

## Chapter 3

Before undertaking the survey experiment which is at the heart of this project, I found it advisable to establish the parameters of argumentation employed by the various parties who had a particular interest in the outcome of the election. This is preferable to creating hypothetical scenarios out of whole cloth, not only for reasons of generalizability of the findings, but also because it is often difficult to make false wording sound legitimate and realistic, and not give the participants the clear impression that they are acting as test subjects. In addition, basing the treatments on real-life policy proposals lends them a semblance of importance which should increase the seriousness with which the participants consider their responses. For each question which follows, I provide background information, describe the content of the campaigns and media coverage, and discuss the actual outcome of the election.

### 0.1 A Question of Education Funding

#### 0.1.1 Policy Timeline

Education funding in Oklahoma has experienced a somewhat checkered past. Prior to the 1970s, local property taxes were the primary source of revenue for Oklahoma school districts. Over a period of approximately 20 years, an effort was made to equalize funding for urban and rural schools, and in order to accomplish this goal, school revenues were shifted from

local sources to state appropriations. In 1985, two-thirds of statewide school funding came from the state.<sup>1</sup>

The publication of *A Nation At Risk* in 1983<sup>2</sup> created a nationwide focus on educational reform in general. Oklahoma policymakers became convinced that the consequences of doing nothing would mean that Oklahoma would fall behind unless the State Department of Education was given more control over educational standards and teacher credentials. At the same time, a downturn in state tax revenue in the late 1980s prompted a reassessment of the funding stream for public schools at all levels.

Public support for a complete overhaul of education policy continued to build throughout this period, culminating in the closest historical analogue to the proposals contained in the current SQ 779. The Oklahoma Education Reform Act, known colloquially as House Bill 1017<sup>3</sup>, went into effect in 1990 with much fanfare and the virtual certainty that the state's educational funding problems were behind it, and that modernization and centralization would ensure a quality public education system for decades to come. Unfortunately, the promises and hopes of that major legislation were dashed by the late 1990s. From that point, what had become a robust funding stream for K-12 education began to suffer a slow decline. State appropriations dropped precipitously due to revenue shortfalls which occurred in 2002-2003<sup>4</sup>. A change was needed, and a contemporaneous Gubernatorial election provided the vehicle for it.

Brad Henry was elected Governor of Oklahoma in 2002 by running on a platform with education as its centerpiece, and at the top of the

agenda was the passage of a bill authorizing the first lottery in the state's history. Governor Henry even characterized the measure as an "education lottery" and the eventual ballot titles of the implementing referenda reflected this purpose. State Questions 705 and 706 passed by approximately two-thirds majorities,<sup>5</sup> yet on the same ballot, another proposal loomed. SQ 712, which enacted the State-Tribal Gaming Act, allowed Native American tribal governments to establish casinos and other gambling operations on Indian land. The measure passed by a margin of 60% to 40%.<sup>6</sup>

This new focus on gambling as a source of education revenue was certainly controversial, especially given the highly conservative and religious nature of the Oklahoma electorate.<sup>7</sup> Each new law required a portion of the proceeds to be funneled to the Department of Education for distribution to school districts. However, there is some indication that, beginning in FY 2014, the level of funding provided by these sources had begun to destabilize. The amount received per district is very small and there has been very little political will to make the necessary legislative changes that might increase appropriations to the schools.<sup>8</sup>

Along with common education, higher education has likewise suffered from a lack of governmental attention. In 2014, continued funding reductions prompted University of Oklahoma President David Boren to speak out against the Legislature and the Governor's office, and their apparent singular focus on cutting taxes at the expense of the state's education system.<sup>9</sup> This disconnect between the policy views of educators and state

government leaders, along with revenue failures in fiscal years 2006, 2010, and 2014-15, have re-ignited the desire among university and school district officials to once again address the matter of education funding reform. In point of fact, the current landscape is very much like that of the late 1980s, and as will be seen below, the proposed solution is likewise similar.

