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# A HISTORICAL ANALYSIS OF PROPERTY REFORM ACT OF 2006

David Pitts

Clemson University, dapitts@laurens56.k12.sc.us

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A HISTORICAL ANALYSIS OF PROPERTY REFORM ACT OF 2006

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A Dissertation  
Presented to  
the Graduate School of  
Clemson University

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In Partial Fulfillment  
of the Requirements for the Degree  
Doctor of Philosophy  
Educational Leadership

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by  
David Arthur Pitts  
May 2010

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Accepted by:  
Dr. Jane Clark Lindle, Committee Chair  
Dr. William Bridges  
Dr. Don Fuhr  
Dr. Robert Knoeppel

## ABSTRACT

The South Carolina Property Tax Reform Bill was signed into law in June 2006 creating a new way of generating money for public education in South Carolina. The Property Tax Reform Act eliminated 100% of the fair market value of 4% owner-occupied property for the purposes of taxation for school operations. Additionally, the Act increased the sales tax by 1% on most goods. Further, the Act limited a local school district's ability to raise additional revenue.

The following qualitative study used historical research design with an emphasis on oral history. The researcher used the wealth neutrality theory for the theoretical basis. The purpose of this study was to describe the 2006 political climate that changed sources of revenue for public education. The study focused on the following overarching question: What were the political influences on the South Carolina General Assembly's 2006 enactment of Act 388, South Carolina Property Tax Reform Bill?

Among the responses to interviews, sixteen participants described their views of the importance and meaning of Act 388 in terms of taxpayer burden or alternately in terms of effects on public schools. The participants were selected from public officials including former and current members of the South Carolina General Assembly, grass-roots taxpayer groups along with business and real estate representatives, media and other public policy observers and analysts. During the 2010 session of the South Carolina Legislature, the study participants responded to a structured interview protocol with three sets of questions and associated follow-up probes.

After a process of field notes and taking memos, the participants' points of view offered insights into six categories of responses associated with the purpose of this study. The six categories included the following: (a) equity for taxpayers, (b) shift in tax burden, (c) adequacy of resources, (d) Act 388 effects on education in South Carolina, (e) local control of schools, and (f) possible changes to Act 388. The practical implications of this study include encouraging policy makers to enact comprehensive tax reform in South Carolina. The ongoing effects of the global recession argue for further research on revenue generation for public schooling.

## DEDICATION

This dissertation is dedicated to my wife, Cynthia Jones Pitts, for the love and encouragement for me to complete this monumental task; to my parents, Jack and Shirley Pitts, for their unending support and life-long advice; and to my children, Anna Claire and Davidson Alexander Pitts who bring joy to our world.

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When I seemed to waver in my studies, Dr. Lindle constantly reminded me of the timeline and deadlines. Even when I thought I could not learn APA style to the extent that she desired, she would always provide the right choice of words for encouragement and determination. For this, I am thankful. She embodies the personal relationship between a teacher and student. Her succinct writing style helped me craft the dissertation in a more professional, logical, common-sense approach.

To Dr. Knoeppel, who thoroughly knows and understands school finance and provided guidance, articles, and posing questions for me to ponder. It is his support through the study that helped me focus on content of school finance in ways I have never thought before. His knowledge of theory and school finance helped me gain a deeper understanding of the roles litigation and legislation play in school finance on a large scale.

To Dr. Don Fuhr, the true compass of leadership. It was Dr. Fuhr who taught me so much about leadership and so much about life. Through our years of study and discussion, it became apparent that throughout our life and job, it is the relationships among people that we come into contact are what really matters.

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To Mr. TEC Dowling, former Superintendent of Newberry County School District. I observed Mr. Dowling make difficult decisions that were the right decisions for the students of Newberry County. Mr. Dowling knew the value of a good education and was willing to make the hard decisions, even in the face of adversity.

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## CHAPTER I

### INTRODUCTION

Many view the 10<sup>th</sup> Amendment of the United States Constitution as license and obligation for each of the states to support and develop public education. In South Carolina the extent of that obligation remains an ongoing contest in the legislature and the courts (Truitt, 2009), due to the ambiguity of the South Carolina Constitution, which states: “The General Assembly shall provide for the maintenance and support of a system of free public schools open to all children in the State and shall establish, organize and support such other public institutions of learning, as may be desirable” (South Carolina Constitution, Article XI, §3). Implicit in that statement is the support of public schools through civic funding structures.

The method with which South Carolina funds public education is subject to change. “The South Carolina Constitution places very few restrictions on the powers of the South Carolina General Assembly in the general field of public education. It is required to provide for a liberal system of free public schools, but the details are left to its discretion” (*Hildebrand, et al., v. High School District No. 32, et al.*, 138 S.C. 445, 135 S.E. 757 [(1927)] as cited in *Richland County v. Campbell*, 1988, p. 1). New property tax legislation, known as Act 388, signed into law on June 10, 2006, radically changed the funding streams available to public school districts. The Act drastically diminished property tax contributions, radically limited local district revenue generation options, and compelled school districts to take strategic action with their fiscal year 2007 general

operating budgets in order to protect as much revenue as possible for the uncertain future. During 2008, a steep economic decline exacerbated matters and placed school budgets in jeopardy in South Carolina, the rest of the United States as well as globally. The 2006 South Carolina Property Tax Reform Bill, or Act 388, changed the revenues available for public school funding. South Carolina has a long history of legislative discretion in generating revenues for schools as well as a history of state court support for legislative will.

Act 388 eliminated 100% of the fair market value of property taxes for school operations. In exchange, the Act decreased the sales tax on groceries from 5% to 3%, effective October 1, 2006, but increased the sales tax by 1% on everything else with a maximum sales tax cap of \$300 for automobiles. Beginning January 1, 2008, a provision titled the *Homestead Exemption Fund*, was designed to reimburse school districts based on the amount of property taxes that would have been collected had the law not changed (Code of Laws of South Carolina § 11-11-155, (A) – (F)). The legislature scheduled aggregate reimbursements to increase in future years based on the Consumer Price Index (CPI) and the total population of the state increase. Nevertheless, beginning in 2008, a crisis in the U.S. housing markets created a depression that undercut the provisions of Act 388. Although South Carolina's housing market was stronger than many other states', the legacy of Act 388 affected school districts negatively. During the run up to the 2009 session of the South Carolina General Assembly, a campaign to revise or rescind Act 388 was mounted in statewide newspapers and media (Brack, 2006; Dalton, 2008; Galazara, 2008; McNeil, 2006; Sarata, 2008; Slade, 2009). By 2010's session of the South

Carolina Legislature, revenue generation in South Carolina continued to decline. The South Carolina Budget and Control Board sent a letter to superintendents in South Carolina stating the consumer price index (CPI) decreased -0.4% from calendar year 2008 to calendar year 2009 (B. Bowers, personal communication, March 30, 2010). The letter stated CPI portion of the formula for any millage increase for any local education agency represented negative growth for the 2010-2011 school year. School districts faced deep cuts leading to eliminating sports and arts programs, increased class sizes, furloughs, layoffs, and school closings (Hicks, 2010; Petersen, 2010).

### *Problem Statement*

Given a limited existing body of research concerning funding of public education in South Carolina, the purpose of this research was to conduct a historical study to describe the political, business, tax, and educational influences which led to the 2006 enactment of South Carolina's Property Tax Reform Bill, Act 388 as well as the continuing concern over revenues available to South Carolina public schools. This research was conducted using interviews of stakeholders, written sources including newspapers, committee reports, case law arising from the Act, and available personal records of key public agents concerning Act 388's design, its implementation and any ensuing changes. The study extended the body of research regarding school funding in South Carolina and the United States. This research clarifies policy development "by interpreting the past with disciplined detachment and reasoned historical judgment" (McMillan & Schumacher, 2006, p. 424).

### *Conceptual Framework*

The theory of wealth neutrality or equal opportunity was used as the theoretical basis for this study. According to Berne and Stiefel (1984), wealth neutrality specifies “there should not be differences according to characteristics that are considered illegitimate, such as property wealth per pupil, household income, fiscal capacity, or sex. For example, this principle would require that there be no relationship between expenditures, resources, programs, outcomes, and per-pupil wealth or fiscal capacity. This example illustrates one way of implementing fiscal or wealth neutrality where the general fiscal or wealth neutrality concept states that education should not be a function of local wealth” (Berne & Stiefel, 1984, p. 17). Alternatively, it specifies that taxpayers should be taxed at equal rates to fund equal education per child. Wealth neutrality can be viewed in two ways: horizontal equity and vertical equity. Horizontal equity treats equals equally (Berne & Stiefel, 1984). Vertical equity according to Rodriguez (2004) states that students of unequal skills should be treated differently and the schools that serve these students should be responsive to their individual needs. Adequacy of resources ensures resources are present to provide students with an opportunity to achieve at prescribed levels of knowledge and skill (Rice, 2004).

### *Questions*

1. What were the political influences on the SC General Assembly’s 2006 enactment of Act 388, South Carolina Property Tax Reform Bill?

- a. What prompted the General Assembly to alter funding sources for public education in South Carolina?
  - b. Was there external pressure on the General Assembly to eliminate property taxes on homeowner occupied homes? If so, from whom?
  - c. Did the General Assembly consider the implications of the Act on the business community? If so, how?
2. Given the economic conditions of 2010, what are participants' current reflections on Act 388?

### *Design and Methods*

The design of this study is a form of qualitative research (Creswell, 2006). Specifically this study used the methods of historical research. The dominant method was oral history through the use of structured interviews (McMillan & Schumacher, 2006). These oral histories were triangulated with primary and secondary sources, such as newspaper accounts, personal and public records of the time. The sources were used to triangulate the oral histories to describe a policy's development and impact. Examples of documents that were analyzed and coded include the following: South Carolina legislation, case law, newspapers, journals, magazines, books, personal records, participants' oral history of the event, and notes from key personnel in the South Carolina State Department of Education and other stakeholders.



### *Limitations of the Study*

Primary sources used in this study included artifacts and oral histories from participants, which can be affected by time lapse of four years since the legislation was passed, and current events. Finally, the researcher's personal bias includes an experiential knowledge base since the researcher is an assistant superintendent in a South Carolina school district. Further, the researcher acknowledges his knowledge of school business finance in South Carolina, business management skills, and his support of public education, which can sway both the rapport with the key participants as well as the interpretation of other data sources. These limitations are inherent to the research design selected for this project. Chapter 3 includes steps taken to address the limitations and ameliorate their effects on the study.

### *Definition of Terms*

1. Assessed valuation – the taxable portion of the real value placed on real estate or other property by the government; the appraised value multiplied by the assessment ratio equals the assessed valuation of a property. This definition is pertinent to this study as it determines the amount of valuation of a piece of property to which to levy taxes against (Anderson, 2005).
2. Budget – a school district's spending plan based on proposed revenues and expenses; including operations, capital outlay, debt service, and other special funds. This is pertinent to the study since Act 388 removed property taxes for

- revenue for school operations which is the amount of money from the state level to fund the day to day operations of a local school district (Anderson, 2005).
3. Debt Service – a fund or the amount of money required to pay interest and principal on outstanding debt. Act 388 excluded the amount of debt service a local school district voters’ could approve through a referendum (Anderson, 2005).
  4. Education Finance Act (1977, amended 2004) – South Carolina state law that considers a district’s relative wealth in the distribution of state funds. This is how the state determined the amount of state money would go to a local school district both prior to and since the passage of Act 388 (Anderson, 2005).
  5. Elasticity of tax – the degree to which tax revenues fluctuate with changes in personal income. This study examines the revenue generation for schools. Act 388 instituted a sales tax and the study examined the elasticity of such a tax versus a property tax, a much more stable tax (Odden & Picus, 2008).
  6. Equity – fair distribution of goods, services, and burdens (Rice, 2004). This study examines equity from a legal perspective and taxpayer perspective.
  7. Fair market value - the amount of money that a piece of real property would be expected to bring on the market at a given point in time. This is pertinent to this study since Act 388 established the Point of Sale, or fair market value, based on the most current sales data on a piece of property during a transfer of interest, or real estate sale.

8. Fiscal Neutrality - a court-defined standard in school finance that is frequently referred to as the Serrano Criterion from the U.S. Supreme Court. This concept means that the education resources provided a child should not be a function of the wealth of the school district in which he or she lives. This is the theoretical perspective for which this study was based. The literature review examines fiscal neutrality through litigation at the state and national level and the three waves of school finance (Guthrie, Rolle, Springer, & Houck, 2007).
9. Fundamental right – right that is either explicitly or implicitly guaranteed by the United States Constitution. This is addressed in the study in Chapter 2 literature review in examining education as a fundamental right and how the courts addressed this right (Burrup, P., Brimley, V., & Garfield, R., 1996).
10. General fund – money allocated for all activities for school operations during a fiscal year. Act 388 eliminated tax revenue from 4% owner-occupied property for school operations which is the general fund of budgets of local school districts (Anderson, 2005).
11. Homestead exemption – a provision in South Carolina state law that exempts the first \$20,000 in appraised value of owner-occupied property of residents sixty-five and older. This is pertinent to the study since the homestead exemption fund was designed to reimburse school districts based on the amount of property taxes that would have been collected had the law not changed (Anderson, 2005).

12. Horizontal equity – a tax that treats equals equally; implies only equal dollars spent per student. This study examines horizontal equity from a legal perspective, taxpayer perspective, and student resource perspective (Odden & Picus, 2008).
13. Index of taxpaying ability – assessed value of property within a school district divided by the overall state’s value of property. This is pertinent to this study since Act 388 removed 4% property in the equation to determine the Index of Taxpaying ability (Anderson, 2005).
14. Levy tax – refers to property taxes and the unit of taxation known as a “mill” for millage. This is pertinent to the study since Act 388 removed millage for school operations (Anderson, 2005).
15. Millage rate - refers to a calculated tax rate expressed as mills per dollar of assessed property value. This is included in the study because the literature review school districts whose millage rate is higher and lower as compared to other school districts (Anderson, 2005).
16. Property tax rollback – a process approved in 1995 in South Carolina that uses the method employed for homestead exemptions to exempt from school taxes the first \$100,000 in appraised value for owner-occupied houses; the state pays the local school district the tax revenue which would have been collected if the exemption were not in place (Anderson, 2005).
17. Progressive tax – a tax burden that the percentage of the total taxable income required increases as the taxable income becomes higher. This is included in the study in the research of the types of taxes. This is included in the study in the

- discussion of the sales tax as a regressive tax, as opposed to the property tax as a progressive tax (Odden & Picus, 2008).
18. Proportional tax – a tax burden that requires the same percentage of each person’s total taxable income, regardless of income size, to be paid in taxes. This is included in the study in the research of the types of taxes. This is included in the study in the research of the types of taxes (Odden & Picus, 2008).
  19. Referendum – a public vote on a particular issue, usually a request to increase taxes for the specific building or other capital needs of a school district. This is included since Act 388 excluded debt service, which is usually passed by a local referendum (Anderson, 2005).
  20. Regressive tax – a tax burden that decreases as taxable income increases. This is included in the study in the discussion of the sales tax as a regressive tax, as opposed to the property tax as a progressive tax (Odden & Picus, 2008).
  21. Tax base – entity to which the tax rate is applied. This study examines the tax base in terms of property taxes and sales taxes in South Carolina (Odden & Picus, 2008).
  22. Tax rate – rate of taxation. This study examines the tax rate on the assessment of property valuation prior to and following Act 388 passage (Odden & Picus, 2008).
  23. Vertical equity – a tax that treats unequals unequally; implies treating children with physical or mental handicaps or other unequally characteristics will spend more dollars than the regular education student. This study examines vertical equity in terms of resources for students (Odden & Picus, 2008).

