

# The Congressional Short Title (R)Evolution: Changing the Face of America's Public Laws

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## INTRODUCTION

In the summer of 1990, perhaps the most important and symbolic piece of legislation of the 101st Congress was hanging in the balance, very close to being defeated. It did not appear that the Comprehensive AIDS Resources Emergency Act of 1990 was going to survive. Though the measure had bipartisan support, the notoriously powerful Senate minority was stifling the bill's progress. In essence, the contents of the bill and the connection it had to the gay community were too controversial for some members. Around this time, a boy named Ryan White and his mother started a public information campaign to raise awareness of the issue. Ryan White had contracted the HIV virus from a blood transfusion. Because HIV/AIDS was perceived by many as a "drug problem" or a "gay disease" confined mostly to particular cities,<sup>2</sup> the story of Ryan White had a significant impact on many individuals' understanding of the disease. Though the first major federal piece of AIDS legislation was held up, experienced legislator Ted Kennedy still had one trick up his sleeve: changing the short title of the bill. Legend has it that, in conjunction with Senator Dan Coats, Kennedy

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<sup>2</sup> See, e.g., 101 CONG. REC. E482 (Mar. 1, 1990) (Extension of Remarks by Mr. William E. Dannemeyer.), available at <http://thomas.loc.gov/cgi-bin/query/F?r101:1:/temp/~r101qNx5iz:e285>. A report prepared by Mr. Dannemeyer in relation to sodomy laws in the District of Columbia reported the following:

According to the most recent report from the Center for Disease Control dated January 26, 1990, 115,786 cases of AIDS in adults and adolescents have been reported. Of these 70,093 (60.5%) were reported among homosexual or bisexual males, 24,212 (20.9) among intravenous drug abusers, and an additional 8,117 (07%) among homosexual males who were also drug abusers. In contrast, the total number of reported cases among both heterosexual men (2,308, 02%) and women (3,322, 2.9%) who are not drug abusers was less than 5% of the total. It is also relevant to note that Washington D.C. had more reported cases than all but five cities: New York, Los Angeles, San Francisco, Houston, and Newark, N.J.

*Id.* at E484; *But see* 101 CONG. REC. S6191 (May 15, 1990) (statement of Senator Pryor during Rollcall Vote No. 91 Leg.), available at <http://thomas.loc.gov/cgi-bin/query/F?r101:277:/temp/~r101WdcugS:e1>. Senator Pryor described a particular victim of AIDS who "did not live in the so-called homosexual community of San Francisco or of New York. She was a surgeon in Little Rock, AR, a splendid surgeon, and that life is lost." *Id.* at S6193.

decided to change the name of the bill to the Ryan White Comprehensive AIDS Resources Emergency (CARE) Act of 1990.<sup>3</sup> This pressured Coats and others who were previously opposed to the bill to pledge support for it. Subsequently, the bill passed both Houses and was signed by the President on August 18, 1990.<sup>4</sup> 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. The Ryan White CARE Act is a prominent example of how Congressional short titles are inscribed today and was a key moment in both the evolution and revolution of short titles on America's bills and laws.

Congress has employed similar linguistic tactics throughout the years, albeit not with as much frequency as the contemporary fad for short title manipulation. Shortly after World War II, Congress enacted the National Security Act of 1947. This law changed the name of the War Department to the less controversial Department of Defense.<sup>5</sup> This change significantly affected the perception of appropriations to the department. A U.S. Admiral commented on the nature of the change by stating that

[u]p till that time, when you appropriated money for the War Department, you knew it was for war and you could see it clearly. Now it's for the Department of Defense. Everybody's for defense. Otherwise you're considered unpatriotic. So there's absolutely no limit to the money you must give to it.<sup>6</sup>

This linguistic manipulation is another interesting precursor prompting a study of how some bills and laws are named in regard to contemporary policymaking in the U.S. Congress. For instance, modern bills relating to the Department of Defense sound more positive than their predecessors. Instead of such names as the War Revenue Act of 1917,<sup>7</sup> contemporary Congresses pass “defense” bills, such as the National Defense Authorization Act for Fiscal Year 2010<sup>8</sup> and the Department of Defense Appropriations Act, 2010.<sup>9</sup>

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3 See HENRY WAXMAN WITH JOSHUA GREEN, *THE WAXMAN REPORT: HOW CONGRESS REALLY WORKS* 50–51 (2009); see also Joshua Green, *The Heroic Story of How Congress First Confronted AIDS*, *THE ATLANTIC* (June 8, 2011, 4:28 PM), <http://www.theatlantic.com/politics/archive/2011/06/the-heroic-story-of-how-congress-first-confronted-aids/240131/>.

4 Ryan White Comprehensive AIDS Resources Emergency (CARE) Act of 1990, Pub. L. No. 101–381, 104 Stat. 576 (1990).

5 MURRAY EDELMAN, *THE SYMBOLIC USES OF POLITICS* 63 (2d ed. 1985).

6 HOWARD ZINN & ANTHONY ARNOVE, *VOICES OF A PEOPLE'S HISTORY OF THE UNITED STATES* 374 (2004).

7 War Revenue Act of 1917, Pub. L. No. 65–50, 40 Stat. 300 (1917); see also Roy G. Blakey, *The War Revenue Act of 1917*, 7(4) *AM. ECON. REV.* 791 (1917).

