often pursuant to an ideology; (2) those who believe that legislators act only to pursue their own selfish ends, most typically their own reelections; and (3) those who believe that legislators act in some combination of these interests. See, e.g., Neal Devins, *Why Congress Does Not Challenge Judicial Supremacy*, 58 WM. & MARY L. REV. 1495 (2016) (“In part, lawmakers are uninterested in abstract questions of institutional power; instead, lawmakers are interested in advancing their vision of good public policy, winning reelection, and gaining personal power within Congress.”); Philip P. Frickey & Steven S. Smith, *Judicial Review, the Congressional Process, and the Federalism Cases: An Interdisciplinary Critique*, 111 YALE L.J. 1707 (2002) (“They differ in assumptions about the political motivations of legislators (policy, reelection, or progressive ambition) and about the identity of other players relevant to goal achievement (the President, interest groups, the electorate, the courts, and so on). . . . Simply stated, there is no single positive political theory of legislative decisionmaking.”); Elizabeth Garnett & Adrian Vermeule, *Institutional Design of a Thayerian Congress*, 50 DUKE L.J. 1277, 1286–88 (2001) (stating scholars believe legislators either (1) act in the public interest, (2) act to maximize chances of reelection or personal gain, or (3) pursue a complex set of public and personal goals). Lawmakers are human beings, after all, and have the same complex psychology that the rest of us do. It is unsurprising, then, that the third, mixed option receives the most empirical support. *Id.* at 1288.

hypothesized to pursue. Imagine that legislators generally possess some combination of self-interest and interest in advancing a social welfare agenda. For our purposes, if both of these interests are furthered by maximizing the likelihood that a law will be favored, then the precise mixture of interests is unimportant so long as we are measuring the change in favorability.

Nor does our inquiry require us to consider all the ways that the name for legislation might have a bearing on legislator motivation. Because we are ultimately interested in the effects of tactical, official short titles, we limit our scope to when the sponsors of a bill deploy an official short title at the outset or very early in the legislative process.<sup>77</sup> This excludes situations where they might simply be following the momentum of an unofficial name pre-selected by the public or the media, as well as the exceptional situation in which a law is retroactively given an official short title after enactment. Furthermore, it gives the choice of title the widest possible sphere of influence, making it less likely that we will overlook an important source of motivation. With these parameters in mind, we now consider how legislators think.

A natural starting point is to examine lawmakers' (and their staffs') stated motivations for engaging in non-generic short titling. When it comes to acronymic or morally evocative titles like victim names, these individuals frequently mention that their goal was to create something attention-grabbing and memorable.<sup>78</sup> In addition, they have indicated that they are attracted to titles with emotional or patriotic pleas because those titles make it harder for potential opponents to vote against the underlying law. As former representative John Duncan, Jr. put it, "Since 9/11, nobody wants to vote against anything with the word 'security' in it."<sup>79</sup>

---

77. Sponsors might, of course, hope that the official short name in the statute or the unofficial "popular name" bestowed at the end of the process was theirs, but this can be ensured only by enshrining the name(s) in the statute's official "short title," which is subject to the vagaries of the legislative process. For example, the chief sponsors of the Sarbanes-Oxley Act of 2002, Pub. L. No. 107-204, 116 Stat. 745, were memorialized in the statute's ultimate short title (although the acronym "SOX" may deprive them of some of the name recognition their short title may have otherwise generated), but earlier versions of the House and Senate bills lacked that sobriquet. 107 H.R. 3763, for example, was the "Public Company Accounting Reform and Investor Protection Act of 2002."

78. Long, *supra* note 11 (discussing interviews with Congressional staffers in which stated motivations were frequently "branding;" "press," or "marketing reasons.").

79. Bravin, *supra* note 13.



### 1. *Tactical Titling and Increasing Enactment*

These self-descriptions suggest that lawmakers believe names of this sort will make it more likely for a law to be noticed, remembered, and liked, which will, in turn, increase the likelihood of the law's enactment. Assuming that enactment is desired, that would explain why legislators would be attracted to tactics that can help get bills over the finish line. Since the titling trend began, only about 1 in 20 bills regardless of title eventually became enacted laws.<sup>80</sup> Thus, tactical titling might be borne of desperation: a name that gets attention and support, particularly from the media or public, could very well increase the odds of enactment.

Many of those scholars who have studied this legislative behavior from the outside have reached similar conclusions regarding likely motivations.<sup>81</sup> For example, Fanarraga's analysis of victim-named laws revealed that over half had been introduced without references to victims and only succeeded in becoming laws after they were *reintroduced* with victim names, leading her to conclude that it was more likely that these laws were used to pass legislation advancing their sponsors' pre-existing political agendas than for purely symbolic reasons.<sup>82</sup>

---

80. *Statistics and Historical Comparison*, GOV TRACK, <https://www.govtrack.us/congress/bills/statistics> (last visited Apr. 23, 2022) [<https://perma.cc/FX7F-4GY5>] (showing in period from 1973 to 2020, bills achieved success between 2% and 7% in any individual year). This low success rate might suggest that bills are commonly introduced with no appreciable chance of enactment. That in turn might suggest that many are advanced mainly to burnish the reputations of the sponsor among voters or interest groups, and titling might well be perceived to further that goal.

81. Long, *supra* note 11 (“‘With everything that is going on at Capitol Hill, congressmen have recognized that, to get their bills passed, they need media interest and public support,’ said Diana Owen, professor of political communication at Georgetown University. ‘Devising a creative title is a good strategy, if you want to get that media attention.’” and “[t]o succeed, every bill needs to get some public attention and public support so that you know what voters want,’ Senate historian Don Ritchie said. ‘One way to do that is to come up with a name that people will remember.’”); Sagers, *supra* note 1 (“‘Instead, the clever-names phenomenon seems to be mostly political. That is, at a minimum, it is intended to persuade.’”); DAVID GARLAND, *THE CULTURE OF CONTROL* 143 (2001) (describing motivation for victim-named laws as “public display and political advantage”); Jones, *Congressional Short Title (R)Evolution*, *supra* note 14, at 63 (linking motivation to increasing likelihood of enactment as well as reelection); Strause, et al., *supra* note 20, at 29–30 (“‘To some extent, of course, nearly all legislative names that are more than a dispassionate description are politically charged. Legislators are, after all, in the business of passing legislation and getting credit for doing so with the voters. The opportunity to enhance the chances of success by making nonsubstantive changes to a bill’s name is an easy choice.’”).

82. Fanarraga, *supra* note 39, at 53.

The name-enactment connection may be accomplished by influencing fellow legislators, but presumably the ultimate target is usually the voting public or at least that segment that pays attention (or perhaps is more likely to pay attention if an attractive name or acronym is attached).<sup>83</sup> Anecdotal stories of past legislative successes, such as adding a victim name to garner support for AIDS legislation, might buttress legislators' tendency to connect these dots.<sup>84</sup>

## 2. *Tactical Titling and Increasing Reelection*

While acronyms or victim-named laws may be a natural fit for an enactment strategy, it is not so obvious how some other popular tactical title types would increase the odds of a bill becoming a law.<sup>85</sup> Why would sponsor names make the content of a law or bill more attractive, noticeable, or memorable to voters, especially if those voters are already familiar with the lawmaker's support for the law through other means?<sup>86</sup> One explanation is that laws are named after

---

83. Indeed, there is empirical support for the notion that legislators shift their opinions to be more consistent with the opinions of voters in their constituency. *See generally* Daniel M. Butler & David W. Nickerson, *Can Learning Constituency Opinion Affect How Legislators Vote? Results from a Field Experiment*, 6 Q.J. POL. SCI. 55 (2011) (experiment finding that state legislators who had been given opinion data from their constituents were more likely to vote in line with constituents.).

84. *E.g.*, Jones, *(R)Evolution*, *supra* note 14, at 42–43 (recounting that “legend has it” that the Comprehensive AIDS Resources Emergency Act of 1990, addressing the AIDS epidemic, was enacted after prefacing the original title with “Ryan White,” a boy who had contracted the HIV virus from a blood transfusion rather than gay sex or drug use: “Thus, a two-word addition to the short title was enough to gather support for what was at the time a decidedly contentious piece of legislation.”). While a title is not the only way to focus attention on core manifestations of the problem addressed by the legislation, it can serve that purpose. *See generally* Daniel M. Filler, *Making the Case for Megan’s Law: A Study in Legislative Rhetoric*, 76 IND. L.J. 315 (2001).

85. Insulting titles, which, according to congressional historians, have the ignoble goal of seeking to “poke the opposition in the eye,” come to mind. Simon, *supra* note 61 (quoting unnamed former Congressional Historian). The incendiary nature of these names, as well as their poor track record, has led commentators to conclude that these names are not designed to increase the odds of enactment. *Id.* (noting that Julian Zelizer, a congressional historian at Princeton University, believes the names are “another mechanism to stick it to the other party.”). More likely, they aim to serve ideological and personal interests that are disconnected from enactment, such as lowering public opinion of political adversaries or signaling the ideological commitments of the sponsors. In any case, these titles are exceptional and especially unlikely to become enshrined into law. Accordingly, we have chosen not to include them in our experimental design.

86. One can imagine scenarios where affixing one’s name might help with enactment. For example, if a law were named after two sponsors, each having favorability in separate, but relevant constituencies—as might happen with bipartisan sponsorship—it is reasonable to guess that having both names affixed to legislation might give it broader appeal and increase the chances of enactment.

sponsors because those sponsors believe that doing so will improve their chances of getting reelected after a law is successfully enacted. There is little doubt that reelection is a widely held preference among legislators.<sup>87</sup> While enacting legislation is only one way to advance a legislator's "brand name,"<sup>88</sup> having a statute named after oneself necessarily suggests congressional clout and, if the law is itself attractive to the electorate, would contribute to reelection.<sup>89</sup> There is indeed empirical support in the scholarly literature for the notion that effective lawmaking improves constituent evaluations and increases the likeli-

---

87. The claim may be set forth most baldly in DAVID MAYHEW, *CONGRESS: THE ELECTORAL CONNECTION* (1974). One set of commentators summarized the argument:

In "one of the most influential essays in recent years," David Mayhew assumed that federal representatives "are interested in getting reelected—indeed, in their role here as abstractions, interested in nothing else." Mayhew acknowledged that "[a]ny such assumption necessarily does some violence to the facts," and that "a complete explanation (if one were possible) of a [representative's] or anyone else's behavior would require attention to more than just one goal." Mayhew nevertheless forcefully argued that the actions of federal legislators profitably could be understood by use of the "simple abstract assumption" that representatives are "single minded seekers of reelection."

Daniel A. Farber & Philip P. Frickey, *The Jurisprudence of Public Choice*, 65 *TEX. L. REV.* 873, 889 (1987). They go on to argue that this is too simplistic: "Surely closer to reality is Richard Fenno's suggestion that the behavior of members of Congress is dictated by three basic goals: achieving reelection, gaining influence within the House, and making good public policy." *Id.* (citing RICHARD FENNO, *CONGRESSMEN IN COMMITTEES* (1973)). The latter is, of course, influenced by the legislator's ideology.

While the authors are critical of the theory, and raise doubts about its supposed predictive power, it seems indisputable that the desire to retain office is at least one basic goal. However, there are different theories of how legislators might seek to do so. One model assumes maximizing incumbents' appeal to constituents, who in turn vote according to their perceived self-interest. A competing model has legislators appealing to special interest groups, who wield disproportionate influence in elections and therefore in the legislative process. *Id.* at 891–92.

88. Elizabeth Garrett, *Term Limitations and the Myth of the Citizen-Legislator*, 81 *CORNELL L. REV.* 623, 646 (1996) (explaining how an incumbent's brand name, achieved in a variety of ways, will tend to raise barriers to entry for challengers and therefore make successful challenges unlikely and costly). See also John R. Lott, Jr., *Brand Names and Barriers to Entry in Political Markets*, 51 *PUB. CHOICE* 87, 88 (1986).

89. This is, of course, all ex ante. Ex post, a legislator might well regret being associated with a law he or she sponsored. Congressman Pete Stark decried the complications of the "Stark law" prohibiting self-dealing by healthcare providers. Joe Carlson, *Pete Stark: Repeal the Stark Law*, *MODERN HEALTHCARE* (Aug. 2, 2013, 1:00AM), <https://www.modernhealthcare.com/article/20130802/BLOG/308029995/pete-stark-repeal-the-stark-law> [<https://perma.cc/G32M-PKT7>].

hood that the sponsor will win reelection, particularly when the electorate knows of the lawmaker's successes.<sup>90</sup>

It is in this connection that memory plays an important role for a brand name strategy; while there does not appear to be a published study regarding legislative title type and memory, the vast literature on consumer behavior indicates that memory has a strong impact on brand evaluation.<sup>91</sup>

### 3. *Enactment and Reelection Strategies Coalesce Around Favorability and Memory*

The analysis thus far has approached the goals of enactment and reelection seriatim, but there are individual strategies that can further both goals simultaneously. One maximization strategy can scratch the back of the other. First, some of the reelection benefit can be obtained without naming the bill after its sponsor; the sponsor can claim credit for it on the hustings or in appeals to interest groups or other segments

---

90. See, e.g., Danielle Thomsen, Sarah Treul, Craig Volden & Alan E. Wiseman, *Turning Legislative Effectiveness into Electoral Success*, CTR. FOR EFFECTIVE LAWMAKING (Nov. 22, 2019), <https://thelawmakers.org/wp-content/uploads/2020/02/Center-for-Effective-Lawmaking-Primary-Effectiveness-Working-Paper.pdf> [<https://perma.cc/4HAQ-GEFR>] (finding incumbents who were more effective lawmakers in the Congress leading up to election face fewer quality challengers in their primaries and win their primaries at a significantly higher rate than less effective lawmakers); H. Benjamin Ashton & B. Kal Munis, *Information Valence and Evaluations of Congress and Individual Legislators: Experimental Evidence Regarding Negativity Bias in Politics*, 46 LEG. STUD. Q. 525, 530–31 (2020) (reviewing scientific literature and noting that survey data has demonstrated that voters care generally about the effectiveness of their representatives, and lawmakers are aware of the importance of their accomplishments in constituent evaluations, and that citizens express greater approval of their member when presented with evidence of their effectiveness) (citations omitted). It is certainly true that incumbents frequently showcase their legislative “clout” in reelection campaigns, and the possible loss of such influence has been a matter for debate in the controversies over term limits. See, e.g., Einer Elhauge, *Are Term Limits Undemocratic?*, 64 U. CHI. L. REV. 83 (1997).