As provided by Oklahoma law, the proponents of the initiative petition composed a provisional ballot title and submitted it along with the language of the proposed amendment. As part of the referendum process, the Oklahoma Office of Attorney General reviews all proposed ballot titles for compliance with state law requiring that the voters be sufficiently informed of the actual effect of the question to be decided. Then-Attorney General Scott Pruitt and his staff examined the proposed wording and re-wrote the ballot language. Subsequent to publication by the Oklahoma Secretary of State, OCPA Impact, a conservative public policy advocacy organization, filed a challenge to the ballot wording with the Oklahoma Supreme Court.<sup>10</sup>

The Court ruled that the ballot title did not meet the legal requirement and rewrote the language a second time. The final version read as follows:

This measure adds a new Article to the Oklahoma Constitution. The article creates a limited purpose fund to increase funding for public education. It increases State sales and use taxes by one cent per dollar to provide revenue for the fund. The revenue to be used for public education shall be allocated: 69.50% for common school districts, 19.25% for the institutions under the authority of the Oklahoma State Regents for Higher Education, 3.25% for the Oklahoma Department of Career and Technology Education, and 8% for the State Department of

Education. It requires teacher salary increases funded by this measure raise teacher salaries by at least \$5,000 over the salaries paid in the year prior to adoption of this measure. It requires an annual audit of school districts' use of monies. It prohibits school districts' use of these funds for increasing superintendents' salaries or adding superintendent positions. It requires that monies from the fund not supplant or replace other educational funding. If the Oklahoma Board of Equalization determines funding has been replaced, the Legislature may not make any appropriations until the amount of replaced funding is returned to the fund. The article takes effect on July 1 after its passage.

Similar to House Bill 1017, the measure initiated a tax increase with the resulting revenue placed in a special purpose fund. Constitutional limitations on appropriations would theoretically prevent the Legislature from raiding the fund to support other programs. Despite the best efforts of the proponents, State Question 779 failed by a margin of 60% against.<sup>11</sup>

### **0.1.2 The Campaigns**

The YES on 779 campaign centered around two primary themes: *children are our future* and *retaining good teachers*. Within these general categories, various policy frames were used such as providing reading programs for low income children, college and CareerTech (vocational) tuition, and increasing teacher salaries. The *teacher retention* frame often included a description of the situation as a “crisis”, or some similar type of dramatic terminology. An excerpt from the YES campaign website will serve as an example:

Why is the ballot measure needed?

This effort is needed because there is a teacher shortage crisis in Oklahoma. Oklahoma teachers have not had a raise in nearly a decade and the state ranks 48th in teacher pay. Teachers are fleeing to states bordering Oklahoma for better pay and leaving the profession altogether...<sup>12</sup>

Emotional appeals of this kind are often effective, especially given the generally non-partisan nature of education as a conceptually important policy area. Where the politically left and right mindsets differ is usually in the implementation. It is often taken to be axiomatic (though not without controversy) that the worldview of the left has the expansion of “top-down” government as its central priority. The method of solving societal problems by creation of new legislative or bureaucracy-based programs is the driving force behind many of the more prominent liberal policy initiatives. The supporters of 779 also used the children/future frame to argue against the opposition’s condemnation of a tax increase; a common repeated slogan of the campaign was, “our kids are worth the penny”.<sup>13</sup> The YES campaign enlisted the help of well-known Oklahoma personalities such as President Boren, and musician Toby Keith, to create television and radio advertisements in support of the measure.

In contrast, the viewpoint of the political right tends toward smaller and “bottom-up” government, with solutions implemented at the local level wherever possible. In this vein, the NO on 779 campaign focused on the *policy failures* of the current system of education funding, and the argument that the paradigm of statewide *higher taxation* is merely more of the same. Consider the following language drawn from an op-ed piece

by an opponent of the proposal:

This will be an extremely regressive, antifamily tax. Increasing sales taxes by \$420 per household will hurt young families already struggling the most to raise children. Oklahoma is one of the few states that do not exempt groceries from sales tax. Having antifamily taxes is horrible public policy.