8 National Defense Authorization Act for Fiscal Year 2010, Pub. L. No. 111–84, 123 Stat. 2190 (2009).

9 Department of Defense Appropriations Act, 2010, Pub. L. No. 111–118, 123 Stat. 3409

The change from the War Department to the Department of Defense is also important because of the year it was done: 1947. Around this period, politicians started employing political marketing techniques on a large scale<sup>10</sup> in order to promote themselves, champion their policies, and win elections. Researchers posit that political marketing originated in the United States between 1952 and 1960<sup>11</sup> and that its formative years were from 1964 to 1976, the year such practices were adopted on a much larger scale.<sup>12</sup> Yet even in these formative years, the significant bills passed by Congress did not typically employ evocative naming in their titles. For example, three contentious Acts passed in 1965 employed distinctly innocuous short titles: the Elementary and Secondary Education Act,<sup>13</sup> the Social Security Act,<sup>14</sup> and the Voting Rights Act.<sup>15</sup>

There were some indications that symbolic political marketing language was beginning to appear in congressional short titles during and after these formative years, but not to any significant degree. The Government in the Sunshine Act<sup>16</sup> was passed in the mid-1970s purportedly to provide for more openness in government agencies, although it came with a list of ten key exceptions, including national defense and foreign policy. The Comprehensive Crime Control Act of 1984<sup>17</sup> was an omnibus measure that included a plethora of smaller Acts aimed at reducing drug crime and violent crime. Although some tendentious and evocative short titles arose during the 1970s and 1980s, a healthy majority of short titles during these decades were bland and/or technical. As a previous piece of mine asserted, the 1990s ushered in many new types of short titles, and Congress has not abated since.<sup>18</sup> This piece will describe the new types of bill naming that arose during the short title revolution and then quantitatively demonstrate

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(2009).

<sup>10</sup> Though, it was not called “political marketing” at the time, as this is a more modern term for the use of such tactics.

<sup>11</sup> PHILIPPE J. MAAREK, *CAMPAIGN COMMUNICATION & POLITICAL MARKETING*, 7 (2011).

<sup>12</sup> *Id.*

<sup>13</sup> Elementary and Secondary Education Act of 1965, Pub. L. No. 89-10, 79 Stat. 27 (1965). This Act provided extensive funding for education, and determined there should be no federal curricula. It was the precursor to the No Child Left Behind Act of 2001.

<sup>14</sup> Social Security Act, Pub. L. No. 89-97, 79 Stat. 286 (1965) (creating Medicare and Medicaid).

<sup>15</sup> Voting Rights Act of 1965, Pub. L. No. 89-110 79 Stat. 438 (1965) (prohibiting many discriminatory voting practices, which were widespread at that time).

<sup>16</sup> Government in the Sunshine Act, Pub. L. No. 94-409, 90 Stat. 1241 (1976).

<sup>17</sup> Comprehensive Crime Control Act of 1984, Pub. L. No. 98-473, 98 Stat. 1837 (1984).

<sup>18</sup> Brian Christopher Jones, *Drafting Proper Short Titles: Do States Have the Answer?* 23(2) *STAN. L. & POLY REV.* 455, 456-58 (2012). However, while that piece presented some of the evocative bill titles of the 1990s, 2000s, and 2010s, and also included comments from legislators and those close to the legislative process, it did not systematically or quantitatively demonstrate how short titles had evolved during this time period.

how they became more evocative and less technical from the ninety-third Congress onward.

The literature in the United States regarding bill titling is sparse. Contemporary legislative processes texts such as Senate<sup>19</sup> and Congressional<sup>20</sup> procedure manuals make little mention of short titles, and major legislative and public policy works from Kingdon,<sup>21</sup> Baumgartner & Jones,<sup>22</sup> and Sinclair<sup>23</sup> also make little to no acknowledgement of them. Even political communication and political marketing texts written during the height of the transformation such as Maarek<sup>24</sup> and Sussman<sup>25</sup> fail to shed much light on such evocative short titles. Barring a few selective media members who have written about the topic,<sup>26</sup> both the U.S. academic and legal communities have largely neglected short titles and the legal and political consequences of employing evocative language in titles. This article seeks to remedy this situation and empirically demonstrate how short titles in Congress have evolved to become less technical and far more evocative throughout the years, thus changing the face of America's Public Laws.

## I. METHODS

To demonstrate the evolution of American short titles, I performed a targeted quantitative study of such names from the 93rd–111th

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19 MARTIN B. GOLD, *SENATE PROCEDURE AND PRACTICE* (2d ed. 2008).

20 WALTER J. OLESZEK, *CONGRESSIONAL PROCEDURES AND THE POLICY PROCESS* (8th ed. 2011). Oleszek notes: "Naming the legislation might also be important. Upset with the large bonuses received by Wall Street executives whose firms received federal bailout funds, Vermont senator Bernie Sanders introduced a bill named the "Stop the Greed on Wall Street Act." An attractive title, such as the Freedom of Information Act, the American Dream Restoration Act, or an acronym like the USA-PATRIOT Act – "Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism" – could bring a bill useful media attention. "People are recognizing that interesting bill names can help bills get noticed and remembered," noted a House staffer. In what might be a first for Congress, Don Young, R-Alaska, a former chair of the House Transportation and Infrastructure Committee, named a transportation bill after his wife, Lula, titling the measure the Transportation and Equity Act: A Legacy for Users, or TEA-LU." *Id.* at 93 (citations omitted).

21 JOHN W. KINGDON, *AGENDAS, ALTERNATIVES, AND PUBLIC POLICIES* (2d ed. 2003).

22 FRANK R. BAUMGARTNER & BRYAN D. JONES, *AGENDAS AND INSTABILITY IN AMERICAN POLITICS* (2d ed. 2009).

23 BARBARA SINCLAIR, *UNORTHODOX LAWMAKING: NEW LEGISLATIVE PROCESSES IN THE U.S. CONGRESS* (3d ed. 2007).

24 MAAREK, *supra* note 11.

25 GERALD SUSSMAN, *GLOBAL ELECTIONEERING: CAMPAIGN CONSULTING, COMMUNICATIONS, AND CORPORATE FINANCING* (2005).

26 *See, e.g.*, Jess Bravin, *Congress Finds, In Passing Bills, That Names Can Never Hurt You*, *WALL ST. J.* (Jan. 12, 2011), <http://online.wsj.com/article/SB10001424052748703820904576057900030169850.html>; *see also* WILLIAM SAFIRE, *THE RIGHT WORD IN THE RIGHT PLACE AT THE RIGHT TIME: WIT AND WISDOM FROM THE POPULAR "ON LANGUAGE" COLUMN IN THE NEW YORK TIMES MAGAZINE* (2004).

