

Framing the Property Tax Debate

By

Holley H. Ulbrich

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I like your theme, One Song, One Message, One Voice. I should warn you, however, that I have been an alto in my church choir for almost 30 years, and in my choir we sing one song with one message but in different voices. Not in unison, but in harmony. Each of us adds our distinctive but compatible notes to the song so that the result is more beautiful and more compelling than a simple unison repetition of a theme. I didn't learn to sing harmony until I was in my 30s. It's a lot harder than unison singing, but the results are better. The anti-property tax folks have gone in the opposite direction. Way beyond the other side of singing in unison is the simple chant. The slogan. The sound byte. The bumper sticker. End property taxes. Property Tax Relief Now. We all know life is more complicated than that, too complicated to explain on a bumper sticker.

And so are property taxes, too complicated to fit on a bumper sticker. The cities and the counties, the Chamber of Commerce, the schools, the retail merchants, the owners and tenants of rental property, the consumers, the tourism industry, and other stakeholders all have different notes to contribute to the song. Yes, I know that the Chamber got a bit off message last week and started singing to the accompaniment of a different drummer, but I think they have returned to the choir, and we need their voices. So while the municipal association should indeed be singing one song with one message and one voice, remember that you have important and powerful allies out there who are singing with you in harmony. A fair distribution of the property tax burden that generates enough revenue for local public purposes and doesn't burden the poor with excessive sales taxes is way too big a message to try to sing in unison, let alone fit on a bumper sticker.

In his two recent books *Don't Think About an Elephant* and *Moral Politics*, linguist and political advisor George Lakoff reminds us that when there is any debate going on in the public sphere, the victory is likely to go to that side that captures the frame. Or in your metaphor, the one that writes the music. It's all about framing. Yes, we need to respond to the arguments for property tax relief with reason, numbers, and thoughtfully articulated arguments. Those are the lyrics. Yes, we need grounding in reality and a clear understanding of how the present system works and precisely in what ways it needs improvement, even if some of those on the other side of the issue are not approaching it in that same calm, deliberative, rational way. As public officials and public policy makers, we in this room have committed ourselves to that kind of responsible public policy debate. But we also need to acknowledge that beyond the reasoned debate there are values and emotions and ways of looking at the world. Unless we refocus that

framework, unless we can get legislators to see the world at least partly through our eyes, we are not going to have any impact on public policy.

For most of us in this room, state and local governments are positive things. You have been elected, chosen, delegated, and entrusted by your citizens to make thoughtful and responsible choices. You are stewards of our common property and faithful servants of the public trust. That's part of our shared framework. As a life long student of state and local government finance, and as a veteran of a term as a municipal elected official, I certainly share it. But I am probably not surprising you when I say that the anti-property-tax people do not share our view of government, and also that you are wasting your time and energy in trying to convert some of them to a different perspective. But while there is a vocal minority that takes extreme positions, like abolishing the property tax, they are still a minority. To the extent that this minority can frame the debate in ways that engages the vast, inattentive middle of the population, they can carry the day. But so can those of us who believe in government and particularly local government. It's up to us to reframe the debate and engage enough of our fellow citizens and our legislators to stop that freight train called property tax relief. The one with boxcars labeled point of sale assessment and assessment caps and higher sales taxes and loss of local government autonomy that is even now speeding through the legislative process.

Framing is grounded in values. All of us have a particular set of values that we carry into the public sphere. The vast majority of us share some important values. Not just those of us in this room, but those of us in this country and indeed in the world as a whole. Ethicist Rushworth Kidder has a favorite exercise in which he poses this problem. Your community is building a new middle school with an archway, and there is room to put just five shared values on the archway through which these children will pass every day. Your task is to choose those five values. Remarkably, in work with thousands of people all over the globe, six values emerge, which means that one value doesn't get on the archway. But the remarkable thing is the common result. The language might differ—freedom might be liberty, or justice might be fairness. But those six values that always show up on the list in varying order are freedom, honesty or truth, fairness or justice, kindness or compassion, tolerance or respect, and loyalty or community. Whatever you do, whatever we do, whatever we propose to do to the property tax or anything else, needs to be grounded in those shared values. The values that particularly matter on this issue are fairness or justice, kindness or compassion, and a sense of community, of responsibility to and for one another.

