

BCRA: BEFORE CAMPAIGNING RETAIN AN ATTORNEY. AN INSTITUTIONAL
STUDY OF CAMPAIGN FINANCE CONTRIBUTION LIMITS ON CANDIDATE
EMERGENCE IN THE 50 UNITED STATES

by

Mary Jo McGowan Shepherd

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Approved by:

Dr. Martha Kropf

Dr. Suzanne Leland

Dr. John Szmer

Dr. Eric Heberlig

Dr. Artie Zillante

ABSTRACT

MARY JO MCGOWAN SHEPHERD. BCRA: before campaigning retain an attorney. An institutional study of campaign finance contribution limits on candidate emergence in the 50 United States. (Under the direction of DR. MARTHA KROPF)

This study looks at campaign finance statutes and their effect on candidate decisions in a novel way. Using institutional theory as a backdrop, this study uses the language of the campaign finance statutes as measured with plain language utilities to gauge candidates' participation and withdrawals from state legislative races. The rules inherent in the campaign finance statutes may make it difficult for candidates to comply with the statutes and the language in which the statutes are written may make it more difficult for candidates to understand the statutes. This need to comply and difficulty of understanding requires candidates to spend more time, effort, and learning in order to ensure they are following the law. The effect of the language on the candidates' decisions is tested in all 50 states using data from the National Institute on Money in State Politics. The findings indicate difficulty for candidates across the states when confronted with contribution statutes. Some candidates also withdrew from races more often when faced with complex candidacy requirement statutes. Qualitative interviews indicated a possible difference in candidate perceptions. Candidates differentiated between the candidacy stage and the campaign operation stage potentially explaining differences in study results. There is enough evidence of some effects on candidate decisions that it is clear more research should be conducted, perhaps using more state level variables to help better understand the relationship between rules and statutes and candidates decisions.

DEDICATION

To my parents James Patrick and Gloria Ann McGowan – for the gift of a love of learning and a wonderful education.

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Colossians 3:17 says “and whatever you do, whether in word or deed, do it all in the name of the Lord Jesus, giving thanks to God the Father through him”. Without the will of the Lord, this Ph.D. would not be possible. I am truly grateful for the strength and talents Jesus, my savior, has given me.

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INTRODUCTION

Raymond La Raja jokes that the major federal campaign finance reform bill, BCRA, really stands for Before Campaigning Retain an Attorney (LaRaja, 2005). Funny jokes aside it leads one to question the direction of campaign finance studies. Campaign finance research looks at the institution of campaign finance studying its effects on many parts of the electoral process. Looking at campaign finance from an institutional lens, this study analyzes whether campaign finance fails to meet its intended goals because the institution of campaign finance has become so complex. Inherent in La Raja's joke is the assumption that campaign finance has become complex and expensive, so much so, that one needs an attorney in order to run for office. If this is even the subject of jokes, we need to understand if it has any validity. Has it become that complicated to run for office? What does it mean for a policy to be complex? The goal of this dissertation is to look at campaign finance in this different way. The dissertation seeks to analyze what it means for a policy to be complex and to study if campaign finance fits that definition. Finally, it takes that definition of complexity and analyzes it against candidates to determine if there is any effect of the statute on candidate's decisions to run for office.

The research question studied in this dissertation asks whether the complexity of campaign finance legislation influences candidates' decisions to run for office. It is hypothesized that complexity will affect candidates' decisions via legislative constraints and misunderstanding of the statutes. To study this question, this dissertation uses a novel way of measuring complexity using plain language tools.

The dissertation uses institutional theory as it applies to candidates and examines two issues. The first issue is whether rules (as a type of institution) might affect

candidates by constraining their behavior. The second issue is whether candidates might fail to understand the rules because, as assumed here, candidates are boundedly rational and want to obey the campaign finance system. It is also assumed that incumbents might want to impede challengers by making rules constraining.

Campaign finance is an interesting policy in that it may have different effects when applied to either legislators or citizens. Reading through the campaign finance literature there are many different treatments of campaign finance. Some scholars study policy effects on voter turnout, war chests, and incumbency advantages. The goal of this dissertation is to look at campaign finance using a complexity measure.

In order to analyze this question, first the paper looks at studies of institutional theory and details the study of the institutional design of campaign finance using a measure of complexity. This Chapter 1 looks at what complexity theory is and how it will be used to study campaign finance.

Chapter 2 delves into the title subject of campaign finance and relates this topic back to institutions. Chapter Two also suggests a way in which the institution of campaign finance can be studied using complexity. Chapter 3 details the dependent variable for this study – candidate decisions. This chapter reviews the many reasons why candidates decide to run for office. As seen below, this study contends that one factor is missing from this scholarship.

This dissertation studies one component of complexity – language. To do this plain language is used to gauge the complexity of campaign finance reform. The use of plain language was tested using an experimental method laid out in Chapter 4 with results from this Plain Language study presented in Chapter 5. This use of plain language to

measure the complexity of campaign finance is the main independent variable for the study. In Chapter 6, the author details the method for using the complexity measure and regressing it against candidates in state legislative elections. Chapter 7 lays out the findings and implications of this study. Finally, conclusions and analysis are discussed in Chapter 8.

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CHAPTER 1: INSTITUTIONAL THEORY AND COMPLEXITY

Institutional Theory lays out ways of analyzing institutions in order to understand how institutions affect legislation, other institutions, and actor's behavior. Scholars have different viewpoints on how to study institutions and even on what institutions are. The purpose of this chapter is not to debate institutions, but rather to look at a specific parts of institutions such as rules, strategies, and norms. Rules and their effect on candidate behavior are the main focus of institutions in this dissertation. Specifically the dissertation studies how rules may or may not affect the decisions of candidates to run for office. Strategies and norms also play a role in supporting the contention that campaign finance rules are complex.

This chapter lays out how rules might affect candidates in two different ways. First rules might affect candidates by constraining the candidate's behavior. An assumption is made that candidates want to obey the law. Although examples abound of corrupt politicians, candidates tend to want to obey the law in a boundedly rational way. Candidates who are uncertain of an outcome such as the possibility of ethics charges or reputational losses will be more likely to obey the rules. This high probability of obeying the law makes it possible to create constraints in the law. The second assumption is that incumbents have the willingness to create a complicated institution. We know that candidates seek reelection (Mayhew, 1974) thus a rational incumbent might create complex rules in order to stack the deck in their favor (Abrams & Settle, 2004). The constraining effect of the rules on candidates' behavior may ensure compliance because

candidates want to uphold the law. Candidates are primed to comply with rules created by incumbent legislators.

Candidate misunderstanding of the rules is a second way the rules affect candidate behavior. This chapter introduces the concept of complexity resulting in candidates' misunderstanding of the rules. If rules are complex, they may be difficult to understand and candidates may have to change their behavior in ways contrary to the laws intended goals in order to comply with the law. This chapter will look at ways in which laws can be constraining or complex.

1.1 Institutions

Scholars have many different definitions of institutions that muddy the water and make it difficult to understand why a particular entity is considered an institution. A foundational understanding of institutions is necessary for this analysis. There is not a generally accepted definition of what constitutes an institution. There are some generally accepted attributes of institutions across the economic and political studies of institutions. Regardless of definition, campaign finance is a type of institution. It has the rules, strategies, and norms that are integral to being an institution. In campaign finance the rules, strategies and norms set up the expectation that the institution will encourage participation in the electoral process because the rules are intended to lessen corruption and provide more openness. This dissertation studies if, as a result of the rules, the opposite effect of less participation might be occurring. This is done using a study of the campaign finance institution. It is important to understand how campaign finance as an institution is structured to begin this study.

One characteristic of institutions is rules. Institutions have rules that modify actor's behavior. There is no agreed upon definition of what rules are and there are different varieties of rules. March and Olsen (1984) define institutions as a "collection of interrelated rules and routines that define appropriate actions in terms of relations between roles and situations. The process involves determining what the situation is, what role is being fulfilled, and what obligation of that role in that situation is" (March & Olsen, 1989, p. 21). This definition tends more toward defining an institution as individual behavior or as simply a set of rules to follow. Individual behavior is constrained by rules and routines based on what is considered appropriate to that situation (March & Olsen, 2004).

Elinor Ostrom expands the definition of institutions to include "rules, norms and strategies adopted by individuals operating within or across organizations" (Ostrom, 2007, p. 23). She defines rules in two ways, rules-in-use and rules-in-form. Rules-in-form are those that are written down and utilized as the standard operating procedures, the regulations that individuals within an institution must follow. Rules-in-use are the "do's and don'ts you learn on the ground" (Ostrom, 2007, p. 23). Either type of rule involves constraint of individual behavior.

Campaign finance has many rules intended to constrain actor's behavior in order to encourage a system in which more citizens want to participate. The rules such as contribution limits are considered appropriate to the goal of increased participation. Contribution limit rules intend to level the playing field so that more candidates are able to participate. The rules have formal structure with particular requirements such as monetary limits and restrictions on who can make contributions. Campaign finance fits

this institutional definition because it has the formal features (Peters, 2012) such as goals that intend to make the system less corrupt and disclosure requirements that aim to open those participating in the system to public scrutiny. The rules are also informal with the expectation that candidates will comply because they do not want to risk their electoral chances with an ethics investigation or reputational loss.

Other aspects of institutions are strategies and norms. Peters (2012) likens these to structural features and shared values that should have predictable ‘patterned interactions’ among individuals or groups of individuals. These predictable patterns should have shared meaning and value. Individuals or groups subscribe to these strategies to maintain order and accomplish tasks. Ostrom’s strategies refer to “regularized plans that individuals make within the structure of incentives produced by rules, norms, and expectations of the likely behavior of others in a situation affected by relevant physical and material conditions” (Ostrom, 2007, p. 23). Ostrom also defines institutions in terms of norms. Norms are the “shared prescriptions that are to be enforced by participants themselves through internally and externally imposed costs and inducements” (Ostrom, 2007, p. 23). These shared meanings and regularized plans support the assumption that candidates strategize that it is in their best interest to comply with campaign finance regulations. Because they are uncertain about possible negative outcomes, candidates should want to uphold the rules and regulations of campaign finance statutes.

These rules, norms, and strategies are particularly relevant for this dissertation because this paper is assuming strategizing by legislators –conscious or unconscious – to alter the behavior of others running for election by making legislation that is more

complex with which candidates must comply. As noted above, the assumption is made that candidates' norms revolve around mutual adherence to the statutes because of the external costs such as non-reelection or accusations of corruption if candidates fail to comply. Thus, the opportunity exists for incumbents to create constraints using the campaign finance laws. Such a constraint may be found in the language of campaign finance legislation. Crawford and Ostrom define this ability to constrain as an institutional statement which combines rules, strategies and norms. The institutional statement "refers to a shared linguistic constraint or opportunity that prescribes, permits or advises actions or outcomes for actors (both individual and corporate)" (Crawford & Ostrom, 1995, p. 583). It is this linguistic constraint or opportunity used by legislators that may constrain the behavior of potential or actual challengers.

1.2 Institutional Constraint

This dissertation assumes that legislators will constrain if given the opportunity. The scholarly literature on constraint is fairly clear that actors do create rules to constrain. This section looks into the variety of ways in which constraint happens, focusing on how legislatures constrain the behavior of others.

One question under consideration is whether or not institutional behavior can be constrained and if so how. The institutional literature indicates that institutions not only can be constrained, they often are. Institutional rules and procedures are put in place to constrain behavior. In some way one institutional actor wishes to prevent another institutional actor from taking an action. It may be that rules are cultural where Congressmen are usually polite when speaking from the floor or formal rules such as when and how to introduce a bill or amendment. Regardless of type, the idea is to

prevent chaos and promote stability in an institution. Without rules, actors would be able to run amok and do whatever pleased them. Rules prevent this chaos and allow the work of the institution to ensue.

Studying tools used to constrain is important to understand the implications of the constraint. One tool for constraint is to implement administrative procedures that allow legislatures to tell bureaucrats exactly how to implement laws (McCubbins, Noll, & Weingast, 1987). The legislatures can be very specific in order to reduce the probability that bureaucrats have discretion on policy implementation. Legislatures might want to maintain control over policy even though bureaucrats are closer to the policy via implementation than legislators. Issuing specific legislation minimizes the control that bureaucrats have. Specifically McNollgast hypothesize much of administrative law is written for the purpose of helping elected politicians retain control of policymaking. Legislators use administrative law to retain control of public policy over bureaucrats (McCubbins, Noll, & Weingast, 1987).

Legislators also make law in the other direction; they may make policy vague because they are uncertain about the potential outcomes (Shepsle & Weingast, 1994). In this scenario legislators are putting more of the costs of learning/understanding the legislation on the end users. Legislators might not have all the necessary information, which Shepsle and Weingast call the ‘uncertainty postulate’, to make policy reach certain goals. Therefore the policy might be vague in order to allow legislators to tweak it ex post. The “legislators do not know the precise relationship between the instruments they select and the outcomes subsequently produced” (Shepsle & Weingast, 1994, p. 159). Legislators make policy with no real understanding of how it is going to turn out. An

important question here is why? What is the motivation of the legislators? It is quite possibly accidental, but it could also be that legislators make policy with uncertain or ambiguous outcomes deliberately. The cost of gaining the correct information in order to make effective policy might be too high. The cost involves gaining the correct data on who is affected by the legislation, what are the intended and unintended outcomes of the legislation? Unless a legislator takes the time to pay this price, the legislation will end up with uncertain outcomes that a legislator will attempt to control ex post through oversight.

Shepsle and Weingast (1984) argue that rules matter because incentives may be insufficient to overcome the transaction costs of surmounting the rules. In other words, it is too expensive to change the rules, therefore legislators stick with them (Shepsle & Weingast, 1984). What if the stakes are so high that overcoming the transaction costs is worth the effort? If the stakes are your job, your livelihood, and your reputation then you might think it worth the effort to manipulate the rules in order to win reelection. Endersby (1993) tests rules for methods and rules for conduct in Congressional committees based on Shepsle and Weingast's disagreement with McKelvey and Ordeshook. Endersby tests this idea and finds that rules "do affect outcomes of political choices. If the majority players in a game wish to avoid a theoretical or equilibrium outcome and if they have the incentives and the resources to do so, they will" (Endersby, 1993, p. 232).

Another purposeful rationale for making the legislation vague is to ensure a certain outcome. If the cost to the legislator for making effective policy is high in terms of collecting data or a large learning curve, what if the cost of effective policy also costs

him his job? If a legislator makes effective campaign finance policy with which all citizens comprehend and comply, this might mean a legislator would face a challenger. If a legislator could make policy ambiguous, it puts the transaction costs of learning the policy on the challenger. This would be a rational choice for that legislator to make legislation that potentially increases the probability of his reelection. In this case, the legislator can put the cost of learning to the challenging candidate. The challenger pays the cost of figuring out the legislation if written vaguely.

The constraining behavior of legislatures is not always short-term. Macey (1992) focuses on long-term Congressional control of bureaucracies. Politicians in Congress establish agencies that put measures in place that reduce the likelihood of future changes. The goal of legislators is to constrain the agency. They do this using agency structure. For example, Congress might structure an agency in such way that the agency either covers one or many interest groups, thereby setting up competition between agencies for resources. Legislators want to control the discretion and authority that bureaucrats have in order to maintain control for the long term. The long term might entail the legislator being out of office, so control can be set up for the future and not only the present¹.

1.3 Transaction Costs

The idea that constraints or rules may be adding to the misunderstanding of legislation by candidates is important to understand. In order to study this misunderstanding it is important to define how the misunderstanding may contribute to changing a candidate's behavior. If a candidate fails to understand a part of the campaign

¹ A good example of this has recently occurred in North Carolina. For decades the NC Board of Elections (NC BOE) was run by Democrats. Republicans used to have a saying to the effect that 'Democrats make election rules to elect Democrats'. The understanding was that the longevity of Democrats in power in NC was in part because Democrats ran the NC BOE.

finance rules, they must determine how the law works in order to ensure compliance.

This learning adds to the transaction costs of running for office.

The idea of transaction costs in campaign finance legislation is the increase in time, effort, and learning required ensuring compliance with campaign finance statutes. Costs are the assumed time spent by candidates to ensure they learn and understand the complex laws. As discussed earlier, candidates will want to ensure they are in compliance with the laws in a boundedly rational way in order to minimize the risks of ethics complaints or reputational losses. A former state legislative candidate remarked on the difficulty and skill required to fill out all the election forms. “Someone just off the streets would find it [form requirements] nearly impossible. You have to be like a researcher to do this. If you don’t do it right, you’ll get kicked off the ballot” (Communication1, 2014).

The learning takes time away from campaigning. The cost of learning or making one’s way up the learning curve is different for incumbents and challengers. If you are an incumbent, you have already paid the transaction costs of learning how to run for office. If you are a challenger, you have yet to pay this cost. Potential candidates might not understand the complexity of the campaign finance system or rules until the candidates make the decision to run for office. The cost of learning can be steep depending on the laws for your state. Incumbents can write the law in such a way as to make it difficult to understand and comply with the law

Candidates might exert more effort to expedite learning and ensure compliance by hiring a professional campaign consultant. One former candidate for a state legislative position who is now a campaign consultant said his “current job is much easier because

there is no fear of public humiliation” (Communication6, 2014). He also said that in his state they have a “hard time finding people to run because of this fear”

(Communication6, 2014). Candidates do not want to be humiliated through non-compliance thus will exert extra effort to ensure they comply with the law. This extra effort might require candidates to use more campaign funds to cover this cost resulting in fewer funds left for actual campaigning. In states with more complex laws, higher transaction costs might lead to fewer candidates running for office.

The transaction cost approach generally sees institutions as reducing transaction costs by reducing difficulties in decision-making and interactions. “Transaction costs analysis can be used to design programs in ways that make changes away from the status quo more expensive in transaction terms, thus locking in the preferences of the designers” (Peters, 2012, p. 49). Legislators can maintain the status quo, which in this analysis might be maintaining their legislative seats, by creating barriers to entry into the legislature. The idea is that if it costs more to run for office because you have to hire a professional or use more time and money in order to understand the legislation, you may not run.

1.4 Complexity of Legislation

It is necessary to find a way to measure this complexity of legislation. This dissertation suggests one way to measure this complexity is to use the language of the statute. Measuring complexity of legislation using language is not new. Legislative complexity has been studied with respect to implementation of legislation, constraints on actors and complex policy ideas such as education. However, to this author’s knowledge, complexity has not been studied with respect to how it might damage the purported goals

for a piece of legislation. Does complexity reduce the effectiveness of laws if they cannot be understood by those to whom they apply?

The various tools used are reviewed in this chapter and a complexity measure is introduced. The discussion on institutional theory lays out two ways in which campaign finance rules might affect candidates' behavior. One is that candidates want to obey the law and therefore their behavior might be constrained, and the second is that candidates might misunderstand the legislation if it is complex. This chapter discusses these two facets of candidate behavior in context of complex legislation.

This study will look at the different ways scholars have grappled with the concept of complexity. Even though the concept has evolved over time and people have a general idea of what it means, there does not appear to be consensus on what it actually means in operation. A good definition of complexity would enable scholars another factor with which to analyze legislation and the policy process. Throughout the literature there are a number of factors that scholars relate to complexity. These include complex language as studied by Plain Language scholars; content including technical factors such as scientific and financial terminology; the steps in the decision making process of legislators creates a more complex piece of legislation and finally the number of required actions for fulfilling legislation goals creates a cost component to complexity. These factors are all examined in this chapter, with the exception of Plain Language which is examined in Chapter 4.²

² Chapter 4 presents the detailed conceptual framework for a plain language experiment in Chapter 5.

1.5 Complexity and Content

Complexity is neither a well-defined nor well-examined area in terms of legislation reaching legislative goals. There have been some studies of complexity in legislation, but many of those studies pertain to how legislators use complexity to control bureaucrats, who implement legislation; or judges who interpret it; and not upon ‘regular’ citizens who might be affected by the legislation. The questions that this dissertation undertakes is how is legislation itself complex? How does that complexity affect candidates’ decisions to run for office?

This section discusses the first factor put forth in the previous section that candidates might misunderstand campaign finance policy. It is important to understand why candidates might misunderstand legislation. It might be that the policy is complex. This section looks at what it means linguistically for policies to be complex.

The content of legislation is an obvious factor in affecting whether or not legislation is complex. What is not so obvious is how to define what is or is not complex content. Based on the literature this is fairly difficult to do because it is a subjective concept. What is complex to one person may not be to another. Some scholars have tried to put some meaning behind the idea of complex content. Krepel (1986) does a convincing job of this. Krepel examines education policies to understand the factors that affect whether or not a policy is complex. Krepel wants to determine “how content characteristics and environmental conditions affect policy maker perceptions of complexity” and “what characteristics of policy proposals are perceived as being more or less complex” (Krepel, 1986 pp. 48). The study done by Krepel used a national survey. The survey used three vignettes presented to the legislators and then asked them a series

of questions on the vignettes. Each vignette contained a description of state legislation on education policy. The state legislators were asked to analyze an education policy to see if the legislators judged it to be complex or not. The first vignette contained policy that had simple content and inactive environment. The second vignette had two forms; A – complex content and inactive environment and B – simple content and active environment. The third vignette had both complex content and active environment.

In this study, Krepel uses definitions of complexity culled together from previous studies. The definitions fall into the three categories: content, environment, and content and environment together. Content of legislation that is deemed complex contains “multiple subtopics, the use of technical, specialized concepts or language, and novelty” (Krepel 1986, pp. 48). The other category, environment (or environmental conditions) is defined as legislation containing conflict, cost certainty, ambiguity, and availability of information” (Krepel, 1986, pp. 48). The third category combines content and environment. The study found that when analyzed alone, there was no difference between the effects of content or environment complexity characteristics on the policy proposals. Krepel concludes that when legislators deem a policy proposal complex, it is a function of both content and environment together (his third category) and not just one variable alone. The second finding of the study was that the perceived complexity of the policy proposals increased as both the content and environment characteristics increased in the vignettes. Krepel concludes that the more content and environment characteristics, the more complex the policy will be.

Hamm (1980) treats content differently and considers a description of what complex content looks like. Hamm considers complex legislation to be longer than most

legislation. Hamm analyzes various pieces of legislation and finds complex legislation requires extensive information, and professional staff to help the legislative committee members get the information that they require. This extensive information creates bills that are longer. Hamm measures this by counting the number of lines in a bill. Hamm also measures the legislation's scope of impact. Hamm defines scope as "the number of people who would seem to be affected directly by a piece of legislation" (Hamm, 1980 p. 38). If a greater number of people are affected by the legislation then its scope is increased and it may be more complex. A piece of legislation that only affects a small group of people or a small local area would be less complex than a piece of legislation that covers every American or has a large economic impact.

Technical considerations included in the content of legislation are part of how (Gormley, 1986) rates various pieces of legislation as either complex or salient. For Gormley a technically complex issue is one that raises factual questions that cannot be answered by generalists or laypersons (Gormley, 1986). The question or problem would need to be answered by an expert. Only an expert with in-depth knowledge of the regulations would be able to administer them. Gormley's technical considerations are important but are still subjective and related to the knowledge of the writer of the legislation. Rinquist, Worsham, and Eisner (2003) define complexity as technical complexity and procedural complexity. Technical complexity is the degree to which specialized technical knowledge is necessary to craft effective policy solutions or understand the policy area. The technical experts would need to be able to understand the technical considerations of the law, but it is not clear if others (citizens) would understand them. In order to analyze who is able to understand and possibly administer

regulations we need a more precise definition of technical considerations. Procedural complexity is covered below in decision making.

Sabatier and Whiteman (1985) see policy information as having technical factors. Technical factors are the contents of the proposed policy and how the policy may affect society at large (Sabatier & Whiteman, 1985). These authors looked through legislation to determine which pieces of legislation had technical components and which did not. They defined a bill that has technical considerations as one that deals with scientific or engineering information and might have socioeconomic impacts beyond the local area (Sabatier & Whiteman, 1985, p. 417, FN 9). Relatedly, a scientific factor “relates the results of an empirical investigation of specifically defined variables” (Mooney, 1992). Mooney investigated the written notes and correspondence of legislators to see what information they were gathering on a piece of legislation. If they used empirical evidence it was considered hard science. The impacts of the policy are similar to Hamm’s (1980) discussion of policy scope. Complexity is not only the technical considerations but also the scope of the policy. If the policy touches or affects a large part of the country or a large proportion of state residents then that policy may be more complex in order to encompass the diversity of needs of that population. If a policy only affects a small segment and a homogenous segment of the population, it would be considered a simpler policy. It is possible that campaign finance reform would fall into the less complex policy because it would only affect a small segment of the population that is considering running for office. However, there is the possibility that the population would be larger if the policy were less complex. In other words, if the policy

were easier to understand and comply with, then more folks might run for office, thus increasing the population covered by the legislation.

Complexity involves more than just complex or technical information. It also involves how that information is used in making policy. The use of policy information or knowledge revolves around how decisions are made by legislators. They chose which information to use and when. In doing so, they are able to make policy affecting citizens' lives that may cover a continuum from simple to complex policy. Making these decisions involves gathering the information, and going through the policy process to make a decision. Covered below are the areas of how legislators get the information needed, how legislators make decisions, and how those decisions affect citizens.

As discussed above, complex policy is not limited to language. Another aspect of complexity is policy complexity. Policy complexity is not empirically tested in this dissertation but it is important to cover it here to clarify the differences between language and policy complexity. Policy complexity has bearing on language complexity in that the process of making the policy may make the language more complex as shown below.

Policy complexity generally refers to the steps in the policy process. These steps are opportunities to add policy components. These added components might add complexity to policies. A variety of factors might affect policy complexity such as the process steps and the constraints built into the system. Politicians considering a complex issue often look to bureaucrats for expertise and bureaucrats may dominate the implementation of the policy (Eshbaugh-Soha, 2006). If politicians cannot even implement, without bureaucratic help, the regulations based on the law that they themselves wrote, how much more difficult for an average citizen trying to adhere to the

laws. Average citizens have a tacit understanding of the laws but campaign finance is much more specific. An everyday person would have three options to comply with the regulations. One would be to spend a large amount of time and incur a large cost in order to gain a basic understanding of the complexities of a regulation. Most everyday people would not have this time and would therefore resort to their second option - turn to an expert in order to avoid some of the burden and to ensure compliance with the regulation. The third option is to give up. One candidate who was interviewed said that as a lawyer he felt he had a 'leg up' on his competition. He said he "didn't know the...code off the top of his head but if he needed to look something up it wouldn't be hard. If you were an average person you would need help" (Communication7, 2014). Hiring a professional is a cost incurred, so either with or without an expert, this regulation has burdened the everyday person in some way. In the same way, Congress is burdened with finding information from bureaucrats especially on complex issues. The literature is clear that when Congress must seek informational help from bureaucrats, and Congress deems the bureaucrats as the experts this is when they try to put constraints on the bureaucrats (Bimber, 1991). The important point here is that there is an information cost involved in creating this legislation. One party has all the information and the other party does not and must seek it out, at a cost to them. In the same way that citizens might bear the information cost of campaign finance regulations.