Congress (1973–2011). The United States’ official Congressional website “THOMAS” contains electronic records on all public laws from the ninety–third Congress (1973–75) to the present day.<sup>27</sup> This time period is ideal for the current study as the onset of evocative naming arose in the 1990s.<sup>28</sup> Thus, acquiring information dating from 1973–2011 provides a clear picture of just how naming evolved in Congress during these crucial years. In total, I classified 10,167 public laws from the targeted time period.<sup>29</sup> Although I mostly focused on those laws that employed short titles, I also charted the use of long titles, especially those that named objects, such as federal buildings, post offices, etc. The data reveals that during the time period studied, Congressional short titles went through quite a transformation as new types of naming methods were emphasized, different words were added or dropped from titles, and much of the technical wording of previous years fell out of favor.

To determine the statistical significance of Congressional short title wording, I ran simple linear regressions, which provided an efficient and straightforward method of testing the data. By setting the independent variable as “Congress,” I was able to chart changes in the dependent variable of public law titles.”

#### A. *Types of Contemporary Short Titles*

Before a more precise description of the quantitative data can take place, an explanation of how and what was targeted must be specified. After researching Congressional legislation for many years, I have identified four particular styles in which legislation is named and also identified some words that are common in contemporary short titles. The styles are as follows:

1. *Personalized Titles*.—This technique was utilized in the naming of the Ryan White CARE Act of 1990 discussed at the beginning of this Article and is found in a number of recent Acts which employ victims’ names in the short title (e.g., the Kate Puzey Peace Corps Volunteer Protection Act of 2011,<sup>30</sup> the Lilly Ledbetter Fair Pay Act of 2009,<sup>31</sup> and the James Zadroga 9/11 Health and Compensation Act of 2010<sup>32</sup>). Personalized legislation

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<sup>27</sup> About THOMAS, THE LIBRARY OF CONGRESS, [http://thomas.loc.gov/home/abt\\_thom.html](http://thomas.loc.gov/home/abt_thom.html) (last visited November 8, 2012).

<sup>28</sup> Jones, *supra* note 18, at 456–57.

<sup>29</sup> This figure includes resolutions.

<sup>30</sup> Kate Puzey Peace Corps Volunteer Protection Act of 2011, Pub. L. No. 112–57, 125 Stat. 736 (2011).

<sup>31</sup> Lilly Ledbetter Fair Pay Act of 2009, Pub. L. No. 111–2, 123 Stat. 5 (2009).

<sup>32</sup> James Zadroga 9/11 Health and Compensation Act of 2010, Pub. L. No. 111–347, 124 Stat. 3623 (2011).

employs a wide range of names, from lawmakers to national heroes. Many of the recent proposals in Congress use sympathetic figures that have attracted media attention. In the crime policy context, Jennifer Wood has commented on how contemporary crime statutes, such as Megan’s Law,<sup>33</sup> Laci and Conner’s Law,<sup>34</sup> and the national AMBER Alert<sup>35</sup> exploit these victims and reinforce the image of the victims as “young, white, female and middle class.”<sup>36</sup> One may assume that many personalized Acts are private laws, but most come in the form of Public Laws. These pieces of legislation have legal and public policy effects far beyond what their personalized titles indicate. These types of titles were a focus of the below analysis.<sup>37</sup>

2. *Key Action/Attribute Titles.*—Key action titles are quite common, employing language that explicitly states an action will take place. Common words used in these titles are “prevention,” “protection,” and more recently, “improving.” In fact, this is perhaps the most tendentious of the different naming styles (i.e., this law will “protect” a certain segment of the population, or this law will “prevent” a certain crime from happening). Opponents of such measures are implicitly portrayed as aloof or unsympathetic to the specific action referenced, which ultimately has political consequences. Conversely, proponents of such legislation may be looked upon as more assertive or effective politicians. This language is demonstrated in a number of recent acts, such as the Protect America Act of 2007,<sup>38</sup> the Homebuyer Assistance and Improvement Act of 2010,<sup>39</sup> and the Regulated Investment Company Modernization Act of 2010.<sup>40</sup> In terms of methodology, the following popular action words were chosen as “evocative” and tracked from the 93rd–111th Congresses: “control,” “prevent,” “protect,” “improve,” and “modernize.”<sup>41</sup>

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33 Megan’s Law, Pub. L. No. 104–145, 110 Stat. 1345 (1996).

34 Laci and Conner’s Law, Pub. L. No. 108–212, 118 Stat. 568 (2004).

35 Amber Hagerman Child Protection Act of 1996, Pub. L. No. 104–208, 110 Stat. 3009 (1996).

36 Jennifer K. Wood, *In Whose Name? Crime Victim Policy and the Punishing Power of Protection*, 17(3) *NWSA J.*, Autumn 2005, at 1.

37 On a methodological note, every short title that inscribed a person’s name was used for this calculation, as I did not discern between the types of names used (i.e., a legislator or a constituent). Some, such as the Acts mentioned above, employ sympathetic figures; others may use the name of the legislation’s writers or sponsors (e.g., Dodd–Frank Wall St. Reform and Consumer Protection Act). Either way, all legislation inscribed with a name on the short title was used in this study.