24. Weighted Pupil Units (WPU) - the method of adjusting school membership figures to reflect the assumed cost differences of providing educational services to certain classifications of pupils. This study uses WPU in terms of funding the foundation program (Anderson, 2005).
25. Yield – amount of revenues raised;  $\text{Tax Yield} = \text{Tax Rate} \times \text{Tax Base}$ . Yield of tax – the ability of a tax to generate revenue; the more broadly based tax, the greater its potential yield (Odden & Picus, 2008).

### *Significance of the Study*

To date, scant published evidence documents what occurred during the enactment of the 2006 South Carolina Reform Bill Act 388's removal of property tax from schooling revenues. Strong opinions have surfaced concerning the legislature's wisdom and the need for revisiting the legislation in the intervening years. Furthermore, the current economic situation starting in 2008 and continuing through the current writing provided a prime opportunity for gathering oral histories and obtaining insights into this policy's development and impact.

### *Organization of the Study*

The remainder of the study is divided into four subsequent chapters. Chapter 2 provides a review of literature concerning the theory supporting the study and an overview of principles concerning school financing and revenue sources. Chapter 3

describes the study's methods and procedures. Chapter 4 supplies analysis and results of the study. Chapter 5 offers conclusions and implications for this study.

## CHAPTER TWO

### REVIEW OF THE LITERATURE

#### *Introduction*

The purpose of this study was to examine the factors that led to the passage of Act 388 in South Carolina, a law that promoted property tax relief for homeowners and replaced such school revenues with a sales tax. This was a historical study that traced the political forces in place prior to the enactment of the law. The study describes the political, business, tax, and educational influences which led to the 2006 enactment of South Carolina's Property Tax Reform Bill, Act 388, as well as the continuing concern over revenues available to South Carolina public schools. This research was conducted using interviews of stakeholders, written sources including newspapers, committee reports, case law arising from the Act, and available personal records of key public agents concerning Act 388's 2006 design, its implementation and any ensuing changes. The study examined perceptions of key political stakeholders concerning a shift in tax burden from property taxes to sales taxes post Act 388. The study extended the body of research regarding school funding in South Carolina and the United States.

The South Carolina Property Tax Reform Bill, Act 388 of 2006, changed the way funds are raised for schools in South Carolina. The Property Tax Reform Bill (also referred to as Act 388 throughout this dissertation) eliminated 100% of the fair market value of property taxes for school operations, not debt service. Act 388 decreased the sales tax on groceries from 5% to 3%. The new legislation increased sales tax by 1% on everything, except accommodations, groceries, and some specific items with a maximum



sales tax cap. The purpose of this study was to describe the development of the legislation and subsequent effects on school revenue generation in South Carolina since 2006 from the perspectives of those involved and affected by the bill. This historical research utilized oral histories from legislators and stakeholders, triangulated with documents including newspapers, committee reports, case law, personal records, existing literature, and interviews.

The theoretical concepts of wealth neutrality provided the framework for the following questions in this study:

1. What were the political influences on the South Carolina General Assembly's 2006 enactment of Act 388, South Carolina Property Tax Reform Bill?
  - A. What prompted the General Assembly to alter funding sources for public education in South Carolina?
  - B. Was there external pressure on the General Assembly to eliminate property taxes on homeowner occupied homes? If so, from whom?
  - C. Did the General Assembly consider the implications of the Act on the business community? If so, how?
2. Given the economic conditions of 2010, what are the participants' current reflections on Act 388?

To develop the relevant concepts for the theoretical framework, the researcher used databases from Clemson University Libraries' catalogues including *Dissertations and Theses*, *Education Research Complete*, *LexisNexis*, and *ERIC*. Search terms included the following: school financial theory, school finance, school finance litigation,

wealth neutrality, adequacy, equity, foundation program, standards, state standards, public education, school taxes, taxation, taxes, tax burden, tax shift, tax equity, regressive tax, progressive tax, elasticity of tax, fiscal neutrality, school finance reform, and public education. Pertinent literature selected for review included the United States Constitution, state and federal case law, South Carolina legislative reports and media accounts, peer reviewed journal articles, and books on public funding of education.

The remainder of this chapter provides an overview of concepts associated with wealth neutrality, that is, equity and adequacy in school finance, a review of school finance litigation in the United States, generation of revenue through taxation, a summary of wealth neutrality theory, an explanation of local control of public education, standards movement and finance reform, and the resulting erosion of local control, a review of South Carolina school finance, the three waves of school finance and their influence on the South Carolina finance challenges in *Abbeville v. The State of South Carolina* and emerging evidence of the impact of Act 388.

### *Equity and Adequacy in School Finance*

Equity and adequacy often are introduced as two separate concepts; yet, our understanding of the term, *adequacy*, is in large measure the result of an iterative process engaged in by both the judiciary and researchers to define and distill our understanding of the term, *equity*. The development of these related concepts is seen both in the literature and in the three waves of education finance litigation (Thro, 1998). Equity can be defined in many ways. Ladd (2008) stated that equity could be thought of in terms of

inputs and outputs. When measuring equity by the more traditional focus on inputs, an equitable finance system would be measured by what Berne and Stiefel (1984) identified as *horizontal equity*. Under such a system, all students would have access to a similar amount, or packaged resources (Ladd, 2008, p. 404).

The definition of equity in terms of outputs would, according to Ladd (2008), require that schools be provided sufficient resources to achieve similar outcomes. Because schools have different needs, this may require that some schools require more or different resources than others. Differential treatment of unequals is termed vertical equity by Berne and Stiefel (1984). This concept is especially relevant in the current policy context of schooling that requires equitable outcomes for all children. Many scholars have argued that the equality of educational outputs requirement inherent in state and federal education policy is evidence of the social justice goals of education. They see these standards as a measure for the provision of equality of educational opportunity. Roemer (1998) argues that educational achievement should not be permitted to differ due to factors outside of the child's control. As such policy makers must provide additional resources to students or districts to assist these students to reach equity standards.

Some have argued that vertical equity in its ideal may be characterized as adequacy (King, Swanson, & Sweetland, 2003), while Ladd (2008) and Guthrie, Rolle, Springer, and Houck (2007) make the distinction that adequacy is not just about differential treatment, but rather sufficiency of resources. An adequate school finance system provides sufficient resources so that schools provide equal opportunities to learn at high levels for all students – with limited exceptions for students with severe

disabilities (Darling-Hammond & Snyder, 2003; Ladd, 2008; Odden, 2003; Reschovsky & Imazeki, 2001; Verstegen, 2002). The focus is not only on funding but on what dollars buy and whether that allows all children to be citizens and competitors in the job market or academics upon graduation from high school. “The spirit of vertical equity is to make public schools more responsive to the varying needs that students represent” (Rodriguez, 2004, p. 8).

“The principle of adequacy inextricably links goals of equity and efficiency. The tie that binds adequacy to equity is the belief that a state’s educational resources should be fairly allocated across all student groups in all state locales” (Rice, 2004, p. 145). In addition to inputs and outputs, Rice (2004) stated that process is a component of adequacy. The adequacy movement emphasizes a finance system that provides all students with the opportunity to learn “some specified level of knowledge and skills” (Rice, 2004, p. 145). According to Rice, adequacy is consistent with the equity based principle of fiscal neutrality, which states “there should be no relation between the education of children and the property wealth (or other fiscal capacity) that supports the public funding of that education...[and] that taxpayers should be taxed at equal rates to fund equal education per child (generally defined as equal spending per child)” (Rice, 2004, p. 145).

More often than not, discussions of equity frequently are focused on resources and resource distribution. The term may be applied to other areas such as tax policy. Equity is the fair distribution of goods, services, and burdens (Monk, 1990 as cited in Rice, 2004, p. 136). “Tax equity addresses the issue of whether the tax is fair, treating

individuals or businesses equitably” (Odden & Picus, 2008, p. 331). Two primary aspects of tax equity are vertical equity and horizontal equity (Odden & Picus, 2008, p. 331).

Four key questions should be answered in assessing the equity of a state’s school financial structure (Picus, Odden, & Fermanich, 2001). 1) Who is the group for whom school finance should be equitable? Children who attend schools and taxpayers who pay the costs of public education are two groups. Equity is differently interpreted for taxpayers and children. For children, the focus is on equal resources and for taxpayers it is focused on equal incidence of burden; 2) What resource objects or services should be distributed equitably? Revenue, curriculum materials and instructional strategies were among educational resources that were considered for equitable distribution to students, and tax burden is about the rate applied to generating revenues; 3) How does one define equity? What principles were to be used to determine if distribution was equitable? Three equity principles—horizontal equity, vertical equity, and equal opportunity answer these two questions. Horizontal equity treats equals equally; implying equal dollars are spent per student. Vertical equity, however, considers the needs of individual students and therefore distributes unequal resources based on the individual student needs. Equal opportunity identified variables such as property value per-pupil and should not be considered in resource distribution (Picus et al., 2001); 4) What is the statistic used to measure the status of equity? “As Berne and Stiefel (1984) stated, different answers to these four questions

could result in different conclusions about the equity of a system” (Picus et al., 2001). Different statistical indices can illustrate the differences in association and impact of policy requirements and their effects on distribution of revenues or resources.

### *School Finance Litigation in the United States*

Scholars have interpreted the actions of state supreme courts in an attempt to understand the application of wealth neutrality, equity and adequacy. School finance litigation in the United States has been divided into three phases or waves of school finance reform (Reed, 2001a; Roellke, Green, & Zielewski, 2004). The first two phases were based on equity, while the third phase, which focused on adequacy, remains in process across a number of states. The researcher added the review of legal cases because the courts helped define equity and adequacy. As a direct result, judicial actions have frequently impacted the policy-making behavior of state legislatures. Much of this section of the literature review relies heavily on the edited volume, *Modern Education Finance and Policy*, by Guthrie, Rolle, Springer, and Houck (2007).

The origin of education finance litigation begins in the 1960s where the policy environment focused on poverty and its effects on children’s learning and access to schooling. The first wave of school finance reform occurred from 1960 to 1973 and focused on U.S. Constitution’s equal protection clause. Plaintiffs alleged that unequal community property wealth as a source of school funding unfairly disadvantaged children

living in poor neighborhood and rural communities. In short, school funding revenues are limited by community wealth (Guthrie et al., 2007; Roellke et al., 2004).

Two court cases define the first wave of litigation: *Serrano v. Priest* (1971) and *San Antonio v. Rodriguez* (1973). According to Roellke et al. (2004), *Serrano v. Priest* adopted Coons, Clune, and Sugarman's concept of wealth neutrality as an ideal for the school finance system. Guthrie et al. (2007) summarized Justice Sullivan's opinion that "in a democratic society, free public schools shall make available to all children equally the abundant gift of learning," and concluded that "the quality of education may not be a function of wealth other than the wealth of the state as a whole" (Guthrie et al., 2007, p. 92). Guthrie et al. (2007) also note the contribution of the California court, which "initially triggered the strict scrutiny test by finding that the legal challenge dealt with a 'suspect classification' and that education, which is essential in maintaining a democratic citizenry, is a fundamental right. The court maintained that wealth was a suspect class based on Supreme Court equal protection precedents" (Guthrie, 2007, pp. 91-92). The *Serrano* court found that the fiscal policy violated both the state and federal equal protection clauses (Guthrie, 2007, p. 92).

In another case, *San Antonio v. Rodriguez* (1973), a class action suit that included high poverty plaintiffs, who challenged the Texas school finance system because the inequities of local wealth impeded their ability to raise revenue for schools. The plaintiffs cited violations of the U.S. Constitution's equal protection clause of the Fourteenth Amendment. The parents brought suit on behalf of school children throughout Texas who were members of minority groups, or who were poor and resided

in school districts having a low property tax base. The U.S. Supreme Court, in a five to four decision, upheld Texas' funding system of generating revenue based on the majority opinion that local property taxation did not unfairly favor the more affluent school districts (Guthrie et al., 2007). Specifically, the court stated "where wealth was involved, the Equal Protection Clause did not require absolute equality or precisely equal advantages. The Court found that the Texas system did not operate to the peculiar disadvantage of any suspect class" (*San Antonio v. Rodriguez*, 1973, p. 1). In other words, wealth discrimination does not provide an adequate basis for invoking strict scrutiny. This court stated the judiciary should refrain from applying constitutional restraints which essentially ended the equal protection clause of the fourteenth amendment to the U.S. Constitution as a legal basis for suits to state's education finance systems (*San Antonio v. Rodriguez*, 1973). "*Rodriguez* signaled that the federal courts would henceforth be inhospitable venues for school finance equalization cases" (Martin, 2006, p. 529). The court further stated its concern for the role of the state and federal government, and with a minority opinion in *Rodriguez* that noted issues with property taxes as a foundation for school funding. This case foreshadowed challenges in the second and third waves of school finance cases.

The second wave of school finance litigation is characterized by challenges to state constitutions' equal protection education clauses and specific states' constitutional language regarding quality of public schooling, but the focus remained on the equality of revenue available to districts and students' access to opportunities, not necessarily, to achievement (Guthrie et al., 2007; Roellke et al., 2004). For this wave, the litigation



spanned 1973 to 1989 (Roellke et al., 2004). One example of a case from the second wave of state-level constitutional challenges was New Jersey's *Robinson v. Cahill* (1973). The New Jersey state supreme court found that the state's distribution of funds to support public schools was in conflict with its state constitution. The New Jersey court found that the state education clause was violated and then required the legislature to further delineate by their actions of funding what a "thorough and efficient" school system would be "because there were large discrepancies in dollar input per pupil" (Roellke et al., 2004; *Robinson v. Cahill*, 1973). This case demonstrated that the challenges of education finance reform could be based on state equal protection clauses, not federal equal protection clauses (Roellke et al., 2004). Furthermore, the New Jersey example raised the concept of horizontal equity; that is the notion that across given groups, financing should be distributed equitably by levying taxes uniformly on taxpayers in the same class (*Robinson v. Cahill*, 1973).