91. Kevin Lane Keller, *Memory Factors in Advertising: The Effect of Advertising Retrieval Cues on Brand Evaluations*, 14 J. CONSUMER RSCH. 316 (1987); Antonia Mantonakis, Bruce W. A. Whittlesea, & Carolyn Yoon, *Consumer Memory, Fluency, and Familiarity*, in HANDBOOK CONSUMER PSYCH. 77 (2008) (“The systematic study of consumer behavior is heavily influenced by theories and paradigms from memory research, as the behavior of the consumer is largely influenced by prior experiences. The distinction is often drawn between memory-based, stimulus-based (all relevant information is physically present at the time of judgment or choice), and mixed (a combination of memory-based and stimulus-based) decisions). However, purely stimulus-based decisions are relatively rare; most consumer decisions are necessarily dependent on memory and thereby range from the purely memory-based to mixed.”) (citations omitted).

of the electorate.<sup>92</sup> Second, even assuming an association between the sponsor and the law in voters' minds, benefit will flow only if the voters look favorably on the statute, which leads back to the question of whether other title types might make the underlying law more attractive to voters. Thirdly, a bill need not necessarily pass in order for the legislative sponsor to gain favor for seeking to enact it, but only if constituents (or relevant special interests) recall and like the bill.<sup>93</sup> For this to occur, they must first notice and, thereafter, remember the bill. The most effective name will tend to increase the conspicuousness and therefore memorability of the underlying law. This is all to say that maximizing reelection through short title selection is frequently furthered by choosing titles that make the underlying law more favorable and memorable—the very same function at the heart of an enactment strategy.

Putting this together, the two likely motivations for a sponsor to select an acronym, victim-based name, or sponsor name are the beliefs that doing so will increase the odds of: (1) enactment and/or (2) reelection. These two goals are not so different. For one, successful enactment likely improves the odds of reelection. Second, and most pertinently for our experimental design, both interests are furthered by maximizing the favorability and memorability of the law named. In the following section, we will consider how these insights shaped our experimental design.

## II.

### AN EXPERIMENTAL APPROACH TO IDENTIFYING THE DIFFERENTIAL EFFECTS OF STRATEGIC SHORT TITLES

As discussed above in Section I, American legislators very likely believe that a law's short title can change the favorability and memorability of legislation to a relevant constituency, but there has

---

92. This is to say nothing of the curious phenomenon of politicians claiming credit for a bill that they voted against. Aaron Rugar, *Republicans Shamelessly Take Credit for Covid Relief They Voted Against*, Vox (Mar. 15, 2021, 3:40pm EDT), <https://www.vox.com/2021/3/15/22331722/american-rescue-plan-salazar-wicker>; Andrew Solender, *More Republican Lawmakers Tout Covid Relief Funds They Voted Against*, FORBES (Apr. 17, 2021, 7:16pm EDT), <https://www.forbes.com/sites/andrewsolender/2021/04/17/more-republican-lawmakers-tout-covid-relief-funds-they-voted-against/>.

93. It is possible that some political benefit could be gained on the basis of the title, alone, even when there is no realistic chance of enactment. Insulting bill titles, for example, could score political points even if their underlying legislation receives little support. See discussion *supra* Part I.A.

been no published study<sup>94</sup> seeking to determine whether these two connections exist. This Article examines this question by using behavioral experimentation, which is likely the best method for making a comparative assessment of short title types. While there are publicly available data regarding the legislative success and public approval rates for some pieces of proposed legislation, the data is likely inadequate to yield useful extrapolations regarding title type in light of the high variability of content in the laws represented.<sup>95</sup> In contrast, the laboratory allows us to hold legislative content constant and vary only the name given to the law, improving our ability to isolate the effect of name type.

In this part, we describe our research questions, hypotheses, the design of our study and survey instrument, and the participants' demographics.

### A. Research Questions

Our experiment assessed the relative effectiveness of the titling of bills on influencing voter perception of laws and of the legislators who authored those laws. We examined three main sets of questions:

---

94. *But cf.* Jones, *supra* note 17, at 530 (study of titling effects on favorability using Scottish graduate students that did not incorporate constituency considerations into its design).

95. See John J. Nay, *Predicting and Understanding Law-Making with Word Vectors and an Ensemble Model*, 12 PLOS ONE e0176999 (2013) (“There are thousands of bills under consideration at any given time and only about 4% will become law. Furthermore, the number of bills introduced is trending upward, exacerbating the problem of determining what text is relevant. . . . Despite rapid advancement of machine learning methods, it’s difficult to outperform naive forecasts of rare events because of inherent variability in complex social processes and because relationships learned from historical data can change without warning and invalidate models applied to future circumstances.”). There is a growing literature that uses machine learning or other sophisticated statistical approaches to analyze titles and content to predict bill probability of success—a dependent variable that is far more accessible than approval rates, for example. *Id.*; Vlad Eidelman, Anastassia Kornilova & Daniel Argyle, *How Predictable Is Your State? Leveraging Lexical and Contextual Information for Predicting Legislative Floor Action at the State Level*, ARXIV ARXIV:1806.05284 (preprint 2018); Tae Yano, Noah A. Smith & John D. Wilkerson, *Textual Predictors of Bill Survival in Congressional Committees*, 2012 N. AM. CHAPTER ASS’N FOR COMPUTATIONAL LINGUISTICS: HUM. LANGUAGE TECHS. PROC. 793–802 (2012). Even these studies have provided results that are, at best, difficult to square with the tactical name types that have emerged, or any *ex-ante* tactic at all. See Nay, *supra* note 95, at \*10 (finding words “cosmetic,” “growth,” “expansion,” “additional,” “administration” are most predictive of bill success for climate change emissions bills); Yano, *supra* note 95, at \*6 (finding phrases in titles such as “title as,” “other purposes,” “for the,” “public,” “extend,” “designate,” and “as amended” as most predictive of bill success).

(1) *Effect of title on favorability of law.* Does the title of a law change participant perception of the law? This Article examines whether participants perceive laws differently over a range of titles: (a) a generic number, (b) the sponsors' names, (c) an acronym, or (d) the name of a victim who inspired the law. We also sought to determine whether participants express similar levels of approval for legislators in light of different titles. The use of a generic number was treated as a true control.<sup>96</sup>

(2) *Effect of title in light of political affinity or salience of underlying issue.* Does a participant's receptivity to a law's title depend on the participant's inclination to favor the law's subject matter? For example, we attempted to determine if participants who favored a law's outcome would favor the law more in light of the law's title.

(3) *Effect of title on retaining an understanding of law's contents and the names of the law's authors.* Does the title assist participants in remembering the name of the law and the subject matter of the law?

### B. Hypotheses

Our hypotheses presumed, first, (H<sub>1</sub>) that participants would favor laws that were titled with acronyms, which in turn were designed to signal other virtues of the laws (evoking charity, patriotism, faith, or the like). Second, we hypothesized that (H<sub>2</sub>) this increase in favorability would be limited to participants who were already inclined to like the law—that is, an acronym might lead a subject to like a preferred law even more but would not cause a subject to support a previously unsupported law. Third, we hypothesized that (H<sub>3</sub>) acronyms would be easier to recall than other title types and that this in turn would increase retention of law subject matter.

The experiment was designed to allow between-participants comparisons. One concern is that participants would have an anchoring, pre-test effect (that is, the reluctance to deviate from an earlier stated position). Hence, this design did not ask participants to opine on the same underlying law twice.

### C. Study Design

The experiment had two independent variables: type of title (four levels: generic, sponsor, acronym, and victim name) and political salience (three levels: Conservative, Liberal, Nonpartisan). This experi-

---

96. The use of a sponsor name functioned akin to a control as it was the one naming convention that was commonplace before the upsurge in tactical titling.

mental design may be expressed as a 4 x 3, with order of exposure as a potential covariate.

The instrument consisted of three proposed laws, which were designed with political salience in mind: legislation sponsored by Democrats in pursuit of an ideologically liberal goal (racial inequity in policing technology); legislation sponsored by Republicans in pursuit of an ideologically conservative goal (limiting pandemic restrictions on houses of worship); and legislation sponsored by one Democrat and one Republican in pursuit of a nonpartisan goal (facilitating adoption for children without parental support due to the opioid epidemic). Each proposed law had a generic number, sponsor name, acronym, or victim name attached.

The order and title of the proposed laws were randomized. Each proposed law was followed immediately by two questions eliciting the participant's attitude toward the legislation and its sponsors, then a 90-second memory decay period with a distraction task, and finally two questions regarding the participant's memory of the name and content of the legislation.

As tactical titling has seldom been studied empirically and our experimental design is novel, the remainder of this section will describe variable selection in greater detail.

### 1. *Independent Variables*

With respect to the content of each proposed law, we chose politically polarizing issues for the partisan legislation and a consensus issue for the nonpartisan legislation. As to the former, we identified racial discrimination in policing and COVID-19 health policy as two salient issues on which Republicans and Democrats divide sharply.<sup>97</sup>

---

97. John Gramlich, *20 Striking Findings from 2020*, PEW RSCH. CTR. (Dec. 11, 2020), <https://www.pewresearch.org/fact-tank/2020/12/11/20-striking-findings-from-2020/> [<https://perma.cc/3RTJ-ED8C>] (“In November, Democrats and Democratic-leaning independents were nearly twice as likely as Republicans and GOP leaners (84% vs. 43%) to see the outbreak as a major threat to the health of the U.S. population, even as both sides agreed on the threat it poses to the national economy.”); *Majority of Public Favors Giving Civilians the Power to Sue Police Officers for Misconduct*, PEW RSCH. CTR. (Jul. 9, 2020) <https://www.pewresearch.org/politics/2020/07/09/majority-of-public-favors-giving-civilians-the-power-to-sue-police-officers-for-misconduct/> [<https://perma.cc/JF76-T4MU>] (“For example, just 10% of Democrats say police around the country do an excellent or good job in treating racial and ethnic groups equally, down from 27% in 2016. Nearly two-thirds of Republicans (64%) have a positive view of how police around the country do in treating racial and ethnic groups equally, which is a modest decline from four years ago (71%).”); Anmol Panda, Divya Siddarth, & Joyojeet Pal, *COVID, BLM, and the Polarization of US Politicians on Twitter*, ARXIV ARXIV:2008.03263v1 (2020) (“We find that, in discussing COVID-19, Democrats frame the issue in terms of public health, while Republi-



As to the latter, we identified the opioid crisis as a familiar, unifying issue.<sup>98</sup>

With respect to title styles, we sought to identify approaches that sponsors have frequently used during the era of tactical titling and that are conceptually distinct enough to permit isolation of their differential effects. We selected thematic<sup>99</sup> acronyms, victim names, and sponsor names as experimental variables. Each of these titling styles has received journalistic and scholarly attention.<sup>100</sup> Moreover, each has contributed to the upsurge in tactical titling.<sup>101</sup> In addition, they

---

cans are more likely to focus on small businesses and the economy. When looking at the discourse around anti-Black violence, we find that Democrats are far more likely to name police brutality as a specific concern. In contrast, Republicans not only discuss the issue far less, but also keep their terms more general, as well as criticizing perceived protest violence.”).

98. R.J. Reinhart, *More in U.S. See Progress in Addressing Illegal Drug Problem*, GALLUP (Nov. 11, 2019), <https://news.gallup.com/poll/268253/progress-addressing-illegal-drug-problem.aspx> [<https://perma.cc/93JG-XGF4>] (78% of Republicans, 72% of Independents, and 68% of Democrats described the problem of drugs in the U.S./in the area where you live as extremely/very serious).

99. All of our tactical titles were germane to the underlying legislation—we did not test deceptive titles in this study despite their occasional use on Capitol Hill.

100. Simon, *supra* note 61 (discussing sponsor-named bills); Abadi, *supra* note 57 (discussing acronym laws); Philip Bump, *364 Bills That Have Been Introduced by Congress, Ranked by Acronym Quality*, WASH. POST (Aug. 3, 2015) <https://www.washingtonpost.com/news/the-fix/wp/2015/08/03/364-bills-that-have-been-introduced-in-congress-ranked-by-acronym-quality/> [<https://perma.cc/VMH9-Z8WC>] (discussing acronym laws); Allie Lembo, *10 Federal US Laws That Are Named after Real People and the Shocking Stories behind Them*, INSIDER (Jan. 7, 2019, 9:11AM), <https://www.insider.com/stories-behind-us-laws-that-are-named-after-people-2018-12> [<https://perma.cc/LPU7-5SEP>] (discussing victim-named laws); Ted Frank, *If a Law Has a First Name, It's a Bad Sign*, L.A. TIMES (Sept. 19, 2016, 5:00AM PT), <http://www.latimes.com/opinion/op-ed/la-oe-frank-named-laws-20160919-snap-story.html> (discussing victim-named bills); Jodi Smith, *Every US Law Named After A Victim And What It Does*, RANKER (Aug. 3, 2021), <https://www.ranker.com/list/us-laws-named-after-victims/jodi-smith> (discussing victim-named laws).