Once legislators gather information they use it to make policy decisions. Kingdon (1977) focuses on the actual decision steps that legislators take. He is not focusing on the result of their decisions but on how they make the decisions on legislation. This is the procedural complexity discussed by (Rinquist, Worsham, & Eisner, 2003). This is

important because when legislators are going through the process of making decisions it can become more complicated according to Kingdon. Legislators make a series of decision-rules, and at each rule is the potential for legislation to be created. If a legislator applies a decision rule and says 'yes'; this is the final product for this legislation and this is a relatively simple decision according to Kingdon. But, when the decision rule is applied and the legislator says 'no'; they are in essence saying that they need more information because this legislation is complex. Therefore, the number of decision steps that a legislator makes is part of what makes the legislation more complex. Intuitively one can think of the types of legislation to which this may apply, from earmarks to comprehensive reform bills. Earmarks, in this context, are not complex. They barely have attention paid to them, they involve few decision steps (because they are not voted on individually) and rarely are controversial or debatable. If one considers comprehensive pieces of legislation such as the McCain-Feingold act, one can intuitively understand the complexity involved by asking how many steps did this take? Kingdon is correct that the decision process reflects the complexity of the bill itself.

Kingdon (1997) goes on to discuss policy dimensions. In this discussion, Kingdon points out that Congressmen come to the decision process with attitudinal mechanisms and political actors, such as their party and constituency, that direct their decision making. If the legislator follows their party, the relevance of the legislation is usually focused on government management decisions, if considering their constituency the relevance is usually on legislation regarding civil liberties. The question here is what happens when a legislator looks to the party on a management decision such as campaign finance, but ends up unintentionally affecting his constituent's civil rights – such as the

ability to participate in the political process? The procedural justice literature touches on this idea also. It contends that when citizens are not involved in making procedural regulations that those regulations lack legitimacy (Markell, 2006). If citizens are deterred from participation in the legislative system, it also affects the legitimacy of the law. Even if a law, such as campaign finance, aims to protect the electoral system; how can it work properly if citizens are prevented or deterred from participating in the system if it is too complex with which to comply?

1.6 Legislative Constraints

Earlier in this chapter, an assumption is made that incumbents might have a willingness to create a complicated institution. This section details how legislators can do this by using language to create constraints on actors.

Scholars have studied how legislatures use decisions to constrain actors, in particular, the bureaucracy. These studies have used word count as a constraining factor in legislation. This is relevant to a study of complexity because if legislation can be constraining to bureaucrats, it may also be a constraint on ‘regular’ citizens. For example, Huber, Shipan, and Pfahler (2001) analyze states’ Medicaid laws to see if legislatures were able to put statutory constraints on the bureaucracy. The authors posit that the legislature would do this when it does not trust the bureaucracy. Huber et al. (2001) use the word count feature in the Microsoft Word program. The researcher simply enters the text into MS word and then specifies ‘word count’. Huber et al. argue that word count is a way to measure statutory constraint because the more words in a bill, the more detailed and thus constraining it is. Huber et al. collected all the words related

to Medicaid across all 50 states in an effort to establish that word count is a valid measure of constraint. They find:

Longer bills increase constraints on the agency. When designing a new children's health initiative to be part of the Medicaid program, for example, it takes a great many more words for the legislature to specify who is to be covered, what sorts of enrollment techniques should be used, which procedures should be followed, and so on, than it does to simply ask the agency to "do something" without providing any additional instructions. Long bills with lots of words tend to specify these details, while short bills do not. More words imply more precise instructions to the agency, and thus less discretion (Huber, Shipan, & Pfahler, 2001, pp. 336-337)

Even though there are other factors involved in this analysis, the result is that the quantity of words may constrain bureaucrats (Huber et al, 2001). If bureaucrats can be constrained by legislation, then regular citizens could also be constrained by legislation.

While Huber et al. analyze bureaucrats; (Randazzo, Waterman, & Fine, 2006) and Randazzo (2008) examine judicial constraints. They theorize that Congress writes legislation that is either vague or detailed. If it is detailed then it would constrain the behavior of judges and they would have no leeway to interpret the law. However, if the law is vague, this allows for little restraint on the judges and they can interpret the law as they want. Randazzo et al. utilize word count but see word count as inadequate to measure constraint because of the “noise associated with a raw count and the considerable skewness of the measure” (Randazzo et al., 2006, p.1011). They therefore take the natural log of each statute for their operationalization of statutory constraint. They find that there is evidence of judicial constraint found in the legislation that Congress passes. This is important because it shows that legislation can constrain actors – in this case judges – therefore it is possible that if legislation can constrain or affect the behavior of judges, it could also affect the behavior of regular citizens.

Word count is an interesting way to measure complexity and it is referenced in the earlier literature as well (Krepel T. L., 1983) because the length of the legislation can signify technical difficulties of the legislation that need to be explained and new solutions that have to be spelled out. It may also signify conflict if the different viewpoints debating the legislation have put incentives for their members in the bill. Another problem with word count solutions is that it may not capture the essence of what makes a law or regulation complex.

Word count is a key measure of complexity, but there are others. Most analyses consider institutions in terms of how political elites are affected, but Kimball and Kropf (2005) examine voters. Kimball and Kropf's (2005) research on ballot design from the 2002 presidential election brings to light another potential method for analyzing complexity. Although ballot design is very different from legislation it is the language function that the authors use here that is helpful. The authors look at ballot design to figure out why there are under-recorded votes on the ballots. The authors analyzed the graphical elements of the ballot design including location of the instructions, readability of the instructions, and layout of the candidates on the ballot, how the candidate's names appear on the ballot etc. (Kimball & Kropf, 2005). The authors create an overall index of ballot features that counts the number of simplifying or complicating features on each ballot. "Readability describes the ease of processing the information content of written words" (Kimball & Kropf, 2005, p 513). The grade level feature is a categorical variable so the authors coded it into low (4th-8th grade), medium (9th-11th) grade and high (12th grade and above). This allows the variable to be added to the index. The higher the score the more difficult it is to read the document (Kimball & Kropf, 2005).

This measure is relevant for campaign finance regulations because if they could be analyzed based on their readability it could be determined if they were difficult to read. If found to be difficult it might be another factor that contributes to the complexity of campaign finance legislation. Kimball and Kropf operationalized voting instructions using the Flesch-Kincaid measure and grade levels. Using these same measures of grade level and readability could capture how complex the legislation is regarding everything from filing forms to contribution limits in campaign finance reform. It may also be able to capture the technical aspects of the law. For example, if the reading level of the regulation/law was on a graduate school level, it could mean that the regulation/law is extremely complex. If the reading level of a regulation is on the eighth grade level it could signify a less complex law.

1.7 Complexity and Campaign Finance Reform

The literature is clear that the content of legislation is important to determine whether or not a piece of legislation is complex. But it is the factors of that content that can really determine if legislation is complex. These factors include scientific, engineering or financial factors, the scope of the policy including the socioeconomic impacts, the geographic impacts (whether it is national or local) and whether the legislation needs interpretation and/or help from an expert in order to be implemented. While many of these scholars look at the policy process and the inputs into legislation, this study purports to take their analyses of these inputs and apply it to the outputs – the legislation – and how that legislation affects citizens' ability to participate in the system.

The debate over campaign finance reform efforts examines how the reform affects elections, competition in elections and many other variables. However, one variable has

not been adequately addressed by the literature so far. Is campaign finance reform legislation so complex that it prevents those wishing to seek office from doing so? It has been argued that reform will make the electoral system more democratic, but what if in fact the reform is so complex that it is a deterrent to people wanting to run for office? This research seeks to look at campaign finance reform legislation for complexity factors and see if those factors affect whether people decide to run for office. A definition of complexity is vital to doing this. The potential burden on a candidate is great if the legislation is complex. They must spend time and money in their effort to run for office. Added to this is the additional burden of conforming to campaign finance regulations. Potentially they would have to seek expert help in order to navigate the regulations to ensure they are not breaking the law. This research seeks to explore this question more fully by looking at campaign finance reform efforts in the states to first determine if they are complex and then to see if that complexity is a deterrent to candidate emergence.

This dissertation hypothesizes that campaign finance reform has become so complex that ordinary citizens wanting to participate cannot because they do not understand all the regulations. If they want to join in the system they must incur the cost involved with hiring professionals to help them run their campaign according to the regulations. This extra cost can be a deterrent to non-wealthy citizens wanting to run for office. An example of this is found by a quick check of North Carolina's Board of Elections website on campaign finance. Citizens wanting to run for office have to fill out a variety of forms (all with multipage instruction sheets) including 26 disclosure forms; 20 miscellaneous forms; 9 certification forms and 11 public funding forms (NC Disclosure forms). In order to complete all these forms correctly expert help would be

necessary. In fact, some of the forms are to certify your experts!! It is possible that the complexity of this situation has become a deterrent to the very goals of campaign finance. The complexity could lead to fewer candidates running for office and those candidates that do run being the incumbents who have the resources with which to navigate the campaign finance regulations. This issue has not been studied but it is vital that this research is done. If citizens cannot understand the laws meant to regulate this situation the democratization goals of campaign finance reform are in peril. This research seeks to explore this question more fully by looking at campaign finance reform efforts in the states to first determine if they are complex and then to see if that complexity is a deterrent to candidate's decisions.

CHAPTER 2: CAMPAIGN FINANCE REFORM

Campaign finance reform in the American states has been either a steady progression of independent legislation or a representation of legislation passed by the federal government. Some of the same themes are covered in both the states' and the federal government's efforts to reform the campaign system. This chapter reviews the campaign finance reform legislation in an effort to set the stage for the way in which this same legislation is studied in this dissertation. State campaign finance laws are studied in this dissertation as a way to maximize scholarly leverage. States' campaign finance laws vary which may provide insights about campaign finance reforms.

A look at state campaign finance reform must look to the federal reforms because it is from the federal government that the states take many ideas and models of reform (Gross & Goidel, 2003). From the Tillman Act of 1907 to the Bi-Partisan Campaign Finance Reform Act (BCRA) or McCain-Feingold bill of 2002, most campaign finance has come through the federal government. The first laws were passed by Congress in the 1880s in an effort to reform corrupt civil service practices such as soliciting campaign contributions in public buildings, or disallowing political assessments³ as a requirement for employment. The Civil Service Reform Act of 1883 passed and states quickly followed suit, with New York, Massachusetts and Pennsylvania passing their own versions (Gross & Goidel, 2003). While most of these acts dealt with civil service

³ Political assessments were required political donations given to candidates by public sector employees as a condition of employment.

reform, it was the Tillman Act of 1907 that prohibited corporations from contributing funds to candidates for federal office. Again the states followed with 32 also outlawing this practice by 1932 (Gross & Goidel, 2003).

David Schultz explains, “the role of money in politics at the state level is increasingly coming to resemble... federal campaigns and elections (Schultz, 2002, p. 205).” The question is how did states get to this point? The literature on federal campaign finance reforms generally sets the reform movement into two phases. The first is the post-Watergate era and second is the 1980s when the reform movement changed to encompass equalization efforts. These same eras are found in the literature on state campaign finance reform efforts (Gross & Goidel, 2003) (Malbin & Gais, 1998). The states had focused on regulating or restricting ‘big donors’ in the past but by the 1990’s were focused on equalizing political power. By the time that the Bipartisan Campaign Finance Reform Act was passed in 2002 most states had similar types of policies that reflected the federal reform movement toward restricting or regulating special interests. Three other types of reform were also articulated: one - to reduce the costs of elections, two – reduce the importance of any single donor by keeping contribution limits low and three – force candidates to find contributions from a larger base number of donors (Gross & Goidel, 2003).

The early campaign finance reform efforts in the post-Watergate era focused mainly on the candidate. The goals of reform were to ensure that the atypical or unusual donation was avoided. This was an effort to ensure that single, large donations from one contributor to one candidate were disallowed in order to avoid the possibility of corruption (Harshberger & Davis, 2001). To do this, the early reforms focused on listing

all contributors over a certain amount to ensure that the candidate was pressured not to take large donations as these would be made public. The reforms also disallowed anonymous contributions. The candidates had to report all contributions and expenditures before and after both election cycles (primary and general election). The focus in this early era was just on the candidate's activities. The reformers wanted to highlight where the donations were coming from and to whom they were going. These are the early efforts at disclosure requirements. There was no emphasis on interest groups, political parties or the like (Malbin & Gais, 1998).

With increases in campaign spending and an increase in the number and variety of actors in campaigns, the reform effort shifted in the 1980's. Interest groups, lobbyists and Political Action Committees (PACs) were increasingly involved in campaign activities. Instead of focusing on the unusual campaign contribution to an individual candidate, the reform focus shifted to regulating the normal, typical campaign behavior of all candidates (Malbin & Gais, 1998). The reforms increased the reporting requirements of candidate's campaigns and put in place more stringent contribution limits. These limits were also expanded to include interest groups, political parties, and corporations. New restrictions were created to encompass new behaviors such as loans to candidates, transfers between campaigns, payoff of campaign debts, disclosure requirements for interest groups and so on (Malbin & Gais, 1998). These new restrictions generally fell into three general goals. The first goal is to reduce the cost of elections. This is generally done by putting in place spending and contribution limits. The second goal is to reduce the importance of a single contributor. This is similar to the post-Watergate reforms but here we have the reduction in contribution limits to make sure that 'fat cat' donors are

limited. The third goal is broaden the base on contributors so that any potential influence is dispersed (Gross & Goidel, 2003).

The 1980's reform was followed by numerous attempts to change and progress the reform on both the federal and state level. Most of these attempts were unsuccessful although there were some small changes in various states. Scott Harshberger and Edwin Davis (2001) recount the numerous attempts at introducing and passing campaign finance legislation throughout the 1980's and 1990's. What are interesting in these attempts are the incremental changes and additions to legislation over this time period. There were initial pieces of legislation that included bans or limits on PAC money, then an aggregate limit on PAC contributions. There were pieces of legislation introduced and passed by Congress with the knowledge that President Bush would veto the legislation. Ultimately, there was no major piece of legislation passed to change or overhaul the campaign finance system. Thus, the status quo remains virtually unchanged until the passage of the Bipartisan Campaign Reform Act of 2002 (Harshberger & Davis, 2001)

How the campaign finance regulations vary through the states is important to the understanding of how those reforms affect the elections within those states. This understanding may lead us to find where policy reforms are having a positive or negative effect and point to appropriate policy solutions. Today however, little consensus regarding the effects of campaign finance reform is found among scholars.

So why should we look at the states instead of just looking at the federal government? Thompson and Moncrief (1998) offer some insight into why the states should be studied. First, they point out that more and more policy is devolving to the states making them more important decision makers in the policy arena. State

legislatures are making important policy decisions therefore we should know more about how they are getting elected. Second, states' policies matter to their citizens and since the elections are often held every two years, therefore we should know more about the role campaign finance plays in their election. Third, since the states copy much of the campaign finance regulations and policies from the federal government we should look to see if what has been learned at the federal level applies to the states. Because of these reasons the states are important actors when it comes to policy and elections therefore we need to know what is affecting the state elections (Thompson & Moncrief, 1998). It also is the state's responsibility for creating the rules and regulations governing the majority of elections, since federal law regulates federal candidates, such as those for president and Congress (Gross & Goidel, 2003). State laws still govern all state and local elections and there are more of these elections than elections within states for federal candidates. According to Thompson and Moncrief (1998), there are thousands of state elections per year. So the state election laws generally regulate more elections than federal election laws. Because of the sheer number of elections, the general move to implement more policy in states and their traditional governance of the state electoral systems it is important to understand the factors affecting campaign finance reform in the states.

Campaign finance reform theoretically consists of two major goals: the reduction of corruption or the appearance thereof in the political system and creating a system in which more citizens are able to participate. This second goal is known throughout the literature as democratization. Democratization entails more participation from citizens in the form of more people able to run for office and more people contributing to campaigns. The reform efforts have used various tools to reach these two goals. These

tools include contribution limits, spending limits, public finance of elections and disclosure requirements. These tools have been examined for their effect on the goals of campaign finance reform. This examination is detailed below. The reader will note that while valuable strides have been made in this scholarship, no scholars have examined the unintended consequences of the statutes purportedly created to increase democracy.

2.1 Reform Tools

One of the reform tools used to meet the goals of campaign finance reform is campaign contribution limits. The rationale is that if contribution size were limited, politicians would need to seek out a larger volume of smaller contributions in order to make up the monetary difference for their campaign coffers. By seeking out more contributions, they would contact more potential contributors and thus more people would be contributing to campaigns. The idea is that more people contributing spreads out the democratic effect of the reform (Gross & Goidel, 2003). Plus, contribution limits are intended to reduce overall spending by candidates by making fundraising more difficult (Eom & Gross, 2007).

The public's perception is that there is too much money in campaigns (Thompson & Moncrief, 1998). Thompson and Moncrief's (1998) analysis of contribution limits shows that the reasons for this perception vary from just the vast amount of money being collected, to the idea among the public that this money must be in return for some type of *quid pro quo* situation. If political action committees (PACs) are giving a lot of the money then the public assumes that the PAC's must be receiving something in return. Thus there is a perception of corruption even if the public cannot pinpoint it. Thompson and Moncrief (1998) argue that much of this perception filters down from the national

stage and national corruption scandals until there is the assumption of corruption at the state and local level. Contribution limits are enacted as an attempt to try to reduce the amount of money in campaigns with the thought that if there are fewer contributions, there will be less corruption or the appearance thereof. The other potential advantage of campaign finance is to reduce the appearance of impropriety on the part of politicians accepting ‘big’ donations from a small group of donors. If they can no longer contribute the ‘big’ donations, then the appearance of impropriety is minimized, and the system is more open, the people trust the system more and therefore it is more democratic.

Eom and Gross (2007) analyze the democratization goal of campaign reforms to increase the number of contributors. They analyze campaign donations in 58 gubernatorial election cycles in 42 states over the 1990-2000 time period. Because of the variation in state data and collection methods for the data and because most states only require data to be collected over a certain threshold; the authors are only looking at contributions and contributors over the threshold amounts. Furthermore, the authors differentiate between types of contributors by defining particularistic and universalistic donors. Particularistic donors are those that want to influence a particular or narrowly defined policy, while universalistic donors want to influence policy on a more broad or ideological basis. Eom and Gross created these categories based on data from the National Institute on Money in State Politics that allowed them to “categorize contributors as individuals, parties, ideology/single issue, labor union or corporation (Eom & Gross, 2007, p 701).” The authors find that the contribution limits tend to result in a lower average dollar amount per contributor and this finding is carried through no matter the type of contributor. However the authors also point out that there was no

evidence to support the idea that there would be an increase in the number of universalistic donors. So even though there was a decrease in the dollar amount of the contributions there was not an increase in the number of universalistic donors and a decrease in particularistic donors (Eom & Gross, 2007). Still the authors think that the democratization goal is upheld because with a decrease in the dollar amount of the contributions – which was one of the reform goals – this will lead to the *possibility* of an increase in the number of contributors in the future. One could also argue the opposite that the evidence showing no increase in the universalistic donors could mean that the reform failed to increase the number of donors; in reality therefore; there may be no democratization effect because more citizens did not participate in the process.

As Eom and Gross find that the average dollar amount is reduced, their work does not indicate that the number of donors is increased, nor do they look at the number of candidates running. This is covered more comprehensively in Chapter 3 on candidate decisions. However, it is important to note that some scholars have found that more challengers are likely to emerge when contribution limits are in place (Hamm & Hogan, 2008) supporting the idea that the reforms do democratize the system. Hamm and Hogan use an index of campaign restrictions in their analysis. This additive index sums the number of sources from which candidates can receive contributions. Other studies also indicate that with contribution limits in place more candidates would positively decide to run (Maisel & Stone, 1997) while other studies concluded that the race itself would be more competitive (Stratmann & Aparicio-Castillo, 2006).

Other studies find that contribution limits neither increase the number of candidates nor the quantity or amount of contributions (Green & Krasno, 1988; Abrams

& Settle, 2004; Eom & Gross, 2007). No doubt the debate will continue. This dissertation pursues a different theoretical angle of measuring contribution limits. Instead of creating an index or conducting a survey of candidates the language of contribution legislation is used to create a measure of complexity. This method is used to determine the candidate participation rate in all 50 states.

Another proposed reform of campaign finance is to reduce spending in campaigns. Reduced spending would allow for more challengers to enter the race while also ameliorating the public's view that there is too much money in elections. The intent of spending limits is to hamper incumbents from outspending challengers by creating a level playing field or equal opportunity for both candidate types. The scholarship on spending limits is mixed because there are so many factors that could affect spending. Hogan (2000) analyzes campaign spending factors in the states by examining campaign data for candidates from both parties facing an opposition in the general election in 27 states in 1994⁴. The candidate level factors that affected spending relate to whether the seat is held by an incumbent or if it is an open seat. As Hogan states most of these types of seats attract more campaign money because donors want their money to go to someone with a fairly good chance of winning. The district level factors such as primary competition increases spending simply because the candidate has to compete in at least two election cycles; therefore, we should expect an increase in spending. The same can be said of partisan competition. Where candidate's parties are closely matched, spending by the candidates will increase in their effort to win. Hogan concludes that the spending levels are affected by the reform laws, but the spending is also affected largely by

⁴ With the exception of five states from other years. See Hogan (2000) for more complete information.

candidate characteristics (challenger/incumbent) and district level factors (primary competition, partisan competition). Hogan ultimately finds that campaign finance laws are only moderately successful at limiting spending by candidates (Hogan, 2000).

Gross, Goidel and Shields (2002) also find a varied outcome when they studied candidate campaign spending limits in gubernatorial elections from 1978-1997. The goal of the spending limits was to create parity among candidates. Spending limits worked in some cases but it depended on candidate type, partisanship and the level of the restrictions. They also find that the limits do not affect challenger spending but that an increase in limits will increase incumbent spending. So there was no real parity created between the candidates (Gross et al. 2002). If the goal was to increase the fund raising burden on challengers, this too failed to restrict spending. The authors failed to find evidence that a spending limit inhibited incumbent or challenger spending and in fact the limits could actually create greater disparity between the candidates. So here also the burden is increased on the candidates but yet has little effect on the actual goal of the legislation. Hogan's (2001) analysis would agree with Gross, Goidel and Shields because he finds that war chests, or the amount of money saved ahead of an election cycle for campaign reelection accounts, are a deterrent to challengers. Hogan appraised the candidate level information on over 1300 incumbents from eight states for a presidential and mid-term election⁵. Even if the deterrent effect of war chests is reduced by the attractiveness of the seat, it still shows that money can inhibit challengers from running for office. So while one of the goals of campaign finance reform is to reduce the amount

⁵ The states were Idaho, Illinois, Indiana, Massachusetts, Michigan, Minnesota, Oregon and Tennessee. He used the election years 1994 and 1996 for all states except Massachusetts where 1996 and 1998 were used.

of money in elections, the results appear mixed with scholars finding such a variation in factors as to make an overall assessment of the results unclear. Spending limits do seem to have some effect on the electoral process however, it is not conclusive yet as to whether these effects would create a more level playing field and induce more candidates to join the electoral process.

Spending limits have also had limited success because of court cases in which campaign spending is seen as free speech (*Buckley v. Valeo*, 1976). Because of the court's rulings however, spending limits cannot be mandatory but are often voluntary and are tied to an agreement by the candidate to accept public financing. Therefore many states have turned to public financing. If the candidate accepts the public financing, then he or she agrees to limit his or her spending during the electoral cycles (Gross & Goidel, 2003). Some scholars (Bardwell, 2003; LaRaja, 2008) find that public financing can often act as an incentive or an aid for candidates to run for office. La Raja surveyed candidates in local elections in Connecticut, Massachusetts, and Rhode Island to analyze what made the candidates likely to move from local to state elections. He posits that the funding of a campaign is often a serious obstacle for potential candidates considering a run. He found candidates, who run in races where the fundraising obstacle is in place- either, because the candidate dislikes fundraising or who do not have access to funding, benefit from public financing. Furthermore, La Raja also found that candidates who have a high level of political ambition tend to benefit from public funding because they are more willing to take advantage of the funds. La Raja's contention is that public funding may be a valuable reform tool because it is likely to help change the skill set found in candidates by allowing candidates who are not good at fundraising to have a chance at

running for office. Overall, public financing is one option that does seem to reduce barriers to run for office. However, these programs must remain optional as a result of various court decisions and therefore their effectiveness is limited. As an aid to candidates, Bardwell (2003) found that challengers who had access to public financing benefitted from its use because they were able to spend less than candidates who did not have access to public financing⁶.

Public disclosure of both contributions and expenditures is the least controversial of the reform efforts. Even though there are wide variations in how the data are collected, most states require reporting of the data in some way. The disclosure requirement was intended to increase political accountability and transparency in the electoral process. This openness should allow for any corruption or any contributions from questionable sources to be investigated or at least disclosed to the public prior to the election. There is however, little apparent evidence that this is the case. Gross and Goidel (2003) discuss that they previously found⁷ no evidence that elections are more competitive or that there is less corruption. They surmise that as voters learn more about how and from where contributions are obtained, they are less engaged and elections are less competitive (Gross & Goidel, 2003). This seems to be a case where sometimes too

⁶ According to the National Conference on State Legislatures 25 states have public financing of elections (NCSL). Public financing (PF) is not included in this dissertation analysis because in order to qualify for it in states with partial public financing, you have to raise funds (just like other non-PF candidates) in order to get the PF. Looking on the data on NCSL.org only one state (ME) has clean elections in which the candidates do not have to raise any money to qualify. The rest of the states have qualifications to get the PF. Omitting PF is justified for this analysis because candidates with PF would still have to go through the same processes to raise money as candidates without PF. Public financing should be included in future analysis.