38 Protect America Act of 2007, Pub. L. No. 110–55, 121 Stat. 552 (2007).

39 Homebuyer Assistance and Improvement Act of 2010, Pub. L. No. 111–198, 124 Stat. 1356 (2010).

40 Regulated Investment Company Modernization Act of 2010, Pub. L. No. 111–325, 124 Stat. 3537 (2010).

41 Of course, all derivatives of these words were used as well (i.e. improving, improve-

Attribute titles employ language in which particular characteristics may be applied to parties who propose such legislation and/or legislators who vote for or against the measure, such as: “responsibility,” “patriotism,” “accountability,” etc. Most of the additions to attributable naming are adjectival. For a Congressperson, being labeled as either “pro–America” or “patriotic” is certainly a benefit, as is being labeled as “responsible” or “accountable.” However, the attributes do not necessarily have to be overtly positive. Adding a word such as “emergency” can potentially attract more attention to a piece of legislation and perhaps even advance the piece faster through the legislative process.

For methodological purposes, the words chosen for this category that were classified as “evocative” and tracked were: “efficient,” “freedom,” “America,” “responsible,” “accountable,” “secure,” and “emergency”.<sup>42</sup> Both the actions and attribute terms chosen have very little connection to the technical aspects of legislative drafting and statutory language and seem to provide short titles with language that is more tendentious and/or promotional.

3. *Acronym Titles*.—These are names in which the whole or part of the short title forms an acronym by which the bill is usually identified. A prominent example of an acronym title is the USA PATRIOT Act of 2001, which stands for Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism.<sup>43</sup> These titles can use key actions and/or attributes both in their long–form short titles<sup>44</sup> and in their acronym form, which may make them that much more powerful. Or, similar to the Ryan White CARE Act of 1990 mentioned above, they can use a combination of personalized and action/attribute techniques. Two more examples of short titles utilizing acronyms are the Credit Card Accountability Responsibility and Disclosure Act, a.k.a. the Credit CARD Act of 2009,<sup>45</sup> and the Providing Resources, Officers, and Technology To Eradicate Cyber Threats to Our Children Act, a.k.a. the PROTECT Our

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ment, etc.).

<sup>42</sup> Again, figures below include the derivatives of all the terms as well (i.e. “American” or “accountability,” etc.).

<sup>43</sup> 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, 115 Stat. 272 (2001).

<sup>44</sup> This seems like an oxymoron, but it is not. A “long–form short title” is an acronym short title spelled out.

<sup>45</sup> Credit Card Accountability Responsibility and Disclosure (CARD) Act of 2009, Pub. L. No. 111–24, 123 Stat. 1734 (2009).

Children Act of 2008.<sup>46</sup> Thus, there are multiple ways that acronyms can be employed when providing short titles to legislation.<sup>47</sup>

4. *Bland/Technical Naming.*—These are titles in which none of the previous three titling methods have been employed and are more descriptive or technical in nature. As the below analysis will demonstrate, words associated with this subgroup were at one point extremely common but have become less so throughout the years. Because the names are not as explicit or tendentious in terms of policy statements or implications, a vote for or against these bills would not appear to carry as much weight. The resulting bills might still be considered controversial because of their contents (i.e. drug or crime legislation), but these laws usually do not contain any inessential controversial evocative terms or statements in their short titles.

The technical terms chosen for this category were those that closely corresponded with the technical aspects of short title drafting, including words that are common in legal and statutory language. For example, in the U.S. House legislative drafting manual, the word “amend” is recommended for use in a short title when a new bill is amending a particular piece of legislation.<sup>48</sup> Thus, this word was chosen for study. Other terms chosen for the bland/technical group were: “correct,” “authorize,” “revision,” “appropriation,” and “extension.”<sup>49</sup>

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46 Providing Resources, Officers, and Technology To Eradicate Cyber Threats to (PROTECT) Our Children Act of 2008, Pub. L. No. 110–401, 122 Stat. 4229 (2008).

47 On methodological grounds, I only used acronym bill titles that were used on the official THOMAS website. *See generally* THOMAS, THE LIBRARY OF CONGRESS, <http://thomas.loc.gov/home/thomas.php> (last visited November 8, 2012). There were likely more acronym measures Congress passed that THOMAS did not display as acronyms, for whatever reason. However, I figured that using the official legislative website as the main sampling frame would be the most authoritative way to gather the data. Any and all acronyms that were used in short titles (e.g. DNA, AIDS, etc.) or whole acronym titles (e.g. 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, 115 Stat. 272 (2001)) were used to quantify these figures. If a short bill title had one word that was an acronym, it was included in this analysis (e.g. FDA Food Safety Modernization Act, Pub. L. No. 111–353, 124 Stat. 3885 (2011)).

48 *See* HOUSE LEGIS. COUNSEL, 104TH CONG., MANUAL ON DRAFTING STYLE 27 (U.S. Gov’t. Printing Off. 1995).

49 The author admits that both the evocative and technical words chosen are not exhaustive for either grouping. In terms of future studies regarding this topic, further suggestions of words in either category are more than welcome and should be pursued.



## II. THE (R)EVOLUTION EXPLAINED

### *A. Total Number of Short Titles/Long Titles/Resolutions*

Short titles for legislation are not compulsory.<sup>50</sup> If used, bills are usually referenced by their short titles. If not, the only title present on a bill or law is the long title, and the measure's bill number is more prominent. Thus, examining the number of short and long titles made it easy to gauge how popular short title use was throughout the time period studied. A ratio of short to long titles is included to provide the reader with a better idea of just how the phenomenon grew over the time period studied (resolutions are not included in the ratio numbers).

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<sup>50</sup> See HOUSE LEGIS. COUNSEL, 104TH CONG., HOUSE MANUAL ON DRAFTING STYLE 26 (stating that short titles should only be used for major pieces of legislation); see also Jones, *supra* note 18, at 462.

