



A CONSERVATIVE PLATFORM

FOR ALABAMA

2023



ALABAMA POLICY
INSTITUTE

Updated September 1, 2022

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2023



All of Alabama’s statewide elected offices have been controlled by self-identified “conservatives” since 2010.

This platform, created by the Alabama Policy Institute on behalf of Alabama’s overwhelmingly conservative electorate, offers a reminder of where a conservative lawmaker or future candidate should stand on important issues.

A True Conservative Legislator in Alabama Would:

BUDGET AND TAX REFORM

**IMMEDIATE
ACTION NEEDED**

TAXES Vote against any effort to increase taxes on the citizens and businesses of Alabama,

GOVERNMENT SPENDING Vote in favor of general and education budgets that freeze spending at current levels to stop the unprecedented government growth, as increased spending results in expanded government,

BALANCE THE STATE’S OPERATING BUDGETS Vote in favor of budgets that use government surpluses, which have averaged (before transfers) over \$1 billion every year since 2018, to pay off existing debt and take less taxes from Alabamians instead of expanding government,

REDUCE TAXES BY \$750 MILLION OVER THE NEXT THREE YEARS Vote in favor of bills that aim to reduce taxes by \$750 million over the next three years in light of the average \$1 billion per year excess revenue,

RETIRE EXISTING STATE DEBT AND PAY FOR ONE-TIME PROJECTS Vote in favor of bills which, after implementing a \$750 million tax cut, go towards cancelling existing state government debt or to pay the costs of one-time capital projects without acquiring new debt,

ONE OPERATING BUDGET Vote in favor of unifying Alabama’s two operating budgets,

UNEARMARKING Vote in favor of legislation to bring Alabama’s budgets more in line with other states by unearmarking a portion of state revenues,

GAS TAX Vote to freeze the Rebuild Alabama Act’s gas tax at \$.10 per gallon and repeal the possibility for an automatic biennial gas tax increase as passed in the 2019 Special Session,

GROCERY SALES TAX Vote to repeal the state’s sales tax on groceries without increasing other revenues,

CORPORATE INCOME TAX Vote to reduce the corporate income tax rate to 4.75% to account for the federal Tax Cuts and Jobs Act of 2017 and untie Alabama corporate taxes from the federal tax code,

SCHOOL CHOICE

**IMMEDIATE
ACTION NEEDED**

GENERAL SALES TAX Vote to reduce the state general sales tax to account for growth of Simplified Sellers Use Tax revenues,

REDUCE SMALL BUSINESS TAX BURDENS Vote in favor of legislation that reduces the tax burden of Alabama’s small businesses, such as fully repealing the state business privilege tax and increasing the business property tax exemption to \$400,000,

SCHOOL CHOICE Vote in favor of any bill that increases the availability of school choice in the state, including but not limited to education savings accounts, voucher programs, charter schools, magnet schools, and tax-credit scholarships,

SCHOOL TRANSPARENCY Vote in favor of bills that expand transparency in the public school system, allowing parents easy access to class curriculum and teacher trainings,

TERM LIMITS Vote to establish term limits for Alabama legislators,

SPECIAL SESSION Vote in favor of legislation that would allow the Alabama legislature to call itself into session as 36 other state legislatures in the United States do,

EMERGENCY POWERS Vote to allow the legislature to approve or reject long-term states of emergency, which can currently be declared by the governor for 60 days and renewed indefinitely,

STATE HEALTH OFFICER Vote to ensure future State Health Officers are cabinet-level positions appointed by the governor and confirmed by the Senate, to increase accountability,

ALABAMA CERTIFICATE OF NEED Vote to eliminate Alabama’s Certificate of Need process in healthcare which unjustly stifles competition and prevents lower prices for patients,

OCCUPATIONAL LICENSING STATUTES Vote to repeal harmful occupational licensing statutes and create a higher burden of proof that regulations are needed for licensed occupations,

MEDICAL MARIJUANA

**IMMEDIATE
ACTION NEEDED**

MEDICAL MARIJUANA Vote in favor of legislation that at a minimum automatically repeals the state’s regulatory regime concerning medical marijuana if the Federal Drug Administration approves marijuana for medicinal use,

ABORTION & ADOPTION Vote against any attempts to weaken Alabama’s ban on abortion and in favor of bills that would incentivize adoption,

ELECTION INTEGRITY Vote in favor of bills that would enhance election integrity,

GAMBLING & LOTTERY

**IMMEDIATE
ACTION NEEDED**

GAMBLING Vote against any bill that would legalize or expand casino-style gambling in the state of Alabama, and

LOTTERY Vote against any bill that would establish a lottery in Alabama.

In addition to voting for these items on the floor of the House or Senate, conservative legislators will adamantly support these goals both publicly and privately, vote for their movement in committee, draft legislation to achieve these goals if none already exists, and work to garner support from fellow legislators.