⁷ The authors cite their previous work in Gross, Goidel and Shields, *Money Matters* (Goidel, Gross, & Shields, 1999).

much information can be a bad thing because the public is disgusted the more they learn about how much money is in campaigns.

As seen above, the goals of the reform have been to make the campaign process more democratic and to increase participation in the electoral process - both by reducing barriers for challengers and broadening the base of contributors. The reforms aimed at reducing corruption in campaign finance want to make it more open and accountable. By making the system more transparent the reforms allow the public to see where the money comes from and goes to. The goal of this transparency is to increase the public's confidence in the system and thus increase its democratic nature. Contribution limits are intended to have the dual effect of limiting the amount of money in campaigns thus allowing a more level playing field for challengers; and limiting the amount of "big" donors and spreading the contributions to a wider base in order to allow for more, smaller contributors to participate (Eom & Gross, 2007). Public financing should allow for more participation by challengers by decreasing the deterrent of incumbent war chests. Ultimately, all of the reforms were aimed at increasing the number of candidates by decreasing barriers, decreasing corruption by increasing transparency, and making the system more democratic by spreading the accessibility of the campaign process to more citizens.

Clearly, no reform has become the silver bullet with which to reform campaign finance. Studying which factors are preventing them from being as effective as possible is important to reach the goals of the reforms. La Raja (Malbin, Corrado, & La Raja, 2005) points out that the laws themselves have become complicated and the campaign finance regulations have become a barrier in themselves. While La Raja was looking at

the Bi-Partisan Campaign Finance Reform Act, much of his assessment can also be applied to the states because the states' legislation is modeled on the national legislation (Malbin, Corrado, & La Raja, 2005). While scholars have explored the effects of money in the system, scholars have yet to explore the complexity problem as applied to campaign finance. This dissertation studies whether the state campaign finance legislation has become so complex that candidates cannot understand it and it thus becomes a barrier in the form of increased transaction costs in running for office.

As La Raja jokes (Malbin, Corrado, & La Raja, 2005), BCRA has come to mean Before Campaigning Retain an Attorney. This may be a joke, but it illustrates why the question of complexity on the effectiveness of reform are important to study. Scholars and policymakers alike are beginning to realize the ways in which the complexity of legislation affects legislative outcomes.

This dissertation studies only the contribution limits on campaign finance reforms in an effort to study these limits in a different context. Rather than looking at contribution limits in terms of how many incumbents versus challengers or voter turnout, it is important to understand if the contribution legislation is itself a barrier to entry for candidates seeking office. The goals of the contribution limits were to lower the bar to allow more entry into the political process by evening the playing field in such a way that average citizens would be able to participate.

CHAPTER 3: CANDIDATE DECISIONS

The theory tested in this dissertation is whether institutional rules-in-use affect behavior. The research assumes that prospective candidates do not tacitly know the “rules-in-use” but instead, must learn them. If the “rules-in-use” are too complex, then the average citizen may not run for office. For many years, scholars have been studying the question of why candidates emerge or do not emerge—that is, why they run for office. If we are to understand the theoretical implications of complexity in “rules in use” empirically, we have to look for alternative reasons why candidates emerge and do not. This chapter explores the previous literature on prospective candidate decision making. Studying other factors in candidate emergence allows use of these factors as control variables in the study.

It is difficult to determine what factors contribute to candidate’s decisions to run for office. A number of studies have looked at a wide variety of factors and yet there does not seem to be any agreement on exactly what factors affect candidates consistently. This chapter examines many factors and the effect they have on candidates’ decisions to run for office. This is important because this dissertation studies the complexity of campaign finance legislation, a factor not found extensively in the candidate emergence literature.

It is important to note some of the limitations on this literature. First, some scholars study U.S. congressional elections and some look at state legislative elections. This study looks at state legislative elections. The factors reviewed here affect both state

legislative and US congressional elections similarly unless noted. Second, scholars use different categories for the various factors affecting candidate emergence. Some scholars focus on district and candidate factors; while others focus on strategic, political, institutional, personal, and contextual factors affecting candidate decisions. Grouping these factors into strategic, political/institutional, and personal categories is useful because it conforms to much of the candidate emergence literature, so this dissertation will follow that pattern as we explicate the various factors.

Finally, when dealing with candidate emergence we are just beginning to understand what Fox and Lawless (2005) call ‘nascent’ candidate ambition. Most studies look at more developed or ‘progressive’ ambition by looking at how challengers react to incumbents in various races (Kazee, 1983; Maisel & Stone, 1997; Stone, Maisel, & Maestas, 2004). While Fox and Lawless are on the right path for the future, the literature bears scrutiny on both nascent and progressive candidates because it gives us an overview of the various factors that could affect any stage of the candidate’s decision, whether it is nascent or somewhat developed. These limitations contribute to the various and sometimes confusing or conflicting factors affecting candidate decisions.

3.1 Strategic Factors

Strategic factors are those factors such as a candidate’s chances of winning an election, contribution limits, and incumbent’s quality and strength based on which a candidate may make a decision regarding running for office. One of the biggest strategic factors is the probability that a challenger will win an election (Maisel & Stone, 1997). The rationale here is that candidates are strategic and make rational decisions (Levine & Hyde, 1977; Black, 1972; Maestas & Rugeley, 2008; Stone, Maisel, & Maestas, 2004)

based on whether or not there is a chance for them to win an election. Maisel and Stone found that when an incumbent held a seat, a challenger was more likely to account for this in their decision to run for office. Hogan (2004) found the similar results. An incumbent's level of support in the previous election was a deterrent for challengers seeking that office. Most scholars in this area seem to be asking the same question that Kazee (1983) asks whether the chances of winning are high enough to justify the effort required. Can the challenger win against an incumbent when we know the advantages that incumbents have to stay in office? These advantages can be many. Incumbents have access to media coverage in their home district or state, at the US Congress level they have free mailing privileges and may get support from the party. Challengers have almost none of these advantages, thus giving the incumbents strength against challengers. Kazee questioned potential challengers if the incumbent announced they were not running for office, would that influence the challenger's decision to run for office. Kazee found that just the perception of incumbent strength was enough to deter challengers from seeking office (Kazee, 1983).

While the argument of incumbent deterrence is logical, it is not quite as simple as we may think. There are other factors playing into this deterrence effect. One contributing factor is the strength or weakness of the incumbent. Another factor is which election cycle scholars are studying. Are scholars looking at the general election or the primary? Lazarus (2008) looks at both of these types of elections and finds generally that when the incumbent does poorly in the previous primary and/or general election there will be more challengers both from the incumbent party and the out-party. Interestingly he also finds that when the out-party does not have an experienced challenger running for

office, this party will have more amateur candidates challenging the incumbent (Lazarus, 2008). Maisel and Stone (1997) find also that a challenger's decision to run is more likely to be affected by their chance of winning their own party's nomination in the primary than by their chance of winning the general election. Therefore, the primary election is an important factor also.

What is it about the incumbent that is the biggest deterrent for challengers seeking a seat? As noted above Lazarus finds deterrence may depend on which election cycle we are looking. Another possibility is the so-called 'war chest' of the incumbent. The war chest is the amount of money the incumbent has saved from previous elections or from campaign contributions while in office. Hogan (2001) finds that the size of the war chest has a negative impact on the probability that a challenge will occur in both the primary and general election cycle. Contributing to the war chest deterrent is the possibility that states that have campaign finance laws that restrict contribution limits may also affect challenger emergence positively (Hogan, 2004). The idea here is that if incumbents were unhindered by contribution limits it lowers the deterrent or risk to challengers. Maestas & Rugeley (2008) find similarly when assessing the experience of incumbents over challengers. They find that the advantage depends on what type of incumbent one is. If you are a statewide office holder or federal candidate, you may have an advantage in raising funds when compared to ambitious amateurs.

If the campaign finance laws governing contributions restrict an incumbent, then this would level the playing field. By creating a level playing field there is less of a risk and more ability for challengers to compete with incumbents. This lowered risk plays directly into their calculus of whether or not it is worth the risk to run for office.

Hogan (2001) also finds that as the attractiveness of the state legislative seat diminishes, the effect of the war chest paradoxically increases. This means that the war chest has a bigger effect when there is a seat for which no one wants to run. This could be that the war chest is adding onto some other deterrent effect. Hogan does not discuss what makes a seat more or less attractive, so we are not sure. We do know that war chests are primarily effective as deterrents in state legislative seats and not US congressional seats (Hogan, 2001).

Hogan notes that generally, the American people understand that if a member of Congress does not vote in accordance with their constituent's wishes, they may lose their office. This theoretically should provide an opportunity for a challenger to attempt to take over the seat. Despite the conventional wisdom, however, this does not appear to be the case. Hogan (2004) looked at the incumbent's responsiveness to policy demands. He found that when the incumbent's policy voting was in line with what his constituents wanted, he got a higher percentage of the votes than incumbents that did not vote in line with constituents. However, he does not find this helps or hurts a challenger. He only found that it affected the vote total for the incumbent. Whereas policy responsiveness matters, it apparently does not matter (or help) for challengers seeking that office. Challengers may put less emphasis on voting responsiveness when considering a run for office.

3.2 Political and Institutional Factors

Strategic factors have a direct impact on the political factors of a candidate's decision. When a candidate is looking at their prospects within their district strategically, they also must consider the political factors such as partisan balance in the district. If

balanced in their favor they may have a higher probability of winning than otherwise. Hogan (2004) finds that when the district partisan balance factor favors the incumbent that it is a deterrent to challenger emergence. When the partisanship is changing or has changed however, Hogan (2004) finds that challengers will emerge at that point. Hogan also finds that the population within the district is also a factor⁸. When the population is larger, it may make the campaign more expensive and acts as a deterrent to challengers. If candidates have to expend more campaign resources to reach a larger population, this would increase the cost of the campaign. These costs then become the deterrent to challenger emergence.

Concerning the structure of the institution in which one desires office, the professionalism of the legislature is another factor that some scholars think plays into the challenger's decisions. Legislature professionalism refers generally to the time legislators spend in session, the amount they are paid, term limits, amenities or perks of office, level of political knowledge and political experience of the legislators. States that provide higher salaries, more amenities, and staff are considered to have a more professional legislature. States that do not provide these benefits for their legislators are considered less professional. Hogan looks at the professionalism of the legislature and finds that where states have a more professional legislature it is a strong influence on challenger emergence (Hogan, 2004). He finds that there will be more challengers emerging with more legislative professionalism, but the strength of the challengers will

⁸ Hogan says, "When larger districts contain a greater number of potential candidates, they also have more voters" p1287. This paper's author assumes Hogan means that some districts have more voters than others and not that the population is actually different. The author does not currently know if populations can differ in state districts. The only other explanation for this is that some districts Hogan looks at are state senate districts vs. state house districts.

decrease. Because the legislative seat become more “enticing” more challengers emerge but they are not necessarily the strongest candidates (Hogan, 2004, p. 1293). Maestas et al. (2006) similarly find that professionalism of the legislature helps develop skills and qualities necessary for candidates to run for higher office. Squire and Powell argue that developing a higher quality potential candidate pool enables more challenger emergence (Squire, 1989; Powell, 2000). Simply having a larger pool of qualified candidates allows more of those candidates to challenge incumbents. Allowing a larger pool of candidates to grow, makes possible better representation in the long run as your pool of candidates are better able to grapple with running for office (Maestas, Fulton, Maisel, & Stone, 2006).

Term limits increase the probability that state legislators will run for their state’s US House seat whether they are the incumbent or the challenger. However, this effect is lessened for the challenger compared to the incumbent (Powell, 2000). Term limits are a negative when considering legislative professionalism. The idea here is that states would want legislators to stay in office, gain experience, and thus become more professional. By limiting this ability, states may end up having a less professional legislature. We see from the above discussion that a more professional legislature encourages challenger emergence. We would expect that term limits would decrease professionalism and thus decrease challenger emergence. Powell (2000) however, finds the opposite that term limits “have a stimulating effect on the decision of state legislators to run for the House” (Powell, 2000, p656). It is possible that the effect is based on leaving one seat (the State Legislature) to try for a higher seat (the US House), whereas other studies have looked at challenger emergence for the same level of seats.

3.3 Personal Factors

Whereas political, institutional, and strategic factors are beyond the reach of the candidate's influence, personal factors are those that affect the candidate's person in his or her life or family. These include such factors as income, displacement⁹, the length of sessions, ability to campaign, and candidate quality. The income factor can be especially difficult to overcome. This factor can affect candidate's decisions in two ways. The first is where the legislator salary is low. If the legislature is not professional and has relatively low salaries for the legislators then leaving or taking time off from a lucrative business or profession may put an undue cost of running and serving as a legislator. Candidates have to make this choice prior to deciding to run. On the other hand serving in the legislature may be a stepping stone to higher office or even the first step in a candidate's desire for a political career. They then may not care about the salary but see holding the office as a long-term benefit. The second effect of legislator's salaries is when the legislator's salary is higher, then the legislature is seen as more professional. This line of scholarship positions salary not as a personal factor, but more of an institutional factor affecting candidates. The thinking on this factor is that higher salaries and more professionalism would serve as an incentive for more challengers to enter the race. Added to the income effect is the displacement factor. The displacement factor is the necessity of maintaining two households while in the legislature. Legislators are required to have a residence in the district or state from which they are elected. Most legislators also need a place to stay or live while in session. For the state legislatures, this effect can vary by the amount of time spent in session. If states have a more professional

⁹ Displacement according to Maisel and Stone means having to keep a second house in the state capital.

legislature that meets every year, the displacement costs will be higher than in states where the legislature meets every other year or for only a few weeks at a time. While we would expect that the income and displacement effects would be high on the list of factors affecting candidate emergence, scholars have not found evidence for this. Maisel and Stone (1997) examined these two factors and only found minimal evidence that they affected candidate emergence decisions. They found that the strategic factors were much stronger in decision making than these two personal factors.

Other personal factors are also tied to the cost of running for office. These include the probability of negative advertising in a campaign. If you are running against a strong candidate, and the incumbent has a large war chest then they will be able to run negative ads against your campaign. This can cause the increasing costs to your campaign as you must respond to these ads. Again, Maisel and Stone (1997) find that these personal factors are minor when compared to the strategic factors. As mentioned earlier in this dissertation a qualitative candidate interview with a state legislative candidate brought up the personal cost of negative campaigning. He said that in his current role as a campaign consultant, it was hard to find people to run for office because they were “afraid to take the risk of being out front, of the humiliation. Business owners in particular don’t want to lose business” of the reputational loss associated with negative attacks (Communication6, 2014). Some potential candidates seem to be very worried about losing their personal reputation which could then hurt their business reputation.

Candidate quality is another important factor for candidate emergence. Candidate quality is lumped into one category. Generally, it means some combination of campaign experience, oratorical skills, organizational skills and physical or telegenic appeal. The

problem with these types of factors is that it is not clear if the skills or qualities are a factor in candidate emergence or if candidates emerge, gain experience and then develop these skills and qualities. The expectation is that candidates with higher levels of qualities would be able to raise more money for their campaigns and thus be able to challenge incumbents more successfully. Squire studies these personal factors and finds that where we would expect to see higher qualified challengers against incumbents, we tend to see weaker challengers against incumbents and stronger challenger quality against open seats (Squire, 1995). Even Squire notes that these factors are harder to understand and quantify than originally thought. Stone, Maisel, and Maestas (2004) find that candidate quality has similar effects. Incumbent candidate quality deters strong challengers and low quality incumbents stimulate other potential candidates to run.

Throughout the study of candidate emergence and looking at the factors there always seems to be some factor, some element missing in the analysis. Some more recent studies have noticed this factor and have looked for it to describe the desire to run for office. It is called alternately progressive ambition (Maestas, Fulton, Maisel, & Stone, 2006) or nascent ambition (Fox & Lawless, 2005). Maestas et al. describe progressive ambition as preceding any evaluation of a campaign or seat. Progressive ambition would come before evaluating any seat as a potential prospect. They evaluate progressive ambition by asking state legislators if they expect to run for the US House in the future. Maestas et al. look at the expected utility of winning an office, but they say that this expected utility model is flawed because it does not take into account the long term costs and benefit of running for office. When you consider long term benefits and long-term costs you get progressive ambition that the authors think must be present to run

in the first place. Every candidate must have some form of progressive ambition; otherwise, the costs would be too high in the short term (Maestas et al., 2006).

This idea of measuring ambition is also considered by Fox and Lawless (2005) (Fox & Lawless, 2004) who look not at state legislators but at a potential pool of candidates. They created a survey using a sample of individuals selected from professions that historically have seen politicians emerge. These professions include law, business, education and political/community activism (Fox & Lawless, 2005, p 647). Fox and Lawless (2005) look at these actors prior to this emergence process to look at the nascent candidates' decisions. They wanted to see what factors affected the likelihood that potential candidates would ever enter a race. The authors surveyed these folks to gauge their nascent political ambition or the embryonic or potential interest in seeking office that precedes the actual decision to enter a specific political contest. This study used a survey of what Fox & Lawless describe as 'successful individuals' (p648) who form part of a potential candidate pool. The authors use this sample as a way of broadening the base of potential office holders – meaning that instead of looking at just potential candidates for state legislature or city council; they are looking at a broad spectrum of potential candidates from which most expressed candidates come.

Fox and Lawless find numerous factors contribute to nascent candidates such as “a general sense of efficacy...exerts the greatest relative impact on nascent ambition” (2005, p. 652). When individuals feel qualified to run they are more likely to decide to investigate the possibility of running for office. Another major factor is a politicized upbringing such as family members had previously run for office, politics had been a part of family life and discussions, or individuals had run for office in high school. This

earlier exposure to politics contributed to their decisions to run for office in the future. Minority status tended to make the potential candidates less likely to run for office possibly because they “lack the key ingredients that foster ambition” (2005, p654), they self-assess as “not at all qualified” or lacked “encouragement from their parents to enter politics” (2005, p. 654). Fox and Lawless agree that more work needs to be done to “flesh out more thoroughly the role of nascent ambition in the candidate emergence process” (Fox & Lawless, p655). Part of this study does this. By qualitatively interviewing candidates this dissertation develops a better idea of what factors contribute to their decisions, but with the hypothesis that complex campaign finance laws may be a barrier to running for office.

Because the idea that campaign finance laws might deter candidates from running for office it is important to understand if this ever occurs to individuals who may or may not have run for office. Interviews of eight potential and actual candidates were conducted in the Spring of 2014 to ascertain factors that did affect their decisions to run for office and to investigate whether or not campaign finance laws entered the candidate’s calculations. Of the eight individuals interviewed, six were men and two women. Five had previously run for office, three had not. The answers the individuals gave regarding reasons to run or not to run for office coincided with much of the literature on the subject. Answers given for why the individual ran for office, ranged from the strategic to personal. When the respondents were asked if they would run those that said they would not gave reasons such as the system is too political, they did not want to risk losing their reputation or jobs, and they did not like asking for money. When asked about the logistics of running for office such as filing, and getting the information

on how to run; respondents said they got information from previously experienced candidates, the state boards of elections/registrars, campaign consultants. This question often led into a discussion of the nuts-and-bolts of running for office. Two candidates commented on the difficulty of the process, one respondent going so far as to say “someone just off the streets would find it impossible [to run]. They will not be able to fill out the forms. They would need to be researchers to do this” (Communication1, 2014)¹⁰. Another candidate stated that his profession as a lawyer gave him a ‘leg up’ on other candidates and “I don’t know the code off the top of my head, but the average person would need help” (Communication7, 2014). It is clear from these interviews that campaign regulations are on the minds of individuals. It might not be the main issue they think about, but it is an issue that might concern them when considering a candidacy.

This review of the literature looks at numerous factors that affect candidate decisions. It is clear from this review that the question of what factors affect candidate decisions is far from settled. The decisions may be different for incumbents vs. challengers, the office for which the candidate is running, the costs involved in the decision making and so on. So many factors can come into play in making the decision to run for office. It is important to study these factors ongoing to ensure that the electoral system is open for participation.

¹⁰ Also cited in Chapter 2.

CHAPTER 4. PLAIN LANGUAGE, READABILITY, AND COMPREHENSION

The basis of this dissertation is that the complexity of the campaign finance statutes affects candidate decisions. As detailed in Chapter 1, transaction costs may add to the burden of candidates seeking election. In order to determine how this might occur this chapter and the next lay out the method of measuring complexity using plain language and an experiment in which this method was tested.

The debate over clarity in writing and comprehension of language stretches over time but in the past twenty years has taken on a new dimension in the form of the debate over the use of “Plain Language”. The proponents of this movement argue that language must be understood if it is to be language at all, otherwise it is just letters or words strung together. The overarching question in this dissertation is whether the complexity of campaign finance legislation affects candidate willingness to run for office. This chapter lays the groundwork to demonstrate that language can be difficult to understand or it could be easy. Necessarily, then, this study focuses on the so-called “Plain-Language” movement.

This chapter shows how the study of the Plain Language movement relates to the complexity of laws. First, it will examine how scholars conceptualize and operationalize “Plain Language”, and then shift examine empirical studies of plain language. Whatever the outcome of the debate over the use of Plain Language, its use is really all about how readable a document is. This chapter will look over the readability measures to see what they are and how effective they have been. It is important to see where and how plain

language has been implemented and if differences in outcomes are evident.

Unfortunately, the empirical work on this level is scanty, but this chapter looks at what has been done so far and where research needs to go in the future. What does all of this mean to Campaign Finance Reform? This chapter will end with a discussion on the effects Plain Language could have on CFR. Ultimately, the reader will see that not only can readability of language vary, and thus, the degree of readability in statutes and rules can differ. In other words, empirically speaking, readability is an important explanatory variable when it comes to institutional “rules-in-form” (Ostrom, 2007) and therefore society’s “tacit understanding” of rules.

4.1 What is Plain Language?

Plain Language is a movement by scholars of different fields to make the transmission of information easier and more successful for end users. It involves changing various written media such as documents, pamphlets, charts, graphs, and articles into more easily understood documents so that the user/reader can use the information contained in the media more quickly and effectively. One of the most prominent advocates for Plain Language is Dr. Joseph Kimble who became an early cheerleader for the effort and maintains the Plain Language website (www.plainlanguage.gov). The website’s definition for Plain Language is “communication your audience can understand the first time they read or hear it. Written material is plain if your audience can find what they need, understand what they find, and use what they find to meet their needs (www.plainlanguage.gov).” While this definition is clear, one of the problems with the Plain Language movement is that it lacks a consensus definition. Others see Plain Language as “reader-friendly language – designed

to increase the individual's understanding of the text. It serves as a portal through which consumers can access and understand...information" (Stableford & Mettger, 2007, p. 79).

The differing views between Kimble and others refers more to the usability of the information. Kimble advocates a usability of the language while others such as Stableford and Mettger advocate understanding.

Plain Language has developed into different realms of reading also. Today it relates to different types of readability such as "prose literacy, document literacy [how documents are structured] and quantitative literacy [the ability to read charts/graphs] (Root & Stableford, 1999). Even the US government has gotten in on the Plain Language movement when in 1998 President Bill Clinton directed agency officials to use plain writing in "all new documents, other than regulations, that explain how to obtain a benefit or service or how to comply with a requirement you administer or enforce" (Senate C. o., 2009, p. 3).

Many Plain Language scholars seek to test documents to see how readable and comprehensible the documents are. One of the main measures of Plain Language today is readability and its companion, grade level scores. The question for the field is which readability/grade score to use? There are over forty different formulas for testing the readability of a document (Root & Stableford, 1999). These formulas are mostly based or have grown from one of the original works of scholarship advocating for testing readability in documents.

Rudolf Flesch's (1948) article on readability seems to be one of the first to look at readability formulas. Flesch's readability formula used a very simple measure of

average sentence length in number of words, number of affixes,¹¹ and number of references to people to test the readability of a document. According to Flesch, this first formula tended to have an overreliance on sentence length, and failed to capture conversational writing (Flesch, 1948). The number of affixes were hard for researchers to determine and the references to people were unclear and not understood. Flesch created a new formula to overcome this problem. He used a very simple measure of average sentence length in words, average word length in syllables, number of references to ‘personal words’ (words with natural gender, pronouns except neutral, and the words “people” and “folks”). A new element the average percentage of “personal sentences” was added to correct the conversational writing measurement problem. Flesch finds that his new formula is a more useable measure of readability in that it is easier to interpret with a scoring system of 0-100. The Flesch Reading Ease is an indirect test of word complexity via number of syllables per word and sentence complexity via number of words per sentence.

Working about the same time as Flesch was Edward Fry (1968). Fry’s 1968 article updated his own 1948 readability formula for books, used mostly by international scholars, but is not applicable for US standards and grade levels because the grade levels do not correspond with US grade levels (Fry, 1968). A validity problem is presented where the formula has a issue of not corresponding to grade levels that may vary across time and areas. As Fry puts it “[a readability measure] is complicated by trying to determine grade level when grade level won’t stand still and when subjective judgments are about as good a standard as can be found.” Fry randomly selects three one-hundred-

¹¹ By affixes, the authors refer to suffixes, prefixes attached to the root of the word.

word passages from a book or an article. The researcher plots the average number of syllables and average number of words per sentence on a graph to determine the area of readability level. A researcher could choose more passages per book if they find a large amount of variability in the passages (Fry, 1968). Fry's contribution here is not only based on the fact that he uses a formula and compares books but also that he is trying to work out the inherent problem of grade level. He compares the various readability formulas available in the 1960s to his own and uses this information to create a graph of readability.

Another important contributor to the developing readability scholarship was Harry McLaughlin (1969) who created the SMOG Grading score¹². This score computes the grade level necessary to comprehend a particular piece of writing. This reading score eliminates some of the steps of the Flesch and Fry formulas by creating a multiplicative term in the formula. McLaughlin multiplies word and sentence length together therefore a researcher does not have to add up word length (counting syllables) and sentence length (counting words) if one just counts out a number of sentences and then counts the number of syllables in those sentences. McLaughlin was able to simplify the process of calculating readability for scholars. This figure is widely used in the health care field (Ley & Florio, 1996) which we will see below is one of the biggest proponents of Plain Language.

Whichever of the readability formulas used, the primary focus of readability formulas is on reading prose and not on the graphs and charts in some document.