Wisconsin, Connecticut, New York, Arkansas, and West Virginia had lawsuits challenging financing of public education based on each state's equal protection clauses (Guthrie et al., 2007). The test used by the courts in each of these states depended on the state's view of education as a fundamental right. If the state viewed education as a fundamental right, the courts used the strict scrutiny test. If not, the rational test was used.

In another second wave case, Washington state's supreme court in *Seattle School District v. State* "maintained that sufficient funding must be derived from regular and dependable tax sources" (Guthrie et al., 2007, p. 94). "Special excess levies was

insufficient to fund education as required under § 1 and 2” (*Seattle School District v. State*, 1978). Like most second wave court cases, it was brought on grounds of equitable funding, but unlike most of the others, and of particular relevance to this study, the court made reference specifically to the necessity of a dependable stream of revenues for funding public education.

A case in West Virginia offers a good second-wave example of how courts examined state constitutional language for guidance about the tests or standards to be applied in determining equity of resources. At this point, state courts sought insights from their constitutions to hold policy makers responsible for implementing systemic public education.

In 1979, the West Virginia Supreme Court determined in *Pauley v. Kelly* that the state aid formula did not provide a “thorough and efficient” education and did not provide for the students and parents under equal protection clause of the state constitution and hence education is a fundamental right under the state constitution (*Pauley v. Kelly*, 1973). Further, the West Virginia Supreme Court required the state to develop a plan for distributing funds to ensure equity among personnel, facilities, curriculum, and all related educational services. This case exemplified both parts of the second wave of finance litigation, the focus on equal protection (horizontally) as well as a move to ensure that state legislatures upheld state constitutions regarding educational quality, and pressed future challenges to interpret educational quality as the outputs of schooling, that is, student achievement.

The third wave of education finance reform is defined as claims of state adequacy. The seminal case exemplifying the third wave was *Rose v. Council for Better Education* (1989) in the state of Kentucky (Roellke et al., 2004). Throughout the adequacy movement litigation, plaintiffs argued poor school districts were unable to provide adequate education due to lack of sufficient funds. In considering educational equity and the importance of an adequate public education, the Kentucky Supreme Court opined “the children of the poor and the children of the rich, the children who live in the poorer districts and the children who reside in the rich districts must be given the same access to an adequate education” (*Rose v. Council for Better Education*, 1989, p. 39). In the *Rose* case, the court declared that providing an adequate education a responsibility of the state (*Rose v. Council for Better Education*, 1989). The court declared the state common school finance system was unconstitutional as a result of the state’s failure to provide an efficient education throughout the Commonwealth. “This obligation cannot be shifted to local counties and local school districts” (*Rose v. Council for Better Education*, 1989, p. 5). In its attempt to understand the constitutional obligations for the provision of a system of public schools in Kentucky’s commonwealth, the court relied heavily on a historical analysis of the development of public schools in Kentucky. The *Rose* court substantiated the importance of public schools in Kentucky with this quote by Delegate Moore who said: “Common schools make patriots and men who are willing to stand upon a common land. The boys of the humble mountain home stand equally high with those from the mansions of the city. There are no distinctions in the common schools, but all stand upon one level” (*Rose v. Council for Better Education*, 1989, p. 18).

Equity can be examined not just from the standpoint of revenues, but also who bears the burden to pay for public schools—taxpayer equity. The Kentucky Supreme Court also informs our understanding of this issue when it found that a uniform taxing system be implemented throughout the state since it is the responsibility of the state to adequately fund common schools throughout the Commonwealth, and not the responsibility of localities (*Rose v. Council for Better Education*, 1989).

New Jersey continued to experience challenges in the courtroom dealing with school finance concerning both equity and adequacy. These challenges contributed to our understanding of the emerging concept of educational adequacy. In 2003, the state supreme court heard the case of *Abbott v. Burke*, wherein 29 of the state's poorest urban districts brought suit alleging the state had failed to equalize funding between poor and wealthy school districts. Further, the plaintiff districts alleged the state had not met the needs of the students as required by the *Robinson* case of 1973 (Guthrie et al., 2007). In addressing adequacy of resources, the court ordered that additional monies would be allocated to Abbott districts with poor academic performance to address the inequities between Abbott school districts and non-Abbott school districts—addressing the vertical equity portion of wealth neutrality (*Abbott v. Burke*, 2003).

### *Generation of Revenue through Taxation*

Recognizing that the adequate funding of public education requires a reliance on stable sources of revenue, a brief examination of taxation is offered. Government services require a funding stream, and generally, citizens do not

make freewill donations; they are taxed. A good revenue system is a revenue system based on a mix of taxes and fees. “States that do not use a mix of sales, income and property taxes have a particularly hard time weathering economic downturns” (Ulbrich, & Steirer, 2003, p. 8). School districts are dependent upon a system of taxation for operations. Property taxes are the primary source of revenue generation for school districts (Odden, & Picus, 2008; Ulbrich, & Steirer, 2003). The waves of court litigation for public schools established more principles for these funds than merely generating revenue sources.

According to Burrup, Brimley, and Garfield (1996), “taxes are a function of three variables: (1) the tax base or value of the objects or items to be taxed; (2) the assessment practices being followed or percentage of market value applied to the object being taxed; and (3) the tax levy or rate applied to the assessed value of an object or item to determine the amount of tax obligation” (p. 122).

Appropriate characteristics of a viable tax system should be a goal of taxing authorities. The tax systems should be integrated; not acting in independent vacuums (Burrup et al., 1996). Taxpayers examine their total tax burden as a whole rather than the sum of the parts. Another characteristic of a good tax system requires every person and every business to pay some tax to the government for the good of the public (Wood, Thompson, Picus, & Tharpe, 1995).

Economists state it is preferable to raise substantial revenues at low or modest rates with a large tax base (Odden & Picus, 2008; Schunk, 2007).

Property taxes raise substantial revenue at low or modest rates. Eliminating property taxes “would require either large cuts in governmental services or substantial increases in other tax rates” (Odden & Picus, 2008).

The yield of a revenue source is the amount of revenues a tax produces. The yield is equal to the tax base times the tax rate (Odden & Picus, 2008). “Knowing the revenue-raising or yield potential of a tax (given a defined tax base) is important information for policymakers. Economists argue that it is preferable to be able to raise substantial revenues at low or modest rates (Odden & Picus, 2008, p. 330). Odden and Picus (2008) state the tax yield should provide revenue stability and limit tax elasticity. Stability is defined as the “degree to which the yield rises or falls with national or state economic cycles. Stable tax revenues decrease less in economic downturns but also increase less during economic upturns” (Odden & Picus, 2008, p. 330). Property taxes have historically been a stable tax; that is, the revenue generated from property taxes is relatively the same from year to year.

The elasticity of a tax “measures the degree to which tax revenues maintain its relative position with a change in either the tax base or personal income” (Odden & Picus, 2008, p. 331). “An elasticity of less than one indicates that tax revenues do not keep pace with income growth; an elasticity equal to one indicates that tax revenues grow at the same rate as incomes; and an elasticity greater than one indicates that tax revenues increase faster than income growth”

(Odden & Picus, 2008, p. 331). Income elasticity of at least one is highly desirable for revenue generation for schools.

Tax incidence or tax burden for property can be viewed in four types of property taxes: owner-occupied, residential rental, business and industry, and commercial property (Odden & Picus, 2008, p. 333). Owner-occupied residents bear the tax burden and remit property taxes. However, in South Carolina, Act 388 eliminated 100% of property taxes for school operations for owner-occupied homes. “The tax burden has been shifted, and state revenues are subject to huge swings” (Tax restructuring, 2008, para. 7). The tax burden on other classes of real property has the potential of a shift in tax burden or incidence. Residential rental property owners can shift the burden to individual renters by raising the monthly rental. Tax burden can be shifted for manufacturing and corporations by passing the costs forward to the consumers in the form of higher prices for goods and services or the tax burden could be shifted backward to workers and suppliers in the form of lower wages or negotiated prices for raw materials. Additionally, the tax burden could be shifted to the stockholders in the form of reduced dividends to the stockholders (Odden & Picus, 2008).

### *Theory of Wealth Neutrality*

The theory of wealth neutrality is used as the theoretical basis for this study. Berne and Stiefel defined wealth neutrality as the requirements that education of children should not depend on local property wealth. Also wealth neutrality refers to the fairness

in burdening taxpayers in generating resources for government services, such as public education.

For this study, the overarching theoretical framework relied on four questions raised by Picus, Odden and Fermanich (2001) who suggested that tax burden reflects on equity. Their four questions included the following:

1. Who is the group for whom school finance should be equitable?
2. What resource objects or services should be distributed equitably?
3. How does one define equity?
4. What is the statistic used to measure the status of equity?

For the purposes of this study, the group for whom the finance system should be equitable is the taxpayer. The resource of analysis is tax burden or tax rate as well as revenue generation access for schools. Equity is defined as wealth neutrality both for taxpayers as well as for the adequacy of resources for school funds. This study showed how one state's legislation created a shift in taxes resulted in a loss of the ability for local districts to raise sufficient revenues for the program of public education. The primary focus of the study is the oral histories of key stakeholders in describing their awareness of and the political motivations creating the shift in tax burden as well as shift in funding revenues for public schools.



### *Local Control of Public Education*

School finance is the study of revenue raising and revenue distribution. While agreement exists that governance of education is granted to the states by the tenth amendment to the U.S. Constitution, historically, the provision of public education has been viewed as a local function. Historically, localities were given tax raising authority to raise revenue in support of public education as well as the ability to discern the educational program that would be delivered in each community according to agreed upon needs. As the role of states increased in education governance, states developed new funding mechanisms to ensure the provision of adequate resources to localities in support of public schooling. Over time, states have not only begun to stipulate the amount of resources to be distributed to school districts, they have also increased their role in the development of standards—to include both content taught and accountability measures.

### *Standards Movement and Finance Reform*

The standards movement has brought calls for new thinking in the means by which schools are funded. Because schools are now required to teach specific content standards and to work to bring all children to specific levels of achievement and proficiency, scholars have begun to question education funding formulae that were designed for a different purpose of public education.

Finance systems used today represent financing of education across the United States since the early 20<sup>th</sup> century (Verstegen, 2002). “States have

generally embraced the broad objectives and architecture of standards-based reform, some in response to Title I and IDEA, many on their own” (Goertz, 2001, “Strong signals, weak guidance,” para. 2). The advent of the standards movement reform aimed at teaching all children to high standards and educational accountability (Goertz, 2001). The shift towards fiscal adequacy is grounded in the context of the standards-based education reform (Odden, 2001). Current school finance models developed during the industrial era are not based on the standards movement in education (Verstegen, 2002).

The standards-based education reform has been the impetus for school finance reform across America according to Odden. The goals and demands of the standards movement combined with the school finance litigation can be attributed to the movement from equity to adequacy in school finance (Odden, 2001). In order to determine an adequate revenue level, decision makers must identify costs of effective programs and strategies (Odden, 2001). Verstegen asserts that school finance models need to be overhauled to reflect this idea of an alignment of resources to student outcomes, as evidenced by this quotation,

School finance systems have not changed appreciably over the last 70 to 80 years to reflect them. Thus, current school finance systems do not need to be repaired, they need to be reinvented for the 21<sup>st</sup> century and information age to support the ‘New Adequacy’ of the quality education for all children (Verstegen, 2002, para. 1).

Verstegen (2002) delineates three recommendations to reinvent, not repair, current school finance models. First, finance policy should be linked to a set of curriculum standards and assessments in order to deliver high quality instruction to all students. More specifically, policy should provide support mechanisms for at-risk students including social, health, welfare, nutrition, and recreation as well as educational needs. Second, finance policy should invest in at-risk children to achieve at high levels of performance. Third, Verstegen suggested that state accountability be built into the system through the development and implementation of funding targets for adequacy and equity that would serve as guides for finance policy. A new federal role is also needed to augment the state-local funding structure by providing incentives to states to equalize resources and provide adequate funding within their borders; as well as provide assistance to poor states and poor urban/rural areas (Verstegen, 2002).

Resource allocation is the way in which school districts make decisions about means and ends. According to Roza (2007), the budgeting process in most school districts is based on policies, behaviors, tradition, and incremental change, and political forces as opposed to budgeting based on the needs of the students and their learning.

To support this notion of resource allocation, the National Working Group on Funding Student Learning issued a report in 2008 entitled “How to Align Education Resources With Student Learning Goals.” In this document, this think-tank group said “states will never educate all students to high standards unless they first fix the finance systems that support America’s schools. These systems dictate how much is spent, who gets what, how resources are used, and which

outcomes are tracked” (National Working Group on Funding Student Learning, 2008, p. 1). Furthermore, this report states that the “finance systems were never designed to support such uniformly high levels of students learning, particularly when the task calls for closing achievement gaps and making the greatest gains with students who have been poorly served” (National Working Group on Funding Student Learning, 2008, p. 1). In fact, the report denounces the educational finance systems stating that these systems actually impede better student achievement results. The authors conclude that the education finance system of today “constitutes a haphazard collection of agendas, components, and practices that miss the connection between resources and learning” (National Working Group on Student Learning, 2008, p. 4).

This same phenomenon is carefully examined in the 2006 Fund the Child report by the Thomas B. Fordham Institute. This report states “the United States must transform its archaic approach to financing public education” (Fund the Child, 2006, p. 1). The report states the current finance structure of funding public education in America “falls woefully short of meeting these challenges” of educating all students to high standards (Fund the Child, 2006, p. 1). Specifically, this study stated the current finance systems were “designed for an age that accepted achievement gaps, that defined *equity* in simplistic ways, that did not have to contend with much student mobility, that assumed just everyone would attend a district-operated neighborhood school, and that entrusted management decisions to ‘central offices’” (Fund the Child, 2006, p. 1). The study states the

“funding systems turns out to be archaic, unjust, and inefficient. Indeed, it can fairly be termed a brake on the forward momentum of both standards-based reform and the deployment of more educational options” (Fund the Child, 2006, p. 1).

Fund the Child (2006) instead, advocates for “funding that truly follows the child means moving a real dollar amount between school budgets as a specific child moves between schools or even districts” (p. 1). This “is a fundamental shift in the philosophy of public education funding. Buildings, programs, and staff positions are not funded—kids are” (Fund the Child, 2006, p. 1).

### *Loss of Local Control*

Maintaining control of schools continues to be a concern for local communities (Martin, 2006; *San Antonio v. Rodriguez*, 1973). However, due to the unequal distribution of funds, much of which is supplemented by local dollars, many states have resorted to the courts for a determination of an equitable amount of funding. The result has been that local control has waned as a result of state courts’ determination that the state, not localities, must enforce constitutional language concerning public schools. The introduction of standards and the implementation of accountability systems have shifted some control of education from the localities to the states. This shift in education policymaking has been the cause of some conflict and scholars have reacted to the perceived loss of local control.