API will draw from these votes its annual scorecard, the *API Watchlist*.

A CONSERVATIVE PLATFORM FOR ALABAMA

FURTHER DISCUSSION



REFORM THE STATE'S BROKEN BUDGET PROCESS

Over the last four years, Alabama state government has seen record spending and revenue growth. Spending grew by 36% between the FY 2019 combined budgets and the FY 2023 enacted and supplemental budgets. The state took in \$1.5 billion more in revenue than it spent in FY 2021 and is on pace for an even larger revenue surplus in 2022.

Despite the record growth in spending, Alabama's state government is still taxing more from citizens than it needs. Both trends must change. The state should only take in enough revenues to pay for essential government services that the private sector does not have the capabilities to or are not cost effective to provide. Elected officials should take steps to take less money away from the citizens of Alabama. When excess revenues are taken in, they should be used to balance the budget. This includes paying down existing state debts and using remaining surplus revenues to lower the tax burdens of Alabama citizens.

There are a number of ways that these goals could be achieved. First, the state should freeze current spending levels and pursue no further expansion of state government. Once spending and revenue levels are realigned, spending increases should reflect average inflation growth over several years, not additional government growth.

From 2018 to 2021, combined average annual revenue surpluses were nearly \$1.1 billion. This means that Alabama's state government took more than a billion per year from citizens than was necessary to carry out already expanded government services.

During the 2022 regular legislative session, lawmakers enacted approximately \$160 million in tax relief for citizens. Over half of that total came from legislation barring certain COVID-19 pandemic relief payments to citizens from being taxed. Meanwhile at least 10 states have cut individual and/or corporate tax rates in 2022. Over a dozen states did so in 2021.

The risks of implementing meaningful tax reform are limited. The state's various reserve savings accounts are fully funded and could continue to provide funding to the state budgets in the event of a temporary economic downturn.

Georgia enacted \$2 billion in tax cuts for citizens and reduced overall spending. Florida approved more than \$800 million in tax cuts. Mississippi's Legislature approved a half billion tax cut for citizens. Alabama used its historic revenue surplus to enact just \$75 million in long-term tax relief.

The risks of implementing meaningful tax reform are limited. The state's various reserve savings accounts are fully funded and could continue to provide funding to the state budgets in the event of a temporary economic downturn.

It is past time for Alabama to follow the example of so many of our neighbors. Alabama lawmakers should set a goal of reducing the overall tax burden of citizens and business owners by \$750 million over the next three years. Given recent surpluses, this would allow lawmakers to significantly lower the tax burden, pay off existing debts, and still have money available for unanticipated needs of the state.

Providing tax relief to citizens does not require lawmakers to make any uncomfortable or hard decisions about spending cuts. It simply asks that the Legislature and Governor work together to stop expanding government and return excess revenues to its rightful owners, the citizens of Alabama.

Beyond spending and tax cuts, more comprehensive budget reforms are needed. Alabama is one of just three states that has two separate operating budgets, one for education and one for all other government expenditures. This is known as a bifurcated budget process. Furthermore, state revenues are heavily earmarked towards each of the two budgets. Over time these revenue streams have become increasingly out of alignment with the budget priorities, especially within the Education Trust Fund which accounts for approximately 75% of all revenues.

The bifurcated and heavily earmarked budgets mean that lawmakers have little flexibility to adapt to changing revenue streams and budget priorities. In practical terms, this makes it hard for state government to shift budget surpluses towards different budget priorities and increases the desire for lawmakers to increase tax and revenue streams to meet those changing needs. This has in part led to Alabama taking on additional debt to finance new initiatives.

Here are four ways that the legislature and governor could work together to cut spending, reduce citizens' tax liability, and streamline the state's budget process:

1. Freeze state spending at the current level.

- Spending has increased by 36% in the last three years, far higher than inflation over that period of time.
- In the short term, lawmakers should freeze spending at the FY 2023 enacted level for both the State General Fund and Education Trust Fund budgets.
- Once spending is more aligned with actual revenues, spending should only be increased at the average rate of inflation over several years.

2. Enact \$750 million in tax reforms to balance the state's budgets and stop the expansion of state government.

- Over the past four years, state combined revenue surpluses have averaged \$1.1 billion per year.
- In 2021 Alabama had a combined revenue surplus of \$1.5 billion.
- Through August 1, 2022, the state was \$1.655 billion ahead of last year's record revenue collections.
- Alabama's Constitution as well as other statutes requires the state to have a balanced budget each year. Revenues have become out of line with expenditures.
- Excess tax revenues represent more money being collected than is necessary to carry out state government functions.
- Revenue surpluses belong to the people, not the State of Alabama.
- Any revenue surplus should be used to pay off existing state debts, lower the tax burden of citizens and businesses operating in Alabama, and to pay for one-time needs of the state and its residents.
- Cutting taxes by \$750 million over the next three years represents about half of the fiscal year 2021 state revenue surplus.
- The risks of implementing meaningful tax reform are limited, as the state's reserve accounts are fully funded and could help the state withstand a temporary economic downturn.
- More than 20 state legislatures have enacted individual and/or corporate income tax rate reductions in the past two years. It is past time for Alabama to provide meaningful tax reforms to citizens.