SQ 779 does not address inefficient administration of our schools. Over the past 20 years, while the number of students has increased 14 percent, the number of administrative personnel has increased 34 percent. Reducing this staffing level to be proportionate with student increases would fund \$99 million for teachers' raises.<sup>14</sup>

Similarly framed opinions were ubiquitous on editorial pages in the weeks leading up to November 8. Opponents contended that increasing centralized education revenue had been tried before (in 1990 with HB 1017), and it had failed. Widespread concern over how and why previous funding sources, including the lottery, had proven inadequate pervaded the opposition rhetoric, with a less explicit implication that the Legislature had engaged in creative budgeting. The NO campaign consistently maintained that their objection was not to adequately funding schools and universities. Instead, they argued that more efficient government spending would result in sufficient savings which could be re-directed toward education. Some proponents of the measure posited that, because overall funding for education was still on the increase through 2015 (through property taxes and local funding sources), the Legislature did not see state level education funding as a top priority. A vote against the proposal would provide a further signal to elected officials that the public was indifferent toward this policy area.

The resolutions passed by municipal groups either in favor of or opposed to the measure provide an interesting subtext to the debate. The Oklahoma State School Boards Association endorsed a proposal similar to SQ 779 as early as November 2015. In outlining the reasons for their support, the Association addressed many of the opposition’s arguments related to the taxation frame, and sought to explain in detail how funds would be allocated at the school district level. Further, they made a sincere effort to assuage fears that the Legislature would simply pour the new sales tax revenue into the General Fund for state appropriations, and use the money for other purposes. They did this by thorough explanation of the “constitutional lockbox” provision contained in the proposal, which is designed to prevent the Legislature from shifting funding to other agencies and sectors of government. This argument was often referenced in YES campaign literature, as the principal proponents apparently believed that voters’ main concern would be whether the funds generated by the sales tax would be used for education only.

A coalition of city government groups, including the Oklahoma Municipal League and the Mayors’ Council, published a similar resolution opposing the measure, which in part outlined an argument consistent with the right-wing position against a state-level tax increase. These entities claimed that a higher sales tax burden at the state level would necessarily impair the municipalities’ ability to raise *local* sales taxes to fund city services, as voters may be wary of approving further tax increases in an already saturated environment. In addition, a PAC called Oklahoma



Deserves Better (instantiated by Enid Mayor Bill Shewey) began running televised advertisements a few days before the election, in which SQ 779 was repeatedly referred to as “Tax Bill 779”.<sup>15</sup> Interestingly, the School Boards Association did not appear to be concerned with the possibility of losing local revenue sources, which is consistent with the left-wing view of tax policy.

Financially speaking, the YES campaign vastly outspent the NO by a ratio of approximately 8 to 1. Records from the Oklahoma Ethics Commission show aggregate expenditures of \$7,116,573.32 by Oklahoma’s Children, Our Future PAC, as opposed to \$896,159.21 by the Oklahoma Deserves Better PAC.<sup>16</sup> Roughly 40% of the total YES expenditures were used for radio and television advertising, compared with 80% for the NO organization. This is, however, an instance where the numbers definitely do not tell the entire story. Given the eventual outcome of the election (see below), it is likely that the timing of advertising expenditures, and the content of the ads themselves, played a significant role in the level of support for the measure.

### **0.1.3 Media Coverage**

In general, news reports tended to eschew analysis, instead preferring to simply present the arguments of interested parties in their own words. By almost a 2 to 1 ratio, individual commentators tended to focus on the teacher retention (yes) and policy failure (no) frame categories, and news reporting reflected this emphasis. During the final two months prior

to the election, out of 40 articles in regional or statewide newspapers, 93% mentioned either the teacher retention or teacher salary frames. The arguments for threats to municipal funding and responsible budgeting were collectively referenced 73% of the time. The “higher taxes” frame appeared in 40% of news stories, which was roughly equivalent to the frequency of use of that argument by individual opponents of the measure.

Liberal outlets (such as the *Tulsa World* and the *Oklahoma Gazette*) tended to publish more articles with YES frames, while conservative papers (such as the *Daily Oklahoman*) tended to concentrate on the NO frames. But the disparities were not large, and all of the newspapers that I reviewed seemed to make a sincere effort to balance their news articles, and to limit their opinions to the editorial pages. The more liberal papers endorsed SQ 779, while the more conservative outlets opposed the measure, with the exception of the *Journal Record*. Considered to be a center-right business-friendly news organization, the *JR* actually endorsed 779.