The challenge facing policymakers throughout America is: “How can new mechanisms of centralized authority over resources and quality be meshed with long-standing American political expectations for community responsiveness and locally overseen economic efficiency?” (Guthrie et al., 2007, p. 79). If all school funds become dispersed by states, local school boards may be at risk of erosion of control of local schools (Martin, 2006; Reed, 2001b). Of particular concern is the fact that this loss of local control may have an impact on both decisions to raise funds for public education locally as well as the ability to make decisions about programs and curricula that may be supported by the communities. “What most appears to alarm spokespersons for local interests is that they were left out of the reform policymaking process” (Fuhrman, Clune, & Elmore, 1991, p. 208). “Many felt as though they were appointed to committees and task forces, but they did not feel as though they had any real input or role in shaping the ultimate results for education finance reform” (Fuhrman et al., 1991, p. 208). Court ordered school finance equalization plans have “undermined popular support for schools and ultimately triggered a backlash that crippled public education” (Martin, 2006, p. 526).

Voters who had happily paid heavy taxes to support their local schools were unwilling to pay the same taxes for schools outside of their own communities. When courts mandated equalization, voters responded by demanding laws to limit the property tax levy (Martin, 2006, p. 526).

How does this apply to South Carolina? After the passage of Act 388, the General Assembly determined a base line, and limited the levy authority of school

districts along with cities and counties in South Carolina. According to critics of this court-induced equalization, the judicial policies may have adverse effects: reduction of the well being of the public, waning respect for the judicial system, lack of support for public schools (Martin, 2006).

### *South Carolina School Finance*

The South Carolina Constitution provides that “the General Assembly shall provide for the maintenance and support of a system of free public schools open to all children in the State and shall establish, organize, and support other public institutions of learning, as may be desirable” (South Carolina Constitution Article II, § 3). Funding for the system of public education in South Carolina was established in the Education Finance Act of 1977 (EFA). The EFA is a foundation program that includes a weighting system designed to equitably distribute funds among districts based on local property wealth (Flanigan & Richardson, 1993 as cited in Knoeppel & Wills, 2009). The goals of the EFA were to guarantee each student in the public schools in South Carolina the availability of at least a minimum educational program, appropriate to the needs of each student and substantially equal to that which is available to other students in the state with similar need without regard to geographic location of socioeconomic status. The law required that 70% the cost of the program would be borne by the state with the remaining 30% of funding to be raised locally (Flanigan & Richardson, 1993 and Tetrault & Chandler, 2001 as cited in Knoeppel & Wills, 2009). Each locality is required by law to raise funds according to their taxpaying ability which is determined by

local wealth. According to the law, the state is required to determine a per pupil cost each fiscal year based on revenue projections. The base per pupil cost is then weighted based on grade level, handicapping condition, homebound instruction, and vocational education as a means to provide a degree of vertical equity. This calculation provides a cost of the educational program for each district. Local districts must raise a portion of the total cost of the program in order to be eligible for state matching funds.

A second component of education funding in South Carolina is the Education Improvement Act of 1984 (EIA). While this component of education funding does not have an explicit requirement for local funding, it's worth briefly examining the provisions of the law since the loss of fiscal capacity due to changes in tax policy coupled with the current economic climate has implications for how school districts can use their limited funds. The EIA was an attempt to raise and distribute additional funds for education to improve the quality of the system of public education in South Carolina. EIA raised the state sales tax from 4 to 5% and allocated funds for improved academic standards, the teaching and testing of basic skills, improvements in leadership, management and fiscal efficiency, increases in teacher salaries, the creation of effective partnerships between schools, parents, communities, and businesses, and school construction (Tetrault & Chandler, 2001 as cited in Knoeppel & Wills, 2009).

The ability to raise local funds for education in South Carolina varies. Of the eighty-five school districts in South Carolina, twenty-three have fiscal autonomy, thirty-six school districts have authority to set millage rates within parameters established by statute, referenda, legislative action, or county council action, and twenty-six districts



must call upon the legislative delegation or county governments to establish millage. Fiscally autonomous school districts have the authority to establish a millage rate for the operation of schools. Local funds are used to satisfy the local effort requirements of the EFA, to provide supplements to state and federal funds deemed appropriate by local communities, and to provide school facilities or to offer special initiatives or services with costs beyond the constitutional debt limit.

The concepts of equity, adequacy, wealth neutrality, standards-based reform, and accountability were developed and were implemented by state statute in South Carolina in advance of and in some cases concurrent with the passage of Act 388. The purpose of this study is to discern how legislators understood each of these concepts in their discussions surrounding passage of the Act. Political leadership is about prioritizing concepts in the decision making process. One questions which issues were at the fore front of the legislators' minds when debating this legislation and if there was any discussion about the consequences of focusing on reducing tax burden on owner occupied property.

Koski and Levin (2000), and Odden (2001) assert that an identification of costs of effective programs and strategies is a precursor to an effective school finance model. Today, South Carolina funds schools through a combination of sales, income, property, and auto taxes, excise fees, and licenses. Additionally, schools receive revenues from the federal government.

In *A Historical Analysis of Funding for South Carolina's Public Schools* (Anderson, 2005), the report cites shifts in state funding over the last 50 years. The four

additional revenue taxes include: (a) the additional sales tax imposed in the 1950s, (b) the Education Finance Act, enacted in 1977, (c) the Education Improvement Act of 1984, and (d) the 2006 Property Tax Reform Act. Like many states, South Carolina initially funded schools with property tax revenues (Anderson, 2005).

In 2006, the South Carolina Property Tax Reform Act shifted local property tax burden towards commercial and rental properties by eliminating 100% of property taxes on owner-occupied residencies (Miley, 2005). Commercial and rental property did not receive tax breaks and must bear the burden of property taxes without any homestead exemption, with rental property taxed at 6%. In order to compensate for a loss of tax revenue, the state added an additional one-cent sales tax on most goods, other than food. The higher sales tax rate which represents a regressive tax, added more tax burden onto lower-income households. Schunk (2007), a research economist, stated:

There is no single tax or tax system that is perfect. A common theme in public economics is that a good tax system is characterized by one that relies on broad tax bases taxed at relatively low tax rates. Because larger tax bases can be taxed at lower rates there may be fewer economic distortions. Lower tax rates can work to boost the economic competitiveness of a region. If a movement towards broader tax bases and lower tax rates is considered a move in the right direction, how does the 2006 South Carolina Property Tax Reform Act stack up?" (Schunk, 2007, Broad tax bases, low tax rates, para. 3; In the wrong direction, para. 1).

According to Schunk (2007), Act 388 appears to be a move in the opposite direction.

### *Three Waves of School Finance and Abbeville, SC Case*

In *Abbeville v. State* (2005), forty impoverished public school districts and twenty of their taxpayers sued the State of South Carolina to challenge South Carolina's funding of public education. The challenge proposed by the plaintiffs rested upon interpretation of South Carolina's constitution and a politically conservative judiciary cautious about the separation of powers among the branches of government (Hawthorne, 2005). The General Assembly's response was to request the courts to dismiss the case.

Thus, the decision in *Abbeville v. State* (1999), by the South Carolina State Supreme Court offered a nugget to both sides. In this decision, the court coined the phrase "minimally adequate education". The State Supreme Court used the phrase to infer the requirements of the South Carolina State Constitution which states "the General Assembly shall provide for the maintenance and support of a system of free public schools open to all children in the State." The court determined the Constitution "mandated a minimally adequate system of public schools and detailed certain characteristics of a minimally adequate school system" (Fogle, 2000). This skirmish dismissed the state's attempt to avoid litigation by the court's determination that the legislature needed to provide at least a minimally adequate foundation of funding, processes and procedures.

After this finding, the Third District Court of South Carolina, presided over by Judge Thomas Cooper, heard the Abbeville case in 2004, and then waited until December 2005 to offer a finding (Truitt, 2009). The ultimate ruling was that except for early childhood programs in the poorest regions of the state, the rest of the SC public school system was minimally adequate.

Subsequent analyses of the decision sustained questions about the role of the judiciary in assessing the duty of the legislature to fulfill its constitutional role in public schooling (Durant, 2008; Hawthorne, 2005). As a result, a political movement arose in 2005 to change the SC Constitution, and also both sides of the case appealed the lower court's decision to the state supreme court in 2007. The appeals were argued on June, 25, 2008 before the SC Supreme Court and the ruling is still pending (Education Law Center, 2008).

#### *Emerging Impact of Act 388: Winners and Losers*

The ensuing years since the passage of Act 388, *South Carolina Property Tax Relief Act* yielded several consequences. Because the Act is relatively new, there are limitations on the sources of information because studies have yet to be published. Nevertheless, data detailing the impact of this law are both anecdotal and quantifiable. Newspaper accounts provide anecdotal information and strong opinions. Some of the emerging commentary originates with the South Carolina Budget Control Board. One empirical study (Knoepfel & Wills, 2009) cites the stability of the property tax revenue and the instability of the sales tax revenue.

The Act reduced the tax base for collections of revenue for schools by removing owner-occupied homes from the tax rolls for the purpose of raising operational revenue for schools. The Act reduced the amount of real property that could be assessed for tax revenue across the state. Otis Rawl, president of the South Carolina Chamber of Commerce, states “there’s only one sector of the economy left to support schools, and that’s the business community. That gives us great concern” (Slade, 2009, South Carolina paying piper for Act 388 tax cuts, para. 28). In exchange for the reduction of owner-occupied property tax revenue, the General Assembly increased the sales tax on most goods. “Sales taxes on products tend to rise and fall more in line with economic cycles” (Odden & Picus, 2008, p. 331). This has been documented in South Carolina with a declining amount of revenue generated that ultimately leads to a decline in services in many state agencies. According to a 2008 policy analysis of SC taxes , “the elimination of the sales tax on food reduced current and future revenue from the retail sales tax. Revenue from the retail sales tax in fiscal year 2008 was 6.3 percent lower than it was in 2007, a decrease of \$165 million” (Saltzman & Ulbrich, 2008, Current challenges: Revenue, para. 2).

The General Assembly provided sales tax exemptions as well as property tax exemptions. The South Carolina Board of Economic Advisors estimated the state allowed an estimated \$2.7 billion in sales tax exemptions during fiscal year 2008-2009 (South Carolina Board of Economic Advisors, “Sales & use tax exemptions: Fiscal year 2008-2009).

With the passage of Act 388, property assessment procedures changed for all property sold after 2006 in South Carolina is to be assessed at the sales price or market value of the property. The South Carolina General Assembly is reconsidering the point of sale as the basis for taxable assessment; instead, the legislature is considering eliminating the point of sale price as the taxable assessment on the property retroactively to 2006 (Scoppe, 2009). “It is a distinct violation of good taxation theory to use tax laws that have gaping loopholes whereby any citizens can escape paying their share of the tax burden” (Burrup et al., 1996, p. 124).

A state constitutional referendum passed in 2006 required counties to cap tax assessments at 15% on how much a property’s taxable value can increase during a county-wide reassessment, but only applies if the property was not sold (Slade, 2008, 2006 tax reform has some recent buyers seeing red). “That cap—pegged at the rate of population growth plus the rate of inflation—sent city and county officials into a tax-raising panic when they realized what would happen in the future when they needed more money than the cap allowed. Like squirrels preparing for winter, they began hoarding their tax-increase allowance, raising taxes the maximum allowed by the law, whether they need the money right now or not” (Scoppe, 2006, When piecemeal tax policy (inevitably) goes awry, para. 4).

As cities and counties understood Act 388’s tax cap limits on local control, cities and counties unapologetically raised their taxing rates before the Act could take effect. Mayor Bob Coble of Columbia stated, “in today’s world, we have no choice. We can

only raise millage for inflation and population growth. Either you take it or you lose it. We would not be able to catch up” (Scoppe, 2006, When piecemeal tax policy (inevitably) goes awry, para. 5). In Spartanburg County, the *Herald-Journal* reported, “virtually all of the 50 to 60 taxing entities in Spartanburg County have opted to raise their millage rate to the maximum extent allowed by law as a result of the cap” (as cited in Scoppe, 2006, When piecemeal tax policy (inevitably) goes awry, para. 7).

“Critics had pointed to skyrocketing property tax revenue to argue that tax rates were skyrocketing—ignoring the fact that this was largely the result of the wild run-up in home values—and that a tax cap was the only way to keep local governments from raising property tax rates after the Legislature lowered them by trading school property taxes for a higher sales tax. Now they’re claiming that this cap-induced tax-raising spree is proof that the Legislature also needs to cap local government spending. Hogwash. What it proves is that if you tell people they’re about to have their finances limited, they will take action opposite of what you want. What the Legislature needs to do is remove the tax cap, and leave local tax rates to local communities.” (Scoppe, 2006, When piecemeal tax policy (inevitably) goes awry, para. 8-9)

Act 388 established 2006 as the baseline year for future generation of funds for all school districts. “In an attempt to give the poorest counties a financial boost, the law guarantees at least \$2.5 million in sales tax revenue even if a county didn’t lose that much in property taxes” (Sarata, 2008, “Property tax relief,” para. 9). If, however, there is

more than one school district in a particular county, such as Bamberg County, then “there is a downside to that” (Sarata, 2008, “Property tax relief,” para. 11). In this case, Bamberg County did not reap the benefits of the \$2.5 million since there is more than one school district in Bamberg County. Calhoun County, on the other hand, benefited from Act 388. “We fall under the \$2.5 million floor, so we swapped the \$600,000 - \$700,000 we were getting in property taxes in exchange for that, making a windfall for the district of approximately \$1.8 - \$1.9 million” (Sarata, 2008, “Property tax relief,” para. 13). “A bone of contention involves wealthy school districts, such as those in Lexington, Greenville and York counties, and the rural school districts that make up the majority of the state” (Sarata, 2008, “Property tax relief,” para. 15). “Wealthy school districts raised their millage during the last baseline budget year because the law said the state would have to match that amount dollar for dollar in sales tax, which a lot of us predicted would happen” according to Dr. Darrell Johnson, former Superintendent Orangeburg School District Four (Sarata, 2008, “Property tax relief,” para. 18). An article from The State newspaper stated in an editorial by Scoppe, 2008, “it proves that if you tell people they’re about to have their finances limited, they will take action opposite of what you want— sort of like when investors, told the market is about to collapse, start panic-selling, causing the market to collapse” (Scoppe, 2008, “When piecemeal tax policy (inevitably) goes awry,” para. 8).