Specific taxes that should be considered for repeals are:

- **Repeal the Rebuild Alabama Act's Automatic Tax Increase and Un earmark Revenues from the \$0.10 Levy (Gasoline Tax).**

- i. In 2019, the legislature enacted the Rebuild Alabama Act (ACT #2019-2) during a special legislative session. The act approved a three-phase \$.10 gas tax increase. The legislation also allows for the state to increase the tax by \$.01 every two years based on increases to the National Highway Construction Cost Index.
- ii. The legislature should freeze the gas tax at the current rate and repeal the provision for future automatic increases. Moreover, lawmakers should pledge to un earmark new revenues from the \$.10 levy and use that money to lower other tax burdens, such as the state portion of the sales tax on groceries.
- iii. In January of 2019 Alabama gas prices averaged \$1.93 per gallon. In May of 2022 Alabama gas prices reached the highest average in state history.
- iv. Once fully implemented by the end of FY 2023, the Legislative Services Agency projects that the additional tax levy will bring in \$323 million in revenue each year, before additional \$.01 levies.
- v. With the option to add an additional \$.01 in taxes every two years, Governor Ivey and the legislature enacted a perpetual tax increase that will never have to be voted on again.
- vi. Two-thirds of the new revenue is distributed to ALDOT and the remaining one-third is divided 25% to counties and 8.33% to municipalities. \$40-\$60 million per year must go towards local grant programs and the Alabama Transportation Rehabilitation and Improvement Program-II.
- vii. \$11.760 million annually is dedicated towards improvements of the Mobile Ship Channel.
- viii. At a time when the state is already flush with money from new and expanded tax revenues, the federal government, etc., lawmakers chose to enact a new tax that automatically increases in perpetuity. Rising gas prices directly impact the wallet of any Alabamian that drives and indirectly causes strain to their family budget because of increased transportation costs on the goods that they purchase.

- **Repeal the State Sales Tax on Groceries Without Increasing Other Taxes**

- i. Alabama should enact legislation to permanently repeal the sales tax on groceries. Recent state revenue increases as well as federal stimulus funding could more than pay for lost grocery tax revenues, without establishing new taxes. In the past, this has been a bipartisan issue with both Democrats and Republicans introducing legislation to repeal the grocery tax. Rep. Mike Holmes introduced House Bill 174 during the 2022 Regular Session. The bill would have fully repealed the grocery tax, without increasing other taxes. Holmes' bill was never considered by the House Ways and Means Education committee, despite the ETF's \$1.2 billion revenue surplus to start 2022. With food prices continuing to rise, repealing the grocery tax as a way to give back to all Alabamians is a no-brainer.
- ii. Alabama is one of just three states that still fully taxes the sale of groceries and food-related items.
- iii. The 4% tax on groceries impacts all Alabama families, regardless of socioeconomic status, race, gender, etc.
- iv. The last Legislative Services Agency estimate of the cost of repealing the tax was approximately \$514 million dollars per year.
- v. The state is taking in more revenue than ever. Between revenue surpluses and the more than \$4 billion in direct aid from the federal government, there is more than enough money available to eliminate the sales tax on groceries without negatively impacting the state's Education Trust Fund.

- **Reduce Corporate Income Tax to 4.75% and Untie From Federal Tax Code**

- i. Alabama's current corporate income tax rate is 6.5% and the state allows corporations to deduct

federal income taxes paid from their state income tax filings. This makes the state's effective corporate tax rate variable depending on the federal rate. The cut in federal corporate income taxes provided by the Tax Cuts and Jobs Act of 2017 meant a state corporate tax increase for many businesses.

- ii. Alabama should permanently lower the statutory corporate income tax rate to 4.75% and eliminate the deduction for federal income taxes paid.
- iii. When the Tax Cuts and Jobs Act of 2017 was passed, federal corporate income tax payments were reduced, meaning that corporations had less to deduct from their Alabama income tax returns.
- iv. Alabama's effective tax rate went from 4.3% to 5.2% because of the change in federal law. Gross tax collections increased by 83% annually between 2017 and 2021.
- v. Sen. Dan Roberts and Rep. Danny Garrett introduced bills during the 2020 Regular Session to reduce the rate and untie from the federal deduction, but the bills were not considered and not reintroduced in 2021 or 2022.
- vi. Alabama's current 6.5% corporate tax rate is higher than many of our neighboring states, making Alabama less attractive in bringing new businesses into the state as well as keeping existing Alabama companies headquartered here.
- vii. Lowering the statutory rate would make the state more competitive with our neighbors and provide more stability to tax collections and rates moving forward.

