

# ALABAMA ISSUES



AUBURN

UNIVERSITY OUTREACH

GOVERNMENT & ECONOMIC  
DEVELOPMENT INSTITUTE

No. 08

## **PK-12 Education**

Pre-Kindergarten  
K-12 Education Finance

## **Healthcare Access**

Rural Healthcare  
Medicaid

## **Criminal Justice**

## **Budgets and Taxes**

## **Vision and Strategy**

**200**  
ALABAMA  
BICENTENNIAL

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## ABOUT ALABAMA ISSUES

*Alabama Issues 2018* is a collection of short, research-based articles intended to stimulate public discussion and engagement, leading to improved public policy and practice. This publication will be distributed to major state and local media outlets, as well as candidates for statewide office, community leaders, economic developers, and local elected officials.

The series was first published by the Center for Governmental Services (CGS) at Auburn University in 1978, with subsequent volumes released during each gubernatorial election year until the last publication in 2002. The October 2015 merger of CGS and the Economic & Community Development Institute at Auburn University into the AU Government & Economic Development Institute (GEDI) provided an opportunity for GEDI to relaunch this publication with an 8th edition, *Alabama Issues 2018*. The 2019 bicentennial of Alabama serves as an unprecedented occasion to celebrate our state – to reflect upon our past, evaluate our present, and collectively envision the future we desire (for ourselves, our children, and our grandchildren). This 8th edition will serve as a tool in that process – by examining statewide issues to address the nature, costs, and implications of our current and alternative policy choices.

Four focus issues were selected based upon their relevance, urgency, and consequence to quality of life and economic prosperity for the state of Alabama, its communities, and its citizens. *Alabama Issues 2018* focuses on PK-12 education, criminal justice and prison reform, healthcare access, and our state budgets and taxes. For each issue, authors were selected based upon their demonstrated expertise and experience. We asked each author to address a particular component of one of the selected issues. Authors were asked to use research and personal experiences to explain the topic in general terms, identify challenges, and provide recommendations for improvement.<sup>1</sup> In addition, the editors have written an introductory article to frame each issue. Together, these articles provide a broad, collective overview of each issue, outlining its nature and importance, and evaluating alternative strategies for addressing challenges.

*However, these articles are only intended to be the beginning.* Our hope is that *Alabama Issues 2018* will provide guidance for those taking office and direction for concerned citizens – so that discussion and research into these issues will lead to informed and collaborative decision making and action. As Alabama celebrates 200 years of statehood and commemorates the past, we hope this publication helps provide a vision to carry us forward and prepare for an even more promising future.

## ABOUT GEDI

The mission of the Government & Economic Development Institute at Auburn University is to promote effective government policy and management, civic engagement, economic prosperity, and improved quality of life for the State of Alabama and its communities. GEDI is recognized as one of Alabama's top organizations for university outreach. GEDI is a primary resource for education and training, consultation, and research by the State and local governments and the economic development community.

<sup>1</sup> The opinions expressed by the authors do not necessarily represent those of GEDI or Auburn University.

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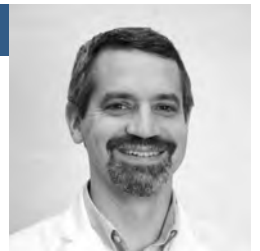


## DALE QUINNEY

Dale Quinney serves as the founder of Operation Save Rural Alabama and is the former Executive Director of the Alabama Rural Health Association. He has a background in working as a health data specialist. He recently directed the development of a comprehensive statewide health assessment for the Alabama Department of Public Health. Quinney has received multiple awards in recognition of his significant impact on public health in Alabama. Quinney earned an M.P.H. degree, specializing in biometry, from the University of Alabama at Birmingham.

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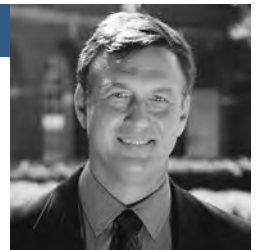
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Jim Williams served as the Executive Director of the Public Affairs Research Council of Alabama (PARCA) from its founding in 1988 until his retirement in 2015. He continues to serve as a consultant, researching issues related to public education, finances, and taxes. He previously served as President of the Governmental Research Association of the United States. Williams earned his master's degree in Political Science from the University of Michigan.



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# **PK-12 EDUCATION**

## **PRE-KINDERGARTEN**



# INTRODUCTION TO PRE-KINDERGARTEN

## ROOTS AND FOUNDATIONS

Building Alabama's capacity for survival and growth depends upon investing in the state's most critical resource: its children. In an increasingly complex world, today's children will have to fill unprecedented workforce gaps and lead changing communities. They must be equipped to meet these challenges. This requires strong roots that prepare children to absorb information and learn skills that will aid in their development. Early childhood experiences provide the framework around which a child's life is built. According to the Center on the Developing Child (2007), the architecture of the human brain is constructed through a continuous process that begins before birth and extends through early adulthood. Similar to building a house, building a healthy brain begins with laying a strong foundation. This solid base increases the probability of positive life outcomes by shaping how the rest of the brain develops. The flexibility of the brain changes, and its ability to adapt decreases over time (Center on the Developing Child, 2007). Thus it is much easier and more effective to build up children early on than to try to go back and mend them later through extreme and costly interventions.

## IMPACTS OF HIGH-QUALITY PRE-K

Decades of research show that high-quality pre-kindergarten programs complement parental investments to establish the foundation necessary for young children to learn and grow. High-quality preschool programs are differentiated by their high faculty and staff standards, comprehensive research-based curricula, engaging classroom environments, and family outreach (Lamy, 2013). These programs encourage children to become involved in an environment that fosters a love of learning, teaches children that they have the capacity to learn, and instills confidence (see Liz Huntley's article). Without access to these early interventions, school readiness and academic achievement gaps can take root by age five and trap students in a continuous cycle of trying to catch up.

High-quality pre-kindergarten programs have been found to increase school readiness through improvements in literacy, language, and math skills; boosting a child's academic trajectory (Yoshikawa et al., 2013). Multiple longitudinal studies have shown that children who attend high-quality pre-K are also less likely to need special education, repeat grades, and drop out of high school (Wat, 2007; U.S. Department of Education, 2015). Such programs can also increase achievement test scores, high school graduation rates, and college attendance (Karoly, 2017). In a study specific to Alabama's First Class Pre-K program, researchers at UAB and the Public Affairs Research Council of Alabama (2018) found that students who attended this program were outperforming their peers in reading and math when they reached third grade (as cited in Cason, 2018). The impacts of high-quality pre-K extend beyond the classroom and are evident throughout an individual's lifetime. Adults who attended high-quality preschool programs as children have higher lifetime earnings, experience better health outcomes, and are less likely to be involved in the criminal justice system (Wat, 2007; Yoshikawa et al., 2013; Karoly, 2017).

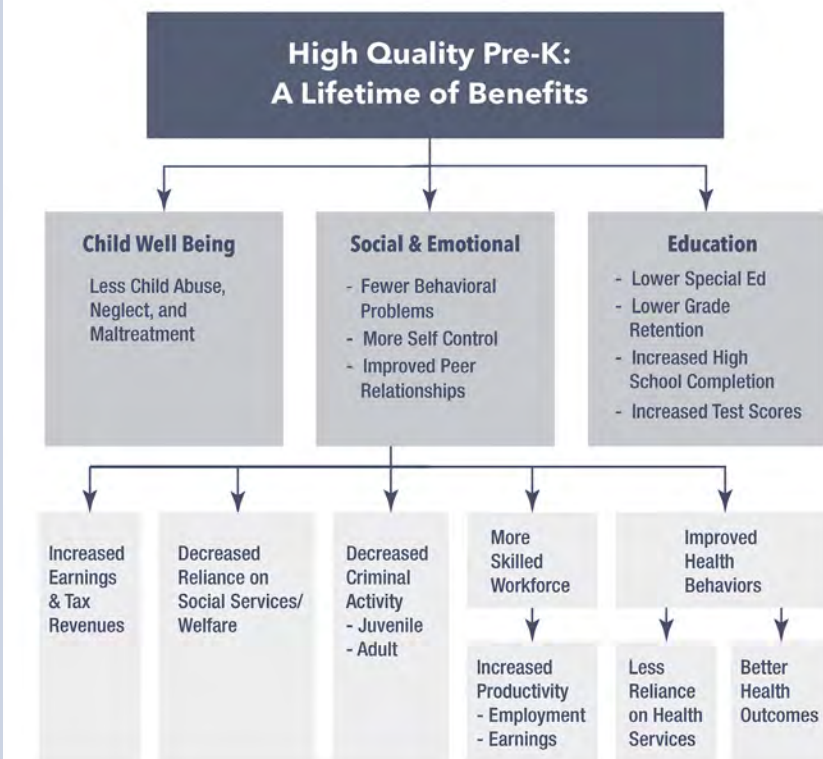
To some, the prospect of providing every child with access to a high-quality preschool education may seem like a luxury rather than a necessity. These con-

**“Similar to building a house, building a healthy brain begins with laying a strong foundation. This solid base increases the probability of positive life outcomes by shaping how the rest of the brain develops. The flexibility of the brain changes, and its ability to adapt decreases over time ... Thus it is much easier and more effective to build up children early on than to try to go back and mend them later through extreme and costly interventions.”**

cerns are understandable given Alabama's balanced budget mandate and current funding shortages. However, the numbers speak for themselves. Funding high-quality pre-K provides a substantial return on investment. For every dollar that a community spends on high-quality pre-K programs, they receive over \$7 in return (Reynolds, Temple, Robertson, & Mann, 2002).<sup>1</sup> In fact, in a study specific to Alabama, economist Keivan Deravi found the rate of return for pre-K to be "comparable to the state's recent economic development investment in the automobile industry and its mega projects" (Deravi, 2007). Not only does high-quality pre-K serve a fundamental role in child development, it also has significant impacts upon collective economic and civic prosperity. When a child succeeds, their success is amplified in the community.

Increases in individual educational attainment correspond to increased workforce quality and preparedness, as well as greater economic productivity. In fact, a recent economic impact study found that for every \$1 spent on high-quality preschool, the earnings of state residents increase by \$2 to \$3, and property values increase by an estimated \$13 (Bartik, 2013). The long-term effects of high-quality pre-K can also minimize local and state tax burdens. Declines in overall crime, teenage pregnancy, child abuse and neglect, and welfare use significantly impact a community (Wat, 2007; Karoly, 2017). These positive externalities lessen the burden on the community by saving valuable resources.

For every dollar that a community spends on high-quality pre-K programs, they receive over \$7 in return.



GEDI adapted from "Dollars and Sense: A Review of Economic Analyses of Pre-K," by Albert Wat, 2007. Retrieved from <https://goo.gl/9PQv3S>. Copyright 2007 by Pre-K Now.

## HIGH-QUALITY PRE-K IN ALABAMA

When it comes to educational quality, Alabama has one of the highest-ranked public preschool programs in America. The state's First Class Pre-K program has led the nation for over a decade. In fact, Alabama is one of only two states to meet all 10 of the revised 2017 National Institute for Early Education Research (NIEER) quality standards (Barnett et al., 2017). Given Alabama's historical rankings in education, the magnitude of this achievement cannot be overstated. Yet, only 29% of Alabama four-year-olds have access to this invaluable program (Ross, 2018).

## TARGETED OR UNIVERSAL PRE-K?

Alabama has recently expanded access to the First Class Pre-K program, adding 884 classrooms in the past 12 years (Ross, 2018) and approving a 24% budget increase (for a total budget of \$96 million) for FY2019; this is expected to add at least another 100 classrooms and provide access for 1,400 students across the state (Crain, 2018). In the 2017-2018 school year, Alabama provided 941 classrooms, serving 16,938 students (Ross, 2018).

<sup>1</sup> This specific return on investment was selected, because it is the best available measure, as the Chicago Longitudinal Study examined a pre-K program that was comparable to Alabama's First Class Pre-K program in cost and design. The findings from this study indicated a \$7.14 benefit for every \$1 invested. Other studies have estimated returns of up to \$16 (as cited in McKell & Muhlendorf, 2016).



| POLICY                                      | BENCHMARK   | AL PRE-K REQUIREMENT   | MEETS BENCHMARK |
|---|---|--|-----------------|
| Early Learning and Development Standards    | Comprehensive, aligned, supported, culturally sensitive                           | Comprehensive, aligned, supported, culturally sensitive                  | ✓               |
| Curriculum Supports                         | Approval process & supports   | Approval process & supports  | ✓               |
| Teacher Degree                              | BA  | BA   | ✓               |
| Teacher Specialized Training                | Specializing in Pre-K   | ECE, CD, ECE SpEd  | ✓               |
| Assistant Teacher Degree                    | CDA or equivalent   | CDA or 9 ECE/CD Credits  | ✓               |
| Staff Professional Development              | For teachers and assistants: at least 15 hours/year; including PD plans; coaching | 30 hours/year (teachers); 20 hours/year (assistants); PD plans; coaching | ✓               |
| Maximum Class Size                          | 20 or lower   | 20 (4-year-olds)   | ✓               |
| Staff-Child Ratio                           | 1:10 or better  | 1:10 (4-year-olds)   | ✓               |
| Screening & Referral                        | Vision, hearing & health screenings; & referral                                   | Vision, hearing, health & more; Support services                         | ✓               |
| Monitoring / Continuous Quality Improvement | Structured classroom observation; program improvement plan                        | Structured classroom observations (> once/year); Improvement plan        | ✓               |

GEDI adapted from "Alabama" by NIEER, 2017. Retrieved from [nieer.org/wp-content/uploads/2017/05/Alabama2\\_YB16.pdf](http://nieer.org/wp-content/uploads/2017/05/Alabama2_YB16.pdf). Copyright 2017 by NIEER.

However, over 70% of the state's four-year-olds currently lack this opportunity. Advocates of pre-K estimate that it would take \$144 million to serve all eligible four-year-olds (Crain, 2018). The Education Law Center evaluated each state on its early childhood resource allocation and ranked Alabama 49th in the nation, with an associated ratio by income of 74% (Baker, Farrie, Johnson, Luhm, & Sciarra, 2017). This means that low-income students are 26% less

likely to attend preschool than their counterparts. This is especially concerning, because low-income children see the largest impacts from a high-quality pre-kindergarten experience. Studies show that children from low-income families often begin kindergarten substantially behind their peers, lacking the early math, vocabulary, literacy development, and social skills that are necessary for classroom success (Lamy, 2013). These early delays predict later educational gaps and shortfalls. Providing children with the early education, stimulation, and support needed for their development can change their academic and life trajectories.

Though the need for pre-K is greater for low-income children, this does not necessarily imply that targeted preschool programs are the best solution, because public pre-K for all children can produce larger net benefits than targeted programs (see Steve Barnett's article). Universal access to high-quality pre-kindergarten provides a level foundation for future growth, ensuring that all children, regardless of where they live or how much their parents earn, have a chance to reach their potential and contribute to society.



When it comes to educational quality, Alabama's First Class Pre-K program has led the nation for over a decade (2006-2016). Yet, only 29% (just above 1-in-4) of Alabama four-year-olds currently have access to this opportunity.





**“Universal access to high-quality pre-kindergarten provides a level foundation for future growth, ensuring that all children, regardless of where they live or how much their parents earn, have a chance to reach their potential and contribute to society.”**

## CONCLUSION

Alabama’s children will shape the state’s future. Though the State continues to increase funding to provide more classrooms and reach more children, Alabama’s First Class Pre-K serves only a fraction of all eligible children. Studies have shown that high-quality pre-K prepares students to learn and closes achievement gaps, laying a solid foundation for children to succeed. As Governor Ivey stated in reference to Alabama’s First Class Pre-K, “Success breeds success, and a strong educational foundation is the basis for the success of all Alabamians in the future” (as cited in Cason, 2018). Our authors discuss the role and impact of pre-kindergarten from a personal and research-based perspective. They suggest scaling up Alabama’s pre-K program while maintaining its high quality. This would mean moving beyond an educational legacy of inequity and underinvestment by providing each four-year-old child in Alabama with access to the highest-ranking public preschool education in America.

**“Studies have shown that high-quality pre-K prepares students to learn and closes achievement gaps, laying a solid foundation for children to succeed.”**

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# THE IMPACT OF PRE-K: A PERSONAL NARRATIVE

LIZ HUNTLEY



## FROM POLITICAL TO PERSONAL

Several years ago, I was asked to attend a meeting in Montgomery about the Alabama School Readiness Alliance grassroots movement to expand access to high-quality pre-K for all four-year-olds in Alabama. They talked about the long-term benefits of high-quality pre-K for children. For example, children who attend high-quality pre-K are less likely to repeat grades, need special education, or get into future trouble with the law. They also talked about the impact of the nurturing environment provided by a high-quality preschool and how that environment can help prevent impediments to brain development in young children who have suffered through traumatic events.

After listening to the presentation, I was emotionally overwhelmed, because I realized that God had used preschool to save my life! I am so blessed to now have a wonderful husband, three beautiful children, and a fulfilling career at a prestigious Alabama law firm. My journey to this stage would not have been possible without my preschool experience. I am living proof that preschool can be a real game changer.

“[T]he nurturing environment provided by a high-quality preschool ... can help prevent impediments to brain development in young children who have suffered through traumatic events.”

## LIFE BEFORE PRESCHOOL

I was born into a home where both of my parents were drug dealers. I had four siblings, and we had four different fathers. As a young child, I was oblivious to the dysfunction and danger in which I lived; it was the only life I had ever known. But, as with most family situations where there is dysfunction, something bad happened. When I was five years old, my dad was sent to prison for dealing drugs. My mother tried to “hold down” the drug business herself but ultimately broke the cardinal rule of drug dealing: she started using her product and became a heroin addict. She ultimately committed suicide.

My siblings and I were separated and went to live with various extended family members. My younger sister and I had the same father and went to live with our paternal grandmother in the housing projects of Clanton, Alabama. My grandmother was poor and had other adult children living in her home. She had escaped an abusive marriage and was still raising the youngest of her eight children. The addition of my sister and I were two more mouths to feed, creating additional stress on my grandmother. So, I moved from one place of dysfunction to another. But, this time, I had become aware of the dysfunction around me. In addition to dealing with the anxiety of losing my mother and being separated from my siblings, I began to experience a living nightmare: one of my uncles began to sexually abuse me on a regular basis. He threatened me to keep me from

“Circle time” with a First-Class Pre-K in Sylacauga, Alabama.



“I walked down to that preschool with quite a story hidden behind my eyes, and I was scared ... When I entered the preschool, I looked around the room and almost smiled ... the room was so inviting. It was clean, bright, and colorful. It had little desks, tables, and chairs that were just my size. I felt happy to be there.”

telling anyone, so I kept this dark, disgusting secret. I became a withdrawn child. Then the game-changing event happened: I went to preschool.

## **PRESCHOOL: THE GAME CHANGER**

At the time, my community was going through the early stages of integration, and tensions were high. A church in my community received a grant and opened a preschool in their fellowship hall to make sure that the kids from my community were prepared for school when they went across town. The preschool had no tuition, so my grandmother informed me that I would attend. I remember the first day like it was yesterday. I walked down to that preschool with quite a story hidden behind my eyes, and I was scared. Living in a small community, I knew that everyone knew my family's story, and I was embarrassed. I was embarrassed that my mother was a drug addict and had committed suicide. I was embarrassed that my dad was in and out of jail. I was embarrassed that we were so poor and that kids made fun of us. And, even though I had told no one about my darkest secret, I felt like people could look at me and tell that I was being sexually abused. With all of those things on my mind, I had no idea how people at the preschool would treat me.

When I entered the preschool, I looked around the room and almost smiled. The room was so beautiful to me! As a child who lived in a home with cinder block walls, concrete floors, and dirt for a front lawn,

“My journey to this stage would not have been possible without my preschool experience. I am living proof that preschool can be a real game changer.”



Saks Elementary First Class Pre-K classroom in Anniston, Alabama.

the room was so inviting. It was clean, bright, and colorful. It had little desks, tables, and chairs that were just my size. I felt happy to be there. Then, when that preschool teacher came up to me and put her arm around my shoulder and, with a sweet voice, said “come on in here baby”, I almost cried. For the first time in my short, fragile life, I felt the nurturing touch of an adult, and I melted. Not only did the preschool teachers speak kindly, but they would get down on their knees, look into the eyes of their students, and call us each by name. Why was this significant? I was like many kids who live in homes where the adults are chronically stressed with providing the bare necessities of life: there was very little, if any, nurturing going on at home. For example, I was used to hearing my name accompanied with a command like, “Elizabeth, go to bed!” or “Elizabeth, clean your room!” At the preschool, the teachers said things like, “Good morning, Elizabeth; I am happy to see you this morning.” Or, they would encourage you with words like, “Elizabeth, you are so smart.” Once I experienced true nurturing at preschool, I craved it all of the time. I quickly learned that, if you did really “smart” stuff, the teachers would shower you with praise and affection. Because I was so desperate for that nurturing, I did “smart stuff” all of the time. In fact, I did so much “smart stuff” that I

Proud First Class graduate, May 2017.







A hands-on science lesson for First Class Pre-K students.

“I had no idea that the preschool was providing me with a solid academic foundation that put me on a level playing field with students who came from homes where their families made sure they were ready for school.”

community in the distance as I traveled into an unknown world.

When we arrived at the school, I had no idea what to expect. I walked in and looked on the wall and saw a sign that said “1st Grade”. I thought to myself, “I am going to the first grade, so I must be in the right place.” I stood there a little longer and watched parents filing in with their kids. They would stop and find their child’s name on posted sheets of paper and say, for example, “Susie, I see you are in Mrs. Carmichael’s room.” Then, they headed toward the first grade module. Observing this pattern, I thought, “Well, I am going to the first grade. My name should be on the list.” So, I got on my tiptoes and scrolled down the list until I found my name. I saw what room I was assigned to and headed that way. *It was because of that preschool that I knew how to read my name and how to find a classroom.*

I went into the classroom and sat in the front desk because the teachers at the preschool told me: “Nothing good happens in the back of the classroom! When you get to that school, you better sit in one of the front desks.” I sat there for what seemed like an eternity (but was likely only a few minutes)

First Class preschool students in Mobile, Alabama learn STEM principles through playing with gears.



unintentionally ended up being valedictorian of my kindergarten class. I was just responding to the love and affection from those teachers in that preschool. I had no idea that the preschool was providing me with a solid academic foundation that put me on a level playing field with students who came from homes where their families made sure they were ready for school.

And, not only did I thrive academically in that preschool, but I blossomed emotionally and came out of my shell. What was amazing about this transformation was that nothing changed about my home life. I continued to encounter regular abuse at home, but the buffer of that nurturing preschool environment gave me hope and prepared me for the next important chapter of education.

## CONQUERING BARRIERS

After much anxious anticipation, the first day of public school arrived. I remember waking up that morning, getting dressed, and eating my breakfast. Then, I vividly remember my grandmother looking at me and saying, “Elizabeth, I want you to go over to that school and tell the teacher to put an ‘X’ everywhere I need to sign on the paperwork. Tell her to send it home, and I will sign it and send it back tomorrow.” I stood there frozen in fear at the realization that I would have to get on the school bus and go to school alone at six years old and in the middle of the tensions of integration. Simply put, I was terrified!

But, I did not dare disrespect my grandma. I got on the bus and headed to the school. I will never forget how fast my heart began to race as the bus crossed the railroad tracks, leaving my familiar west-end



Liz Huntley and her “Wonder Woman”, Mrs. Pam Jones, at the 2015 launch of Huntley’s first book, *More Than a Bird*.

before the teacher noticed me. In full disclosure, as she walked towards me, I thought she looked just like Wonder Woman (i.e., Lynda Carter) with her dark hair, pretty eyes, and beautiful smile. As a six-year-old, I thought in my mind, “Could this be? Is my teacher really Wonder Woman?” Well, while Mrs. Pam Jones was not *the* Wonder Woman,

she did become *my* Wonder Woman.

She approached me and said, “Well, hello, young lady. What is your name?” I panicked, and in response, all I could say was, “My name is Elizabeth Humphrey, and my grandma told me to tell you to put an ‘X’ on my paperwork where she needs to sign, send it home, and I will bring it back tomorrow!” She looked surprised by my response, and we had an exchange about how I had found my way into that classroom.

So many things could have happened in that moment that would have changed the course of my life. Mrs. Jones could have made a big deal about the fact that I was at school alone and reported me to the office for child services. Mrs. Jones could have been a teacher who brought her personal biases into the classroom and looked down on me as one of “those children”.

However, instead of having a negative reaction, Mrs. Jones observed me as a resilient, intelligent, and brave child. And, with tears in her eyes, she bent

**“My first day of preschool set the stage for the rest of my life. Every year, from preschool to law school, God placed educators in my life to help me use education as a tool to overcome the obstacles posed by my family environment. Being ready for school was truly my game changer. ”**



Liz Huntley pauses for a quick “group selfie” after sharing her story with students at the Butler Terrace Boys and Girls Club in Huntsville.

down close to me, looked me in my face and said, “Elizabeth Humphrey, you are going to be the brightest student I ever have!” I still remember that moment like it was yesterday. My preschool was the reason I was able to have that life-changing moment with Mrs. Jones. My first day of preschool set the stage for the rest of my life. Every year, from preschool to law school, God placed educators in my life to help me use education as a tool to overcome the obstacles posed by my family environment. Being ready for school was truly my game changer.

And, because of the impact preschool had on my life, I have committed my time to work with the Alabama School Readiness Alliance to ensure that every four-year-old in Alabama has the same opportunity that I had – access to the promise of high quality pre-K.



# ALABAMA'S FIRST CLASS PRE-K: AN EVALUATION AND RECOMMENDATIONS

STEVEN BARNETT, PH.D.



## OVERVIEW

Alabama is poised to become the national leader in early childhood education. To do so, Alabama must stay the course it has set in recent years to expand access while keeping quality as the first priority over the next decade. By 2025, every four-year-old child in Alabama can have access to a world-class education that provides a firm foundation for future success in school and in life.

In its first 10 years, the aptly named First Class voluntary pre-K program set high expectations based upon rigorous standards and built an infrastructure to support successful implementation. Alabama also made the necessary financial commitment, combining state, local, and even federal funds. This enabled First Class to expand enrollment in the program from less than 2% to nearly 30% of the state's four-year-olds. These accomplishments should be applauded, but they still leave most children in Alabama without access to high-quality pre-K.

In this article, I address three questions. First, has First Class delivered what has been promised? Specifically, what is the evidence on this pre-K program's actual performance? Second, should First Class be expanded beyond its current level to reach all four-year-olds? How do the arguments for and against "universal expansion" stack up? Finally, how can First Class be scaled up to offer high-quality pre-K to all children, while making it even more effective? One of the biggest challenges successful organizations face is how to expand their success to scale. I propose a timetable for expansion and recommend specific steps for expansion with continued quality improvement.

**"[Alabama has] made the necessary financial commitment ... to expand enrollment in the program from less than 2% to nearly 30% of the state's four-year-olds. These accomplishments should be applauded, but they still leave most children in Alabama without access..."**

## HAS FIRST CLASS DELIVERED UPON ITS PROMISE?

Child progress over the First Class school year is assessed by teacher ratings on a measure of learning and development. This measure includes physical and social-emotional development, as well as general cognitive abilities, literacy, and math. As this measure is widely used nationally, the performance of children in First Class can be compared to general expectations for children of the same age. Many children in First Class begin the year poorly prepared. For example, in fall of 2015, more than 60% of children who entered First Class scored below the expected level in math. By the end of that year, nearly all children were reported to perform at or above expected levels across all domains (Alabama Department of Early Childhood Education [ADECE], 2016c).

The impact of First Class on subsequent school success has been assessed by follow-up studies that compare "graduates" with children who did not attend First Class. These studies find that First Class graduates are: (1) more likely to meet expectations for readiness when they enter kindergarten, (2) less likely to be chronically absent in grades three through seven, and (3) less likely to fail and/or repeat a grade (ADECE, 2016a&b, 2017).

A study by the Public Affairs Research Council of Alabama (PARCA) provides the most detailed analysis of First Class outcomes (Adams, 2012). The PARCA study compared reading and math achievement in grades three through six for children who attended First Class and children in the same age cohorts who did not attend First Class. This study compared children within population subgroups to control for differences in ethnic background and poverty status. The results indicate that First Class likely had the largest benefits on reading and math for African-American children and children in poverty. The estimated achievement advantage attributed to First Class is modest, but meaningful, and similar to results from other studies of high-quality public pre-K (e.g., Barnett & Frede, 2017; Gormley, Phillips, & Anderson, 2017).

As with all studies, there are limitations to the evaluations of First Class. The more recent studies do not control for family background differences. The PARCA study compared achievement for students with similar backgrounds, but relied on data for children who attended years ago when quality was probably lower than it is today. Also, children who did not attend pre-K likely learned more in school, because their primary school classmates who attended First Class were better prepared; this benefit would reduce estimated program effects.

Whether the limitations of previous evaluations of First Class under- or overestimate effects is hard to determine. My own assessment is that the results are about right. First Class produces modest long-term educational gains, and these are somewhat larger for the most disadvantaged children. These outcomes are what would be expected based upon what we know about the First Class quality of instruction.