There are several groups of taxpayers who benefited from Act 388. Homeowners who live in their homes, referred to as 4% property, will not pay taxes for school operations. It is important to note South Carolina residents already received substantial



relief from property tax for school operations on the first \$100,000 of a taxable value. Homeowners who live in expensive homes saved thousands of dollars. “The large tax savings some homeowners will see comes from eliminating the school tax on property worth too much to have qualified for the old version of tax relief. The same homeowner in Charleston who will get a 17 percent tax cut on the first \$100,000 of his home’s value will get a 49 percent tax cut on property value above \$100,000” after the implementation of Act 388 (Slade, 2007, Tax bill breaks might surprise, para. 14-15). Due to the property reassessment cap, if homeowners continue to live in the same property for years to come will benefit from the tax cap of 15% during any county reassessment. John Rainey, Chairman of the state Board of Economic Advisors for South Carolina, stated “we traded the most unpopular but most stable tax, the property tax, for the least unpopular but most unstable tax, the sales tax” (Slade, 2009, South Carolina paying piper for Act 388 tax cuts, para. 11).

Three sources of revenues fund South Carolina’s governmental services. One source is property taxes, which are generally stable across economic conditions. Another source is income tax which is affected by economic conditions, and the third source, sales tax, is even more sensitive to economic fluctuation. As evidenced by Appendix A, a table by Knoepfel and Wills (2009) illustrated the interactive effects of removing property taxes for funding schools at the same time other elastic taxes, income and sales, also were implemented. These effects account for the budget shortfall in SC across all government services, including education, concurrent with the global recession in 2008.

Some people did not fare as well as others post Act 388. The new sales tax, that replaced the property tax, represents a 20% increase in tax (Slade, 2007, Tax bill breaks might surprise, para. ). The tax rate rose to 6% on every dollar. Tourists and visitors to the state, whose number one industry is tourism, will pay higher sales tax but do not receive the benefit of lower property tax or the elimination of the grocery tax. People who rent their residence will pay higher sales tax but will not receive a tax break on property. Landlords will likely increase the monthly rent to cover the increase in property taxes for investment property that is taxed at 6%. Rental and commercial properties did not receive a tax break through this legislation.

People with homes worth \$100,000 or less were already exempt from school operating taxes. “The large tax savings some homeowners will see comes from eliminating the school tax on property worth too much to have qualified for the old version of tax relief (Slade, 2007, Tax bill breaks might surprise, p. 10). The owner of a \$1 million home will save about \$3,400 on property taxes, but a home worth \$100,000 will save around \$80 (Slade, 2007, Tax bill breaks might surprise). Appendix A illustrates that the SC sales tax has not met the elasticity standard of +1.0 (Knoeppel & Wills, 2009).

Act 388 impacted South Carolinians in different ways. Homeowners of primary residences had their property taxes for school operations eliminated. In order to reap any additional benefits from Act 388, the home had to be valued worth more than \$100,000. A shift occurred in tax burden from owner-occupied

properties to other classes of property such as business property. The sales tax was raised one penny to 6%, except for unprepared food, statewide in exchange for the elimination of school operations taxes; this research provides an analysis of the various political perspectives associated with the theory of wealth neutrality.

### *Summary of the literature*

The literature reviewed and summarized include the United States Constitution, state and federal case law, South Carolina legislative work, peer reviewed journal articles, newspaper articles, and books on public funding of education. This chapter includes the equity and adequacy court cases consisting of the three waves of school finance, school finance litigation, revenue generation through taxation, theoretical underpinnings of wealth neutrality, local control of schools, standards movement and finance reform, loss of local control, three waves of school finance influence on *Abbeville* court case, South Carolina equity lawsuit, effects of Act 388, and a summary of the literature.

## CHAPTER THREE

### DESIGN AND METHODS

#### *Introduction*

The purpose of the study was to conduct historical research of the 2006 South Carolina Property Tax Reform Bill, Act 388, and to describe the political climate during 2006 as well as since then. With Act 388, the funding source for public schools in South Carolina narrowed from a portfolio of sources yielding stable revenue for schools to sales tax, a regressive tax with a market-dependent yield (Knoeppel & Wills, 2009). In addition to the South Carolina General Assembly's move to a more volatile revenue source for school support, during 2008, the United States housing market collapsed with a global impact. South Carolina school funding revenues weakened further from the combination of Act 388's impact as well as the economic conditions nationally and globally. Thus, insights on the issues associated with the enactment of 388 and the ensuing implementation of it in concert with emerging economic decline was warranted. The study relied on oral histories and documentation of implementation and followed Clemson's Institutional Review Board (IRB) protocols for research with human participants. (See Appendix B for IRB study information, consent forms, and approval for conducting the study.)

This chapter includes a description of the design and methods used to conduct this research. The role of the researcher is discussed as part of the description of this study. In particular, we as researchers "don't separate who we are as persons from the research and analysis that we do" (Corbin & Strauss, 2008, p. 11).

This study was guided by two overarching research questions. Subsets of questions were structured to clarify the study's purpose and expand the generation of data as well as potential for understanding the political conditions and ramifications of the Act.

1. What were the political influences on the SC General Assembly's 2006 enactment of Act 388, South Carolina Property Tax Reform Bill?
  - a. What prompted the General Assembly to alter funding source for public education in South Carolina?
  - b. Was there external pressure on the General Assembly to eliminate property taxes on homeowner occupied homes? If so, from whom?
  - c. Did the General Assembly consider the implications of the Act on the -- business community? If so, how?
2. Given the economic conditions of 2010, what are participants' current reflections on Act 388?

#### *Role of the Researcher*

I served as the principal investigator for data collection and analysis. My professional work experience as a district level administrator with a background knowledge of school finance helped during the data collection and investigation processes. Through my work, I had a working knowledge of the school funding model in South Carolina and was able to identify and formulate connections with the policymakers and practitioners; interpret the meaning of information garnered from interviews.

However, my work experience has helped form my own perceptions of the data collection and analysis procedures utilized. I was aware of my personal biases in the beginning and continued throughout the study. I was cautious to ensure objectivity by writing field notes during the interviews. This allowed me to constantly check my own personal biases and how I interpreted the data. During the interview, I continued to perform member checks by restating, summarizing, or paraphrasing the information received from a respondent to ensure what was heard, seen, or written down was accurate. Following data collection, member checking consisted of reporting back preliminary findings to respondents or participants, asking for critical comments on the findings, and incorporating these comments into the findings (Fraenkel & Wallen, 1996). As the researcher, I made a concerted effort to continually monitor my tone, intonation, and leading questions.

### *Design of the Study*

The research design was historical research. Oral history taken from structured interviews was the primary source of data. Participants and subsequent conversations were taped, transcribed, coded, and analyzed. Data were triangulated with supporting documents such as newspapers, committee reports, case law, personal records, and existing literature. Consistent procedures and protocols were applied. Quotes from the interviews were used in the writing of the findings and conclusions that are linked to other supporting documentation and the review of the literature.

### *Data Sources*

“Pure description and quotations are the raw data of qualitative inquiry” (Patton, 1990, p. 31). The primary data sources included oral testimony from individuals who were knowledgeable of the Act 388, Property Tax Reform legislation, and documents including notes and correspondence from key personnel in the South Carolina State Department of Education and other stakeholders, committee reports, state and federal legislation, and books and legislative documents available in the public record of the General Assembly’s 2006 session. Secondary sources included press accounts of the legislation in major newspapers in South Carolina, commentaries from persons knowledgeable about the Act and economics, and personal communication used with permission. Secondary sources were used for the purpose of triangulating the data culled from primary sources where appropriate. “The purpose of the description is to take the reader into the setting. The data do not include judgments about whether what occurred was good or bad, appropriate or inappropriate, or any other interpretive judgments. The data simply describe what occurred” (Patton, 1990, p. 31).

Materials such as transcriptions, journals, and reports were coded by themes derived from the literature for analysis. See Appendix C for the categorical themes set up through the literature review for this study.

### *Instrumentation*

Interview questions (Appendix D) used in the study were developed after extensive reading and study of the review of the literature. The interviews combined with the primary and secondary sources provided detailed data about the passage of the 2006 Property Tax Reform Bill of South Carolina.

The list of focused and necessary questions was developed by the researcher and university professors who were knowledgeable about school finance, methodology, and design. Each question was developed from the relevant literature described in Chapter 2. Appendices C and D demonstrate the connections among the literature, the interview questions, and the a priori categories for analysis.

The researcher sought to conduct “informal, naturally occurring conversations” with interviewees (Patton, 1990, p. 32). A good researcher intermingles interview techniques and observation. “Becoming a skilled observer is essential even if you concentrate primarily on interviewing because every face-to-face interview also involves and requires observation. The skilled interviewer is thus also a skilled observer, able to read nonverbal messages, sensitive to how the interview setting can affect what is said, and carefully attuned to the nuances of the interviewer-interviewee interaction and relationship” (Patton, 1990, p. 32).

The interview questions were pilot tested with a doctoral candidate and middle level principal prior to conducting the interviews. Based on the pilot test, an interview note form (Appendix E) was created to aid in monitoring the interview process to assure accuracy of transcription with an audio-recording.



Each interview conducted used standardized open-ended questions (Appendix D). The questions were provided to each participant in advance of the interview. The formatting of the questions was asked in the exact manner as written (Patton, 1990). The purpose of asking the questions in the same manner each time was to minimize interviewer effects (Patton, 1990). All of the interviews were audio-recorded and transcribed. In addition, the researcher composed post interview notes (Appendix F) as a further aid for analysis.

### *Selection of Participants*

Participants of the study were selected for their degree of political involvement in the development and passage of the South Carolina Property Tax Reform Bill of 2006, 2006 S.C. Acts 3133[originally H. 4449 or Act 388) (codified as S.C. Code Ann. §6-1-320, §11-11-156, §12-36-1110, §12-37-220 (Supp.2006)]. Participants were contacted by the researcher by letter, email, and or telephone. The researcher attempted to interview former and current selected members of the South Carolina General Assembly, State Department of Education, South Carolina Chamber of Commerce, and other people who are knowledgeable of Act 388 and the passage of the law in 2006. Some participants nominated others to participate in this study such as legislative staff, representatives of taxpayer or education organizations, or members of the media. The researcher recruited any nominated others per the saliency of their knowledge and participation in the development and implementation of the 2006 legislation. All participants were 18 years or older and their participation in this study may be considered an extension of their work

as public officials or official stakeholder groups' work. The number of participants was sixteen. Twelve interviews were conducted on the telephone and four interviews were conducted in person.

A cover letter explained the purpose of the study and assured confidentiality of participants if so requested. All participants received a copy of the interview questions (Appendix D) along with the IRB information overview and the informed consent form (Appendix B). All interviewees signed an informed consent statement indicating the participant was informed about the research and that he or she was willing to participate in the study. Each participant had the opportunity to select a pseudonym for his or her name.

### *Data Analysis*

The audiotapes of the interview, interview notes, post-interview notes, and documents provided by participants, along with overall responses of the participants were analyzed using a thematic analysis approach. The researcher conducted transcription of the tapes permitting direct and reiterative interaction with the data (Corbin & Strauss, 2008; Marshall & Rossman, 2006). "The coding of a text's meaning into categories makes it possible to quantify how often specific themes are addressed in a text, and the frequency of themes can then be compared and correlated with other measures" (Kvale & Brinkman, 2009, p. 203). See Appendix F for the analytic themes and forms for recording quotations used in the analysis.

Data were collected from a number of different sources in order to enhance its validity. The researcher attempted to be as objective as possible. However, it is noted “no one can be totally objective, as we all are influenced to some degree by our past experiences” (Frankel & Wallen, 1996, p.463).

The researcher triangulated data throughout the interview, transcription, interpretation, and reflective process. It is best described by this quotation from Hamberg and Johansson’s study: “For this reflexive analysis, we have reread the coded interviews to scrutinize parts featuring tension, contradictions, or conflicting codes—passages that had often been discussed when we were striving to find reasonable and legitimate interpretations. We have also read our memos to recall our instant reactions during, and after, the interviews and our discussions when we compared our coding” (Hamberg & Johansson as cited in Corbin & Strauss, 2008, p.11). To assure that the researcher’s transcriptions were valid reflections of the interviews, the transcripts were submitted to participants for member-checks (Corbin & Strauss, 2008, Kvale & Brinkman, 2009; Marshall & Rossman, 2006).

### *Summary*

This chapter provides a detailed account of the design and methodology of the research. The introduction describes for the reader both the purpose and justification of the study. The questions posed to sixteen participants were listed in this section. Questions developed were essential and necessary to examine the legislation. Participants selected were identified by surname or pseudonym. An explanation was

provided how the interviews were documented and analyzed using codes and themes.

Primary and secondary sources were identified and detailed how the researcher selected and retrieved these data. The results of the study are presented in Chapter 4.

## CHAPTER 4

### DATA COLLECTION AND ANALYSIS

#### *Introduction*

This research study examined the passage of Act 388 in South Carolina. The researcher utilized oral history through the use of structured interviews with selected participants who agreed to participate in the study. The study further documents the passage of Act 388 through supporting documents and media accounts. The significance of capturing these perspectives stems from the degree to which revenues for public schools were affected by Act 388 intentionally and by the consequences of a global recession that coincided with the implementation of the law.

This chapter includes the analysis of data that were collected. Two grand tour questions in addition to subsets of questions were the focus of the research (Corbin & Strauss, 2008). The questions attempted to define the political climate that surrounded the passage of the Act in 2006.

1. What were the political influences on the SC General Assembly's 2006 enactment of Act 388, South Carolina Property Tax Reform Bill?
  - a. What prompted the General Assembly to alter funding source for public education in South Carolina?
  - b. Was there external pressure on the General Assembly to eliminate property taxes on homeowner occupied homes? If so, from whom?
  - c. Did the General Assembly consider the implications of the Act on the business community? If so, how?

2. Given the economic conditions of 2010, what are participants' current reflections on Act 388?

The data collection process included field notes from the researcher, the transcriptions and coding of each interview, and some supporting documents provided by some of the participants. The researcher reached a data saturation point in that the data began to reveal the overall themes again. The researcher utilized member checking for the validity of the transcriptions. The transcriptions and documents provided by the participants were analyzed using a thematic analysis approach starting with a categorical coding list derived from the literature (Appendix C) and ultimately yielding a thematic format (Appendix F). The researcher triangulated data throughout the interview, transcription, member checks, interpretation, and reflective process.

### *Researcher Reflections*

Personal interviews were more difficult as opposed to phone interviews. During the personal interviews, body language and facial expressions had to be self-monitored. During both personal and phone interviews, I was aware of and monitored my voice inflection and tone. During the study since I was the researcher as the instrument in the interview process, two issues emerged regarding my professional role and the rapport with the participants.

First, I made a bona fide attempt to be as neutral and not reveal I was a public school employee to the participants unless they asked. I was aware that my professional role might be an issue with some participants. However, in one interview with two

taxpayers who wanted to be interviewed together, they asked me what I did and I replied I worked for a school district. One of them turned to the other and stated, “He is one of them.” At that point, I felt as though the participants may not have been as open as they normally would have, if I had not been employed with a SC public school district. Yet, those participants felt free to try to recruit me to their cause. They wanted me to help them solicit the General Assembly to disallow the Tax Realignment Commission from re-opening Act 388 for review and possible revision. Upon seeking advice from the principal investigator, I declined by stating the overwhelming tasks required in completing my dissertation.