Table 1. Short titles, long titles, and short to long ratio<sup>51</sup>

<u>Congress</u>	<u>Short Titles</u>	<u>Long Titles</u>	<u>Resolutions</u> <sup>52</sup>	<u>Total</u>	<u>Short/ Long Ratio</u>
93	246	317	86	649	.78/1
94	155	372	61	588	.42/1
95	211	353	69	633	.60/1
96	201	327	85	613	.61/1
97	132	224	117	473	.59/1
98	178	246	199	623	.72/1
99	170	193	300	663	.88/1
100	237	230	246	713	1.03/1
101	250	169	231	650	1.48/1
102	257	158	175	590	1.63/1
103	206	155	104	465	1.33/1
104	160	147	26	333	1.09/1
105	213	148	33	394	1.44/1
106	302	232	46	580	1.30/1
107	183	161	33	377	1.14/1
108	251	219	28	498	1.15/1
109	253	211	18	482	1.20/1
110	205	238	17	460	.86/1
111	197	167	19	383	1.18/1

In general, the ratio of short titles to long titles increases until it crescendos in the 102nd Congress (1991–1993), at 1.63/1. The pace of this increase is fairly steady, but there are some significant sharp increases (from the 100th to the 101st and from the 104th to the 105th). There does seem to be a noticeable decrease in short title use from the 107th Congress to the 111th, but the figures are still higher than the 93rd–99th Congresses. Also, the 110th Congress numbers come with a caveat: the reason there are so many long titles that year is because Congress decided to name so many post offices and governmental buildings.<sup>53</sup>

<sup>51</sup> Note: all information contained in Table 1 through Table 7 is on file with the author.

<sup>52</sup> Figures for resolutions are inserted for informational purposes only. These figures are not included in the short to long ratio.

<sup>53</sup> When the less consequential naming measures are eliminated, the ratio is very similar to the years surrounding it.

*B. Acts on Name Changing*

It is no secret that Congress enjoys naming things. In fact, over the time period studied, Congress became seemingly obsessed with naming—usually government buildings and post offices, but sometimes lakes, parks or other areas (e.g., “A Bill to designate the facility of the United States Postal Service located at 12877 Broad Street in Sparta, Georgia, as the ‘Yvonne Ingram–Ephraim Post Office Building’”).<sup>54</sup> In the 110th Congress, such Acts reached an all-time high; over 30% of the bills passed were for the purpose of naming (mostly post offices). These measures take virtually no time during the legislative process as they are usually tabled for passing in a swift manner, usually during quick clustered votes or “wrap up” sessions that do not require any discussion or debate.<sup>55</sup> Still, the volume of such legislation demonstrates how much naming conventions are highly valued in Congress. In fact, in contemporary Congresses approximately 20% of the bills and resolutions enacted are in regard to naming, as evidenced by the figure below.

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<sup>54</sup> An Act To designate the facility of the United States Post Service located at 12877 Broad Street in Sparta, Georgia, as the “Yvonne Ingram–Ephraim Post Office Building”, Pub. L. No. 111–26, 123 Stat. 1771 (2009).

<sup>55</sup> See SINCLAIR, *supra* note 23, at 57.

Table 2. Acts on name changing, by congress

<u>Congress</u>	<u>Total Acts</u>	<u>Naming Acts</u>	<u>% of Total</u>
93	649	33	5.1%
94	588	20	3.4%
95	633	32	5.1%
96	613	37	6.0%
97	473	22	4.7%
98	623	33	5.3%
99	663	19	2.9%
100	713	40	5.6%
101	650	27	4.2%
102	590	36	6.1%
103	465	45	9.7%
104	333	34	10.2%
105	394	27	6.9%
106	580	88	15.2%
107	377	66	17.5%
108	498	106	21.3%
109	482	118	24.5%
110	460	146	31.7%
111	383	85	22.2%

\* Results significant at the .01 level in a linear regression.

*C. Short Titles/Long Titles with Naming Bills Eliminated*

Table 3. Short titles and long titles (naming bills eliminated)

<u>Congress</u>	<u>Short Titles</u>	<u>Long Titles</u>	<u>Short/Long Ratio</u>
93	246	284	.87/1
94	155	352	.44/1
95	211	321	.66/1
96	201	290	.69/1
97	132	202	.65/1
98	178	213	.84/1
99	170	174	.98/1
100	237	190	1.25/1
101	250	142	1.76/1
102	257	122	2.11/1
103	206	110	1.87/1
104	160	113	1.42/1
105	213	121	1.76/1
106	302	144	2.10/1
107	183	95	1.93/1
108	251	113	2.22/1
109	253	93	2.72/1
110	205	92	2.23/1
111	197	82	2.40/1

The above table shows the total number of short and long title Acts with the naming legislation eliminated. Nearly every naming bill uses a long title, so when they became especially popular from about the 106th Congress onward, they skewed the data regarding short and long title use. Eliminating them provides a more accurate picture of whether or not lawmakers used short titles or long titles for more common, non-naming bills. With the naming legislation eliminated, the short to long ratio rises above 1:1 in the 100th Congress and never retreats below, maxing out at 2.72:1 in the 109th Congress. Also notice that the 110th Congress, whose short/long ratio fell below 1:1 in Table 1 above, now has a ratio more consistent with the Congresses surrounding it. With the naming legislation removed, the numbers more clearly reflect the increasing popularity of short titles during the time period studied.

*D. Short Title Word Length*

Short title length is an aspect that could be relevant in analyzing the short titling revolution, as an increase in length may be consistent with an increase in evocative and/or technical wording used. According to Table 4 below, during the 100th Congress, short title length increased to seven words and did not fall below this level. The length increases from over five words per title (94th and 95th) to over seven words per short title after the 100th Congress (1987–89) and has consistently fluctuated around this mark since. The 109th Congress (2005–07) carries short titles to near the eight word mark (7.95/per *short* title).