101. Yale Law School's Lillian Goldman Law Library created a database of federal statute popular names, which covers laws passed through 2011. It loosely follows the Strause, et al., *supra* note 20, typology, and provides the best guidance regarding the frequency of different tactical short titles. Looking at laws with official short titles after 1970 shows that honorific laws are most common (26%), then acronym laws (18%), political descriptions (12%), victim names (11%), sponsor names (11%), abbreviations (6%), plain description (5%) and so on. It might be surprising that sponsor names are not more prevalent, but this might be due, in part, to the fact that a different category, honorific names, is such a close cousin. In several cases, honorific laws are about lawmakers who had important roles, even sponsorship roles, in bringing those laws about but died or retired before enactment. Acronym laws, too, might seem less common than expected. But acronym laws have obvious similarities to abbreviations, with the primary difference being the tendency of the former to turn the abbreviation into a word, itself. Contrariwise, it might seem surprising that political descriptions are so numerous, but the category serves as something of a catch-all, with

are operationally distinct: acronym laws harness wordplay to arrive at pithy, inspirational expressions; victim-named laws make reference to people harmed in tragic or unfair events to evoke feelings of sympathy and outrage; and sponsor-named laws inform or remind people of a legislative achievement of the person or people primarily responsible for the law. Some or all of these functions can be combined into a single name if circumstances permit,<sup>102</sup> but combinations are exceptional.

When it came to creating specific titles for each style, we referred to past titling practices to ensure plausibility and consistency with prior practice. This history, as well as the resulting tailoring of acronymic, victim, and sponsor titles is recounted below.

The experiment incorporated acronyms that are similar in form and substance to those used in federal legislation. Regarding their length, the Veltman database indicates that the vast majority of federal bills with acronyms between 1973 and 2013 were between four and six letters long.<sup>103</sup> With regard to their content, acronymic laws tend to use acrostics to form words that are thematically consistent with the function or ethos of the underlying legislation.<sup>104</sup> And consistent with legislator aims, the words formed are frequently memorable and attention-getting.<sup>105</sup> Here, we chose the names “FREE” (the Facial Recognition Enforcement Elimination Act), “SPIRIT” (the Statute Protecting Individual Rights in Theology), and “ADOPT (the Act Dedicated to Opening Parenting Tracks) because they meet these conditions: they are length-appropriate; they are memorable and attention-getting, indeed they are identical or similar to acronyms that have been used in proposed legislation;<sup>106</sup> and they link thematically to ra-

---

subtly political names such as the “Spoils of War Act of 1994” or the “ED 1.0 Act,” and brazen slogans such as the “Serve America Act.”

102. Bump, *supra* note 100 (“On Friday, in the grand tradition of politicians seeking to capitalize on a cultural moment, Sen. Bob Menendez (D-N.J.) introduced a bill aimed at reducing the number of ‘trophy killings’ of African wildlife. . . . Menendez cobbled together an apt acronym for his measure. The bill is titled, “Conserving Ecosystems by Ceasing the Importation of Large Animal Trophies Act.” Or, the CECIL Act. Get it? Of course you get it. (Oh, you actually don’t? It was the name of the lion [infamously killed by a dentist]. And welcome back to Earth.)”).

103. Veltman, *supra* note 68, at <https://noahveltman.com/acronyms/#words>.

104. See Sagers, *supra* note 1, at 1312–20.

105. *Id.*

106. “FREE” and “ADOPT” have been used with some frequency. Veltman, *supra* note 68 (showing that “FREE” was used for 8 different bills and “ADOPT” was incorporated into bill names 4 times). Although the single acronym “SPIRIT” does not appear to have been used as an acronym in a federal bill, it has been used as a component of a famous acronym title repeatedly pushed by Mitch McConnell. Bump, *supra* note 100 (ranking Mitch McConnell’s bill, the “AGED Spirits Act,” as second best

cial discrimination by police, health-related restrictions of worship during the pandemic, and increasing foster parenting for children in need of parental support from the opioid crisis, respectively.

For victim-named laws, the experiment incorporated names that were consistent with the narrative provided by the law. For the law aiming to stop a form of racial discrimination in policing, the victim was a young African-American man, so we chose “DeMarcus’s Law,” a name that is popular in African-American communities.<sup>107</sup> For the law aiming to prevent closure of houses of worship during pandemics, the victim was a pastor and leader of a church forced to close by COVID-19, so we chose the title based on a popular name “Reverend Tim’s Law.”<sup>108</sup> For the law regarding parenting of children, the victim was a five-year old girl who lost her parents to the opioid epidemic, so we chose a title based on the popular girl’s name “Taylor’s Law.”<sup>109</sup>

With respect to sponsor names, we needed two sponsors per bill to allow for a party split on the nonpartisan bill. Consequently, we followed the tradition of hyphenated surnames for such bills, choosing names that were short so that the combined name would be roughly

---

acronym name of all time); S.1179, 114th Cong. (2015) (AGED Spirits Act); S.429, 115th Cong. (2017) (AGED Spirits Act); S.2251, 116th Cong. (2019) (AGED Spirits Act). The closely related word “ASPIRE” has served as an acronym title for a federal bill 11 times. Veltman, *supra* note 68; *Aspire*, ONLINE ETYMOLOGY DICTIONARY, <https://www.etymonline.com/word/aspire> (last visited Apr. 20, 2022) (both “spirit” and “aspire” are derived from the Latin *spirare*, meaning “to breathe”).

107. *Demarcus*, OH! BABY NAMES, <https://ohbabynames.com/all-baby-names/demarcus/> (last visited Apr. 20, 2022) (“The boy’s name DeMarcus debuted on America’s Top 1000 list in 1974 and saw pretty quick circulation within the Black community. The height of the name’s popularity came in 1988 at position #430 on the charts. Although this may not seem impressive at first glance, it is actually quite remarkable given DeMarcus is almost exclusively restricted to African-Americans in terms of usage (roughly 14% of the U.S. population).”)

108. *Top Names Over the Last 100 Years*, SOCIAL SECURITY ADMIN., <https://www.ssa.gov/oact/babynames/decades/century.html> (last visited Apr. 20, 2022) (stating Timothy is 27th most popular male name over the last 100 years). We also chose a male name because men greatly outnumber women in pastor positions. Samuel Smith, *Number of Clergywomen Has Exponentially Increased Over Last 2 Decades*, *Study Says*, CHRISTIAN POST (Oct. 11, 2018), <https://www.christianpost.com/news/number-of-clergywomen-has-exponentially-increased-over-last-2-decades-study-says.html> (discussing two influential studies that found female pastors are outnumbered by male pastors by nearly 3 to 1 in mainline churches and 9 to 1 in all protestant churches as of 2017).

109. *Taylor*, EVERYTHING BIRTHDAY, <https://www.everything-birthday.com/name/f/taylor> (last visited Apr. 20, 2022) (stating “Taylor” is most popular name for girls beginning with “T.”).

the same length as the other laws. Accordingly, we chose “the May-Smith Act,” “the Wall-Johns Act,” and “the Tillis-Jones Act.”<sup>110</sup>

As a control, we chose generic titles that resemble those automatically assigned to legislation based on the order in which they are introduced in a session, such as “H.R. 14.”<sup>111</sup>

The 4 x 3 design is set forth in the following table.

TABLE 1: TITLE DESIGN

POLITICAL VALENCE	ACRONYM	VICTIM	SPONSOR	GENERIC
LIBERAL	FREE (the Facial Recognition Enforcement Elimination Act)	DeMarcus’s Law	The May-Smith Act	H.R.12B
CONSERVATIVE	SPIRIT (the Statute Protecting Individual Rights in Theology)	Reverend Tim’s Law	The Wall-Johns Act	S.1761
NON PARTISAN	ADOPT (the Act Dedicated to Opening Parenting Tracks)	Taylor’s Law	The Tillis-Jones Act	A.102

The testing instrument is appended to this Article as Appendix.

110. Hyphenated, dual-named legislation is commonplace. *See* Strause, et al., *supra* note 20, at 26 (“With few exceptions, statutes are known by a hyphenated moniker that nearly always includes the last names of the primary House and Senate sponsors. Examples of this convention include the Stevenson-Wydler Technology Innovation Act of 1980, the Garn-St Germain Depository Institutions Act of 1982, and the Sarbanes-Oxley Act of 2002.”).

111. *Congressional Bills, 103rd Congress (1993-1994) to Present, About Congressional Bills*, GOV INFO, <https://www.govinfo.gov/help/bills> (last visited Apr. 23, 2022) [<https://perma.cc/9K4C-UCSD>] (“H.R. – House Bill. . . . A bill is a legislative proposal before Congress. Bills from each house are assigned a number in the order in which they are introduced, starting at the beginning of each Congress (first and second sessions).”).

## 2. *Dependent Variables*

As discussed, legislators likely select tactical short titles in an effort to maximize the degree to which relevant constituents favor, notice, and remember the underlying law.<sup>112</sup> We have chosen to examine the relationship between short title type and two of these maxims: favorability and memory.

Regarding favorability, we used a 10-item Likert scale,<sup>113</sup> asking participants to rate proposed legislation, with one star denoting the worst possible legislation and ten stars denoting the best. We also asked participants to indicate on a non-numerical, 7-item Likert scale the likelihood that they would vote for the sponsors of the proposed legislation, with the middle choice reflecting that it would have no effect on the likelihood that they would vote for those sponsors. The condition with a non-partisan law included two additional multiple-choice questions to determine whether participants might choose to vote for only one of the two sponsors, as those sponsors were in different political parties.

Regarding memory, participants were given an un-skippable, 90-second word search game, which served as an interruption to test whether the names of the legislation had remained in the participants' working memory. While the underlying cause of memory loss on a short time scale continues to be a source of disagreement among scientists, there is sufficient scientific support to hypothesize that people will increasingly struggle to recall memories after even short periods of time when they are asked to perform distracting or interfering tasks during or after exposure.<sup>114</sup> Here, it was predicted that there should be sufficient diminution of participants' recall of law names and content after their completion of our favorability questions and our subsequent 90-second distractor game to test for a differential ef-

---

112. *See supra* section I.B.

113. A Likert scale is a psychometric scale often used in questionnaires, presenting examinees with ordinal choices (for example, a 1–10 scale paired with a statement, 1 meaning total disagreement and 10 meaning total agreement). *See* ROBERT M. LAWLESS, JENNIFER K. ROBBENOLT, & THOMAS S. ULEN, *EMPIRICAL METHODS IN LAW* 172 (2010); *see, e.g.*, Brian Sheppard & Andrew Moshirnia, *For the Sake of Argument: A Behavioral Analysis of Whether and How Legal Argument Matters in Decisionmaking*, 40 *FLA. ST. U. L. REV.* 537, 566 (2013).

114. *See* Timothy J. Ricker, Evie Vergauwe & Nelson Cowan, *Decay Theory of Immediate Memory: From Brown (1958) to Today (2014)*, 69 *Q.J. EXPERIMENTAL PSYCH.* 1969, 1985–89 (2016) (discussing differences between decay theory of memory and interference theory but summarizing numerous published experiments in which there was diminution of recall after short time periods with either interfering tasks during exposure or distracting tasks afterward).

fect based on law title type.<sup>115</sup> At the conclusion of this memory decay period, participants were asked to enter into a text box the name of the legislation that they read before the decay period. Thereafter, they were asked to answer a multiple-choice question with four choices and a single correct answer asking them to select that choice that best describes that legislation. The question was designed to be easy to answer if the subject remembered the content of the legislation.

### 3. *Participant Variables*

Thus far, we have been describing the intended audience for a tactical short title as the “relevant constituency,” but it is fair to say that the borders of this group frequently track party lines or Right-Left ideology within the lawmakers home state or district.<sup>116</sup> It is possible that the political identity of the audience might somehow augment the impact of short title choices on that audience. There is growing evidence that in times of high political polarization, such as the present, party affiliation is more predictive of styles of reasoning, inclination to seek information, and, in turn, policy preferences.<sup>117</sup> Along these lines, the Right- or Left-leaning character of a participant in our study

---

115. The design here incorporates a delay in recall sufficient to challenge our participants’ capacity to transfer their memory of the law into long-term memory. Nelson Cowan, *Working Memory Underpins Cognitive Development, Learning, and Education*, 26 *EDU. PSYCH. REV.* 197, 205 (2014) (“There are theoretically two basic ways in which working memory could be more limited than long-term memory. First, it could be limited in terms of how many items can be held at once . . . Second, it could be limited in the amount of time for which an item remains in working memory when it is no longer rehearsed or refreshed . . . the practical limit being up to about 30 seconds depending on the task.”).

116. See Jonathan S. Gould, *The Law of Legislative Representation*, 107 *VA. L. REV.* 765, 791 (2021) (explaining that legislators are frequently not responsive to all constituents because it “is inevitable that legislators construct winning electoral coalitions that fall short of including all of their constituents” and “[a] Republican legislator in a solidly red district could gain reelection only by attending to the preferences and interests of Republicans; the opposite holds for a Democrat in a solidly blue district.”).

117. See Jacob E. Rothschild et al., *Pigeonholing Partisans: Stereotypes of Party Supporters and Partisan Polarization*, 41 *POL. BEHAV.* 423, 424 (2019) (“Political behavior scholarship, beginning to take up this question, increasingly conceives of partisanship as a social category comparable to race, religion, or gender, and has connected this perspective to mass-level polarization. Such social categorization entails trait and behavioral expectancies—that is, stereotypes—which can substantially influence social judgments and behaviors.”) (citations omitted); Joshua Robison & Kevin J. Mullinix, *Elite Polarization and Public Opinion: How Polarization Is Communicated and Its Effects*, 33 *POL. COMMUN.* 261, 263 (2016) (“[E]lite polarization entails both clearer policy signals and more salient partisan identities for the mass public which may increase the tendency for citizens to engage in partisan-motivated reasoning. . . . Thus, existing research asserts that when elite partisan divisions are salient, partisans are more supportive of the position endorsed by their favored party even when buttressed by the weaker argument.”).

might make them more or less likely to pay attention to the title of legislation. Further still, this likelihood might depend in part on the political valence of the underlying legislation or the party affiliations of its sponsors. Republicans might pay more attention to the titles of Republican-sponsored legislation, for example.