In the other incident, a state legislator, despite signing a consent to participate, instead declined to participate upon my first question, and then referred me to my state senatorial representative out of senatorial courtesy. I explained the purpose of the study and why I was asking him to participate, but he further declined and again referred me to my state representative.

Despite these two situations, I asked probing questions during the interviews, constantly restating and rephrasing what the participants had said to be confident the message the participant wanted conveyed was properly recorded and documented. Field notes were taken during the interview process. Corbin and Strauss (2008) state that “theoretical ideas will be stimulated by data and it is very appropriate to jot those theoretical ideas [in the form of field notes] down before the researcher forgets them” (Corbin & Strauss, 2008, p. 123).

During the analysis of the data, it became increasingly difficult to objectively analyze the data. It was hard to recognize and compartmentalize the information using the original codes developed (Appendix C). This is the result of the issues overlapping. For example, tax equity and tax burden are linked; local control of schools and taxation are linked; adequacy of resources and tax revenue streams are linked. Themes developed from the initial coding list and then were inserted into forms that lifted participant quotations from the transcripts (Appendix F).

In summary, when I began the data collection process, I knew Act 388 and property tax reform was a hot button in South Carolina. I did not realize how passionate many people were for property tax relief to be permanent, without any plan to balance the tax burden or create a broader revenue portfolio for government services.

### *Participant Demographics*

Participant demographics are presented to describe the participants of the study. There were three specific groups or categories of participants: taxpayers, legislators, and policy analysts who included media, state department officials, economists, and tax experts. Table 4.1 provides an overview of the selected groups representative perspectives associated with Act 388.



Table 4.1

Participant Representation

Group	N
Legislators	6
Taxpayers	4
Business & Real Estate	1
Policy Observer/Analysts	5

Sixteen people were interviewed as a part of this study. Six of these individuals are former or current elected officials; six individuals are policy analysts working as economists, tax experts, employees of state government such as the state department of education, a staffer for the South Carolina General Assembly, and media; four of the individuals were grassroots organizers and representatives of South Carolina taxpayers. Other individuals among these groups were invited to participate in the study but declined. Per the protocols approved by Clemson’s Institutional Review Board (Appendix A), all the participants were offered the opportunity to use pseudonyms or their own names. The majority, but not all, opted to participate in the study with quotes attributed to their own names as most of the participants remain serving in public capacity. They indicated that their stances on these issues already were a matter of public record.

The results are organized by categories in which the political contrasts over Act 388 are clearly illustrated in participants’ responses. These six categories include the

following: (a) equity for taxpayers, (b) shift in tax burden, (c) adequacy of resources, (d) Act 388 effects on education in South Carolina, (e) local control of schools, and (f) possible changes to Act 388. An overarching theme illustrating the overall points of view among the different groups of participants follows the presentation of these categories. Direct quotes from transcripts are cited with participants' surnames (their own or their selected pseudonym) and the date of the interview with the page number of the transcript.

### *Taxpayer Equity*

Act 388 shifted local property tax to non-owner occupied properties by eliminating 100% of property taxes on owner-occupied residences or 4% properties. In exchange for the loss of 4% owner-occupied property coming off of the tax rolls, the state added an additional one-cent sales tax on most goods, other than unprepared food. Part of the research focused on taxpayer equity in regards to Act 388. The researcher sought to answer questions regarding the fairness of property taxes to a cross section of the people of South Carolina.

During the data collection process, the researcher questioned participants regarding the equity to the taxpayers in pre and post Act 388. Two representative quotations reflect the contrasting views among the participants over the issues of taxpayer equity. One of the legislators stated, "the guys that owned the \$10 million-dollar homes along the battery in Charleston, they are the ones that saw the big break. The wealthiest of the wealthy saw the biggest property tax break. The average person in South Carolina did not see much of a property tax break unless their home was valued at more than

\$100,000 then you got a little bit of a break” (Anthony, March 7, 2010, p. 2). In this participant’s view Act 388 protected the more wealthy people, the ones who could afford to pay the taxes, and are the property owners who received more benefits; conversely, the property owners who cannot afford property taxes, were forced a tax increase in the form of higher sales tax.

However, a taxpayer stated, “I remember I stopped at a little house in the country over in Greer; it was probably worth \$15,000 or \$20,000 and there were ten family members out in the yard talking. They asked me who I was and I gave them a flyer and they came over and I said I want to ask you about property taxes. They said Oh man we’re on the edge of Greer and the values are going up and we can’t pay the tax bills. And I said well let me ask you would you rather pay 3 cents extra on sales tax during the year, rather than pay this property tax bill whether it was \$250 at one time, \$500, or \$2,000. Every one of them in that group of that family said we’d just rather pay the sales tax as we go. In some cases, the lower income people do not have to pay those taxes because they get food stamps. They said this was much better for us” (Doe, March 8, 2010, p. 7). Mr. Doe believes the paying of the additional sales tax represents a more fair tax across all spectrums of the socioeconomic strata.

Berne and Stiefel (1984) examined equity from two perspectives—equity for children and equity for taxpayers. Specifically, these scholars stated equity for “these two groups are children, who receive education services, and taxpayers, some of whom receive education services for their children and all of whom pay for education services through taxes” (Berne & Stiefel, 1984, pp. 7-8). This section demonstrates equity from

two perspectives—the perspective of a member of the general assembly who believes the wealthy homeowners could most afford to pay tax liability notices as opposed to the less affluent and from the perspective of a taxpayer who believes spreading the tax burden to all classes of taxpayers in the form of additional sales tax as opposed to property taxes for homeowners is more equitable.

### *Shift in Tax Burden*

Taxpayer burden is best characterized “when the tax system requires individuals with the same ability to pay to bear the same amount of taxes and requires individuals with less ability to pay to relinquish fewer taxes, then the tax system satisfies both horizontal and vertical equity” (Guthrie et al., 2007, p. 131). The most difficult part is to determine one’s ability to pay.

In South Carolina, the tax burden shifted from the 4% properties to other classes of property and in the form of higher sales tax rate. To demonstrate this taxing concept, if a person goes to the store to purchase \$100 worth of goods. The computed tax on the \$100 expenditure at 6% totals \$106. Using this sample, if a person who earns \$30,000 per year must pay \$106 and a person who earns \$100,000 per year must pay \$106 are not the same percentage of disposable income for both consumers. The question that begs itself is, should the homeowner be penalized for paying the \$106 purchase bear the same burden on the \$30,000 income earner as is the \$100,000 income earner? This is illustrated with these two quotations.

One of the participants with extensive state agency work stated “it is easier to answer equity rather than adequacy. There was a lot of discussion about what was fair because there was a shift in the tax burden from appreciating property to non appreciating properties. If I owned my house for 30 years and the house across the street has sold three times, and the guy across the street is paying far more taxes than I am” (Maybank, March 13, 2010, p. 6).

Another policy analyst with the media described the tax burden shift in the following quotation:

For a lot of homeowners, this was a tax increase because the state was already granting tax relief from the school operating taxes on the first \$100,000 of a home's value. I think we were down to an average of around \$87,000. So if your home was taxed at that level or below you already were not paying these taxes so all you got out of the deal was higher sales tax. You had to go up a pretty good ways in the value of your home before you got any benefit out of that portion of it. The other portion of it, the cap, benefited anyone whose house is appreciating more than 15% over five years. At least theoretically, and often realistically, it is going to result in higher taxes for people whose homes are appreciating at less than 15%. It will result in either higher taxes or lower services depending on whether the local government decides to raise the tax rate to make up for the loss in its tax base. If it does raise the tax rate to make up for that loss and everybody pays a higher rate of taxes. The people with

rapidly appreciating property pay it based on a lower amount of value.

The people who get no benefit to pay more money to give benefits to those other folks (Scoppe March 3, 2010, pp. 4-5).

Both quotations listed above are representative comments of the shifting of the tax burden in South Carolina post Act 388. From a burden perspective, the shift of taxes by eliminating the property taxes on owner-occupied properties that were appreciating in value at a rate higher than 15% as compared to owner-occupied properties that were appreciating at a rate less than 15% annually, does not meet horizontal and vertical equity principles. As Guthrie and others stated, the tax system should satisfy both requirements (Guthrie et al., 2007).

### *Adequacy of Resources*

With the passage of Act 388, the elimination of the sales tax on unprepared food reduced current and future revenue from the retail sales tax. Revenue from the retail sales tax in fiscal year 2008 was 6.3 percent lower than it was in 2007, a decrease of \$165 million. Taxing authorities—cities, counties, school boards—have been limited to an increase in millage equal to the CPI plus the statewide population growth. For a larger growing district, this significantly limits the school district’s ability to raise additional revenue to build and fund new schools.

Many taxpayers believe like Mr. Doe that “there is a lot of waste in the schools-- that is our position” (Doe, March 8, 2010, p. 5). However, another participant with a background in economics explained the adequacy of resources for the schools in this

quotation, “And there are school districts that are firing people not because of the economy but because of the funding mechanism. The capacity to raise the revenue is there but the ability to raise revenue is not there because of Act 388” (Miley, March 9, 2010, p. 4).

According to Rice, adequacy is consistent with the equity based principle of fiscal neutrality, which states “there should be no relation between the education of children and the property wealth (or other fiscal capacity) that supports the public funding of that education...[and] that taxpayers should be taxed at equal rates to fund equal education per child (generally defined as equal spending per child)” (Rice, 2004, p. 145). As evidenced by the quotations listed above, there is a stark contrast between the taxpayer and the economist and their view of adequacy of resources. The taxpayer summarily declared that schools have more than adequate resources. The economist, however, noted the school districts are firing teachers as a result of the lack of resources, or revenue, to pay teachers in 2010.

#### *Act 388 Effects on Education in South Carolina*

Act 388 to many people was a tax law and not an education law; others view Act 388 as a tax law that impacted education in South Carolina. One taxpayer stated, “It has nothing to do with education. Absolutely nothing. Part of the rhetoric to sell the idea was the concept to separate the pitting of the homeowner against the local education community” (Jones, March 19, 2010, pp. 3-4). “It was sold that way but it really had nothing to do with education; it was all about taxation. It doesn’t have anything to do

with education. It has nothing to do with education. But government still got the same amount of money plus whatever that CPI of Southeastern states was each year from then on. Beaufort the next year because as a result of point-of-sale assessment got over \$1 million more taxes. And that is just too extreme” (Read, February 25, 2010, pp. 5, 8).

Others disagree with this view. The net effects on education funding are clear. A media editorial writer opined “Act 388 just gave back every district the amount of money it would have already received had property taxes been collected. It needs to be something that is not based on something so unreliable as sales taxes. Since they were dealing with education because school operations taxes were the biggest part of the tax burden, they had to deal with that” (Scoppe, March 16, 2010, p. 7). An economist best characterizes the effects on education with the following quotation: “So you’re just screwed in terms of your operating revenues. That’s hard to come by these days.

Richland school District 1 is losing about \$9 million per year due to the cap. If the cap was not in place on the property, Richland School District 1 would be receiving about \$9 million more per year in school operating revenue. It’s just staggering. Richland School District 1 is not growing so their millage increase might be zero next year. I apologize because I just get so irritated. Personally I don't like to pay property taxes but there are certain things that we have to do to make the world work. One of [Governor] Mark Sanford's efforts was to reduce the size of government and one way to do that was to bankrupt government. I hate to give him credit for anything that he actually intended. But if he did intend this, this is the smartest thing I've ever seen anybody do. To



bankrupt the government, I don't know if it was intended or it was just a byproduct”

(Miley, March 9, 2010, pp. 3-4)

Some school districts gained revenue initially with Act 388 from the floor of \$2.5 million for a county-wide school district; yet many others, especially the fast-growing school districts have lost revenue as a result of Act 388 (Sarata, 2008). The point of sale provision of Act 388 does increase the revenue stream for a school district if the transfer of property results in an increased sales price as opposed to the assessed value of the property on the tax rolls prior to the effective date of sale. This is evidenced by the quotation from a taxpayer indicating a windfall for Beaufort County school district as a result of the point of sale provision—primarily from the high rate of turnover of coastal property in Beaufort County.

### *Local Control of Schools*

Schools in South Carolina continue to face difficult means to raise revenue. Section 6-1-320 of the South Carolina Code of Laws establishes millage caps for local school districts equal to the increase in the average of the twelve monthly consumer price indexes for the most recent twelve months from January through December. The South Carolina Budget and Control Board sent letters to superintendents in South Carolina on March 30, 2010 indicating the CPI decreased -0.4% from calendar year 2008 to calendar year 2009 (B. Bowers, personal communication, March 30, 2010). Therefore, school districts were limited to the millage increase for the 2010-2011 budget cycle unless the population of the local school district’s population increased more than 0.4%. Act 388

limited the local school district's ability to raise additional operating revenue by limiting the ability to raise millage. However, one representative noted "the wild, reckless spending.. reign them in some to get them where... they had no respect for person's home. They thought that a retired person's life savings was their piggy bank. We could no longer afford them to have free access to our savings account" (Bowen, March 7, 2010, p. 5).

Interviewees were asked to respond if they believed Act 388 was a way to eliminate fiscal autonomy for local school districts. One general assembly representative said, "Oh yes, and we took over schools when we did Act 388 in my opinion. That's the only thing that I was really, really, really upset about. I think the locals should be the ones that take care of schools (Anthony, March 7, 2010, pp. 4-5).

Both quotations represent the thought that Act 388 limited local control of schools. From the literature review in Chapter 2, local control of schools continues to be significant for local communities (Martin, 2006; *San Antonio v. Rodriguez*, 1973). Act 388 limited the millage increases for local school districts and ultimately reduced local control.

### *Possible Changes to Act 388*

Will Act 388 change? "There is a possibility. This one [Act 388] will be very, very difficult to reverse. As I have explained to people, I don't know if you have ever seen these – ever gone to an airport and rented a car and you drive out of the place where you rented the car and you drive over that speed bump and it's got spikes in it. That's

kind of where the state is with this thing. If you back up you are going to pop the tires; politically” (Jones, March 19, 2010, p. 7). Ms. Scoppe advocates changes of funding mechanisms for public education stating “the only way we are going to get equitable funding of public schools is to greatly reduce if not eliminate local funding and go to a statewide funding. But it would have to be a statewide funding where the money is distributed on a weighted pupil unit basis which Act 388 did not do” (Scoppe, March 16, 2010, p.7).

Comprehensive tax reform has been requested by many people, including the South Carolina Chamber of Commerce. “When we look at comprehensive tax reform there must be discussions about broadening the base and reducing the rate. All of a sudden, people who you were not paying taxes before should be paying taxes and people that have paid more than their fair share get a reduction. So there are winners and losers whenever you start looking at a comprehensive reform. They must be slow and deliberate not like they were in Act 388. It needs to be a slow, contemplative process (Rawl, March 3, 2010, p. 11) Representative Skelton continued “I think the General Assembly will [change Act 388] because if they don’t those two entities [business and manufacturing] will bear the burden of any increase in property taxes for the operating expenses of schools. I think that might get some consideration in conjunction with the Tax Realignment Commission (Skelton, March 3, 2010, p. 2).