In sum, First Class has delivered on its promise of consistent positive outcomes. Estimated impacts are

remarkably similar to those of Tulsa’s universal pre-K, which has had very similar quality standards (Phillips, Gormley, & Lowenstein, 2009). A benefit-cost analysis for Tulsa that predicted later outcomes from grade retention found benefits to be twice as large as costs (Bartik, Belford, Gormley, & Anderson, 2016). This suggests that *First Class has been a sound investment* as well.

## SHOULD FIRST CLASS BE OFFERED TO ALL CHILDREN?

There is considerable debate about whether public pre-K should be for all children or just those in poverty (Gormley, 2017). The basic argument for restricting public pre-K to children in low-income families is straightforward: limited public dollars should target economically disadvantaged children, who receive the greatest benefits from pre-K, while higher-income families can afford private high-quality pre-K programs. The argument for offering pre-K to every child is more complex, but can be boiled down to three key points, each explained below (Barnett, 2010).

First, even though benefits are greater for the disadvantaged, many children from middle- and even higher-income families can also benefit (Gormley, 2017). We cannot solve the school readiness and failure problems without including the middle class. Alabama cannot build a world-class workforce that will attract high-paying employers if every child is not well educated. Many middle-income families cannot find or afford high-quality pre-K. The shocking truth is that most private preschools attended by children from middle- and even higher-income families do not meet high-quality standards, and children in middle-income families are actually more likely than those in poverty to be in poor-quality programs (NCES, 2015).



“Economic analysis suggests that – taking into account the advantages and disadvantages of ‘real-life’ programs – pre-K for all can actually produce larger net benefits (Barnett, 2010). With that in mind, it seems not just unfair, but foolish, to limit First Class voluntary pre-K to children in low-income families.”

Second, the benefits of pre-K for disadvantaged children are greater if most children participate. Universal state pre-K programs have been found to be more effective than targeted programs (Cascio, 2017). Although there are multiple reasons behind this, one likely explanation is that disadvantaged children learn more in pre-K when they attend with non-poor peers (Gormley, 2017). They also are likely to have greater long-term gains if their future classmates also attended pre-K. Students learn from each other, and teachers can move the entire class along to a higher level if they spend less time with students who misbehave or are far behind.

Third, the best way to reach all low-income families is to enroll everyone (Barnett, 2010). Any cutoff inevitably misses families who only temporarily fall above it (and enroll some who would not qualify later). Some families avoid programs that they view as stigmatizing because they are just for the poor. Others do not even know they qualify due to arcane rules for determining income and variations in family members' earnings.

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## HOW SHOULD ALABAMA EXPAND FIRST CLASS?

First Class faces two challenges in expansion. The first is reaching all Alabama four-year-olds. This will require adaptation to meet the needs of a diverse population that may differ in important ways from those currently enrolled. The other is to build out the existing support structure so that quality can be even higher – and outcomes even better – when the program is at full scale. Experience in other states indicates that, if every child and family is



**“If First Class enrolled an additional 7% of the population each year, it would take five years to reach about 75% enrollment. A slightly slower growth of 5% would reach that goal in seven years.”**

offered the opportunity to enroll in First Class, enrollment could reach or exceed 75% (Barnett et al., 2017). Some families will still choose to keep children at home or send them to private school. However, to reach 75% of those eligible, any public pre-K program has to overcome common obstacles.

What are examples of likely obstacles? Some families need long hours of childcare beyond the school day and on days when pre-K is closed. Helping to ensure families can coordinate wrap-around childcare is one way to avoid a potential barrier to enrollment. Other families need help with transportation because their work schedules conflict with pre-K hours, or they simply lack transportation means. Finally, not all parents know how important it is for their child to attend high-quality pre-K. The best way for First Class to learn about any obstacles and how they vary by community is to conduct a needs assessment. The needs of urban, suburban, small-town, and rural areas likely differ, but variation can be expected even within these community types.

The needs assessment should have two key components. One component is a survey of parents of preschoolers to ask them if they would enroll a child, what barriers might limit enrollment, and what could be done that would facilitate enrollment. Public schools, health agencies, and faith-based organizations could be enlisted to help reach parents. The other component is an assessment of available resources, including existing facilities of private providers and public schools, teachers (current employment status, qualifications, interest in raising their qualifications, willingness to teach in First Class), and administrators. Planners will need to know how many qualified pre-K



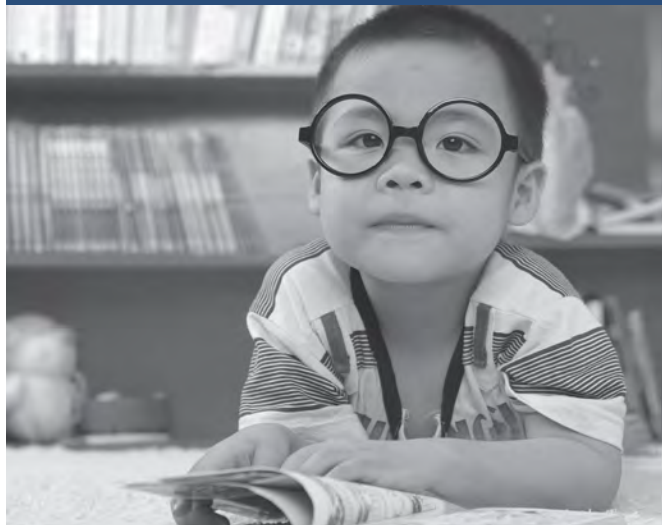
teachers are currently available and higher education's capacity to prepare qualified pre-K teachers within the next 5 to 10 years. With information from a needs assessment, First Class could work with early childhood leaders from around the state to develop expansion plans. Key partners include early childhood providers throughout the state (public school, Head Start, and private fee-based) and higher education. If First Class enrolled an additional 7% of the population each year, it would take five years to reach about 75% enrollment. A slightly slower growth of 5% would reach that goal in seven years. Just how fast makes practical sense depends on the results of the needs assessment and the capacity of the state budget. What specific date is set for full enrollment is not nearly as important as the fact that some certain date is set and a schedule devised to accomplish that goal on time.

Planning based on the needs assessment will do much to ensure that expansion maintains quality, but First Class should aspire to be even better than it is now. The good news is that First Class already has a built-in continuous improvement system. This system is like the GPS many of us use to get around these days. A GPS tells us where we are and gives us step-by-step directions to our destination. If you make a mistake and head in the wrong direction, it redirects you back on track. Alabama First Class is one of just a few states with such a system in place (Barnett et al., 2017).



**“First Class already has a built-in continuous improvement system. This system is like the GPS ... [that] tells us where we are and gives us step-by-step directions to our destination. If you make a mistake and head in the wrong direction, it redirects you back on track.”**

**“First Class is among the nation’s most impressive pre-K programs ... The next challenge is to expand the program to reach all children whose parents want to enroll them, while continuing to raise quality.”**



As First Class continues to grow, I offer two further recommendations to help obtain the largest possible benefits to children, families, and taxpayers. One is to add staff to provide even more frequent coaching and other professional development to teachers. In direct observations, First Class classrooms score well compared to most other preschool programs, but have room to become even better (Hamre, 2014). By raising quality to the highest levels, First Class would increase benefits for all children. In conjunction with this effort, First Class should determine whether there are systematic improvements that could be made, for example, enabling programs to adopt stronger curriculum. This leads directly to my final recommendation.

Alabama should increase research and development support for First Class. As a percentage of the funds spent on First Class, the cost would be quite low, but would yield a high payoff. First Class could use a more rigorous evaluation – one that provides greater confidence and precision regarding short- and long-term outcomes, and that offers insights into how to further improve outcomes. Here are some of the questions that might be asked:

- As the program expands, does it produce adequate gains for most children and not just the most disadvantaged?



- What features of classrooms and programs lead to the largest gains for children from various backgrounds?
- If new curricula deemed more effective elsewhere are introduced, do results improve?
- What changes to the K-12 curriculum are needed to build most effectively upon the gains from universal pre-K?

Answers to these questions would enable Alabama to “get an even bigger bang from its early education bucks”.

First Class is among the nation’s most impressive pre-K programs. It will continue to be so if Alabama stays on course and continues to expand and improve. As any business leader will tell you, no one stays at the top in today’s world by running in place. Education is no different. The next challenge is to expand the program to reach all children whose parents want to enroll them, while continuing to raise quality. Alabama can meet this need with a modest additional investment each year over the next five to seven years. The benefits will continue to roll in over a lifetime.

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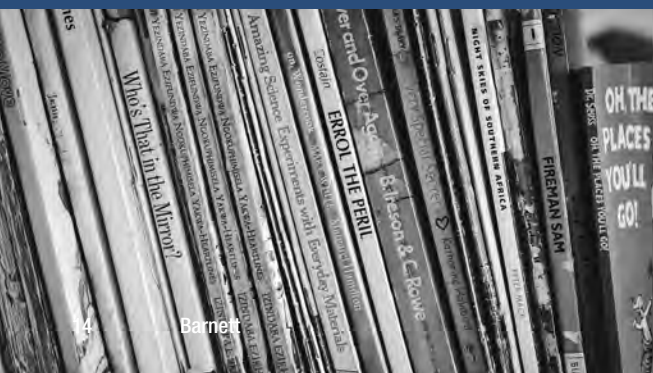
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“Alabama can meet this need with a modest additional investment each year over the next five to seven years. The benefits will continue to roll in over a lifetime.”







# **PK-12 EDUCATION EDUCATION FINANCE**



# INTRODUCTION TO K-12 EDUCATION FINANCE

## OVERVIEW

Guaranteed access to a strong K-12 public education system for all is an essential element of our society. Education is a vehicle through which individuals can overcome their circumstances, becoming equipped to contribute to society and meet workforce needs. Indeed, a strong system of public education provides a foundation upon which Alabamians can achieve the American Dream. These essential functions, as well as the availability of public school to all children, make education a public good; the public shares in both the responsibility and benefits of educating every child. Alabama has worked to overcome the discriminatory legacy of its public schools and fulfill its obligation to each child. Yet, objective analyses conclude the state remains behind in measures of equity and adequacy. This great responsibility comprises the largest portion of the State's operating budget and impacts each of its residents, as well as future generations. In light of these functions, efforts, and challenges, we will consider the purpose of public education; the importance of equity and adequacy; and the local implications, current state, and potential of Alabama's K-12 education funding system.

## THE CASE FOR PUBLIC EDUCATION: WHAT ARE WE REALLY PAYING FOR?

Education is a prerequisite for a healthy democracy and the greatest determinate of collective prosperity. This concept is not new. Many of our nation's founding fathers (including Benjamin Franklin, John Adams, and Thomas Jefferson) recognized public education as a cornerstone of democracy and progress, that freedom and political participation depended upon an informed citizenry. Viewing the disjointed and inequitable collection of private institutions after the Revolutionary War as a threat to the freedom of our young nation, they advocated for the creation of a formal public school system. America's first public schools were created for more than reading, writing, and arithmetic. They sought to fulfill civic missions, including: preparing citizens to contribute to a democratic

**“[E]ducation is a public good that lies at the heart of the democratic, economic, and social functions of society. Financing public schools is an important public investment, because education permeates nearly every aspect of life.”**

society, providing universal access to free education, guaranteeing equal opportunities to all children, equipping people to become self-sufficient, improving social conditions, and unifying a diverse population (Kober, 2007). Today, these goals are just as relevant and important. A quality education provides empowerment, equality of opportunity, and the prospect of upper mobility, which kindle a democratic spirit and transform the lives of citizens and the prosperity of a community, state, and nation. It is a critical component for preparing students to be competitive workers in the global economy and contributing members of our democratic society (U.S. Commission on Civil Rights, 2018). Research shows that individuals who receive a quality education are more likely to have stable families, be active citizens, find productive jobs, and place less burden upon public healthcare, criminal justice, and welfare systems (Mitra, 2011). Indeed, “[a] good education provides substantial benefits to individuals, and, as individual benefits are aggregated throughout a community, creates broad social and economic benefits” (Mitra, 2011, p. 3).

On the other hand, school failures can inhibit the prospects of a child for life. Students who lack a proper education and relevant skills have fewer opportunities, resulting in lower lifetime earnings, difficulty in adapting to changing, knowledge-based economies, and higher levels of unemployment (The Organisation for Economic Cooperation and Development [OECD], 2012). Furthermore, a poor education can impose high costs on society through limiting economic capacity, damaging social cohesion and mobility, and imposing additional costs on the public budget to



Inequity in educational resources is a central theme in the story of K-12 public education in Alabama.

The photos included above visually document historic disparities. Courtesy of the Alabama Department of Archives and History (ADAH), both photos were taken in Lowndes County. The left photo shows a common rural school for white children in 1907; the student-to-faculty ratio is 24:1. The right photo shows “a fair sample of one of the small [African-American] public schools . . . with only one teacher” in 1910. The student-to-faculty ratio was greater than 94:1.

The table shown below tells a similar story. “During World War I, an alarming number of Alabama’s young men were found to be unhealthy or illiterate” (ADAH, 2012) and were rejected for U.S. military service. Humiliated, state leaders commissioned Dr. Hastings Hart of the Russell Sage Foundation to conduct a study of social and economic conditions. Alabama was even more embarrassed by the 1918 report that followed. A direct excerpt from that report, the table below shows huge racial disparities in educational funding, such as white-to-black per-pupil expenditures of \$19.90 to \$2.45.

Finally, shown at bottom is an excerpt from the 2018 national school funding fairness report card issued by the Education Law Center at Rutgers University (Baker, Farrie, & Sciarra, 2018). Based on 2015 data, this report reveals that, while neighboring states have made significant progress in funding equity, Alabama lags behind. The only southern state to score below a “C”, Alabama scored an “F” rating in 2018 (as explained on page 19).

deal with higher spending for public health, welfare, and criminal justice (OECD, 2012; Mitra, 2011). Education is a public good that lies at the heart of the democratic, economic, and social functions of society. Financing public schools is an important public investment, because education permeates nearly every aspect of life. It serves a critical role in building strong communities and determines the life trajectories of children and the success of the state.

## MEASURES OF EQUITY AND ADEQUACY

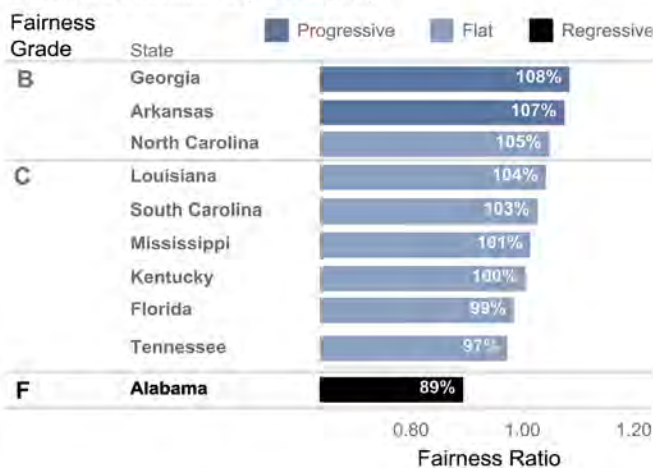
A high-quality public education system requires a combination of equity and adequacy in funding, as discussed by Trisha Powell Crain and Brittany Larkin. An equitable system is one in which every student has the resources needed for equal educational opportunities, regardless of his or her circumstances. It is important to distinguish between equity, which is based on fairness, and equality, which would mean treating each child exactly the same and providing the same level of resources to each community, regardless of differing educational needs (such as special education, poverty status, ESL learners, etc.). *Adequacy refers to the minimum level of funding needed for each child to receive an education that meets set academic standards of quality.* The goal of equal outcomes is unlikely, and perfect equality would require both leveling down as

**Social Problems of Alabama** 39

**WHITE AND NEGRO PUPILS**  
(Report of Alabama Department of Education, 1917)

|   | Whites         | Per cent of whole | Negroes      | Per cent of whole |
|---|----------------|-------------------|--------------|-------------------|
| Children of School Age, U. S. Census of 1910..... | 444,000        | 57                | 336,000      | 43                |
| Pupils enrolled, 1918.....                        | 348,000        | 67                | 157,000      | 33                |
| Average attendance.....                           | 220,000        | 70                | 97,000       | 30                |
| Number of teachers.....                           | 8,351          | 77                | 2,572        | 23                |
| Value of School houses and equipment.....         | \$5,431,000.00 | 90                | \$885,000.00 | 10                |
| Salaries paid.....                                | \$3,145,600.00 | 89                | \$399,970.00 | 11                |
| Salaries paid per pupil enrolled.....             | \$7.00         |                   | \$1.19       |                   |
| Same per child of school age..                    | \$19.90        |                   | \$2.45       |                   |
| Female teachers, average yearly salary.....       | \$368.00       |                   | \$152.00     |                   |

## School Funding Fairness Ratio and Grade, FY2015 Education Law Center, Rutgers University



Modified by GEDI (2018) to include only Alabama and neighboring states. View is exaggerated to enable a closer view of the variance between states.

**“[M]any experts suggest the goal of school finance policy should be to provide each child with an equal opportunity to learn and achieve a satisfactory level of academic outcomes (Baker & Levin, 2014).”**

well as leveling up actual outcomes (Baker, 2015). Instead, many experts suggest the goal of school finance policy should be to provide each child with an equal opportunity to learn and achieve a satisfactory level of academic outcomes (Baker & Levin, 2014). This requires providing resources to “offset pre-existing inequalities in the likelihood that one child has [a] greater chance of achieving the desired outcome levels than any other” (Baker, 2015, p. 2). Failure to recognize different resource needs and offset individual inequalities can have very real consequences. The achievement gap between children from high- and low-income families continues to grow, leaving children from low-income families with lower outcome levels than their peers from wealthier families - in numerous areas, including: test scores, educational attainment, rates of high school completion, and lifetime earnings (Lafortune, Rothstein, & Schanzenbach, 2016). States that address these disparities through equitable and adequate systems of public education can provide better opportunities for students and boost the potential of future generations.

## FUNDING LEVELS

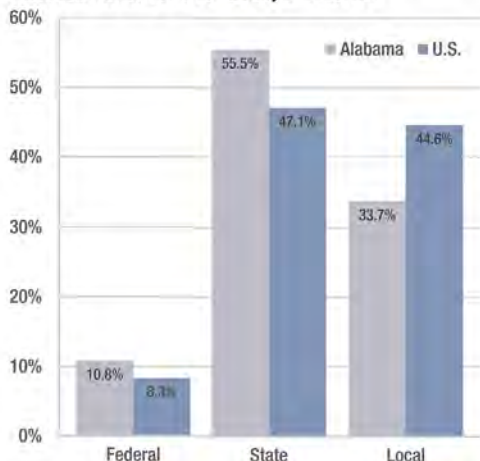
Despite their important role, the goals of equity and adequacy are complicated to measure and achieve. Understandably, people question whether “throwing money at the problem” can actually lead to tangible improvements in education. However, according to a statewide public opinion survey, 77% of Alabamians believe that the level of school funding makes a difference in educational quality (Public Affairs Research Council of Alabama [PARCA], 2017). Empirical evidence supports this majority sentiment. In a groundbreaking study, Lafortune et al. (2016) concluded that school resources were a major contributor to student achievement, and education finance reforms can significantly decrease in-

equalities between school districts by raising achievement in low-income districts. Furthermore, the study found that state-level school finance reforms have increased progressivity in education spending through increases in state funding to all school districts, with larger impacts upon low-income districts. A 2015 study by Jackson, Johnson, and Persico also linked increased school spending to improved student outcomes, especially for low-income students. This study found that per-pupil spending increases yielded large improvements in educational attainment, wages, family income, and marital stability, as well as decreased incidents of adult poverty for children from low-income families, with modest effects for children from higher-income families. Indeed, recent research has confirmed that improved access to educational resources can profoundly impact students’ lives.

**“[R]ecent research has confirmed that improved access to educational resources can profoundly impact students’ lives.”**

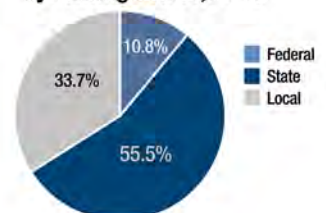
Like every other state, Alabama is responsible for the education of its citizens. Yet the state continues to fall short on measures of equity and adequacy. In addition, funding *effort* also remains a challenge. Within Alabama, the ability and willingness of school districts to contribute funds varies dramatically (see Trisha Powell Crain’s article). For example, during the 2016-2017 school year, *local* contributions in Alabama’s highest-spending school district (over \$7,000 per student) were almost as high as the *entire* combined per-pupil expenditure (PPE) of the state’s lowest-spending school district (\$7,615). In fact, in 2016-2017, 60 of

**Distribution of Funding per \$1,000 Personal Income by Source, Alabama and the U.S., FY2015**



| Funding Source | Rank (of 51) |
|----------------|--------------|
| Federal        | 13           |
| State          | 20           |
| Local          | 36           |
| Total          | 37           |

**Alabama Public Elementary-Secondary School Revenue by Funding Source, FY'15**

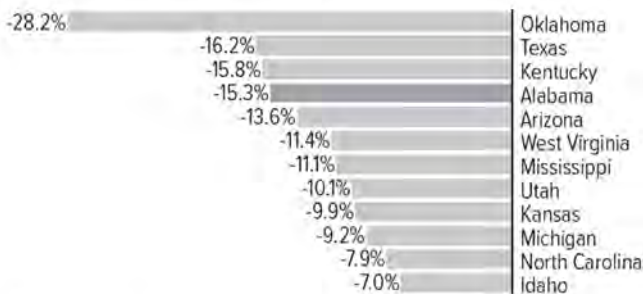


Data Source: U.S. Census Bureau, 2017, Public Education Finances: 2015.



## State General Funding Per Student Still Far Below 2008 in at Least 12 States

Percent change in state formula funding\* per student, inflation adjusted, fiscal years 2008-2018



\*General or formula funding is the primary form of state K-12 funding. States also typically provide revenue for other, more specific purposes, such as bus transportation and contributions to school employees and pension plans.

Graphic excerpted from Leachman et al. (2017) and modified by GEDI, 2018.

Alabama's 137 school districts spent more per student in federal funding than in local funding. The latest *U.S. Census Annual Survey of School System Finances* (FY2015 data released in June 2017) provides a clearer picture of Alabama's local school funding effort relative to its aggregate personal income and compared to that of other states. As shown on the previous page, Alabamians collectively contribute a much smaller share of their personal income towards local public education. Although we rank in the top half of states in state- and federal- PK-12 school system contributions per \$1,000 of personal income, our comparative total and local funding measures fall in the bottom third. Alabama's funding *effort* is weaker.

Much of the inequity in school funding comes from the disparity in local school district resources. In a study of the equity and adequacy of Alabama's school funding, Augenblick, Palaich and Associates (2015) explain, "taxpayers in the top quintile districts are able to raise nearly twice the revenue for their schools while taxing themselves at a much lower rate than taxpayers in the lowest quintile" (p. 30). (Additional results of this study are outlined by Brittany Larkin). The state funds students in low-income districts at 89% of the funding levels for wealthier districts, earning Alabama an "F" rating for fairness in a national study (Baker et al., 2018). Funding inequities impede efforts to provide all students with a quality education. In fact, disparate school funding is often identified as a primary reason for the nation's wide achievement gaps between students of different racial and socioeconomic backgrounds (Jackson et al., 2015). This is especially concerning given the findings of Lafortune et al. (2016) and Jackson et al. (2015) regarding the relative potential impact of funding levels in increasing achievement for low-income districts and students.

The problem of inadequate funding levels extends throughout Alabama. The state has been behind the nation and below proficient levels in basic subjects for decades. This is not a new problem. As explained by a U.S. district court:

Alabama continues to be plagued by an inadequately funded public school system – one that hinders the upward mobility of her citizens, black and white alike, especially in rural counties. [As a result,] [t]he children of the rural poor, whether black or white, are left to struggle as best as they can in underfunded, dilapidated schools (Lynch v. Alabama, 2011, pp. 792-793).

Though the state has seen significant improvements in fourth- and eighth-grade reading and mathematics scores since the 1990s, as well as a slight increase in science scores since 2009, Ala-

bama students remain behind in all three measures (NCES, 2015). The ongoing struggle to reach proficient levels is compounded by low levels of school funding. In FY2015, Alabama ranked 39th in the nation in average state funding per student, at \$9,128 (U.S. Census Bureau, 2017). Despite this already low number, school funding took a big hit during the recession. As shown above, between 2008 and 2018, Alabama's PPE fell by 15.3%, representing the fourth-highest PPE percentage drop in the nation (Leachman, Master-son, & Figueroa, 2017. See Trisha Powell Crain's discussion of the recession effects). Alabama fails to provide sufficient resources to reach basic levels of adequacy, often failing to address what students need to be properly educated (See Brittany Larkin's article for an analysis of adequate funding levels). This has led to incidents of children having to bring their own toilet paper to school and teachers having to pay for classroom copies.

**"Alabama fails to provide sufficient resources to reach basic levels of adequacy, often failing to address what students need to be properly educated."**

## CONCLUSION

Despite the state's responsibility to provide an adequate education to each child, there is a disconnect between the need for decent schools and the public's willingness to make that happen. In a recent survey by PARCA (2017), 72% of Alabamians surveyed thought that too little was spent on education in Alabama, yet only 51% said they would be willing to pay more to avoid cuts in education. The reluctance

“[P]roviding acceptable opportunities and outcomes requires a public willingness to invest in public schools.”



of citizens to adequately and equitably fund public education in Alabama is not a new dilemma. Citizens have long harbored a distrust of public schools. This dates back to the 1830s, when in response to a lack of legislative support, Alabama schools lost most of their reserve funds after investing in the state bank, which went into receivership (Casey & Thompson, 2011, p. 43). In a 1919 study of Alabama’s education system, the Bureau of Education, Department of the Interior wrote that the main problem with Alabama’s educational system had been the “century-old disposition” in which people look upon education as a market good for those who are well-off, or as something “provided by the State at an irksome personal sacrifice on the part of the individual taxpayer” (p. 49). However, research suggests that providing acceptable opportunities and outcomes requires a public willingness to invest in public schools.

The importance of education has been understood since the founding of the nation: it has the potential to transform a child’s life and “is perhaps the most important function of state and local governments... It is required in the performance of our most basic responsibilities... It is the very foundation of good citizenship” (Brown v. Board of Education, 1954, p. 493). Education is essential to expanding Alabama’s collective pool of talent so that the contributions of all learners and diverse sets of skills are available to its communities. There are many roles to fill, requiring a public investment that meets the needs of all students. Our authors discuss the need to invest in students to bring about equity and adequacy in Alabama’s public school funding. This would ensure that education is a “right available to all on equal terms” (U.S. Commission on Civil Rights, 2018, p. 106) and allow Alabama children, regardless of their background or location, the opportunity to develop their full potential.

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# STATE POLICIES AND LOCAL REALITIES

TRISHA POWELL CRAIN



## BACKGROUND

Alabama has an ambivalent relationship with its public schools. The state is specifically ambivalent about funding its public schools. Since 1854, when Alabama first created a statewide public school system, Alabamians' financial commitment to this system has wavered. In the early days, limits were put on funding in part due to perceived corruption and waste (Harvey, 2015, p. 10). A century later, when in 1954 the U.S. Supreme Court ordered schools to integrate, Alabama lawmakers enabled the dismantling of public schools and the transfer of public funds to private schools (Harvey, 2015, p. 11).

Twice in this century, Alabama voters have failed to remove language in the state constitution requiring separate schools for children based upon their race (Elliott, 2012; Younge, 2004). Even though the language was ruled as unconstitutional, Alabamians were not comfortable with removing it, believing altering the language would somehow change the way schools were funded (Elliott, 2012). In other words, Alabama has never quite been "all in" where public education is concerned.

Despite Alabama's ambivalent relationship with public schools, a statewide system of schools still exists. In

**"While most states have updated their education funding mechanisms to consider the individual challenges students bring with them to schools, Alabama continues to use a 22-year-old regressive funding formula, based on year-old enrollment figures, that has been deemed inadequate ..."**

2017, more than 730,000 students from kindergarten through twelfth grade attended Alabama's 1,500 schools situated within 67 county and 70 city public school districts. Around 90,000 employees work in those school districts, with more than 42,000 serving as classroom teachers. While most states have updated their education funding mechanisms to consider the individual challenges students bring with them to schools, Alabama continues to use a 22-year-old regressive funding formula, based on year-old enrollment figures, that has been deemed inadequate (Augenblick, Palaich and Associates [APA], 2015).

## HISTORY OF THE FOUNDATION PROGRAM

Alabama's public K-12 schools are funded primarily through income and sales taxes, which, along with other taxes, are pooled into the Education Trust Fund (ETF). In 2016, Alabama collected \$6.07 billion in the ETF, with \$3.7 billion from income taxes, \$1.7 billion from sales taxes, and \$670 million from various other sources. This fund is then distributed to school districts primarily through a formula known as the "Foundation Program". Alabama is one of only seven states that still employs a foundation, or resource-based, program to distribute funds to local schools (EdBuild, 2015).