Whether it was news reporting or the campaigns themselves that affected the outcome, something unusual clearly took place. Polling data showed support for the measure at 60% until 2 weeks before the election<sup>17</sup>, yet SQ 779 was ultimately rejected by an almost identical margin. One possible explanation for this direct reversal may lie in the complexity of the arguments. Though the *policy failure* frames were more pervasive during the campaign as a whole, matters of public financing for municipal projects can be difficult for the average voter to grasp, and the polling respondents may have been reacting to the teacher salary frames which are more easily

understood. It therefore appears likely that the Oklahoma Deserves Better PAC and its late advertising push had a significant effect on the final vote. By bringing the attention of the voters squarely on to easily digested arguments against *higher taxes*, the NO campaign was able to capture salience from the opposition and re-frame the debate to their position of strength at the eleventh hour.

## 0.2 A Question of Religious Entanglement

### 0.2.1 Policy Timeline

It is often the case that the genesis of a public referendum takes a circuitous route through different policy arenas over an extended period of time, before finally coalescing into public action at a critical point. The relationship among various paths can, in most cases, only be viewed from the point of the juncture backward. Such is the curious case of Oklahoma State Question 790, which traces its origins to two separate and unrelated historical events, spanning several decades: the enactment of Blaine Amendments and the placement of Ten Commandments monuments.

The term “Blaine Amendment” refers to a number of state constitutional provisions (not all of which are true amendments) which restrict the use of public funds for the benefit of religious institutions. In some cases, additional prohibitions exist against similar use of state property, or the restriction regarding institutions is extended to individuals such as clergy. These provisions are named for James G. Blaine, a Republican politician

from Maine who served as Speaker of the U.S. House of Representatives (and later as a Senator and Presidential candidate) in the 1870s. In 1875, Blaine introduced a joint resolution into Congress which served a dual purpose. It applied the Establishment Clause of the First Amendment to the states, and it prevented the states from using their own land and tax dollars to support particular religious sects (Green 1992). The proposed amendment failed to receive the necessary two-thirds majority vote in the Senate, and was defeated.

There is some scholarly disagreement on the matter of whether Blaine's proposal was primarily motivated by political expediency or religious animus. Blaine was accused of fomenting anti-Catholicism in order to drum up support for the Republican party among Protestants, and the amendment was seen as a thinly veiled attempt to thwart state funding for Catholic parochial schools (Green 2004). Whatever the actual truth of the matter, in the years following the amendment's failure in the U.S. Congress, a movement began to emerge among state legislatures to take up the mantle of Blaine's policy initiative. Eventually, all but 10 states took steps to include similar provisions in their own constitutions. Oklahoma enacted its own version at statehood as Article 2 Section 5.<sup>18</sup> It reads as follows:

No public money or property shall ever be appropriated, applied, donated, or used, directly or indirectly, for the use, benefit, or support of any sect, church, denomination, or system of religion, or for the use, benefit, or support of any priest, preacher, minister, or other religious teacher or dignitary, or sectarian institution as such.

The second major event involves the Fraternal Order of Eagles, a non-

profit organization based in Ohio.<sup>19</sup> Among their many charitable projects during the Twentieth Century was the donation and placement of a number of “Ten Commandments Monuments” at courthouses and public buildings across the country. These granite sculptures were carved to resemble the stone tablets depicted in the 1956 Cecil B. DeMille movie of the same name, with the permission and approval of the aforementioned director.

One such monument found its way to the grounds of the State Capitol in Austin, Texas in 1961. Forty years later, in 2001, a former Southern Methodist University law student sued then-Governor of Texas Rick Perry, alleging the monument to be a violation of the Establishment Clause contained in the First Amendment to the U.S. Constitution.<sup>20</sup> The case eventually made its way to the U.S. Supreme Court, whereupon a plurality of the Justices ruled that the monument was permissible under Federal Constitutional provisions.