Mosenthal & Kirsch (1998) have created a measure of document complexity that looks at

¹² SMOG is sometimes called the Simple Measure of Gobbledygook, but McLaughlin himself credited the name to a reference to an earlier FOG index (1969).

how charts and graphs are presented. Mosenthal and Kirsch argue that the very way the material is organized can have an effect on its readability. They analyze both the ‘structure’ and the ‘density’ of a document and use these two criteria to create an interesting scale of complexity. This scale is based on chart complexity [a simple chart gets one point, a nested chart four points] where more chart components equals a higher complexity score. They then add to the document complexity scale a score for the number of labels and items within a document. The authors contend that the more labels and items found in a document make it more difficult to read. Labels include chart titles and subtitles, and items are the data points or lines within a chart. The complexity score allows authors to understand how easy or difficult their document will be to read and to comprehend. Mosenthal and Kirsch think that reading needs to be broken into two components, 1 – reading to comprehend and 2 – reading to do. Charts and graphs often fall into the reading to do category because they often contain information such as bus schedules, calorie charts and other useful information (Mosenthal & Kirsch, 1998). Their research adds an important component to the readability literature because so often end users see information in graphic formats whether it is nutrition information, transportation schedules or other information key to day-to-day life.

Today computer programs do much of this readability testing. This in itself creates another problem as scholars contend that there is much variability in computer generated readability scores and little agreement on what the ‘grade level’ scores mean (Root & Stableford, 1999). In an effort to standardize the meaning of grade levels Root and Stableford (1999) generally consider items that are 4th-6th grade “easy-to-read”; 7th-8th grade “average reading”; and 9th grade or higher they consider “difficult-to-read”

items. Originally these scores were used to measure children's books, which caused some scholars to contend that using grade levels targets reading abilities at schoolchildren instead of end-users (Redish, 2000). In creating such scales, it also means that materials and people are categorized into grade level scales. Do we really want to consider 9th grade reading difficult? The grade levels seem too constricting and lack the flexibility of a readability score.

Limiting the flexibility into just three broad categories seems to limit the usefulness of these type of scales. The readability ratings, according to some scholars, have been discredited due to the wide range of ways readability can be calculated (Petelin, 2010). Readability scores also only test those factors in writing that can be counted i.e. sentences, words, and syllables. Usability measures are the recommended way to measure comprehension. In these tests users read material while researchers document the effort (Redish, 2000). This is a more qualitative measure of readability, and one that requires human intervention to measure.

For this dissertation, a type of usability test was used as described in the methods section of this chapter. Users or students were given a reading and were asked questions not only about comprehension but also about how they read the statute. For example, students were asked how many times they referred back to the reading, or how clear they thought it was. In this way, this part of this study measures not only grade reading level, but also how difficult or easy it was to understand the campaign finance statute. In the campaign finance analysis chapters (6 & 7) the grade level scores are used to analyze the campaign finance legislation. While it is not the same as using a usability test, using grade level scores is still more intuitive for most end users than understanding readability

scores¹³. Furthermore using grade reading levels is a convenience test based on the results of this plain language study. The plain language study tests comprehension of the campaign finance statutes using the usability measures described above. The campaign finance statutes were measured differently as described in Chapter 6.

The readability measures, grade reading level measures, or usability measures are all intended to be used to test documents to determine how difficult or easy to read they are and how or if users will be able to comprehend the documents. Once able to say a document is on a 9th grade reading level, we understand that anyone who has completed the 9th grade should easily be able to understand this document. Readability scores on the other hand can range from 0-100. If one scholar uses a readability score and their document rates a 45 it is not clear what this means. It becomes especially unclear if another scholar uses a different readability score and comes up with a 67. There is little measurement validity here. Scholars cannot measure the same documents using different measures and come up with the same rating. This is why grade-reading levels are more intuitive, and arguably, more reliable, but also why usability measures are more valid. Even grade-reading levels may have different calculations behind them.

4.2 The Advantages/Disadvantages of Plain Language Use

Advocates and opponents of plain language continue debating many aspects of plain language including the measurement issue. Another issue debated is the rationale of plain language. Some scholars are advocates of its use, while others are against using plain language.

¹³ The use of readability versus grade level scores is an empirical question that is not adequately addressed in the plain language literature. The use of either is not tested in this dissertation. However, both measures were evaluated using factor analysis. See Chapter 6 for details.

One reason for not using plain language is the cost issue. Converting to plain language may be an added expense for businesses or law firms. Frooman (1981) argues that legalese is used because it is convenient and cheaper to use than converting to Plain Language. Converting contracts to Plain Language would require lawyers to change their current computer forms and purchase new ones. The old ones are set in the legalese language and to buy new ones would cost more money. By changing the wording, lawyers would be taking a risk that the new contracts would be contested in court. Therefore, there is no incentive to change to new Plain Language forms and formats. Frooman also argues that using legalese is useful to lawyers because it keeps them in business as they are the only ones who understand it. Frooman is not alone, Crow (1988) points out that corporations also – even those who want to use Plain Language – find themselves thwarted by the cost savings of official form letters that have been prewritten and used for years to good effect. Why spend the money rewriting these letters when doing so may create a “backlog of correspondence” and or an increase in the number of customer service calls (Crow, 1988)?

Plain Language also may not be as effective as the advocates assert. The general argument here is that laws are laws despite the language in which they are written and the laws will be enforced based on their understanding to the court system, not based on how well users can understand the law. Scheibal (1986) contends that Plain Language (or Plain English Laws, PELs, as he calls them) are useful but bring up several issues including how the Plain English within the law is interpreted. Scheibal contends that PELs are applicable in much the same way any other law is applicable. If it is ambiguous, whoever drafts the law must either rewrite it or explain the law. This would

not change in the case of using Plain Language. The application of the law does not change; it is perhaps only the “affected” parties’ understanding of the laws that changes. Extending this point, Assy argues that making the law comprehensible to those affected by it is an impossible task because no law could possibly take into account the diversity of individuals subject to the law (Assy, 2011). In other words, so many different types of people are affected by laws so how can a legislatures write the laws so that every potential person affected by it can use it without needing a lawyer to interpret the law? She further argues that there is a difference between linguistic and legal clarity which is needed in the law (Assy, 2011).

Another reason for opposition to plain language is that the structure of the legislation framework may be so different as to have uncertain outcomes (Leete, 1981) He cites as an example the plain Language legislation passed in New York and New Jersey. New York used an ‘open format’ statute simply stating that contracts and regulations should be written in a “clear and coherent manner”. New Jersey’s Plain Language statutes were more structured and less flexible. New Jersey specified for example that consumer contracts be readable according to a specific readability test and not be longer than a certain number of words (depending on contract type). Leete points out that an open format might be preferable except that it is subjective to different interpretations of what is clear and coherent. He notes New Jersey’s statute creates the question of whether or not there is any assurance that a contract will conform to the law until it is tested in court. Leete concludes that instead of passing statutes on Plain Language it would probably be better to allow the market to determine if Plain Language

will ultimately be feasible or not. He points out that companies that use Plain Language are seeing improved business and perhaps this trend will continue (Leete, 1981)¹⁴.

Others however see the plain language movement as an impediment to writing proper legislation. Hunt concludes that the “language of our legislation cannot be reduced to baby talk for consumption” (Hunt, 2002, p. 44). Hunt argues that language does matter; especially in legislation which needs to be very precise, clear, and technical so that those who must implement it can understand its meanings and interpretations. It cannot be reduced to common language (Hunt, 2002). He recommends that legislation be passed using legal language, but the regulations and/or administrative rules should be written in plain language.

Not everyone is skeptical about Plain Language use. Both the medical and law fields are working to simplify language in their respective fields. The medical field is working to simplify both technical terms and instructions to patients in order to clarify meaning and ensure care to citizens who are illiterate or have low literacy proficiency. As we will see below these fields have taken the lead on using Plain Language for readability and comprehension.

Some lawyers favor using Plain Language in legal writing in order to make legal statutes or legislation more accessible to everyday people. By doing this people will be more aware of legal proceedings and understand their rights. Richard Wydick (1978) points out that the legal profession is incorporating Plain Language into their teaching curriculum. This is especially the case for jury instructions (as discussed later) and general legal writing. Sullivan (2001) points out that legal language targets a very

¹⁴ Leete (1981) cites Givens, *The Plain English Law* 50 NY St. B. J. 1978

specific audience. She does not advocate writing statutes so that everyone can read them, she advocates writing the statutes for the most affected person that is going to use that statute. For example if a statute involving jury instructions is most likely going to be read by a judge, then it should be written in legal language. If the jury foreman is going to read the statute, Plain Language should be the format.

Arguing in the same legal genre, Assy (2011) argues that even though some legislation and statutes have no need for translation into plain language, in other cases using plain language provides three benefits. These include the ability of individuals to engage in their own legal affairs and to reduce its costs. Assy argues that even though individuals might still need lawyers, allowing the law to be written more clearly provides an avenue on which both lawyers and their clients can better understand the law (Assy, 2011). If they can understand it better, litigation will be less expensive because there will be fewer errors in decision making, clients will be more empowered, and better protected from abuse. “The true value of plain English lies in its potential to enable clients to maximize the benefits of legal service” (Assy, 2011). The third benefit is reducing the “incidence of litigation” because users understand the law better and are more able to uphold the law (Assy, 2011).

As discussed further in Chapter 6, the contention of this dissertation coincides with plain language that is easier to use. If language is more complex it may make it less accessible to users, in this case, candidates, who need to understand the law in order to comply with the law. The reduced time to comprehend the law and increased compliance with the law; reduces costs to candidates of hiring more lawyers or staff and, as defined in this dissertation, reduces the transaction costs of compliance.

4.3 Plain Language Empirical Studies

Testing Plain Language empirically is not easy. Studies have ranged from a test of readability/grade level to tests of comprehension. The readability tests while valid lack the ability to show that increased readability improved comprehension or outcomes by the end users. Comprehension studies are moving in this direction. Both types of studies are included below because it is necessary to see where we have been and where the research needs to go.

The health care field in particular seems inclined to use readability measures in order to ensure that patients understand their treatment options, understand public health issues, and are clear on medical information. For example, Rudd et al. (2004) studied the impact of public health communications to the average adult in the United Kingdom and Canada using the National Adult Literacy Survey conducted in the US in 1992. They found considerable differences in what the average adult could read and understand and the type of language found in public health communications. The authors conducted a case study using new water resource authority regulations that were in the process of being rewritten. They subjected both the new and old regulations to a literacy test to determine how easy or difficult the regulations were to read and understand. The original text scored a readability of 14 and the subsequent revised text scored 8.5 – a significant improvement as readability scores improve as they drop to lower grade level reading abilities. After further revision, they reduced the communication to a 6.7 (Rudd et al., 2004).

One of the most interesting uses of Plain Language is found in a study done of medical Decision Aids (DAs) given to men facing prostate cancer. The study did a

formative evaluation¹⁵ of a DA given to these men. The researchers used a focus group first and then gave a survey to a sample of men recently diagnosed with prostate cancer. The authors gave the group a booklet regarding treatment options that had been revised with Plain Language guidelines. They compared these focus groups to historical data on the basis of factors such as knowledge of treatment options and knowledge of side effects. The researchers found that the respondents found the revised DAs useful but the effects were not that different from the historical data on these factors. The researchers found gains in the “potential to improve on earlier gains in patient knowledge” (Holmes-Rovner, et al., 2005, p. 10). They suggest that using Plain Language is “central to quality [of care], cost containment, safety and patients’ involvement in decisions. They suggest that without attention to literacy, the move toward increased patient participation in health care decisions will exacerbate disparities in access and outcomes (Holmes-Rovner, et al., 2005, p. 10).

The Plain Language movement has much support and discussion about the movement, but the empirical evidence that Plain Language documents actually improve use and understanding is scanty. Scholars need to know if Plain Language really makes documents and other media more readable and does this readability have an effect on outcomes – legal, medical or otherwise. Masson and Waldron (1994), test the question of whether or not contracts created in legal language and then converted to Plain Language increase the comprehension for the average reader and what changes in the document are most effective for comprehension. Masson and Waldron’s study used legal documents that were most likely to be read by the general public. These included a mortgage

¹⁵ A formative evaluation is an evaluation done at the onset of a program to determine how a program should be formed or implemented.

agreement, an agreement for property sale, a bank loan document and a lease renewal document. The authors then drafted each of these documents into three different versions which were tested against the original.

1. The first revision removed archaic terms such as hereinafter and heretofore.
2. In the second version [The Plain Language version] “extremely long sentences were broken up into shorter sentences and difficult words were replaced with simpler terms. References to contracting parties (i.e. mortgagee and mortgagor) were replaced with personal pronouns “you” and “I” (p. 71).”
3. The third revision replaced legalese terms (mortgagor/mortgagee) with simple words or they defined these terms in the text (Masson & Waldron, 1994).

Masson and Waldron tested the effects of Plain Language on two variables: the speed of reading and comprehension. The reading time results indicated that the respondents were able to increase their reading speeds on the legal-terms-defined document. This change was statistically significant. The authors conclude that because the legal terms were removed or defined, the document was easier to read thus resulting in the faster times (Masson & Waldron, 1994).

On the comprehension tasks, the subjects were tested in two different ways. They were asked to paraphrase the document and to answer questions about the document. On the paraphrase task, the use of Plain Language [versions 2 & 3] resulted in a significant increase in the ability of the subjects to paraphrase the documents. In addition, when the respondents paraphrased the first version (archaic terms removed) of the document the responses were more complete than when the respondents paraphrased the original version of the document (Masson & Waldron, 1994).

The “question answering” task was also used to test comprehension. The author’s analysis concludes “the use of Plain Language improved the accuracy of decisions [on

the questions].” Looking at the cases “in which a response was made, the percentage of correct responses...across the original and archaic terms removed versions was 69% correct; across the plain language and legal-terms-defined version it was 84% (Masson & Waldron, 1994, p76-77).”

It is clear from Masson and Waldron’s assessment that Plain Language improves the reading comprehension of the documents. Their study is also generalizable because it uses documents that average people would be likely to encounter¹⁶. It is also notable that the authors do not use readability or grade level assessments of the documents. Unlike other studies, they did not simply measure the “readability” but tested empirically for comprehension. While readability and grade level ratings have their uses, at the end of the day, we want to ensure that people are able to comprehend what they read.

Masson and Waldron’s use of a legal-terms-defined version (version 3) is interesting because legalese is an important target of Plain Language. It is also very important in jury instructions. These instructions to juries--if not clear--could endanger a defendant’s freedom. Severence et al. (1984) look at jury instructions for clarification. This study is not intentionally using Plain Language methods in testing jury instructions, but as a matter of fact it is what they are doing.

This study tests standard versus revised jury instructions to see if jurors understand them. For a sample they use previous jurors and current citizens on jury duty. The subjects are shown a mock trial produced to simulate reality as closely as possible. Once the ‘trial’ is over, subjects were given a version of the jury instructions. One version was the normal pattern jury instructions and the second version was the revised

¹⁶ The study used clerical staff from the University of Victoria and city residents taking courses through a university extension program. Whether or not these people are ‘average’ is debatable.

jury instructions. After getting the instructions, each of the two groups was then divided and randomly assigned into one of two groups – a deliberate group and a non-deliberate group. The deliberate group was allowed to begin deliberations for up to thirty minutes. After deliberating, this group received a questionnaire regarding the instructions to test for comprehension. The second, non-deliberation group, was given the questionnaire immediately after viewing the trial. In addition to the questionnaire, the authors asked all jurors to give their definitions for terms such as ‘reasonable doubt’ and ‘intent’ (Severence, Greene, & Loftus, 1984).

Concerning the comprehension of the jury instructions, “jurors who heard the revised instructions tended to make fewer errors [on the questionnaire] than jurors who heard pattern instructions,” with the difference in means statistically significant at the .05 level (Severence et al, 1984, p 218). The jurors who deliberated who received revised instructions were found to have fewer errors on the questionnaire than those jurors who received the pattern instructions. So the authors find that when accompanied by an opportunity to deliberate, the revised instructions did improve comprehension on average.

The authors also asked the subjects to rate the instructions on a 1 (not at all effective) -5 (effective) scale. They found that the ex-jurors were less likely to benefit from the revised instructions versus the pattern instructions. The current jurors reported that the revised instructions more effective than the pattern instructions. As the authors point out, this could be indicative of the higher level of education among ex-jurors (14.6 years) versus current jurors (13.8); or it could be indicative of self-selection among the ex-jurors (Severence, Greene, & Loftus, 1984).

As a final test, the subjects were asked to paraphrase the meaning of the legal terms “reasonable doubt”, “intent” and “prior convictions”. The authors found a higher number of correct paraphrases on the revised instructions than incorrect, especially for those groups who were allowed to deliberate (Severence et al, 1984). Using questionnaires and paraphrase testing in both of the above cases seems to show that revising the language of documents/media helps to improve the comprehension of the respondents.

Government reports also show the effects of Plain Language. The Senate Report on the Plain Writing Act of 2009 gives some details of the effects of the law. The US Dept of Veterans Affairs rewrote selected form letters in plain writing and tracked the effects. One unit sent out the standard letter and another unit sent out a letter in plain language. More people responded to the plain language letter than the standard letter (45% vs. 29%). They also found that all of the responses to the plain language letter were complete, while 18% of responses to the standard letter were not. The report also found reduced customer service phone calls (1100 reduced to 200) regarding the letter (Senate U. , 2009).

4.4 Conclusion

We can take from this look at the Plain Language literature that there is a desirability to using Plain Language in some situations. What this literature lacks is empiricism. There is very little literature showing that the use of Plain Language is effective in increasing comprehension and effectiveness of documents. While this is the case, there is certainly plenty of evidence that readability of documents increases when Plain Language is used. Readability does not translate into effectiveness. The two

studies above by Severence et al (1984) and the Masson and Waldron (1994) study on legal documents both show positive signs of effectiveness when using Plain Language. However, two studies are not enough to show effects on policy outcomes when using Plain Language. The study of Plain Language needs to move in this direction in order to maintain momentum. The following chapter does just this. An experiment using campaign finance statutes translated into plain language is tested using a utility measure. The experiment should show which version of a statute – the original or the plain language version- citizens are better able to comprehend.

CHAPTER 5. CAMPAIGN FINANCE STATUTES AND COMPLEXITY

Policymakers have reformed campaign finance laws to increase participation levels in the electoral process in order to increase the numbers of people contributing to candidates, but also to increase the numbers of people wanting to run for office. This study contends that these reform laws and statutes may actually be a deterrent to the reform goal because the laws are so complex that everyday people are unable to comprehend them and therefore cannot comply with the law without incurring a significant cost of time and money spent on resources such as lawyers, accountants and other professional campaign staffers. Complexity is measured in this chapter using the language in which the laws are written. This study tests the complexity of the legal language by rewriting the North Carolina statutes using Plain Language and comparing the comprehension of both.

This chapter relates the results of an experiment testing the written language of two versions of the law for comprehension by the readers/users of the law. This study utilizes a survey/questionnaire given to undergraduate students after reading the randomly assigned original or plain language version of the law. The results indicate that reading statutes written in plain language resulted in a higher comprehension of campaign finance laws on average compared to individuals who read the current version of the law. This finding is important because candidates, especially first-time candidates, running for office may have difficulty comprehending the statutes.

Allowing more citizens to participate in the electoral system through running for office or contributing to campaigns is an important democratizing goal of campaign finance reform laws. In the past, the campaign finance system allowed candidates to collect large donations from a small number of contributors. Democratization reduces the amount of contributions in an effort to push candidates to collect smaller donations from a larger base of support. This democratization effort also aimed to reduce the perception of corruption and payoffs where big donors allegedly gave money to candidates in return for votes. These anti-corruption efforts focus on engendering the trust of citizens in the system.

In the case of campaign finance legislation itself, those statutes may have become so complex and embroiled in legalese that they are actually a deterrent to those wishing to run for public office. If the statutes are difficult to read and difficult with which to comply, they may fail to uphold the democratization goal of Campaign Finance Reform. The complexity of the law may also impose a cost on candidates running for office. In particular, novice candidates without campaign organizations may find the complexity costs add to the start-up costs of beginning a campaign. Having to hire staffers in order to comply with complex regulations is expensive and may be beyond the means of everyday citizens.

The component of complexity studied here is the written language of the statute. The Plain Language movement advocates creating documents that are easy to read and comprehend, yet as pointed out in the previous chapter, few scholars have systematically studied such a contention. This study asks if rewriting North Carolina's general statute

on campaign contributions in Plain Language makes it easier to read and understand the statute.

Using plain language protocols, this study rewrote the NC campaign finance statute to create a more readable version of the law. The protocols for rewriting documents in plain language include changing legal terms such as ‘notwithstanding’ to ‘with the exception of’ to make it easier for everyday people to understand. It also recommends exchanging multisyllabic words with shorter ones, shortening sentences to 10 words or fewer and changing legal names such as ‘mortgagee’ with personal pronouns ‘you’ and ‘he/she’ (Masson & Waldron, 1994; Rudd, Kaphingst, Colton, Gregoire, & Hyde, 2004). Readability and grade reading level are the most common tools of the Plain Language School to test language for comprehension (Root & Stableford, 1999; Flesch, 1948; McLaughlin, 1969).

Testing using readability or grade reading levels are common today utilizing the number of syllables per word, the number of words per sentence, and the number of sentences (Root & Stableford, 1999; Flesch, 1948; McLaughlin, 1969). While plain language scholars debate if such tests of readability are valid, a simple readability test lacks the ability to show an actual connection between readability of the statute and comprehension level of the reader/user. To avoid this validity problem as discussed in the previous chapter, this study used a comprehension test using both versions of the statutes. The reworded statute and the original were randomly assigned to individuals. It was expected that those who read the plain language statutes would have a higher score on a test of their knowledge of the law than those who read the original statute. This study also added usability tests to see how students used the statute. This was done by

asking students how clear they thought the statutes were, how many times they needed to refer to the statute and how closely they read the statute.

5.1 Statutes

The statutes chosen for this study were the North Carolina general statutes on election contributions (North Carolina General Statutes Ch. 22, § 163 278.13) . Choosing the contribution limits section of the election statutes was important because this section is pertinent to anyone ever wanting to run for office. If you run for office, you have to know this information, or have a close advisor who knows it for you. The contribution limits were also chosen because this legislation is one of the major reform tools used to meet the goals of campaign finance reform. The reform rationale is that if contribution size were limited, politicians would need to seek out a larger volume of smaller contributions in order to make up the monetary difference for their campaign coffers. By seeking out more contributions, they would contact more potential contributors and thus more people would be contributing to campaigns. The idea is that more people contributing spreads out the democratic effect of the reform (Gross & Goidel, 2003). In addition, contribution limits are intended to reduce overall spending by candidates by making fundraising more difficult (Eom & Gross, 2007). When campaign finance statutes are more restrictive they favor challengers and not incumbents (Hogan, 2004). However, Hogan's analysis fails to include the start-up costs of running for the first time or as a novice - including a knowledge buildup, hiring campaign staffers and aides.

Limiting contributions is one of the main tools of campaign finance reform because the public's perception is that there is too much money in campaigns. Thompson and Moncrief's (1998) analysis of contribution limits shows that the reasons for this

perception vary from just the vast amount of money being collected, to the idea among the public that this money must be contributed in hopes of a *quid pro quo* situation. Enactment of contribution limits is an attempt to try to reduce the amount of money in campaigns with the thought that if there are fewer contributions, there will be less corruption or the appearance thereof. The other potential advantage of campaign finance is to reduce the appearance of impropriety on the part of politicians accepting ‘big’ donations from a small group of donors (Gross & Goidel, 2003). If they can no longer contribute the ‘big’ donations, then there is less appearance of impropriety and the system is more open, the people trust the system more and therefore it is more democratic.

If the goal is to increase the number of contributors and as a result increase the net contributions, a candidate must know the law on how much he/she may accept and how much a person may contribute to a campaign. In order to find campaign finance information a candidate in North Carolina would first need to look at the statutes to find this information. If you were a lawyer running for office, or a seasoned politician, this may not be difficult. However, if you are new to politics and are an average citizen, then it could be difficult to find and understand this information. The present study seeks to test if an average citizen would be able to comprehend the original statute (when he or she located it) or if they would be better able to understand a plain language statute.

5.2 Research Design

To test this hypothesis the study randomly assigned respondents to read one of the two versions of the contribution statutes. One version is the original statute and the second version is the same statute rewritten in plain language. The author rewrote the original statute into plain language using the plain language protocols. The

rewritten/plain language version was submitted to a plain language listserve by Dr. Deborah Bosley, at the time of this writing, a retired member of the English Department of UNC-Charlotte. She is a plain language expert. Comments on the rewritten version were solicited from the Listserve and incorporated into the plain language version of the statute.

After reading the statutes, the study respondents answered a questionnaire pertaining to knowledge and understanding of Campaign Finance statutes in NC. If rewriting North Carolina's general statutes on Campaign Contributions in Plain Language increases the comprehension level of the reader this should be an indicator that the statutes themselves may be complex and a potential deterrent to the goals of Campaign Finance Reform legislation. This study analyzes the research question of whether rewriting NC's general statute on Campaign Contributions in Plain Language will increase the comprehension level of the reader.

H1: The statute rewritten in Plain Language should increase level of comprehension for the reader.

An experimental design tests this research question. The experiment consisted of a questionnaire (see Appendix A) given to respondents after reading the statutes. The questions pertained to knowledge and understanding of Campaign Finance statutes in NC. The test should ascertain the level of understanding of the statutes after exposure. While a pre/post-test design was considered in order to test the level of comprehension before and after the reading; a post-test only design is most useful in this case because using a pre-test/post-test design may create a situation where the respondent 'learns' by reading questions prior to reading the selection. If they read the questions, the

respondents may get clues as to what information is most important prior to reading the selection. Further, little benefit is gained by giving a pre-test. The questionnaire was not a test and to replicate conditions in reality, respondents could look back at the material as many times as needed. This is one of the independent variables measuring how respondents reacted to the material. Having a treatment and a control group allowed analysis of the different comprehension levels rather than evaluating 'learning'. Using random assignment of subjects assigns those who may have some exposure to the law evenly between the treatment and control groups. This establishes internal validity for the idea that the simpler statutes lead to higher comprehension levels even if the level of respondent comprehension before the test is unknown. This study uses a post-test only design to avoid the learning problem.

Respondents were given one of two versions of the statutes (see Appendix B). The first version is the statute in its original form and the second is the statute rewritten in plain language. Subjects were randomly assigned one of the statute versions to create control and treatment groups. Once the respondents read one of the statutes, they answered the same statute questionnaire. The comprehension questions are specific to the statute on Contribution Limits. The usability questions were described above. The contribution information queried is not general knowledge information, but is information typically only known either by candidates or campaign staff.