Alabama's Foundation Program was created in 1995 in response to a 1990 lawsuit and a 1993 court order forcing the state to improve funding equity across

A segregated first grade classroom at Gees Bend School in 1939.





“[T]hrough the years, the required ‘local match’ has grown significantly, meaning that the responsibility for the Foundation Program has increasingly shifted to local school districts. . . . That shifting burden means that there is less local tax money available for other community needs and services.”

school districts. It updated the 1935 foundation program and was seen as an improvement in equity, but adequacy (i.e., the minimum level of funding needed to ensure students are provided with an adequate education) was not considered (Harvey, 2015). The 1995 Foundation Program improved equity by requiring local school districts to commit 10 mills of property tax (or its equivalent from other taxes) to its share of state funding for its public schools. That amount, called a “chargeback” or “local match”, would be subtracted from the state-calculated local allocation, and the remaining amount would be sent to the local school district (Harvey, 2015).

According to news reports following the 1995 implementation of the Foundation Program, the “local match” requirement did improve equity, particularly for those districts that were unable to raise adequate local tax revenue. However, through the years, the re-

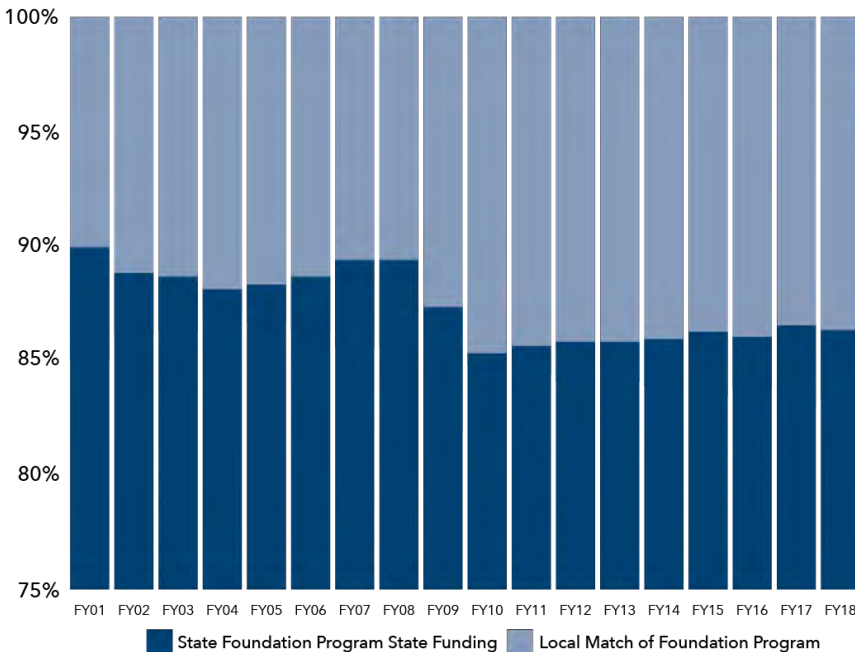
quired “local match” has grown significantly, meaning that the responsibility for the Foundation Program has increasingly shifted to local school districts. For example, from 2006 to 2016, the state-funded portion of the Foundation Program grew by 15%, from \$2.98 billion to \$3.6 billion. During that same period, the locally funded portion of the Foundation Program grew from \$375 million to \$570 million, an increase of 47%, or three times the rate of the state-funded portion. That shifting burden means that there is less local tax money available for other community needs and services. This shift in percentage of K-12 funding costs from the state to local communities is shown in the graph below.

Alabama’s Foundation Program uses a formula, based on the previous year’s student enrollment, to calculate how many teachers the state will fund. Allocations are also made for counselors, school nurses, principals, and assistant principals. The Foundation Program includes funding for classroom needs, such as instructional materials, textbooks, professional development for teachers, and technology. However, from 2010 through 2015, during a period in which schools were implementing more rigorous academic standards, no additional funding was provided for professional development. These new standards, known as the Alabama College and Career Ready Standards, required massive retraining for teachers and new materials for students in those

subjects – effectively operating as a (very challenging) “unfunded mandate” for local school districts. Money for textbooks to teach the tougher standards was also hard to come by, as per-student textbook funding dropped from a high of \$75 in 2008 to \$17 in 2010, and an all-time recent low of less than \$16 in 2011 (as shown on the following page). In addition to Foundation Program allocations, the state provides limited supplemental funding to districts serving high concentrations of special populations, such as students classified as being “at risk” of dropping out of school.

The view is exaggerated, with the axis starting at 75%, to enable a closer view of this shift.

**FOUNDATION PROGRAM FUNDS**

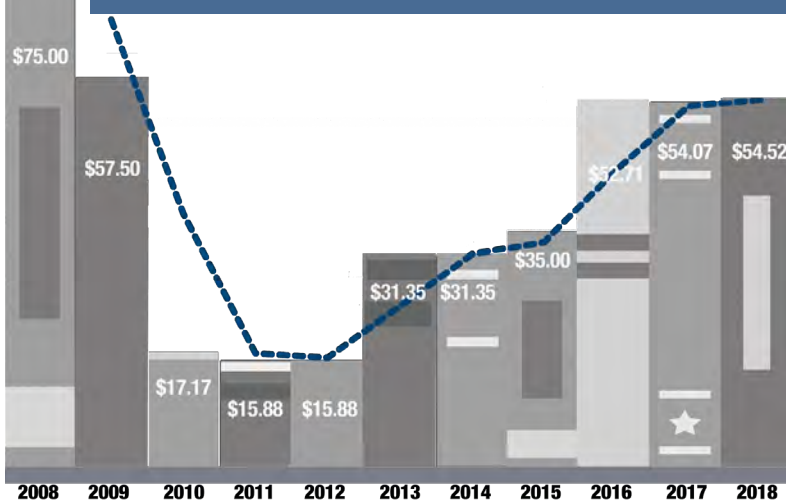


Source: Alabama State Department of Education reports



### Per-Student Textbook Funding with Trendline Shown, 2008-2018

Annual allocation dropped after 2008, with an all-time recent low in 2011.



Data compiled by GEDI, 2018 from Alabama State Department of Education annual data.

### INFLATION-ADJUSTED FIGURES SHOW VERY SLOW RECOVERY

We have yet to know the full impact of the recent recession on state and local funding in Alabama, but ask any public school employee, and you will hear stories of delayed purchases for everything from textbooks to buses. In fact, when adjusted for inflation, the Alabama State Department of Education's 2016 spending figures reveal that Alabama is spending less than it did in 2006, more than a decade ago. According to Dr. Eric Mackey, Executive Director of the School Superintendents of Alabama, this presents a considerable challenge to school officials who are trying to meet the needs of their communities. "Our problem's always been in this state, we talk about redirecting the money we already have," Mackey said, "and we just don't have a lot [of money]" (E. Mackey, personal communication, October 18, 2017).

### ADDITIONAL FUNDING

Alabama's schools are heavily dependent upon state funding. State funds are the primary funding source for most Alabama school districts. In 2016, the state provided 65% of the funding for Alabama's schools [Alabama State Department of Education (ASDE), 2017]. In contrast, state funding makes up less than half of all revenues for K-12 schools across the country. (U.S. Census Bu-

reau, 2017). Local funding, collected primarily through property taxes, makes up the next largest pot of money for most school districts, comprising 21% of all spending in 2016 (ASDE, 2017).

According to Mackey, "those local tax dollars are a difference-maker" because they can be used to pay for additional teachers, providing children with invaluable learning opportunities in art, music, world language, and other electives (E. Mackey, personal communication, October 18, 2017). They also cover additional teachers in core classes to reduce class sizes, which can improve educational achievement. Federal funding is typically targeted to improve outcomes for historically marginalized populations, such as students in poverty and individuals with disabilities. Federal funds also pay for the school lunch program in all but one school district in Alabama. In 2016, federal funds provided 14% of Alabama K-12 spending (ASDE, 2017). School officials have very little flexibility with federal funds, other than, for example, choosing which curricular program or non-profit group might best serve the purpose being funded.

To be certain, the Great Recession had a negative impact on school funding in Alabama at both state and local levels that continues to the present day. Alabama's economy has been slow to recover, and

An article from *The New York Times* describes the vulnerability of Alabama's schools during the economic downturn in 2008. Adapted by GEDI, 2018.



Schools in Alabama are getting hit hard by falling tax receipts, an early warning of the vulnerability of poor states during the economic downturn.

Alabama school districts are borrowing heavily or using savings to meet payrolls, state officials said, and future cuts are likely. District superintendents are being warned not to fix leaky roofs or make other repairs, and last week the top state education official told the districts that they would receive only 75 percent of their October allotment of state money until more comes in. The

Alabama, with its heavy reliance on sales and income tax revenues to finance schools, may be even more vulnerable than most states. Revenues in the main

**Schools in poorer states are seen as vulnerable amid the downturn.**

“School districts that rely heavily on state funding turned to local tax collections to make up for decreases in state funding, but local property tax collections were also hit during the recession due to falling property values. And some areas just have very little wealth within their school districts to tax.”



that has been particularly difficult for public schools. During the depth of the recession, as tax collections plummeted, the state emptied its “Rainy Day Fund”, transferring \$437 million to the ETF in 2009. That transfer only helped for that one year, though. The American Recovery and Reinvestment Act, a federal initiative passed by Congress to offset effects of the recession, further propped up education funding and kept it from “falling off of the cliff” in 2010 (ASDE, 2017). School districts that rely heavily on state funding turned to local tax collections to make up for decreases in state funding, but local property tax collections were also hit during the recession due to falling property values. And some areas just have very little wealth within their school districts to tax. All of those factors have combined to create a very challenging financial climate for Alabama’s schools. State funding for public education continued to decline until 2013, when it finally saw a slight increase. That decline might have reversed a year earlier, but state law required the Rainy Day Fund to be repaid by 2015, and while it was being repaid, there was less money for education (Alabama Legislative Fiscal Office, 2017).

An even more sobering way to look at school spending is by adjusting the numbers for inflation. When adjusted for inflation, spending in 2006 was equivalent to \$8,391 per student, while spending in 2016 equaled \$8,070 per student. These numbers show that schools in Alabama are actually spending less money per student for education than they were over a decade ago. There is little doubt that the reason school spending has not recovered is because Alabama’s tax collections have not recovered either. Alabama saw steady increases in tax collections prior to 2008, but the recession hit the state hard. When adjusted for inflation, ETF receipts for 2016 were down 12% from 2006. Reasons for that are beyond the control of most individual Alabamians, as state lawmakers set the framework for

tax revenue through the laws they vote to approve. The Legislature is working through a budget reform process, examining all aspects of tax policy, but it is painstakingly slow and of little help to schools in the short term.

### **SPENDING DISPARITIES WITHIN ALABAMA CREATE UNEQUAL OUTCOMES**

When state, local, and federal funds are added together, wide disparities in spending exist among Alabama’s 137 school districts. For example, the state’s wealthiest school district, Mountain Brook City schools, spent more than \$12,800 per student in 2016, while Autauga County spent only \$7,615 per student. It’s not hard to imagine what opportunities that extra \$5,200 provides a student attending Mountain Brook’s schools. That range in spending per student is largely due to local communities’ willingness and ability to raise their own taxes to support schools, which differs by community. Each school district in Alabama is required to tax themselves at least 10 mills in property tax, but the value of one mill of property tax varies widely, from \$14,000 to \$5.1 million.

“Some communities across the state simply do not have enough wealth to meaningfully improve funding for their schools and must rely on adequate state funding instead.”

This means that in many places throughout Alabama, even if local communities increased their own property taxes, it would not add much to the bottom line for local schools. Some communities across the state simply do not have enough wealth to meaningfully improve funding for their schools and must rely on adequate state funding instead. The

## Its Schools Ruled Inadequate, Alabama Looks for Answers

SARDIS, Ala., June 3 — At the Shiloh Elementary and Middle School here the library has not bought any books in 20 years. There are no science labs, no band, no music, no art, no foreign language courses. The roof leaks and the dingy 43-year-old building is about worn out.

There are worse schools in Alabama, like the one in adjacent Wilcox County where raw sewage seeped for years onto a playground and termites ate through books, and there are better ones. But while legislatures around the nation are struggling with questions of how to equalize spending between poor school districts and rich ones, Alabama is grappling with something even broader: a judge's ruling that its public schools violate the State Constitution by failing to provide an adequate education.

On one level, the trial before Judge Reese served as a harrowing picture of rock-bottom education in America. And it was a broad indictment of education in Alabama, where a flight of white students to segregated academies after desegregation led to a widespread acceptance of substandard public schools in many areas. For

"Schools like Sardis's are all too typical of those in Alabama as a whole, Judge Gene Reese of the Montgomery Circuit Court ruled on March 31. The ruling has gained national attention, because it centered not just on the allocation of tax dollars but on the quality of the schools themselves. While financing disparities made the inadequacies far worse in the poorest districts, Judge Reese wrote, the state's schools as a whole "fall far short of the very educational standards that the state of Alabama has determined are basic!"

APA (2015) study found Alabama's school funding system to be both inadequate and inequitable. The authors found that state spending needed to be raised by at least 20% to reach minimum adequate levels. That is no small task for a state with Alabama's history of low taxes and little support for increasing them.

Education impacts nearly every quality-of-life issue down the road. Whether Alabamians have the political will to provide adequate and equitable funding for the kind of education our children need to succeed and thrive is still unknown. At some point, Alabamians need to decide whether public schools are worth the investment.

*Or maybe they already have.*

A 1993 article from *The New York Times* describes Alabama's struggle to equitably fund school districts and provide an adequate education. Adapted by GEDI, 2018.

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"Whether Alabamians have the political will to provide adequate and equitable funding for the kind of education our children need to succeed and thrive is still unknown. At some point, Alabamians need to decide whether public schools are worth the investment."



# A CASE FOR MORE EQUITABLE FUNDING

BRITTANY LARKIN, PH.D.



## NOTE TO READER AND ACKNOWLEDGMENT

Dr. Brittany Larkin, an award-winning expert in education finance and an Auburn University faculty member, agreed to contribute to this publication in August 2017. She intended to provide a revised version of the following article, written for the *Alabama Issues* audience and updated to include current Alabama education funding data. However, Dr. Larkin lost her battle to cancer before completing her piece. An excerpt of her original September 2016 article is included in honor of her invaluable research and her commitment to the students of Alabama.

We gratefully acknowledge the *Alabama Journal of Educational Leadership* for this excerpt from “Funding Students, Not Units: Moving Alabama from a Regressive Public School Funding State to a Progressive Public School Funding State”. Reprinted with permission.

## BACKGROUND

In the world of education finance, Alabama has been the target of jokes, such as, “At least we’re not Alabama.” The reason for the “joke” is that it has been common knowledge among the education finance experts that, until recently, Alabama has been ranked as the worst state when it comes to funding public education. Now, the response to the “joke” from Alabamians has been, “At least we’re not Mississippi.” While this “joke” is a light-hearted attempt at poking fun of Alabama, in reality it’s a sad truth with real implications for the students of Alabama.

Using the data and recommendations from several recent studies conducted on the Alabama school finance system, this study proposes moving Alabama from their current regressive funding mechanism to a more equitable, student-weighted funding formula.

## THE REGRESSIVE EDUCATION FUNDING STATE

### The Baker, Sciarra, and Farrie Study

In the 2015 national report card *Is School Funding Fair?*, Baker, Sciarra, and Farrie (Baker) examined school funding fairness nationwide using four principles: effort, funding level, coverage, and funding distribution. “Effort- measures the difference in state spending for education relative to state fiscal capacity. ‘Effort’ is defined as the ratio of state spending to state gross domestic product (GDP)” (p. 4). This report indicated Alabama’s per capita GDP was \$37,186, and the effort index was 0.033. This means that Alabama contributes roughly 3.3% effort toward education, which classifies them as medium on the effort index.

Baker defined the fairness of funding level as measuring “the overall level of state and local revenue provided to school districts, and [comparing] each state’s average per-pupil revenue with that of other states” (p. 4). In order to make comparisons between states, the researchers controlled for “differences in regional wages, poverty, economies of scale, and population density” (p. 4). In this ranking of per-pupil funding level, Alabama was ranked 38th among the other states, with a funding level of \$8,701 per student. This means after controlling for the differences in regional wages, poverty, economies of scale, and population density, Alabama funds 53% less per student than the highest-funded state (NY at \$18,507 per student) and 27% more per student than the lowest-funded state (ID at \$6,369 per student).





The next measure of fairness according to the Baker study is:

Coverage- this measures the proportion of school-age children attending the state's public schools, as compared to those not attending the state's public schools (primarily parochial and private schools, but also home schooling). The share of the state's students in public schools, and the median household income of those students, is an important indicator of the distribution of funding relative to student poverty (especially where more affluent household[s] simply opt out of public schooling), and the overall effort to provide fair school funding. (p. 4)

In Alabama, 88% of all school-aged children attend a public school. Yet the 12% of students who attend private schools have a household income of 171% compared to the household income of those who attend public schools. This has two implications according to the study. First, it indicates there is a high concentration of students in poverty in the public schools. Second, because the 12% are contributing to public education through their taxes, yet not participating in the public school system, they are less likely to vote for increases in funding for public schools, which possibly creates even further disparity in public school funding.

The final measure of fairness in the Baker study and the focus of this paper is "Funding Distribution- This measures the distribution of funding across local districts within a state, relative to student poverty. The measure shows whether a state provides more or less funding to schools based on their poverty concentration" (p. 4). The report indicated that Alabama funds its students in high-poverty school districts at 90% of what it funds students in low-poverty districts. This is possible because some local school districts are capable of generating a greater local contribution than other districts with lower wealth and lower property values. Because Alabama's per-pupil expenditure for students in poverty is less than the per-pupil expenditure for students not in poverty, Alabama is a regressive funding state.

To summarize the findings in this study, Alabama may not be the target of the education finance experts "jokes" any longer. The results of this study certainly do not paint a pretty picture of Alabama, but it also reveals Alabama may not be the worst anymore either. On the positive side (or at least, the "not-the-worst" side), Alabama falls into the medium category of the amount of effort they put forth toward education and is ranked 38th among the other states in per-pupil funding levels. But on the "not-so-good" side, Ala-

**"Because Alabama's per-pupil expenditure for students in poverty is less than the per-pupil expenditure for students not in poverty, Alabama is a regressive funding state."**

bama has a huge gap in the household incomes of those attending private schools and those attending public schools, and they are inequitably underfunding the students in poverty.

### **Augenblick, Palaich and Associates Study**

In 2015, the Alabama State Department of Education (ALSDE) hired Augenblick, Palaich and Associates (APA) to conduct a series of studies on the states' education funding system. The studies conducted included a review of the current state funding system, an equity study, a study using the successful school approach to adequacy, and a study using the professional judgment approach to adequacy.

**The Current State Funding System.** The APA's review of the current state funding system compared Alabama to 15 other Southern Region Education Board (SREB) states, which included: AR, DE, FL, GA, KY, LA, MD, MS, NC, OK, SC, TN, TX, VA, and WV. Alabama, like most of the comparison states, uses a foundation program. A foundation program uses a formula to determine how much money a school district will need to operate; then it determines what percentage of that need will be funded by the state and what will be required of the local systems to contribute to the need. The foundation program is used as a means to allow the state to equalize the school system's revenue by allowing the wealthier local systems to pay for a larger portion of their needs, hence freeing up some state money to aid the poorer local systems in meeting their needs. This is done by first determining the amount of money a local system can contribute based on their property value, and then the state will "make up" the difference to bring



“The foundation program is used as a means to allow the state to equalize the school system’s revenue by allowing the wealthier local systems to pay for a larger portion of their needs, hence freeing up some state money to aid the poorer local systems in meeting their needs.”



each system to their funding level of need. In order to participate in the foundation program in Alabama, the school systems are required to contribute 10 mills or that equivalent. Accordingly, then the state is to contribute the remaining amount needed to operate the schools in that system (AL Code 16-13-231) . . . Alabama does provide funding for other services not covered by the foundation program, such as transportation, an at-risk student fund, capital outlay, etc. Alabama uses the foundation program to fund units (personnel) and school leaders based on the number of students enrolled in the previous year. The number of units is determined by the grade level divisor the Alabama Legislature sets. The number of school leaders, including principal, assistant principal, counselors, and career tech directors, are determined by a number of students-to-school-leader ratio, also determined by Alabama legislators. The Alabama Legislature also decides the salary (according to a salary matrix) and benefits they deem necessary and the other expenditures they feel the schools will need (such as maintenance, operations, classroom materials, textbooks, etc.). This method of using the founda-

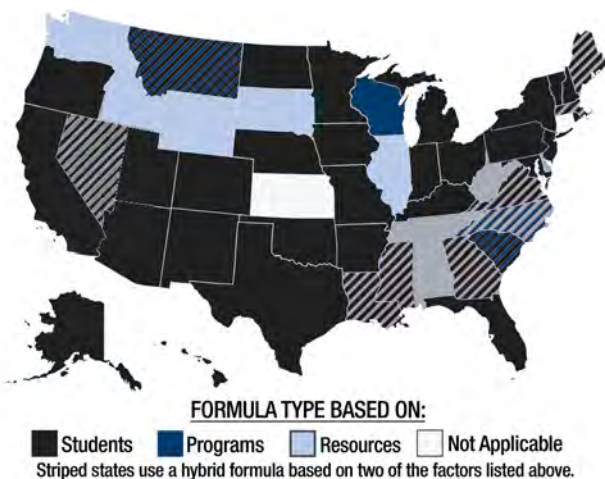
tion program differs from the comparison states, because the other states fund students based on the previous year’s enrollment and provide weights to a base student cost in a formula for determining a per-pupil allocation.

Next, this study compared Alabama with the other SREB states on spending per student, variation in spending across school systems, and statewide average staffing levels for different types of employees. What they found was nine of the 15 states’ personal income per capita were within \$2,500 of Alabama, which indicates those states have similar populations in relation to personal income, thus making a comparison more equitable. For spending per student, Alabama was 6.8% lower than the average of all the other SREB states.

The variation in spending from one school system to another is low in Alabama compared to the other states’ variation between school districts, meaning Alabama is spending roughly the same in each district. The relationship between per-student spending and district wealth is near the average of the other states. For the staffing data, Alabama falls below the average of all other SREB states for the number of teachers, administrative staff, and guidance counselors employed. The teacher salaries in Alabama are 4.1% below the average of other SREB states, yet their benefit rate is very high compared to the others.

Another big difference between Alabama and the other states is how students’ needs are determined and funded. In Alabama, each school system receives an added 2.5 weight for 5% of their total population, even though every system has more than 5% of the population identified as special needs (ALSDE, 2015). The added weight is used to earn additional units for that system. The other states use a student weight, in addition to the base student

## EDUCATION FUNDING FORMULAS BY STATE



GEDI modified from EdBuild, (2018). FundEd: National Policy Maps. Retrieved from [funded.edbuild.org/national/#formula-type](https://funded.edbuild.org/national/#formula-type)

cost, to provide additional funding for a student's special education services. Because Alabama does not use student weights for determining funding of services, this study imposed a student weight formula onto Alabama data in order to examine the ratio of weighted to unweighted students among the SREB students. The imposed formula added to the 1.0 base student Alabama allocation 1.10 for special education, 0.40 for at-risk students, and 0.75 for [English Language Learner] (ELL) students. With these imposed weights, Alabama is spending 37% more money on students who receive special education, at-risk, or ELL services than students who do not receive these services. This percentage is below the SREB state average (42%) and below the national average (45%). This study also found Alabama has a low proportion of students receiving special education services (11.1%) compared to other SREB states with similar levels of personal income per capita . . . and is well below the national average (13.2%). So, in Alabama, they are serving fewer students with special needs and funding the special programs at a lower rate than the average of SREB states and the national average.

“[I]n Alabama, they are serving fewer students with special needs and funding the special programs at a lower rate than the average of SREB states and the national average.”

The last piece of this study reveals that Alabama's spending on education, which includes elementary, secondary, and postsecondary, is 20% higher than the SREB states and 40% higher than the national average. But this high percentage can be attributed to the proportion of education spending in postsecondary, which is higher than any of the other SREB states and 50% higher than the national average. In fact, 61.1% of the education spending in Alabama is for postsecondary education.

To summarize, the APA's analysis of how Alabama is currently funding schools, compared to the 15 SREB states, highlights that Alabama is funding units, not students. When converting the Alabama funding method to funding students, the researchers found Alabama is below the average of the other states in spending per pupil, number of school leaders, salaries, number of students receiving special education, and spending on special education. The one area in

which Alabama was above the average of the other states was the percentage of the state budget spent on education. Although, that finding must be approached with the understanding that the percentage reported included funding for both higher education and PK-12 education.

**The Equity Study.** In the Equity Analysis study, APA examined the fiscal equity of Alabama's school finance system from the 2006-07 school year to the 2012-13 school year. The researchers identify equity in terms of student fiscal equity (uniform per-pupil spending statewide), taxpayer equity (tax rates supporting education are similar across the state), and fiscal neutrality (there is no relationship between the wealth of the school system and the per-pupil spending; APA, 2015). The results of the student fiscal equity in terms of vertical equity revealed that, while an increase of \$458 per pupil occurred over the seven-year period, after accounting for inflation, the per-pupil expenditure decreased by \$513 per pupil. Furthermore, the student equity measure indicates the gap in per-pupil spending between the highest- and lowest-spending districts grew over the seven-year study, causing greater inequity ([which] went from a \$5,039 per-pupil gap to \$6,025 per pupil). Regarding the student horizontal equity, the level of need was calculated by the count of students identified as needing special education, at-risk, and English Language Learner or Limited English Proficiency. The need for these services remained relatively the same over the seven-year study period, but the level of spending per student decreased by 3.3%.

In terms of fiscal neutrality, the study measured the relationship between the local property values and per-pupil spending. The researchers stated, “A generally accepted standard is that a system is reasonably fiscal (sic) neutral if this correlation is less than 0.50” (p. 31). The findings indicate Alabama, while still in the acceptable standard, is trending toward the unacceptable (0.38 in 2011-12 to 0.43 in 2012-13). Altogether, this equity study found that Alabama is not only inequitable in terms of the wealth of the school district and the per-pupil spending, but they are coming closer and closer to becoming inequitable in fiscal neutrality as time goes on.

**The Successful School Approach to Adequacy.** The APA's next study used the successful school district approach to determine the base student cost needed to meet an adequate public education. This figure is calculated by examining the current district



“Altogether, this equity study found that Alabama is not only inequitable in terms of the wealth of the school district and the per-pupil spending, but they are coming closer and closer to becoming inequitable in fiscal neutrality as time goes on.”

spending in successful districts. For this study, districts that met both criteria set by APA would be examined as successful school districts. Those criteria included: 1) the districts that met the 2011-2012 proficiency level for at least five of the six grades 3rd through 8th on both Math and Reading on the Alabama Reading and Mathematics Tests and 2) the districts whose proficiency percentage was at least 0.25 standard deviations above the state mean on all five 11th grade Alabama High School Graduation Exams. Thirteen of the 137 systems met both of these criteria. The analysis revealed that the base cost of educating a student in a successful district in 2012-2013 was \$7,170 (includes \$5,386 for instruction, \$977 for administration, and \$807 for building maintenance and operations). This base funding

level does not include the cost of special education, at-risk, or ELL services.

**Professional Judgment Approach to Adequacy.**

APA then used the Professional Judgment Approach to Adequacy to determine the cost in the successful districts of providing resources such as school-level personnel, additional supports and services, technology, and district-level resources. According to the researchers, the Professional Judgment Approach relies on the assumptions that experienced educators can specify the resources schools and school districts need in order to meet state standards, and that the cost of such resources can be determined based on a set of prices specific to those resources (APA, 2015).