The second essential part of the framing challenge is to define the problem in such a way that you generate recognition, empathy and concern among voters. Denying the existence of a problem is rarely a successful strategy, although it worked pretty well for Social Security last year. So I think we need to acknowledge that there is, indeed, a problem, a problem of fairness in the property tax. How we describe that problem is the next step in framing the debate. So I know you expected me to critique what's in the legislature, and I will, but I think that seizing the initiative with a positive proposal is a much better strategy. Once we agree on what the problem is and what strategy we want to propose, we can then turn to explaining why the other proposals not only don't solve the problem but also create a host of newer, more complicated problems.

What is the problem we are trying to solve? Is it high property tax burdens? No. Overall, our property taxes in South Carolina are low. We rank 36th in property taxes per capita. Property taxes are particularly low for most homeowners, owners of undeveloped land, and new business firms that get fee in lieu agreements. Property taxes used to be high on cars, but that changed in the last six years. Property taxes are especially low for senior citizen homeowners, who also get

relief from city and county taxes. But I think that two genuine problems emerged from the property tax hearings last fall, once you clear away all the smoke and rage and rhetoric. One is the tax burden on rental property, and to a lesser extent, other commercial property. The second is the financial squeeze on homeowners who have lived a long time in one place and who are now finding that the value of their property has increased much faster than their income. I think if we could agree that these are indeed the two problems we are trying to solve, a very different set of solutions shakes out than what we are seeing in the legislature right now.

Let's start with rental property. Even before the property tax relief frenzy of the 1990s, homeowners already had the best deal, the 4% assessment rate. Rental property is assessed at 6%. Then starting in 1995 they got property tax relief on the first \$100,000 of market value. They also got a better deal out of relief funded by local option sales taxes, because the amount of relief was tied to market value, not to the value after applying the assessment rate. Industry was off in a different universe with rapid depreciation on older property and fee in lieu on newer property, but commercial property including rental real estate didn't get much out of any of this property tax relief legislation of the 1990s. Even cars used by these firms didn't qualify for lower assessments, because the reduced assessment was only for personal vehicles. To make things worse, a lot of rental real estate is occupied by people too poor to qualify for a mortgage or scrape together a down payment on a house that would qualify them for school property tax relief. But they pay property taxes too. They may not write the check, but they pay the landlord and the landlord pays the tax collector. Increases in property taxes get translated into increases in rent. So I think we can agree, on the basis of fairness, honesty, and compassion, that perhaps rental property, or at least the people who call rental property home, deserves some consideration in any property tax relief. Other states with property tax relief programs often include renters in the program, and few states discriminate in assessment between owner-occupied and rental housing the way South Carolina does.

Even among homeowners, low average tax burdens can conceal some important problems. There is a group of homeowners who are being squeezed by rapidly increasing demand for property, particularly where available land is becoming scarce at desirable locations. We even see this happening in Clemson, where the same house can sell for as much as 20% more than in other nearby communities, simply because available land close to the University and in the Clemson Elementary attendance area is scarce and largely occupied by student apartment complexes. We see it even more on the entire coast from North Myrtle Beach to Hilton Head. And there are other locations in the mountains and in the Columbia suburbs and on the lakes that are experiencing a similar situation. Someone who has lived in one of these places 20 or 30 years, or even four or five generations, has probably seen the value of their property escalate a lot faster than the growth in their income. So they could be forced to sell because of the rising tax burden that comes mostly from increasing assessed value of their property. Any property tax relief program needs to address that problem as well, for the same reasons—fairness, honesty, compassion. Honesty in admitting that there is a problem but also honesty on the other side in admitting that not everyone needs relief. Fairness in distributing the cost of running government among citizens. Compassion for those in particularly difficult situations. And that compassion needs to include not just individuals but also counties and school districts where property values are static and the problem is not high assessments but high mill rates.