A pilot survey was given to a section of the Introduction to American Government courses in the Spring 2011. This test was expected to ascertain any technical or logistical problems with the survey and to determine the general response level in the classroom. A technical problem was found with the collection of the

materials after the students had taken the survey. The original statute was printed on white paper and the plain language statute was printed on yellow paper in order to ensure that the surveys and responses were collected correctly. Taking this precaution helped some but not enough and there was potential for a mix-up especially doing this with a larger sample size. In the fall 2011 survey, an item was added in order to differentiate between the original and plain language versions to ensure that the correct survey was being tabulated. The pilot study indicated no other changes in the design.

A convenience sample of university undergraduates was chosen for the Fall 2011 survey. Studying actual candidates might add to the external validity of the study, but the point of the study is to test those everyday citizens who may run for office. If we sampled state legislators for example, they would have already successfully completed at least one campaign and we assume would have ‘learned’ at least some part of the campaign finance statutes. A sample of individuals without previous campaign experience to ensure objectivity to the material is ideal. University undergraduates would not be expected to know this information. Even undergraduates who may have worked on campaigns would not be expected to have previous access to this information, since we assume that students work on campaigns is generally limited to phone banking and GOTV efforts. Any students working on campaigns would have little access to technical campaign information¹⁷. The respondents chosen for the experiment were undergraduate students in the introductory political science, criminal justice, or economics courses at UNC-Charlotte in the Fall 2011 semester. To ensure internal validity, even though

¹⁷ The random assignment of students to treatment and control groups also ensures that in the unlikely case students have been exposed to the law, they are equally likely to be in the treatment and control groups.

students were randomly assigned, control questions were included such as items related to campaign experience or knowledge. The total enrollment in the surveyed classes was 1600 which given our responses of 679¹⁸ gives a response rate of 42%. However, it is clear that not every student was in attendance on the survey date so if we estimate that 80% of the 1600 students were in class on the survey dates, this would give us a sample size of 1280 and a response rate of 53%.

Collection of data for the testing of the hypothesis came from the survey instrument using examination scantrons normally utilized on exams in these introductory classes. Because students in introductory classes should be familiar with the scantrons, this should alleviate any testing confusion for the survey. The comprehension grade variable ranged from 0-100 and is based on the answers to the survey questions found in Appendix A (see Question 1-8). The scantrons were run through the university's optical scanner, which is a proven technique for accurate grading. Using the optical scanner should reduce human error in tabulating the grades. The comprehension grade scores are the dependent variable and are interval in nature because they are percentages of those questions correctly answered. There were twenty-three questions on the questionnaire but only eight of them were comprehension questions. The rest were control variable questions.

The main independent variable— the statutes – is expected to explain the differences in the comprehension grade scores. The statute variable is dichotomous with the original statute coded as 0, and the plain language statute coded as 1. Other

¹⁸ Out of 679 responses we had 47 responses with missing data. Of these 47, 6 cases involved students who failed to answer the last page of the survey (questions 17-23). After analysis these cases all appear random. The other missing cases occurred when students failed to identify which statute they had read.

independent variables in the model are designed to take into account how well the students read the statutes. These variables include a self-report of how closely the respondents read the statute, whether or not the respondents thought the statute was clear when they read it, and how many times they had to refer back to the statute to answer the questions (see Appendix A for the wording of these questions). Knowing how familiar the respondents were with campaign finance law was important for the study, so the analysis controls for factors that measure familiarity as well. These variables examine if the students have ever considered running for office, worked on a campaign, if anyone in their family had ever run for office, or if anyone in their family was a lawyer. Control variables were included for gender, race, ethnicity, age, class standing (freshmen, sophomore, junior, senior), married, and level of family education.

Because of the percentage nature of the dependent variable Generalized Linear Model (GLM) regression was used to test the hypothesis. The student's percentages are bounded by 0 and 100 and thus GLM is the most appropriate regression tool.

The expected results of this experiment and regression are that there will be a statistically significant relationship between the student's comprehension scores and which version of the statute read. If a statistically significant relationship is found, it should show that the less complex statutes are easier to understand and comprehend than the more complex statutes. If this relationship is not found, it could be because some other explanatory variable has been left out or that the hypothesis is incorrect.

5.3 Results

In the experiment, 338 students read the original statute and 294 read the plain language version. There were 47 cases with missing data that were excluded from the analysis.

In Figure 5.1, we see that for the different versions of the statute it is clear that when students read the plain language statute more students reported reading it very closely than those who read the original statute. More students reported reading the original statute somewhat or not very closely (302) combined than those in the same categories who read the plain language statute (251). Looking at the categories where students reported not reading the statute or reported not reading it closely the differences in the original statute (140) and plain language statute (90) are more evident. From the descriptive statistics here, it is clear that when students were presented with the original statute they chose not to read it at all or not very closely when compared to the plain language statute.

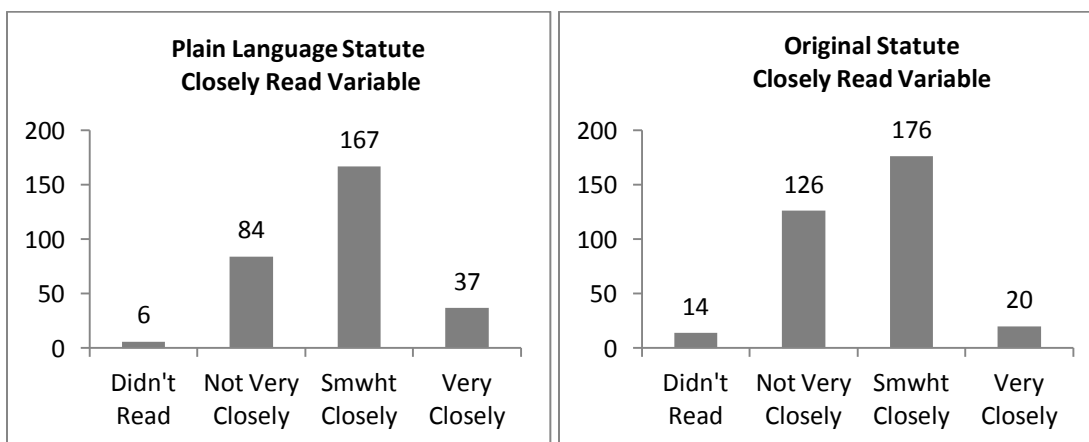


Figure 5.1: How closely do you feel you read the reading?

For the variable in which students reported how clear they thought the reading was, similar results to the closely read variable are found. Students who read the Plain Language version of the statute reported more Very Clear responses (71) than those students who read the original statute (47). Those who read the original statute reported more Somewhat Unclear and Very Unclear responses (111) than those reading the Plain Language statute (62). These descriptive again indicate that those students reading the Plain Language statute reported more clarity than those students who read the original version.

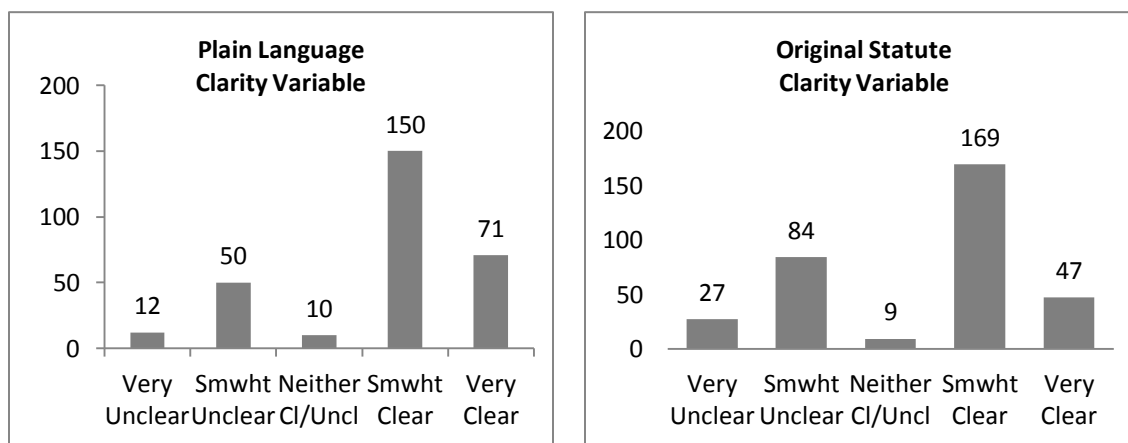


Figure 5.2: How clear did you think the readings were?

Table 5.1 presents the results of the GLM regression analysis for the Plain Language experiment. Students who read the plain language version of the contribution statutes had a 4% change in the log odds on the questionnaire on average than those students who read the original statute.

On the “closely read statute” variable (coded from less to more closely read), students who indicated reading the plain language statute more closely had a 28% change in the log odds on the comprehension questionnaire on average than those students who

read the plain language statute less closely. This relationship is statistically significant at the .05 level. This indicates that students had to read the statute more closely in order to score higher on the survey. The crux of this dissertation is that candidates would have to spend more time learning the campaign finance legislation if it is complex and thus might be deterred from running for office. This current analysis seems to indicate that students took extra time to be able to do better. Students had read the statute more closely which translates into more time spent reading the statute in order to score better. This significance allows us to reject the null hypothesis with 95% confidence that students had to read the statute more closely to score better.

As a control for perceived clarity, students were asked to rate the statute for clarity (from “very unclear” to “very clear”). As the rating increased, students had a 14% change in the log odds on average. This relationship makes intuitive sense but is not statistically significant. It is also an indicator of the effort required to comprehend the statute. As the statute was rated with higher clarity, students did better on the questions. From the previous Figure 5.2, students rated the plain language statute as more clear than the original statute.

Another relationship that is interesting is the number of times a student reported referring back to the reading. Students reading either statute reported referring back to the statute similarly in the first two categories (less than 1 and 1-3 times). As the number of times students referred back to the reading increased to greater than six, the initial reporting shifts dramatically. When reporting from the last three categories is summed (4-6, 7-9, >9 times) 53 students who read the plain language statute reported needing to refer back to the statute compared to 91 of those who read the original statute. Based on

the GLM model results in Table 5.1, as students reported referencing the statute more often they had a 16% change in the log odds on the questionnaire on average. In order to score higher, students had to refer back to the statute more often. Students had to make the effort to go back and check the statute to ensure they got the answer correct. While this relationship is not statistically significant at the .05 level¹⁹, it indicates effort on the part of the respondents to ensure they understood the statute. Going back to reread the statute indicates that it was unclear or hard to comprehend the first time the students read it.

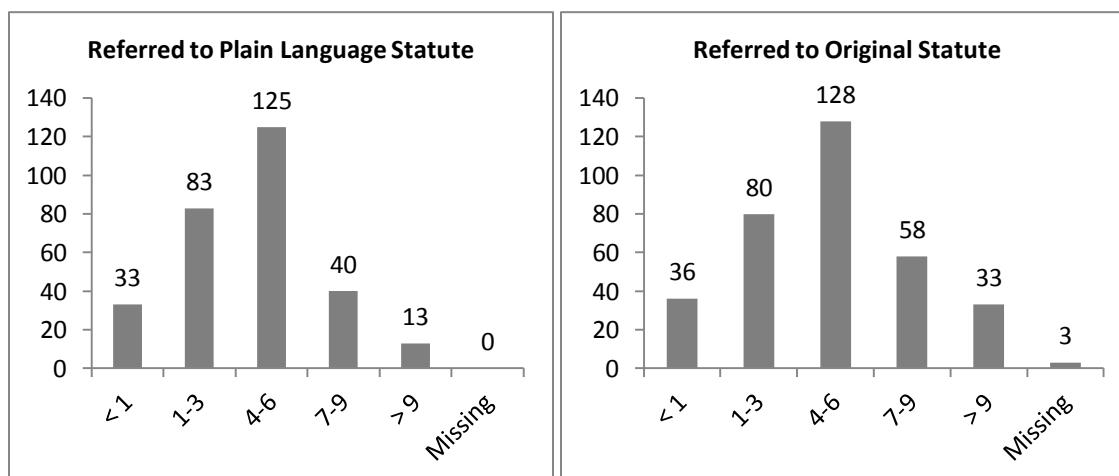


Figure 5.3: While answering this questionnaire, about how many times did you refer back to the reading?

¹⁹ Although not technically statistically significant, the z-score of .059 indicates it almost is.

Table 5.1: Campaign finance statutes and plain language

Student Grade	Coefficient	OIM Stand.Error	Stat.Sign
Original (0) or Plain Language (1) Reading	0.036	0.070	0.609
How closely did you read the statute?	0.287	0.135	0.033*
How clear did you feel the statute was?	0.141	0.098	0.15
Ever considered run	-0.166	0.213	0.435
Ever worked on campaign	-0.051	0.303	0.866
Anyone in family ever run for office?	-0.068	0.346	0.844
Anyone in family a lawyer?	0.058	0.281	0.837
How many times referred to reading?	0.159	0.084	0.059
Age	-0.043	0.111	0.696
Class Standing	-0.033	0.093	0.722
Gender	0.093	0.171	0.587
Hispanic	-0.171	0.176	0.329
Race/Ethnicity	-0.057	0.075	0.448
Married	-0.100	0.189	0.597
Highest level of education in your family?	0.039	0.091	0.669
n=584			

Students were asked other control questions such as had they ever worked on a campaign (yes =1, no =2) and had anyone in their family ever run for office (yes=1, no=2). For both of these questions the relationship indicates that when they had not worked on a campaign nor considered running they scored worse on the questionnaire. Experience was clearly not a factor in this analysis. Students who had no experience did worse on the questionnaire as was expected, but by a not statistically significant amount.

Students were also asked if they ever considered running for office (yes=1, no=2). This analysis indicates that when students reported that they had not considered running, they did 16% worse on the questions than if they had considered running. This brings up an interesting issue as to whether or not the consideration of running for office was

affected by which statute the students read. This analysis will be done at a later time as it is beyond the scope of this current dissertation.

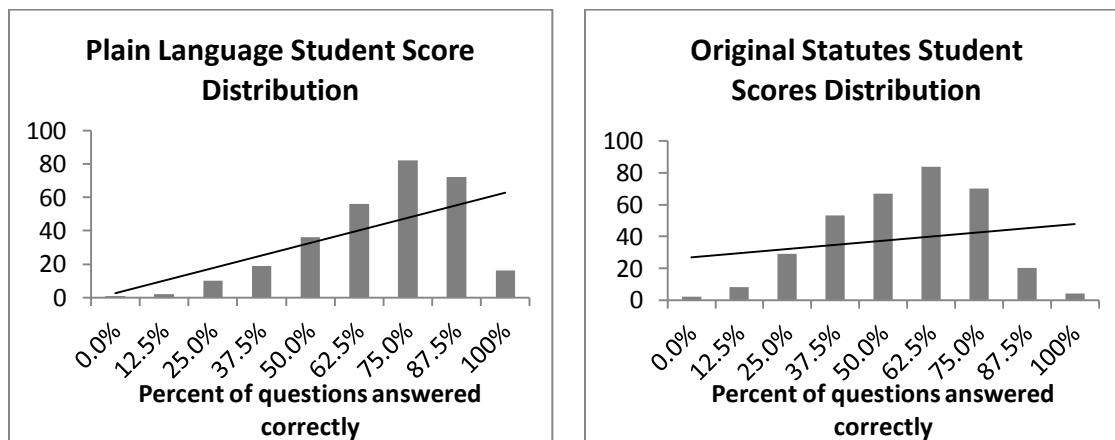


Figure 5.4: Distribution of student scores for both plain language and original statute reading.

While most of the relationships found in this analysis are not statistically significant, the data substantively indicate that when students read the plain language statute they found it clearer and had to refer back to it less often in order to score better. The above score distributions also indicate that those students who read the plain language statutes understood them better than those students who read the original statute. The trend line indicates an increasing slope for the students who read the plain language statute versus those who read the original statute.

5.4 Conclusion

This study of the comprehension of North Carolina campaign finance statutes shows that individuals who read the plain language version of the statute scored higher on a reading comprehension test than those who read the current North Carolina law. While this effect on comprehension levels does not appear large, it is important to note that the

control variables measuring statute clarity, referrals back to the reading and how closely the respondents read the statute, are substantively important as an indicator of how challenging it is to run for office, especially for novices. However, this study also makes an important contribution because it is the first one that this author is aware of that compares the comprehensibility of plain language to legal text in a real law. While plain language scholars have long contended that plain language is easier to read, this is one of the first studies to test the contention on an issue of such importance as elections. The most important issue here is that the wording of the statutes could pose complications and problems for individuals running for office, especially for the first time.

Campaign finance statutes are an important regulator of elections in the United States and campaign finance reform efforts have targeted increasing participation as one of its main goals. Therefore, if the statutes are difficult to comprehend, this may limit the ability of everyday citizens to participate in the electoral system. If a candidate cannot comprehend the statutes that govern his ability to run for office, he may decide not to run at all or may have difficulty with compliance. In order to look at this question this study rewrote campaign contribution statutes using plain language. Based on the above results, it is clear that when the students read the original contribution limits statute they scored worse on the comprehension questionnaire than when they read the plain language version. This experiment shows that plain language statutes may be easier for the average citizen to understand.

The implications of this study are clear. If it is more difficult for the average citizen to understand the campaign finance contribution statutes as they are written today, the statutes themselves may be a deterrent to average citizens running for office. Further

research on this topic should explore how this complexity may increase the costs of running for election. For example, a citizen may need to hire an attorney, accountant, and other professionals in order to comply with the law. This additional cost is an added burden of running and campaigning that average citizens may find too difficult to pay. If this is the case, one of the original goals of campaign finance reform – the increased participation of more people in the system - is in jeopardy.

CHAPTER 6. METHODS

This dissertation tests the theory that the complexity of campaign finance regulations may be a deterrent to citizens running for office. Campaign finance law may have the effect of adding transaction costs and constraints via complexity to the institution of campaign finance. This constraining effect may drive an increase in the costs of running for office. The increase in cost refers to the increase in time, effort, and learning required running for office. The increase in costs may dissuade candidates from running. This paper tests part of this theory as it applies to candidate decisions. Campaign finance laws increase the regulation of campaigns for good reason. The law intends to minimize corruption and mitigate the influence of big donors. The expected outcome of the reforms is increased confidence and hence participation in the electoral process. Participation is essential for the health of the democratic process. This chapter details the methods for testing the opposite effect that candidates might be deterred from running or might withdraw from a race due to the complexity of the legislation.

6.1 Research Question

Legislative complexity may influence how candidates make decisions. The research question for this dissertation studies whether or not the complexity of campaign finance legislation impacts candidate's decisions to run for office. If this is the case, fewer candidates should run for office in states that have more complex campaign finance laws, and more candidates should withdraw from running in those same states. To determine if there is any effect on candidate's decisions, this paper analyzes two

dependent variables created from candidate data. These two variables are the Candidate Participation Rate (CPR) and the Candidate Withdrawal Rate (CWR). It is important to understand the effects of campaign finance legislation on potential candidates. So in addition to the quantitative analysis, a qualitative study of candidates is also implemented.

6.2 Unit of Analysis

The unit of analysis is the subject about which we can generalize. Units of analysis may be different from the units of observation (Lewis-Beck, 2004). In this study, although we observe candidates individually we cannot generalize about their individual behavior. Thus, the unit of analysis is candidate/state/year because this study will allow inferences about candidates in each state for a given year based on those candidates exposure to contribution limits in that state . Inferences cannot be made regarding individual candidate's decisions because the data are not on the individual level.

6.3 Hypotheses

The following hypotheses test the theory that complex campaign finance law may exist in some states and this complexity is leading to fewer candidates running for office in those states.

H1: In states where the legislation is more complex, the Candidate Participation Rate (CPR) will be lower than in states with less complex statutes.

H2: In states where legislation is more complex, the Candidate Withdrawal Rate (CWR) will be higher than in states with less complex statutes.

6.4 Dependent Variables: Candidate Participation Rate (CPR) and Candidate Withdrawal Rate (CWR)

As noted in previous chapters of this current work, it is difficult to determine what factors contribute to candidate's decisions to run for office. A number of studies have looked at a wide variety of factors and yet there does not seem to be any agreement on exactly what factors affect candidates consistently. This dissertation looks at state legislative elections. This dissertation takes the approach that institutions and rules may affect behavior of candidates.

There are two dependent variables in this dissertation. The data for these dependent variables come from the National Institute on Money in State Politics (www.followthemoney.org). The data stretches from 1996 through 2012. Using these data across sixteen years allows us to look at the effect of the law on the rates of candidates over time. The Institute serves as a repository for state level electoral data collected from the states. During the data collection for the number of candidates for each state candidate withdrawals were also found and collected. From this data, the two dependent variables are created. As noted in a previous chapter, state legislative elections are used in this analysis because there are more of them, allowing measurement of the effect of campaign finance laws over a wider swath of the election process. Data from both House and Senate elections were collected and then aggregated to form both the Candidate Participation Rate and the Candidate Withdrawal Rate.

The first dependent variable is the Candidate Participation Rate (CPR). This data in its original form was count data i.e. the total number (count) of candidates running in each state legislative election per year. Using these data as a count is not intuitive, so the data is transformed into percentages. Two percentages are created from the total

candidate count data. The first variable is the total candidates as a percent of the total number of seats up for election in the current state/year. The candidate count data is the total just prior to the primary election. The National Institute on Money in State Politics collects candidate data from campaign finance reports filed through the states. These reports are updated throughout an election cycle. The last year of this study is 2012 ensuring that any reporting would be complete. The data was collected for both the primary and general elections. However, the goal for this analysis is to study the effects of the law as candidates begin their election process. To do this, primary candidacies are used. The total of candidates who file to run as a percentage of the total seats up for election creates a percentage that would be higher than 100%. For example, in the Florida state legislative races for 2000 there were 386 total candidates and 141 total seats. This gives a percentage of 2.73 that when divided by 100 produces the CPR of .027.

This percentage allows us to see the CPR based on the number of seats that were actually up for grabs in the election that is a more intuitive measure of running for office. The second variable is the CPR for the number of permanent seats in the chamber in that state/year. The permanent seats in the chamber is the number of seats legislated to exist by chamber. The number of permanent seats in the chamber gives a more stable analysis over time because the number of permanent seats does not change from year to year, whereas the number of seats up for election does at least for house seats. However, the CPR for the number of seats up for election may be more intuitive because it seems more likely the measure candidates would look at when deciding whether or not to run for office. These two variables allow comparison of any effective differences between the seats that are actually available for election, and the number of permanent seats in the

chamber. The figures below show the two variables before and after transformation into percentages.

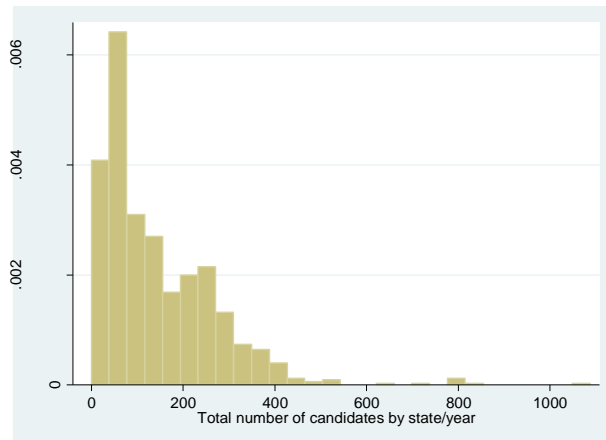


Figure 6.1: Histograms of the dependent variable Candidate Participation Rate (CPR) before transformation

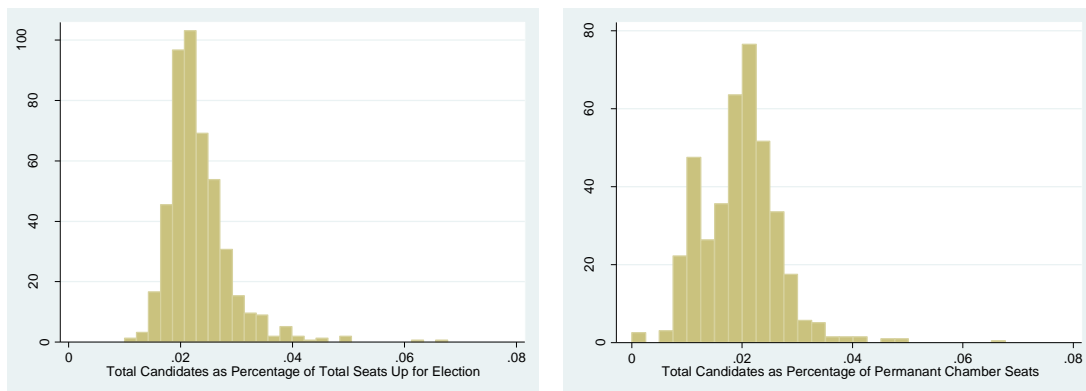


Figure 6.2: Histograms of transformed CPR as percentage of total seats up for election and percent of permanent chamber seats

A second dependent variable is the Candidate Withdrawal Rate (CWR) for each state legislative election from 2006-2012. This rate measures candidates who filed for office and then at some point prior to the primary withdrew. The data were collected from the National Institute on Money in State Politics under the candidates section for each state/year. The website gives the aggregate information on candidates' status

(Follow The Money). The CWR should indicate an interest, willingness, and ambition to run for office because the candidate actually signed up, paid the registration fee, and was a viable candidate. The candidate for some reason then withdrew from the race. There is no data on why a candidate would withdraw from the race. We only know that the candidates did withdraw²⁰. In considering withdrawals, the logic here is that the candidates may withdraw because they found the process too cumbersome to run. The CWR is also a percent of candidates and creates three new variables: the percent of withdrawals out of total candidates, the percent of withdrawals of total seats up for election and the percent of withdrawals of permanent chamber seats.

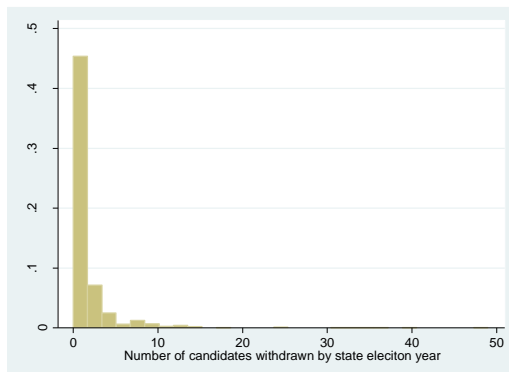


Figure 6.3: The dependent variable Candidate Withdrawal Rate (CWR)

²⁰ At the author's request, North Carolina's Board of Elections searched for the hard copies of the withdrawals to see if some reason for the withdrawals could be gleaned. Unfortunately, North Carolina does not keep any data on the withdrawals.