According to economist Schunk (2007), a good tax system is a tax system that has a broad tax base taxed at relatively lower rates. This thought is in direct concert with Mr. Rawl’s quotation. Rep. Skelton’s quotation clearly indicates Act

388 removed part of the tax base from the computation of the tax revenue generating capacity.

### *Point of View*

Act 388 represents tax breaks for owner-occupied residents of South Carolina. “The goal of this legislation was not equitable funding of schools. It was not improving the schools. The goal of this legislation was to reduce property taxes” (Scoppe, March 16<sup>th</sup>, 2010, p. 7). It appears after analyzing the data that it was a bi-partisan effort. One interviewee stated “there seemed to be just strong will on the part of both parties particularly among the leadership of both parties to implement this Act during that legislative year. It seemed to be an agenda item for both parties. It was pretty much destined to happen that year” (Agnew, March 7, 2010, p. 6).

Taxpayers sought Act 388 as a tax relief law. “[Former Rep.] Ronnie Townsend told them 388 has nothing to do with fairness, or educational funding. It has to do with property taxes” (Richardson, March 2, 2010, p. 2). “We have lived on these lands all our lives and now because of what the government is telling us our land is worth, though we have no interest in selling, we don't want to move; we want to stay here and live the rest of our lives but we cannot afford to stay here because of property taxes. We had families who were poverty level that had property tax bills on their properties of like \$7,000 and \$8,000. It was totally out of control. There were no protections for these people whatsoever” (Harvell, March 8, 2010, p. 6).

### *Chapter Summary*

This chapter presents the participant demographics and the category of the participants. Participants agreed to participate in this study. To illustrate the themes and contrasting views on this politically charged topic, this chapter thematically summarized comments from participants. Taxpayer equity and taxpayer burden were examined. Adequacy of resources was reviewed from the revenue funding aspect. This chapter concludes with a review of a comprehensive tax system and the possible changes to Act 388 and the point of view perspectives from the representative groups who participated in the study.

## CHAPTER 5

### DISCUSSION

#### *Introduction*

This chapter provides an overview of the findings of this study and implications for practice and policy along with recommendations for further study. In this study the methods of historical investigation examined stakeholders' perceptions that led to the 2006 passage of South Carolina's Property Tax Reform Bill, also known as Act 388, in South Carolina.

Data were generated from political, business, tax, and educational sources about Act 388. This historical research utilized oral histories from legislators and stakeholders, triangulated with documents including newspapers, committee reports, case law, personal records, existing literature, and interviews. Using wealth neutrality as a theoretical framework and focusing on two aspects of equity (taxpayer burden and educational resource allocation adequacy), this research was guided by the following questions:

1. What were the political influences on the South Carolina General Assembly's 2006 enactment of Act 388, South Carolina Property Tax Reform Bill?
  - A. What prompted the General Assembly to alter funding sources for public education in South Carolina?
  - B. Was there external pressure on the General Assembly to eliminate property taxes on homeowner occupied homes? If so, from whom?
  - C. Did the General Assembly consider the implications of the Act on the business community? If so, how?

2. Given the economic conditions of 2010, what are the participants' current reflections on Act 388?

### *Findings of the Study*

Data were analyzed and themes were presented. Initially during the data analysis phase, codes were developed from the literature. These codes proved difficult for the analysis since they conceptually overlapped or were masked by the interviewee's overall concept of what he or she conveyed. During the continuation of the data analysis, the perspectives of the respondents began to formulate into overall themes that seemed to fit this study more succinctly than the individual codes. The themes that emerged from the data are: taxpayer equity, tax burden, adequacy of resources, Act 388 effects on education in South Carolina, local control of schools, possible changes to Act 388, along with the overall points of view among the participants of the study.

The themes were identified and quotations from different perspectives that best support the particular theme were included in the data presentation in Chapter 4. Taxpayer equity was examined. From the data, the equity among taxpayers as a result of Act 388 benefitted the homeowners whose assessed values were increasing significantly, usually the more wealthy homeowners. The resulting Act 388 eliminated property taxes for owner occupied homeowners. This concept relates to the wealth neutrality principle of equity among taxpayers—specifically horizontal equity. Tax burden was reviewed and the resulting tax shift from the 4% owner-occupied properties to other classes of property, usually referred to as 6% property. The fairness of the tax shift was examined

from the business perspective and the media perspective. It was best characterized by the comment from the media representative that stated the tax shift had a net result of a tax increase for many people in South Carolina.

Among other questions, this study investigated policy stakeholders' perceptions about adequacy of resources for schools and found based on the retail sales tax, there was a decline in revenue statewide and therefore, less and less money was going to fund schools in South Carolina. The taxpayer representatives showed little sympathy to this issue; instead, they complained about waste in government and were very specific about waste in schools.

The effects on education in South Carolina are far-reaching although almost all respondents stated Act 388 was not an education law, and further, it had nothing to do with education; rather it was a tax law. However, a taxpayer representative cited a windfall of additional revenue to Beaufort County because of a high rate of turnover in attractive coastal real estate property which continues to generate property taxes with the point-of-sale provision of Act 388.

Participants generated opinions about local control of schools in consequence to the enactment of Act 388. Act 388 limited school districts from millage raises over the CPI plus the population of the local district. Statewide, however, the CPI had a negative 0.4% which means that school districts could not raise millage for the 2010-2011 year unless their population exceeded a 0.5% growth. Act 388 essentially limited fiscal autonomy for school districts as a result of the inability to raise additional revenue. Taxpayer participants saw this result as intentional and aimed at government waste.



Other stakeholders noted that fiscal restraint was not exercised as localities raced to beat the millage cap deadline and maximize their rates.

The points of view of respondents were presented. As stated previously, Act 388 represented tax breaks for homeowners—wealthy homeowners in South Carolina. Taxpayers sought relief from paying property taxes. While the taxpayers sought taxpayer equity, Act 388 became increasingly more inequitable for all classes of property. In short, wealth neutrality was violated through the Act.

### *Theoretical Implications*

This study examined taxpayer equity, tax burden, adequacy of resources, and the effects on education of Act 388. The dominant theory for this study was derived from the work of Berne and Stiefel (1984). They specified “there should not be differences according to characteristics that are considered illegitimate, such as property wealth per pupil, household income, fiscal capacity, or sex. For example, this principle would require that there be no relationship between expenditures, resources, programs, outcomes, and per-pupil wealth or fiscal capacity. This example illustrates one way of implementing fiscal or wealth neutrality where the general fiscal or wealth neutrality concept states that education should not be a function of local wealth” (Berne, & Stiefel, 1984, p. 17). This study not only explored perceptions about equity issues for taxpayers in South Carolina’s Act 388 (2006), but also equity effects on schools due to the consequences of the law.

The issues of equity effects of revenues for schooling have a dual impact on different stakeholders of public education: taxpayers and students. Picus, Odden, and Fermanich (2001) suggested equity issues affect different stakeholders differently. For the purposes of this study, the researcher examined taxpayer equity and adequacy of resources for schooling. South Carolina's legislation of interest shifted tax burden from one group of taxpayers to others in the form of higher sales tax and non-owner occupied property. This study solicited the points of view from different taxpayer perspectives and found that while the taxpayers agree a shift occurred from property taxes to sales taxes that homeowners were more amiable to paying an increase in sales taxes as opposed to paying a larger tax liability notice which included the amount for school operations. Policy analysts viewed the shift of taxes from owner occupied property taxed at 4% of the assessed value to other classes of property such as manufacturing and industry as well as second homes taxed at 10% or 6%, respectively..

From the data analysis in Chapter 4, the theme concerning the point of view from the participating taxpayers highlighted their lack of concern with adequacy of resources for schools; their grassroots effort focused on a fundamental assumption about waste in government in general and school spending in particular. In attractive retirement, lake front, and coastal areas, assessed property values increased in the decade before 2006. Thus the grassroots tax reformers offered relief to current owner-occupied homeowners removing property taxes through Act 388. Therefore, the Act more positively impacted homeowners whose value of their primary/sole residence increased prior to 2006.

In exchange for the elimination of school operations revenue, the General Assembly increased the sales tax on most goods other than unprepared food. Sales tax revenue streams are not stable sources of revenue as are property taxes. The 2008 recession and the state of South Carolina sales tax revenue fell short by \$136 million in 2007-2008 and \$451 million in 2008-2009. A letter sent to superintendents noted that projections are that the state will fall short of projected revenue in excess of \$500 million for the 2010-2011 year (B. Bowers, personal communication, March 30, 2010).

The declining revenue streams forces school districts to either deplete their fund balance, raise revenue, or lower services. The fund balance drawdown is a local decision. The ability to raise new revenue is based on Act 388 and the limitations on revenue generation from millage increases. Given the current economic conditions resulting from a global economic decline, the South Carolina Budget and Control Board issued a statement indicating the CPI as -0.4%. Therefore, school districts may not raise millage rates for the 2010-2011 year unless the individual school district population exceeds 0.5%. It has been noted in many newspaper accounts and in an interview participant that school districts are being forced to reduce staff as a result of the lack of revenue. Further exacerbating the situation is the projected Base Student Cost for the 2010-2011 year of \$1,630—which is near 1995 state funding levels for the Base Student Cost.

The results of this study indicated that stakeholders' perceptions were divided over the degree or type of equity achieved by South Carolina's Act 388. A segment of homeowners appreciated the removal of their property from the revenue generation of school funding, but others recognized that with the shift in

tax burden, other taxpayers suffered. Taxpayers paying sales taxes and businesses accounting for sales may have borne the brunt of the shift. Schools and students bear the burden in terms of lack of adequate resources from either local or state funding.

### *Limitations*

As with all research dependent on oral history, this research study has several limitations. The typical constraints on historical research apply to this study including:

1. The constraints on the selection and participation of those invited to respond to the study.
2. The participants' recall of the salient events leading to the enacting of Act 388 and or their willingness to respond openly about specific details or motivations.
3. The influences of current political events such as the global recession which started in the housing markets in 2008 and the continuing state level concerns with the structure of its tax code.
4. As a qualitative design, the researcher is the primary instrument in the study, which may affect the quality of the participants' responses.

Selection, invitation, and the resulting participation may not reflect all the possible viewpoints associated with the politics of enacting the bill in 2006. Sixteen interviews were conducted, transcribed, and analyzed using a coding scheme generated from the literature and then emerging from the responses (Corbin & Strauss, 2008).

Attempts were made to interview more influential policy makers in the General Assembly but were unsuccessful due to the elected officials' time constraints and their immediate focus on developing the state budget for the 2010-2011 year. Although saturation on the salient research questions emerged among these participants, further study would include additional media representatives, more business owners, and more influential policy makers such as the Speaker of the House, the Governor, and the Pro Tempore of the Senate.

Another limitation of the study is the dependency of the interviewees and the dynamics of the interview process. Because humans were involved, it is difficult to analyze and determine how influential the dynamics either positively or negatively influenced the interviewee. For example, when the taxpayers knew I was an employee of a local school district, did that influence how they answered the interview questions?

Lastly, the bias on the part of the researcher is a limitation. As a public school employee who has to live with a diminishing revenue stream in a local school district, I was continually performing checks to remain as unbiased as possible throughout the data collection process. Nevertheless, this study focused on political issues and my professional role was a sore point for some representatives of the taxpayers. Nevertheless, they wanted to recruit me in their efforts. However, it is naïve to assume I was completely unbiased and therefore may have influenced the data collection process.

### *Implications for Practice and Policy*

This research has implications for practitioners and for policy makers in the legislative process and in public school finance policy. The study provided an oral history of the passage of Act 388. The study further explored the net effects on education in South Carolina since the implementation of Act 388.

One of the implications for practitioners is to encourage state lawmakers to adequately fund all government services, particularly education. Many of the participants suggested that the South Carolina tax code needs further revision. Many also suggested that such revision should institute a stabilized funding source of revenue rather than the sales tax.

Additionally, the South Carolina tax code needs to be more balanced in addressing taxpayer burden. Participants in this study recognized this aspect of tax reform as well and all sixteen participants suggested tax code reform. They suggested that circuit breakers could be instituted to protect a small percentage of homeowners from losing their homes and lands due to the inordinate increases in tax liability notices for certain attractive high-end housing development on the coastal and lake front properties.

Another implication focuses on educators. Educators need to be aware of the politics of funding education and ought to be active influencing tax reform to ensure stable funding of schools. Educators should forge coalitions with the taxpayers who were hurt by the shifts in the tax burden including manufacturing, industrial, commercial and second homeowners.

Comprehensive tax reform, spurred by joint efforts of educators and taxpayers, which is both equitable and adequate is needed in South Carolina to provide a stable source of revenue for schools. The practical and policy implications listed above could further be explored for future research.

#### *Recommendations for Further Study*

This research utilized oral history primarily through the use of a structured interview. Additional studies may include the comparison of local school districts revenue since Act 388 implementation. At least one respondent explained the view among lawmakers that all federal and state funding should be examined holistically. That is, the funding source should not matter but rather the total amount provided to individual school districts to provide adequate education for its students. However, the omission of the education clause in the United States Constitution implies the responsibility of the education is left to the individual states. More studies could include both federal and state dollars and costs per pupil.

The current tax structure in South Carolina should be examined for equity—taxpayer equity and tax burden and the adequacy of resources. Comprehensive tax reform is needed in South Carolina. A study in the development and eventual passage of a comprehensive tax reform in South Carolina would further the body of research as it relates to funding of education. The study could investigate the influences that may impact the General Assembly and the eventual passage of a tax reform system in South Carolina.

Another implication for practice and policy makers is the understanding of the political climate in South Carolina and how the political forces influence the legislative process. One may examine how the majority party in the General Assembly influences taxation and education in South Carolina. If a shift in power occurs, a study may examine pre and post shift of political power.

### *Chapter Summary*

In this chapter, the focus of the study revealed wealth neutrality could be examined through different lens—from the lens of the tax burden and from the lens of the stability of resources. The theoretical implications described the wealth neutrality and examined taxpayer equity, tax burden, adequacy of resources, and the effects on education as a result of Act 388. Limitations of the study are described. Implications for practice and policy along with recommendations for further study are indicated with a concentration on comprehensive tax reform in South Carolina and or the political processes that influence such reform.