Because each system in Alabama varies greatly in number of resources and the cost of those resources, APA created mock schools and districts using state average data. APA then constructed multiple judgment panels through a nomination-by-district-staff process to determine the resources needed for the mock schools and districts. In total, there were 80 panelists in 15 panels including school-

**2012-2013 ADEQUACY ESTIMATES, COMPARED TO ACTUAL SPENDING**

|   | Current Expenditures | SUCCESSFUL SCHOOL       |                      | PROFESSIONAL JUDGMENT   |                      |
|---|----------------------|-------------------------|----------------------|-------------------------|----------------------|
|   |                      | Without Size Adjustment | With Size Adjustment | Without Size Adjustment | With Size Adjustment |
| <b>ADEQUACY ESTIMATES (TOTALS IN MILLIONS)</b>  |                      |                         |                      |                         |                      |
| Base  | -----                | \$5,274.3               | \$5,365.2            | \$5,937.8               | \$ 6,040.1           |
| Special Education   | -----                | \$ 562.5                | \$ 562.5             | \$ 633.2                | \$ 633.2             |
| ELL   | -----                | \$ 49.9                 | \$ 49.9              | \$ 70.2                 | \$ 70.2              |
| At-Risk   | -----                | \$ 929.8                | \$ 929.8             | \$1,046.8               | \$1,046.8            |
| CTE   | -----                | \$ 76.9                 | \$ 76.9              | \$ 86.6                 | \$ 86.6              |
| <b>Total</b>  | \$5,681.2            | \$6,905.8               | \$6,984.3            | \$7,774.6               | \$7,790.3            |
| <b>Per Student</b>  | \$7,723              | \$9,388                 | \$9,495              | \$10,569                | \$10,590             |
| <b>DIFFERENCES BETWEEN ADEQUACY ESTIMATE AND COMPARABLE SPENDING (TOTALS IN MILLIONS)</b> |                      |                         |                      |                         |                      |
| Difference  | -----                | - \$1,224.6             | - \$1,303.1          | - \$2,093.4             | - \$2,109.1          |
| <b>Per Student</b>  | -----                | - \$1,665               | - \$1,772            | - \$2,846               | - \$2,867            |
| <b>Percentage</b>   | -----                | 21.6%                   | 22.9%                | 36.9%                   | 37.1%                |

Modified by GEDI. Original table from Augenblick, Palaich, and Associates (2015), Equity and Adequacy in Alabama Schools and Districts: Prepared for Alabama State Department of Education, p. 71. Retrieved from [alsde.edu/sec/comm/Related%20Documents/Alabama%20Final%20Report%209.8.15.pdf](http://alsde.edu/sec/comm/Related%20Documents/Alabama%20Final%20Report%209.8.15.pdf)



level panels, special needs panels, district panels, additional topic area panels, and statewide panels. Each panel included a combination of classroom teachers, principals, personnel who work with students with special needs, superintendents, technology specialists, and school business officials.

The results of the panelists' effort to identify the resources necessary for an adequate education found several key recommendations that were similar across the panels. The first necessity was small class sizes; in fact, they recommend the student-to-teacher ratios of 15:1 in K-1st grade, 18:1 in 2nd-3rd grade, and 25:1 in 4th-12th grade. As of the 1998 pupil-to-teacher ratio reported on the ALSDE website, the state requirements include 18:1 in classrooms K-3 that include students with disabilities, 26:1 in 4<sup>th</sup>-6<sup>th</sup> grade classrooms that include students with disabilities, and 29:1 in 7<sup>th</sup> -12<sup>th</sup> grade classrooms that include students with disabilities (ALSDE, 2015). The next resource identified by the panelists was adequate funding for professional development, instructional coaches, and teacher planning time. Regarding student support, the panelists identified these resources as being necessary for an adequate education: counselors, social workers, interventionist, before-and after-school programs, school-level summer school for struggling students, and alternative and Career Tech Education settings. The panelists also identified technology-rich learning environments, including 1:1 student devices in 3rd grade and up and the associated IT support as necessary. Finally, the panelists identified resources for sufficient staff to serve special education, ELL, gifted students, and preschool for all four-year-olds as all being necessary for an adequate education in Alabama.

The results of the Successful School District Approach indicated a base student cost of \$7,170 would be needed, but the Professional Judgment Approach yielded an \$8,072 per-student base cost as needed. The researchers combined the results of the two approaches for determining the weights needed to provide equitable funding. The suggested weights include English Language Learners earning 0.50, at-risk students earning 0.30, special education earning 1.10, gifted earning 0.20, preschool earning 0.24, and Career Technical Education earning 0.07. [As shown in the table on the opposite page], the APA applied these weights to the base costs generated by the two approaches for comparison. Without including a weight for the size of the school, the Successful School District Approach finds the

weighted student allocation needs to be \$9,388 to adequately [educate] a child in Alabama public schools. In the same circumstance, the Professional Judgment Approach found the weighted student allocation needs to be \$10,590 per student to adequately educate the students of Alabama.

## CONCLUSION

To synthesize all of the aforementioned research, Alabama is not the worst state nationally when it comes to funding public schools, but they are below average on most indicators compared to other SREB states. Furthermore, while a comparison shows they are not the worst, it does nothing to improve the education of Alabama students. The reality is Alabama is sliding down the hill of adequately and equitably funding public education. Action must be taken to halt the downward slide. Both the Baker and the APA studies suggest that Alabama move from funding of units to a weighted formula for funding students - as a necessary step for moving Alabama from a regressive education funding state to a progressive education funding state.

**“The reality is Alabama is sliding down the hill of adequately and equitably funding public education. Action must be taken to halt the downward slide. Both the Baker and the APA studies suggest that Alabama move from funding of units to a weighted formula for funding students - as a necessary step for moving Alabama from a regressive education funding state to a progressive education funding state.”**

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# HEALTHCARE ACCESS



# INTRODUCTION TO HEALTHCARE ACCESS

## THE PERFECT STORM

While conducting background research for his book, *The Perfect Storm*, Sebastian Junger interviewed expert meteorologist Bob Case about the October 1991 convergence of three disparate weather systems into a huge North Atlantic storm. Case explained that the conditions were “perfect” for a storm of unprecedented magnitude. Thus, the title of Junger’s book was born. And the phrase came to convey a rare coalescence of forces that creates a unique scenario with unanticipated and devastating consequences.

In fall of 2017, demographic, economic, and political forces converged to create a “perfect storm” for healthcare access in Alabama. Danne Howard, executive vice president of the Alabama Hospital Association (AHA), explained:

I don’t think I’ve ever felt this hopeless and this concerned for the healthcare delivery system in our state. . . . What’s going on now is not one thing in particular. It’s the convergence of a number of things that have been going on for years as well as new things that have just started happening. (Dethrage, 2017, para. 3, 6)

## WHAT DOES THIS STORM LOOK LIKE?

In 2017, the National Rural Health Association (NRHA) declared Alabama as “ground zero” for “most of what [is] wrong with rural healthcare in the nation” (Alabama Public Radio [APR], 2018, para. 4). One great casualty of this storm has been rural access to quality healthcare options. Alabamians consider access to care to be the state’s greatest health concern (Alabama Department of Public Health [ADPH], 2015). “Access to care” means people are able to participate in the healthcare system, understand their

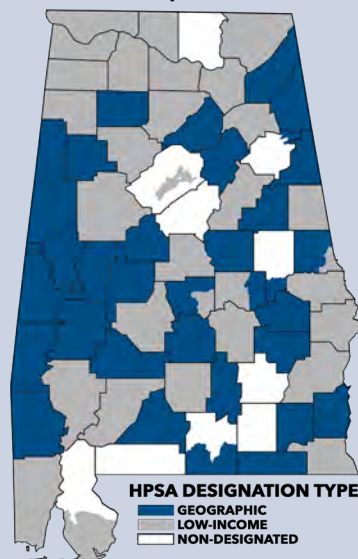
“In 2017, the National Rural Health Association declared Alabama as ‘ground zero’ for ‘most of what [is] wrong with rural healthcare in the nation’...”

medical needs and options, and have viable access to physicians and facilities providing needed services. Unfortunately, this is not the reality for many Alabamians who face numerous barriers to care (see John Waits and Lacy Smith). These obstacles have intensified as health services continue to dwindle, particularly in rural counties. As shown in the map at right, 62 of Alabama’s 67 counties are designated as full or partial primary care Health Professional Shortage Areas, meaning there

are not enough physicians to meet local needs (Health Resources and Services Administration, 2018). In one Alabama county, not a single doctor can be found; three counties lack a full-time dentist; seven counties lack a hospital (often meaning that residents must drive over an hour for emergency care); and thirteen rural counties lack a single life-sustaining dialysis clinic (ARHA, 2017). Rural healthcare services remain in critical condition, with six Alabama hospital closures occurring since 2010 (Sheps Center, 2018). Over three-quarters of rural hospitals operate “in the red” (Yurkanin, 2018) and teeter on the edge of existence. Fall 2017 alone saw two sudden closures and one averted closure. In December 2017, Danne Howard explained that Alabama would likely see “10-12 hospitals close within the next year to 18 months”, with others having to scale back significantly (Dethrage, 2017, para. 5).

From summer 2017 through early 2018, media outlets deployed reporters and correspondents into Ala-

**PRIMARY CARE HEALTH  
PROFESSIONAL SHORTAGE  
AREAS, 10.2017**



HPSAs as designated by the U.S. HRSA  
Modified by GEDI, 2018.



bama’s most rural regions to investigate this health-care access storm from the perspective of those in its path. They discovered individuals turning to their local veterinarian for x-rays and basic medical care (APR, 2017, par. 17). A 2017 article on the tuberculosis outbreak in Alabama’s rural Black Belt explained, “the rate of infection — what the World Health Organization uses to determine severity — is almost a hundred times the national average, and higher than the rates in India, Kenya, and Haiti” (Ouyang, 2017, par. 3). In other parts of rural Alabama, reporters encountered mothers struggling to navigate health-care access. Some endured hours of labor in the back of an ambulance or the family sedan — as EMTs or partners sped to the nearest hospital offering obstetrical services; some ended up delivering babies on the side of a road. Other mothers had to cancel or delay prenatal checkups — due to a lack of transportation or insurance. Additionally, in the state’s poorest county (where 32% of residents lack regular food access [Gunderson et al., 2017]), the County Commission voted to increase the sales tax on basic necessities — in order to keep their hospital from closing.

In other parts of rural Alabama, correspondents found patients with chronic illnesses with full access to UAB specialty physicians through telemedicine. While this discovery was encouraging, its potential is limited to areas with strong broadband capacity and is restricted by the failure of Alabama legislators to ensure insurance reimbursement for such services (see Dale Quinney).

## FORCES THAT CAUSED THE STORM

### Demographic:

Over the past 50 years, Alabama’s rural areas have experienced seismic demographic shifts. Perhaps the most pronounced is the region’s depopulation (see Dale Quinney). Residents who remain in rural Alabama tend to be older, poorer, less healthy, and more likely to be uninsured. In addition, the region suffers from a shortage of primary care physicians; a challenge compounded by the retirement of older doctors. This creates provider shortages; there are fewer young doctors to take their places, as only 12% of Alabama physicians under age 35 work in rural areas (Klass, 2017).

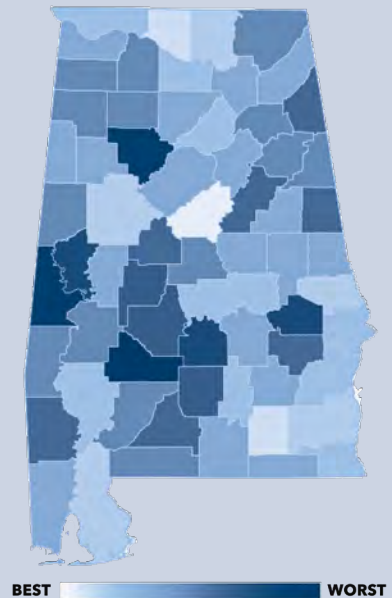
While rural Alabama loses physicians, the aging of its general population also increases both demand for medical appointments and healthcare shortages (see Dale Quinney). Further exacerbating this challenge are the relatively poor health factors and outcomes of Alabama’s population. Nationally, Alabama ranks first

in infant mortality; second in obesity; third in prevalence of diabetes, hypertension, pre-term births, and low birth-weight babies; and fifth in lack of physical activity (2015 data; Trust for America’s Health, 2018). The map below illustrates the concentration of the ultimate consequence of these poor health outcomes: premature death rates across Alabama. Life expectancy varies significantly in Alabama: in Walker County, it is seven-and-a-half years below the national average, compared to being above the national average in Shelby County (2014 data; IHME, 2017). On a larger scale, the mortality rate for rural Alabamians is over 10% higher than for urban residents (ARHA, 2017).

### Economic:

Poor health outcomes, coupled with a lack of access to preventative care, lead to escalating health-care costs. Sick residents who lack health insurance often end up in emergency rooms, which are required to treat patients regardless of their ability to pay. Preventable health risks place a great burden on the healthcare infrastructure, as primary care concerns go untreated and eventually lead to expensive inpatient stays. This further burdens the slim to non-existent profit margins under which rural hospitals operate. According to the NRHA, unrecovered patient debt to rural hospitals has risen by 50% since the 2010 passage of the Affordable Care Act (ACA; as cited in Mincer, 2017). When Medicaid is minimal and Medicare reimbursements are among the lowest in the nation (see Dale Quinney’s discussion of the Medicare Area Wage Index), rural hospitals are hit harder. These dynamics also make the region less

### PREMATURE DEATH RATE, 2014-16



Modified by GEDI, 2018 from County Health Rankings and Roadmaps, 2018.

“Poor health outcomes, coupled with a lack of access to preventative care, lead to escalating healthcare costs.”

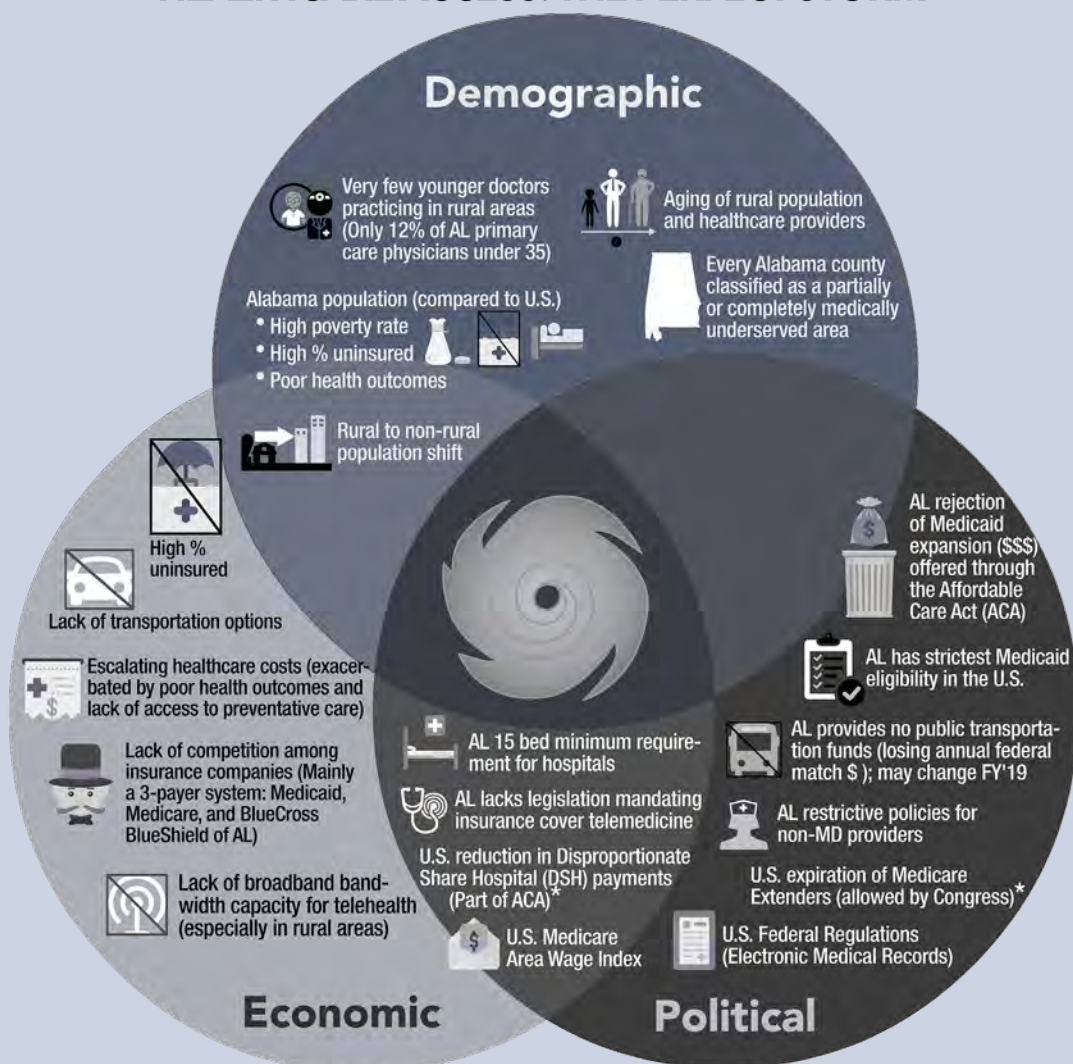
attractive to new physicians (who could be paid more for performing the same services elsewhere).

A lack of competition among Alabama medical insurance companies is another economic component. In a free-market economy, when revenue of one type decreases, entities can shift the burden onto other customers. Because many hospitals depend almost entirely upon three payers (Medicaid, Medicare, and BlueCross BlueShield of Alabama), they cannot remedy government shortages by shifting costs onto the private sector. Dean Griffin, CEO of Lawrence Medical Center explains, “In the state of Alabama, because BlueCross is so dominant, you can’t do that . . . We can triple our prices, but we’re still going to get paid the

same amount” (as cited in Fleischauer, 2017, pars. 16, 18). This is because the fixed payment schedules of Medicare, Medicaid, and BlueCross do not vary based upon the amount a hospital charges.

Another economic challenge serving as a barrier to healthcare access in rural Alabama is a lack of transportation. According to the Alabama Rural Health Association (ARHA), 10 to 16% of households in 14 rural Alabama counties lack access to a vehicle (2017, p. 1). In many states, residents without a vehicle simply take advantage of public transit. In most of Alabama, this is not a viable option, as the State provides no funds for public transportation (and annually loses federal public transit match money as a result).

## HEALTHCARE ACCESS: THE PERFECT STORM



\* FY 2017-2018 Imminent threats delayed by the Bipartisan Budget Act of 2018

Note: The figure above is the result of an extensive study of the forces that coalesced in this crisis. It was informed by an expert panel hosted by the Institute; a survey of state, local, and national news media outlets; and informal key informant interviews. This diagram is provided as a reference and overview; this narrative touches on each of its components.

**“The political decisions of Alabama and U.S. lawmakers greatly impact the fate of Alabama’s residents and healthcare system.”**

### **Political**

The political decisions of Alabama and U.S. lawmakers greatly impact the fate of Alabama’s residents and healthcare system. The state-federal Medicaid program pays for a significant portion of the state’s medical services, covering care for individuals with low incomes or limited resources. As explained by Jim Carnes, this program bolsters the state’s healthcare system. Yet, Alabama Medicaid is extremely restrictive and reimburses providers at a low rate. It has the lowest Medicaid eligibility levels in the nation. Adults without children or disabilities do not qualify, regardless of their income. The income limit for parents of dependent children is tied with Texas for the lowest in the nation, with a parent in a family of three not qualifying unless s/he makes less than \$3,684 per year; this is only 18% of the federal poverty level. The State’s decision not to expand Medicaid under the ACA precluded an estimated 300,000 adults from gaining coverage and forfeited billions in federal funds (see Jim Carnes). In an issue brief summarizing findings from 153 Medicaid expansion impact studies, Antonisse, Garfield, Rudowitz, and Artiga (2017) explain that expansion states showed significant gains in coverage, increased access to care and utilization of healthcare resources, reductions in unmet medical needs, improvements in self-reported health, and positive economic outcomes. Alabama has chosen not to invest the match money required to access these benefits. In fact, in recent years, Alabama has barely funded the minimal levels required for its residents to access any federal Medicaid dollars (see Jim Carnes). Alabama’s weak support for Medicaid is a significant contributor to its healthcare access deficiencies.

Consequential Medicaid-Medicare decisions are not limited to the State level. Federal legislation has also presented unique challenges to Alabama’s healthcare funding system. In addition to challenges posed by the Medicare Area Wage Index, two provisions of the 2010 ACA, although included for logical reasons, further contributed to the 2017 perfect storm of healthcare access: reduction in Disproportionate Share Hospital (DSH) payments and electronic medical record requirements. Policymakers planned to par-

tially fund the ACA-enabled expansion of Medicaid through a reduction in the DSH program, which was originally designed to offset burdens on hospitals treating a disproportionate share of uninsured patients. An anticipated dramatic reduction in the number of uninsured patients (through Medicaid expansion via the ACA) was expected to negate the need for DSH subsidies. However, when Alabama rejected Medicaid expansion funds, it turned down the money that would offset its lowered DSH payments. Effectively, this negative synergy between state and federal policy decisions placed a huge burden on Alabama’s most-challenged hospitals, a burden effective FY2018 and just recently delayed by the Bipartisan Budget Act of 2018. In addition, the ACA included new requirements related to electronic health records, a burden acutely experienced in rural areas and hastening the retirement of some aging physicians.

In another decision, Congress let Medicare Extenders, including the Child Health Insurance Program (CHIP), expire in October 2017. In December, Alabama was the first state to announce it would cut off health insurance funding to its low-income children. The State warned it would end enrollment and renewals for its All Kids child insurance program beginning January 1, 2018; this would immediately deny health insurance coverage to 7,000 Alabama children. Then, Alabama announced that, if Congress failed to renew CHIP funding by February, all 84,000 children who depended upon All Kids would be without coverage. This threat loomed large in the minds of Alabama families and physicians until the CHIP program was extended on February 9th - by the Bipartisan Budget Act of 2018.

### **THE STORM’S AFTERMATH**

The unavailability of healthcare providers can devastate struggling communities. When rural hospitals close, communities lose accessible medical treatment, much-needed jobs, and potential for economic stimulation and growth. The loss of rural providers and hospitals forces people to forgo preventative medical care, exacerbating the prevalence of poor health outcomes, exposing residents to preventable diseases, and escalating medical costs. As a result, patients may suffer and/or die from preventable or treatable illnesses. Conversely, an increase of one primary care physician per 10,000 people was found to decrease the mortality rate by an average of 5.3% (Starfield, Shi, & Macinko, 2005).



The lack of rural health services can also stifle local economies. A federally funded study of rural hospital closures in 15 states found an average loss of 99 jobs and \$5.3 million in annual wages, salaries, and benefits following a rural hospital closure (Eilrich, Doeksen, & St. Clair, 2015). Not only are jobs and services lost when hospitals close, but recruiting new businesses and residents is difficult when a community lacks the health infrastructure necessary to support life and industry.

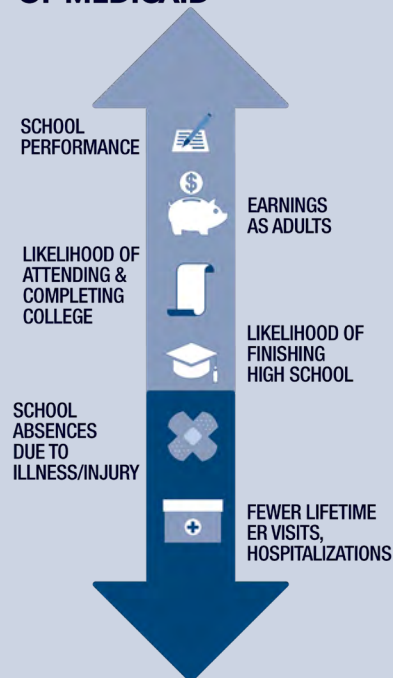
In addition, Medicaid covers almost a quarter of the state's population as well as healthcare services. One-eighth of adults under age 65; two-fifths of low-income individuals, children, and people with disabilities; and two-thirds of nursing home residents are covered by Medicaid (Kaiser, 2017). The state loses \$2.35 in federal matching funds for every \$1.00 it cuts in the Medicaid budget (Kaiser, 2017). These funds bolster the rural healthcare system and have very real consequences for those caught in the healthcare coverage gap. Medicaid also has many long-term benefits for the children covered by the program. As shown at right, it has been associated with increased school performance, reduced school absence, increased high school graduation and college attendance, fewer lifetime emergency room visits and hospitalizations, and increased adult earnings (Schubel, 2017). Furthermore, Medicaid funds support health services in schools, as 78% of U.S. school districts use Medicaid funding to hire school nurses, psychologists, and other healthcare professionals (Weingarten & Domenech, 2017). All students benefit from school services and staff funded by Medicaid. Without this source of funding, schools are forced to decrease general education funding, raise taxes, or deny essential services for low-income students and students with disabilities.

## WHAT HAS BEEN DONE TO MITIGATE THE EFFECTS OF THE STORM?

The urgent issues of healthcare access and Medicaid provision provide paramount opportunities for legislators to address the health needs of citizens and infrastructures of communities. There have been attempts to revive and compensate for devolving rural healthcare systems. In 2013, Alabama became the second-to-last state to grant prescriptive authority to nurse practitioners, allowing Certified Registered Nurse Practitioners and Certified Nurse Midwives to prescribe certain controlled substances with the collaborative agreement of a physician. Further-

more, in 2017, Alabama passed legislation that, for the first time in 40 years, allows for Certified Professional Midwives to attend home births. Advocates claim that "midwives could alleviate Alabama's severe shortage of maternity care providers" (Vollers, 2017). These increased scopes of practice expand access to treatment, especially for patients in rural areas and represent significant steps in a state with restrictive policies towards many non-MD medical providers.

## LONG-TERM BENEFITS OF MEDICAID



Created in response to a rural hospital closure crisis in the late 1980s and early 1990s, critical access hospitals (CAHs) were enabled through the Balanced Budget Act of 1997 and intended to maintain healthcare access in rural areas. Through special designation, CAHs can receive cost-based reimbursement for Medicare services, enabling hospitals to overcome economic challenges related to economies of scale and the Medicare Area Wage Index. Although this tool has existed for 30 years, Alabama hospitals have been slow to adopt it. Currently, only four Alabama hospitals carry this designation.

As previously mentioned, the Bipartisan Budget Act of 2018 included numerous provisions intended to support healthcare access throughout the U.S., especially for medically underserved areas and populations. These included:

- a two-year funding extension for community health centers;
- funding for expired Medicare extenders, including CHIP;
- elimination of DSH reductions scheduled for FY 2018 and FY2019;
- a five-year extension of the Medicare-Dependent Hospital (MDH) program;
- expanded use of telehealth for Medicare patients;
- increased scopes of practices for physician assis-



tants, nurse practitioners, and clinical nurse specialists; and

- elimination of Medicare outpatient therapy caps.

The anticipated impact of this legislation for the survival of rural Alabama hospitals and the maintenance/extension of healthcare access is likely significant.

## CONCLUSION

Though there have been efforts to mitigate the damage from this “perfect storm” caused by the collision of demographic, economic, and political forces, the state still faces a healthcare crisis that is sweeping up individuals and straining communities. The reality is the state’s healthcare infrastructure is in critical condition, with many Alabamians left without access to care. Our authors explain the urgency, scope, and consequences of this storm and provide recommendations to combat the conditions.

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AL.com photo courtesy of Bob Sims | Alabama Media Group/AL.com

Southwest Alabama Medical Center in Thomasville, Alabama closed in 2011 (Mike Kittrell | Alabama Media Group/AL.com).



# ADDRESSING OUR RURAL HEALTHCARE CRISIS

DALE QUINNEY



The rural healthcare crisis is not restricted to Alabama. However, the potential threat of this crisis is greater in rural Alabama than it is in most other rural areas.

## WHAT IS THE HEALTHCARE CRISIS IN RURAL ALABAMA?

Rural Alabama's healthcare crisis is characterized by a widespread lack of access to healthcare that is increasing in scope and consequence. Without prompt intervention, this predicament will become even more serious.

There are four components of access to healthcare:

- ➊ **Availability** - having healthcare facilities and providers locally available;
- ➋ **Accessibility** - being able to get to the local healthcare;
- ➌ **Affordability** - being able to afford the local healthcare;
- ➍ **Health Literacy** - understanding what healthcare options are available and appropriate, how to get to the care, and how to follow provider instructions.

While each of these components is a greater challenge in rural areas, the greatest barrier to access at this time is the unavailability of local healthcare facilities and providers. Serious financial pressures challenge the survival of Alabama's rural hospitals, posing dire health and quality-of-life consequences.

Long-term funding problems have reached a crisis point of survival for many rural Alabama hospitals. As shown at right, Alabama has had seven rural hospitals close since 2009, with only one of these being replaced. This places Alabama in the top five states for recent rural hospital closures. Between 1987 and 2009, rural Alabama lost 21 hospitals, with only five of these being replaced. Alabama currently has eight counties (Cleburne, Coosa, Henry, Lamar, Lowndes, Macon, Perry, and Winston) with no hospital.

## RURAL HOSPITAL CLOSURES BY STATE, 2009-2017

Alabama lost 7 rural hospitals, the same number as these 12 other states combined.



When confronted with the threat of closure, hospitals often eliminate under-reimbursed services. Obstetrics is a prime example. Of the 54 counties that are considered rural by the Alabama Rural Health Association, only nine lacked local hospital obstetrical services in 1980. Today, 38 of these 54 counties do not have obstetrical services being provided within the county, as shown opposite. Only one of the 12 Black Belt region counties (Dallas) currently provides this service.

Hospitals are a leading employer and provide significant economic opportunity to rural counties. Our rural hospitals, as well as their employees and associated health services, produce a large economic impact through facility operations and employee purchases. The availability of quality healthcare also attracts non-health-related businesses to a community. Officials with the Alabama Department of Commerce have acknowledged difficulty in attracting businesses to areas that lack adequate healthcare for future employees.

“[T]he greatest barrier to access at this time is the unavailability of local healthcare facilities and providers.”

Medicare pays rural Alabama hospitals “approximately one-third of the amount paid to hospitals in some other areas - for the same hospital services.”