Table 4. Short title length

<u>Congress</u>	<u>Short Titles</u>	<u>Words</u>	<u>Word Avg.</u>
93	246	1650	6.71
94	155	820	5.29
95	211	1101	5.22
96	201	1365	6.79
97	132	871	6.60
98	178	1174	6.60
99	170	1183	6.96
100	237	1724	7.27
101	250	1876	7.50
102	257	1979	7.70
103	206	1556	7.55
104	160	1149	7.18
105	213	1596	7.49
106	302	2207	7.31
107	183	1423	7.78
108	251	1812	7.22
109	253	2011	7.95
110	205	1544	7.53
111	197	1456	7.39

\* Results significant at the .01 level in a linear regression (.000).

The frequency of use and increase in length of short titles does not alone demonstrate the revolution. The analysis of additional short title characteristics below completes the picture.

*E. Personalized and Acronym Titles*

The use of personalized and acronym titles also became more prevalent in Congress over the past two decades,<sup>56</sup> a phenomenon demonstrated in Table 5 below. Personalized titles abruptly increased in popularity in the 105th Congress (1997–99) and have numbered in the teens and twenties ever since. The number of acronym titles gradually increased from the 99th Congress onward, and from the 109th Congress has remained in the tens. Both the personalized and acronym data are significant at the .01 level in linear regressions.

Table 5. Number of personalized and acronym short titles<sup>57</sup>

<u>Congress</u>	<u>Personalized</u>	<u>Acronym</u>
93	4	1
94	0	0
95	2	3
96	0	0
97	3	0
98	5	0
99	2	3
100	8	2
101	8	2
102	8	5
103	7	1
104	4	2
105	14	3
106	20	7
107	13	6
108	13	9
109	18	11
110	22	16
111	12	17

\* Both the Personalized and Acronym results are significant at the .01 level linear regressions (.000; .000).

<sup>56</sup> See Brian C. Jones, *Transatlantic Perspectives On Humanized Public Law Campaigns: Personalizing And Depersonalizing The Legislative Process*, 6 LEGISPRUDENCE 57, 61 (2012) (noting the increase in personalized titles).

<sup>57</sup> See *id.* at 61 (stating a figure representing the personalized total).

*F. Evocative & Technical Wording in Short Titles*

After classifying the short titles of Acts from 19 separate Congresses, it appeared that evocative terms such as “improve,” “prevent,” “protect,” etc. were creeping into such titles, while the use of more technical terms, such as “amend” seemed to be decreasing. Based on the short title typologies developed above, for the purpose of this study, I tracked twelve “evocative” terms and six “technical” terms from the 93rd Congress forward. The results of the evocative words, which are mostly composed of key action/attribute naming, are summarized in Tables 6.1 and 6.2 below.

Table 6.1. Evocative words used (93rd–111th Congresses)

<u>Congress</u>	<u>Control</u>	<u>Prevent</u>	<u>Protect</u>	<u>Improve</u>	<u>Modernize</u>	<u>Secure</u>
93	4	3	13	9	0	1
94	4	1	3	5	0	1
95	6	2	3	7	0	4
96	3	3	3	5	0	7
97	2	0	5	3	0	2
98	2	2	4	4	0	4
99	3	1	6	5	0	4
100	4	2	11	12	0	1
101	7	6	12	13	0	2
102	1	4	12	10	1	1
103	3	4	9	13	0	3
104	1	4	7	7	0	1
105	1	6	14	5	1	0
106	2	3	18	20	0	7
107	1	1	5	7	1	9
108	6	6	9	12	2	8
109	3	6	12	10	2	6
110	0	6	9	15	2	5
111	2	5	6	7	7	8
Total	55	65	161	169	16	74

\* Taking both Tables 6.1 and 6.2 into account, the total results for evocative words in a linear regression are significant at the .01 level. In terms of individual words, “prevent,” “freedom,” “America,” “accountable,” and



“modernize” were all significant at the .01 level linear regressions. Words significant at the .05 level were “secure” (.023) and “responsible” (.025). Words significant at the .1 level were “efficient” (.079) and “improve” (.056). The words “control” (.106), “emergency” (.604), and “protection” (.142) were not significant at any level in linear regressions.

Table 6.2. Evocative words used (93rd–111th congress), continued

<u>Congress</u>	<u>America</u>	<u>Efficient</u>	<u>Responsible</u>	<u>Accountable</u>	<u>Freedom</u>	<u>Emergency</u>	<u>Total</u>
93	1	0	0	0	0	7	38
94	1	0	0	0	0	8	23
95	2	0	0	0	0	6	30
96	1	2	0	0	0	2	26
97	1	0	1	0	0	2	16
98	1	0	0	0	0	3	20
99	3	1	0	0	0	4	27
100	1	0	0	1	0	5	37
101	7	2	0	0	0	3	52
102	7	2	0	0	1	10	49
103	10	1	0	1	3	4	51
104	3	0	2	6	1	4	36
105	1	0	0	1	2	4	35
106	8	0	0	2	3	3	66
107	9	1	1	2	2	4	43
108	10	2	1	4	1	6	67
109	9	4	0	6	2	10	70
110	11	1	1	6	2	3	61
111	5	1	2	2	1	1	47
Total	91	17	8	31	18	89	794

Results of the analysis confirmed that as the years passed, more of the popular, evocative terms were used in short bill titles. As Tables 6.1 and 6.2 demonstrate, the incidence of evocative word usage steadily increased from the 93rd Congress. Beginning with the 101st Congress (1989–1991), it was not uncommon for more than fifty short titles per term to include evocative words. Many of the individual words show interesting trajectories as well. For instance, the use of “control,” “protect,” and “emergency” has been relatively consistent throughout the time period studied, whereas

the use of words such as “efficient,” “America,” “freedom,” “accountable,” “improve,” and “modernize” has shown a marked increase. The word “freedom” was not used once from the 93rd to the 101st Congress, but ever since it has been in at least one short title per Congress. Similarly, “America” was used sparingly up until the 101st Congress, but ever since, it has averaged 7.3 uses per Congress.