Following this decision, in 2012 a coalition of lawmakers led by State Representative Mike Ritze erected a similar monument at the Oklahoma State Capitol, paid for with private donations. ACLU of Oklahoma subsequently sued the state. The Oklahoma Supreme Court ruled that the monument was a violation of Art. 2 Sec. 5. of the Oklahoma Constitution, but made no reference to the Federal Establishment Clause.<sup>21</sup> During the following legislative session, the Oklahoma legislature passed a joint resolution setting State Question 790 before a vote of the people. The specific intent was to repeal Art. 2 Sec. 5 and overturn *Prescott*.<sup>22</sup>

The initial proposed ballot language was very minimalistic; it merely

referenced the repeal of the constitutional provision in question, without further comment. As stated above, the Oklahoma Office of Attorney General reviews all proposed ballot titles for compliance with state law. Pruitt and his staff examined the resolution and re-wrote the ballot language. The final text of the measure read thusly:

This measure would remove Article 2, Section 5 of the Oklahoma Constitution, which prohibits the government from using public money or property for the direct or indirect benefit of any religion or religious institution. Article 2, Section 5 has been interpreted by the Oklahoma courts as requiring the removal of a Ten Commandments monument from the grounds of the State Capitol. If this measure repealing Article 2, Section 5 is passed, the government would still be required to comply with the Establishment Clause of the United States Constitution, which is a similar constitutional provision that prevents the government from endorsing a religion or becoming overly involved with religion.

The voters ultimately disapproved of the measure by a margin of 57% against.<sup>23</sup>

### 0.2.2 The Campaigns

The YES campaign used two different and distinct lines of persuasion in their advertising and editorials, each comprised of two related sub-frames which were often argued together. The first *religious charity* frame usually began with a direct reference to the history of Blaine Amendments, characterized as outdated vehicles of anti-Catholic policies, and was designed to show that Art. 2 Sec. 5 was part of this historical record and should be

repealed. This line of reasoning then proceeded to probably the strongest argument made by those in favor of repeal, regarding the payment of state funds to individuals and contractors who either use or provide services to state agencies and programs, and who may have religious affiliations. Oklahoma's Lieutenant Governor Todd Lamb, a proponent of 790, summed up the position in this way:

Faith shouldn't prevent any willing group from being able to serve Oklahomans in need. Voting "Yes" on State Question 790 will allow service providers like Habitat for Humanity, Catholic Charities, and other faith based nonprofits to compete equally for state funding with secular providers. Voting for SQ 790 will ensure Oklahoma provides the best services at the lowest cost to taxpayers, which just makes sense.<sup>24</sup>

A second *historical* frame was based on a more straightforward argument in the vein of the *Van Orden* decision, namely that the monument was more a historical marker than a device of religious establishment. The sub-argument of the nature of religious liberty derived from this, that expressions of religion need not be eradicated from government or from the marketplace of ideas. A good illustration of this line of reasoning follows from the website of [yeson790.org](http://yeson790.org):

One of the highest profile examples of this was the forced removal of a statue commemorating the historical impact of the 10 Commandments from state grounds. But secular groups have also threatened to sue to force our firefighters and police to change badges that include any allusion to the cross. And they are threatening action against any local community that wants to erect a Christmas tree, sheriffs that have "In God We Trust" bumper stickers, and to prevent voluntary prayer before

or during any official events.

...There is a balance between forcing religion on people and allowing for free exercise and open discourse. The most important part of Voting YES on Question 790 is that it will ensure that state funds can go to the most effective non-profits and stop lawsuits against disabled children and service providers. But it will also end the divisive and repressive threat of legal action meant to stifle dialogue and free expression around issues of religion. And especially at this time in our country, we need a more open discourse about religion and society, not greater repression.<sup>25</sup>

Though not emphasized extensively, a third *court legitimacy* frame did appear in some campaign literature. The failure of YES on 790 organizations to make this a more central component of their efforts is interesting in itself, considering that one of the allegedly primary motivations for the Legislature's passage of the enabling resolution was, in fact, an allegation of judicial overreach by the Oklahoma Supreme Court. For example, one organization allied with the YES campaign, the Oklahoma Conservative Political Action Committee, published a statement encouraging voters to oust members of the Oklahoma Supreme Court, which included the *Prescott* case among a list of other rulings which the organization considered objectionable.<sup>26</sup>