## WHAT ARE ALABAMA’S TOP HEALTHCARE ACCESS CHALLENGES?

### Inadequate Medicaid Coverage

Alabama’s Medicaid program provides minimal service for adults, and its reimbursement rates fail to cover the actual cost of providing many services. Alabama needs to expand Medicaid. While still “on the table”, Medicaid expansion has been previously rejected by Alabama’s top decision makers. There are many advocates on both sides of this issue, and each side has valid points. However, allowing Alabama tax dollars to fund benefits of Medicaid expansion in other states, while denying these benefits here in Alabama (where the need is actually greater) cannot be defended. The need for Medicaid expansion is even greater, in our rural counties, where 26% of all residents and over 55% of all children were eligible for Medicaid services during Fiscal Year 2016 (Alabama Medicaid Agency, 2017).

### Lower Medicare Reimbursement

Medicare develops an annual Area Wage Index that is used to determine the reimbursement rates paid to local hospitals. This index considers wages paid to hos-

pital employees as a basis for reimbursement. Because of its inherent flaws and effective inequity, this system reimburses rural Alabama hospitals at the lowest rate in all 50 states. Rural Alabama hospitals receive approximately one-third of the amount paid to hospitals in some other areas - for the same hospital services. This methodology has created a downward trend for rural Alabama hospitals, with reimbursements constantly decreasing.

“[A]llowing Alabama tax dollars to fund benefits of Medicaid expansion in other states, while denying these benefits here in Alabama (where the need is actually greater) cannot be defended.”

### Private Insurance Reimbursement Variation

There are current challenges and litigation alleging that methods of determining reimbursement rates may result in rural hospitals receiving lower payments.

### Chronic Shortages of Primary Care Providers

As of today, the Health Resources and Services Administration classifies 52 of Alabama’s 54 rural counties as having a shortage of primary care physician services. This is even more concerning when it is noted that this designation measures the provision of MINIMAL, rather than OPTIMAL, service.

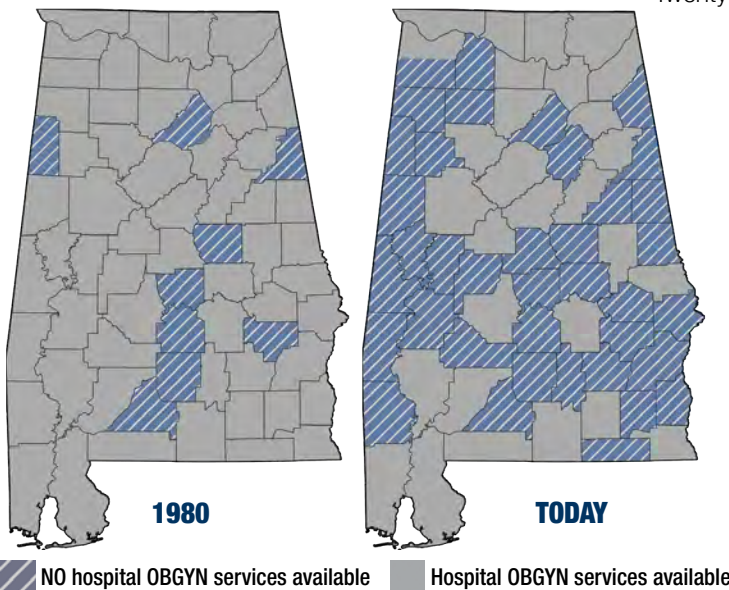
### Alabama’s Rural Counties Are Not Experiencing Healthy Population Growth

Twenty-four of Alabama’s 54 rural counties actually had a lower population in 2010 than in 1910. Even more disturbing is the fact that the Alabama State Data Center at The University of Alabama projects that 37 of these rural counties will have less population in 2040 than they had in 2010 (Center for Business and Economic Research, n.d.). Population growth is an indicator of the presence of economic opportunity. Maintaining the population necessary to attract and support an adequate healthcare system is not feasible without economic opportunity.

### Alabama’s Rural Population is Aging, with Chronic Diseases Increasing

While the total population in most rural Alabama counties is declining, the rural population is also aging. Because of the greater prevalence of chronic diseases among the

## AVAILABILITY OF HOSPITAL OBGYN SERVICES RURAL ALABAMA COUNTIES, 1980 AND 2017



Modified by GEDI, 2018 from Alabama Department of Public Health and Alabama Rural Health Association, 2016.

**“Maintaining the population necessary to attract and support an adequate health-care system is not feasible without economic opportunity.”**

elderly, the demand for primary care services will increase. An unpublished 2017 study by the Alabama Rural Health Association determined that the number of Alabama physician office visits could increase by 1,710,000 per year by 2025, primarily due to the state’s aging population (Rui & Okeyode, 2015; Centers for Disease Control and Prevention, n.d.).

### **Rural Alabama’s Residents Suffer From Relatively Poor Health**

Funded by the Robert Wood Johnson Foundation, the County Health Rankings & Roadmaps Program ranks counties in health status severity and disseminates county-level health data. This online resource includes five indicators and 65 individual factors related to health outcomes. According to its 2017 rankings:

- When ranked by positive health outcomes (based upon length and quality of life), the bottom 29 Alabama counties are rural.
- When ranked by positive health factors (related to health behaviors, clinical care, socioeconomic factors, and the physical environment), the bottom 24 Alabama counties are rural.

## **WHAT CAN BE DONE TO IMPROVE RURAL HEALTHCARE?**

### **1. Expand the scope of practice for advanced practice practitioners.**

In response to the chronic shortage of primary care providers plaguing its rural areas, Alabama must fully utilize the training and abilities of its advanced practice practitioners (i.e., nurse practitioners and physician assistants).

Having visited every medical clinic in 51 of Alabama’s 54 rural counties, I have only encountered three incidents in which advanced practice practitioner clinics were viewed as potential competition to local physician services. Instead, throughout rural Alabama, I have discovered partnerships in which physicians and advanced practice practitioners provide each other with greatly needed assistance and time away from demanding and stressful practices.

These service partnerships have enabled many rural practices to expand service hours, allowing local residents who could not get away from work to receive care outside of traditional work hours. Several rural medical clinics have been able to expand their days of service to include Saturday and even Sunday. In addition, local healthcare is being provided in rural areas that lack the population base necessary to attract and sustain physician services.

**“[T]he Health Resources and Services Administration classifies 52 of Alabama’s 54 rural counties as having a shortage of primary care physician services ... this designation measures the provision of MINIMAL, rather than OPTIMAL, service.”**

Advanced practice practitioners could also provide many other professional healthcare services. Rural hospitals in Mississippi are using these practitioners to provide emergency department coverage. This can greatly save in staffing expenses, especially during the early morning hours when activity is usually slower. The University of Mississippi Medical Center also uses telemedicine to provide constant emergency medicine and specialty coverage in many rural hospital emergency departments. Local practitioners, including advanced practice practitioners, have access to this professional assistance in treating patients or stabilizing them for transfer to a more comprehensive medical center. The University of Alabama at Birmingham has considered offering similar telemedicine assistance in Alabama.

Alabama professionals already engaged in such partnerships could help policymakers and administrators identify ways to better utilize this source of care. Actions needed to maximize this promising healthcare service should be identified and taken. A unique approach could be to encourage practice in the most underserved rural areas by allowing greater practice independence for advanced practice practitioners who provide care in such areas.

### **2. Expand the practice of telemedicine.**

Telemedicine holds great potential for rural healthcare provision. While Alabama’s poor health status should incentivize us to become a leader in utilizing this technology, we are lagging behind most states.



There are currently three major types of telemedicine service. “Store and Forward” is a telemedicine service that is widely used throughout Alabama. Through this distance service, technicians take scans, x-rays, etc. and forward the images/data elsewhere for quick reading.

“High Risk Patient Monitoring” is also being utilized in Alabama. This service involves installing special equipment onto the telephones of individuals who are at elevated risk due to health conditions or remote locations. Selected vital signs are monitored using this equipment. Through this technology, patients can be contacted by providers to monitor health status, or this contact can be initiated by the patient.

The third type of telemedicine involves the use of special diagnostic equipment that is often attached to a telemedicine cart. This equipment is located on the care-receiving end where the patient and an assistant are located and on the care-providing end by a distant care provider. A wide selection of high-technology digital attachments can be used in diagnosis and treatment. Such care is currently being provided in Georgia, involving more than 40 specialties and subspecialties. The potential for this type of telemedicine is exciting and promising. Nursing home and assisted living residents might avoid transport by ambulance to see primary care physicians or for specialty services. Children who seldom see a

physician might receive regular care through a school-based clinic. Emergency medical providers might work closely with technicians and/or paramedics who are at the scene of a crisis. Many states have also authorized teledentistry, telepharmacy, and other similar healthcare services.

To take better advantage of telemedicine, Alabama needs universal broadband coverage and complete reimbursement for telemedicine services. Medicare is already reimbursing for this care, and the Alabama Medicaid



Agency reimburses for selected telemedicine services. However, Alabama lacks a law requiring private insurance companies to reimburse for these services. BlueCross and BlueShield of Alabama voluntarily reimburses for selected services and plans to expand this reimbursement in the future.

To promote more rapid use of this promising technology, Alabama needs to expand reimbursement. There are two major approaches to this. Georgia, Tennessee, and Mississippi passed laws requiring such coverage. Given Alabama’s healthcare and reimbursement environment, a better approach may be to establish an Alabama Telemedicine Commission to work closely with or through the Board of Medical Licensure Commission to oversee and establish standards for telemedicine in Alabama. The commission should include representatives from private insurance companies and healthcare practitioners who are using this technology. Reimbursement for various healthcare services could be required once this commission determines that quality care can be administered through telemedicine. This commission might also develop and maintain technological standards to assure that telemedicine equipment is adequate and able to communicate with other such equipment.

A telemedicine cart.



### **3. Work with rural hospital officials and other stakeholders to redefine rural hospitals and their services.**

The national trend for rural hospitals is toward facilities with fewer inpatient beds. The “Save Rural Hospitals Act” currently before Congress would establish a new type of hospital called a “Community Outpatient Hospital.” This facility can have a few beds for observation or a “swing bed” program,<sup>1</sup> but has no other inpatient capacity. Any other service can be provided by this hospital. Cost-plus reimbursement for emergency and observational care is the incentive for giving up inpatient service.

<sup>1</sup> “Under the Medicare program, rural hospitals with 100 or fewer licensed routine care beds are eligible to participate in the swing bed program, meaning that a bed can be used for either an acute care patient or a postacute patient who has been discharged from a medically necessary three-day minimum acute stay and requires skilled nursing care” (Homes, n.d.).

There are a number of other states, including Mississippi and Tennessee, which have hospitals with just a few or even no beds. This is not a current possibility in Alabama, where hospitals must have a minimum of 15 beds to be licensed. This requirement should be carefully changed to enable Alabama to follow trends toward smaller-bed-count hospitals. Alabama needs to allow for fewer than 15 beds or authorize a new type of hospital with fewer than 15 beds.

Caution must be exercised in authorizing hospitals with fewer than 15 beds. We must not threaten the fragile financial status of existing rural hospitals. This concept may initially need to be restricted to existing hospitals undergoing renovations, or similar situations.

Many rural hospitals have average daily inpatient census totals well below their maximum capacity. Additional revenue sources must be identified to enable such hospitals to remain open and possibly use some of the vacant beds. The Alabama Rural Health Association is currently working with graduate-level students to produce a report on ways to use vacant rooms or offer other services to create new revenue sources for our rural hospitals.

#### **4. Encourage the establishment of county health coalitions in all rural counties.**

Too often, newly elected officials are provided little assistance in working to solve local healthcare challenges. Each rural county should be encouraged to establish a coalition composed of representatives from all components of the county. Ideally, these coalitions would operate similar to the Coalition for a Healthier Escambia in southwest Alabama. This coalition has membership from hospitals, physicians, nurses, the Indian Health Service, public health, mental health, dentistry, emergency medicine, education, law enforcement, city government, county government, local businesses and industry, the clergy, etc. This coalition collectively identifies healthcare challenges and potential solutions and works as one body to solve problems. This effort sends a powerful message about the county and tends to get results that would be more difficult without an organized and united voice.

## **CONCLUSION**

Perhaps there has never been a time when the future of healthcare has been so uncertain. Will the Affordable Care Act (or “Obamacare”) be repealed and replaced? If not, will the flaws in that law be corrected? What is the future of Medicare, Medicaid, and private insurance? What will rural hospitals and rural medical practice look like in the future? So much of this uncertainty is beyond our local control. We must identify actions that we can take to benefit our rural healthcare, regardless of what results from the uncertainty.

The possibilities just discussed present practical and promising actions that are within our control. While these do not include all actions that can be taken, they offer opportunities to exercise greater vision, innovation, and control of local health outcomes.

**“Too often, newly elected officials are provided little assistance in working to solve local healthcare challenges. Each rural county should be encouraged to establish a coalition composed of representatives from all components of the county.”**

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# HEALTHCARE ACCESS: REFLECTIONS FROM THE FRONT LINES

JOHN WAITS, M.D. & LACY SMITH, M.D.



## BACKGROUND

For the past 14 years, I have lived and worked as a physician in rural Bibb County, Alabama. Growing up the son of a surgeon and a teacher in Tuscaloosa, Alabama, it would be hard for me to argue that I was not born into privilege. I would like to contend that, internally, I never took my privilege for granted. However, reflecting on a childhood in the 1980s and collegiate years in the 1990s, from the “Richter-scale-9” year of 2017, I just do not know anymore. What I can say is that it motivated me to work harder and to prove myself worthy of my advantages. For “[w]hoever can be trusted with very little can also be trusted with much” (Luke 16:10, NIV).

From this vantage point grew a bias - ubiquitous in white Alabama, and now ubiquitous in the conservative, red-state ethos that informs so much of our policy - toward personal responsibility.

In high school, I was turned on to the centre-right magazine, *The Economist*. I wrote my senior paper on “Health Care Economics and Reform”, advocating for health savings accounts, as well as the reintroduction of more free-market forces and less government into healthcare. I saw government intrusion as tainting what could otherwise be the “pure” economics of healthcare.

As a pre-medical student at the University of Alabama, I had the privilege of spending the summer of 1993 in Washington D.C. as an intern for a think tank of the

**“From this vantage point grew a bias - ubiquitous in white Alabama, and now ubiquitous in the conservative, red-state ethos that informs so much of our policy - toward personal responsibility.”**

religious right. I was tasked to be the intern / assistant to a leading bioethicist and healthcare policy expert in an effort to oppose the healthcare reform being promulgated by the Clinton administration. At the time, I fully agreed with the logic, not only of the promise of a free-market-driven healthcare system, but of the ethics of anti-entitlement, meaning the assurance that the healthcare system had mechanisms in place to keep individuals from taking advantage of healthcare providers, insurers, and systems.

Despite an exceptional medical school education at the University of Alabama Birmingham, and a great internship/residency/fellowship in Tulsa, Oklahoma, I received little formal education or training in the public policy aspects of healthcare. Therefore, when I landed in Bibb County in September 2003, I was well-trained in many components needed for a successful career in rural medicine, but in other ways I was thoroughly unprepared. This was most striking when I saw firsthand the collision of real-live patients with the logical effects and unintended consequences of our public healthcare policies.

It is a well-worn adage that the only year harder than internship is one’s first year of practice after training. This is nowhere more true than in an “underserved” area, where the ratio of patients to available physicians and/or healthcare providers is quite high ... too high. This was certainly true for me.

Even more profound than the work was the philosophical and cognitive dissonance that occurred as early as my first week of seeing patients. I remember calling my father, and observing, with emotional exhaustion, “there was not a single patient who would have any benefit from a Medical Savings Account (MSA: the ubiquitous conservative financial tool of healthcare reform). What I meant was that there was an entire cohort of my neighbors who were unemployed, without

a vehicle, and living with food insecurity. What benefit were they going to reap from putting away, tax-free, ~\$2,000+ from their non-existent paychecks, to pay for healthcare? Somewhat embarrassing in retrospect, this thought had not occurred to me in a decade of thinking about healthcare reform. More telling is the fact that it was not taught to me by the many people I worked with - as a “caveat” to the usefulness of the policy.

## A RURAL VANTAGE POINT

With this background that landed me “on the front lines” in an underserved rural area, what does the rural healthcare crisis look like from the vantage point of a patient living in a rural area?

I will ignore, for the purposes of this reflection, the rural American equivalent of #firstworldproblems like not having a Publix and having a much smaller Wal-Mart stocked with less nutritious options than the Wal-Mart in the neighboring cities; the lack of diverse after-school activities; the perceived lower-quality school systems, etc., because at the end of the day, it is a 30-120-minute inconvenience for middle- and upper-class families to access these resources in nearby cities. Not in every case, but in most. The contributory impact of these exact issues, however, on the inability to either recruit or retain physicians and other professionals (healthcare or otherwise) is - or should be - a topic of active discussion amongst County Commissions, rural economic development forums, Chambers of Commerce, and mayors’ offices.

What cannot be ignored in this discussion, however, is Medicaid. Medicaid is a public insurance program that is a federal-state partnership. It provides a federal “match” to state legislature budgets and state Medicaid offices, but in turn requires certain core

“Notably absent in states such as Alabama that have not ‘expanded’ Medicaid ... is the dearth of coverage for so many who do not fall into these categories [children in poverty, pregnant women, those with disabilities, and the impoverished elderly in long-term care], including parents in poverty and childless adults.”

services, including healthcare for children in poverty, pregnant women, those with disabilities, and the impoverished elderly in long-term care.

Notably absent in states such as Alabama that have not “expanded” Medicaid - either voluntarily, in previous “expansion” programs, or via the ACA expansion of 2009 - is the dearth of coverage for so many who do not fall into these categories, including parents in poverty and childless adults.

## GAPS IN COVERAGE

Let me provide some illustrations of what Medicaid coverage looks like in rural Alabama in an attempt to capture some of the larger systemic gaps that so many patients like mine face daily. As a Family Medicine Obstetrician, I have delivered babies for the past 13 years. Over 90% of my OB patients have had Medicaid as their insurance plan. In the early 1990s, as a way of combating infant mortality by encouraging participation in prenatal care for individuals on Medicaid, as well as containing costs by paying “global fees” to healthcare providers, Alabama developed the Maternity Waiver program. This program allows independent entities to “bid” for certain regions of the state and/or counties to become the sole conduit for Medicaid disbursements to physicians and hospitals. There were numerous efficiencies realized by this scheme. But like any policy designed, at least in part, for cost-containment, humans are going to slip through the cracks. Based on numerous real-life scenarios, the following story illustrates how this “plays out” in maternity care.

“[L]ike any policy designed, at least in part, for cost-containment, humans are going to slip through the cracks.”





## THE STORY OF “JILL”

Jill is a childless adult in poverty who is currently uninsured and does not qualify for Medicaid. She thinks she might be pregnant, so she presents to the doctor without health insurance, for an evaluation and a urine pregnancy test.

She is diagnosed as pregnant and estimated to be about 8 weeks along. She now qualifies for Medicaid through the Maternity Waiver program.

Problem #1: The maternity waiver program office is 45 minutes away in another county. And Jill does not have a vehicle.

Problem #2: A visit to the maternity waiver office would be incomplete, since she has not first “activated” her Medicaid, which can only be done at her county Medicaid office.

The hours for the Medicaid caseworker are not full-time, and Jill has some difficulty in accessing this caseworker when she is in her office.

In the meantime, Jill is having significant nausea and some vomiting, as is common in the first trimester of pregnancy, and has an episode of bleeding. This is very worrisome to her since she has previously experienced both a miscarriage and a very premature delivery in which the baby did not survive.

Despite the fact that there is an emergency room in town, and the doctors in practice at her local rural health clinic would not turn her away for inability to pay and would provide a sliding fee discount schedule and payment plans, Jill holds off, concerned about the fees of a physician visit, and the costs of the substantial “initial pregnancy lab work” and obstetrical ultrasound that are customary in the first trimester of pregnancy. Due to these financial concerns, Jill decides to wait to seek care until she has insurance.

Finally, Jill and the Medicaid caseworker connect. She is notified that the statutory Medicaid application processing time may take up to 45 days. Jill is now 12 weeks pregnant and yet to have her initial prenatal appointment.

Finally, Jill learns that her Medicaid is active, and has arranged a visit to the Maternity Waiver program in the neighboring county. Unfortunately, the day she is to go, her friend’s car breaks down and she has to delay another week. Jill is now 16 weeks pregnant, in the second trimester, and has not begun her prenatal care.

The following week she activates her Maternity Waiver insurance and is assigned a caseworker to be her point of

contact if she has any issues during her pregnancy.

She also gets a prenatal care appointment for 4 weeks away, when she will be 20 weeks, in the neighboring county, because when the local hospital closed their Labor and Delivery 15 years ago, all of the doctors, midwives, physicians assistants, and nurse practitioners doing prenatal care left the county to practice closer to where they could deliver babies.

Jill is able to arrange a ride to her first OB appointment, where she has an ultrasound and a nurse visit. The nurse tells her that she is high-risk because of her previous preterm delivery, obesity, and her newly diagnosed high blood pressure and borderline high blood sugar. Jill will likely need weekly visits for the foreseeable future, for assessment of the fetal wellbeing, as well as management of her maternal diseases that impact both of their health.

Jill is uncertain that she will be able to make all of these visits. She asks if they can be at her local rural health clinic, where the doctor has experience and a board certification in obstetrics. Unfortunately, the malpractice liability insurance for the state does not support the model of shared prenatal care and charges the same premium for performing a few unreimbursed pro bono (because the fees are global, to the delivering physician) prenatal visits, as the premium for a physician who delivers babies and performs Caesarean sections. This, for Jill, means she will have to figure out how to arrange weekly transportation to her OB provider in the neighboring county, despite the fact that she still does not have a car.

Jill eventually secures transportation to her upcoming prenatal visits, but her prenatal care is cut short by admission to the tertiary care facility for premature preterm rupture of membranes (PPROM) at 24 weeks, followed by the delivery of a 27-week infant.

Early in my practice, my first dozen iterations of this story were equal parts infuriating, discouraging, and paradoxically challenging. Based on my policy background, I initially blamed the tangential aspects of this story that featured public insurance and entitlement programs.

I will never forget the first obstetrical patient whom I took care of, whose financial circumstances disabused me of this default bias. This patient had employer-based insurance with one of the largest private insurers in the state. As my patient before she got pregnant, when she became pregnant, I just transitioned her medical care from routine young adult/preconception care, to obstetrical care. Several

months into her care, while looking over our patient files one day, my nurse asked me if this patient had been to the Maternity Waiver program yet. I replied that she did not need to because she had private insurance. Predictably, an asymmetric argument between doctor and nurse ensued, my nurse arguing that this patient should present to the maternity waiver caseworker, and me arguing that “patients with private insurance obviously” did not need to follow the same steps as the Medicaid population. At some point, I quit talking and started listening. I surrendered my argument when I heard this nugget of wisdom from my nurse: “Dr. Waits, most private insurance policies do NOT cover maternity care, and almost all of our patients need to get on Alabama Medicaid when they are pregnant!” Lo and behold, she was correct.

**“Within months of being in practice, I was personally convinced and convicted that it would be unethical to significantly limit any of my neighbors from accessing services just because they either did not have insurance, or were unable to pay a copay or deductible.”**

As I faced patient scenarios like the ones previously described, as well as many others with patients unable to afford their healthcare, I made another decision. Within months of being in practice, I was personally convinced and convicted that it would be unethical to significantly limit any of my neighbors from accessing the services just because they either did not have insurance, or were unable to pay a copay or deductible. This informed my practice, Cahaba Medical Care (CMC), from day one.

## **MAKING HEALTHCARE AFFORDABLE**

The first decade of being in rural practice was largely spent trying to creatively counteract many of the issues that “Jill” faced. Our attempts were diverse and sometimes quixotic in effort, requiring immense unreimbursable time from most of my staff; all attempting to do their part in case management and social work. Frustratingly, even these efforts were only partly successful in mitigating systemic issues. But refreshingly, in almost every circumstance, we have found like-minded allies in what I had ignorantly regarded as the “faceless bureaucracy”: women and men at Medicaid and the Alabama Health Network

(a maternity waiver program) who were eager to help take care of patients and even innovate and advocate for change within the system.

I have focused heavily on a maternity example, not only because this is a professional interest of mine as a fellowship-trained family medicine obstetrician, but also because the care of women and children is a core area for all state Medicaid agencies.

This means, and this is important, if there are gaps in care in the areas we ARE covering, imagine the gaps in the areas for which we have not yet begun to envision coverage. This includes the enormous cohort of 40-50-something-year-old uninsured adults who need a cancer screening but are two decades away from Medicare coverage, or have undiagnosed (or diagnosed) hypertension, hyperlipidemia, and diabetes and are delaying thorough and effective care, thereby worsening the state epidemic of myocardial infarction (heart attacks), congestive heart failure, and strokes.

What could be done? Was there any way other than working harder and longer hours to provide care for my neighbors?

In 2010, I was introduced to the Community Health Center (CHC), or Federally-Qualified Health Center (FQHC) program. The FQHC program began as a bipartisan effort during the Lyndon B. Johnson administration. Since the time of its inception, it has been supported and expanded under both Republican and Democratic administrations. It is a way for a community to create a safety net in the American healthcare system for our neighbors who have, for many varied reasons, been left outside of the current healthcare infrastructure and public policy.

**“[I]f there are gaps in care in the areas we ARE covering, imagine the gaps in the areas for which we have not yet begun to envision coverage.”**





Doctors Smith and Waits.

As so many in underserved areas of the country know, the actual community health needs reach far beyond the realm of traditional medicine. The Community Health Center program has enabled CMC to contribute to many non-medical components of community health. This includes park and sidewalk development activities, “backpack buddies” for school-aged children with food insecurity, creating a food pantry and clothes closet for community members, and support of the science curriculum in the local high schools through development of an AP Biology course.

**“As so many in underserved areas of the country know, the actual community health needs reach far beyond the realm of traditional medicine.”**

In 2012, Cahaba Medical Care’s competitive application to become a Community Health Center was accepted. This event served as a catalyst for good for our patients, the local healthcare system, and the community as a whole. This transformation represented a systemic change, increasing resources to take care of the immense need we had been facing for eight years.

By becoming a FQHC, CMC was able to create a social work office, expand its nursing team, and provide discounted labs and imaging services through local partnerships with businesses that share our commitment to care for their neighbors, regardless of their insurance statuses. It also enabled us to expand our reach into several new underserved communities as we opened new offices in five neighborhoods throughout central Alabama from 2014 to 2017. This ultimately meant that more patients were treated and more patient visits were performed each year, allowing for diagnoses and treatment of chronic diseases, cancer screenings, and many new patient-provider relationships.

In addition, the Community Health Center program along with Cahaba Medical Care’s close partnership with its local rural hospital, Bibb Medical Center (BMC), allowed the unique opportunity to reopen a rural Labor and Delivery (L&D). This was done in partnership with BMC, who made the large capital investment of building a state-of-the-art L&D unit, while CMC provided the obstetrical staffing for this unit. This bucked the dismal statewide trend of small rural L&D units closing, and it was the first L&D to reopen in Alabama in over thirty years.

## LOOKING BACK

Fourteen years of practice has granted me a wealth of stories about rural healthcare, too many to share here. They include how the FQHC program allowed the creation of Alabama’s newest Family Medicine residency program in Centreville, Alabama - a town of 6,000 people - at Cahaba Medical Care. And how the FQHC program has enabled recruitment of an excellent team of physicians and advanced practice providers in underserved Alabama. Furthermore, the FQHC program has allowed access to care to many uninsured patients who otherwise would have only received fragmented care at local emergency rooms but instead now have a primary care provider as well as access to a dietician, mental health counselor, nursing staff, local pharmacy, radiology services, and a social work team.

While no policy measure exists long or is sufficient unto itself without comprehensive healthcare reform, the Community Health Center program has been transformative for our communities. We still face gaps in care and find individuals who have fallen through the cracks. But until the hard work of healthcare reform / expansion is done, I can speak to the importance of the healthcare safety net. When implemented with compassion and focused on the needs of the local community, it can be truly transformative.

# MAKING MEDICAID WORK IN ALABAMA

JIM CARNES



## WE ARE ALL ON MEDICAID

In Alabama, we are all on Medicaid. Not literally, in the sense of having enrollment cards that entitle us to Medicaid benefits, but not just figuratively, either. Because Medicaid pays for more than half of all Alabama births, and a million Alabamians qualify for Medicaid coverage; the services, professional workforce, and facilities made possible by the federal-state Medicaid partnership form the backbone of the healthcare infrastructure on which we all depend. Without Medicaid funding, Children's Hospital in Birmingham, which treats privately-insured as well as publicly-insured patients from across the state, would have to close its doors. The same goes for most rural hospitals and for pediatricians' offices in every county. Propping up an overburdened and underfunded healthcare system is a heavy lift that demands strength and stability - but too often faces a dangerous strain. Getting voters and lawmakers to appreciate this structural hazard - to care about the condition of the backbone - is a perennial, high-stakes challenge for healthcare advocates. And several developments in 2017 raised the stakes even higher.