It is interesting to note the difference in evocative word use from the 104th Congress onward. Bear in mind that the 104th Congress included the first Republican–controlled House in nearly forty years.<sup>58</sup> The 93rd–103rd Congresses used evocative words 33.5 times per term on average. However, the 104th–111th Congresses averaged 53.1 uses, *nearly twenty more words per term*. The bland/technical word data below has a correspondingly downward trajectory.

Table 7 below includes the raw data for bland/technical word usage. The use of technical terms peaked in the 101st (1989–1991) and 102nd Congresses (1991–1993) at 109 and then fell off sharply after the 103rd Congress (1993–1995). However, this is largely an illusion. Figure 1 below reveals that in percentage terms (some Congresses pass more legislation than others), technical term use was highest in the 94th Congress, though Table 7 does not reflect this. The use of such terms gradually declined from that point forward. The decrease in the use of the word “amend” appears to account for much of the change. “Amend” was used between thirty and fifty times per term during the 93rd–103rd Congresses (1973–1995), but *was not used more than eighteen times in one Congress from the 104th onward*. The word “appropriation” also appeared much less frequently beginning with the 104th Congress.

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<sup>58</sup> Much of the change can be attributed to the Contract With America, which incorporated evocative short titling.

Table 7. Technical words used (93rd–111th Congresses)<sup>59</sup>

Congress	Amend	Correct	Authorize	Revision	Appropriation	Extension	Total
93	42	3	16	3	30	4	98
94	32	0	16	0	32	3	83
95	39	0	25	0	29	6	99
96	38	2	23	3	20	1	87
97	24	2	14	1	13	2	56
98	40	1	15	0	15	0	71
99	38	2	19	1	8	3	71
100	47	4	17	2	13	3	86
101	41	3	26	1	26	4	101
102	51	2	24	0	28	4	109
103	38	2	12	0	28	4	84
104	14	4	12	0	18	2	50
105	15	2	23	0	21	5	66
106	18	6	15	0	20	3	62
107	14	0	17	2	19	2	54
108	8	6	21	4	16	11	66
109	10	5	29	2	17	19	82
110	14	3	25	1	5	19	67
111	4	5	13	0	13	24	59
Total	527	52	362	20	371	119	1451

\* In terms of individual words, “authorize” (.625) and “revision” (.950) were not significant in linear regressions. However, the words “extension,” “amend,” and “correct” were all significant at the .01 level in linear regressions; “appropriation” was significant at the .05 level (.036).

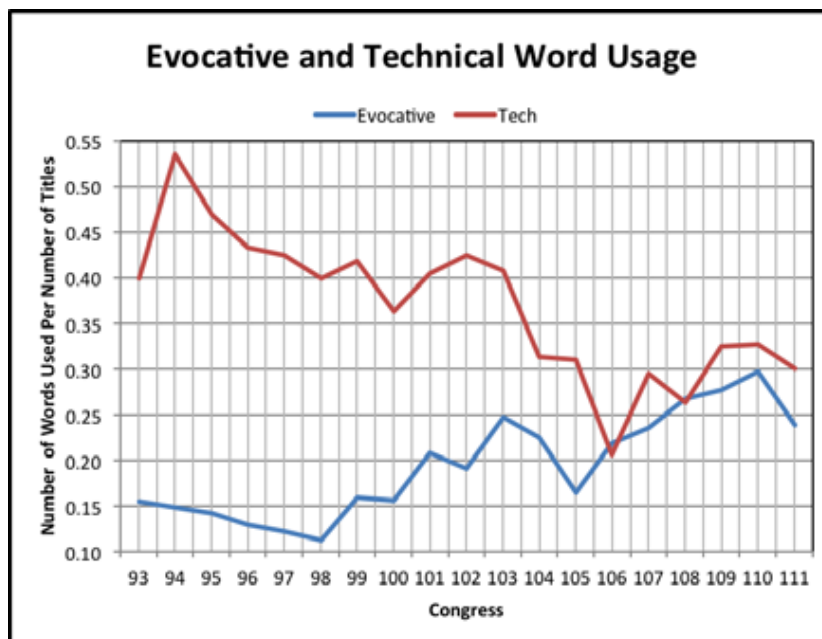
Figure 1 demonstrates that while technical language in short titles was falling, evocative wording in short titles was increasing.<sup>60</sup> In fact, among the

<sup>59</sup> The total results for technical wording are significant at the .05 level (.031) in a linear regression.

<sup>60</sup> The two figures show the percentage of evocative and technical words in the number of short titles for each Congress. The number of technical and evocative terms for each Congress was divided by the number of short titles used in used each legislative session, producing the relevant output. Calculating it in this manner controls for sessions in which more short titles were used, and focuses on the number of evocative and technical terms.