In contrast, the NO campaign argued that Art. 2 Sec. 5 was \*not\* a Blaine provision, but instead a state level version of the Establishment Clause with increased protection against state intrusion into religion. This *religious freedom* frame was particularly effective, because the opponents of the measure enlisted the aid of clergy from across the state and from



various denominations, all of whom worried that SQ 790 would open both a Pandora's Box of Federal litigation, as well as the door to government intrusion into religious practices. The plaintiff in the Ten Commandments lawsuit, Rev. Bruce Prescott, was a vocal opponent of the measure (as a prominent Baptist minister, his opinion undoubtedly carried some considerable weight with the Oklahoma electorate). An excerpt from his Op-Ed piece in the *Tulsa World* sums up this argument well:

At our country's founding, Baptists and many other people of faith made the separation of church and state a priority, hoping to free themselves from compelled financial support for religion. Those fighting for this freedom were not motivated by animosity toward religion but rather a dedication to it. They were fighting to protect the freedom to decide for themselves, without governmental intrusion, which faith to support and follow. As Baptists and others have long recognized, a separation between government and religion works to the advantage of religion – independent funding means that religious groups can maintain their autonomy and protects religious principles and exercise from being controlled by, or corrupted by, the government.<sup>27</sup>

Others argued that the cost of defending an increasing number of Federal Establishment Clause lawsuits would fall upon the taxpayers. The actual evidence for claims of increased litigation was mostly speculative, as was the alleged financial burden; the State's Attorney General's office would defend such actions in the course of their usual business. The State would be required to pay additional funds only if it lost a case *and* the court ordered payment of the opposing side's legal fees.

Many opponents also reasoned that, if the measure was approved and the placement of the Ten Commandments monument permitted, that the

state would be required to allow other religions to erect monuments (such as Hinduism or Paganism), in order to avoid running afoul of Federal law. Even though existing case law did not necessarily support this contention, it nevertheless may have sent a powerful message of unintended consequences to the electorate. There may have been at least some factual basis for this assertion, however; one week prior to the election, the *Norman Transcript* published a story with information that a Hindu group did indeed plan to petition for a religious monument at the State Capitol, should SQ 790 pass. Though not attributed to an author, the article appeared to have been written by a member of that faith group.<sup>28</sup>

In contrast to SQ 779, very little advertising was done during the campaign for 790. Television and radio ads were almost non-existent. Records from the Oklahoma Ethics Commission indicate aggregate expenditures of \$172,556.85 by the Yes on 790 Association PAC. Of that amount, a mere \$15,000 was spent on radio advertising, and slightly more than that was used for digital billboards and robocalls. There is no record of a PAC formed in opposition to the measure.<sup>29</sup> It seems safe to conclude that media-based advertising did not play a significant role in the final result.

### **0.2.3 Media Coverage**

The campaign surrounding SQ 790 received roughly half of the amount of media coverage in area newspapers as did the education funding measure. Nearly all urban and regional newspapers issued editorials opposing 790, including the *Tulsa World*, *Journal Record*, *Talhequah Daily Press*,

and even the *Enid News and Eagle*. An island unto itself, the *Daily Oklahoman* stood as the only major news organization in favor of the proposal. Interestingly, the *Norman Transcript*, often accused of having a left-leaning slant, seemed to remain neutral.

News reports generally contained references to the *religious charity* and *religious freedom* frames as the primary stated positions of the opposing camps, and content consisted of comparisons and contrasts between the two. Editorial writers (both individuals and newspaper staff) almost uniformly chose to focus on the arguments favorable to their side of the issue. As a result of the high level of opposition by news organizations, the NO campaign's preferred characterizations receive more coverage and higher levels of visibility with the public.