It is also possible that the functions of our title types might be more or less appealing to one side of the political spectrum. For example, a recent study found that support for Donald Trump positively correlates with egocentric self-conceptions of victimhood (in which the subject looks inward for causal basis for their situation and does not blame systemic societal features) and negatively correlates with systemic self-conceptions of victimhood (in which the victim blames specific systemic features designed to keep them down and benefit others).<sup>118</sup>

In light of the potential interaction between title type and political ideology or party affiliation, we collected information about the political lean of our participants through a series of multiple-choice questions regarding party affiliation and then a ten-item Likert regarding the strength of their beliefs in the party with which they most identify. In addition, we collected information about participant age and gender.

#### D. Participants

The sample consisted of 524 participants ( $N=524$ ) recruited from Amazon's Mechanical Turk (MTurk) program.<sup>119</sup> All of the participants were registered with MTurk as being from the United States. While 791 individuals initially undertook the survey, participants' results were analyzed only if they completed all parts of the experiment and if entry fields contained coherent text. This filtering is necessary in light of recent bot behaviors in MTurk users, such as random, nonsensical, or clearly formulaic answers.<sup>120</sup> 267 participants were re-

---

118. Miles T. Armaly & Adam M. Enders, 'Why Me?' *The Role of Perceived Victimhood in American Politics*, POL. BEHAV. at 1, 16 (2021).

119. MTurk is a "crowdsourcing marketplace that makes it easier for individuals and businesses to outsource their processes and jobs to a distributed workforce who can perform these tasks virtually," <https://www.mturk.com>, and it is commonly used by academics who seek to collect data from large, representative populations. Kevin Tobia, *How People Judge What is Reasonable*, 70 ALA. L. REV. 293, 318 n.76 (2018) ("[MTurk] enables researchers to collect large samples from a population that is more representative than many other typical research samples.").

120. Hui Bai, *Evidence that A Large Amount of Low Quality Responses on MTurk Can Be Detected with Repeated GPS Coordinates*, (MAX) HUI BAI, PH.D (Aug. 8, 2018), <https://www.maxhuibai.com/blog/evidence-that-responses-from-repeating-gps-are-random> [<https://perma.cc/FG3H-KFP3>]; Emily Dreyfuss, *A Bot Panic Hits Ama-*

moved for either failing to complete the experiment or for inputting nonresponsive formulaic text (such as repeatedly copying “good” or “nice” in several entry fields).<sup>121</sup>

Breaking the participants down by party, 108 participants identified as Republican, 314 identified as Democrat, and 100 identified as Independent/Other. Within the Independent/Other total, 18 self-identified as closest to the Republican Party, 47 to the Democratic Party, and 35 denying closeness to either major party. Thus, a total of 487 participants ( $n=487$ ) completed the experiment and provided a Left or Right political preference.<sup>122</sup> This number of participants was sufficient for means testing, which we determined through a power analysis with an expected enrollment ratio of .3, an expected difference of approximately 15%, an alpha value of .05,<sup>123</sup> and a power of .8.<sup>124</sup>

### E. Readability of Scenarios

The scenarios in each item were reasonably accessible and understandable. The goal was for laws to have a Flesch-Kincaid Grade Level of 13 and Gunning Fog Score of 15,<sup>125</sup> (meaning they should be understood by 19-year-old high-school graduates with some college experience). These scores were 13.4 and 15.6 for the Liberal Law, 11 and 14.3 for the Conservative Law, and 13 and 15.1 for the Nonpartisan Law. Accordingly, the three laws were within readability guidelines and differences between reception of the laws are not attributable to varied levels of reading ease.

---

zon's *Mechanical Turk*, WIRED (Aug. 17, 2018, 11:38 AM), <https://www.wired.com/story/amazon-mechanical-turk-bot-panic> [<https://perma.cc/2U6R-G2FC>].

121. Similar screening methods have been used to deal with bot behavior on MTurk, with comparable percentages of participants screened out from review in the experiment proper. See, e.g., Edward Lee & Andrew Moshirnia, *Does Fair Use Matter? An Empirical Study of Music Cases*, 94 S. CAL. L. REV. 471, 523 (2021) (retaining 503 out of 706 initial participants).

122. Three participants ( $n=3$ ) appear to have omitted one value for the nonpartisan law and are excluded from analysis on that question only.

123. An alpha (or  $p$ ) value may be understood as the “false positive” rate; that is, the likelihood that the apparent difference between groups does not actually exist.

124. The power analysis is included below. Participant numbers should be sufficient provided that  $N$  is at least 460, and subgroups are at least 346 and 114, respectively.

125. These are both fairly common readability calculations included in most readability testing tools. See, e.g., *Readability Test Tool*, WEBFX, <https://www.webfx.com/tools/read-able/> [<https://perma.cc/7K64-NNHX>].



### III. RESULTS

The results are provided below, with a summary of key findings, validation of the instrument in light of our previous studies, and results of hypothesis testing.

#### A. *Summary of Key Findings*

The results of our experiment largely supported our hypotheses regarding the effect of acronyms on increasing favorability for participants identifying as Republican or Right-leaning. However, titles seemed to have no impact on participants identifying as Democrat or Left-leaning. Our key findings were as follows:

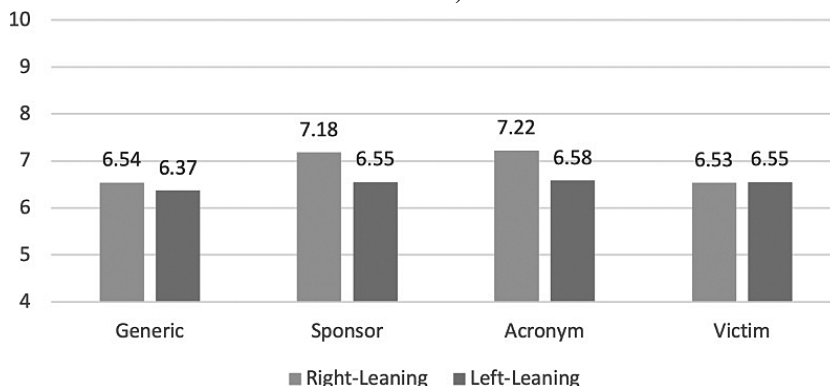
- 1) The use of a thematic acronym SPIRIT resulted in a significant increase in positive perception by Republicans and Republican-leaning Independents of the conservative, church protection law.
- 2) The use of a victim name resulted in a significant decreased positive perception by Republicans and Republican-leaning Independents of the conservative, church protection law.
- 3) Democrats and Democrat-leaning Independents did not show any significant change in perception across all tested title types in any of the three laws.
- 4) Participants, regardless of political lean, were significantly more likely to remember the name of the bill after an interruption if provided with an acronym. However, these participants were no more likely to remember the actual content of the bill.

In sum, the findings present evidence that the title of a bill can influence voter perception of the proposed law, that acronyms may be effective in increasing positive perception of an ideologically favorable law, and that acronyms may increase name recall but not necessarily subject matter recall. Only Right-leaning participants demonstrated a significantly different opinion ( $p=.08$ ) of a law based on a title, with 376 ratings ( $n=376$ ) generally preferring acronyms ( $M=7.22$ ,  $SD=2.37$ ) to the generic numbers ( $M=6.54$ ,  $SD=2.67$ ) and victim titles ( $M=6.53$ ,  $SD=2.51$ ), while Left-leaning participants with 1082 ratings ( $n=1082$ ) showed remarkably consistent opinions across titles ( $M=6.37$ ,  $SD=2.70$ ;  $M=6.55$ ,  $SD=2.71$ ;  $M=6.58$ ,  $SD=2.70$ ; and  $M=6.55$ ,  $SD=2.82$ ).<sup>126</sup>

---

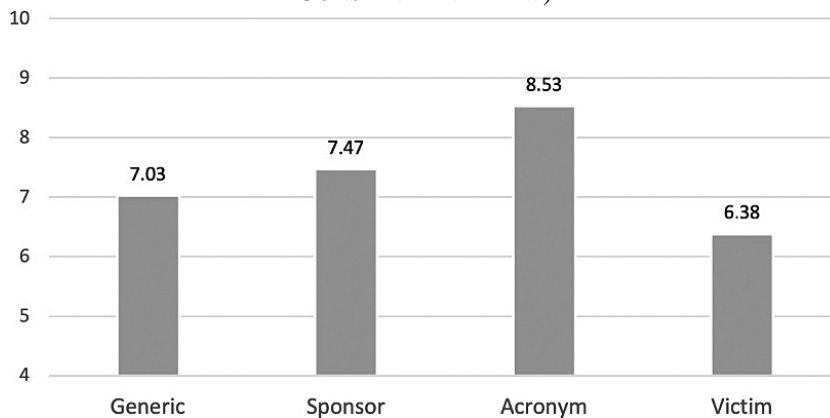
126. As acronyms and victim names are driving the current surge in tactical titling, we are especially interested in the comparative effectiveness of the two types. Accord-

FIGURE 1: FAVORABILITY BY POLITICAL LEANING AND TITLE (ALL LAWS)



The titling effect most is most visible when one focuses on Right-Leaning participants who were considering a conservative law. The difference in mean favorability with the law with the acronym title ( $M=8.53$ ,  $SD=1.91$ ) was significantly higher ( $p=.01$ ) than the very same law with a victim title ( $M=6.38$ ,  $SD=2.79$ ).

FIGURE 2: FAVORABILITY BY TITLE (RIGHT-LEANING PARTICIPANTS, CONSERVATIVE LAW)



We now explore these findings in greater detail.

---

ingly, a direct comparison of acronym and victim name means is warranted. A T-test of Right-leaning participants' ratings of acronym ( $n=78$ ) and victim name ( $n=94$ ) across all three laws returns a significant difference ( $p=.07$ ).

### B. Hypothesis Testing and Finding

Each subject received 3 scenarios: a Conservative law, a Liberal law, and a Nonpartisan law. The subject matter of these laws did not change. However, the title of the law was one of four conditions: a generic number, the name of the bill's authors, an acronym, or an inspiring victim's name. Participants were asked to rate these laws and to indicate how likely they would be to vote for the authors of these laws.

In light of the fact that the testing instrument asked participants to self-report their political leanings and their perception of hypothetical bills, it is important to validate whether participants input meaningful and consistent choices. Recall that the Liberal Law (facial recognition) was presupposed to be supported by the Left, the Conservative Law (barring church closure during COVID) was presupposed to be supported by the Right, and the Nonpartisan Law (adoption) was presupposed to be supported by both the Left and the Right equally. We examined whether Left-leaning individuals favored Left laws, and Right-leaning individuals favored Right laws. They do. 522 participants evaluated the Liberal Law, Conservative Law and Nonpartisan Law. 126 participants ( $n=126$ ) identified as Right-leaning (with 108 identifying as Republicans and 18 identifying as independents closer to Republicans), and 363 participants ( $n=363$ ) identified as Left-leaning (with 315 identifying as Democrats and 48 identifying as independents closer to Democrats). Political affiliation returned significant differences in overall favorability of both the Liberal Law and Conservative Law, as well as the likeliness to vote for the drafter of those laws respectively. This difference between the two political affiliations persisted across experimental conditions, and participants were significantly ( $p<.001$ ) more likely to favor their predicted law. Left-leaning individuals favored the Liberal Law ( $M=7.40$ ) more than did Right-leaning individuals ( $M=6.24$ ), and Right-leaning individuals favored the Conservative Law ( $M=7.23$ ) more than Left-leaning individuals did ( $M=4.78$ ), while no such difference was shown in the nonpartisan scenario.

It was also necessary to test whether support for a law correlated with willingness to vote for that law's sponsor. A reasonable presumption is that if participants favored a law, they would be inclined to vote for the drafters of that law. The results mostly bear out this presumption. Perception of law strongly correlated with willingness to vote for the sponsor in the Liberal Law ( $r=.270$ ,  $p<.001$ ) and the Nonpartisan Law ( $r=.334$ ,  $p<.001$ ). Perception of the Conservative Law does not correlate strongly with vote willingness largely because Left-lean-

ing participants who rated that law most negatively (rating 1,  $n=82$ ) were very likely to indicate that the law would not change their likelihood of voting for the sponsor (rating 4,  $n=72$ ). It is possible that this curious result is due to the fact that these individuals ( $n=72$ ) assessed their prior likelihood of voting for the Republican sponsors of the law to be close to zero. Thus, the proposal of a law they ranked very negatively did not decrease their likelihood of voting for the sponsor.

Lastly, it was necessary to test the presumption that the order in which participants received the three proposed laws did not impact their perception of those laws. Order showed no significant effect or significant interaction with political affiliation with regard to the Liberal Law ( $f=.480$ ), Conservative Law ( $f=.296$ ), or Nonpartisan Law ( $f=.112$ ).

With the testing instrument validated, it is appropriate to turn to the results of the experimental hypotheses.

*1. Acronym Effect on Perception: Right-leaning Participants Indicated a Significantly Higher Preference for an Acronym Title than a Victim Title in a Conservative Law*

The first experimental hypothesis was that participants who were already predisposed to favor a law would be more inclined to favor that law if titled with a thematic acronym. Between-participants results for Right-leaning participants comported with this hypothesis in the Conservative Law.

Tables 5a and 5b below summarize the results. Participants who indicated they were Republican or Republican-leaning ( $n=126$ ) considered the Conservative Law, with one of the four titles. Participants who received the acronym ( $n=21$ ) showed significantly higher assessments ( $M=8.52$ ,  $SD=1.91$ ) of the law than participants who received the victim name ( $M=6.38$ ,  $SD=2.79$ ), as shown in Table 5a. The partial eta squared of title type was .08, indicating a medium-to-large effect size.<sup>127</sup> This finding may be further clarified by comparing victim and acronym to the general control conditions (number and spon-

---

127. While some scholars have criticized the use of specific threshold values for small, medium, and large effect sizes, .8 is often cited as a large effect size. Arthur Bakker, Jinfai Cai, Lyn English, Gabriele Kaiser, Vilma Mesa & Wim Van Dooren, *Beyond Small, Medium, or Large: Points of Consideration When Interpreting Effect Sizes*, 102 EDUC. STUD. MATHEMATICS 1, 5 (2019).

sor).<sup>128</sup> In each title category, right-leaning participants signaled approval of the law (that is, law rank is greater than 5).