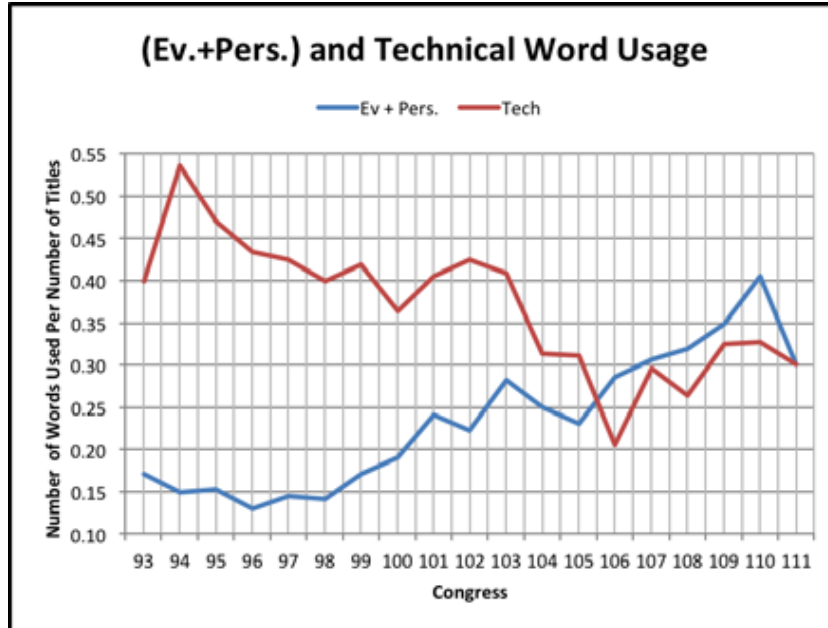
words tracked in this study, the evocative wording percentage surpasses the technical language percentage in the 106th and the 108th Congresses. However, while other technical words were declining, one word drastically increased from the 108th–111th Congresses: “extension.” The average for “extension” from the 93rd–107th Congresses was three uses per Congress; *the average from the 108th Congress–111th Congress was 18.25 uses per term.* Most legal scholars will likely pick up on what this means: an increase in sunset clauses or reauthorizations in legislation. However, the abrupt increase in their prevalence may come as a shock.

Figure 1. Evocative v. technical language used (93rd–111th Congresses)



\* The figure above is skewed by the fact that personalized titles are not included in the analysis. If included, the discrepancy and rise of evocative titles is much more apparent, as seen in Figure 2 below. Figure 2 demonstrates that evocative wording in short titles became more prevalent than technical wording beginning with the 106th Congress. The 110th Congress used .4 evocative words per short title, a usage rate comparable to that of technical language before its loss in popularity after the 103rd Congress. Figure 2 also demonstrates a noticeable decline in evocative language usage and a less significant decline in technical language usage that took place in the 111th Congress.

Figure 2. (Evocative + personalized) v. technical language  
(93rd–111th congress)



#### CONCLUSION

This article demonstrates that over the past four decades, short titles of America's laws have undergone a revolution. As new typologies emerged, short title lengths became longer and more evocative words were inserted into the titles while more technical words were dropped. Ultimately, the face of public laws in America has been radically transformed. This manuscript sets the groundwork for future studies on the topic by displaying the important characteristics of short titles and how they have evolved throughout the years. Furthermore, it complements other qualitative works on the topic which suggest that short titles are no longer merely referential points but are used as legislative tactics, may affect the passage of legislation, are important components of the legislative process, and should be subject to some type of accuracy standard in terms of proper and improper short titles.<sup>61</sup>

In 2001, while the short title revolution was still gaining steam, Deputy Legislative Counsel of the U.S. House of Representatives, M. Douglass

<sup>61</sup> See Jones, *supra* note 18, at 455; Jones, *supra* note 56, at 58.

Bellis, penned an article on legislative drafting in Congress.<sup>62</sup> He noted that one of the jobs of the drafter is to be an interpreter between lawmakers and the courts, and that the drafter should always attempt to use neutral terms and explain to politicians how certain language may damage a bill. Though he does not specifically mention short titles, he does elaborate on his statements by maintaining:

The politician much prefers the slogans, of course, and part of the job of the drafter is to explain the probable confusion that may arise from using them. At times, too, the slogans actually somewhat obscure what the politician really wants to do, and the ambiguities introduced by them are real. On those occasions, the drafter can ask the politician to resolve those ambiguities before the bill is enacted. Otherwise, under the American system, one is inviting the courts in effect to choose the policy they like best and read it into the ambiguous language of the bill . . . . It turns out that sometimes politicians actually want the same end result, but use differing catch phrases to describe it, catch phrases that are anathema to their political opponents. A draft that uses neutral terms to effectuate the same ends, when explained to those same political enemies by a neutral drafter, may find favour where a more partisan expression of the policy will not even be understood.<sup>63</sup>

This statement is telling about the position Congress finds itself in regarding legislative drafting and, ultimately, their statute book. At least in the presentational aspects of legislation, this Article complements Bellis's assertions and has demonstrated that contemporary lawmakers appear to prefer political slogans and policy statements to technical and legal accuracy. These titles may produce positive outcomes for politicians' reelection hopes, because if passed, they may be championed on the campaign trail. 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.

Although he was writing about the current state of Australian short bill titles, at the turn of the century Graeme Orr predicted that employing short titles as slogans would "hasten a decline in respect for democratic governance."<sup>64</sup> Though he had no empirical evidence to support his claim, his assertions do bring to light another potential negative effect of

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<sup>62</sup> M. Douglass Bellis, *Drafting in the U.S. Congress*, 22 STATUTE L. REV. 38 (2001).

<sup>63</sup> *Id.* at 42–43.

<sup>64</sup> Graeme Orr, *Names Without Frontiers: Legislative Titles and Sloganeering*, 21 STATUTE L. REV. 188, 189 (2000).

employing evocative short titles for bills and laws. In July of 2009, a bill was introduced in the House of Representatives entitled the Humanity and Pets Partnered Through the Years Act.<sup>65</sup> If the reader has not already put it together, the acronym stands for the HAPPY Act. Perhaps Mr. Orr was onto something. Given the current state of congressional short titles, it is tough to tell whether lawmakers take the drafting of public laws seriously. In order to acknowledge the considerable respect that both the American people and the public laws emanating from Congress deserve, lawmakers would be wise to provide titles to laws in the accurate, neutral language that was employed before the revolution began.

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<sup>65</sup> Humanities and Pets Partnered for Years (HAPPY) Act, H.R. 3501, 111th Cong. (1st Sess. 2009), *available at* <http://thomas.loc.gov/cgi-bin/bdquery/z?d111:h.r.03501>.