There are also concerns on the other end of the spectrum, those whose tax burdens are too low from a perspective of fairness. At least one bill has been introduced to tighten up on the well-documented abuse of the farm and forest classification for undeveloped property. And

counties are increasingly asking hard questions before granting fee in lieu agreements at the 4% rate. There are broader property tax issues that aren't even being addressed, like high mill rates in poor school districts and the distribution of education funds, or whether we need so many classes of property and so many assessment rates or whether we could get by with just two, four percent and six percent. But most of the attention so far has focused on property tax relief, and particularly property tax relief for residential property. So I am willing to concede that property tax relief is going to be the issue this year. I don't like the term. It reminds me a little of the abortion debate in which we have people squaring off as pro-life and pro-choice. I don't know anyone who is against life or against choice. Likewise, I don't know anyone who is against relief. So far, those of us playing defense on behalf of the property tax and local government haven't come up with a good alternative name for what it is that we are defending. Property tax fairness, perhaps. Truth in taxation. Responsible taxation. It's your bumper sticker.

Whatever label we choose, those of us who understand and rely on the property tax need to put up a positive defense of its role in the overall revenue system. We need to try to get the best solution that we can in terms of in terms of protecting the core values of a good revenue system—adequacy, efficiency, equity and stability. And for local governments, a fifth value, autonomy, or home rule. Adequacy, meaning enough revenue for public purposes in the face of predicted revenue shortfalls in the next few years. Efficiency, meaning giving the right incentives to think of South Carolina first as a place to live, work, shop and invest. Equity, meaning a fair distribution of the burden. Stability, in terms of not having wide fluctuations in either state or local revenue, including the local government fund. And autonomy, in providing municipalities, counties, and school districts with a revenue source in which and over which they have some degree of ownership and control.

The much reviled property tax actually scores pretty well on these measures. In reverse order, it gets high marks on autonomy, because it belongs to local governments, however much the state may meddle in the ground rules. Revenue from the property tax is more stable than either income tax or sales tax. Although there are some ways in which the property tax should be tweaked to make it fairer, it is pretty close to proportional to income in the distribution of the burden across income classes. The biggest inequities in South Carolina's property tax lie in the treatment of homeowners and senior citizens versus renters and younger families. Because the mill rate can be fine-tuned, the property tax gets good marks for adequacy, or its ability to produce enough revenue for public needs. Actually, this is one of the places where the anti-property tax folks have scored some points, claiming that it is too adequate—that when property is reassessed they don't see the promised rollbacks, it's just a windfall increase in revenue that is promptly spent by cities, counties, and municipalities. That's a complicated statistical question that deserves some attention, but it's one that is definitely out there right now, so be prepared to defend yourselves on that issue.

The property tax gets mixed marks for efficiency in decisions about where to live and where to invest. It can deter people from agreeing to annexation to a municipality. Differences in mill rates create a disadvantage for poor, rural counties and school districts in attracting industrial and commercial development. The first problem could be solved with easier annexation laws, and the second problem could be addressed by having a uniform statewide school mill rate with the state making up the difference and taking on a larger share of the cost of education. I've been pushing that idea for a decade now, but so far it doesn't have much traction. In any case, the property tax also scores some positive points in efficiency because of the strong connection between the taxes you pay and the services you enjoy, especially at the municipal

level. Property taxes and local services are a package deal. There are many cities where citizens willingly pay higher taxes in order to have curbside recycling, city recreation programs, city parks, and other amenities in addition to basic fire and police protection, garbage pickup and street maintenance. So in the debate over property tax relief and swaps of sales for property taxes, try to remember the good things about property taxes. Encourage legislators not to send the baby down the drain with the bath water.

Probably most of you watch drug commercials on TV. It's pretty hard not to, especially if you watch the news. The commercial always begins with someone whose life has been turned around by better sleep, better digestion, less arthritis pain, or some other miraculous improvement. Then at the end of the commercial in rapid fire you get the side effects, some of which are pretty serious. I was particularly amused by one drug prescribed to a friend for nausea that listed nausea as a possible side effect. And these commercials aren't even required to describe the possible consequences of drug interactions. Often, whatever the medical problem, it can be resolved effectively with simpler and less expensive remedies like better eating habits, exercise, meditation, herbs, and over the counter remedies.

The drugs that are being prescribed for our property tax problem also have serious side effects. They create inequities in tax burdens between those who move and those who stay put. They burden the business community, especially retailers, in order to help homeowners who are already highly favored. They make serious inroads into home rule. They collect sales taxes from poor people in poor counties in sales taxes and send it as property tax relief to rich homeowners in rich counties, without doing anything to help the schools. Both of the real problems I described, the low-income renters and the homeowners with rapidly appreciating property, can be addressed with targeted solutions that are simpler, cheaper, and less burdened with undesirable side effects. It's the tax version of herbal medicine and over-the-counter remedies.