- **Reduce State Sales Tax to 3.3% to account for growth in Simplified Sellers Use Tax**

- i. The Simplified Seller Use Tax (SSUT) is an 8% tax rate assessed for online purchases from businesses that do not have a physical presence in Alabama.
- ii. Since FY 2017, the first year of collections, the SSUT has increased by more than 902%.
- iii. In 2021 gross collections totaled \$521 million.
- iv. Despite most pandemic related restrictions being lifted, such as government mandated store closures, capacity limitations, etc., SSUT revenues still rose by another 35% in 2021.
- v. There has not been a drop off in regular state sales tax receipts because of more people shopping online. Rather, those revenues have continued to grow as well, adding nearly 15% growth in 2021.
- vi. The growth in SSUT revenues has been a major windfall for the state, with half of the revenues going to the SGF and ETF budgets and the other half to county and municipal governments.
- vii. Since the enactment of the statutory SSUT created a windfall for the state at the disadvantage of citizens, lawmakers should take less from citizens to make up that difference.
- viii. Lowering the state sales tax would save citizens money and encourage them to shop at Alabama's brick and mortar stores rather than turning to online shopping.

- **Provide Tax Relief to Alabama's Small Businesses**

- i. Small businesses were the hardest hit during the COVID-19 pandemic.
- ii. The decisions of state and local government officials to pick and choose businesses that could stay open while others were shut down multiplied the negative impacts felt by small businesses.
- iii. Alabama businesses continue to face hardships due to rising costs, supply chain issues, and continuing worker shortages.
- iv. Tax relief measures that could relieve some of the financial stress felt by small businesses include:
 - Freezing unemployment insurance taxes at the current 2022 rates.
 - Reducing the state payroll tax.
 - Repealing the state's Business Privilege Tax in its entirety. During the 2022 Regular Legislative Session, Senate Bill 290 was passed, repealing the \$100 minimum Business Privilege Tax. This helps only a limited number of businesses. No business should have to pay for the privilege of conducting business in Alabama.

3. Use annual surpluses in excess of \$750 million to retire existing state debt

and pay for one-time projects.

- The state currently has \$4.9 billion in bonded indebtedness.
- Revenue surpluses in excess of the \$750 million needed to fully implement tax relief for citizens should be used to retire that existing debt. Retiring debt ahead of schedule will reduce interest payments of the state and save taxpayers money.
- Surpluses in excess of \$750 million could also be used to pay for one-time capital projects, which could allow the state to avoid encumbering new debts in the future.

4.Reform Bifurcated Budget Process and Reduce Budget Earmarking To a Level More in Line With Other States

- Alabama operates under a unique budget system known as bifurcated budgeting. This means that the state has two distinct operating budgets, one for education and one for all other government functions. Nearly all revenue sources in the state's Education Trust Fund and General Fund budgets are earmarked towards specific agencies, programs, etc., leaving little authority to the legislature to determine how funds are being spent.
- Alabama's heavily earmarked and bifurcated budget process presents several challenges. One challenge is that it makes it difficult to shift existing revenues towards new initiatives. A recent example of this is the prison construction legislation that was passed in the first Special Legislative Session of 2021. Instead of being able to shift existing budget surpluses towards construction costs, the state borrowed an additional \$785 million in new debt for the project – a price that Alabama taxpayers will be financing for decades to come.
- Moving from a bifurcated budget process to a unified budget would give lawmakers greater flexibility and control of budget resources. Furthermore, the state is experiencing an unprecedented period of revenue growth, yet duly elected officials have little input over how that money can be spent. The governor and legislature should work to decrease the amount of budget earmarks by at least 10% over the next legislative quadrennium, whether that be through statutory or constitutional amendments.
- Alabama is one of just three states that has two separate operating budgets.
- Having a heavily earmarked and bifurcated budget process presents a number of challenges to Alabama lawmakers.
- A 2018 report from Alabama's Joint Task Force on Budget Reform estimated that 93% of state revenues are earmarked.
 - i. The state's two largest revenue makers, income and sales tax, are both earmarked to the ETF, accounting in part for the high level of overall earmarking.
 - ii. The Legislature has no formal or institutionalized reviews, practices, or processes in place to evaluate or determine the continued effectiveness or feasibility of earmarks on an ongoing basis.
- According to the National Conference of State Legislatures, on average states earmark less than 25% of their budgets.
- Elected officials should have more flexibility and control over how the state's resources are being spent.