TABLE 2A: MEAN FAVORABILITY OF CONSERVATIVE LAW BY RIGHT-LEANING PARTICIPANTS, ALL TITLES

Participant Lean	Title Type (Conservative)	<i>n</i>	Mean Favorability
Right	ALL	126	7.25 (2.52)
Right	Generic	29	7.03 (2.57)
Right	Sponsor	42	7.47 (2.30)
Right	Acronym	21	8.52* (1.91)
Right	Victim	34	6.38* (2.79)

\* significantly different at  $p=.012$  after Sidak correction.

TABLE 2B: MEAN FAVORABILITY OF CONSERVATIVE LAW BY RIGHT-LEANING PARTICIPANTS, ACRONYM AND VICTIM TITLES COMPARED TO TYPICAL TITLES

Participant Lean	Title (Conservative)	<i>n</i>	Mean Favorability
Right	Typical/Control (Generic / Sponsor)	71	7.30*,+ (2.40)
Right	Acronym	21	8.52*,** (1.91)
Right	Victim	34	6.38**,+ (2.79)

\* significantly different at  $p=.075$ , + at  $p=.045$ , \*\* at  $p=.002$

By contrast, Left-leaning participants ( $n=361$ ) did not differ significantly in their assessment of Conservative Law by title type. Though Left-leaning participants did rate the law most highly when titled with an acronym ( $M=5.11$ ,  $SD=2.97$ ), when compared to the generic ( $M=4.60$ ,  $SD=2.90$ ), sponsor ( $M=4.76$ ,  $SD=3.04$ ), and victim ( $M=4.68$ ,  $SD=3.12$ ), this increase was not significant. Interestingly,

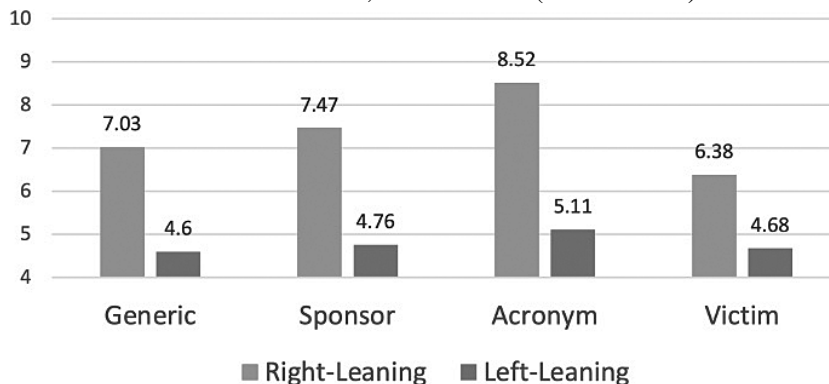
128. As above, the interest in the comparative effectiveness of acronym and victim names justifies a direct comparison of the two means. A T-test of Right-leaning participants' ratings of acronym and victim name across all three laws returns a significant difference ( $p=.002$ ).

the acronym-titled law was the only category for which Left-leaning participants indicated approval ( $M=5.11$ ).

TABLE 3: MEAN FAVORABILITY OF CONSERVATIVE LAW BY LEFT-LEANING PARTICIPANTS, ALL TITLES

Participant Lean	Title Type (Conservative)	<i>n</i>	Mean Favorability
Left	ALL	361	4.79 (3.00)
Left	Generic	96	4.60 (2.90)
Left	Sponsor	79	4.76 (3.04)
Left	Acronym	95	5.11 (2.97)
Left	Victim	91	4.68 (3.12)

FIGURE 3: MEAN FAVORABILITY BY POLITICAL TENDENCY, IN RIGHT PREFERRED LAWS, ALL TITLES (BAR GRAPH)



When Left-leaning participants were faced with their favored law, the Liberal Law, they did not show a significant difference between titles. Though Left-leaning participants did rate the law most highly when titled with an acronym ( $M=7.67$ ,  $SD=2.35$ ), this increase was not significant when compared to the other titles (7.34, 7.22, and 7.40). Similarly, Right-leaning participants did not differ significantly in their assessment of the Liberal Law by title type. Though Right-leaning participants did rate the law most highly when titled with an acronym ( $M=6.57$ ,  $SD=2.46$ ), this increase was not significant when compared against other titles (6.03, 6.32, and 6.23).

When Left-leaning and Right-leaning participants were faced with the neutral Nonpartisan Law, they did not show a significant difference between titles. Right-leaning participants ( $n=124$ ) most preferred the sponsor title ( $M=7.51$ ), but this was not significant when compared to the generic ( $M=6.67$ ), acronym ( $M=6.93$ ), and victim titles ( $M=7.03$ ). Left-leaning participants ( $n=360$ ) most preferred the victim title ( $M=7.52$ ), but this was not significant when compared to the generic ( $M=7.37$ ), sponsor ( $M=7.40$ ), and acronym titles ( $M=7.13$ ).

It is worth noting that the acronym title in the Nonpartisan Law did not have an impact on Right-leaning participants, in contrast to their reaction to the acronym in the Conservative Law. One explanation is that the acronym in the Conservative Law was more attractive than in the Liberal Law (SPIRIT vs. ADOPT). Another explanation is that the difference was caused by a greater preference for the Conservative Law generally.

## 2. *Acronym Effect on Memory: Participants Who Received an Acronym Title Were Significantly More Likely to Remember the Title of the Law*

For each law, participants were first presented with the law title and subject matter, then asked to complete a word-search as a memory decay, and finally were asked to recall the name of the law and its subject matter.<sup>129</sup> Analysis<sup>130</sup> of the rates at which participants correctly recalled the Liberal Law's title returned a significant difference ( $p<.001$ ). The partial eta squared of title type was .157, indicating a large effect size. Participants who received an acronym title for the Liberal Law were significantly ( $p<.001$ ) more likely to recall the name of the law (77.1%) than participants who received the generic title (23.8%) and the sponsor title (41.3%). It should be noted that a victim name also significantly ( $p=.002$ ) increased subject retention of title (60.4%) as compared to the generic title.

Analysis of the rates at which participants correctly recalled the law's subject matter did not return a significant difference. It is likely

---

129. As anticipated, participants quickly deduced that they would be asked to retain this information in subsequent scenarios. Accordingly, order of exposure had a significant effect on these memory questions. However, looking at only the scenario a subject took first removes this pretest effect, preserving 184 subjects ( $n=184$ ) who received the Liberal Law first and 172 subjects ( $n=172$ ) who received the Conservative Law first.

130. A Chi-square similarly returns a significant result ( $p<.001$ ).

that the decay period was too short to ascertain subject matter retention, as all participants performed well ( $M > 88\%$ ) on subject retention.

TABLE 4A: PERCENTAGE OF SUCCESSFUL NAME AND SUBJECT MATTER RECALL IN LIBERAL LAW, ALL PARTICIPANTS, ALL TITLES

Title Type (All Titles)	<i>n</i>	% Correct: Name	% Correct: Subject Matter
ALL	184	51.6	91.9
Generic	42	23.8*, **	88.1
Sponsor	46	41.3**	95.7
Acronym	48	77.1**	90.0
Victim	48	60.4*	93.8

\*\* significantly different at  $p < .001$  after Sidak correction, \* at  $p = .002$ .

Analysis<sup>131</sup> of the rates at which participants correctly recalled the Conservative Law's title returned a significant difference ( $p = .005$ ). The partial eta squared of title type was .074, indicating a medium-to-large effect size. Participants who received an acronym title for the Conservative Law were significantly ( $p = .004$  and  $p = .078$ , respectively) more likely to recall the name of the law (70.7%) than participants who received the generic title (34.1%) and the sponsor title (43.9%).<sup>132</sup> Analysis of the rates at which participants correctly recalled the Liberal Law's subject matter, however, did not return a significant difference.

131. A Chi-square similarly returns a significant result ( $p = .005$ ).

132. While this difference is striking, the use of ANOVA may actually understate the impact of acronyms and victim names on increasing retention of the title of the Conservative Law as compared to the generic. A Chi-square, without such a conservative correction, of Generic and Victim name retention returns a significant value ( $\chi^2 = 4.56$ ,  $p = .033$ ), as does Generic and Acronym ( $\chi^2 = 11.41$ ,  $p < .001$ ).



TABLE 4B: PERCENTAGE OF SUCCESSFUL NAME AND SUBJECT MATTER RECALL IN CONSERVATIVE LAW, ALL PARTICIPANTS, ALL TITLES

Title Type (Conservative)	<i>n</i>	% Correct: Name	% Correct: Subject Matter
ALL	172	51.2	80.5
Generic	44	34.1**	78.6
Sponsor	41	43.9*	84.1
Acronym	41	70.7 *,**	81.8
Victim	46	56.6	77.6

\* significantly different at  $p=.078$ ; \*\* significantly different at  $p=.004$  after Sidak correction

Analysis of the rates at which participants correctly recalled the Nonpartisan law's title returned a significant difference ( $p=.061$ ). The partial eta squared of title type was .044, indicating a small to medium effect size. Participants who received an acronym title for the nonpartisan law were significantly ( $p=.086$ ) more likely to recall the name of the law (61.9%) than participants who received the generic title (35.0%).<sup>133</sup>

Analysis of the rates at which participants correctly recalled the bipartisan law's subject matter did not return a significant difference. Participants were most likely to recall the subject matter if they received an acronym (81%) and least likely if they received a victim name (68.3%), a difference that was not significant.

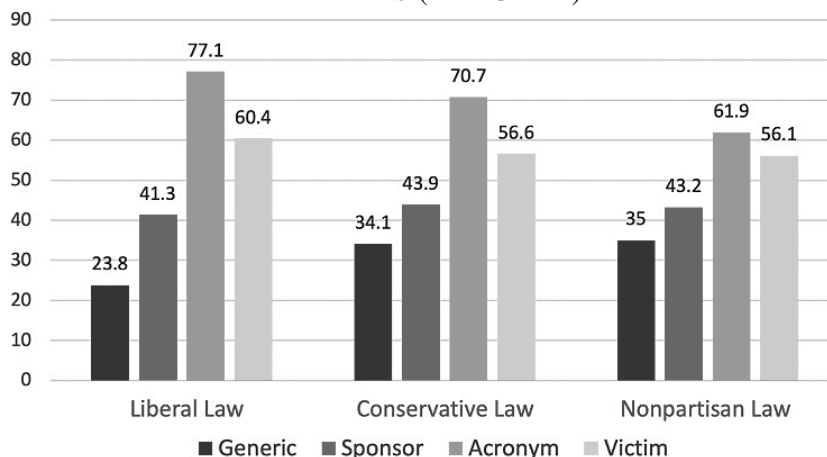
TABLE 4C: RECALL OF LAW NAME AND SUBJECT MATTER IN NONPARTISAN LAW, ALL PARTICIPANTS, ALL TITLES

Title Type (Nonpartisan)	<i>n</i>	Percentage Correct Name	% Correct: Subject Matter
ALL	167	49.1	75.5
Generic	40	35.0*	72.5
Sponsor	44	43.2	79.6
Acronym	42	61.9*	81.0
Victim	41	56.1	68.3

\* significantly different at  $p=.086$  after Sidak correction

133. As above, the use of ANOVA may actually understate the impact of acronyms and victim names on increasing retention of the title of the nonpartisan law as compared to the generic. A Chi-square, without such a conservative correction of Generic and Victim name retention returns a significant value ( $\chi^2= 3.63$ ,  $p=.056$ ), as does Generic and Acronym ( $\chi^2=5.94$ ,  $p=.015$ )

FIGURE 4: PERCENTAGE OF SUCCESSFUL NAME RECALL, ALL LAWS, ALL TITLES (BAR GRAPH)



#### IV.

#### POTENTIAL EXPLANATIONS, LIMITATIONS, AND IMPLICATIONS

The fundamental question that inspired this study was whether tactical titling had any impact on people's feelings about an underlying law or their memory of it. The results indicate that titles can occasion a significant difference in a participant's perception and recall of a law, but this impact may be limited by the subject's preconceptions and preferences.

With respect to perception of a law, our experiment provides strong evidence that a law's short title has the power to change attitudes towards that law under certain circumstances. This study provides evidence that the combination of the law's political valence, the type of short title, and the political lean of the person reviewing it can circumscribe this effect. In our experiment, Democrats and Left-leaning participants did not exhibit this effect; whereas Republicans and Right-leaning participants significantly favored the acronym law when the law pointed in their political direction. Moreover, Republicans and Right-leaning participants significantly disfavored the victim law when the law pointed in their political direction.

With respect to memory recall of a law, the results further provided strong support for the claim that a law's short title can impact the likelihood that people will be able to recall the name of that law. We observed that our acronym law was more likely to be recalled than

a generically titled law regardless of the law's political valence or the political lean of the participant.

The following sections explicate our results. In Section A, we offer potential explanations for these results; in Section B, we provide a brief discussion of the limitations of this study; and in Section C, we elaborate upon the implications of our findings.

### A. *Potential Explanations*

In this section, we first consider our findings on our participants' opinions regarding the tested laws. Thereafter, we consider our findings on memory.

#### 1. *Findings on Favorability*

In light of the considerable effort that legislators apparently put into tactical titles, it might not be surprising that this study revealed a connection between tactical titles and opinions regarding a law's favorability.<sup>134</sup> A harder question is why the results indicated an increase in favorability with only Right-leaning participants on an acronymic conservative law and a decrease in favorability with only Right-leaning participants considering a victim-titled conservative law. Importantly, the primary intention of this experiment was to discover evidence of titling effects on favorability and memory, and hopefully future work, ideally with insights from the disciplines of political science and cognitive psychology, will elucidate the psychopolitical basis for these effects. This offers only tentative explanations to differing reactions to title type.