## FUNDING FOR MEDICAID

Medicaid's federal-state partnership rests on an agreement that the federal government will pay at least 50% of each state's Medicaid expenses, as long as the state follows certain rules. These include covering the most vulnerable, low-income populations (mostly children, nursing home patients, people with disabilities, and pregnant mothers) and providing the most essential services (such as inpatient and outpatient hospital care, doctor services, lab services, skilled nursing, family planning, pregnancy-related services, and a preventive medical and dental screening and treatment service for children). For high-poverty states like Alabama, the federal share is higher - in our case, a little over 70% in 2017. And we have been able to count certain third-party expenditures (such as special hospital, nursing home, and pharmacy taxes) toward the state's 30% share, whittling the General Fund contribution to less than 12% (as illustrated in the chart below).

This remarkable return on state investment has historically ensured a strong legislative commitment

Alabama, a high-poverty state, receives over 70% of its Medicaid funding from federal sources. Due to Alabama's ability to count certain third-party expenditures towards the state's share of 30%, the General Fund contribution is lower than 12%.

## 2017 Alabama Medicaid Budget

70%  
FEDERAL

30%  
STATE OF AL

11%  
AL  
GENERAL  
FUND





“No elected official can fail to see the link between a threadbare health system and dismal health outcomes. By almost any leading measure - strokes, diabetes, obesity, infant mortality, low birth weight - Alabama ranks at or near the bottom among states. The bleak picture these statistics paint - and the human and economic potential they suppress - is a leadership opportunity for the taking.”

to maintaining our “bare-bones” Medicaid system, but no more than that. Our leaders are well aware that Alabama ranks near the bottom nationally in all three measures of Medicaid capacity: patient eligibility limits, range of services covered, and healthcare provider reimbursement rates. When compared to other states, Alabama spends the third least per Medicaid enrollee. “Low-balling” publicly funded health coverage only deepens our chronic shortage of healthcare providers and services, especially in rural counties. Based on HCRIS data, as aggregated by the Alabama Hospital Association, nearly 70% of Alabama’s hospitals – and 84% of its rural ones – were operating “in the red” in 2015. All but seven of our 67 counties are designated as full or partial Health Professional Shortage Areas. No elected official can fail to see the link between a threadbare health system and dismal health outcomes. By almost any leading measure – strokes, diabetes, obesity, infant mortality, low birth weight – Alabama ranks at or near the bottom among states. The bleak picture these statistics paint – and the human and economic potential they suppress – is a leadership opportunity for the taking.

## A LEADERSHIP OPPORTUNITY FOR THE TAKING

But who will lead? When the Affordable Care Act (ACA) of 2010 offered a 100% federal match (dropping to a permanent 90% over 10 years) for states to expand Medicaid to cover low-income working adults, Alabama joined 25 other states in a court challenge of

the mandatory expansion. The 2012 U.S. Supreme Court ruling that expansion was optional gave Alabama a legal path for keeping Medicaid to a minimum. In defending his refusal of \$1.7 billion per year in additional federal Medicaid funding (impact to date shown below), then-Gov. Robert Bentley said he would not expand a “broken system” that promoted “dependency” – despite the fact that most people who would be eligible for expansion coverage *were already working*. A preferable solution, he argued, was to shrink the current Medicaid rolls by creating jobs and to look for further ways to reduce the program’s impact on the General Fund. As Bentley appointed a commission to address Medicaid efficiency and sustainability, legislators candidly acknowledged they were unwilling to pay the eventual 10% state share for expansion.

By leaving billions of federal dollars on the table, we also forfeit the chance to improve our state’s poor health status in major ways. Expansion would close the coverage gap, bringing health security to some 300,000 Alabamians who earn too much to get traditional Medicaid but too little to qualify for subsidized plans on the Health Insurance Marketplace. The generous federal match would shore up struggling rural hospitals, strengthen primary care, and offset massive state costs for mental health services and prisoner hospitalizations. And we would have new tools and resources to tackle the growing opioid epidemic, which is ravaging Alabama families

In refusing to expand Medicaid, Alabama has left billions of dollars in additional federal Medicaid funding on the table, forfeiting the chance to improve the state’s poor health status and close the coverage gap. The ticker below shows how much Federal money Alabama had already rejected by March 18, 2018. Data source: [alamamasbest.org](http://alamamasbest.org)

\$ 7,110,588,571.78

and communities. Medicaid expansion would go a long way to repair these “broken” parts of Alabama’s healthcare system.

## COMBATING STEREOTYPES

Disparaging Medicaid has become a pastime for some Alabama leaders, and it is easy for a cynic to see why. The program’s constituents are among the least politically “useful” Alabamians (i.e., children and many nursing home residents do not vote). Lingering stereotypes about low-income people, especially those receiving public services, only exacerbate their isolation. A listener in the legislative galleries might conclude that Medicaid is like a bucket with a hole in the bottom – a “broken” program that only a structural change can mend. It is true that over the decades Medicaid has consumed bigger slices of the General Fund pie. But a closer look dispels easy explanations. Attributing Medicaid budget growth to a failure of the system wrongly implies, among other factors, poor stewardship of agency resources. Alabama Medicaid’s administrative costs were just 4% of the program’s total budget for 2016, well below the national average and far less than those of private insurers. In a bare-bones program like Alabama Medicaid, budget growth has two main causes: rising healthcare costs in general (prescription drugs, hospitalization, specialty care, etc.) and enrollment growth. The Great Recession of 2008-09, for example, brought a surge of Alabama children into Medicaid eligibility as their parents lost jobs or experienced wage cuts, and slow recovery kept enrollment numbers high. Thus, the so-called “safety

**“[T]he so-called ‘safety net’ programs serving low-income Alabamians are actually barometers to prosperity, not inhibitors of it. Enrollment growth in response to a recession means the system is working. It means an economic downturn does not have to trigger a downturn in health.”**

net” programs serving low-income Alabamians are actually barometers of prosperity, not inhibitors of it. Enrollment growth in response to a recession means the system is working. It means an economic downturn does not have to trigger a downturn in health.

Bentley and many lawmakers were right in their stated goals to create jobs and get people off of Medicaid. Rising incomes, especially at the lowest economic levels, improve lives. But a strong and effective Medicaid system for those who need it is a public good in itself. Against the stark backdrop of Alabama’s health statistics, we should use every tool available – including job creation and safety-net services – to promote the wellbeing of all Alabamians.

## POLICY DECISIONS

The ACA offers a framework for Medicaid reforms that can win federal approval to change the traditional program structure. The recommended strategy features the “triple aim” of better care, better health, and lower costs. Bentley’s reform commission adopted this strategy in 2013 when proposing a shift from the statewide, fee-for-service Medicaid payment model to a nonprofit, “managed care” approach using community-based, provider-led regional care organizations (RCOs) that would deliver care at a fixed, per-member rate. Alabama Arise and its advocacy partners won strong provisions in the plan for consumer oversight of RCO governance, an innovation for Alabama Medicaid. While the managed care model – capped rates coupled with provider rewards for care coordination and improved health outcomes – would address all three federal aims, the proposal’s selling point to the Legislature was clearly lower cost. Commission and legislative leaders emphasized that any savings would result from slowing long-term growth in the Medicaid budget, but hopes for faster gains were high when the Legislature unanimously passed the RCO bill.

**“The generous federal match would shore up struggling rural hospitals, strengthen primary care, and offset massive state costs for mental health services and prisoner hospitalizations.”**



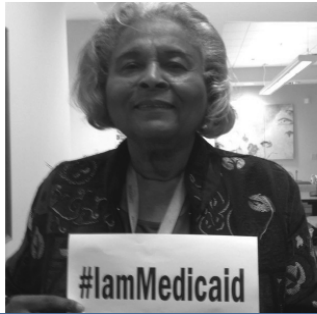


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The #IamMedicaid campaign highlights the faces of the real people covered by Medicaid.

Sure enough, unanimous support quickly devolved into second-guessing as the reform plan failed to bring an immediate end to the yearly cycle of Medicaid budget shortfalls and happenstance solutions, such as economic recovery and disaster relief funding. Uneven progress in organizing the regional initiatives further eroded legislative confidence and caused multiple delays of the original October 2016 launch date. Prospects reached a low point in the 2016 regular session, when lawmakers passed a Medicaid budget that not only would have shut down the reform but also likely would have triggered – for the first time – program cuts that violated federal minimum standards. Bentley’s veto and call for a special session forced Alabama legislators, and their constituents, to consider the fundamental question of whether our state needed and wanted a Medicaid program.

Advocates knew from long experience that Medicaid budget debates, and the “rabbit-from-a-hat” approach

**“Advocates knew from long experience that Medicaid budget debates, and the ‘rabbit-from-a-hat’ approach to addressing shortfalls, often play out in spreadsheets and accounting maneuvers that obscure the human side of the equation.”**

to addressing shortfalls, often play out in spreadsheets and accounting maneuvers that obscure the human side of the equation. Inspired by an idea from Alabama Children First, an advocacy roundtable called the Healthy General Fund Partnership responded to the unprecedented 2016 cuts with a social media campaign under the theme #IamMedicaid. The simple, accessible message, paired with personal snapshots, allowed both Medicaid beneficiaries and care providers – pediatricians and their patients, parents, nursing home residents, nurses, therapists, and people with disabilities – to put a human face on an often-misunderstood component of our healthcare system and line item in our state budget. During the special session, advocates placed #IamMedicaid posters in the hallway leading to the budget hearing room, creating a gallery of witnesses for the common good, as shown above.

Sanity prevailed. Though cobbled once again from a windfall – this time due to a two-year BP settlement for oil spill damages – the budget solution affirmed Alabama’s commitment to (or dependence upon) Medicaid. But this time the temporary patch raised another question: Would two years of budget certainty be enough to keep RCO investors on board?

The November 2016 election added new federal uncertainties: Was “Medicaid as we know it” about to end? (For example, would Congress abandon the



program's open-ended federal funding and eligibility "entitlement" for anyone in certain population categories, opting instead for state caps on overall or per-patient funding, in exchange for greater state flexibility?) How would new U.S. Department of Health and Human Services officials view existing reform proposals? If the Trump administration delivered on its promise of repealing and replacing the ACA, how would the abrupt shift play out across the healthcare system, which accounts for one-sixth of the national economy?

Bentley's successor, following his resignation in April 2017, probably expected the answers to those questions to be clearer than they have been so far. In July, Gov. Kay Ivey announced that she was terminating the beleaguered RCO reform plan. As the summer wore on, a succession of unsuccessful "repeal and replace" bills in Congress left the ACA bruised but intact – and arguably stronger in some ways for having withstood the onslaught. The administration found opportunities for administrative sabotage, particularly in the Health Insurance Marketplace wing of the law, but as of this writing, "Medicaid as we know it" remains in place, including the option for more states to pursue expansion.

## NEXT STEPS

The Trump administration's response to forthcoming Medicaid reform and expansion proposals is difficult to predict. From an Alabama health advocate's perspective, the case for Medicaid expansion grows more urgent as political divisions, economic trends, and social forces threaten to push the South even further behind. Studies by the University of Alabama at Birmingham School of Public Health have projected a net economic impact of nearly \$3 billion annually (direct federal funding plus resulting economic activity) from expansion (Bronstein, Becker, Coolidge, & Nelson, 2015). A University of Alabama study has found that expansion would create more than 30,000 Alabama jobs (Addy & Ijaz, 2013, p. ii). Closing the Medicaid coverage gap would be a giant step in overcoming the "have-not" status our region has endured for too long.

**"[T]he case for Medicaid expansion grows more urgent as political divisions, economic trends, and social forces threaten to push the South even further behind."**



**"From a long-term perspective, cost-containment goals divorced from health outcome goals are self-defeating. Alabama's post-RCO Medicaid strategy must reflect one primary principle: Better health for all is the bottom line."**

Whatever comes next for Medicaid must address the central role that Alabamians' poor health outcomes play in the state's escalating healthcare costs. As the RCO plan envisioned, increasing access to and utilization of preventive and primary care will reduce delayed interventions, preventable hospitalizations, and chronic illness, which in turn will reduce costs. Strong community engagement and consumer oversight, which the RCOs incorporated, can improve both provider effectiveness and patient response. From a long-term perspective, cost-containment goals divorced from health outcome goals are self-defeating. Alabama's post-RCO Medicaid strategy must reflect one primary principle: Better health for all is the bottom line.

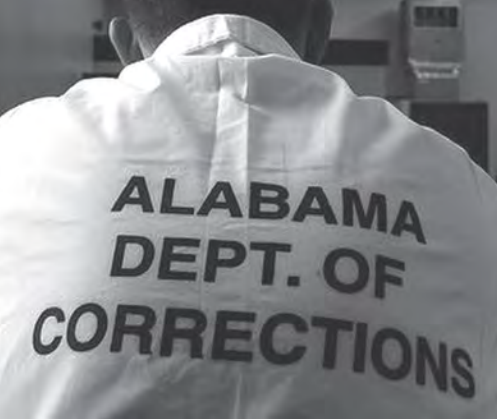
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# CRIMINAL JUSTICE



# INTRODUCTION TO CRIMINAL JUSTICE

## INTRODUCTION

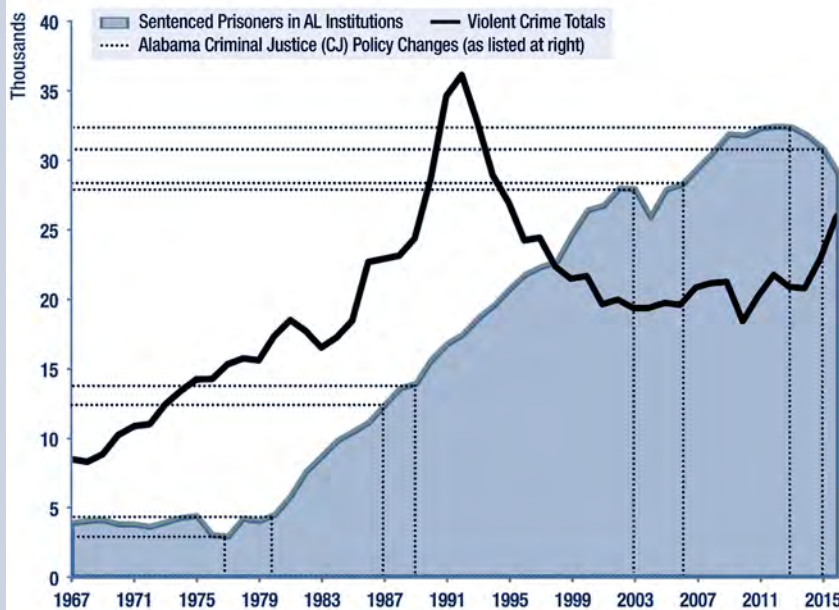
In Alabama, public servants who made campaign promises to be “tough on crime” find themselves struggling to pay for a criminal justice system that prioritizes a strategy of mass incarceration. Decades ago, Alabama’s criminal justice system got stuck using only one gear: the “prison gear”. Just as a bicycle applies different gears on varying terrain to work effectively and efficiently, the criminal justice system utilizes different gears to match various underlying problems. An overreliance on the “prison gear” has resulted in an expensive system that is often counterproductive, serving as a training ground for hardening criminals, rather than an asset for public safety (that separates dangerous people from society) and a pathway to successfully redirect and rehabilitate lives (see Cameron Smith’s article). In the process, equating crime with punishment has translated being tough on crime into being tough on criminals. This has amplified an environment of inhumane treatment that is continually investigated for human and civil rights violations. The system takes a disproportionate toll on communities of color, the under-educated, and those suffering from mental illness and addiction. Though this “tough-on-crime” rhetoric has been politically effective, such campaign promises and default “prison gear” policies have very real consequences that affect individuals, families, communities, and taxpayers long after a sentence is served.

## THE PATH TO MASS INCARCERATION

Alabama has the third highest imprisonment rate per capita in the nation (Carson & Anderson, 2016), with prisons having reached 195% capacity in 2014 (Council of State Governments Justice Center, 2015). The process of mass incarceration that has occurred since the 1970s is graphically illustrated in the figure at right. As shown, the state’s violent crime rate rose and fell independent of trends in incarceration, which is consistent with national research on crime and incarceration trends (Mitchell & Leachman, 2014; Eisen & Cullen, 2016). Instead of corresponding to an increase in violent crime, Alabama’s system of mass incarceration has resulted from policies such as habitual felony offender laws, mandatory minimum sentencing, and targeted drug laws (as demonstrated in the chart on the opposite page). Prosecutorial decisions and political pressure have further contributed to the prescription of “prison gear” solutions. Instead of reserving this extreme and costly punishment for individuals who would otherwise be a danger to society, we have filled our state prisons and county jails with non-violent offenders, most of whom would more likely benefit from alternate interventions. Prison is clearly not the appropriate remedy to address every crime (see Cameron Smith’s article).

Not only is mass incarceration an extremely expensive solution, the resulting overcrowding and prison staffing challenges exacerbate inhumane conditions. Alabama prisons are continually challenged by federal courts for constitutional violations, a culture of cor-

|   |   |  |  |  |  |
|---|---|--|--|--|--|
|   | <p>Federal judge: Alabama is guilty of Constitutional violations - Inadequate medical care and treatment. <b>1972</b></p> |  | <p>Alabama revives “CHAIN GANG” (abolished in ‘96 after federal court case). <b>1995</b></p> |  | <p>Alabama settles the 1992 mental health lawsuit (after agreeing to major reforms). <b>2000</b></p> |
| <p><b>1928</b><br/>Alabama is the LAST state to abolish the convict lease system.</p> | <p><b>1992</b><br/>SPLC sues Alabama on behalf of inmates with mental illness.</p>  | <p><b>1998</b><br/>After federal court case, Alabama agrees to lower hitching posts and grant restroom access.</p> |  |  |  |



## VIOLENT CRIME, INCARCERATION, AND PUBLIC POLICY IN ALABAMA






### Alabama Criminal Justice Policy Changes:

- 1977: Habitual Felony Offender Act passes
- 1980: Adoption of Habitual Felony Offender Law and mandatory minimum sentences for violent offenders
- Act 80-446 abolishes good-time credits for long-term inmates
- Sentence enhancements for felonies involving a deadly weapon (10-20 yrs.)
- 1987: Act 87-610 statutorily adds 5 years for selling drugs within 3 miles of a school
- 1989: Act 89-951 statutorily adds 5 years for selling drugs within 3 miles of a housing project
- 2003: Second parole board is created to ease prison overcrowding
- 2006: Second parole board is dismantled
- 2013: Presumptive sentencing guidelines are implemented
- 2015: AL Justice Reinvestment Act passes, SB67

Data Sources: Bureau of Justice Statistics, National Prisoner Statistics 1925-1986, 1978-2016; Uniform Crime Reporting Statistics 1967-2016.

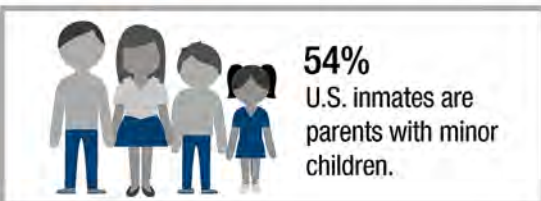
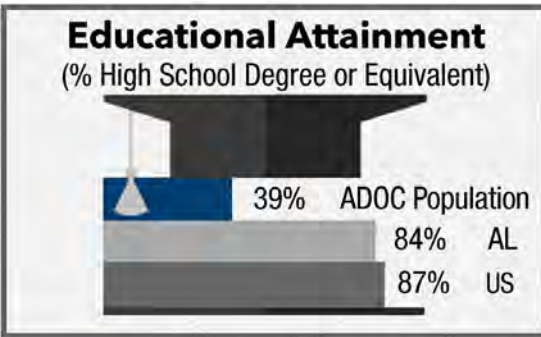
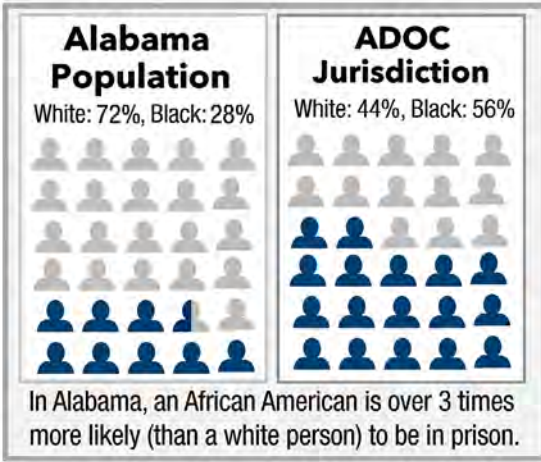
ruption and abuse, and negligent medical treatment (see Charlotte Morrison’s article for a detailed explanation of this topic). A legacy of unusually cruel treatment has plagued Alabama’s prison system since its inception, as illustrated in the timeline below. Beginning in 1875, the State profited from leasing prisoners out to work dangerous jobs. Early on, 45% of inmates in this convict-lease system died in a single year (Blackmon, 2008, p. 57). Alabama became the last state to abolish this practice in 1928, when the federal government moved to outlaw involuntary servitude. In 1972, following a class action lawsuit brought by inmates, a federal judge found 8th and 14th Amendment violations in Alabama’s prisons due to inadequate medical care and treatment of state inmates. Twenty years later, the Southern Poverty Law Center (SPLC) sued the state on behalf of inmates with mental illness; this lawsuit was not settled until eight years later, when Alabama finally agreed to major reforms. Alabama was the first state to revive the chain gang in 1995, but after a lawsuit following the death of a prisoner in 1996, the State reached an agreement in federal court to stop the practice. In 1998, the State defended its practice

of chaining prisoners to a hitching post in federal court, where Alabama agreed to adjust the height of its posts and grant inmates with bathroom access. Four years later, the Supreme Court ruled conclusively that the use of hitching posts was unconstitutional. Alabama settled a lawsuit over maltreatment of HIV-positive inmates in 2004; in this settlement, the State agreed to provide adequate medical treatment and daily food (among other provisions) to these prisoners. However, it was not until 2012 that a federal judge declared Alabama could not physically isolate HIV-positive inmates, nor deny them equal access to rehabilitation services. In 2014, the Department of Justice declared conditions at Alabama’s Tutwiler Prison for Women to be unconstitutional, citing allegations of prison guards sexually harassing and abusing female inmates for 20 years. In 2016, the Department of Justice opened an investigation into men’s prisons to ensure that prisoners were guaranteed sanitary and safe living conditions and protected from abuse. Most recently, in 2017, a federal district judge found that the psychiatric care of inmates was “horrendously inadequate” and ordered the State to develop a plan for reform (as

|   |  |   |
|---|--|---|
| <br>Alabama settles lawsuit, agreeing to provide adequate medical treatment and daily food to HIV-positive prisoners. <b>2004</b> | <br>The DOJ declares Tutwiler conditions unconstitutional, alleging grave staff abuse of prisoners. <b>2014</b>               | <br>Federal judge: Mental health care of Alabama prisoners violates the U.S. Constitution. <b>2017</b>                              |
| <b>2002</b><br>U.S. Supreme Court: Alabama can no longer tie people to hitching posts.  | <br>Federal judge: AL must end physical isolation and denial of equal opportunities - for HIV-positive prisoners. <b>2012</b> | <br>DOJ opens investigation into Alabama men’s prisons, looking at sanitary living conditions and protection from abuse. <b>2016</b> |



## PROFILE OF CURRENT PRISON POPULATION



described by Morrison). The State of Alabama has unsuccessfully defended its prisons against an endless string of lawsuits for decades, with many related to inadequate medical and mental health care. In the absence of federal force, Alabama has repeatedly avoided reform, failing to maintain a basic level of humane treatment for the people in its care.

## PROFILE OF THE PRISON POPULATION

Regardless of the crime committed, some people are more likely enter the criminal justice system. As shown by the data profile on the left, most inmates have addiction and substance abuse problems, mental illnesses, and/or low levels of education. Nationally, 65% of prisoners meet the criteria for substance abuse, and another 20% are substance involved, but only 11% of inmates receive substance abuse treatment (The National Center on Addiction and Substance Abuse, 2010). While nationally 56% of state prison inmates and 64% of local jail inmates have mental health problems (Bureau of Justice Statistics, 2006), only 14% of the Alabama Department of Corrections (ADOC) population receives any sort of mental health treatment (*Braggs v. Dunn*, 2017). Furthermore, only 39% of inmates have a high school degree or equivalent (ADOC, 2016). In Alabama, an African American is over three times more likely to currently be in prison than a white person (based on ADOC and U.S. Census data). In fact, nationally there is a 70% chance that an African-American man without a high school diploma will be in prison by his mid-thirties, meaning he has a higher chance of being imprisoned than employed (Kearney, Harris, Jacome, & Parker, 2014). These systemic biases can perpetuate negative cycles and trap people in bad situations.

**“[M]ost inmates have addiction and substance abuse problems, mental illnesses, and/or low levels of education.”**

## IMPACTS OF IMPRISONMENT

The impacts of imprisonment extend beyond prison walls. Even after a sentence is served, former inmates often face huge barriers as they try to rebuild their lives. The majority of those in prison will be released and reenter local communities (see Kyes Stevens’ article). However, the current system is insufficient to provide proper transitions or supports for successful reintegration, too often releasing people back into

Data Sources: U.S. Census Bureau; 2016 ADOC Annual Report; The National Center on Addiction and Substance Abuse, 2010; The National Institute of Mental Health, n.d.; The Pew Charitable Trusts, 2010.





A guard tower at Julia Tutwiler Prison for Women in Wetumpka, Alabama (Julie Bennett | Alabama Media Group/AL.com).

**“The impacts of imprisonment extend beyond prison walls. Even after a sentence is served, former inmates often face huge barriers as they try to rebuild their lives.”**

society who are “socially crippled and profoundly alienated” (Austin & Irwin, 2012, p. 91). Prison conditions such as forced solitude or lack of privacy, social isolation, exposure to violence, and inadequate healthcare have negative effects on the mental health of inmates and create insecurities about the future (World Health Organization, n.d.). Furthermore, a prison record can preclude opportunities and limit an individual's potential. For men, serving time reduces annual employment by nine weeks and decreases annual earnings by 40% (The Pew Charitable Trusts, 2010). Studies have found that 60-75% of recently incarcerated individuals were unemployed a year after their release (cited in National Institute of Justice, 2013). In addition to mental health, social, and employment challenges, those who have served time face institutionalized disenfranchisement, as they are ineligible for public housing, welfare benefits (i.e., TANF assistance), and federal assistance for education. In many cases, these individuals are also denied the right to vote. When a criminal record effectively denies access to employment and community reintegration, former inmates may turn back to crime for survival, thereby getting trapped in a *revolving prison door*.

Imprisonment also has profound impacts upon the family members of incarcerated individuals, putting a strain upon relationships and shifting family roles and responsibilities. Over half of those in prison are parents of minor children (as shown at far left). Therefore, when income is lost, families are broken, and/or poverty of mind and spirit emerge, the damage tends to overflow onto innocent children, impacting their development and creating lasting struggles. Turney (2014) found that having a parent in prison more than doubles a child's likelihood to experience behavioral and health problems, including learning disabilities,

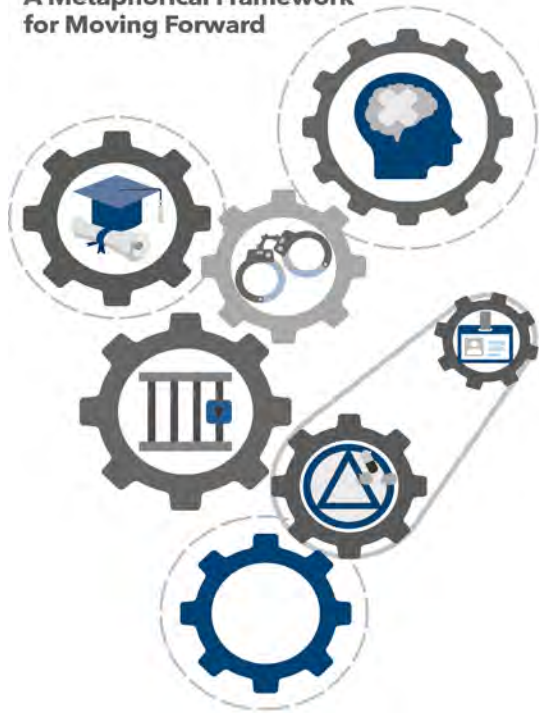
AD(H)D, depression, and anxiety (cited in Scomegna, 2014). Imprisonment can cause irreparable damage to spousal relationships as well. Within the first year of a married man's imprisonment, 80% of marriages break up; this rate is closer to 100% for married female inmates (Lyman, 2005). Communities, local governments, and citizens also suffer through a depleted labor pool and continued cycles of crime. Additionally, local and state taxpayer burdens increase due to high rates of recidivism and community support services required to remedy the collateral damages of incarceration.

## **ALTERNATIVE STRATEGIES**

An overreliance on prison is straining the entire criminal justice system (Spencer, 2014). Critics of Alabama's mass incarceration approach contend that Alabama needs to utilize other strategies to function effectively and efficiently. A shift in focus might incorporate other approaches, such as: mental health and substance abuse treatment, GED classes, community and specialty courts, restorative justice, parole, probation, supervised re-entry, and work-release programs. The following articles explore these strategies.