To start with our venture in alternative tax medicine, we need to understand the idea of the circuit breaker, sometimes known simple as targeted tax relief or income-tested property tax relief. It comes in a lot of forms, but all of the forms of property tax relief that are based on income or the relationship between taxes and income are referred to as circuit breakers. Apparently we had some electricians in a legislature somewhere that came up with the term. There are a lot of different kinds of circuit breakers. We have inventoried them on the Strom Thurmond Institute web site. But basically, we found that most other states use both relief based on income and relief based on other factors, such as age or disability. Most states use more than one factor in eligibility. For those who qualify, there may be a partial exemption of property from taxes, like South Carolina's homeowner school tax relief, or there may be a refund for taxes paid through the state income tax. Sometimes there is a deferral of property tax payments for the elderly until they die, or a freeze on the increase in assessment for those who meet certain criteria. Whatever criteria and methods they use, three-fourths of the states that offer state-funded relief use some kind of measure of need or hardship as part of their state-funded property tax relief programs. South Carolina does not.

If I were all 170 legislators for a day, what would I do? I would design relief for renters. I would offer them a line on the income tax form where they could report their rent and their home county, school district and municipality. Then the Department of Revenue can estimate from the mill rate where they live and the rent that they pay how much of their rent is property tax, and give a partial credit for that tax on the renter's income tax return.

Then, in the rest of my one day term, I would do something for those homeowners who have seen the value of their property rise much more rapidly than their income. A burden of no

more than 2% of income paid in property taxes on owner occupied real estate seems reasonable to me by historic South Carolina standards. A 2% ceiling means that a person with a \$50,000 adjusted gross income would never pay more than \$1,000 in real property taxes. A person with a \$500,000 adjusted gross income would pay up to \$10,000 in real estate taxes on a principal residence before qualifying for a refund check. Your taxes will go up if your income goes up, not if the value of your property goes up faster than your income. And if your income goes down, your property taxes will too. All of this can be administered pretty easily through the income tax system. We might want to put in a recovery provision for back taxes when the property is ultimately sold, but that's the kind of detail that we keep lawyers around to work out.

These two solutions—relief for renters and relief for homeowners who have a demonstrated tax squeeze—would be cheaper, simpler, and fairer than anything now in the hopper. They would preserve local government autonomy. They wouldn't require nearly as much additional state revenue to pay for the relief. Unless we chose to reclassify rental property to 4%, it wouldn't require a constitutional change. So I urge you to make the first verse of your song focus on these two situations as the definition of the problem we are trying to solve.

Before we can get our legislators to sing to our tune, however, we need to listen in on the other song. Kind of like getting a fix on the music our children are listening to, which is very different from our own. What's the frame on the extreme other side? I think there are three recurring themes in their music. One is that of intense individualism—what's mine is mine. I hear people argue that they have paid for their house and shouldn't have to keep paying for it with property taxes. Fine, then stop expecting any local public services, which is what property taxes pay for. You don't expect to stop paying the electric bill once the house is paid for, do you? But that theme resonates with a lot of South Carolinians. This is a conservative, almost libertarian state. This theme doesn't appeal to our better natures, to our compassion, our sense of community or responsibility or fairness. It appeals to our narrow self-interest.

The second theme in the music of the anti-property tax people is closely related. It is hostility toward government of all kinds. Some of it is mistrust. Some of it is the persistent delusion that we can provide everything we need in the private sector—private schools, private police and fire protection in gated communities, private recreational services. Of course, that leaves out any responsibility for our less affluent neighbors and fellow-citizens, a variant of the theme one about what's mine is mine. But there is an anti-government strain in our state's culture that goes back to the American Revolution and the War Between the States that is really easy to tap into. Anti-tax activist Grover Norquist is famous for articulating that theme when he said, I don't want to destroy government, I just want to shrink it down small enough to drown it in the bathtub. For this group of people, attacking any major revenue source will do. The attack on the income tax has been beaten back, so now it is the property tax. And they don't hesitate to use people like renters and people with escalating property values as the poster children for getting relief for everyone in the name of a few genuine hardships.