---

134. Moreover, our results are largely consistent with the results of Professor Jones's study in which he concluded that his "exploratory survey results" from Scottish graduate students "suggest that at some level the short titles of bills and laws do matter in terms of public law favorability." Jones, *supra* note 16, at 530. In particular, he found that bills with personalized titles—which appear to parallel victim-based names—had higher rates of approval than bills with bland, technical/descriptive-names. *Id.* at 525–27. Even beyond differences between the experimental and dependent variables analyzed, there are at least two important distinctions between that study and ours, however. One limitation of the Jones study was that the Scottish subject population could not be broken down into useful partisan categories. Those categories proved especially illuminating in our study. Another limitation was that the descriptions containing personalized titles in the Jones study included additional information to explain why the personalized name had been chosen, which might have strengthened the justification for the bill's enactment compared to other titles and, therefore, could explain why those laws were more likely to be approved. *See id.* at 525 n. 81. Our study varied only the titles of the legislation and did not alter the description of the underlying legislation, making it easier to isolate the effect of the title.

The following will consider explanations of increasing complexity, beginning first with the notion that the results are best explained by differences in effort, then considering differences in reasoning style, and, finally, considering the intersection of reasoning style, personality characteristics, and sociopolitical perceptions.

As an initial matter, there is inadequate support for the simple but inadequate explanation for the result that the Right-leaning participants were less likely to read the description of the law and more likely to use the title as a shortcut for learning about the law's content. This interpretation is not supported by the data, which show no significant difference between Right and Left-leaning participants' ability to recall the subject matter of the proposed legislation.

A better-supported explanation is that all participants considered the entirety of the proposed law but Right-leaning participants were more likely to give weight to the short title in their evaluations. If true, Right-leaning participants' receptiveness to titling might be attributable to a difference in their style of reasoning.

Analytical participants should be inclined to give less consideration to the title because it provides little information about the underlying legislation that is not already set forth in the provided description.<sup>135</sup> Our Right-leaning participants might have uncritically let their fondness or distaste for the short title bear upon their opinion of the underlying law, which would indicate a less analytic approach.

The political psychology literature abounds with research indicating that liberals are more likely to be analytic, systematic, and reflective in their thinking than are conservatives.<sup>136</sup> And research in the

---

135. This is not to suggest that the titles did not provide novel information, such as the names of sponsors and victims, but such information did not provide a rational basis to change one's assessment of the legislation itself.

136. See Kristen D. Deppe et al., *Reflective Liberals and Intuitive Conservatives: A Look at the Cognitive Reflection Test and Ideology*, 10 *JUDGMENT & DECISION MAKING* 321, 319–22 (2015); Thomas Talhelm et al., *Liberals Think More Analytically (More "WEIRD") Than Conservatives*, 41 *PERSONALITY & SOC. PSYCH. BULL.* 250, 264–65 (2015); John Jost & Margarita Krochik, *Ideological Differences in Epistemic Motivation: Implications for Attitude Structure, Depth of Information Processing, Susceptibility to Persuasion, and Stereotyping*, 1 *ADVANCES MOTIVATION SCIS.* 181, 221 (2014); cf. Gordon Pennycook & David G. Rand, *Cognitive Reflection and the 2016 US Presidential Election*, 45 *PERSONALITY & SOC. PSYCH. BULL.* 224, 227–32 (2018) (finding that CRT test performance was higher among Hillary Clinton voters than Trump voters, and higher among Democrats than Republicans, but lowest scorers were Democratic Trump Voters and highest scorers were Republicans who did not vote for Trump); Markus Kimmelmeier, *Authoritarianism and Its Relationship with Intuitive-Experiential Cognitive Style and Heuristic Processing*, 48 *PERSONALITY & INDIVIDUAL DIFFERENCES* 44, 47 (2010) (linking intuitive thinking to authoritarianism).

growing (and vividly titled) field of Bullshit Studies has provided evidence that conservatives are more susceptible to finding deep meaning in seemingly profound but ultimately vacuous or implausible sentences.<sup>137</sup>

However, some scholars within that literature have cautioned against drawing a strong connection between partisan ideology and reasoning. Recent research shows that partisan ideology is not nearly as predictive of falling for fake news as it is of performing worse on short tests of cognitive reflection, for example.<sup>138</sup> And still other scholars deny that the connection exists at all, finding evidence in their own studies that conservatives and liberals are no more likely to engage in unreflective or heuristic thinking.<sup>139</sup>

Even assuming that Right-leaning people are less likely to think analytically, that trait, alone, fails to explain why they would find a law with an acronym name more favorable than a law with a victim name. Personality psychology offers a potential explanation for our Right-leaning participants' fondness for acronyms. For decades, empirical researchers in that field have found that conservatives are more likely than liberals to value conscientiousness, certainty, closure, simplicity, and order.<sup>140</sup> Viewed through this lens, it becomes easier to

---

137. See Stefan Pfattheicher & Simon Schindler, *Misperceiving Bullshit as Profound Is Associated with Favorable Views of Cruz, Rubio, Trump and Conservatism*, 11 PLOS ONE at 1, 7 (2016) ("As shown in Fig 1, favorable views of Ted Cruz, Marco Rubio, and Donald Trump were positively related to judging bullshit statements as profound. The strongest correlation was found for Ted Cruz. No significant relations were observed for the three Democratic candidates (Hillary Clinton, Martin O'Malley, and Bernie Sanders)."); Joanna Sterling et al., *Are Neoliberals More Susceptible to Bullshit?*, 11 JUDGMENT & DECISION MAKING 352, 354–55 (2016) (finding that individuals who endorsed free market ideology performed worse on the "heuristics and biases" task, thereby demonstrating a stronger reliance on intuitive or heuristic-based cognitive processing, and the endorsement of free market ideology as well as trust in Republican government were significantly associated with receptivity to bullshit involving free market ideology).

138. See Gordon Pennycook & David G. Rand, *The Psychology of Fake News*, 25 TRENDS COGNITIVE SCIS. 388, 390 (2021) (finding CRT results were twice as predictive of ability to discern fake news than partisanship, which was also a significant predictor).

139. See, e.g., Dan M. Kahan, *Ideology, Motivated Reasoning, and Cognitive Reflection*, 8 JUDGMENT & DECISION MAKING 407, 417 (2013) (finding conservatives did no worse than liberals on Cognitive Reflection Test).

140. John T. Jost, *Political Conservatism as Motivated Social Cognition*, 129 PSYCH. BULL. 339–340 (2003) ("A meta-analysis (88 samples, 12 countries, 22,818 cases) confirms that several psychological variables predict political conservatism [including] . . . system instability . . .; dogmatism–intolerance of ambiguity; openness to experience; uncertainty tolerance . . .; needs for order, structure, and closure . . .; [and] integrative complexity . . ."). More recent studies have reached similar conclusions. See John R. Hibbing et al., *Differences in Negativity Bias Underlie Variations in*

see how acronym titles might be attractive to conservatives because they are wordplay rallying cries, which seek to unite people behind simple calls to action or principles. Beyond their capacity to embody order and simplicity, the wordplay in acronyms could be part of their appeal. Renowned psychologist Glenn D. Wilson found that conservatives predictably preferred wordplay humor like puns to other types of humor, such as anti-radical, incongruity, sick, or sexual humor.<sup>141</sup> Wilson had hypothesized that puns would be attractive because conservatives tend to value cognitive closure, familiarity, and safety.<sup>142</sup>

Personality characteristics might also explain why our Right-leaning participants comparatively disfavored victim-named legislation. Several studies have found that conservatives react more adversely to negative or threatening stimuli than do liberals, and there is evidence that this negativity aversion (sometimes called negativity bias) could influence attitudes on public issues.<sup>143</sup> Victim-names can serve as reminders of instances in which the existing system failed,<sup>144</sup> and the titles that utilized them might have conjured stronger feelings of aversion in our Right-leaning participants on the whole, leading them to lower favorability ratings overall.

But why would conservatives view victimhood negatively? Republicans have certainly supported victim-named laws, and it is not

---

*Political Ideology*, 37 BEHAV. & BRAIN SCIS. 297, 300–01, 17 (2014) (meta-analysis concluding literature supports finding conservatives more likely to prefer conformity, security, tradition, and simplicity).

141. Glenn D. Wilson, *Ideology and Humor Preferences*, 11 INT'L POL. SCI. REV. 461, 462–64 (1990) (finding puns “play on the sound and meaning of words” and were the only humor conservatives found funny when compared to incongruity, anti-radical, anti-authority, sick, and sexual humor because “apparently only the puns category is sufficiently respectable and simple for the conservatives to show significantly more amusement than liberals.”).

142. *Id.*

143. Mark Mills et al., *Political Conservatism Predicts Asymmetries in Emotional Scene Memory*, 306 BEHAV. BRAIN RSCH. 84, 85–88 (2016) (discussing multiple studies and concluding, taken together, these studies demonstrate that political ideology is associated with attentional asymmetries in the processing of emotionally valenced stimuli, with conservatives being more sensitive to negative stimuli); Hibbing et al., *supra* note 140, at 317. The same difference has been observed at the neural level. Yuan Chang Leong et al., *Conservative and Liberal Attitudes Drive Polarized Neural Responses to Political Content*, 117 PROC. NAT'L ACAD. SCIS. 27731, 27731–36 (2020) (discussing experimental results showing that conservative and liberal participants had divergent neural responses to immigration videos and use of risk-related language (like “threat”) in those videos predicted the divergence, and concluding that these results were consistent with “several prominent theories” in political psychology “that conservatives and liberals exhibit different levels of threat sensitivity.”).

144. Victim-named laws are typically “named after a person who suffered a harm or victimization that the new law is meant to prevent from happening again,” Fanarraga, *supra* note 39, at 39, so they frequently implicate a deficit in existing law.

difficult to find instances in which conservatives, including Donald Trump,<sup>145</sup> have embraced victimhood for political gain.

A recent study, however, illuminates why conservatives might disfavor the particular depiction of victimhood in this study. Miles Armaly and Adam Enders found that, while Republicans and Democrats were equally likely to consider themselves victims, increased support for Donald Trump positively correlated with egocentric victimhood, typified by feelings like “I deserve more than I get,” but reduced support for Trump positively correlated with systemic victimhood, typified by feelings like “the system is rigged against people like me.”<sup>146</sup> Victim-named titles tend to be affixed to examples of systemic victimhood; after all, they serve as a justification for *laws*, which are systemic by nature. The experiment’s fictional victims were no exception—they were victims in part because of perceived inequities in the systems of policing, health policy, and foster care.

But why, then, is the only law in which there was a significant difference between the opinion ratings for short titles the Conservative Law? A negativity bias theory would have to explain why the same effect was not observed with the other tested laws. It might not be so difficult to explain this distinction with respect to acronyms. Acronym titles are frequently rallying cries for a cause, so it makes sense that Right-leaning participants would most favor them when those titles are used to promote Conservative laws. The data are consistent with this intuition, with acronyms receiving the highest mean opinion level in the Conservative Law (8.53), followed by the Nonpartisan Law (6.93), and finally the Liberal Law (6.57).

The lack of enthusiasm for victim names in only the Conservative Law is not so straightforward. Perhaps the answer is that the victim named in that law was more likely than the victims in the other laws to be an in-group member—that is, a fellow member of a group with a shared identity or belief.<sup>147</sup> According to Social Identity Theory, individuals frequently define themselves as members of social groups, which can lead them to harbor biases in favor of fellow mem-

---

145. See, e.g., Maggie Haberman, *Facing Grim Polls, Trump Leans Into Playing the Victim*, N.Y. TIMES (Oct. 1, 2020, updated Oct. 14, 2020), <https://www.nytimes.com/2020/10/01/us/politics/trump-polls-victim.html> (“Over nearly four years in office, Mr. Trump has frequently changed his positions on issues, issued conflicting statements and shuffled through a revolving cast of staff. The one constant has been the president portraying himself as a victim at every turn.”).

146. Armaly & Enders, *supra* note 118, at 2, 16.

147. The landmark study for the field is Henri Tajfel & John C. Turner, *An Integrative Theory of Intergroup Conflict*, in *THE SOC. PSYCH. OF INTERGROUP RELS.* 33, 38 (Stephen Worchel & William G. Austin eds., 1979).

bers and against others.<sup>148</sup> These group biases can form along partisan lines and can influence the information that people consider to be pertinent or troubling.<sup>149</sup> Here, the victims described in the other laws were likely perceived by our Right-leaning participants as political out-group members: a five-year-old child (in the Nonpartisan Law) and a victim of racial discrimination (in the Liberal Law) are not likely to be perceived as fellow Republicans or members of other groups in which our Right-leaning participants were more likely to be members. And conversely, Right-leaning participants were more likely to view the victim in the Conservative Law, a reverend, as a fellow member of a relevant group; he appears as a devout, adult Christian who let his name become attached to a restriction on COVID safety policies. On this theory, the victim name in the Conservative Law would have elicited a stronger negative feeling in our Right-leaning participants than did the victim name in the other two laws, leading it to have a lower mean favorability rating compared to the other title types for that law. Scholars have recognized the plausibility of an interaction between negativity bias and in-group favoritism, but empirical work thus far has not provided clear support for a relationship of this sort.<sup>150</sup>

While the insights of personality science do not provide a definitive explanation of the acronym effect on favorability opinions, they provide promising avenues for further study explored in greater detail in the conclusion.

---

148. *Id.*

149. Natalie Jomini Stroud et al., *Seeing Media as Group Members: An Evaluation of Partisan Bias Perceptions*, 64 J. COMM'N. 874, 889 (2014) (finding that in-group identity influenced perceptions of bias in out-group news stories); Cynthia Hoffner & Raiza A. Rehkof, *Young Voters' Responses to the 2004 U.S. Presidential Election: Social Identity, Perceived Media Influence, and Behavioral Outcomes*, 61 J. COMM'N. 732, 749–51 (2011) (study using social identity theory to predict successfully that perceptions of news stories would be more hostile when perceived to be biased in favor of partisan out-group).