Alabama has made significant reform efforts, primarily in the areas of sentencing and parole. Reforms in 2013 implemented presumptive sentencing guidelines to make sentencing consistent across the state. The Alabama Justice Reinvestment Act (SB67) of 2015 included reforms that streamlined the parole process, changed punishments for technical parole violations, and created a Class D Felony for minor, non-violent crimes. Other reforms included strengthening community-based supervision and increasing the number of parole and probation officers to decrease individual officer caseloads below 200. These efforts have had positive effects and helped to decrease the inmate population to 159% capacity, as of September 2017 (ADOC, 2017). Most recently, Alabama submitted a plan to remedy the “horrendously inadequate” mental health care cited by Judge Myron Thompson. This plan proposes nearly doubling the mental health staff and hiring more

## CRIMINAL JUSTICE GEARS: A Metaphorical Framework for Moving Forward



“Decades ago, Alabama’s criminal justice system got stuck using only one gear: the prison gear. Just as a bicycle applies different gears on varying terrain to work effectively and efficiently, the criminal justice system utilizes different gears to match various underlying problems.”

“A shift in focus might incorporate other approaches, such as: mental health and substance abuse treatment, GED classes, community and specialty courts, restorative justice, parole, probation, supervised re-entry, and work-release programs.”

correctional officers, both of which are contingent upon increased funding. Our authors suggest such reforms should be prioritized, and more must be done to improve prison conditions, expand access to alternatives, and focus on reformatory (rather than punitive) responses. They suggest that being “smart on crime” is much more practical and effective than being “tough on criminals”.

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# BEYOND MASS INCARCERATION

CAMERON SMITH



## INCARCERATION POLICIES

Many Alabama politicians pride themselves in being “tough on crime.” These days, however, that simply is not sufficient. The “tough” stance has become a tremendously expensive one, and we need better ideas. Regardless of political alignment, none of us should relish the thought of putting a fellow citizen behind bars. Prisons are, without a doubt, a “big government” solution to the problem of criminal activity. When we put someone in prison, we are effectively determining that justice requires radically restraining his or her freedom at the taxpayer’s expense. There is clearly a role for that kind of response, but we should critically evaluate when, where, and why we utilize it.

In September 2017, Alabama Department of Corrections facilities operated at 159% of their designed capacity (ADOC, 2017). The state’s overcrowding challenges suggest that we either need to find a way to pay for incarceration or materially change our utilization of it as a response to criminal activity. Since the idea of a tax hike to pay for prisoner accommodations is the political equivalent to a root canal without anesthesia, finding ways to reduce our prison population is the only viable policy option. Several public policy objectives justify our criminal justice practices. Chief among them are retribution, rehabilitation, and deterrence. We need to consider each one of those objectives as we think through our incarceration policies.

“Prisons are, without a doubt, a ‘big government’ solution to the problem of criminal activity. When we put someone in prison, we are effectively determining that justice requires radically restraining his or her freedom at the taxpayer’s expense.”

## RETRIBUTION

Retribution by incarceration makes sense to many of us as a response to violent crimes. It is not so much about us being vengeful as it is a part of our social contract. Certain violent behaviors justify removal from the general population for some length of time. Most of us see prudence in using our tax dollars to keep violent criminals behind bars. Fortunately those crimes account for a relatively small percentage of new inmates to the ADOC system. In fiscal year 2016, less than 14% of new admissions were for homicide-, assault-, and robbery-related convictions (ADOC, 2016).

In many other instances, the value of retribution is not so clear. Take a theft-related offense for example. The primary interest of the victim is to be made whole. Repayment is significantly more difficult for the offender to accomplish when he or she is in prison. In fact, it is a “double whammy” in the sense that the victim not only loses property, but, as an Alabama taxpayer, he or she shells out about \$48.47 per day to incarcerate the offender (ADOC, 2016). For many property crimes and drug offenses, we are often penalizing ourselves rather than being creative in our response to offenders. Since more than half of new inmates admitted in fiscal year 2016 alone were convicted for property crimes and drug offenses (ADOC, 2016), we might want to explore new solutions quickly if we want some relief.





“The state’s overcrowding challenges suggest that we either need to find a way to pay for incarceration or materially change our utilization of it as a response to criminal activity.”

## REHABILITATION

Rehabilitation is certainly a worthy goal of our justice system, but is incarceration necessarily serving that end? According to the State of Alabama Board of Pardons and Paroles (2016), “approximately 35% of Alabamians released from prison commit a new crime” (p.18). The good news is that two-thirds of the prison population does not return within three years of release; the bad news is that over one-third does. The idea of prison rehabilitation is much like spending time in the “sick” waiting room at the doctor’s office with one’s ill children. The intention might be good - segmenting sick children from healthy ones - but the solution leaves a lot to be desired. In short, the best rehabilitation prospect for many criminals is rarely spending lengths of time with people who have made the same or worse choices.

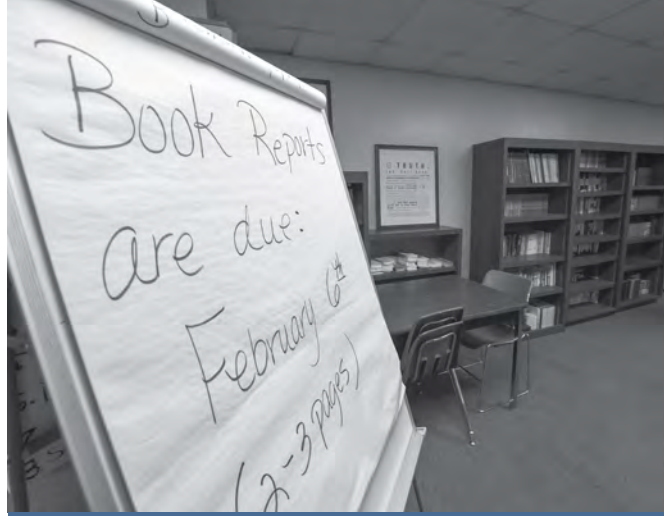
More importantly, the rehabilitation programs Alabama provides simply are not heavily utilized. For example, while 15,449 of the state’s inmates reported not having a high school diploma, GED, or some college,

“[T]he underutilization of rehabilitation programs is very costly to our society, both in terms of invaluable human resources and limited public dollars.”

### INMATE EDUCATION ADOC 2016 DATA

|   |        |
|---|--------|
| Inmate Population                           | 29,626 |
| Lacked a High School Diploma or GED         | 15,449 |
| Completed a Vocational Training Certificate | 2,105  |
| Completed a GED                             | 245    |

Data Source: 2016 ADOC Annual Report.



A classroom at Draper Correctional Facility in Elmore, Alabama (Julie Bennett | Alabama Media Group/AL.com).

only 245 inmates completed their GED in FY2016 (ADOC, 2016). The numbers are not much more encouraging for vocational advancement. Out of an inmate population of 29,626, only 2,105 completed a vocational training certificate program (ADOC, 2016). A 2013 RAND Corporation study found that inmates who participated in correctional education programs were 43% less likely to return to prison (Davis, Bozick, Steele, Saunders, & Miles, 2013, p. 39). In other words, the underutilization of rehabilitation programs is very costly to our society, both in terms of invaluable human resources and limited public dollars.

Even the drug treatment numbers raise questions as to whether incarceration is helping rehabilitate inmates. While the ADOC estimates that “75 to 80 percent of the offenders that are in the custody of the ADOC have documented of [sic] self-reported histories of substance abuse” (ADOC, 2016, p. 32), only 2,760 inmates completed drug treatment programs in FY2016.

Alabama’s primary rehabilitative efforts seem focused on the period 30-90 days immediately prior to an inmate being released or paroled. That is certainly an important window, but it raises questions about rehabilitation throughout earlier phases of inmate sentences.

## DETERRENCE

Then there is the issue of deterrence. Most of us probably think that long, harsh sentences provide the greatest deterrent to committing crimes. The National Institute of Justice [NIJ] (2016) suggests a very different perspective, “[t]he certainty of being caught is a vastly more powerful deterrent than the punishment” (p. 1). Lengthier incarceration itself is unlikely to deter people



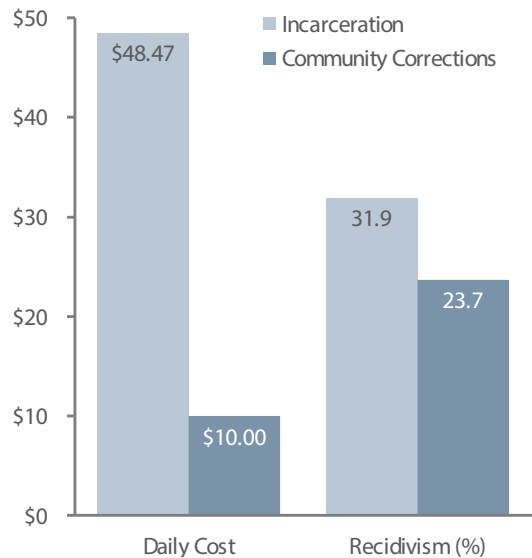
**“Lengthier incarceration itself is unlikely to deter people from committing future crimes ... [p]olicing practices that provide ‘swift and certain’ penalties are greater deterrents against crime than incarceration.”**

from committing future crimes (NIJ, 2016). For example, if someone intends to commit a crime, an eight-year maximum sentence is not much more of a deterrent than a five-year sentence. Policing practices that provide “swift and certain” penalties are greater deterrents against crime than incarceration (NIJ, 2016, p. 2).

Some of Alabama’s politicians understand the realities of incarceration and have acted accordingly. In 2015, Alabama enacted SB67, sponsored by State Senator Cam Ward (R-Alabaster) and State Representative Mike Jones (R-Andalusia), which focused on community-based supervision, prioritized prison capacity for violent offenders, and promoted proven community-based treatment for offenders. The focus on community-based solutions is a smart one. The Alabama Community Correction Program (CCP) now operates in 47 counties and accounts for more than 12% of the ADOC’s jurisdictional population (ADOC, 2016). Not only does the CCP hold offenders accountable to their communities, “the cost per inmate is significantly lower — slightly more than \$10 per day”

(ADOC, 2016, p.27). The recidivism rate for CCP inmates is 25.7% lower than for the general inmate population (ADOC, 2016). Despite its relative success and much greater return on public investments, the CCP accounted for less than \$10 million of the ADOC’s \$450 million budget (ADOC, 2016). For a program that seems to be delivering positive corrections results at a tremendous value, we should seriously consider whether increasing funding for, and use of, the CCP could produce significant savings.

### **INCARCERATION VS. COMMUNITY CORRECTIONS: AN EXAMPLE OF RETURN ON PUBLIC INVESTMENT**



The crowded bunks at Donaldson Correctional Facility in Bessemer, Alabama (Mark Almond | Alabama Media Group/AL.com).



But that is just a start. In terms of promoting justice and ensuring fiscal prudence, we really need to rethink how we handle nonviolent offenses—particularly those related to drug possession and property crimes. We should try to avoid incarcerating someone with a drug problem and try to help them instead.

**“Criminal justice policies ought to keep our communities safe, make economic sense, and give people a chance to take their lives in a better direction.”**

## FURTHER RECOMMENDATIONS

Here is one idea: mandate drug court as a diversion for Class D possession charges. Alabama law already provides discretion for district attorneys to allow drug court admission; mandating drug court simply reverses the presumption of prosecution. Through diversion, offenders are able to get treatment, maintain employment, and avoid incarceration. The taxpayer does not have to pay to prosecute or incarcerate someone for possession. Some diversionary measures are already taking place in practice, but we need a consistent legal paradigm across the state.

Alabama also needs to think through whether better criminal justice policies could benefit both criminal offenders and their victims. When the average educational attainment of our prison population is 7th grade (ADOC, 2016), a little more learning could go a long way towards helping offenders turn their lives around and generate the income needed to repay their victims. Most victims of non-violent crimes are not looking for their proverbial pound of flesh; they want property returned and stronger communities free from the harms associated with criminal activities. Both objectives are much more difficult to accomplish with offenders who are in and out of prison without any prospects for employment.

We need to become smarter about criminal justice, not just tougher. We should also be wary of politicians who tell us they are “tough on crime,” and then ask for more of our tax dollars to fund a simplistic in-

**“Alabama is not fond of ‘big government’ policy solutions, so it is time for us to move beyond mass incarceration.”**



Inmates in their bunks at Draper Correctional Facility in Elmore, Alabama (Julie Bennett | Alabama Media Group/AL.com).

carceration solution. Criminal justice policies ought to keep our communities safe, make economic sense, and give people a chance to take their lives in a better direction. Alabama is not fond of “big government” policy solutions, so it is time for us to move beyond mass incarceration.

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# BEYOND CRUEL AND UNUSUAL: IMPROVING ALABAMA PRISON CONDITIONS

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## INCARCERATION RATES

Alabama has a long record of incarcerating more people per capita than almost any other state. Hundreds of people are incarcerated in state prisons for minor, nonviolent crimes,<sup>1</sup> such as writing a bad check or possession of marijuana. Nearly one in three people admitted each year into the prison system is there for a drug-related offense. The Alabama Department of Corrections (2016) reported that 33% of the 11,556 people who entered the state's prisons in FY2016 were drug offenders.

One reason that Alabama has one of the highest incarceration rates in the nation is that it incarcerates people for longer periods of time than almost any other state. One in four incarcerated people in Alabama is serving a life or virtual life sentence, and nearly a third of those are life sentences without parole (Nellis, 2017). One in seven of those prisoners were convicted of nonviolent offenses and many were convicted of crimes that occurred when they were children under the age of 18 (Nellis, 2017; Associated Press, 2017).

## CONSTITUTIONAL STANDARDS

The Equal Justice Initiative (EJI) has long fought to show that punishment in Alabama is excessive, unreliable, prohibitively costly, and does not make Alabamians safer. In recent years, federal courts have asked EJI to look at an additional question: whether Alabama provides constitutionally adequate conditions for incarcerated people.

Alabama has no independent agency to monitor conditions in prisons and enforce minimal standards of health, safety, and humane treatment. As a result, oversight and reform of conditions fall primarily to the federal courts, which are authorized to intervene in prison management when prison conditions violate the minimal standards of decency and human dignity, embodied in the 8th Amendment's prohibition against cruel and unusual punishment.

**“[P]unishment in Alabama is excessive, unreliable, prohibitively costly, and does not make Alabamians safer.”**

For decades, Alabama has struggled to meet constitutional standards. Beginning in 1971, a series of court actions brought attention to the horrific conditions in Alabama's prisons. Jerry Pugh sued when he was nearly fatally beaten by other inmates after he was assigned to a dormitory where prisoners were heavily armed and officers were too afraid to enter. In 1972, a federal court found that Alabama prisons failed to satisfy 8th Amendment standards due to inadequate medical care and pervasive violence. The court ordered the State to bring the prison system into compliance with minimum constitutional standards of decency (*Newman v. Alabama*, 1972). In 1978, the court held hearings to assess the Board of Corrections' compliance with its 1972 orders. The court found that the horrendous conditions had not improved:

<sup>1</sup> Different agencies and states use different definitions of a “violent offense”. The ADOC has not historically included trafficking, burglary, and robbery third. In its 2012 annual report, the Department reported that over 53% of prisoners were non-violent. The Bureau of Justice Statistics (2018a; 2018b) defines all burglaries as non-violent. Inmates convicted of burglary comprise almost 10% of Alabama's system (Alabama Sentencing Commission, 2017). The newly created Sentencing Commission adopted a new definition of violent offenses to include offenses like drug trafficking and burglary of an unoccupied building, which account for 6% of the prison population. Even with this definition, nearly one-third of Alabama's inmates are incarcerated for non-violent offenses.

## ALABAMA INCARCERATES ELDERLY VETERANS

Lee Carroll Brooker, a 78-year-old man, is currently incarcerated at Holman Prison. He served for 10 years as a paratrooper in the U.S. Army. He saw combat in the Dominican Republic, where he and his unit secured a strategic bridge and engaged snipers in urban combat, and in Lebanon, where his unit engaged the enemy to hold the international airport. Mr. Brooker was a squad leader, attained the rank of Sergeant, and earned numerous commendations, including the Combat Infantryman and Expert Infantryman Badges. In 2011, at the age of 72, Mr. Brooker was arrested when marijuana plants weighing 2.8 pounds were found on his property. While the State did not dispute that the marijuana was grown for his personal use, Alabama law automatically defines possession of 2.2 pounds of marijuana as “drug trafficking”. Thus, Mr. Booker was convicted of trafficking in marijuana. Because of prior convictions, he was sentenced to mandatory life without parole.

[R]obbery, rape, and assault remain everyday occurrences among the general prison population in Alabama. The dormitories particularly are still places of fear and violence. (*Newman v. Alabama*, 1979, p. 632)

The conditions in which Alabama prisoners must live, as established by the evidence in these cases, bear no reasonable relationship to legitimate institutional goals. As a whole they create an atmosphere in which inmates are compelled to live in constant fear of violence, in imminent danger to their physical well-being, and without opportunity to seek a more promising future. (*Pugh v. Locke*, 1976, p. 329)

The court also wrote that prison administrators could not blame the legislature for failing to adequately fund prisons, finding the problem was rooted in mismanagement:

In area after area, the Board of Corrections has made no serious attempt to determine what steps can be taken with present funds and to plan what can be accomplished with additional sums. The theme running throughout the evidence is a lack of professional leadership. (*Newman v. Alabama*, 1979, p. 630)

The federal court placed the Alabama prison system in receivership. The panel of experts appointed to study the system advised reforming state sentencing practices (including alternatives to incarceration), extending good-time laws, reforming the Habitual Felony Offender Act (HFOA), and moving away from new, unaffordable prison construction as an answer to crime. Politics undermined attempts to reform the HFOA, and Alabama embarked on a new wave of construction.<sup>2</sup> When federal prison oversight ended in 1988, experts lamented the failure to pass needed reforms and predicted that, despite new prison construction, the state’s failure to reduce the prison population doomed reforms.

## PRISON VIOLENCE

Current conditions bear out these predictions. While the most reliable measures of prison violence, rates of prison homicide and suicide, have dramatically dropped across the nation, in Alabama they have skyrocketed.

*Alabama has the highest prison homicide rate in the country.* In fact, Alabama’s prison homicide rate is more than *six times* the national average. The national average is five homicides per 100,000 incarcerated people. Alabama’s rate is more than 30 per 100,000 people – more than double the rate of any other state. The number of people killed in the state’s prisons increased every year between 2011 and 2015. In 2015, despite holding only 2% of the nation’s prison population, Alabama was responsible for 10% of the nation’s prison homicides. That year, Alabama had more prison killings than either Florida or Texas, even though those states incarcerate roughly five times as many people as Alabama. Following a brief downtick in 2016, prison homicides are on the rise again, *making Alabama’s prison system the most violent in the country* (EJI, 2017). Many of the victims are lower-security prisoners. For example, Cedric Jerome Robinson, 33, was killed at Bibb County Correctional Facility in Brent, Alabama, on September 8, 2017. He was serving a six-year sentence for fraudulent use of a credit card and possession of a forged instrument, and was to be re-

**“Alabama has the highest prison homicide rate in the country. In fact, Alabama’s prison homicide rate is more than six times the national average.”**

<sup>2</sup> Donaldson opened in 1982, St. Clair opened in 1983 and Limestone in 1984, with plans for a second wave of construction under way for Bullock (opened 1987), Ventress and Easterling (opened 1990).





The “therapeutic community” that houses inmates with problems such as mental illness and substance abuse problems at St. Clair Correctional Facility in Springville, Alabama (William Widmer | Redux).

leased in February 2018. Mr. Robinson was the ninth person killed in an Alabama prison in 2017, making it the bloodiest year in recent history for Alabama’s prison system.

*Alabama has the highest prison suicide rate in the country.* Over the past few years, the suicide rate in Alabama prisons increased from five to 37 suicides per 100,000 inmates during the 2015-2016 fiscal year. The rate is projected to be as high as 60 per 100,000 in the current fiscal year. The national rate is around 16 per 100,000, and the State of Alabama’s expert witness recently told a federal court he was unaware of any other jurisdiction in the United States with a suicide rate over 30 per 100,000 (EJI, 2017).

In June 2017, a federal court ruled that Alabama failed to meet minimal standards and that its provision of mental health care to prisoners was “cruel and unusual”. The court linked Alabama’s escalating suicide rate to a variety of preventable factors, including, most prominently, “inadequate identification of those who are at heightened risk of suicide, combined with a culture of cynicism towards prisoners’ threats of suicide and self-harm” (*Braggs v. Dunn*, 2017, p. 141). The court found that Alabama failed to provide

constitutionally adequate mental health care to people in state prisons, finding that mental health services were “horrendously inadequate” and had led to a “skyrocketing suicide rate” among incarcerated people.<sup>3</sup> The court also found that Alabama prisons were “warehousing” the mentally ill and that the state leaders had shown “deliberate indifference” to the unconstitutional conditions in state prisons.<sup>4</sup> “Officials admitted on the stand that they have done little to nothing to fix problems on the ground, despite their knowledge that those problems may be putting lives at risk”, the court wrote (*Braggs v. Dunn*, 2017, p. 21). The court concluded that the Alabama Department of Corrections’ reluctance to take mental health concerns seriously posed “obvious risks” to incarcerated people’s health and safety.

## SEXUAL VIOLENCE

The lack of mental health care in Alabama’s prison system is representative of broader systemic failures

**“The lack of mental health care in Alabama’s prison system is representative of broader systemic failures that subject prisoners to unconstitutional conditions.”**

<sup>3</sup> *Braggs v. Dunn*, 2017, pp. 299, 22

<sup>4</sup> *Braggs v. Dunn*, 2017, p. 117, 126, 264-265



A guard stands and waits near the yard at Draper Correctional Facility in Elmore, Alabama (Julie Bennett | Alabama Media Group/AL.com).

that subject prisoners to unconstitutional conditions. Over the past six years, EJI has investigated hundreds of stabbings, robberies, homicides and sexual assaults in Alabama prisons. In 2011, EJI spent three months investigating complaints from incarcerated women at Tutwiler Prison and documented a culture of sexualized violence and pervasive staff-on-inmate sexual abuse that then-Warden Frank Albright had allowed to flourish for over a decade. In October 2011, EJI brought its findings to then-Commissioner Kim Thomas and asked the Department to remove Warden Albright and end cross-gender strip searches, cross-gender viewing of nude women in showers and bathroom areas, and punitive treatment of prisoners who reported sexual abuse. After the Department refused to take action, EJI issued a report detailing the sexual abuse and filed a complaint with the United States Department of Justice (DOJ) in May 2012 (EJI, 2012a; EJI, 2012b). DOJ launched an investigation later that year. In January 2014, in a 36-page letter sent to then-Governor Robert Bentley, DOJ detailed its findings and the remedial steps Alabama must take to address the problems:

Tutwiler has a history of unabated staff-on-prisoner sexual abuse and harassment. The women at Tutwiler universally fear for their safety. They live in a sexualized environment with repeated and open sexual behavior,

including: abusive sexual contact between staff and prisoners; sexualized activity, including a strip show condoned by staff; profane and unprofessional sexualized language and harassment; and deliberate cross-gender viewing of prisoners showering, urinating, and defecating. The inappropriate sexual behavior including sexual abuse, continues, and is grossly underreported, due to insufficient staffing and supervision, inadequate policies and procedures, a heightened fear of retaliation, and an inadequate investigation process. (J. Samuels, personal communication, January 17, 2014)

Because ADOC failed to do anything about Tutwiler's "toxic, sexualized environment that permits staff sexual abuse and harassment" even though they had "repeated notification of the problems," the federal investigation concluded that the State violated the Constitution and must take remedial steps (J. Samuels, personal communication, January 17, 2014). The required remedies included establishing methods for prisoners to privately report sexual abuse and harassment, protecting victims who spoke out, and conducting timely and thorough investigations of alleged abuse. In May 2015, the Justice Department filed a federal complaint against ADOC, alleging that Alabama authorities had "allowed a sexualized environment to exist at Tutwiler, such that sexual abuse and sexual harassment are constant, and prisoners must sometimes submit to unlawful sexual advances from staff in order to obtain necessities or to avoid punishment" (*U.S. v. Alabama*, 2015, p. 3). Pursuant to the subsequent 2015 federal court settlement, ADOC agreed to sweeping reforms and monitoring. Recognizing that, for more than a decade, existing practices at Tutwiler led to an environment that was abusive to both staff (resulting in severe understaffing) and incarcerated women, the agreement was a comprehensive strategy document requiring a massive overhaul of the culture, policies, and operations at Tutwiler.

Reports of sexual violence and institutional indifference to sexual violence were not confined to Tutwiler. In

## ALABAMA INCARCERATES MOTHERS

In 1997, Diane Jones, a single mother of three honor students, ages 8-14, was charged with drug trafficking after drugs were found in an apartment she and her three minor children had recently vacated. They had moved +Cook, who was awaiting trial on trafficking charges in federal court. Ms. Jones's lawyers were also representing Cook, and they advised him not to testify at Ms. Jones's trial even though his testimony would have exonerated her. Ms. Jones was convicted and sentenced to life in prison without parole. Because Ms. Jones had two 17-year-old convictions for forging checks to buy diapers and groceries, a sentence of life imprisonment without parole was mandatory under the HFOA. Ms. Jones was sent to Tutwiler Prison.

## ALABAMA INCARCERATES NON-VIOLENT OFFENDERS

Michael McGregor, a 53-year-old man serving a twenty-year sentence for non-violent drug-related offenses, arrived at St. Clair in April 2015. On the day he arrived, he was given a bed roll and taken to a general population cell block. After he entered the block, the door closed behind him. No officers were in the cell block. He approached the cell he had been assigned to but was told by inmates in the cell that he could not enter and was directed into a different cell. After placing his bed roll and belongings in the cell, another inmate approached him, offered to sell him a knife, and asked for sexual favors. McGregor refused and went in search of an officer. He reported to his classification officer that an inmate was sexually threatening him and requested a different housing assignment. He was directed to go back to his cell. Mr. McGregor returned to his cell in L-block, closed his cell door, and laid down to sleep. Hours later, the same man who had threatened him earlier returned with a knife in each hand and opened Mr. McGregor's cell door. He told Mr. McGregor, "You know what time it is", and stabbed him repeatedly, leaving Mr. McGregor unconscious. Another inmate found Mr. McGregor in his cell and banged on the window to alert officers for help. McGregor was taken to UAB Hospital, and his family was notified that he was unlikely to make it through the night. Miraculously, Mr. McGregor survived.

2013, EJI filed a complaint documenting severe physical and sexual abuse and violence perpetrated by correctional officers and officials in three Alabama prisons for men (EJI, 2013). EJI uncovered widespread physical abuse and misconduct at the Elmore Correctional Facility in Elmore, Alabama, where prisoners were handcuffed, stripped naked, and beaten by several guards. EJI also reported that male officers sexually abused male prisoners at Donaldson Correctional Facility in Bessemer, Alabama, and Bibb Correctional Facility in Brent, Alabama.

### FURTHER INVESTIGATIONS

More recently, in 2014, EJI filed a class action lawsuit in federal court on behalf of men incarcerated at St. Clair Correctional Facility in Springville, Alabama. This action was in response to ADOC's failure to respond to dangerous conditions and an extraordinarily high rate of violence, including six homicides within a period of 36 months. EJI's investigation revealed a shocking level of serious, chronic violence, including sexual assaults, deadly violence, and daily stabbings (*Duke v. Dunn*, 2016a).<sup>5</sup> Correctional staff and incarcerated men consistently reported that a majority of the population was armed for protection, officers did not feel safe entering dorms and living areas, and that stabbings were a daily occurrence.<sup>6</sup> Former Warden Carter Davenport described the access to weapons as a "security night-

mare" (Hayes, 2012). Expert Steve Martin observed that "the frequency of assaults resulting in life-threatening injuries is quite simply among the highest I have observed in my 43-year career in corrections" (*Duke v. Dunn*, 2016b, p. 12).

EJI filed complaints documenting conditions at several prisons and asked DOJ to intervene system-wide. In 2016, DOJ announced that it would begin its own investigation into the Alabama's men's prisons, *making Alabama the first state in history to face a federal investigation into nearly its entire prison system*. The scope of the investigation is broad, examining:

[W]hether prisoners are adequately protected from physical harm and sexual abuse at the hands of other prisoners; whether prisoners are adequately protected from use of excessive force and staff sexual abuse by correctional officers; and whether the prisons provide sanitary, secure, and safe living conditions. (U.S. Department of Justice, 2016)

The DOJ's investigation is ongoing, with a report anticipated within the next year.

### CONCLUSION

The experts in *Pugh* wondered if it was possible for a state that imprisoned massive numbers of people to comport with the 8th Amendment. At the time that question was asked, mass incarceration had only just begun. Alabama incarcerated fewer than 200 people

<sup>5</sup> In addition, ADOC documented eight homicides at St. Clair since 2011 (The Equal Justice Initiative, 2013).