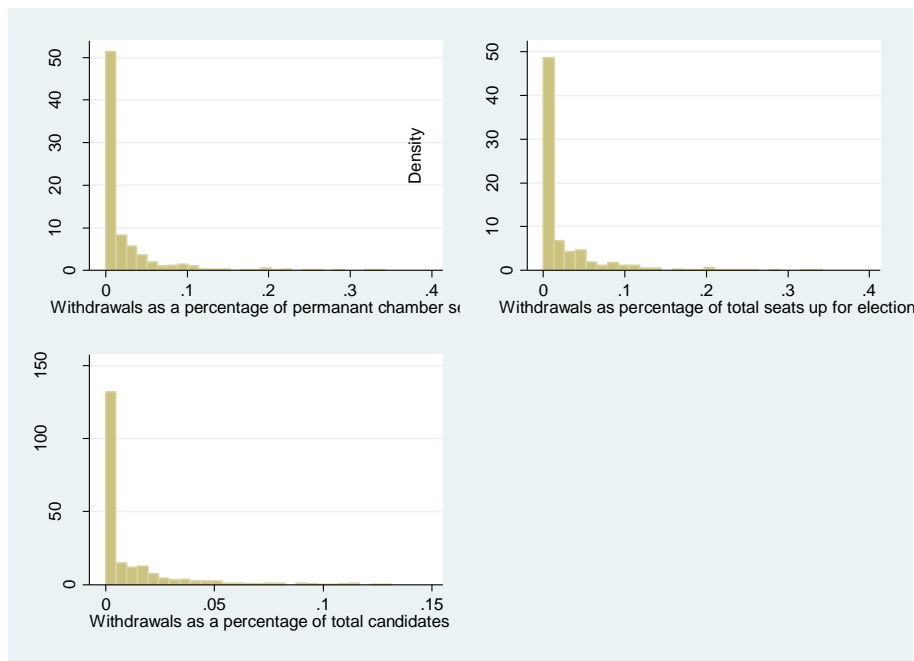


Figure 6.4: Withdrawals as percentages of total candidates, total seats up for election, and permanent chamber seats

6.5 Qualitative Component of Dependent Variable

In order to build the theory on candidate decisions and to investigate other possible factors affecting candidate's decisions to run or not to run for office, investigative interviews were compiled. The interviews questioned individuals from various states regarding their motivations to run for political office. Including qualitative interviews adds to the internal validity of this study by substantively asking individuals who may be considering running for office or have run for office about their experiences (Kirk & Miller, 1986). This approach allows the investigator to understand if potential candidates have ever considered the logistics or costs of running for office. It is important to understand if the theory applies in real life. Have potential candidates ever been deterred from running due to the complexity of the campaign finance system? Have potential candidates ever considered this? Knowing if they have or have not adds depth

to this study by allowing the researcher to realistically understand the situation facing potential candidates. It also allows researchers to determine if all controls have been included into the model.

Individuals were contacted from states with different types of legislatures such as professional, citizen or hybrid legislatures. The methodology for contacting individuals is via email to set up a telephone interview. Individuals were found to do the survey by initiating contact with various political actors via Facebook or emails. The purposive sample will include potential and actual candidates from states with both complex and not-complex campaign finance statutes. States must also have a variety of legislature types i.e. professional, citizen, or hybrid. The sampling method involves contacting potential candidates in these states and asking them qualitative questions on why they chose to or chose not to run for office. They were also asked about their political background and upbringing, the logistics of running for office and any factors that influenced their decision to run either negatively or positively. The interviews were free flowing and to allow the individuals to bring up any issues or concerns regarding running for office. The point of the interviews being mainly to assess whether individuals had ever considered the legislation or regulations in their contemplation of running for office.

6.6 Independent Variable: Complexity of Campaign Finance Reform Statutes

The literature on campaign finance reform efforts examines campaign factors to see how the reform affects elections, competition in elections, and war chests, and contributions. However, one variable has not been adequately addressed by the literature so far. That variable revolves around how campaign finance legislation affects a candidate's decision to run for office. There are generally two schools of thought on

campaign finance related to contribution limits (Hogan, 2004), although both involve low contribution limits. On one hand, low contribution limits might make it easy for the incumbent to raise money since they have experience doing so and harder for the challenger to compete. The other says low contribution limits puts both challengers and incumbents on an equal playing field and makes it more likely that challengers will emerge. Hogan (2004) finds for the second effect that if campaign finance laws are strong, it should be an incentive for challengers to run because the incumbent is hampered or prevented from gaining the upper hand, by the laws. However, Hogan's study is done with twenty-five states over four years and three election cycles. It also looks at how likely it is for a challenger to run against an incumbent using a dichotomous variable for the primary and general elections. Hogan's independent variable is an additive index from 1-5 indicating the number of restrictions on contributions. For example, if a state restricts only labor unions from contributing, then that state has a score of one on the scale. This dissertation takes a different and much wider approach to the question of how campaign finance laws affect candidate decisions. First, this dissertation looks at all 50 states over 16 years and measures the institutional factor of complexity in the law. It is not just the restrictions on who may contribute to one's campaign that may constrain an individual's choice to run for office. It may also be the transaction costs inherent in understanding the policy. By measuring the overall complexity of the law, this dissertation incorporates many factors such as transaction costs, contribution limits, and candidacy requirements to measure the full effect of what a candidate faces when making the decision to run for office.

The electoral costs of complying with the laws stems first from an understanding of the law. This dissertation will not directly calculate the cost of running for a state legislative office but rather look at the transaction cost inherent in the complexity of the law. In states where campaign laws are more complex, we should see a lower CPR. The inherent time cost involved in understanding and complying with the law is reflected in complexity. If individuals have difficulty understanding the legislation because it is complex, this may lead to a situation in which fewer candidates run for office. Understanding if the complexity of the law had an effect on candidates decisions to run for office is imperative. It allows us to measure each state's statutes in a consistent manner.

Campaign finance reform must be examined where candidates make their decisions. Campaign finance reform has become so complex that ordinary citizens wanting to participate may not do so because they do not understand all the regulations. If they want to join in the system, they must incur the cost involved with hiring professionals to help them run their campaign according to the regulations. This extra cost can be a deterrent to non-wealthy citizens wanting to run for office. Complexity could lead to fewer candidates running for office and those candidates that do run being the incumbents who have the resources and knowledge with which to navigate the campaign finance regulations. This issue has not yet been studied, but it is vital that this research is done. If citizens cannot understand the laws meant to regulate this situation the democratization goals of campaign finance reform are in peril. This research seeks to explore this question more fully by looking at campaign finance reform efforts in the

states to first determine if they are complex and then to see if that complexity is a deterrent to the CPR.

Campaign finance reform in this paper will refer to at any state legislation that pertains to pre-bank candidate contributions. Any regulation that affects a candidate prior to them depositing the contribution in the bank is considered in this study. Other post-bank legislation concerning treasurer qualifications, committee organization, reporting requirements, and disposal of leftover funds are not considered. Considering only the pre-bank regulations measures a candidate's situation just as they are deciding to become a candidate or not. Once they move to organization, and reporting, the candidate has already made a more firm decision to run for office. By measuring only pre-bank regulations this study captures the first type of information a candidate would need to know (Maisel & Stone, 1997). It is the first hurdle the candidate needs to clear. Author evaluation of campaign finance regulations in all 50 states indicates that pre-bank legislation is also found in almost every state except those which have no limitations on donations. Because some states have no limitations on contributions this presents a validity issue. If only states with contribution limits are studied, bias is introduced where only states with some potential complexity are studied. This would exclude states that have no complexity or no contribution limits. Including only those states with contribution limits would measure only those states with some complexity. To circumvent the problem in which some states have no contribution limits, contribution definitions were also collected from each state. These definitions should be written in the same form and style as the contribution statutes and therefore can serve as a validity check for the study. The contribution statutes and campaign finance definitions as

measured by the Flesch-Kincaid Grade Level and word counts are included in graphs at the end of this chapter.

The pre-bank contribution limits are the current limits set by these state legislatures. In most states, this legislation does not change very often allowing testing of the effects over several years. The static nature of the legislation is ensured by comparing across databases. The contribution statutes were collected using each states' statute repository. Each state differently stores their statutes so a comprehensive search was done to gather all the contribution legislation for each state. This first wave of data collection included everything pre and post-bank related to contributions. In order to ensure that the same information was collected from each state, a Microsoft Excel spreadsheet was created to record each statute section for each part of the contribution statutes. For example, the chapter and section was recorded for each state pertaining to contribution limits, loans, anonymous contributions, corporate and labor union contributions, treasurers, reporting and disclosure requirements, and definitions. Only those sections corresponding with the pre-bank contributions were used in this analysis. As noted above only the pre-bank contribution data (hereafter 'contribution legislation') is collected because this is the main part of the law that will touch all candidates when deciding to run for office. The contribution data from each states' statutes is compared to summary files from the National Conference on State Legislatures (NCSL), containing all the contribution statutes and numbers for the past nine years. The statutes are compared to the NCSL database to ensure that no major changes to the legislation occurred during the 1996-2012 period. No major changes in legislation were found.

This study will also look at legislation pertaining to requirements for candidacy such as age, residency, filing procedures, and filing to run for office. Looking at this legislation gives a well-rounded vision of what a candidate faces when deciding to run for office including all the requirements, filing paperwork, fees, and obligations. Advisory opinions or rules or rulings by ethics boards are not part of the complexity measure of the legislation. These should be considered in future research if states issue them. They are omitted here for convenience but also because some states may be like North Carolina, which does not issue advisory opinions or rules but rather work closely with legislators to write the laws obviating the need for advisory opinions (Strach, 2012).

The contribution definitions collected were those definitions pertinent to the campaign finance sections in each states' statutes. For example, states have definitions of polling places, ballots etc. which are not pertinent to candidate decisions. Most states have separate definition sections just pertaining to campaign finance. These definitions include terms such as candidate, contribution, and loans which are pertinent definitions a candidate would need to understand before running for office. These definitions are also included in this study because some states do not have contribution requirements as noted above. Because this presents a validity issue where only those states with contribution statutes – and hence some complexity – would be studied.

This paper uses contribution statutes, candidacy requirements, and contribution definitions from all 50 states to test for complexity. Using the contribution statutes from all 50 states allows for variability of the data. Using the statute from only one state would not allow for any variability because most statutes do not vary much over time. Using all 50 states' statutes allows study of the effects of the legislation on candidate

decisions in a variety of settings. Each state has different treatments of candidates and various types of legislation. Data were collected from 1996-2012 because these were the available years and collecting from these years ensures we have at minimum seven election cycles over the 16 years.

Each state's contribution, definitions, and candidacy requirement statutes were run through a plain language online utility to measure complexity. Complexity is measured based on language components. These components include the Flesch-Kincaid Grade Reading level that gives us a measure of what US grade level should be able to comprehend the legislation (Online-Utility.org). The utility also gives a Flesch Reading Ease score, word count, and syllable-per-word count. The readability measures are all continuous variables; the other variables are count variables. The process for measuring complexity involves copying and pasting the contribution legislation, definitions and candidacy requirements into the online utility. The online utility calculates all the complexity or plain language factors.

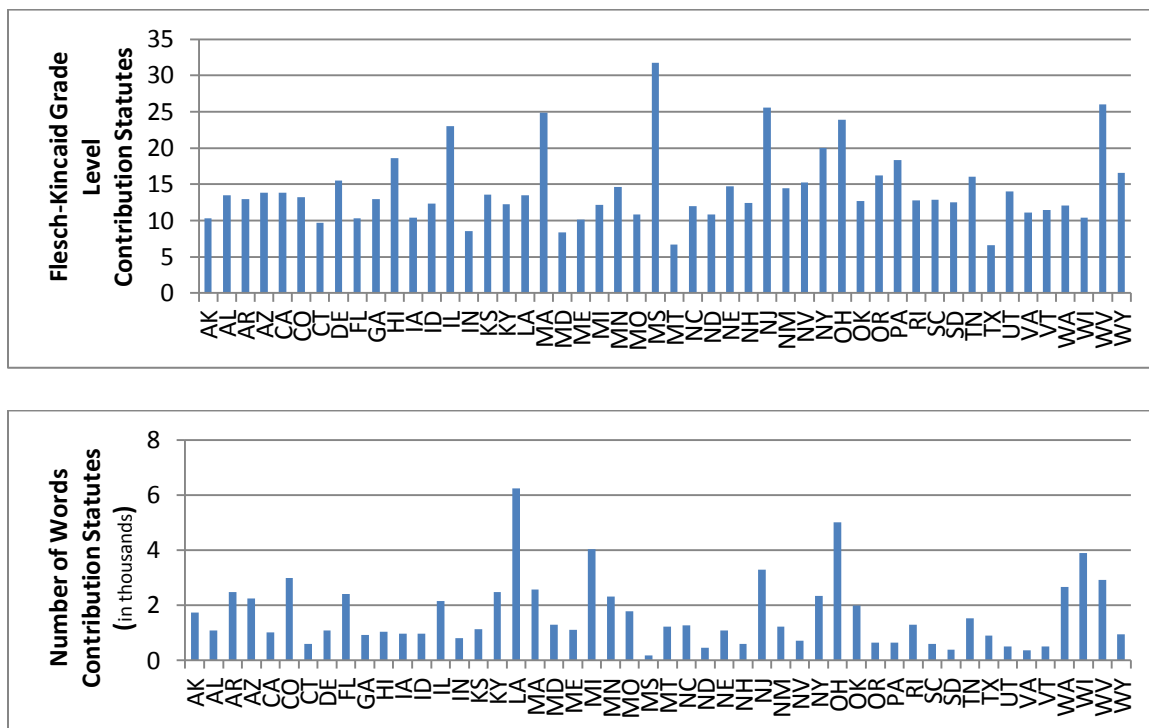


Figure 6.5: Campaign finance contribution statutes measured by Flesch-Kincaid Grade Level and number of words.

The online utility gives thirteen complexity or plain language factors such as those described above. This presents a possible issue of multicollinearity where each variable is measuring the same underlying factor. To determine if this is the case or not, factor analysis of the plain language variables was included in this study. Factor analysis is appropriate here because this study tests the assumption that there is an underlying concept of complexity inherent in the language of the campaign finance statutes. After running the factor analysis it was clear that the thirteen plain language indices were measuring the same underlying concept. The factor analysis retained three factors with an eigenvalue >0 . These three factors have highly loaded factor scores indicating that they are measuring the same thing that the variables are measuring (Fabrigar & Wegener, 2012; Stata Corp, 2011).

As a robustness check a regression and Variance Inflation Factor were run. This indicated a very high level of multicollinearity between the plain language measures. To ensure that this multicollinearity does not provide unreliable estimates, this study includes only two of the plain language measures. These two measures are the Flesch-Kincaid reading index which measures US grade level needed to understand the legislation, and the word count. Both of these indices are used in plain language studies and studies of constraining legislation. They were chosen for the study because of their broad theoretical impact in previous studies.

6.7 Control Variables

Control variables include political as well as economic variables. The political control variables include a dummy variable for chamber type. The chamber type dummy is included in the model to restructure the data for only one year per state. The chamber dummy is coded so that House =1 and Senate =0. This variable allows analysis of the effects of complexity on the CPR and CWR are different for the House and Senate chambers.

Other factors might affect candidate's decisions to run for office including such political factors as the professionalism of the legislature. The professionalism measures are legislator salary and the number of staffers. Professionalism of the legislature is thought to be a fairly strong determinant of whether or not an individual decides to seek office (Hogan, 2004). Salary data were collected from the NCSL website for each year. The salary data is the base salary data not including per diems, or voucher and unvouchered expenses.

Number of staffers data were also collected from the NCSL data. The staffer data only contained the number of staffers for three of the years (1996, 2003, and 2009) in the model. Because staff data is not available for each year of the study, the number of staffers were interpolated and extrapolated²¹ for each of the missing study years.

Institutional or strategic factors also play a role in candidate's decisions to run. Strategic factors are those factors, on the basis of which, a candidate may make a decision regarding running for office. The rationale here is that candidates are strategic and make rational decisions (Levine & Hyde, 1977) (Black, 1972) based on whether or not there is a chance for them to win an election. Maisel and Stone (1997) found that when an incumbent held a seat, a challenger was more likely to account for this in their decision to run for office. Hogan (2004) found the similar results. Kazee found that just the perception of incumbent strength was enough to deter challengers from seeking office (1983). There are many strategic and institutional reasons why a candidate might decide to run for office. Incumbent data²² were collected from the National Institute on Money in State Politics (Follow The Money) for all 50 states from 1996-2012.

6.8 Economic Control Variables

Control variables used include measures for contextual, political, strategic and institutional factors. The contextual variables for this study include economic variables such as the Gross State Product from 1996-2012, per capita personal income by state (PCPI) and unemployment rate for the same years. These three variables should give an

²¹ Data were interpolated for the years 1997-2002 and 2004- 2008. Data were extrapolated for 2010-2012

²² Originally data on challengers, incumbents and open seats were included in the analysis. However, challengers would be included in the total number of candidates and so was not used as a separate variable. Open seats would also be included in the creation of the CPR and CWR based on seats in the legislatures for each states. This variable also was eliminated from the analysis.

indication of how each state's economy and citizens fared economically during this time period. The variables are on the state level because the candidate withdrawals are also aggregated on the state level. It is possible that individuals sometimes make choices to run for office based on their economic situation. Economic factors are rarely used in candidate decisions studies but were recommended by Maisel and Stone (Maisel & Stone, 1997). The GSP and PCPI variables were both collected from the US Department of Commerce Bureau of Economic Analysis databases. The BEA data uses data measured from the NAICS from 1997 onward. The unemployment data is from the Bureau of Labor Statistics for each of the study years.

6.9 Methods

This study uses percentages of candidates and candidate withdrawals to create rates with which to measure participation in elections. The CPR is the participation rate in elections. It is a percentage of the number of candidates per total seats up for election and permanent chamber seats. The CWR is the number of withdrawals as a percentage of the total number of candidates, as a percentage of the total number of seats up for election and as a percentage of the permanent seats in the chamber. Because theoretically these percentages could be unbounded on the upper level, a Tobit regression model is used. Although it is unlikely that there would be an infinite number of candidates running for a seat, there is no true limit to that number. Since it could be greater than 100% using the Tobit model allows for an uncensored regression model (Long, 1997) which ensures that the data is not censored on the upper level.

6.10 Fixed Effects

This model includes data from 1996-2012. This indicates the possibility of serial autocorrelation. If this were the case, finding errors in one time-period correlated with errors in another time-period would be expected. To correct for this a fixed effects model for time is appropriate. It is not appropriate to use a fixed effects model for the state in this analysis because the main independent variable for complexity was only measured one time for each state. This model includes a variable to lag the year to control for serial autocorrelation. As a robustness check the analysis was run twice using clustered standard errors for both the state and the year. While the regression results were similar, the standard errors when clustered for the state were higher. Therefore, the clustered standard errors for the year were used for the analysis.

CHAPTER 7. ANALYSIS OF DATA

The models presented here measure the hypotheses that as the complexity of legislation increases, the percentage of candidates will decrease and the percentage of withdrawals will increase. This model is measured using Tobit Model for limited dependent variables. This is the appropriate statistical method to use for percentage or proportional dependent variables which may be uncensored on the upper level (Long, 1997). The analysis is divided into two parts. In the first model, the percentage of candidates or the CPR is tested with both candidates as a percentage of the total seats up for election and the permanent chamber seats. Each percentage is regressed by the two plain language measures - the Flesch-Kincaid grade level and the word count measure. In Model 2, the percentage of withdrawals or the Candidate Withdrawal Rate (CWR) is regressed using the same methods except adding in the number of withdrawals as a percentage of total candidates. Each model analyzes three different types of legislation: the campaign finance contribution statutes, the campaign finance definition statutes, and the candidacy requirement statutes.

7.1 Model 1: Complexity and the Candidate Participation Rate

The Candidate Participation Rate (CPR) is a percentage of the total number of candidates running in a race. Because it is important to analyze this correctly, the total number of candidates variable was transformed into two percentages. The first is the total number of candidates divided by the total number of seats up for election. This percentage measures the percentage of candidates as it increases or decreases depending

on the number of seats that are up for election. The second percentage is the total number of candidates running divided by the permanent seats in the chamber. Because the total number of candidates is almost always going to be bigger than the total number of seats or the permanent seats in the chamber this measure did not work as a simple proportion. The CPR is transformed into a percentage as described in Chapter 6.

Table 7.1: Plain language complexity effects on Candidate Participation Rate (CPR)²³

	Total Seats up for Grabs	Robust St. Err.	Permanent Chamber Seats	Robust St. Err.
Contribution Limits				
Word Count per 1000 words	-0.0002	0.000	-0.0003	0.000
Flesch-Kincaid	-0.0002 *	0.000	-0.0002 **	0.000
Definitions				
Word Count per 1000 words	0.0002 *	0.000	-0.0003 **	0.000
Flesch-Kincaid	-0.0001 **	0.000	-0.0002 **	0.000
Candidacy Requirements				
Word Count per 1000 words	0.0001	0.000	0.0004	0.000
Flesch-Kincaid	0.0002 **	0.000	0.0002 **	0.000
Gross State Product (in 100 thous.)	0.0001	0.001	-0.0024	0.002
Unemployment	0.0009 *	0.000	0.0011 **	0.000
Per Capita Personal Income (in10,000s)	-0.0002	0.005	0.0017 **	0.006
Number of Staffers	0.0000	0.000	-0.0001	0.001
Legislator Salary	0.0000 **	0.000	0.0001 **	0.000
Number of Incumbents	0.0000 **	0.000	0.0000 **	0.000
House=1, Senate =0	0.0009 *	0.000	0.0076 **	0.000
Term Limits	0.0021 **	0.001	0.0026 **	0.001
constant	0.0194 **	0.003	0.0094 **	0.003
n=684				
* p<0.05; ** p<0.01				
Robust Standard Errors Clustered by Year				

Total number of candidates (CPR) was hypothesized to decrease in states with more complex legislation. When the contribution statutes were more complex across the 50 states, there was a modest decrease on average regardless of whether the contribution statutes were measured by word count or by the Flesch-Kincaid grade level. As the

²³ In Chapter 7 tables the yellow highlighted variables indicate statistically significant relationships in the hypothesized direction, grey in the opposite direction.

number of words increased (per 1000) the number of candidates decreased .0002% for either the total seats up for election and .0003% for the permanent seats in the chamber. Although this relationship is in the hypothesized direction, it is not statistically significant. When the contribution statutes were measured using the Flesch-Kincaid grade level the decrease in the CPR for both total seats permanent chamber seats was .0002% on average. They are statistically significant at the .05 and .01 levels respectively. These two significant measures indicate that when the contribution statutes are more complex and measured by the Flesch Kincaid grade level, fewer candidates run for office on average. All four of the contribution statute variables saw decreases in the CPR indicating that a more robust relationship might exist between the complexity of contribution statutes and the number of candidates running for office. This is a relationship that ought to be further investigated. It is possible that candidates running for office would have to understand the contribution regulations and this deters them. As theoretically discussed in Chapter 4, the Flesch-Kincaid model is more likely the best measure of complexity since it is measuring what individuals read rather than just the number of words.

The CPR was hypothesized to decrease also when the candidacy requirements were more complex. Logically as candidates navigated the statutes to determine what they needed to do when running for office, the learning required might deter some candidates from running. On average, when measured by word count an average increase was found of .0001% and .0004% for the total seats in the chamber and the permanent chamber seats respectively. This increase in the number of candidates instead of a decrease was opposite of the hypothesized direction but was not statistically significant.

The results for the Flesch-Kincaid grade level were statistically significant at the .01 level of the CPR as a percentage of seats up for election and permanent chamber seats. This indicates that as the candidacy requirements were on a higher grade reading level, more candidates signed up to run for office. When the candidacy requirements were on a higher grade reading level the CPR based on the total seats up for election and permanent chamber seats increased .0002%. This relationship is opposite the hypothesized direction. It is not clear why this relationship is opposite to the hypothesized direction but clearly more study is warranted. It is possible that candidates are not required to understand the law but just required to fill out forms provided by secretaries of state or registrars offices. However, based on one candidate interview, the candidate felt that the requirements were extremely hard to understand and, as noted previously, would be hard for a novice to navigate (Communication1, 2014).

Campaign finance definition statutes were included in the model as a validity check but were hypothesized to have a similar effects to either the contribution statutes or candidacy requirements on the CPR. It is hypothesized that the CPR would decrease if the definition statutes were complex. For three of the four variables tested, decreases were seen in the CPR. When the number of words increased in the definition statutes the percentage of candidates increased .0002 for the CPR and total seats up for election on average but decreased .0003% for the CPR and permanent chamber seats. This relationship was statistically significant at the .01 level. It is not clear why the relationships are in opposing directions.

When the definition statutes are measured using the Flesch-Kincaid grade level there is a statistically significant decrease. When measured as a percentage of total seats

up for election, there is an average decrease of .0001%. Measuring using total candidates as a percentage of permanent chamber seats there is an average decrease of .0002%.

Both of these measures are statistically significant at the .01 level, allowing rejection of the null hypothesis with 99% confidence. The Flesch-Kincaid variable indicates that as the grade reading level increased for the definition statutes, the number of candidates decreased. This supports the hypothesis that when the statute is more complex, fewer candidates will run for office. At issue here however, is that the definitions were only included as a check on validity and it seems unlikely that candidates actually look to the definitions to determine if or how to run a campaign. Perhaps this is incorrect thinking and candidates look to the definitions to find information they need to know.

7.2 Political Effects on CPR

The number of staffers and legislator salary are proxies for professionalism of the legislature. The hypothesized result would indicate that a more professional legislature would attract more candidates to run for office. In these models, the number of staffers had little (-.0000% to -.0001%) to no effect on the average percent of candidates running. The only statistically significant relationship was found in legislator's salary. As the average salary increased CPR for total seats and permanent chamber seats increased .0000% and .0001% and this relationship was statistically significant at the .01 level. This relationship coincides with Hogan (2004) who also finds similarly that legislative professionalism increases the probability of challengers emerging.