It is possible that the proponents of the measure assumed, based on the religious demographics of Oklahoma voters, that SQ 790 would pass by a wide margin. The majority of Oklahomans still identify as evangelical Christians, who might be expected to favor such a Constitutional change. However, opinion polls leading up to the November 8 election painted a decidedly different picture. SoonerPoll figures released in late October indicated only 33.5% support among high church attenders, and only 43.4% from evangelicals overall.<sup>30</sup> The YES on 790 campaign may have underestimated declines in religiosity within the electorate, as measured by lower levels of church attendance, as well as a stronger focus on economic issues among voters than in previous elections.<sup>31</sup> In the end, support for the measure received a percentage of the vote at a level identical to the total

evangelical support shown in the poll, and the proposal was defeated.

### **0.3 Theories: Informing the Survey Experiment**

There is a distinct advantage in crafting an experiment based upon the stated position of interested parties in an election campaign. Using real world arguments to inform the experiment produces results that are more readily generalizable, and that can be useful in assessing effects that might occur as a result of future litigation over ballot language (Burnett and Kogan 2015). For this reason, the alternative treatments were designed to mimic, to the extent possible, the type of language that voters are likely to encounter when deciding on a proposed state question.

The respondents in the survey experiment were not intentionally exposed to any campaign advertising. Unless an individual respondent encountered literature or editorials from interested parties in the weeks leading up to the survey (for instance, seven of the respondents are Oklahoma residents), they viewed the treatments cold, as it were, without any preconceived ideas about the arguments for and against the propositions contained therein. There is also the possibility that some respondents intentionally sought out information on the Internet or from news sources regarding the issues involved with the proposals. I consider this to be highly unlikely, however, given the nature of the Mechanical Turk service and the desire of the workers to complete as many tasks as possible in a

given time period.

As discussed above, even though the salience levels of both state questions may have been relatively high, in one case there was an active campaign that may have affected the outcome, while in the other the opposing sides were more quiescent in their electioneering communications. The central theme of this project can therefore be seen as an exercise in counterfactual analysis. In reference to SQ 779, the question is whether, absent the rhetoric of the campaign, a different taxation frame in the wording of 779 would have made a difference in the outcome. I argue that the taxation frame is strong enough that the effect should be noticeable even if the only source for it is contained in the ballot language.

Similarly, if the Ten Commandments issue had not been at the forefront of the matter, we are interested in whether a more nuanced frame for 790 (based on Blaine provision arguments) would have improved chances of passage. If potential unintended consequences are placed before the voter, such as the removal of a desirable public program, a positive differential in the vote tally could result. I argue that removing references to the religious liberty frame, and replacing it with the religious charity frame, would increase the level of support for the measure.

The results which follow have certain implications for future initiatives. If a given interest group wishes to improve the chance of their preferred policy prevailing at the polls, should they focus their resources and efforts on ensuring that the ballot title and language is written to their liking? Or should they expend their energies on the campaign? And if the former,

should procedures be put into place that will serve to counteract the influence of those groups? These are some of the normative questions which flow directly from the outcome of the current study, and which will inform the conclusions reached. Before that discussion, however, we next turn to the matter of the results themselves.

## Notes

<sup>1</sup>McKean, Kathleen. *Educational Reform in Oklahoma: A Review of Major Legislation and Educational Performance Since 1980*. OK Policy Institute 2013.

<sup>2</sup>National Commission on Excellence in Education, April 1983.  
<http://www2.ed.gov/pubs/NatAtRisk/index.html> (last accessed Nov. 12, 2016).

<sup>3</sup>OK Session Laws 1989, 1st Extr. Sess., HB 1017.

<sup>4</sup>McKean, 2013.

<sup>5</sup>Oklahoma Secretary of State, <https://www.sos.ok.gov/gov/questions.aspx> (last accessed Nov. 12, 2016).

<sup>6</sup>Ibid.

<sup>7</sup>Pew Research Center, *Religious Landscape Study*. 2014.  
<http://www.pewforum.org/religious-landscape-study/state/oklahoma/> (last accessed Nov. 12, 2016).

<sup>8</sup>Cameron, Alex. “Oklahoma’s Education Lottery: Underperforming or Undercut?”  
News9.com. 2014. <http://www.news9.com/story/26869050/oklahomas-education-lottery-underperforming-or-undercut> (last accessed Nov. 12, 2016).