150. Compare Amber E. Boydston, *A Negativity Bias in Reframing Shapes Political Preferences Even in Partisan Contexts*, 10 SOC. PSYCH. & PERSONALITY SCI. 53, 53–61 (2019) (discussing plausibility that group framing will moderate negativity bias, but finding that it did not seem to moderate the bias in her study), with Silvia Knobloch-Westerwick et al., *Confirmation Bias, Ingroup Bias, and Negativity Bias in Selective Exposure to Political Information*, 47 COMM. RSCH. 104, 119 (2020) (testing for interactions between confirmation, in-group, and negativity bias on selective reading of political stories and finding evidence that in-group bias made people more interested in negative stories about in-group).



## 2. Findings on Memory

Regardless of the political valence of the law and the lean of the participants, the participants were on the whole significantly more likely to remember the acronym titles than the generic titles.

These results are consistent with scientific research on long-term memory.<sup>151</sup> Psychologists have observed that people are worse at recalling non-words than words<sup>152</sup> and are worse at recalling words for which they do not know the definition.<sup>153</sup> Cognitive psychologists have identified a link between “semantic” or conceptual meaning and capacity to recall words over longer terms, theorizing that semantic meaning may enhance long-term recall by helping us reconstruct words when our memories of them begin to disintegrate or by making it more likely that we activate our long-term memory when we first process the word.<sup>154</sup> Here, our acronyms were the only titles tested that had a semantic connection to the subject matter that the participants evaluated and, by and large, remembered. Generic titles, by contrast, are assemblages of letters and numbers with little to no meaning.<sup>155</sup>

---

151. Our study tested short-term recall after a 90-second interruption of a word-search game. Most cognitive psychologists understand working (or short-term) memory to last only about fifteen to thirty seconds when rehearsal is prevented. See Saul McLeod, *Short-term memory*, SIMPLY PSYCH. (2009), <https://www.simplypsychology.org/short-term-memory.html> [<https://perma.cc/38R7-PAVF>]; T. Shallice & Elizabeth K. Warrington, *Independent Functioning of Verbal Memory Stores: A Neuropsychological Study*, 22 Q. J. EXPERIMENTAL PSYCH. 261, 269 (1970).

152. Jean Saint-Aubin & Marie Poirier, *Immediate Serial Recall of Words and Nonwords: Tests of the Retrieval-based Hypothesis*, 7 PSYCHONOMIC BULL. & REV. 332, 337 (2000) (“Considered together, the results of the experiments replicated the usual better recall of words over nonwords when performance is assessed with a strict scoring criterion”); Charles Hulme, Sarah Maughan, & Gordon D. A. Brown, *Memory for Familiar and Unfamiliar Words: Evidence for a Long-Term Memory Contribution to Short-Term Memory Span*, 30 J. MEMORY AND LANGUAGE 685, 690, 694 (1991) (finding memory for words was consistently stronger than for non-words and consistently stronger for words in the native language, English, than for words in a foreign language, Italian).

153. See Hulme et al., *supra* note 152, at 694 (finding recall of foreign language words was better when participants were told its meaning).

154. Compare Saint-Aubin & Poirier, *supra* note 152, at 337 (semantical reconstruction), with Nelson Cowan, *An Embedded-Process Model of Working Memory*, in MODELS OF WORKING MEMORY 62 (Akira Miyake & Priti Shah, eds., 1999) (semantical activation of working memory).

155. To be sure, our generic titles contained letters “H.R.,” “S.,” and “A.,” and participants might have understood those letters to be indicators of the legislative organ from which the legislation derived, such as House of Representatives, Senate or Assembly. Importantly, however, the remainder of each generic title was a random series of numbers, making the title, as a whole, a poor semantic hook to the episode of evaluating the legislation.

In addition, psychologists have found evidence that memory is more resilient when memorized words are goal-relevant or emotional.<sup>156</sup> Our acronyms were arousing words tied to the purpose of the underlying law; whereas the other titles used words that were, at most, only contingently related to the law under consideration. For example, the word “Taylor” was related to the law regarding foster care only because that happened to be the name of the girl who inspired it—it could just as easily have been another name. Indeed, names are essentially arbitrary.<sup>157</sup>

Interestingly, participants’ facility in recalling acronym titles did not appear to make it easier for them to answer a question regarding the law’s subject matter. One might expect that the acronym would have helped the participants reconstruct their memory of the law’s subject matter, but the Acronym group was not significantly better than the other groups in answering a multiple-choice question on the subject matter of the law. Since participants scored well across the board (answering correctly more than  $\frac{3}{4}$  of the time on each question on average) it is possible that the difficulty of the question was too

---

156. James S. Nairne, Josefa N.S. Pandeirada & Sarah R. Thompson, *Adaptive Memory: The Comparative Value of Survival Processing*, 19 PSYCH. SCI. 176 (2008) (finding recall of evolutionary goal words related to survival were easiest to recall); B.A. Strange, R. Hurlmann, & R.J. Dolan, *An Emotion-Induced Retrograde Amnesia in Humans is Amygdala- and  $\beta$ -Adrenergic-Dependent*, 100 PROC. NAT’L ACAD. SCIENCES 13626, 13627–29 (2003) (finding enhanced memory for emotional words). This memory effect might be connected to the initial attention paid to the word. See Julia Vogt, Jan De Houwer, Agnes Moors, Stefaan Van Damme & Geert Crombez, *The Automatic Orienting of Attention to Goal-Relevant Stimuli*, 134 ACTA PSYCHOLOGICA, 61, 61 (2010) (“The results of the experiments showed that the induced goal led to the orientation of attention to goal-relevant words in the spatial cueing task”); Helene H. Fung & Laura L. Carstensen, *Sending Memorable Messages to the Old: Age Differences in Preferences and Memory for Advertisements*, 85 J. PERSONALITY & SOC. PSYCH. 163, 164 (2003) (relying on literature that goals affect memory and finding improved memory with goal-related stimuli).

157. Jeremy Dean, *Why People’s Names Are So Hard to Remember*, PSYBLOG (Dec. 19, 2011), <https://www.spring.org.uk/2011/12/why-peoples-names-are-so-hard-to-remember.php> [<https://perma.cc/5A5H-RBYP>]. Their arbitrariness and meaninglessness is the leading explanation of why names are hard to remember. *Id.* In a test of adults ranging from young to elderly, psychologists Gillian Cohen and Dorothy Faulkner found that participants who were asked to recall details shortly after hearing brief recorded biographies were about half as good at recalling first and last names than they were at recalling places, occupations, and hobbies. Gillian Cohen & Dorothy Faulkner, *Memory for Proper Names: Age Differences in Retrieval*, 4 BRIT. J. DEVELOPMENTAL PSYCH. 187, 194 (1986). One of our variables, Victim, contained a first name and another, Sponsor, contained two last names. Across the three laws, Victim performed on average over 10% worse than Acronym, and Sponsor performed on average over 25% worse than Acronym.

low to reveal a differential effect or that the decay period was too short.<sup>158</sup>

*B. Limitations of this Study and Potential Counterarguments*

There are a number of potential limitations or criticisms of the current work that should be highlighted. These center on (1) the nature of the sample, (2) the number and significance of the laws presented, (3) the meaning of the acronyms formulated, and (4) the time afforded to participants. These are addressed below.

*1. MTurk Sampling is not Necessarily Nationally Representative*

The present analysis relies on a convenience sample of online MTurk workers. Although previous work has shown MTurk to be a reasonably reliable resource for research on political ideology,<sup>159</sup> the study's samples were not necessarily nationally representative, and our conclusions should be interpreted with this in mind. It may be that the instrument largely captured individuals from a particular region or with a particular proclivity to internet use, and this would further harm generalizability of findings. However, with respect to the impact of law titling alone (without audio commentary or other aligning cues provided by news or opinion shows), obtaining nationally representative populations may not be as important as sampling from groups of people who are most likely to come across law titling in text—presumably, frequent internet users. For this, MTurk may actually be a better resource than a nationally representative sample.

Moreover, survey responses tracked expectations with regard to political salience. Users who self-reported as Right-leaning were significantly ( $p < .001$ ) more likely to support a law that had been constructed from a review of literature and national trends to be conservative, and users who self-reported as Left-leaning did the same with the liberal counterpart ( $p < .001$ ), *mutatis mutandis*.<sup>160</sup> A subject's

---

158. See Andrew P. Yonelinas & Maureen Ritchey, *The Slow Forgetting of Emotional Episodic Memories: An Emotional Binding Account*, 19 TRENDS COGNITIVE SCIS. 259 (2015) (finding emotion-related memory enhancements become particularly pronounced over time).

159. See, e.g., Kevin J. Mullinix, Thomas J. Leeper, James N. Druckman & Jeremy Freese, *The Generalizability of Survey Experiments*, 2 J. EXPERIMENTAL POL. SCI. 109, 109 (2015) (“The results reveal considerable similarity between many treatment effects obtained from convenience [including MTurk] and nationally representative population-based samples. While the results thus bolster confidence in the utility of convenience samples, we conclude with guidance for the use of a multitude of samples for advancing scientific knowledge.”).

160. See discussion, *supra* note 126.

support of a law generally correlated with willingness to vote for the authors of those laws, as would be expected.<sup>161</sup> Thus, it is unlikely that users offered nationally consistent views on law preference and voting willingness but provided only regional or technology-skewed semiotic reactions.

## 2. *Laws Provided may not have been Sufficiently Divisive or Broad Ranging*

The present analysis rests on the provision of three laws, dealing with facial recognition, church closures during the COVID pandemic, and the streamlining of adoption. These laws may not have covered a sufficient number of topics and may have been of unequal salience, so they may have been insufficient to test the impact of titles on laws in the current political climate. Specifically, the Liberal Law, which proposed a ban of facial recognition technology, occasioned mild support from Right-leaning participants.

There is some merit to the argument that this study did not present a liberal-only law but did succeed in presenting a conservative-only law. In retrospect, the partial support of Right-leaning participants for the facial recognition ban is less surprising in the wake of recent conservative commentary that is sharply critical of facial recognition technology in the context of vaccine passports, identifying participants in the January 6, 2021 US Capitol Attack, and fears of “Big Brother” government.<sup>162</sup>

However, the fact that none of the three laws was preferred only by Left-leaning individuals does not disturb the main findings presented in this study: titles may have an effect on perception of laws, though that effect has only been detected in Right-leaning individuals who preferred a thematic SPIRIT acronym and disliked a victim name applied to the same law. It is important to be clear that this study does not purport to determine that Left-leaning individuals are immune to titling effects. Rather, the effect was detected in only Right-leaning individuals in these specific contexts.

---

161. *Id.*

162. For example, Breitbart has run several pieces critical of the technology. Kurt Zindulka, *Facial Recognition Vaccine Passports Being Developed by British Tech Firms*, BREITBART (Mar. 27, 2021), <https://www.breitbart.com/europe/2021/03/27/facial-recognition-vaccine-passports-being-developed-british-tech-firms/> [https://perma.cc/LP8A-N2PB]; Kurt Zindulka, *Surveillance State: British Police Deploying Drones to Monitor Protests*, BREITBART (Feb. 6, 2021), <https://www.breitbart.com/europe/2021/02/16/gestapo-policing-british-cops-deploying-drones-to-monitor-protests/> [https://perma.cc/Y6S8-8TYF].

### 3. *Acronyms Provided May Not have Signaled Rallying Values for Left-Leaning Individuals*

A related criticism may be made that the acronyms provided, FREE, SPIRIT, and ADOPT, may simply fail to excite Left-leaning individuals and that an acronym effect could be detected with different, more salient terms. It very well may be that SPIRIT resonated strongly with Right-leaning individuals because of conservative perceptions of religion and the use of similar rallying terms in conservative political discourse.<sup>163</sup> The word “free” may not have the same heft on the Left as “spirit” has on the Right, and indeed, the word is often used in criticism of Democratic policies, characterized as offering free stuff,<sup>164</sup> free-money,<sup>165</sup> or the “free phones” of the Lifeline program, mislabeled as “Obamaphone.”<sup>166</sup> It would be worthwhile for future experiments to provide acronyms with different values or political frequency,<sup>167</sup> such as CARE, FORWARD, HEALTH, CHOICE. It is possible that acronymic titles could have an outsized effect, unrestricted by political leaning, provided that the right word is constructed. It is also possible that an acronymic title could gain or lose

---

163. Michael Lipka, *Republicans and Democrats Agree Religion’s Influence Is Waning, But Differ in Their Reactions*, PEW RSCH. CTR. (Nov. 15, 2019), <https://www.pewresearch.org/fact-tank/2019/11/15/republicans-and-democrats-agree-religions-influence-is-waning-but-differ-in-their-reactions/> [<https://perma.cc/SYP7-TN9P>] (“A majority of U.S. adults who identify with or lean toward the GOP (63%) say that religion is losing influence in American life and that this is a ‘bad thing’”); Audrey Conklin, *DeSantis signs bill requiring students to ‘reflect’ and ‘pray as they see fit’ before class*, FOX NEWS (June 15, 2021, 3:33 PM), <https://www.foxnews.com/politics/florida-desantis-public-school-prayer> [<https://perma.cc/EW6P-V648>].

164. Matt Taibbi, *Romney’s ‘Free Stuff’ Speech Is a New Low*, ROLLING STONE (July 13, 2012, 1:51 PM), <https://www.rollingstone.com/politics/politics-news/romneys-free-stuff-speech-is-a-new-low-190376/> [<https://perma.cc/5NNR-AF27>]; Joan Venochi, *When Did Democrats Become the Party of Free Stuff?*, BOS. GLOBE (Oct. 15, 2015, 6:13 PM), <https://www.bostonglobe.com/opinion/2015/10/15/when-did-democrats-become-party-free-stuff/1YmL3ZhiS3mXldHsyiPTfP/story.html> [<https://perma.cc/9BPN-G4LP>]; Philip Wegmann, *The Free-Stuff Primary: What Democrats’ Promises Will Cost*, REAL CLEAR POL. (Apr. 25, 2019), [https://www.realclearpolitics.com/articles/2019/04/25/the\\_free-stuff\\_primary\\_what\\_democrats\\_promises\\_will\\_cost\\_140155.html](https://www.realclearpolitics.com/articles/2019/04/25/the_free-stuff_primary_what_democrats_promises_will_cost_140155.html) [<https://perma.cc/PNJ5-ZZPF>].