The literature varies on the effects that various types of candidates such as incumbents or challengers have on the CPR (Hogan, 2004; Kazee, 1983; Maisel & Stone, 1997). In general, the models presented here found that when the number of incumbents

increased, the CPR decreased on average for the total seats up for election and permanent chamber seats²⁴. Both of these relationships were statistically significant at the .01 level indicating that incumbents is an important variable deterring candidates from running for office.

The chamber type variable is a dummy variable where the House =1 and the Senate =0. These data seem to indicate that when the chamber type is the House there is .0009% higher CPR on average for the total seats up for election and a .008% higher CPR for permanent seats in the chamber. Both of these findings are statistically significant at the .05 and .01 level respectively. This allows rejection of the null with 95% and 99% certainty for this relationship. Caution is warranted here though, because the data were not analyzed separately by chamber type.

The term limits variable is a dummy indicating if term limits are in place (1) or no term limits (0). When we look at the CPR it is .002% - .003% higher for total seats up for election and permanent chamber seats respectively than when term limits are not in place. Both of these relationships are statistically significant at the .01 level allowing us to reject the null with 99% confidence. This relationship is also intuitive, when term limits are in place the chance for more candidates to participate presents itself as evidenced here.

²⁴ Some literature indicates an effect on candidate decisions by the presence of challengers and open seats. These two variables were omitted in this analysis. Challengers were omitted because challengers would be included in the total candidate rate. Open seats were omitted because these seats would be included as part of the total seats or permanent chamber seats. Regardless, a model was run with open seats included. Unless noted in the text, there were no significant differences.

7.3 Economic Effects on CPR

Economic data has rarely been used when analyzing campaign finance legislation. Including economic factors here is a novel way to see how the economy might affect candidate's decisions to run for office. Because it is so novel, caution regarding the results is important. It is expected that when the economic indicators show that the economy is improving, fewer candidate should want to run for office. This is expected because it is hypothesized that individuals should want to run for office when they want to fix problems. If there are no (or few) economic problems, they should not want to run, but rather take advantage of the economic opportunities available. In this analysis, it is expected that as the Gross State Product (GSP) increases we should see a decrease in the CPR. When the GSP increased, there was a increase in the CPR for the total seats up for election. This result showed a .0005% increase in the CPR for total seats up for election which opposite the expected result, but was not statistically significant. Similarly, an increase in the GSP indicates an average decrease in the CPR when looking at permanent chamber seats of .0024%. However, these results are also not statistically significant. Caution should be taken with these results as stated previously because of the novel use of economic data and because the results are in the opposite directions.

The unemployment (state level) data is interesting. The hypothesis states that when the economy is doing better, fewer individuals should run for office. In the case of unemployment, as the rate of unemployed individuals increases, there should be an increase in the number of individuals running for office. This hypothesis is supported by this analysis. For both the total seats up for election and the permanent chamber seats models, when the unemployment rate increases, there is an average increase in the CPR.

For the CPR for total seats up for election the average increase is .0009%. The CPR for permanent chamber seats indicates an average increase of .0011%. This increase is also statistically significant at the .05 and .01 levels respectively. This finding makes intuitive sense, that when unemployment increases, more candidates run for office (Lewis-Beck & Stegmaier, 2000).

It is hypothesized that when the Per Capita Personal Income (PCPI) variable increases we should see a decrease in the CPR. As individuals feel more comfortable with their economic outlook, there are fewer problems to solve economically and they should be less likely to run for office. When measured for total seats up for election, the relationship indicates an average decrease of .0024% which is in the hypothesized direction, but statistically insignificant. As the PCPI increases, the CPR as a percentage of permanent chamber seats increases on average in a statistically significant (.01 level) relationship. This average increase is .0168% for the CPR for permanent chamber seats. These findings are confusing in light of the opposing relationships. This obviously warrants more study. Similar findings are noted in the next model as well. This might indicate a problem with heteroskedasticity in the economic variables²⁵.

These three economic variables as noted are novel measures of CPR and should be taken with extreme caution. However, because the direction of these findings is varied and often different from the hypothesis, it is important to continue studying the economic effects on CPR.

²⁵ Testing for heteroskedasticity found some evidence of the problem with the economic variables. Eliminating the economic variables from the model however did not totally eliminate the problem. The model also used robust standard errors to help alleviate heteroskedasticity. More testing will need to continue on this issue. The similar opposing findings for the total seats vs. permanent chamber seats and the income variable were found in the next model also.

7.4 Model 2. Complexity and Candidate Withdrawals

The hypothesized relationship in this second model posits that in the 50 United States where the legislation is more complex, more candidates withdraw their candidacy for office. It is expected that when the number of words increases or the Flesch-Kincaid grade level increases more candidates would withdraw from the races. The null hypothesis is that there would be no change or no increase in the number of withdrawals as the legislation increases in complexity. The legislation is measured three ways using the contribution statutes, the campaign finance definitions, and the candidacy requirement statutes. Each type of legislation is then measured using the two plain language measurements – either the Flesch-Kincaid grade level or the word count.

Table 7.2: Plain language complexity effects on Candidate Withdrawal Rate (CWR)

	Total Candidates	Robust St. Err.	Total Seats	Robust St. Err.	Permanent Chamber Seats	Robust St. Err.
Contribution Limits						
Word Count per 1000 words	-0.0033	0.002	-0.0083	0.006	-0.0107	0.006
Flesch-Kincaid	0.0020 **	0.001	0.0046 **	0.002	0.0038 **	0.001
Definitions						
Word Count per 1000 words	-0.0048 **	0.001	-0.0124 **	0.004	-0.0112 **	0.003
Flesch-Kincaid	-0.0005	0.000	-0.0013	0.001	-0.0012	0.001
Candidacy Requirements						
Word Count per 1000 words	0.0038 *	0.002	0.0105 *	0.004	0.0093 **	0.003
Flesch-Kincaid	-0.0017 **	0.001	-0.0036 *	0.001	-0.0031 *	0.001
Gross State Product (in 100 thous.)	0.0003	0.011	0.0009	0.029	0.0001	0.001
Unemployment	-0.0009	0.002	-0.0022	0.004	-0.0008	-0.001
Per Capita Personal Income (in10,000s)	-0.0072	0.038	-0.0177	0.102	-0.0132	-0.132
Number of Staffers	0.0000	0.000	0.0000	0.000	0.0000	0.000
Legislator Salary	0.0000	0.000	0.0000	0.000	0.0000	0.000
Number of Incumbents	0.0001 *	0.000	0.0001	0.000	0.0001	0.000
House=1, Senate =0	0.0039	0.003	0.0103	0.009	0.0174 *	0.007
Term Limits	0.0247 **	0.005	0.0620 **	0.013	0.0596 **	0.011
constant	0.0046	0.019	0.0083	0.050	-0.0041	0.044
n=681						
* p<0.05; ** p<0.01						
Robust Standard Errors Clustered by Year						

Table 7.2:²⁶ shows mixed results for the different independent variables. Looking at the complexity of contribution statutes measured by the Flesch-Kincaid grade level, we see that as the grade level increased the CWR for all three models on average increases .002-.046%. This measure is statistically significant at the .01 level allowing rejection of the null with 99% certainty.

These data indicate that as the grade reading level increased for the contribution statutes it is expected that more candidates would withdraw from their race. This

²⁶ All yellow highlighted coefficients are in the hypothesized direction, grey in opposite direction.

analysis supports the main contention of this dissertation. When faced with the challenge of maneuvering through the campaign finance process more candidates might withdraw from the race. The costs of learning may be too high on average to justify the time and effort of working through the process.

The contribution statutes as measured by word count have the opposite relationship. Here the data indicate that as the number of words in the statute increase, there is a decrease in the CWR. However, none of the three models are statistically significant. As discussed earlier, the word count measure is a less intuitive measure of complexity because it only counts the number of words in the statute whereas the Flesch-Kincaid is a more robust measure of what candidates would be able to understand.

Candidacy requirements as measured by the Flesch-Kincaid indicate a relationship opposite to the hypothesized direction. As hypothesized, when the grade reading level increases, an increase in the CWR is expected as candidates withdraw from the race. In this analysis, as the grade reading level increases, the CWR declined on average .001-.003% (for all three measures). The relationships for total seats and permanent chamber seats were statistically significant at the .05 level and for total candidates is statistically significant at the .01 level. This relationship is opposite the expected hypothesized direction.

When the number of words for the candidacy requirements was measured, the results were quite different. The CWR for total candidates increased on average and was statistically significant at the .05 level. Similar results were found for the CWR for total seats and permanent chamber seats. As the word count increased these two variables indicate an expected increase (.01 and .009% respectively) in the CWR. These two

relationships were significant at the .01 level allowing rejection of the null with 99% confidence. Taking the opposing results for Flesch-Kincaid grade level and the word count analysis together with the previous analysis that word count may not be the most potent measure of complexity, these findings should be taken with utmost caution. It is unclear why the two measures of candidacy requirements would have opposite effects and this will have to be studied in more depth most especially because candidacy requirements are something that every candidate will need to know. There is the possibility of multicollinearity given the opposite findings. However, robust standard errors (clustered by year) were used and the models were also run separately with similar findings²⁷.

The campaign finance definitions as measured by word count are statistically significant at the .01 level. This indicates that as the statute definitions had more words, on average the number of withdrawals decreased. Even though this is statistically significant, as noted above the definitions were only included as a validity check and as less important part of the statute it is unlikely that candidates will read them. The campaign finance definitions as measured by the Flesch-Kincaid grade level also indicate that as the grade level increased the number of withdrawals decreased on average. This relationship is not statistically significant.

7.5 Control Variables

The political variables included in the model represent professionalism of the legislature and other variables expected to have an effect on candidate decisions. The salary and number of staffers are indicators of professionalism of the legislature. As the

²⁷ Results of these separate models are in the Appendix.

number of staffers increased, there was an expected average increase of .000% in the CWR for total candidates, total seats, or permanent chamber seats. The indication here is that when candidates perceived a higher level of professionalism in the legislature that they were more likely to withdraw from the race. This relationship was not statistically significant. The legislative salary relationship has the same effect and is statistically insignificant for all the models. As the legislative salary increased, the CWR for all three measures increased (.000%). Considering that salary and staffers are indicators of professionalism and this analysis finds this relationship in opposite of the expected directions, these variables bears further analysis.

When candidates face incumbents, there is an expectation that the number of withdrawals would increase. This result is found when looking at the CWR for all three variables. If the number of incumbents increased, the CWR is expected to increase by .000 - .0001% on average. It may be that candidates when seeing a large number of candidates many of whom are incumbents chose to withdraw.²⁸ Only the relationship between incumbents and the total number of candidates is statistically significant at the .05 level indicating that when the incumbents increase the CWR is expected to increase as a percentage of total candidates.

Whether or not the candidate was running for the House or Senate appears to have some effect on candidate withdrawals. The Chamber Type variable is a dummy variable where the House is coded as 1 and the Senate as 0. In this analysis, when the Chamber

²⁸ Some literature indicates an effect on candidate decisions by the presence of challengers and open seats. These two variables were omitted in this analysis. Challengers were omitted because challengers would be included in the total candidate rate. Open seats were omitted because these seats would be included as part of the total seats or permanent chamber seats. A model was tested with open seats included. There were no differences in the results.

type is the House (1), it appears that candidate withdrawals are expected to be higher on average. The CWR for all three variables is .003 - .01% higher on average. Only the permanent chamber seats relationship is statistically significant at the .05 level. There is the possibility that this indicates the House is an easier seat for which to run. If we see fewer candidates withdrawing in House races than Senate, it would indicate that potential candidates see these races as easier. The Senate districts in the states are larger so the costs might be higher to run for those seats versus the House districts. Logically the costs would be amplified by the larger sized districts. The data is available to further investigate this piece of the puzzle that will be done in subsequent analysis.

The term limit variable is coded for 1 if term limits are in place, and 0 if no term limits are in place. This variable is statistically significant at the .01 level indicating that when term limits are in place more candidates are expected to withdraw from races on average than when there are no term limits in place. This makes sense as we would expect to see more candidates withdrawing when they see the barrier of term limits. We would assume however, that most candidates would realize this barrier is in place before contemplating a run for office.

Economic variables have not been studied often in connection with candidate decisions and campaign finance, so including them here allows visibility into how the economy affects individuals and their decisions to run for office. There is no statistically significant effect of the GSP on candidates' decisions to withdraw. As the GSP grew the CWR decreased from .001-.009% for total candidates, total seats, and permanent chamber seats on average. This indicates that as the economy grew candidates were more likely to stay in their races.

The unemployment rate is expected to have the effect of increasing withdrawals with the rationale being that as more people are out of work they may find the cost of running for office too high. This analysis mainly finds no evidence of this relationship. When unemployment rates are increasing more candidates are withdrawing from races for the total candidates (.0003%). For the total seats up for election, there was an expected decrease in the CWR of .002% and the permanent chamber seats of .0008% on average. These relationships are not significant for any of the models.

As Per Capita Personal Income increased the CWR for total seats and permanent chamber seats decreased on average .01%. There is an increase in the CWR for total candidates of .05%. None of these findings are statistically significant. Because of the lack of significance and the slight changes in the CWR it is best to be very cautious about these findings. Altogether it is likely that unemployment and PCPI, which are more personal economic indicators, show that the economy does have a role to play on individuals choices to run for office.

7.6 Qualitative Analysis

In order to add to the internal validity of the study (Kirk & Miller, 1986) and to build the theory that complexity might deter people from running qualitative interviews were completed on eight former or potential candidates from around the country. Respondents were asked about their political background, and general interest in politics. Respondents were also asked if and why they would run for office or run again. No respondent considered running again with enthusiasm. Most of the responses contained some element of hesitancy such as the dislike of asking people for contributions. This was an issue with two of the eight respondents. Time commitment was a problem with

half of the respondents but with variation. Some respondents said time away from their job would cause an income loss, while others said time away from family was more of an issue. Another respondent who is now a campaign consultant talked about the difficulty of finding people to run for office because of the fear of losing their reputation. He spoke in particular of business owners who would be unwilling to run for fear of losing business.

Respondents were asked to describe the process of running for office. This question was left purposely vague in order allow respondents to answer how they chose. Respondents spoke of getting on the ballot and raising money as the top issues. Most respondents had help from either their state/local party or an experienced politician within their party. One respondent had help from a candidate school, another had help from campaign consultants.

Regarding the logistics of running, none of the respondents explicitly said that the complexity of the campaign finance system was a deterrent to running. However, three of the respondents referred indirectly to this idea. One respondent stated that running for office in his state would require people to be researchers and someone off the street would not be able to do it (Communication1, 2014). This respondent was discussing the process of filing for office that requires petitions. Another respondent said that being a lawyer gave him the “sense that he had a leg up” in running for office, and “while he didn’t know the [election/campaign] code off the top of his head, he would be able to find it and use it if needed. The average person would need help” (Communication7, 2014). These responses indicate some candidates had difficulty figuring out the process of running for office.

7.7 Conclusions

Table 7.3 below summarizes the study findings in a format that highlights each legislation type for easier review. The yellow highlighted results are in the hypothesized direction. The grey highlighted results are opposite the hypothesized direction.

Table 7.3: Summary of findings

Candidacy Participation Rate (CPR)			Candidacy Withdrawal Rate (CWR)		
Contribution Limits			Contribution Limits		
	Flesch-Kincaid	Word Count		Flesch-Kincaid	Word Count
Total Seats Up	neg	neg	Total Candidates	pos	neg
Permanent Chamber Seats	neg	neg	Total Seats Up	pos	neg
			Permanent Chamber Seats	pos	neg
Candidacy Requirements			Candidacy Requirements		
	Flesch-Kincaid	Word Count		Flesch-Kincaid	Word Count
Total Seats Up	pos	pos	Total Candidates	neg	pos
Permanent Chamber Seats	pos	pos	Total Seats Up	neg	pos
			Permanent Chamber Seats	neg	pos
Camp. Fin. Definitions			Camp. Fin. Definitions		
	Flesch-Kincaid	Word Count		Flesch-Kincaid	Word Count
Total Seats Up	neg	pos	Total Candidates	neg	neg
Permanent Chamber Seats	neg	neg	Total Seats Up	neg	neg
			Permanent Chamber Seats	neg	neg

Looking first at the Candidate Participation Rate (CPR) in the left column, consistent results are found using the Flesch-Kincaid measure for both contribution limits and definitions. Two of these relationships are statistically significant in the hypothesized direction. Regardless of how the word count was used, it was only statistically significant in the hypothesized direction in one relationship - for the campaign finance definitions.

All the coefficients for contribution limits and definitions show declines in the CPR on average. When the contribution limits and definitions are more complex, it is expected that fewer candidates will run for office on average. This is consistent with the main contention of this dissertation that fewer candidates will run when statutes are complex. It seems clear that these language variables which are intended to measure complexity of legislation do generally show that when the statutes are complex, the percentage of candidates decreases. However, much caution is warranted given the novelty of these measures and the lack of statistical significance in all the models. These findings are somewhat consistent with what the qualitative interviews found. Candidates were hesitant to run for office for a variety of reasons, but collecting money was one of the main reasons. It is not the contention of this study that candidates equate asking people for money with complexity of contribution statutes. This study posits that when faced with contribution requirements, candidates want to comply but might have difficulty understanding the statutes if they are complex. The Flesch-Kincaid contribution findings indicate that when the statutes are more difficult, fewer candidates are expected to run for office on average. Furthermore, potential candidates when interviewed stated that because they were experienced they would have an easier time understanding how to run for office (Communication1, 2014; Communication6, 2014; Communication7, 2014). Average citizens running for office for the first time may have more difficulty in understanding the statutes and complying with them.

The same results are not found for candidacy requirements. These coefficients are positive indicating that as the candidacy requirements were more complex, more candidates ran for office. This is contrary to the hypothesis that fewer candidates would

run. This relationship is unclear. Based on the candidate interviews, when the respondents spoke about the logistics of running they seemed to indicate that it was difficult, they were hesitant to run, or unwilling to put themselves through the process. It was only if the opportunity arose or life circumstances made it possible that candidates voiced a desire to run again. There was no sense that the candidates were eager to run again. This lack of enthusiasm was pointed at the process and it is this process that gives a hint of possibly why candidacy requirements were opposite the hypothesized direction. During the interviews, the candidates seemed to equate the process more with the fundraising and campaigning than with the actual candidacy filing. Perhaps they see candidacy filing as easier, whereas the contributions and campaigning were more difficult.

Table 7.3 summarizes the results from Model 2 in the right-hand column. The Candidate Withdrawal Rate (CWR) anticipated increases in the percentage of withdrawals with corresponding increases in the Flesch-Kincaid Grade Reading level of the legislation and the statute word count. The contribution limits results were in the hypothesized direction (an increase) and all were statistically significant. These results show with an increase in the Flesch-Kincaid grade reading level, an average increase in the CWR appear only for the contribution statutes. This is important because one of the main contentions of this dissertation is that contribution statutes may be constraining or difficult to understand for candidates. Combined with supported findings for the CPR in Model 1, the contribution limits may be a factor both in reducing the number of candidates running for office and increasing the number of withdrawals.

Candidacy requirements measured by word count are all statistically significant and in the correct direction, whereas the Flesch-Kincaid results are also statistically significant but in the opposite direction. As discussed earlier, it is possible that this is something that candidates would actually need to understand in order to run for office, so it might be more likely to reflect reality. Candidates would need to understand the basic requirements to run for office and as misunderstanding these may cause candidate disqualification or reputational harm. It is not clear why these two relationships are in the opposite directions. Further research and testing is needed. The campaign finance definition statutes, either measured with the Flesch-Kincaid or the word count, are contrary to hypothesized expectations.

Both of these models add a novel way with which to measure candidate decisions to run for office. By using complexity measured via grade reading level and word count, this study is able to add to the literature on campaign finance and candidate decisions.

Even though the results are not straightforward, there is some support for this dissertation's contention that complexity – as measured by grade reading level and word count- do contribute to candidate decisions. With more research, this picture will become clearer. Clarity on this issue is very important to uphold the goals of campaign finance reform and to democracy in general. One of the goals of campaign finance is to increase participation in the electoral system. Clearly, if the statutes are constraining and difficult to understand this goal might be in jeopardy. It is important that campaign finance statutes remain accessible to those candidates they are intended to help.

CHAPTER 8: CONCLUSION

This dissertation studies the research question whether or not the complexity of campaign finance legislation influences candidates' decisions to run for office. It is hypothesized that complexity will affect candidates' decisions via legislative constraints and misunderstanding of the statutes. To study this question, this dissertation uses a novel way of measuring complexity using plain language tools.

Theoretically, the dissertation uses institutional theory as it applies to candidates and examines two issues. The first issue is whether rules (as a type of institution) might affect candidates by constraining their behavior. The second issue is whether candidates might fail to understand the rules because the rules have become so complicated that the learning required to comply is cumbersome and costly. It is assumed that candidates are boundedly rational and want to obey the campaign finance system. It is also assumed that incumbents might want to impede challengers by making rules constraining.

8.1 Institutional Theory and Complexity

Institutions have rules that modify actors behavior. While there are many conceptions of what rules are, this dissertation focuses on Ostrom's (2007) rules-in-use and rules-in-form. Ostrom's rules description undergirds the theory that rules written by legislators, rules-in-form, might be misunderstood or used by legislators to constrain candidates - rules-in-use. Campaign finance has many rules, such as contribution limits, intended to constrain actors behavior in order to encourage a system in which more citizens want to participate. If potential candidates are subject to contribution

restrictions, this is supposed to level the playing field and encourage more citizens to participate in the system. The ability of legislators to write these laws affords them the ability to create rules that are constraining to potential candidates. This dissertation assumes that legislators will constrain if given the opportunity.

The constraints of learning are defined in terms of transaction costs. The idea that constraints or rules may be adding to the misunderstanding of legislation by candidates is important to understand. In order to study this misunderstanding it is important to define how the misunderstanding may contribute to changing a candidate's behavior. If a candidate fails to understand a part of the campaign finance rules, they must determine how the law works in order to ensure compliance. This learning adds to the transaction costs of running for office. The idea of transaction costs in campaign finance legislation is the increase in time, effort, and learning required ensuring compliance with campaign finance statutes.

8.2 Complexity and Plain Language in Campaign Finance Statutes in NC

It is important to understand if statutes are complex and would require candidate learning in order to comply. Complexity of legislation is tested in this dissertation using a plain language tool. Plain language is writing in such a way so that the user is able to understand and use the information gleaned in a purposeful way. To test whether or not legislation is complex, this dissertation first uses a plain language tool on the NC general statute for campaign contribution limits.

To test for complexity an experiment was run to test respondent's ability to understand NC campaign finance contribution limits. The results indicate that reading statutes written in plain language resulted in a higher comprehension of campaign finance

laws on average compared to individuals who read the current version of the law. This finding is important because candidates, especially first-time candidates, running for office may have difficulty comprehending the statutes. Respondents were also asked *how* they used the statute. The respondents who read the plain language statute found it easier to understand and use based on how many times they referred back to the statute, their rating of how clear it was, and how closely they read the statute.

This ease of understanding and higher comprehension of a plain language statute is an indicator that the original statute may indeed be difficult to understand. This difficulty of understanding is central to this dissertation's research. It is assumed that potential candidates will want to obey the law in a boundedly rational way. They want to comply but may not fully understand the law's requirements if it is complex. This lack of understanding is problematic in two ways. One, the desire to comply with the law presents an opportunity for incumbents to constrain challengers. Two, candidates may have to incur higher transaction costs in order to comply.

The implications of this study are clear. If it is more difficult for the average citizen to understand the campaign finance contribution statutes as they are written today, the statutes themselves may be a deterrent to average citizens running for office. This additional cost is an added burden of running and campaigning that average citizens may find too difficult to pay. If this is the case, one of the original goals of campaign finance reform – the increased participation of more people in the system – is in jeopardy.

8.3 Complexity and candidate decisions – the 50 United States

Plain language tools are also used to measure complexity of campaign finance contribution limits in all 50 states. These statutes are measured using the Flesch-Kincaid

grade reading level and word count. Using the idea that language adds in a transaction cost to candidate learning, this dissertation tests the theory that candidates may not participate in the electoral process or may withdraw because of the difficulty understanding the statutes or the effort required to comply. The main research question of this dissertation is whether the complexity of campaign finance legislation influences candidates' decisions to run for office. If this is the case, fewer candidates should run for office in states that have more complex campaign finance laws, and more candidates should withdraw from running in those same type of states. To determine if there is any effect on candidates' decisions, this paper analyzes two dependent variables created from candidate data. These two variables are the Candidate Participation Rate (CPR) and the Candidate Withdrawal Rate (CWR). It is important to understand the effects of campaign finance legislation on potential candidates. The main independent variables are the campaign finance contribution limits, candidacy requirements, and campaign finance definition statutes for all 50 states. All statutes were run through a plain language online utility to test for the Flesch-Kincaid Grade Reading level and to test for word count. Each of these measures results in a continuous variable that this dissertation uses as a measure of complexity.

The study results are mixed but do indicate some constraining effect of the statutes. Contribution limits appear to reduce the expected number of candidates running for office and increase the number of withdrawals. The relationship between the CPR and CWR and candidacy requirements is mixed and will require further research. As candidates faced the contribution statute requirements some candidates may have chosen not to run or withdrawn when faced with the difficulty of understanding and complying

with the statutes. Other model results were either not significant or not in the hypothesized direction. These relationships indicate that some constraint may be influencing candidates to withdraw from races or not become a candidate at all.

8.4 Study Limitations

Future research must include partisanship variables to measure the strength of party activity in each state. Some parties may provide a lot or a little help to candidates running which could influence their ability to run a successful campaign. On several of the qualitative candidate interviews, this idea is borne out by the candidates citing party organizations as helpful to their campaigns. Other future variables should include public financing variables as this might affect a candidates' decision. Separating the analysis between each legislative house would also be beneficial to a more robust understanding of candidate decisions.

Another limitation of this analysis is the lack of information on potential candidates. Thus far the data are only available for candidates who actually signed up or signup and then withdrew. It is not clear if there are potential candidates who never get to the filing stage who might be deterred by the complexity of the policy.

A third limitation of this study is that complexity of legislation in this study is a static measure. Future studies of complexity should attempt to measure if complexity changes over time. This could be done by focusing on one state or measuring one policy as it changes through time. Complexity studies should also focus on different policies. This is difficult because the data (statutes) are not centrally available. Regardless, it is important to test this theory and these methods on other policies. It is important to

explore the idea of complexity on different types of policies to create a better understanding of what it means for a policy to be complex.