And the third theme is control. Some people in South Carolina have never cottoned to home rule. It's easier to get your way in Columbia than to have to do it city by city, county by county, school district by school district. If we run local government out of Columbia, it is possible to more closely control what services are provided and to and for whom. That's a curious theme, because it runs counter to the libertarian idea of freedom of choice and diversity, but no one ever accused the anti-tax movement of consistency.

Once you look through that frame, their definition of the problem and their policy proposals make more sense, because both the problem definition and the policies that are being

touted this year flow from this frame. I have to note that the pro-tax-relief side's definition of the problem keeps changing, while to me the definition of the problem has been pretty clear from the start of the property tax hearings. The other side started with the claim that numerous people are being driven out of their homes by property taxes. The claim that 22,000 families lose their homes to property taxes a year needs examining, because I think that includes a lot of abandoned property, a lot of nonresidential property, a lot of people who just didn't bother to pay taxes, and a lot of people who subsequently paid the back taxes and reclaimed their property. A recent study by the County Association suggests that the actual numbers is more like 500, and we don't know exactly what happened in those cases—lost a job, went to jail, medical problems—where taxes may have been a contributing factor but not the main cause. But while people like me are bemused at these so-called facts, trying to think of an actual person they know who has been driven out of their home by property taxes, the relief wagon rolls on to another base, another definition of the problem. Rising home values mean that the property tax generates too much revenue which is then squandered by profligate local governments. They particularly have counties in mind, and the fact that the millage rollback has too many loopholes. Once again, they send the fact-checkers back to the drawing boards to see if there is a grain of truth in that assertion.

But even if we were to grant both of those claims, which I find dubious, their policy conclusions don't necessarily follow. Mayor Joe Riley has offered a reasonable proposal, reasonable at least for the coastal counties with the escalating property values, that responds to these two concerns by putting teeth in the millage rollback requirement and tying caps on reassessment over and above the county average to increases in price index, or the rate of inflation. While I prefer my remedy of targeted relief, I could certainly live with Mayor Riley's proposal.

So what have the anti-property tax forces proposed, and how does it flow from both their values and their diagnosis of the problem? The first was the proposal is to assess property on the basis of acquisition value. In its initial formulation, it was a no-growth proposal. The property value would be fixed at some point in time, such as 2004. New construction would go on the books at the time of construction or sale, and thereafter, the assessed value would only change when the property was sold, transferred, inherited or improved. It's a bad idea from California's Prop 13, never adopted in any other state. True believers may have to settle for assessment caps, which aren't quite as bad, but in their hearts they want pure, unadulterated acquisition value.

Behind acquisition value you can hear the words of the song: It's mine, I bought it, I own it, and my property taxes are a contract that goes with the property that can never change. It reminds me of the people who lived in mill houses in Greenwood that came with a contract rate on utility rates, so that their electric bills didn't rise when everyone else's did. A lovely right to have, but is it fair? Should people be paying a different price for the same services, private or public, for any reason other than ability to pay?

The second policy that flows from this world view and this diagnosis of the problem is the idea of shifting from property to sales tax. Raise the state sales tax to 7% and use the proceeds for more property tax relief for homeowners. Not renters, not retailers, not industry, not service firms, not cars, not even low-income homeowners in one plan and not much for them in the others. Some plans are limited to school taxes, others to all local taxes. Some give relief to other groups besides homeowners, but it's hard to make the numbers work. Any way you beat the rhythm to this song, it would result in a fairly massive redistribution of the tax burden from rich counties to poor counties and rich individuals to poor individuals. I don't honestly think that

the proponents have anything against poor people. They don't even think much about them. They are just protecting themselves and others who feel that property taxes threaten their ownership and control of their main asset, their home. And then there is the anti-government, control issue. This shift would make it easier for the anti-government folks to control those local governments by making them wards of the state.

I'm not a big fan of raising sales taxes for a lot of reasons. It's regressive. Even if we exempt food and expand coverage of services, it will still be regressive, more burdensome on the poor. It will just be less regressive. It's also fragile. A national and even a global economy has led to a lot more cross-border transactions that are hard to track and collect tax on, and that's only going to get worse. Consumption spending on tangible goods, the base of the sales tax, doesn't grow as fast as personal income, so it can't be counted on to provide the revenue growth needed for public purposes. But even if we do decide to raise the sales tax, we only get one shot at it. We had better decide what is the most important issue facing the state and use the higher sales tax to address that issue. Is it school funding equalization, and the state stepping up to the plate to carry out its responsibility in that area? Is it pending shortfalls in state budgets and the threat of Medicaid, the monster that is eating the budget? We have a shotgun with only one bullet, and we have to decide what the real monster is, the greatest threat to our future as a state, and use that bullet on that target.