Further Resources on Budget and Tax Reform

- www.aldailynews.com/alabama-policy-institute-a-conservative-approach-to-the-gas-tax/
- alabamapolicy.org/2019/03/14/the-gas-tax-the-good-the-bad-and-the-ugly/
- alabamapolicy.org/2019/02/22/j-pepper-bryars-gas-tax-increase-should-be-even-steven-raise-one-tax-lower-another/
- alabamapolicy.org/2021/03/25/halfway-through-the-legislative-session-what-have-lawmakers-done-for-the-people/
- lsa.state.al.us/PDF/fiscal/JTF_TCJA_final_Report.pdf
- alabamapolicy.org/wp-content/uploads/2021/10/Guide-to-the-Issues-Fall-2021_FINAL-small.pdf

- alabamapolicy.org/wp-content/uploads/2020/10/GTI-EARMARKS.pdf
- lsa.state.al.us/PDF/fiscal/JTF_January.2018.Report.pdf
- alabamapolicy.org/2022/07/14/legislature-should-not-seek-permanent-solutions-for-temporary-problems/
- alabamapolicy.org/2022/06/13/state-government-on-pace-for-another-record-surplus-will-it-give-alabamians-a-break/
- 1819news.com/news/item/justin-bogie-legislature-has-made-a-good-start-at-tax-cuts-but-can-think-bigger-02-03-2022

What Other States are Doing on Tax Reform

- Georgia's Gov. Kemp suspended the state's gas tax for much of 2022
- Tennessee offered a month-long grocery tax holiday in August 2022
- Illinois eliminated the state's grocery tax for Fiscal Year 2022-2023
- Florida used Covid funds for tax relief
- Mississippi reduced its income tax on July 1st, 2022

Model Legislation for Budget Reform

- Mississippi Tax Freedom Act of 2022 | <http://billstatus.ls.state.ms.us/2022/pdf/history/HB/HB0531.xml>
- Georgia Income Tax Relief Bill | <https://www.legis.ga.gov/legislation/62346>
- Tennessee Grocery Tax Holiday | <https://www.tn.gov/revenue/taxes/sales-and-use-tax/sales-tax-holiday.html>
- Georgia Gas Tax Suspension | <https://gov.georgia.gov/press-releases/2022-07-01/gov-kemp-signs-executive-orders-extending-temporary-suspension-gas-tax>
- Florida Gas Tax Holiday and Income Tax Relief Bill | <https://www.flsenate.gov/Session/Bill/2022/7071/?Tab=BillText>

ESTABLISH EDUCATION FREEDOM FOR ALL FAMILIES AND SUPPORT SCHOOL CHOICE

The recent history of Alabama's education system has proven that more money does not necessarily yield better education. Year after year, the state's education budget has increased and year after year Alabama's children have continued to score near or at the very bottom in the nation.

The status quo is simply unacceptable. What is needed, instead, is a system where parents have full authority to leverage their tax dollars for their children's education. This should be done by establishing a statewide Education Freedom Account program.

During the 2022 regular session, Senator Del Marsh introduced the Parents Choice Act, which would have unleashed school choice for Alabama's public school students and their parents. The Alabama Education Association and others worked to kill the bill before it reached the Senate Floor for debate. Lawmakers should continue to work towards enacting a Parent's Choice Act type school choice bill in the next legislative quadrennium.

- The average per pupil state Foundation Program funding in Alabama is \$5,561.
- These tax dollars should be made available for families to best meet their children's educational needs, such as for private schools, out-of-district public schools, online education, or other approved educational expenses.
- This should start as a program with limited enrollment that expands over time with demand.

Additionally, the legislature should incentivize the growth of other school choice programs such as

charter schools, magnet schools, open enrollment in non-district public schools, and Alabama’s tax-credit scholarship as created through the Alabama Accountability Act.

Further Resources on Education Freedom and School Choice

- <https://www.cardinalinstitute.com/publication/hope-scholarship-info/>
- https://www.courierjournal.net/commentaries/article_d140af3e-f9f0-11eb-affb-8b5c004845c0.html
- edchoice.org

What Other States are Doing on Education Freedom and School Choice

- Tennessee launched a school choice voucher program in 2022 | <https://alabamapolicy.org/2022/07/18/tennessee-launches-school-choice-voucher-program-this-year/>
- Arizona expanded school choice to every student in 2022 | <https://alabamapolicy.org/2022/06/29/arizona-poised-to-expand-school-choice-to-every-student/>
- West Virginia’s program began in 2022 | <http://legiscan.com/WV/text/HB2013/id/2340788>

ENSURE TRANSPARENCY IN PUBLIC SCHOOL CURRICULUM AND TEACHER TRAINING

Parents should be able to access what their children are being taught. School curricular materials including syllabi, lists of textbooks, information regarding teacher-created assignments, and books or worksheets should all be easily accessible. In addition, content that administrators and educators use for teacher professional development training sessions should be made available both to the public and to parents.

The Alabama legislature should pass a bill requiring such transparency. The Pennsylvania legislature passed a similar bill in October 2021. Wisconsin also considered such a bill, though it was vetoed by their Democratic governor.