## APPENDICES

Appendix A  
South Carolina Tax Revenues, Household Income and Tax Elasticity

	FY 00-01	FY 01-02	FY 02-03	FY 03-04	FY 04-05	FY 05-06	FY 06-07	FY 07-08	FY 08-09
<b>Individual State Income Taxes</b>									
Estimate	2,284,249,442	2,353,988,655	2,307,230,914	1,964,484,931	1,979,363,905	2,158,416,916	2,599,913,486	2,927,383,170	2,969,672,332
Actual	2,127,286,899	1,920,136,736	1,859,125,469	1,973,635,422	2,215,376,042	2,608,227,193	2,881,930,422	2,863,839,126	2,326,707,698
Over/ (Under)	(156,962,543)	(433,851,919)	(448,105,445)	9,150,491	236,012,137	449,810,277	282,016,936	(63,544,044)	(642,964,634)
<b>State Sales and Use Taxes</b>									
Estimate	2,092,964,644	2,178,000,237	2,150,685,980	2,151,994,915	2,249,617,591	2,396,065,472	2,495,764,823	2,599,400,000	2,698,853,250
Actual	2,000,208,479	2,026,514,449	2,041,704,530	2,181,357,756	2,318,474,848	2,544,065,472	2,631,222,230	2,463,274,765	2,247,876,029
Over/ (Under)	(92,756,165)	(151,485,788)	(108,981,450)	29,362,841	68,857,257	148,000,000	135,457,407	(136,125,235)	(450,977,221)
<b>Property Taxes County, City, and School District Level</b>									
Estimate	2,771,124,427	3,086,707,524	3,242,461,172	3,429,329,344	3,454,301,157	3,829,800,043	4,166,085,299	4,064,343,235	N/A
Actual	2,796,638,298	3,110,484,500	3,267,014,852	3,448,756,640	3,473,283,946	3,846,544,485	4,184,455,912	4,081,749,875	N/A
Over/ (Under)	25,513,871	23,776,976	24,553,680	19,427,296	18,982,789	16,744,442	18,370,613	17,406,640	N/A
<b>Median Household Income</b>									
Estimate	36,953	37,442	38,003	39,454	39,477	41,204	43,508	44,625	N/A
<b>Tax Elasticity</b>									
Income		-7.36	-2.12	1.61	210.11	4.05	1.88	-0.24	N/A
Sales		.99	.50	1.79	107.83	2.22	.61	-2.49	N/A
Property		9.25	3.36	1.46	12.20	2.46	1.57	-.96	N/A

*Note.* Adapted from “Raising revenue in support of education: The impact of Act 388 on education in South Carolina,” by R. Knoepfel and M. Wills, 2009. Used with permission.

## Appendix B

### IRB Forms and Approval #2010-034

#### **Information Concerning Participation in a Research Study Clemson University**

*A historical Analysis of South Carolina's Property Tax Reform Act of 2006*

#### **Description of the research and your participation**

You are invited to participate in a research study conducted by Professor Jane Clark Lindle, PhD, along with David A. Pitts. The purpose of this research is to study the development, passage, implementation, and effects of South Carolina's Property Tax Relief Act of 2006.

Your participation will involve participating in an interview with the researcher and sharing copies of your documents, if any, pertinent to the research topic.

The amount of time required for your participation will be approximately one hour for an interview and perhaps up to half an hour for follow-up questions, requests for documents, and reviews of transcripts.

#### **Risks and discomforts**

There are certain risks or discomforts associated with this research. The risks are typical of those experienced by public officials, who are the participants in this study. The most likely discomfort is the public debate over a participant's stated position on the research topic.

#### **Potential benefits**

There are no known benefits to you that would result from your participation in this research.

#### **Protection of confidentiality**

Participants who give their written consent will be identified. All others who consent to the interview, but prefer not to be identified will offer their own pseudonym or approve one chosen by the researcher. The primary source of data will be an audiotaped, pending consent, interview lasting up to one hour. Participants may be asked to provide copies of personal documents, such as correspondence and notes, pertinent to the study. The audiocassette recordings will be stored at the interviewer's home and they will only be

available to the principal co-investigators. Documents will be assigned a code associated with the source and stored in a locked file cabinet available only to the principal co-investigators. All participants will have an opportunity to read and approve drafts of the study containing information they provide.

In rare cases, a research study will be evaluated by an oversight agency, such as the Clemson University Institutional Review Board or the federal Office for Human Research Protections, that would require that we share the information we collect from you. If this happens, the information would only be used to determine if we conducted this study properly and adequately protected your rights as a participant.

### **Voluntary participation**

Your participation in this research study is voluntary. You may choose not to participate and you may withdraw your consent to participate at any time. You will not be penalized in any way should you decide not to participate or to withdraw from this study.

### **Contact information**

If you have any questions or concerns about this study or if any problems arise, please contact Dr. Jane Clark Lindle at Clemson University at (864)508-0629 or [jlindle@clemson.edu](mailto:jlindle@clemson.edu). If you have any questions or concerns about your rights as a research participant, please contact the Clemson University Office of Research Compliance at (864) 656-0636.

**Consent Form for Participation in a Research Study  
Clemson University**

*A historical Analysis of South Carolina's Property Tax Reform Act of 2006*

**Description of the research and your participation**

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### **Consent**

**I have read this consent form and have been given the opportunity to ask questions.  
I give my consent to participate in this study.**

Participant's signature: \_\_\_\_\_ Date: \_\_\_\_\_

A copy of this consent form should be given to you.

Dear Dr. Lindle,

The Chair of the Clemson University Institutional Review Board (IRB) validated the protocol identified above using Exempt review procedures and a determination was made on **February 23, 2010**, that the proposed activities involving human participants qualify as **Exempt** from continuing review under Category **B2**, based on the Federal Regulations (45 CFR 46). You may begin this study.

Please use the approved information letter and consent document attached for your study.

Please remember that no change in this research protocol can be initiated without prior review by the IRB. Any unanticipated problems involving risks to subjects, complications, and/or any adverse events must be reported to the Office of Research Compliance (ORC) immediately. You are requested to notify the ORC when your study is completed or terminated.

Please review the Responsibilities of Principal Investigators (available at <http://www.clemson.edu/research/compliance/irb/regulations.html>) and the Responsibilities of Research Team Members (available at <http://www.clemson.edu/research/compliance/irb/regulations.html>) and be sure these documents are distributed to all appropriate parties.

Good luck with your study and please feel free to contact us if you have any questions. Please use the IRB number and title in all communications regarding this study.

All the best,  
Nalinee

***Nalinee D. Patin***

*IRB Coordinator*

*Clemson University*

*Office of Research Compliance*

*Institutional Review Board (IRB)*

*Voice: (864) 656-0636*

*Fax: (864) 656-4475*

*E-Mail: [npatin@clemson.edu](mailto:npatin@clemson.edu)*

*Web site: <http://www.clemson.edu/research/compliance/irb/>*

## Appendix C

### Analysis Categories

- C. CONSTITUENT SERVICE
  - C1. Business Community
  - C2. Homeowners
  - C3. Rental Property Owners

- L. TYPE OF LAW
  - L1. Tax Law
  - L2. Education Law

- B. TAX BURDEN
  - B1. Shift to Consumers
  - B2. Shift to Workers
  - B3. Shift to Suppliers

- P. PROPERTY ASSESSMENT
  - P1. Pre Act 388 Assessed Values
  - P2. Post Act 388 Assessed Values
  - P3. Point of Sale as Assessed Value
  - P4. 15% Tax Reassessment Cap

- S. SALES TAX
  - S1. Sales Tax Exemptions
  - S2. Stability of Sales Tax

- LC. LOCAL CONTROL
  - LC1. Local control
  - LC2. State control
  - LC3. Disbursement of Funds



## Appendix D

### Interview Questions

1. Since enacting the 2006 legislation known as Act 388, what two or three issues have you heard about from your constituents?

Follow up questions (if necessary)

a. How did Act 388 impact the business community? Do you know of any fiscal impact studies about the effects of the Act on the business community? (Burrup, Brimley, & Garfield (1996)

b. How did the Act affect homeowners? Do you believe homeowners prefer to be taxed in the form of a sales tax rather than a property tax? (Martin, 2006; Slade, 2009)

2. As you think about Act 388, do you see it as primarily a tax law or an education law? (Picus, Odden, & Fermanich, 2001)

Follow-up questions for tax law focus:

3. What consideration of tax burden led to the development of Act 388 in 2006? (Burrup, Brimley, & Garfield (1996))

a. Do you recall any discussion about the reactions of corporations or manufacturers to a shift from property taxes to sales taxes? If so, what was the nature of that discussion?

- i. Was there any discussion of the possibility that corporations and manufacturers could shift the tax burden onto consumers in the form of higher prices? If so, what was the nature of that discussion? (Odden & Picus, 2008)
- ii. What about speculation on corporations and manufacturers shifting the tax burden backward to workers in the form of lower wages? If so, what was the nature of that discussion? (Odden & Picus, 2008)
- iii. Do you recall any discussion about corporations and manufacturers shifting the tax burden backward to suppliers in the form of lower prices for raw materials? If so, what was the nature of that discussion? (Odden & Picus, 2008)
- iv. To what extent was there any speculation about owners of rental property increasing monthly rent on tenants? (Odden & Picus, 2008)

4. To what extent did escalating assessed values influence the passage of Act 388? Burrup, Brimley, & Garfield (1996)

a. What kinds of estimates about real estate sales surrounded discussions about the Point of Sale price for the purposes of taxation? Burrup, Brimley, & Garfield (1996)

- i. Did the property valuation system need overhauling? (Picus et al, 2001)  
Is there further overhauling of the tax system in South Carolina?

- ii. Are there any repercussions from instituting a tax reassessment cap at 15% (Scoppe, 2008)
- b. How were the exemptions to sales taxes determined? (Burrup, Brimley, & Garfield, 1996)

Follow-up questions for education law focus:

- 5. To what extent did the deliberations over Act 388 include consideration of centralized state authority over resources and quality and the tradition of local control of schools? (Guthrie et al, 2007)
- 6. By removing local property taxes from revenue generation for local school districts, did the General Assembly consider who or what agency would oversee the spending of the state tax dollars? In other words, was the loss of local control considered in developing the Act? (Burrup, Brimley, & Garfield, 1996)
- 7. How did equity of resources play into the development and eventual passage of Act 388? (Picus et al, 2001)
  - c. At this point, what do you think the General Assembly will do about Act 388?
    - i. Do you think the response will be primarily a new taxation policy or a new education policy?
    - ii. Which constituents likely will be satisfied with the General Assembly's response?
    - iii. Which constituents likely will be dissatisfied with the General Assembly's response?

Appendix E

Interview Note Form

Questions [complete version]	Response Time note	Other notes	Codes/Theme
1. Since enacting the 2006 legislation known as Act 388, what two or three issues have you heard about from your constituents?			C, LC
Follow up questions (if necessary)			
1 a. How did Act 388 impact the business community? Do you know of any fiscal impact studies about the effects of the Act on the business community?			C1
1 b. How did the Act affect homeowners? Do you believe homeowners prefer to be taxed in the form of a sales tax rather than a property tax?			C2
2. As you think about Act 388, do you see it primarily as a tax law or an education law?			L
Follow-up questions for tax law focus: 2a. What consideration of tax burden led to the development of Act 388 in 2006?			B
2b. Do you recall any discussion about the reactions of corporations or manufacturers to a shift from property taxes to sales taxes? If so, what was the nature of that discussion?			B
2bi. Was there any discussion of the possibility that corporations and manufacturers could shift the tax burden onto consumers in the form of higher prices? If so, what was the nature of that discussion?			B
2bii. What about speculation on corporations and manufacturers shifting the tax burden backward to workers in the form of lower wages? If so, what was the nature of that discussion?			B
2biii. Do you recall any discussion about corporations and manufacturers shifting the tax burden backward to suppliers in the form of lower prices for raw materials? If so, what was the nature of that discussion?			B
2biv. To what extent was there any speculation about owners of rental property increasing			B

Questions [complete version]	Response Time note	Other notes	Codes/Theme
monthly rent on tenants?			
2bv. To what extent did escalating assessed values influence the passage of Act 388?			P
2bvi. What kinds of estimates about real estate sales surrounded discussions about the Point of Sale price for the purposes of taxation?			P2, P3, P4
2bvii. Did the property valuation system need overhauling? Is there further overhauling of the tax system in South Carolina?			P
2bviii. Are there any repercussions from instituting a tax reassessment cap at 15%			P2, P4
2bix. How were the exemptions to sales taxes determined?			S1
Follow-up questions for education law focus: 2c. To what extent did the deliberations over Act 388 include consideration of centralized state authority over resources and quality and the tradition of local control of schools?			LC
2ci. By removing local property taxes from revenue generation for local school districts, did the General Assembly consider who or what agency would oversee the spending of the state tax dollars? In other words, was the loss of local control considered in developing the Act?			L1, S2 LC1, LC3
2cii. How did equity of resources play into the development and eventual passage of Act 388?			L2
8. At this point, what do you think the General Assembly will do about Act 388?			L1, L2, P2
3a. Do you think the response will be primarily a new taxation policy or a new education policy?			L1, L2
3b. Which constituents likely will be satisfied with the General Assembly's response?			C1, C2, C3
3c. Which constituents likely will be dissatisfied with the General Assembly's response?			C1, C2, C3

## Appendix F

### Post Interview Notes

1. What was the main idea(s) the interviewee conveyed as it related to Act 388?
2. Did the interviewee express a disconnect among business and education?
3. Did the interviewee have a sense of understanding as to why the General Assembly passed Act 388?
4. How did this interview provide first-hand knowledge of the passage of Act 388?
5. Did the interviewee believe a tax shift had occurred in South Carolina?
6. Did the interviewee indicate any one particular area such as vacation homes on bodies of water influenced the passage of the Act?
7. Was the interviewee aware of the amount of sales tax exemptions in South Carolina? Did the interviewee believe the sales tax exemptions were taken into consideration for the passage of Act 388?
8. Did the interviewee believe public school districts fared better or worse after Act 388?
9. What did the interviewee identify as major strengths or flaws in the Act?
10. Did the interviewee feel as though the 15% cap on property reassessment is fair and equitable? If so, how does the 15% cap compare with the reassessment at the point of sale?

Appendix G

Analytic Themes

Quote most exemplary of Interviewee's Point of view

Interviewee name	Quote	Interview Date	Transcript page #

Quote concerning Shift in Tax Burden [Q2a/B]

Interviewee name	Quote	Interview Date	Transcript page #

Quote concerning Equity for Taxpayer [Q1a/C1]

Interviewee name	Quote	Interview Date	Transcript page #

Quote concerning Act 388 effects on Education [Q2/L]

Interviewee name	Quote	Interview Date	Transcript page #

Quote concerning Local Control [Q2c/LC]

Interviewee name	Quote	Interview Date	Transcript page #

Quote about adequacy of Resources [Q 2cii/L2]

Interviewee name	Quote	Interview Date	Transcript page #

Quote about possible changes [Q3/ L1, L2, P2]

Interviewee name	Quote	Interview Date	Transcript page #

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