<sup>9</sup>Archer, Kim. “OU President David Boren slams Governor’s proposed funding cuts for higher education.” *Tulsa World*. 2014. <http://www.tulsaworld.com/news/education/ou-president-david-boren-slams-governor-s-proposed-funding-cuts/article`710598d8-02fd-5bdd-ad45-80e6c1a6c631.html> (last accessed Nov. 25, 2016).

<sup>10</sup>*OCA Impact, Inc. v. Sheehan*, 2016 OK 84, 377 P.3d 138.

<sup>11</sup>Oklahoma State Election Board, [https://www.ok.gov/elections/support/20161108\\_seb.html](https://www.ok.gov/elections/support/20161108_seb.html)

<sup>12</sup><http://yesfor779.org/faqs/> (accessed Nov. 2, 2016).

<sup>13</sup>YES on 779 television advertisement, <https://www.youtube.com/watch?v=A9BEIRcXJG8> (accessed Nov. 16, 2016).

<sup>14</sup>Watson, Brent. “State Question 779 is a Regressive, Repressive Tax”. *Tulsa World*, Oct. 26, 2016. <http://www.tulsaworld.com/opinion/readersforum/brentwatsonstatequestionisaregressiverepressivetax/article`527238e1b7d057fa9ccded769682fa81> (last accessed Nov. 2, 2016).

<sup>15</sup>Oklahoma Deserves Better television advertisement,  
<https://www.youtube.com/watch?v=3jm9dBosl78> (accessed Nov. 16, 2016).

<sup>16</sup>Oklahoma Ethics Commission, <http://guardian.ok.gov> (last accessed February 9, 2017).

<sup>17</sup>SoonerPoll. Oct 18-20, 2016. <http://soonerpoll.com/oklahoman-polling-shows-oklahoma-state-question-support-ahead-of-election/> (last accessed Nov. 17, 2016).

<sup>18</sup>It should be noted that certain members of the Oklahoma Supreme Court do not believe that Okla. Const. Art. 2 Sec. 5 was intended to be a Blaine provision (see concurrences in *Prescott v. Oklahoma Capitol Preservation Comm’n*, 2015 OK 54, 373 P.3d 1032). An exploration and analysis of whether the language in question was derived from Blaine’s proposal is beyond the scope of this paper. My purpose here is instead to show that the centuries-old controversy surrounding the use of public funds for allegedly sectarian purposes played a significant part in the formulation of State Question 790.

<sup>19</sup><https://www.foe.com/About-The-Eagles/Who-We-Are> (accessed January 13, 2017).

<sup>20</sup>*Van Orden v. Perry*, 545 U.S. 677, 351 F.3d 173.

<sup>21</sup>*Prescott*, *supra*.

<sup>22</sup>SJR 72, 55th Legislature, 2nd Session.

<sup>23</sup>Oklahoma State Election Board, [https://www.ok.gov/elections/support/20161108\\_seb.html](https://www.ok.gov/elections/support/20161108_seb.html).

<sup>24</sup>Lamb, Todd. “State Question 790 protects faith-based service to the vulnerable”. *Tulsa World*, October 29, 2016.

<sup>25</sup><http://yeson790.org/faith/> (last accessed November 2, 2016)

<sup>26</sup>OCPAC, “Vote NO on Justices Winchester and Combs” (campaign flyer).

<sup>27</sup>Prescott, Bruce. “Protect religious liberty in Oklahoma, vote NO on State Question 790”. *Tulsa World*, October 29, 2016.

<sup>28</sup>“Hindus to push for monument at capitol if SQ790 amends Constitution”. *Norman Transcript*, November 2, 2016.

<sup>29</sup>Oklahoma Ethics Commission, <http://guardian.ok.gov> (last accessed February 9, 2017).

<sup>30</sup>SoonerPoll. Oct 18-20, 2016. <http://soonerpoll.com/oklahoman-in-oklahoma-evangelicals-remain-major-voting-bloc/> (last accessed January 27, 2017).

<sup>31</sup>SoonerPoll. Oct 18-20, 2016. <http://soonerpoll.com/faith-voters-voting-more-on-economic-issues-as-religiosity-in-state-declines/> (last accessed January 27, 2017).