Finally, a measure of population density should be included as a control for this study. It is possible that the population density of the state legislative district may affect candidate decisions. If a candidate resides in a very dense district or state the expected campaign process and structure would be different than a less dense district or state. For example, candidates from New Hampshire with many seats would be a very different process than Wyoming, with few seats. Using a measure of population density would allow testing of this control.

8.5 Study Contributions and Policy Recommendations

Both of these models add a novel way with which to gauge candidate decisions to run for office. Creating a variable to measure the CPR led to the creation of the CWR to determine how many candidates actually register and then withdraw from a race. It is important to understand why someone would register and then withdraw because the goal of campaign finance and the democratic system in general is to have people participate.

The plain language literature generally focuses on end-user understanding. Utilizing plain language to measure complexity is an innovative way to apply the idea of language complexity to policy studies. Complexity studies have generally focused on the number of words or technical issues. It is important that those to whom the policies apply are able to understand and comply with them. This study expands the use of language in policy studies by using both word count and the Flesch-Kincaid grade reading level index to measure how understandable a statute is. Furthermore, the study tests the effect of the statutes on candidates' decisions to run for office.

By using complexity, measured via grade reading level and word count, this study is able to add to the literature on campaign finance and candidate decisions. While contribution limits have been studied as they pertain to candidates, this study introduces the idea of a learning transaction cost to the literature. It also adds to institutional theory (rules) that candidates might be constrained by campaign finance legislation in their desire to comply.

The future of campaign finance regulations should ensure that the inclusion of constraints on candidates is minimized. However this is done, it is important to make sure that candidates are easily able to understand and abide by campaign finance regulations. Some plain language scholars advocate using plain language where it affects the user. Writing statutes in plain language may make candidates' jobs easier and thus might induce more citizens to participate.

8.6 Conclusions

This dissertation contends that the institution of campaign finance in the form of its rules-in-use and rules-in-form constrain candidates and may lead to candidates misunderstanding of the statutes. That constraint flows from statutes (rules) which are complex and add to the cost of learning and effort required for candidates to run for office. Constraint is measured in terms of complexity in this dissertation. In turn, complexity is measured via Flesch-Kincaid grade reading levels and word count variables.

Even though the results are not straightforward, there is support for this dissertation's contention that complexity – as measured by grade reading level and word count- do contribute to candidate decisions on average. With more research, this picture

should become clearer. Clarity on this issue is very important to uphold the goals of campaign finance reform and to democracy in general. One of the goals of campaign finance is to increase participation in the electoral system. Clearly, if the statutes are constraining and difficult to understand this goal might be in jeopardy. It is important that campaign finance statutes remain accessible to those candidates they are intended to help.

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APPENDIX A: PLAIN LANGUAGE SURVEY

This study is being conducted to help determine the level of understanding of campaign finance laws. As a part of the research, we are seeking volunteers to participate in a brief survey on issues surrounding campaign finance laws. On average, completing this survey should only take 15-20 minutes of your time. You will be asked to read a portion of the law and then answer a few questions based on what you read. Your participation is completely voluntary but will help to further research in this important area

Thank you VERY much for your help. If you have any questions or concerns about the study itself, please contact Dr. Martha Kropf at 704-687-2987 or mekropf@uncc.edu. If you have any concerns about the conduct of the study, please contact Cat Runden at CatRunden@uncc.edu or 704-687-3309.

Please answer the following questions on the scantron to the best of your ability.

As you answer these questions:

- Remember that this is NOT a test. You may refer back to the reading.
- Assume you are a candidate running for a state-level office in North Carolina.
- Keep in mind that state and federal campaign finance laws are separate.

1. How much money in campaign contributions can a candidate accept from one person, political committee or other entity?

- a. \$4500
- b. \$2000
- c. \$4000
- d. \$5000
- e. Don't know

2. You are a candidate running for office. You accept a contribution from an individual that you plan on paying back. How long do you have to pay it back?

- a. 45 days
- b. 15 days
- c. 4-5 days
- d. 7 days
- e. Don't know

3. If you are a candidate running for office, can you or your spouse make a loan to your campaign?

- a. Yes
- b. No
- c. Don't know

4. Which of the following family members are NOT allowed to make unlimited contributions to your campaign?

- a. Child
- b. Brother
- c. Spouse
- d. Uncle
- e. Don't know

5. If you are running for judge in North Carolina, do the same limitations apply to you as would apply to candidates for other office?

- a. Yes

- b. No
 - c. Don't know
6. As a candidate, can you use your own money to contribute to your campaign?
- a. Yes, but with a \$1000 limit.
 - b. No, you may not use your own money to contribute.
 - c. Yes, candidates may make contributions to their own campaigns.
 - d. No contributions are allowed, but you can make a loan to your campaign.
 - e. Don't know
7. The North Carolina Voter-Owned Elections Act says that you (a candidate) may not accept contributions to your campaign for a period of _____ days prior to the election.
- a. 22
 - b. 30
 - c. 45
 - d. 21
 - e. Don't know
8. Not including the exceptions listed in this law, what is the maximum amount any person, political committee or other entity may contribute to your campaign?
- a. \$4500
 - b. \$2000
 - c. \$4000
 - d. \$5000
 - e. Don't know
9. How closely do you feel you read the reading?
- a. Very closely
 - b. Somewhat closely
 - c. Not very closely
 - d. I didn't read the reading.
10. How clear did you think the readings were?²⁹
- a. Very clear
 - b. Somewhat clear
 - c. Somewhat unclear
 - d. Very unclear
 - e. Neither clear nor unclear

Now I just have a few questions that will help me compare your responses to those of your fellow students.

11. Have you ever considered running for political office?
- a. Yes
 - b. No
 - c. Unsure

²⁹ This variable was recoded to Very Clear, Somewhat Clear, Neither, Somewhat unclear, Very unclear.

12. Have you ever worked on a candidate's political campaign?
 - a. Yes
 - b. No
 - c. Don't know.
13. Has anyone in your current or former household ever run for public office?
 - a. Yes
 - b. No
 - c. I don't know
14. Is anyone in your immediate family a lawyer?
 - a. Yes
 - b. No
 - c. I don't know
15. While answering this questionnaire, about how many times did you refer back to the reading?
 - a. Less than 1 times
 - b. 1-3 times
 - c. 4-6 times
 - d. 7-9 times
 - e. More than 9 times
16. What is your current age?
 - a. 18-21
 - b. 22-25
 - c. 26-30
 - d. 31-40
 - e. Over 40
17. What is your current class standing?
 - a. Freshman
 - b. Sophomore
 - c. Junior
 - d. Senior
 - e. Don't know
18. What is your gender?
 - a. Female
 - b. Male
19. Do you consider yourself to be Hispanic or Latino?
 - a. No
 - b. Yes
 - c. Not applicable
20. What race or ethnicity do you consider yourself?
 - a. White
 - b. Black

- c. Asian/Pacific Islander
 - d. Native American
 - e. Other (Please provide) _____
21. What is your marital status?
- a. Married or living with someone.
 - b. Single (never married)
 - c. Divorced/Separated
 - d. Widowed
 - e. Other
22. What is the highest level of education anyone in your immediate family (parents and siblings) has completed?
- a. Some High School, High School Diploma, or GED
 - b. Some College or 2-year Associate Degree
 - c. 4 year BA/BS undergraduate degree
 - d. Master's or Ph.D. degree
 - e. Don't know
23. On the bottom of the reading it says "this is reading ____" . Put the letter of the reading on the scantron.
- a. A ³⁰
 - b. B

³⁰ A refers to the original statute; B is the plain language version.

APPENDIX B: THE STATUTES

B.1 The Original Version of the Contribution Statute

163-278.13. Limitation on contributions.

(a) No individual, political committee, or other entity shall contribute to any candidate or other political committee any money or make any other contribution in any election in excess of four thousand dollars (\$4,000) for that election.

(b) No candidate or political committee shall accept or solicit any contribution from any individual, other political committee, or other entity of any money or any other contribution in any election in excess of four thousand dollars (\$4,000) for that election.

(c) Notwithstanding the provisions of subsections (a) and (b) of this section, it shall be lawful for a candidate or a candidate's spouse, parents, brothers and sisters to make a contribution to the candidate or to the candidate's treasurer of any amount of money or to make any other contribution in any election in excess of four thousand dollars (\$4,000) for that election.

(d) For the purposes of this section, the term "an election" means any primary, second primary, or general election in which the candidate or political committee may be involved, without regard to whether the candidate is opposed or unopposed in the election, except that where a candidate is not on the ballot in a second primary, that second primary is not "an election" with respect to that candidate.

(d1) Notwithstanding subsections (a) and (b) of this section, a candidate or political committee may accept a contribution knowing that the contribution is to be reimbursed to the entity making the contribution and knowing the candidate or political committee has funds sufficient to reimburse the entity making the contribution if all of the following conditions are met:

(1) The entity submits sufficient information of the contribution to the candidate or political committee for reimbursement within 45 days of the contribution.

(2) The candidate or political committee makes a reimbursement to the entity making the contribution within seven days of submission of sufficient information.

(3) The candidate or political committee indicates on its report under G.S. 163-278.11 that the good, service, or other item resulting in the reimbursement is an expenditure of the candidate or political committee, and notes if the contribution was by credit card.

(4) The contribution does not exceed one thousand dollars (\$1,000.00).

(d2) Any contribution, or portion thereof, made under subsection (d1) of this section that is not submitted for reimbursement in accordance with subsection (d1) of this section shall be treated as a contribution for purposes of this section. Any contribution, or portion thereof, made under subsection (d1) of this section that is not reimbursed in accordance with subsection (d1) of this section shall be treated as a contribution for purposes of this section.

(e) Except as provided in subsections (e2), (e3), and (e4) of this section, this section shall not apply to any national, State, district or county executive committee of any political party. For the purposes of this section only, the term "political party" means only those political parties officially recognized under G.S. 163-96.

(e1) No referendum committee which received any contribution from a corporation, labor union, insurance company, business entity, or professional association may make any contribution to another referendum committee, to a candidate or to a political committee.

(e2) In order to make meaningful the provisions of Article 22D of this Chapter, the following provisions shall apply with respect to candidates for justice of the Supreme Court and judge of the Court of Appeals:

(1) No candidate shall accept, and no contributor shall make to that candidate, a contribution in any election exceeding one thousand dollars (\$1,000) except as provided for elsewhere in this subsection.

(2) A candidate may accept, and a family contributor may make to that candidate, a contribution not exceeding two thousand dollars (\$2,000) in an election if the contributor is that candidate's parent, child, brother, or sister.

(3) Repealed by Session Laws 2008-150, s. 7(a), effective August 2, 2008.

As used in this subsection, "candidate" is also a political committee authorized by the candidate for that candidate's election. Nothing in this subsection shall prohibit a candidate or the spouse of that candidate from making a contribution or loan secured entirely by that individual's assets to that candidate's own campaign.

(e3) Notwithstanding the provisions of subsections (a) and (b) of this section, no candidate for superior court judge or district court judge shall accept, and no contributor shall make to that candidate, a contribution in any election exceeding one thousand dollars (\$1,000), except as provided in subsection (c) of this section. As used in this subsection, "candidate" is also a political committee authorized by the candidate for that candidate's election. Nothing in this subsection shall prohibit a candidate or the spouse of that candidate from making a contribution or loan secured entirely by that individual's assets to that candidate's own campaign.

(e4) In order to make meaningful the provisions of the North Carolina Voter-Owned Elections Act, as set forth in Article 22J of this Chapter, no candidate for an office subject to that Article shall accept, and no contributor shall make to that candidate, a contribution during the period beginning 21 days before the day of the general election and ending the day after the general election if that contribution causes the candidate to exceed the "trigger for matching funds" defined in G.S. 163-278.96(17). As used in this subsection, the term "candidate" also includes "candidate campaign committee" as defined in G.S. 163-278.38Z(3). Nothing in this subsection shall prohibit a candidate from making a contribution or loan secured entirely by that candidate's assets to that candidate's own campaign or to a political committee, the principal purpose of which is to support that candidate's campaign. This subsection applies with respect to a candidate only if both of the following statements are true regarding that candidate:

(1) That candidate is opposed in the general election by a certified candidate as defined in Article 22J of this Chapter.

(2) That certified candidate has not received the maximum matching funds available under G.S. 163-278.99B(c).

The recipient of a contribution that apparently violates this subsection has three days to return the contribution or file a detailed statement with the State Board of Elections explaining why the contribution does not violate this subsection.

(e5) The contribution limits of subsections (a) and (b) of this section do not apply to contributions made to an independent expenditure political committee. For purposes of this section, an "independent expenditure political committee" is a political committee whose treasurer makes and abides by a certification to the State Board of Elections that the political committee does not and will not make contributions, directly or indirectly, to candidates or to political committees that make contributions to candidates. The State Board of Elections shall provide forms for implementation of this subsection. This subsection shall not apply to a candidate or a political committee controlled by a candidate. The exception of this subsection is in addition to any other exception provided by law.

(f) Any individual, candidate, political committee, referendum committee, or other entity that violates the provisions of this section is guilty of a Class 2 misdemeanor.

B.2 The Plain Language Version of the Contribution Statute

163-278.13 Contribution Limits for Candidates

(a) No one (any individual, any type of political committee, or any other entity) may contribute more than four thousand (\$4000) dollars for your election campaign.

(b) You may not accept more than four thousand dollars (\$4000) from anyone (any individual, any type of political committee, or any other entity) for your election campaign.

(c) Exceptions to (a) and (b):

1. You, your spouse, your parents, and your brothers and sisters may make and you may accept more than four thousand dollars (\$4000) for your election campaign.

a. For the purposes of this section, “election” means any primary or second primary (sometimes called a runoff) or the general election where your name is on the ballot.

2. You may accept a contribution (from anyone) if you know that your campaign will be reimbursing the donor for the contribution and if you know that your campaign has the funds to do so. In order to do this you must follow these conditions:

(1) Whomever gave the contribution has to inform you about the contribution (for the purpose of reimbursement) within 45 days of the contribution.

(2) Once the contributor gives you this information, you have seven (7) days to reimburse the contributor.

(3) You must put in your report (under G.S. 163-278.11) that the contribution for which you are reimbursing was for campaign spending. You must also note if this was a credit card transaction.

(4) The contribution cannot be more than one thousand dollars (\$1000).

(5) Any contribution under section (d1) that you do not submit for reimbursement or that you do not reimburse is treated like any other contribution.

(d) This section does not apply (except where noted) to any national, state, district, or county executive committee of any political party. For the purposes here, “political party” means only those political parties recognized under G.S. 163-96.

(e) Referendum committees, which received any contributions from a corporation, labor union, insurance company, business entity, or professional association, may not contribute to another referendum committee, to a candidate, or to a political committee.

(e1) If you are a candidate for justice of the Supreme Court and judge of the Court of Appeals the following provisions apply to you:

(1) You may not accept and no one may contribute any contribution of more than one thousand dollars (\$1000). Exceptions to this are below.

(2) You may accept and a family contributor may contribute to you up to two thousand dollars (\$2000) in an election, if the contributor is your parent, child, brother, or sister.

“Candidate” in this subsection also means a political committee authorized by the candidate for your election. No part of this section prevents you or your spouse from making a loan or contribution to your campaign secured by your assets.

(e2) If you are a candidate for superior court judge or district court judge, you may not accept and no one may contribute more than one thousand dollars (\$1000) to your election. The family exceptions in subsection part (c) also apply in this subsection. “Candidate” in this section also means a political committee authorized by you for your election. No part of this section prevents you or your spouse from making a loan or contribution to your campaign secured by your assets.

(e3) The North Carolina Voter-Owned Elections Act uses public funds to finance elections. If you are a candidate subject to this act, you may not accept and no one may contribute to your campaign for a period prior to the general election if that contribution causes you to exceed the “trigger for matching funds” as defined in G.S. 163-278.96 (17). This period begins 21 days before the general election day and ends the day after the general election.

“Candidate” also includes “candidate campaign committee” as defined in G.S. 163-278.96(17). No part of this section prevents you or your spouse from making a loan or contribution to your campaign secured by your assets. This subsection applies to you only if both of the following statements are true:

(1) You are running in an election where you have a certified opponent. A certified opponent is defined in Article 22J of this Chapter.

(2) Your certified opponent has not received the maximum matching funds available under G.S. 163-278.99B(c).

If you violate this provision by receiving a contribution, you have three days to return the contribution or file a detailed statement with the State Board of Elections explaining why the contribution does not violate this subsection.

(e4) An “independent expenditure political committee” (IEPC) is a political committee that does not and will not contribute directly or indirectly to candidates or to political committees that contribute to candidates. The contribution limits in subsection (a) and (b) do not apply to contributions made to independent expenditure political committees. The State Board of Elections will give forms to IEPC’s to implement this subsection. This section does not apply to candidates or a political committee controlled by a candidate.

(f) If you violate the provisions of this section, you are guilty of a Class 2 misdemeanor.

APPENDIX C: ADDITIONAL TABLES AND FIGURES

Figure C.1: Variable Definitions Table

Variables	Conceptual-ization	Operationaliza-tion	Data Source	Variable Type
MAIN INDEPENDENT VARIABLES				
Pre-Bank Contribution Statutes	Complex language can add a transaction cost akin to a learning curve. It might increase the time, effort and learning required to comply with the statute.	These components include the Flesch-Kincaid Grade Reading level which gives us a measure of what US grade level should be able to comprehend the legislation. (Online-Utility.org).	http://www.online-utility.org/english/readability_test_and_improve.jsp	Continuous
Definition Statutes	Because not all states have contribution statutes, definitions were also collected to test them for complexity.	Same components as Pre-Bank contributions were collected.	http://www.online-utility.org/english/readability_test_and_improve.jsp	Continuous
Candidate Filing Statutes	Requirements for candidates to run for office including what they would first encounter as a candidate. Does not include dollar amounts/filing fees etc.	States requirements for candidates to file for office such as the candidate declaration/nomination, oath affidavit, or declaration filing.	http://www.online-utility.org/english/readability_test_and_improve.jsp	Continuous
Flesch Kincaid Grade level :	US Grade Level	Index of US grade level necessary to comprehend the legislation	http://www.online-utility.org/english/readability_test_and_improve.jsp	Continuous
Word Count	Number of words in the statute.		http://www.online-utility.org/english/readability_test_and_improve.jsp	

			mprove.jsp	
CONTROL VARIABLES				
Total Seats	Total number of legislative seats in each state legislature. How many contested seats there are in each election year.	This is the number of seats up for contestation in that state/year. It is not the number of seats in the institution.	www.followthemoney.org	Count
Chamber Type	This designates whether the election was in either the Senate or House chamber for each state legislature	1-Senate, 0-House	www.followthemoney.org	Dichotomous
Per Capita Personal Income by state	Indicates how the economy was faring in a state in the election year. This should be a factor in candidates deciding to run or not.	Continuous numeric value (dollar amount) for each year.	US Dept of Commerce BEA	Continuous
Gross State Product	Indicates how the economy was faring in a state in the election year. This should be a factor in candidates deciding to run or not.	Continuous numeric value (dollar amount) for each year.	US Dept of Commerce BEA	Continuous
Unemployment	The unemployment rate may indicate whether an individual felt positive/negative about the economy and therefore may/may not run for office.	Continuous rate per year	US Bureau of Labor Statistics	Continuous

Legislative Professionalism - Salary	Legislative salary is theorized to incentivize individuals to run if the leg is more professional (higher pay).	Salary base amount (not including per diems or vouchers or other expenses).	NCSL	Continuous
Legislative Professionalism - Number of Staffers	Legislative staffers is theorized to incentivize individuals to run for office if they legislature is more professionalized.	Number of staffers (not for every year.	NCSL	Count
Term Limits		Term Limits Y or N; also Term limits repealed Y or N by year	NCSL	Dichotomous
Strategic Factors - Incumbents	Strategic factors are the rational strategies on which candidates make a decision on whether or not to run.	The Institute considers anyone currently in its database as a state official an incumbent	www.followthemoney.org	Count/Made %
Candidate decisions - survey	In order to investigate other potential factors affecting candidate decisions, need to talk to people who have run or not run for office to determine whether or not anything is missing	Survey 10 individuals. Ask questions based on Williams (2009), Maisel et al. (survey of judges as to why they ran or not.	Qualitative Interviews; Types of questions: http://ces.iga.ucdavis.edu/	
DEPENDENT VARIABLES				
Candidate Withdrawals	The number of candidates who filed to run, but then withdrew from the race.	The number of candidates who filed to run, but then withdrew from the race (not due to death or disqualification which are different	www.followthemoney.org	Count/Made % of total candidates, total seats up for grabs, permanent chamber seats

		categories).		
Total Candidates	Sum of all candidates running	Total number of candidates running in that state's election	www.followthemoney.org	Count/Made % of total seats up for grabs, permanent chamber seats

Table C.1: Tobit Models Compared for Multicollinearity – CPR

Tobit Model Variables Run Separately to check for Multicollinearity				
CPR	Total Seats up for Grabs	Robust St.Errors	Permanent Chamber Seats	Robust St.Errors
Word Count Contribution				
Statutes per 1000 words	-0.0002	0.000	-0.0005	0.000
Word Count Campaign Finance				
Definitions per 1000 words	0.0004	0.001 **	0.0004	0.000
Word Count Candidacy				
Requirements per 1000 words	0.0003	0.000	0.0006	0.000 *
Fl-Kincaid Contribution				
Statutes	-0.0002	0.000 **	-0.0002	0.000 **
Fl-Kincaid Campaign finance				
Definitions	-0.0002	0.000 **	-0.0002	0.000 **
Fl-Kincaid Candidacy				
Requirements	0.0003	0.000 **	0.0002	0.000 **
* p<0.05; ** p<0.01				
Robust Standard Errors Clustered by Year				
Tobit Model Variables run together to check for Multicollinearity				
CPR	Total Seats up for Grabs	Robust St.Errors	Permanent Chamber Seats	Robust St.Errors
Word Count Contribution				
Statutes per 1000 words	-0.0002	0.000	-0.0003	0.000
Word Count Campaign Finance				
Definitions per 1000 words	0.0002	0.000 *	-0.0003	0.000 **
Word Count Candidacy				
Requirements per 1000 words	0.0001	0.000	0.0004	0.000
Fl-Kincaid Contribution				
Statutes	-0.0002	0.000 *	-0.0002	0.000 **
Fl-Kincaid Campaign finance				
Definitions	-0.0001	0.000 **	-0.0002	0.000 **
Fl-Kincaid Candidacy				
Requirements	0.0002	0.000 **	0.0002	0.000 **
* p<0.05; ** p<0.01				
Robust Standard Errors Clustered by Year				

Tobit Model Variables Run Separately to check for Multicollinearity						
	Total Candidates	Robust St.Errors	Total Seats	Robust St.Errors	Permanent Chamber Seats	Robust St.Errors
CWR						
Word Count Contribution						
Statutes per 1000 words	-0.002	0.002	-0.006	0.006	-0.008	0.006
Word Count Campaign Finance						
Definitions per 1000 words	-0.005	0.001 **	-0.013	0.003	-0.012	0.003 **
Word Count Candidacy						
Requirements per 1000 words	0.004	0.001 *	0.010	0.004	0.009	0.003 **
FI-Kincaid Contribution Statutes	0.002	0.000 **	0.005	0.001 **	0.004	0.001 **
FI-Kincaid Campaign finance						
Definitions	0.000	0.000	-0.001	0.001	0.000	0.001
FI-Kincaid Candidacy						
Requirements	-0.002	0.001 **	-0.004	0.001 **	-0.004	0.001 **
* p<0.05; ** p<0.01						
Robust Standard Errors Clustered by Year						

Tobit Model Variables Run Together to check for Multicollinearity						
	Total Candidates	Robust St.Errors	Total Seats	Robust St.Errors	Permanent Chamber Seats	Robust St.Errors
CWR						
Word Count Contribution						
Statutes per 1000 words	-0.003	0.002	-0.008	0.006	-0.011	0.006
Word Count Campaign Finance						
Definitions per 1000 words	-0.005	0.001 **	-0.012	0.004 **	-0.011	0.003 **
Word Count Candidacy						
Requirements per 1000 words	0.004	0.002 *	0.011	0.004 *	0.009	0.003 **
FI-Kincaid Contribution Statutes	0.002	0.001 **	0.005	0.002 **	0.004	0.001 **
FI-Kincaid Campaign finance						
Definitions	0.000	0.000	-0.001	0.001	-0.001	0.001
FI-Kincaid Candidacy						
Requirements	-0.002	0.001 **	-0.004	0.001 *	-0.003	0.001 *
* p<0.05; ** p<0.01						
Robust Standard Errors Clustered by Year						

Table C.3: Descriptive Statistics for all variables

Dependent Variables	Observations	Mean	Std.Dev	Min	Max	Median
CPR Total Seats	731	0.02322	0.00566	0.01	0.06771	0.022
CPR Permanent Chamber Seats	768	0.01973	0.00683	0.001	0.06771	0.02
CWR Total Candidates	772	0.0101	0.0199	0	0.13137	0
CWR Total Seats	728	0.02549	0.05099	0	0.34286	0
CWR Permanent Chamber Seats	766	0.02145	0.04539	0	0.34286	0
Independent Variables	Observations	Mean	Std.Dev.	Min	Max	Median
Contribution Number of Words	880	1653.04	1223.73	184	6247	1214
Definitions Number of Words	880	2671.57	1873.39	662	9883	1964
Candidacy Requirement Number of Words	880	2242.01	1242.19	483	5908	2130
Contribution Flesch-Kincaid	880	14.2309	4.99622	6.6	31.8	12.92
Definitions Flesch-Kincaid	880	16.5689	6.48891	5.02	36.15	15.06
Candidacy Requirement Flesch-Kincaid	880	11.0387	4.9222	5.37	30.22	9.8
Gross State Product	785	246146	300176	14689	2003479	159203
Per Capita Income	880	33414.5	7985.82	18079	59687	32947
Unemployment Rates	880	5.50421	1.94251	2.3	13.8	5.1
Incumbents	834	57.8873	46.3825	0	327	46
Salary	737	25343.2	22977.2	0	116098	16500
Staff	880	554.47	673.594	18	3461	297.25
CPR Total Seats = (Total Cand/Total Seats)/100						
CPR Permanent Chamber Seats = (Total Candidates/Permanent Chamber Seats)/100						
CWR Total Candidates = Withdrawals/Total Candidates						