165. Lucia Graves, *Democrats Are Finally Unafraid to Be the Party of Free Money*, NEW REPUBLIC (Jan. 8, 2021), <https://newrepublic.com/article/160842/ossoff-warnock-andrew-yang-money> [<https://perma.cc/56SP-N26E>].

166. Gregg Re, *Pelosi’s Coronavirus Stimulus Includes Return of ‘Obamaphones,’ Other Unrelated Items, GOP Says*, FOX NEWS (Mar. 23, 2020, 10:38 PM), <https://www.foxnews.com/politics/pelosis-coronavirus-stimulus-bill-includes-return-of-obamaphones-climate-change-wishlist> [<https://perma.cc/BR4R-B8EM>].

167. It could be helpful, for example, to map the buzzwords of the relevant parties. See Editorial Staff, *At the National Conventions, the Words They Used*, N.Y. TIMES (Sept. 6, 2012), <https://archive.nytimes.com/www.nytimes.com/interactive/2012/09/06/us/politics/convention-word-counts.html> [<https://perma.cc/B7MT-6K9C>].

power with repetition, such that a party could signal a law's value(s) to its base by reuse of the title itself.

#### 4. *Single Exposures to Titles and Immediate Measurements are Insufficient to Gauge Long-Term Effect*

Lastly, the study may be criticized for focusing on single exposures to law titles, which are unlikely to occur in the current media environment, and measuring subject response immediately after this sole exposure. It may be that the impact of a title diminishes or increases with repeated use, to say nothing of the pairing of the title with meaningful audio or graphic cues in media discussion. It may also be that the impact of a title is fleeting. Further study is required to see if titling effects survive a decay period or if the effects are heightened by accompanying stimuli.

### C. *Study Implications*

For decades, scholars and commentators have criticized tactical titling on the assumption that it is dangerously manipulative,<sup>168</sup> and the results of this study provide empirical grounding to justify the concern. It appears that titles can influence opinions of underlying laws. In our experiment, a single exposure to a victim name or a thematic, but ultimately uninformative, acronym meant the difference between Right-leaning participants giving a conservative law approximately a 6 as opposed to a 9 out of 10. We may also be understating the impact of titles; our participants were exposed to a single title for the law, a single time, and then asked for impressions. The repetition of these titles, along with graphic and audio cues could further enhance their impact on repeat viewers. In our age of razor-thin majorities at the

---

168. See Graeme Orr, *Names Without Frontiers: Legislative Titles and Sloganeering*, 21 *STATUTE L. REV.* 188, 209 (2000) (A critique from over twenty years ago with a focus on Australia but noting the practice in the United States, stating "Whilst having some rhetorical influence over the immediate public reception of legislation, sloganeering short titles are quickly subsumed in the United States, due to the elaborate classification of legislation into Codes and Titles."); see also Jones, (R)evolution, *supra* note 13, at 63 ("Also, there appear to be particular cases in which such titles aid quality legislation in becoming law (e.g. the original Ryan White CARE Act). However, those who would seek to understand the legislation are left to decipher the true meaning of the text, which is often hidden behind sympathetic figures, acronyms, and other evocative language. The tendentious and promotional language used in American short titles is a public law problem that must be addressed and should not continue to remain unrestrained."); Sagers, *supra* note 1, at 1332 ("But in the end, and whoever is to blame, the saddest aspect of this behavior is neither its shallowness nor the deliberate malfeasance of anyone in government. The saddest aspect is that these tawdry theatrics work.").

federal level, even an edge of small magnitude might make the difference in a law's failure or its passage. The prospect that something so immaterial to a law's content might determine its passage is troubling, particularly if the effect manifests in an unbalanced manner, with conservative legislation standing to gain most from the technique.

The acronyms at issue here were selected to be thematically appropriate (that is, to function as an acrostic and represent an existing word with some affinity to the underlying legislation), but they were not actually informative. FREE, ADOPT, and SPIRIT, are at most mildly suggestive of what the laws actually address. Calling the Conservative Law "NO-CLOSE" would convey more of the law's contents than "SPIRIT," but if SPIRIT better motivates Right-leaning voters to take up the law, then with little doubt it would be the preferred title. If titles can be effective, politicians might reasonably conclude that their time is better spent on devising appealing titles than on innumerable useful endeavors, not least of which would be in crafting better laws. The famous story of politicians spending more time considering the name of the PATRIOT Act than the law's actual contents becomes sinister rather than farcical if the name actually matters to an appreciable degree.

A few scholars have expressed a degree of acceptance for tactical titling, assuming it to be just another dimension of politicking that both parties can harness.<sup>169</sup> But this is why the potential asymmetry of the effect is especially troubling. If Republicans have the capacity to use tactical titling to their advantage but Democrats do not, we can no longer ignore the practice on the ground that the toe-to-toe nature of American politics will effectively cancel out the effect. Recent research by Yochai Benkler, Robert Faris, and Hal Roberts asserts that

---

169. Strause, et al., *supra* note 20, at 29–30 (“To some extent, of course, nearly all legislative names that are more than a dispassionate description are politically charged. Legislators are, after all, in the business of passing legislation and getting credit for doing so with the voters. . . . But they serve well enough as short monikers, even if they also make politically salient, even partisan, comments on the law they label. Perhaps little harm is done in practice by allowing two short titles, one long and tendentious and the other short and evocative (and perhaps tendentious as well) and allowing the long one to fade away from disuse.”); William M. Sage, *Brand New Law! The Need to Market Health Care Reform*, 159 U. PA. L. REV. 2121, 2136–37 (2011) (“This trend [of tactical titling] has pros and cons. . . . In contrast to these examples of legislative salesmanship, the new health reform law has been strikingly anonymous. . . . As a result, the Administration informally adopted the shorter but equally non-descript ‘Affordable Care Act.’ This was a mistake. Despite the Administration’s reluctance to connect the dots in its complex but cohesive initiative too explicitly, successful implementation of health reform requires a sense of social solidarity and collective progress as well as individual benefit. It is hard for a nameless law to achieve such broad acceptance.”).

asymmetries in receptivity and tolerance of propaganda have served to amplify and legitimate disinformation.<sup>170</sup>

There might be some hope that public outcry or other social-norms-based pressure might curb the practice of tactical titling, as it apparently did in Australia.<sup>171</sup> But if such titling is, as scholars have said, “an easy choice”<sup>172</sup> for American politicians, it might take legislative means to end the practice. In the last decade, politicians from both sides of the aisle have periodically pushed bills seeking to ban non-generic titling,<sup>173</sup> with one sitting in committee at the time of this writing.<sup>174</sup> And as mentioned, many states have strict drafting rules that appear to be effective prophylactics.<sup>175</sup> Professor Jones, goes one step farther and recommends that a nonpartisan entity such as the House and Senate Parliamentarians be given authority to name proposed legislation.<sup>176</sup> This measure has the most appeal because it best insulates the fix, itself, from brinkmanship; one can imagine how statutes or drafting rules might be twisted through selective enforcement by the party in power to invalidate the opposition’s legislation. So long as these risks are minimized, measures such as these, at least insofar as they are tailored to the problem of manipulative titling,<sup>177</sup> could be effective at limiting the practice.

---

170. YOCHAI BENKLER, ROBERT FARIS, & HAL ROBERTS, NETWORK PROPAGANDA 359 (2018).

171. The bulwark of social pressure is perhaps best typified in the treatment of the Industrial Relations Act in Australia and its eventual renaming to the Fair Work Act. *ACCI urges ‘neutral’ name for Fair Work*, ABC NEWS (Apr. 18, 2012), <https://www.abc.net.au/news/2012-04-18/acci-calls-for-fair-work-australia-to-be-renamed/3958480> [<https://perma.cc/N6ZX-7FKJ>].

172. Strause, et al., *supra* note 20, at 30.

173. See, e.g., S.110, 117th Cong. (2021) (“One Subject at a Time Act” sponsored by Sen. Rand Paul (R-KY), “this bill requires each bill or joint resolution to include no more than one subject and the subject to be clearly and descriptively expressed in the measure’s title.”); Press Release, Mike Honda, House of Representatives, Rep. Honda Introduces Acronym Act to Clean up Bill Names (Apr. 1, 2015), <https://justfacts.votesmart.org/public-statement/960636/rep-honda-introduces-acronym-act-to-clean-up-bill-names> [<https://perma.cc/JY6A-T2G6>] (the absence of this bill on the legislative record and the date suggest that the ACRONYM ACT might have been tongue-in-cheek); Wilks, *supra* note 14 (South Carolina rule change proposed by a Democrat).

174. S.110, 117th Cong. (2021) (Introduced 1/28/2021, read twice and referred to the Committee on Rules and Administration, requiring that “Each bill or joint resolution shall embrace no more than one subject” and “the subject shall be clearly and descriptively expressed in the title.” §2(a)-(b)).

175. Jones, *Drafting Proper Short Bill Titles*, *supra* note 13, at 472–73.

176. Jones, *SCOTUS*, *supra* note 37, at 29–31.

177. The “One Subject at a Time Act” might be too sweeping, for example, as it appears to have the additional function of preventing large funding packages in omnibus legislation. See Sarah Anderson, *For Liberty and Justice, Thank Rand Paul*,



## CONCLUSION AND MATTERS FOR FUTURE STUDY

The results in this Article support the conclusion that law titles can impact the favorability and memorability of the underlying legislation. Therefore, tactical titling is not something that we can continue merely to laugh at or brush off; it could be determining what becomes enshrined into law, and its impact might skew to the Right.

Short names for laws can provide a quick way to reference a complex protocol, but they have become a breeding ground for eye-catching but ultimately uninformative names, or worse. Since the practice became ubiquitous, there has been a lingering worry that these names, if referencing sympathetic victims or if purporting to represent a core value, can manipulate audiences. This study confirms that there are good, empirically-supported reasons to believe that the practice is an impediment to the democratic process, especially with regard to the use of acronyms.

Participants in our experiment, regardless of political preference, could more easily recall the titles of acronymic laws. More importantly, through our experiment, we found that an acronymic title conveyed in text can increase the reader's positive perception of a law. We further found that an inspiring victim title may actually decrease the opinion of the law for those very same readers. Both of these results were evident in Right-leaning participants while considering a conservative law concerning church closure orders during a pandemic.

This Article provides empirical grounding for further study of this potentially dangerous phenomenon. Key variables to explore include the role of repetition and of pairing tactical titles with audio-visuals, both of which might expand the reach and power of tactical titles. In our degraded informational ecosystem, where a disturbing number of voters find themselves in a media echo-chamber, a constantly repeated acronym buffeted by evocative imagery might take on special power, swaying more voters across the political spectrum. In addition, further study should test whether employing misleading or incongruous titles augments the effect on favorability. The names used here were thematically consistent with the proposed laws to which they were affixed, but politicians have employed tactical titles

---

FREEDOM WORKS (June 12, 2020), <https://www.freedomworks.org/content/liberty-and-justice-thank-rand-paul> [<https://perma.cc/C3Q2-3M8J>] (discussing how the Act would prevent omnibus legislation that risks not being adequately reviewed and edited).

that are at odds with the function of the underlying legislation, potentially deceiving the public in the process.<sup>178</sup>

It is disturbing to think that legislative success might turn on marketing rather than actual improvement. Yet, today's deep partisan divide has brought an ever growing need to motivate core supporters. Tactical titles may be employed to help push a law over the top. Perhaps we have become too desensitized to vacuous and manipulative political messaging, but there is still something distinctly sad about propagandic messages finding an enduring home in the Statutes at Large. We can unpin campaign buttons or peel off bumper stickers, but the official titles for our laws will not disappear so easily.

---

178. See Sagers, *supra* note 1, at 1329 ("Worse, the acronym statutes and many other sloganeered laws turn out frequently to conceal legal substance that is highly disagreeable, and so the conflict between their cheery, pun-like frivolity and the darkness they contain verges on the deliberately dishonest or fraudulent."); EDWARD V. SCHNEIER & BERTRAM GROSS, CONGRESS TODAY 370 (1993) (pointing out that legislation titled "An Act to Reduce Taxation" actually raised taxes on every item listed in the bill).

## APPENDIX

## 1. Liberal Law: Facial Recognition

The law, [H.R. 12B / DeMarcus's Law / the May-Smith Act / FREE (the Facial Recognition Enforcement Elimination Act)], would forbid police departments from using facial recognition technology.

The sponsors of the law, both Democrats, said that facial recognition has led to mistaken arrests, retaliation against peaceful protesters, and is more likely to misidentify people of color.

The inspiration for the law was the wrongful arrest and jailing of a young African-American man based on a facial recognition software program. The software analyzed surveillance camera footage and wrongly concluded that he was the man who stole expensive watches at a store.

## 2. Conservative Law: Church Closure

The law, [S. 1761 / Reverend Tim's Law / the Wall-Johns Act / SPIRIT (the Statute Protecting Individual Rights in Theology)], would require that laws, regulations, or orders may not restrict the free exercise of religion in states of emergency.

During the COVID-19 pandemic, orders were issued that prevented some gatherings at churches. This led to the financial collapse of approximately 1 in 20 churches, according to the law's sponsors, two Republicans.

The sponsors were moved by the story of a beloved pastor who had to permanently close a congregation after 4 decades of service when orders prevented in-person worship for several months in a row.

## 3. Nonpartisan Law: Adoption

The law, [A.102 / Taylor's Law / the Tillis-Jones Act / ADOPT (the Act Dedicated to Opening Parenting Tracks)], would create more flexible requirements for licenses to become foster parents.

The sponsors of the law, a Republican and a Democrat, provided statistics showing that the opioid crisis has created a massive shortage of foster families.

They were inspired by the story of a five-year-old girl who lost her parents to overdoses and, after being discovered alone, was moved nearly a dozen times to different housing facilities due to overcrowding. The law would allow more people to become foster parents, limiting overcrowding.