Further Resources on School Transparency

- <https://will-law.org/curriculum-transparency/>
- <https://www.legis.state.pa.us/CFDOCS/Legis/PN/Public/btCheck.cfm?txtType=HTM&sessYr=2021&sessInd=0&billBody=H&billTyp=B&billNbr=1332&pn=2241>

ESTABLISH TERM LIMITS FOR STATE LEGISLATORS

It is not uncommon for elected representatives to spend decades in Montgomery in either or both houses. Currently, there are no term limits for those serving in the Alabama legislature. The lack of term limits contributes to a narrow-minded view of government and its role and makes the on-ramps toward corruption less steep. Because of these challenges and no lack of qualified individuals in our state who might seek elected office, the legislature should establish term limits.

Today, there are fourteen states that have established term limits.

- Maine - Eight years in each house
- California - Twelve years between both houses
- Colorado - Eight years in each house
- Arkansas - 16 years in each house
- Michigan - Six years in the House, eight years in the Senate
- Ohio - Eight years in each house

- South Dakota - Eight years in each house
- Montana - Eight years in each house
- Arizona - Eight years in each house
- Missouri - Eight years in each house
- Oklahoma - Twelve years between both houses
- Nebraska - Eight years in their unicameral body
- Louisiana - Twelve years in each house
- Nevada - Twelve years in each house

Further Resources on Term Limits

- <https://www.ncsl.org/research/about-state-legislatures/chart-of-term-limits-states.aspx>

RESTORE THE BALANCE OF POWER

Legislature Should Be Able to Call Itself Into Session

Currently, the Alabama legislature can only act in the predetermined session dates during the first half of the calendar year or when the governor calls a special session. This is a massive imbalance in the balance of power. 36 state legislatures can call a special session on their own without the governor’s approval. Tennessee, Georgia, Florida, and Louisiana are included in the 36.

The legislature should pass a constitutional amendment allowing lawmakers the ability to call themselves into special session at any time. Bills to do this, HB21 and HB500, failed in the 2021 Regular Session in committee. No further progress was made during the 2022 Regular Session.

Practically, there are many options to choose from in terms of implementation, many coming from our neighboring states.

- Florida - 1) Upon the filing with the Department of State of a joint proclamation by the president of the Senate and speaker of the House or 2) if three-fifths of the members of both houses respond affirmatively to a poll by the Department of State—the poll being initiated by certificates from 20 percent of the members of the legislature.
- Georgia - Upon presentation to the governor of a petition signed by three-fifths of the members of each house, with a copy to the secretary of state.
- Louisiana - By written petition of a majority of the members elected to each house to the presiding officers of both houses.
- Tennessee - By the presiding officers of both houses, upon written request of two-thirds of the members of each chamber.

Legislature Should Be Empowered to Approve or Reject Prolonged States of Emergency

Currently, Alabama’s governor has the power to declare states of emergency for up to sixty days. These states of emergency, however, may be renewed as many times as the governor sees fit, creating the possibility of never-ending states of emergencies under the direction of one individual. The Alabama legislature needs to be involved in this process.

In the 2021 Regular Session, Sen. Whatley introduced a bill that would allow the legislature to reject an extended state of emergency. No bills were introduced during the 2022 Regular Session to address this issue. A similar bill should be introduced and passed by the Alabama legislature during the 2023 Regular Session or next special session.

Further Resources on Restoring the Balance of Power

- <https://www.ncsl.org/research/about-state-legislatures/special-sessions472.aspx>

RESTORE SELF GOVERNANCE IN THE DEPARTMENT OF PUBLIC HEALTH

Alabama is the only state in the nation where the top health organization is not led by someone appointed by the governor or by a board that is appointed by the governor.

Alabama law designates “the State Board of Health as an advisory board to the state in all medical matters, matters of sanitation, and public health. The Medical Association, which meets annually, is the State Board of Health.”

This “Medical Association” is none other than the Medical Association of the State of Alabama (MASA), the association of some of the state’s physicians. MASA operates just like any other professional association does: it has its own leadership, its own practices, and its own decision-making bodies – all of which are determined not by the governor or by the people of Alabama, but solely by the medical practitioners who populate the group’s membership rolls.

The Medical Association is also a registered principle (an organization that hires lobbyists) and has, as of March 2021, six registered lobbyists. In fact, advocacy is, according to their website, the “Medical Association’s primary focus.”

What about the State Health Officer? Maybe he’s chosen by the governor or elected? Not quite. The State Health Officer is elected by the State Committee on Public Health. Members of the State Committee on Public Health are selected by the State Board of Health, which is the Medical Association.

This dynamic is similar with county health officers as well.

The office of Chief Medical Officer in Alabama should be a cabinet level position that is appointed by the governor like his/her other cabinet officials. He or she should also be confirmed by the Senate.