To return to our musical metaphor, what we have heard so far are two competing melodies. Now for the harmony—the municipal contribution to the song. I once attended a concert by Pete Seeger and Arlo Guthrie, back in the 1980s. Pete Seeger had written his own version of Old Hundred, the doxology, and he was trying to teach 10,000 people to sing it in four part harmony. Now here's the alto line... Of course, he didn't distribute the sheet music until after the concert, so it was hard to learn. I'm no Pete Seeger, but I promise your part is easy to learn. And I also promise that the rest of the symphony, the Chamber of Commerce and the school districts and others, are teaching their parts of the song to their sections of the chorus.

So, how would acquisition value or caps on assessment and a swap of sales for property tax affect municipalities?

1. Acquisition value would mean that municipal property tax revenue would no longer rise automatically with inflation the way that state income and sales tax revenue do. That's a particular problem in some of our smaller, rural, poor municipalities where property doesn't turn over much, even if housing values are rising at least some. Caps of any kind would mean slower growth of the property tax base and a shift of the tax burden to more slowly appreciating property—older commercial, residential, and industrial property. And cars. If the mill rate goes up, they would pay more. If the mill rate is constant, they would still be carrying a larger share than they would without caps.
2. Acquisition value would mean that newer residents are paying higher taxes than longer term residents. They will perceive, rightly, that this is unfair—and take it out on you. City services, more than county and school services, are services to property, and the value of those services are roughly proportional to the value of the property—police and fire protection, trash pickup, street maintenance. If you and I have the same income and a house of similar size and age, why should I pay more for my city services than you do just because I bought my house more recently?
3. Sales taxes are hard on retail and service businesses. It's already hard for them to compete with catalog, internet, and out of state sellers, and the higher the rate, the more sales they lose. Retail and service businesses are the heart of our cities. They not only

generate jobs and property tax and sales tax revenue but also business license income. Why would we want to handicap our local businesses?

4. All local governments, including cities, need to be held accountable for the money they raise and spend. The same people who brought you these wonderful city services also set your mill rate. That accountability would be lost if cities became dependent on the state, as they would in some versions of the plan. State legislators get the blame for high sales taxes, and local governments get the credit for providing services. Thank you, oh benevolent legislator, for doing the hard work of raising my tax money for me!
5. A lot of low income people live in cities. They will pay more sales tax and the renters among them would get no relief if it all goes to homeowners. As for low income homeowners, they aren't likely to own a house worth more than \$100,000, so they get no extra relief on school tax—it all goes to homes over \$100,000. These are our citizens. We need to protect them from a sales tax increase that goes to the wealthy. Eliminating the sales tax on food will help, but the sales tax is still regressive—still more of a burden on the poor.

So as you go forth to buttonhole your legislators, remember the theme and variations of the song that we are singing. You can, if you like, sing the melody. Higher sales taxes are hard on the poor and a real threat to the survival of our communities' lifeblood, the retail merchants. Property tax relief can and should be more focused and targeted, helping low income families who rent and homeowners whose taxes have grown faster than their income. Please don't relieve in haste and repent at leisure; think, explore, evaluate before you bet the farm on a fragile sales tax. Acquisition value is unfair to those who move often. Acquisition value doesn't allow property tax revenue to keep pace with inflation. Assessment caps shift the property tax burden to older commercial and residential property. Business and industry pays a lot of the sales tax and gets no relief.

And if you can come in loud and strong on the municipal part of that song, so much the better. Legislators need to hear from you, not from me, the part about the retail and service lifeblood of our cities, the part about property taxes paying for city services, the part about the large number of low-income people who live in our cities getting shafted by sales taxes and getting little or no benefit from property tax relief. Sing whatever part—soprano, alto, tenor, bass—that comes naturally to you and that is in the hearing range of your legislator. But sing you must. It's a critical time for our state and our communities. Sing your hearts out.

Holley H. Ulbrich, Ph.D., is Alumni Professor of Economics Emerita and a senior scholar of the Strom Thurmond Institute of Government & Public Affairs at Clemson University.