Further Resources on Self Governance and the State Health Officer

- <https://www.al.com/opinion/2021/03/why-do-physicians-still-run-alabamas-public-health-system.html>
- <https://www.cdc.gov/publichealthgateway/sitesgovernance/index.html>

Exemplary State for Self Governance and the State Health Officer

- California [leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=HSC§ionNum=131005.&highlight=true&keyword=public%20health%20officer+senate](https://leginfo.ca.gov/faces/codes_displaySection.xhtml?lawCode=HSC§ionNum=131005.&highlight=true&keyword=public%20health%20officer+senate)

ELIMINATE THE ANTI-HEALTHCARE AND ANTI-COMPETITIVE CERTIFICATE OF NEED PROCESS

The certificate of need (CON) process requires healthcare providers hoping to expand or develop new healthcare facilities in the state to get approval by state officials. This approval is not, however, to ensure the health and safety of employees or patients. Instead, healthcare providers are tasked with demonstrating a “need” for the expansion or new healthcare facility in the area the providers hope to serve.

The certificate of need process was initially suggested by the federal government, which incentivized states to adopt CON laws. Almost every state created a CON system. Just a few years later, the federal government studied the results of CON laws, which it had hoped would lead to a decrease in healthcare costs, and realized the ineffectiveness of the programs. Soon enough, the federal government ended its incentivization of CON laws and state after state repealed the system because of its inability to reduce

costs and its anti-competitive nature.

Today, Alabama maintains its CON regime though twelve states have fully repealed their laws and neighboring states of Tennessee, Florida, and Georgia have recently restricted the CON process.

Alabama should eliminate the CON process just as Texas did in 1985.

Further Resources on the Certificate of Need Process

- <https://www.ncsl.org/research/health/con-certificate-of-need-state-laws.aspx>
- <https://youtu.be/AeuIU7AxRPY>
- <https://youtu.be/DlnHeiodQuk>

ELIMINATE HARMFUL OCCUPATIONAL LICENSING LAWS

Occupational licensing imposes mandatory professional requirements on individuals seeking entry into an occupation. The purpose of these professional requirements is to protect consumers in situations where they may lack the information necessary to evaluate the quality and safety of a good service. Initially, reasonable professional requirements extended only to occupations that could credibly demonstrate a need for licensure; but over time, licensure requirements have increasingly extended to cover more and more occupations.

These licensure requirements now include educational and experience requirements as well as a wide assortment of fees. Rather than to protect consumers, industry practitioners often lobby for licensure to legally restrict entry into their professions, reducing competition and raising industry wages through higher consumer prices. Thus, occupational licensure often hampers economic mobility and occupational choice by reducing employment opportunities, raising prices on consumers, and restricting consumer choice. The costs of occupational licensing often fall heaviest on the most disadvantaged and vulnerable groups in society, including the poor, minorities, military service members, and rehabilitated criminals.

Alabama licenses a total of 151 occupations, covering over 432,000 Alabama workers, which represents over 21 percent of the state’s labor force. We estimate the total initial costs of occupational licensure, excluding the educational costs, to be \$122 million. Annual license renewal costs both workers and consumers (who often pay for these costs in increased prices) \$45 million total. This pales in comparison to the total initial education costs, which we estimate to be \$65 billion, and the estimated \$243 million annual continuing education costs for licensed workers in Alabama.

Given the substantial economic costs imposed by occupational licensing in Alabama, the state legislature must eliminate these barriers to entry and ensure new barriers do not arrive.

In 2019, the legislature considered a bill that would have required any new licensing regulations to go before a sunrise committee. This bill was not considered in committee. It should be considered the first step in fixing Alabama’s overburdensome system.

The state should then pass legislation that creates a more substantial review process of current occupational licensing statutes than the sunset process currently in place which has rarely, if ever, resulted in less regulation.

Further Resources on Occupational Licensing

- <https://alabamapolicy.org/wp-content/uploads/2020/10/Cost-of-Occ-License.pdf>
- <https://ij.org/activism/legislation/model-legislation/model-economic-liberty-law-1/>

Model Legislation for Occupational Licensing

- <https://legiscan.com/AL/text/HB88/id/1945863/Alabama-2019-HB88-Introduced.pdf>
- <https://www.alec.org/model-policy/the-occupational-licensing-defense-act-2/>
- <https://ij.org/wp-content/uploads/2021/03/03-19-2021-Occupational-Licensing-Review-Act.pdf>

REPEAL ALABAMA MEDICINAL MARIJUANA LAW AND/OR ENACT LEGISLATION TO AUTOMATICALLY REPEAL THE LAW UPON FDA APPROVAL OF MEDICINAL MARIJUANA

The legislature legalized medical marijuana during the 2021 legislative session. The established medical marijuana structure provides a way for the state to bring in millions of dollars and completely ignores free market and limited government principles. Marijuana remains illegal under federal law and has not been approved by the FDA for medicinal use. The taxation of medicinal marijuana also marks the first time that Alabama has imposed a sales tax on pharmaceuticals.

The legislature should repeal the state's existing medical marijuana law. Marijuana is not approved by the FDA and is illegal under federal law. If medicinal marijuana receives FDA approval in the future, it should be treated the same as any other prescription drug.

- Legalizing medical marijuana is more about generating money for state government and a few selected private companies than helping sick Alabamians. Nationwide, medical marijuana is estimated to be a \$7.3–\$8.9 billion business.
- Alabama's medical marijuana structure does not operate under a free market approach. It also allows for the sale of a substance which is not approved by the FDA and remains illegal under federal law.
- The state will implement a 9% tax on retail sales of medical marijuana, marking the first time that a state has ever taxed a prescription drug.
- Executive Director of the Alabama Medical Cannabis Commission is former state treasurer, John McMillan. The state knows the sale of medical marijuana will be big business.
- The commission will determine who can receive a license to grow, process, transport, and dispense medical cannabis. The chosen few could reap substantial financial benefits.
- Arkansas legalized medicinal marijuana in 2016 and dispensaries became operational in 2019. In the first two years sales exceeded \$330 million with the state taking in \$31.7 million in tax revenue. Arkansas now has several constitutional amendment initiatives to legalize recreational marijuana. They could appear on the ballot in 2023, which could be a harbinger of things to come in the future for Alabama.

Further Resources on Medicinal Marijuana

- https://alabamapolicy.org/wp-content/uploads/2021/10/Guide-to-the-Issues-Fall-2021_FINAL-small.pdf
- <https://alabamapolicy.org/wp-content/uploads/2020/10/Medical-Marijuana-Report-Feb-19.pdf>
- <https://alabamapolicy.org/2021/05/05/alabama-legislature-continues-to-consider-medical-marijuana-is-it-to-help-people-or-make-money/>
- <https://alabamapolicy.org/2021/03/11/phil-williams-speaks-against-medical-marijuana-at-house-committee-hearing/>
- <https://alabamapolicy.org/2019/12/18/the-medical-marijuana-bill-looks-more-like-a-trojan-horse/>

CONTINUE ALABAMA'S PRO-LIFE LEGACY

In 2019, Alabama passed the nation's first post-*Roe* ban of elective abortion. Since *Roe v. Wade* has been overturned by the Supreme Court, elective abortion is illegal in our state and the lives of thousands of Alabamians will be saved.

This law must be defended by legislators and any attempts to alter or adjust the law to allow for increased access to abortion should be opposed. The legislature should also work to encourage and incentivize adoption for expectant mothers who are unable to care for their children.

Further Resources on Abortion and Adoption

- <https://aul.org/spotlight/alabama/>

INCREASE ELECTION INTEGRITY

Alabamians' right to vote in a free and fair election is the most basic of civil rights. Protecting the integrity of elections is the basis of defending many other rights that the citizens of this state and all Americans depend on.

The legislature should enact legislation that will protect the integrity of our elections. The preparation of elections should be professional, impartial, and transparent at all levels. The legitimacy of government is dependent on public confidence in electoral and political processes.

Further Resources on Election Integrity

- <https://yellowhammernews.com/state-rep-wes-allen-moves-to-ban-use-of-private-funds-in-alabama-elections-process/>

Exemplary States for Election Integrity

- North Carolina: <https://www.ncsbe.gov/about-elections/election-security/post-election-procedures-and-audits>
- Florida: <https://dos.myflorida.com/communications/press-releases/2020/florida-department-of-state-launches-election-2020-protecting-you-and-your-vote/>

OPPOSE ATTEMPTS TO EXPAND GAMBLING AND ESTABLISH A LOTTERY IN ALABAMA

Increasing casino-style gambling in the state and establishing a statewide lottery is bad public policy, both fiscally and socially, and it is the wrong solution to address the state's unsustainable fiscal trajectory. Regardless of who plays the lottery or gambles (and regardless of the outcome), the government receives a cut of every dollar spent on these activities. This creates a perverse incentive for the state, especially when conventional revenue streams are volatile. The state can become addicted to these funding streams, with politicians actually desiring for more and more individuals and families to recklessly spend their money gambling. If a lottery is instituted or gambling increased, calls to further increase gambling will become incessant and government expansion will likely follow in its wake.

In April 2022, Governor Kay Ivey said that her biggest regret of the 2022 Regular Session was that gambling legislation did not pass. Given her comments, gambling and lottery legislation is almost certain to come before the legislature again, whether it be through a Special Session or the next Regular Session.

Legislators, therefore, should oppose any attempts to increase gambling or establish a state-run lottery. Suggesting that it is an issue that is "left up to the voters" is not an appropriate response for a conservative legislator.

Further Resources on Gambling and Lottery

- <https://alabamapolicy.org/wp-content/uploads/2020/10/Lottery-April-2019-1.pdf>



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