<sup>6</sup> At least 16 inmates discussed the prevalence of knives at St. Clair, stating that when they reported problems with other inmates, officers told them to get knives; that "about 90% of inmates at St. Clair have knives"; and that they "have seen prisoners super-gluing their injuries after being involved in knife fights" (*Duke v. Dunn*, 2016a, pp. 14, 16, 18, 30, 32, 35-41, 43, 60, 61). One staff member with over a decade of experience expressed concern with the number of knives and stabbings at St. Clair, mentioning "all the fights and stabbings and knives we take that don't even get reported or no one gets locked up because of" (D. Turner, personal communication, October 17, 2015).

per 100,000 in 1978. In 2015, Alabama incarcerated 611 people per 100,000, the third highest incarceration rate in the nation (Carson & Anderson, 2016). Meanwhile, the vast majority of states have reduced incarceration rates to below 500 per 100,000, and ten states have reduced incarceration rates below 250 per 100,000. Since 1978, numerous studies tested the proposition that prisons make us safer. Most prison experts now agree that incarceration is “an expensive way to achieve little public safety” (Stemen, 2017, p. 2). The current crisis in Alabama’s prisons is identical to the one it faced 40 years ago in *Pugh*, but Alabama has more information about the costs and benefits of mass incarceration than ever before.

To date, the policies of mass incarceration, particularly habitual felony offender laws and mandatory lengthy prison sentences, have proven incompatible with constitutional conditions of confinement. The Legislature faces decisions about how to respond to this crisis, including whether to build new prisons. But it also has an opportunity to pass legislation that has been advocated by prison experts in Alabama since the 1970s: to end Alabama’s financially devastating habitual felony offender law, allow an opportunity for parole for incarcerated people like Lee Carroll Brooker, whose release would pose no threat to public safety, and overcome its legacy of neglecting and abusing individuals within its care.

“[T]he policies of mass incarceration, particularly habitual felony offender laws and mandatory lengthy prison sentences, have proven incompatible with constitutional conditions of confinement.”

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Inmates in their living quarters at Julia Tutwiler Prison For Women in Wetumpka, Alabama (Julie Bennett | Alabama Media Group/AL.com).

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# PATHWAYS HOME THROUGH EDUCATION AND RE-ENTRY PROGRAMMING

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## NOTE TO READER

In reviewing the overall scope of incarceration, rehabilitation, and re-entry, I suggest considering the whole person, and beginning with careful examination of the language used to classify human beings. Environment has a profound impact on human behavior and development. Language is part of environment. To envision systems where people begin the process of rebuilding and redefining themselves, positive supports are needed. Persistent damaging language does not inspire self-worth or catalyze efforts of change. Negative classifications such as “inmate” and “guard” diminish the person who might be working on their path of change. If we as a society expect people to change how they interact with the world, they must change how they see themselves. How we as individuals see ourselves is shaped by the language society uses to define us. Stereotypes are seldom useful for building understanding, let alone compassion, for any group of people. Language becomes the entry point for initial understanding. We create the world we want through intention. People are incarcerated. The programming and support systems we create can bolster their paths to success, or they can derail it.

## CRIMINAL JUSTICE CHALLENGES

Alabama faces considerable challenges with respect to its criminal justice system. These challenges extend beyond the person who is incarcerated and those affected by crime, including families and communities. This impacts everyone in our state. The U.S. has the highest incarceration rates in the world, and Alabama regularly ranks in the top 5 states for per capita

incarceration. Working now to invest in a better system is essential. Of the 27,803 men and women in the Alabama Department of Corrections’ (ADOC) jurisdictional custody (ADOC, 2017), approximately 95% are eligible for release, either by parole, probation, or end of sentence, ultimately returning to their homes and communities. These individuals rejoining society will have been shaped not only by the decisions and mistakes that led to incarceration, but by their prison experiences as well.

## THE NEED FOR REHABILITATION

“Rehabilitation” has long been language associated with incarceration. It suggests that part of the impact of incarceration is a substantial change that comes from time forcibly removed from society, and that this change will create a different path for people returning home. But, there is a great misunderstanding in the public’s concept of how this rehabilitation takes place, who is responsible for it, the realistic timeframes for preparing for and participating in successful re-entry, what constitutes adequate programming, and what programming is actually offered.

Alabama’s overburdened and underfunded system of incarceration and parole lacks the needed resources to invest in essential programming and services for the people who are incarcerated. In effect, this works in opposition to the stated goals of accountability and safer societies. Not providing appropriate

“These individuals rejoining society will have been shaped not only by the decision and mistakes that led to incarceration, but by their prison experiences as well.”

# INDIVIDUAL NEEDS ASSOCIATED WITH RE-ENTRY AFTER IMPRISONMENT

| BASIC LIFE AREAS        |  |  |   |   |  |  |
|-------------------------|--|--|---|---|--|--|
| PHASE                   | Livelihood   | Residence  | Family  | Health and Society  | Criminal Justice Compliance  | Social/Civic Connections   |
| <b>Survival</b>         | <ul style="list-style-type: none"> <li>- Gate money</li> <li>- Public assistance</li> <li>- Soup kitchens, pantries</li> <li>- Personal care kits</li> </ul> | <ul style="list-style-type: none"> <li>- Shelter</li> <li>- Family or friend</li> <li>- Street</li> </ul>                | <ul style="list-style-type: none"> <li>- Find Children</li> <li>- Make Contact</li> </ul>   | <ul style="list-style-type: none"> <li>- Continuity of medication</li> <li>- Relapse prevention</li> </ul>  | <ul style="list-style-type: none"> <li>- Report to supervising authority (court, probation, parole, etc.)</li> <li>- Comply with requirements</li> </ul> | <ul style="list-style-type: none"> <li>- Receive peer support</li> </ul>   |
| <b>Stabilization</b>    | <ul style="list-style-type: none"> <li>- Public assistance/workfare</li> <li>- Employment or education training</li> <li>- Clothes for interviews</li> </ul> | <ul style="list-style-type: none"> <li>- Transitional residence</li> <li>- Family or Friend</li> </ul>                   | <ul style="list-style-type: none"> <li>- Supervised visitation</li> <li>- Get refamiliarized</li> <li>- Trial discharge</li> </ul>      | <ul style="list-style-type: none"> <li>- Drug treatment and treatment of urgent health and mental issues</li> <li>- Counseling</li> </ul>                           | <ul style="list-style-type: none"> <li>- Earn reduced supervision</li> </ul>   | <ul style="list-style-type: none"> <li>- Join support group or nurturing community</li> <li>- Volunteer work</li> </ul>  |
| <b>Self Sufficiency</b> | <ul style="list-style-type: none"> <li>- Job that pays a living wage and provides benefits</li> </ul>  | <ul style="list-style-type: none"> <li>- One's own apartment with public subsidy, if necessary</li> </ul>                | <ul style="list-style-type: none"> <li>- Reunify</li> <li>- Participate in family counseling</li> <li>- Contribute to others</li> </ul> | <ul style="list-style-type: none"> <li>- Regular health visits paid by health insurance</li> <li>- Ongoing support 12 step, therapy community activities</li> </ul> | <ul style="list-style-type: none"> <li>- Satisfy conditions of supervision</li> </ul>  | <ul style="list-style-type: none"> <li>- Help others</li> <li>- Contribute to community life</li> </ul>  |
| <b>Goal</b>             | <ul style="list-style-type: none"> <li>- Adequate money for food, clothing, transportation, and personal family expenses</li> </ul>                          | <ul style="list-style-type: none"> <li>- Safe, clean, affordable home that accommodates household comfortably</li> </ul> | <ul style="list-style-type: none"> <li>- Reunification with children</li> <li>- Reconciliation with family members</li> </ul>           | <ul style="list-style-type: none"> <li>- Physically and mentally healthy, or receiving affordable quality care, including prescriptions</li> </ul>                  | <ul style="list-style-type: none"> <li>- Abide by laws</li> <li>- Live without community supervision</li> </ul>  | <ul style="list-style-type: none"> <li>- Healthy friendships and network of supportive adults</li> <li>- Opportunities to give back, civic participation (voting, etc.)</li> </ul> |

Source: John Jay Prison Reentry Institute. Matrix originally developed by Ann L. Jacobs when Executive Director of Women's Prison Association, New York, NY. Chart adapted from *The Huffington Post*. Modified by GEDI, 2018.



Kyes Stevens teaches non-fiction writing course to students at Staton Correctional Facility in Elmore, Alabama (APAEP).

programming and transition actively contributes to recidivism. Society expects people returning from prison to make it on their own, to adapt and find resources. This unreasonable expectation is based on a lack of understanding of the nature and impacts of poverty, as well as the real challenges that people face when returning home. People need help.

One of the great misconceptions about rehabilitation is that there is some fail-safe, single program that will change a person. This over-generalization suggests all people have similar needs for personal change and growth. People change when people want to change, but as a state, we can do many things to create a culture of personal growth that encourages better life trajectories. To create the state we want, we have to invest in everyone.

**“If we want people to return to society feeling empowered to flourish, then we should re-evaluate the whole of how incarcerated people spend their time.”**

We generally become what we are surrounded by. If we surround people in overcrowded, understaffed facilities, where they are denied adequate mental and physical healthcare, good nutrition, and access to exercise, it is unreasonable to expect them to change. Understandably, citizens want accountability for people breaking the law. Accountability can be structured to build up our communities rather than continuing to destroy them. Ultimately, this contributes to a safer, more robust society. The person who leaves incarceration feeling empowered to re-enter society with a vocation or degree, ready to rebuild family

and community, and prepared for employment is less likely to re-engage in crime. The person who leaves incarceration with structures in place to continue medications and mental health/addiction care is more likely to remain on medications and not relapse. The person who sees no options, who cannot find a job because of a lack of relevant job skills and an adequate education, who is battling addiction, and has no resources or support system can easily feel that they have no choice but to step back into old patterns.

The chart shown at left is useful for considering needs associated with re-entry. It demonstrates immediate needs as integral to meeting long-term goals. If we want people to return to society feeling empowered to flourish, then we should re-evaluate the whole of how incarcerated people spend their time. The wardens who we encounter across the state of Alabama want meaningful opportunities, but the system has to be able to support the programming. There must be space and personnel. It is a challenge to do that in a highly understaffed and overcrowded system. The “Individual Needs” chart also reflects societal investment and collaboration. Successful re-entry is not the sole responsibility of the Department of Corrections or the Board of Pardons and Paroles, because, upon release, people need housing, jobs, and support for physical and mental well-being. Post-incarceration transitions do not take place in a single month; they can take years. Optimal re-entry requires community members to be aware and active in helping their fellow citizens meet needs. In short, it takes collaborative work. Statistics are unwavering. For post-release success, people need steady and dependable housing, transportation, employment, and a positive support community. This, of course, can look different,

depending on to where one returns. Rural parts of the state have fewer support structures. There are some transitional facilities in place to assist people with adjusting back into society, providing parole oversight and support programming. Many of these facilities also have structures to help with immediate employment, but once a person leaves those transitional facilities (because they cannot stay indefinitely), the post-incarceration struggles do not go away. People need employable skills and internal grit and determination to persist through the hurdles that await. Meaningful and effective re-entry and educational programming helps people build grit and resolve to succeed through post-release challenges.

One significant barrier to employment, for example, is the standard use of “the box” on job applications, which asks potential employees to disclose convictions/incarcerations. This box is seen as a barrier. Nationally, and in some places in Alabama (e.g., the City of Birmingham), groups are working to remove the box from the preliminary application process because of inherent biases. A common misunderstanding is that this “ban the box” effort is asking people to remove the need for that information entirely. While that is certainly an option, a more common and growing practice is to review all applications initially with equity on the grounds of merit and ability, and then ask for disclosure once a position has been offered. Meaningful education and re-entry programming should include building the skills and knowledge for people to get jobs based on merit. For this to take place, our state institutions and society at large must invest in creating better avenues for success so that the stigma of incarceration does not follow people indefinitely.<sup>1</sup>

Students learn about perspective drawing at Bibb Correctional Facility in Brent, Alabama (APAEP).



**“Education makes a significant impact on a person’s success post-incarceration. Studies have shown repeatedly that the more education one receives while incarcerated, the less likely they are to return to prison.”**

The staggering employment hurdles make quality education while behind bars even more essential. Education can be therapeutic programming or academic/vocational in nature. Currently, in Alabama, the average self-reported education level of those incarcerated is the 7th grade. The lack of a high school diploma or GED does not give a secure foundation for any kind of employment providing a living wage.

## **ADOC PROGRAMMING**

The ADOC works with multiple providers to offer programming at all facilities in the state. The Community College System (CCS) offers vocational education, adult education/GED, and certificate programming inside of prison facilities. Programming includes, but is not limited to: substance abuse, mental health, cognitive behavioral, self-improvement, religious, and educational. The programming is provided by a combination of ADOC staff, CCS, contracted providers, and volunteers. The ADOC works with both the CCS and the Alabama Prison Arts + Education Project at Auburn University to augment offerings and expand correctional education. The ADOC has modified their Classification Manual for men and women to provide programming and support as the population changes due to the outcomes of Presumptive Sentencing (which became mandatory in 2013) and the Prison Reform Legislation of 2015, which (mostly) went into effect at the end of January 2016. The ADOC is in the process of implementing individualized risk and needs assessments and evidence-based programming, which includes national best practices for effective re-entry. Higher education is a recognized best practice for helping those who are incarcerated to prepare for re-entry. Along with the programs offered by the CCS, Auburn University offers pre-college (non-credit) and college programming in facilities around Alabama. Across the state, many churches and faith-based organizations also volunteer time, meeting some of the spiritual and mentoring needs of incarcerated people.

<sup>1</sup> My experience through 16 years of teaching and through building the Alabama Prison Arts + Education Project at Auburn University has shown me that our students want different lives for themselves and their families. Education helps them imagine that life, to see possibility where there might not have been in the past, and to believe in it.





Students working on an introduction to engineering and mechanics project at Elmore Correctional Facility in Elmore, Alabama (APAEP).

Nationally, about 2 out of 3 people who are released from prison return within five years. However, research continues to point to education as an effective strategy to reduce recidivism. According to a 2013 RAND Corporation study, individuals who access any type of education while incarcerated are 43% less likely to return to prison (Davis, Bozick, Steele, Saunders, & Miles, 2013). Colleagues at peer programs to the Alabama Prison Arts + Education Project have unofficially reported recidivism rates for associate's and bachelor degree programs at under 5%. The variety of programming inside contribute to individuals seeing success. As one of our degree students recently reported to ADOC administration, "I needed the other classes to help me to see that I could achieve a college education."

Research also highlights the fact that educating people costs less than incarcerating them. According to Davis et al. (2014), higher education in prison offers a 400% return on investment over three years for taxpayers, or \$5 saved for every \$1 spent. On average, in 2015, it cost Alabama taxpayers \$14,780 per year to incarcerate a person (Mai & Subramanian, 2017). From a purely fiscal point of view, when a person is successful post-incarceration, the state is saving money.

Education makes a significant impact on a person's success post-incarceration. Studies have shown repeatedly that the more education one receives while incarcerated, the less likely they are to return to prison. The 2013 RAND report clearly links education with decreases in recidivism. Second Chance Pell, through the U.S. Department of Education's Experimental Sites program, is one result of the research showing impacts of education. Second Chance Pell provides Federal Pell funds to 65 institutions of higher education who are offering vocational certificate and degree programs inside of prisons. Alabama has three institutions that have been selected as Second Chance Pell sites: Auburn University, Ingram

State Technical College, and Calhoun State Community College. All of these educational institutions are committed to helping people re-enter communities better prepared. They are investing in the state by meeting a profound educational need.

Educating people in prison also means educating parents in prison. Children of incarcerated parents face immense challenges. The grief, trauma, and economic and practical implications of having a parent imprisoned can easily set a child up for failure. However, when children are inspired by the educational success of a parent, it can help them see their own educational potential. A child is twice as likely to obtain a college degree if their parent has one (College Board & National Journal, 2014). Alarming, over 85% of people in prison lack any post-secondary education, presenting an opportunity for institutions of higher education to have multi-generational ripple effects among children of incarcerated parents (Davis et al., 2014).

## THE BIG PICTURE

Why does all of this matter for you, as an individual here in Alabama? It matters because we all want a strong and thriving society. It matters because diminishing any kind of suffering contributes to vibrant communities that build a vibrant state. It matters because people who are working and thriving are contributing to the state's economy, meeting growing demands for a skilled workforce. It matters because every single effort to build a better Alabama for one Alabamian creates a better state for all of us.

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Photos courtesy of the Alabama Prison Arts + Education Project at Auburn University

AL.com photo courtesy of Bob Sims | Alabama Media Group/AL.com





# **BUDGETS & TAXES**



# INTRODUCTION TO BUDGETS AND TAXES

## CONNECTING THE PIECES

In previous sections, we have addressed some of the most consequential and urgent challenges facing our state: PK-12 education, healthcare access, and Alabama’s criminal justice system. The final issue looks at the *means* to address these challenges: budgets and taxes. More specifically, at the state level, budgets represent public and collective priorities, and taxes are the way that we, as a state, fund our collective priorities and “get things done”. This introduction looks at our current budgeting and taxation systems through the lens of history. It addresses how we got to where we are and considers what is included in (and excluded from) our state budgets.

## A BRIEF HISTORY OF ALABAMA BUDGETS AND TAXES

**Property Taxes.** In 1901, Alabama ratified its current Constitution, establishing the foundation of its tax system and setting a property tax rate of 6.5 mills; 117 years later, this rate remains intact. A central component of the 1901 Constitution, strict limitations on state and local property taxes were a carryover from the previous Alabama Constitution of 1875. Alabama historian Harvey Jackson (2004) explains that the architects of the 1875 document “wrote it up and announced that the demons of high taxes and corrupt government had been slain.” Jackson continues, “What they did not announce, but what would soon become apparent, was that an underfunded state could do little to educate its people and enhance their lives” (pp. 115-116).

“[A]t the state level, budgets represent public and collective priorities, and taxes are the way that we, as a state, fund our collective priorities and ‘get things done’.”

The 1901 document included “measures to keep property taxes abysmally low for the farm, coal, and ore industries which ran the state” (Casey, 2011, p. 30). If low property taxes were the goal, this Constitution has achieved its mission. As detailed in this narrative, Alabama has repeatedly responded to special interests by lowering their property taxes. Today, Alabama ranks 50th in the nation for state and local property taxes per capita, at only 36% of the national average (2015; Tax Foundation, 2018). Less than 15 years after the 1901 Constitution was ratified, underfunding the state was already taking its toll. Commissioned by Governor Charles Henderson, a 1918 Russell Sage Foundation study of Alabama social conditions blamed the state’s “inequitable tax system” for its “woefully inadequate” education, prison, child welfare, and public health conditions (Hart, 1918).

**Bifurcated Budgets and Earmarking.** In 1927, the Alabama Legislature passed Act 1927-163, splitting Alabama’s budget in two: the State General Fund (SGF) and the Education Trust Fund (ETF). In 2018, Alabama is one of only three states with two operating budgets. This legislation also created and earmarked several new taxes for the ETF, limiting use of this revenue to educational purposes. This instigated the practice of special interest groups lobbying the Legislature to earmark various revenue streams for a specific purpose or entity, a force that was eventually informally institutionalized as a powerful “fourth branch” of Alabama state government (Jackson, 2004). Today, as observed by the Joint Task Force on Budget Reform (JTF, 2017) Alabama leads the nation in the use of earmarking - currently earmarking 93% of its revenue, as compared to a national average of 30% . This limits the ability of elected officials to budget according to collective and public priorities.





The 1901 Constitution “prohibits Alabama from using money in any earmarked account to pay for other services.” (Arise, 2015, p. 9). The JTF (2018) explains, “Putting this into a personal perspective, imagine that you only had discretion over 7% of your personal income – this is the situation that the Legislature faces each year when trying to balance the budget” (p. 7). Since all revenue for the ETF is constitutionally earmarked, none of it can be allocated for non-educational needs. As a result, it is not uncommon for the state to struggle to fill a deficit in one budget, while simultaneously having a surplus in the other one.

**Income Tax, Balanced Budget Mandate, and Proration.** In 1932, businessman Benjamin Miller campaigned on a platform of cutting government excess and “no new taxes”. Soon after taking office, however, Governor Miller discovered that state coffers had run dry. After having to borrow a half million dollars to maintain the government’s most basic functions, Miller commissioned the Brookings Institute to study the state’s financial condition. Brookings (1932) recommended property tax increases (yet to be realized) and a complete overhaul of Alabama’s budget and finance system. When schools across the state were forced to shut down halfway through the 1932-1933 school year, Alabamians were outraged, compelling the Legislature to increase corporate taxes. After Miller conducted three statewide campaigns, and with school doors still barred, Alabamians finally approved a constitutional amendment creating a graduated state income tax in 1933. The tax was very progressive for its time, with less than 0.25% of the state’s population actually making enough money to be taxed (Arise, 2015, p. 23). However, between 1933 and 2006, Alabama’s income tax threshold on a family of four was only increased by \$1,000 (NOT accounting for inflation). After the state increased this threshold from \$4,600 to \$12,600 in 2006, it still remained the lowest and most regressive state income tax threshold in America. In 2018, the Legislature raised the threshold by \$3,000, the first increase since 2006. While the threshold has increased, the tax brackets

**“Earmarking”** designates (or indicates ownership of) revenue for a specific purpose. In Alabama, special interest groups have lobbied legislators for government earmarks since 1927, effectively vying for ownership of specific revenue for their cause or industry (just as farmers mark their livestock).



set in 1933, shown below, are still in place, giving Alabama the lowest income tax brackets in the country. As a result, 70% of non-elderly families paid at the top rate in 2015 (Institution on Tax and Economic Policy, 2015). In order to see the 1933 income tax amendment ratified by voters, lawmakers agreed to a balanced budget mandate, which prohibited deficit spending and codified the use of “proration”, a practice requiring across-the-board spending cuts when revenues fall short of projections. Since 1980, the state has been in proration 19 times (Alabama Legislative Fiscal Office, 2018a). In 2011, the Legislature passed the Education Rolling Reserve Act, which applied a spending cap to the ETF in order to generate and allocate a rolling reserve fund. To date, this legislation has achieved its mission by enabling the state to avoid ETF proration.

**Sales Tax.** After exhausting federal revenue sources, Governor Bibb Graves sought to institute a business gross receipts tax within Alabama. However, when the state’s large business owners revolted in anger, Graves signed the first sales tax into law in 1939. Jackson explains, “It was a fateful moment, for it set Alabama on a course that would in time give it one of the most regressive and unstable tax systems in the nation” (2004, p. 189). Just eight years later, the 1947 Interim Committee on Revenue, a legislative task force comprised of Alabama businessmen, studied the state’s tax system and concluded it was regressive and “not conducive to the economic development of the state” (as cited in Casey, Kennedy, & Jackson, 1990, 24); they recommended significant tax reform (yet to be realized). Today, Alabama is one of only three states that applies its full sales tax to groceries. The sales tax also extends to over-the-counter medicine, clothing, and other ne-

**ALABAMA INCOME TAX BRACKETS - SINCE 1933**

| Taxable Income  | % |
|-----------------|---|
| \$0 - \$500     | 2 |
| \$500 - \$3,000 | 4 |
| \$3,000+        | 5 |

**“Alabama leads the nation in the use of earmarking - currently earmarking 93% of its revenue, as compared to a national average of 30%. This limits the ability of elected officials to budget according to collective and public priorities.”**

cessities. However, all services are exempt, significantly limiting Alabama's tax revenue (as outlined by Tom Spencer). Ironically, while the full sales tax is applied to baby formula, calf formula is exempt (due to efforts of agriculture lobbies).

**Federal Income Tax Deduction.** In 1965, Alabama passed Constitutional Amendment 225, allowing residents to deduct federal income tax payments from their gross taxable income. Alabama is one of just three states that offer a full federal income tax deduction. This deduction disproportionately benefits wealthier households, because those with higher incomes can deduct more from their Alabama taxes than those with lower incomes. As enumerated by Sam Addy, this deduction is very costly to the state.

**Lid Bill and "Current Use".** In 1972, Constitutional Amendment 325 "formed a barrier to raising taxes on huge timber and agri-business tracts by placing them in the same category as private homes" (Casey et al., 1990, p. 6). Six years later, Governor George Wallace pushed the "Lid Bill" through the Legislature as part of his 1978 "Tax Relief Package". Large agriculture and forestry special interest groups launched public campaigns, claiming the legislation would reduce taxes on homeowners. Voters listened and approved this bill, capping maximum assessment rates on property and setting the current system of property tax classification, as shown on opposite page. In addition, this bill included a "current use" provision, which significantly reduced the overall property tax burden on large landowners by valuing farm- and timberland at pennies on the dollar (for tax purposes). In 1982, the Legislature amended this provision to institute a maximum assessment value per farm and timber acre (\$532 for the best farmland, \$751 for the best timberland; Alabama Department of Revenue, 2017). *The current use value on farmland has not increased since 1982.* The Lid Bill, as amended, has been very costly to the state. For example, while timber occupies over 70% of the state's landmass and serves as a significant economic engine, taxes on timberlands make up less than 2% of Alabama's property tax income (as cited in Hamill, 2007). The "current

## ALABAMA BUDGETS AND TAXES

### PROPERTY TAXES (MINIMAL SINCE 1901)

- Rate set at 6.5 mills in 1901 and has not increased
- Low rates embedded in state constitution
- Lowered repeatedly in response to agriculture and forestry lobbyists
- Alabama ranks 50th in the nation for state and local property taxes per capita, at only 36% of the national average (2015)

### INCOME TAX (SINCE 1933)

- Was progressive when established in 1933 but did not change with inflation, so today, Alabama:
  - has the lowest income tax threshold in the U.S.
  - has the lowest income tax brackets in the U.S.
- 1 of 3 states with full federal income tax deduction

### SALES TAX (SINCE 1939)

- Enacted after powerful business owners rejected gross receipts tax
- Very regressive and unstable tax source
- 1 of 3 states that applies full sales tax to groceries

### BUDGETING IN ALABAMA

- 2 operating budgets: State General Fund and Education Trust Fund; 1 of 3 states with 2 budgets
- 93% of revenue is earmarked (v. national avg of 30%)
- Balanced budget mandate (1933) prohibits deficit spending; instigated use of proration
- Alabama uses an incremental budgeting process.
- Fiscal Year: October 1 - September 30

use" provision takes its greatest toll on rural communities, especially those of the state's Black Belt (*Lynch v. Alabama*, 2011; Tullos, 2011; Guyse, 2014).

**More Tax and Budget Reform Efforts.** As discussed by Jim Williams, the state saw major tax reform efforts in 1991, 1992, and 2003. Like many others before them, these initiatives resulted in reports and/or proposals recommending significant changes to Alabama's tax system. However, none directly led to enacted legislation.

In 2016, the Legislature established the Joint Task Force on Budget Reform (JTF) "to examine the structure and design of the State budgeting process and make recommendations for long-term budget and tax system reform" (2018, p. 1). The JTF's first report recommended many of the same reforms proposed in 1918, 1932, 1947, 1991, 1992, and 2003 (*and every decade in between*). The JTF's first conclusions stated, "We must reassess the role of state government, the essential services of state government, and the spending priorities of state government before we can solve our fiscal issues" (2017, p. 32). It is evident that, over 115 years after our tax system was first codified into our state's governing document, we still



## AL PROPERTY TAX ASSESSMENT RATES

| Property Classification   | %  |
|---|----|
| Agricultural, forest, and single-family owner-occupied residential* | 10 |
| Individually-owned vehicles   | 15 |
| Commercial  | 20 |
| Utility-Owned   | 30 |

\*Note: AL's homestead exemption lowers the burden on single-family owner-occupied residential properties.\*

have fundamental questions to answer in order to assure that state budgets reflect current public and collective priorities. In its initial work, the JTF was surprised by research comparing common perceptions to hard data. Despite a popular belief that state government is too big and has grown too fast, the JTF (2018) found that it had grown at “roughly the same rate as the private sector over the last 40 years” (pp. 3-4). Further, contrary to the popular notion that Alabamians pay too much in taxes, JTF research showed that the tax burden per capita, as a percentage of household income, has been consistent for decades and is below the 40-year low.

## ALABAMA'S BUDGET AND CURRENT BUDGETING SYSTEM

While our authors comprehensively cover key features and challenges of Alabama taxes, recent JTF reports highlight central aspects of Alabama's budget process that also deserve mention. The tables shown on the top of page 82 list 2017 revenue sources and 2018 dollars budgeted by the Legislature - for the SGF and ETF. In addition to these funds, the State annually receives about \$9 billion from the federal government and another \$5 billion from earmarked state taxes, grants, and fees; this money is excluded from the legislative budgeting process. The graph at right shows total state revenue (excluding federal) compared to that controlled by the Legislature. In addition, the JTF (2018) observes:

The current “incremental budgeting” approach considering last year's appropriations plus or minus an incremental amount does not provide a clear picture of the actual spending by state agencies. The legislature does not have in-depth access or knowledge of the total funds received -- from all sources -- by state agencies. (p. 8)

This observation suggests that the current budgeting process is based

“We must reassess the role of state government, the essential services of state government, and the spending priorities of state government before we can solve our fiscal issues.”

- Joint Task Force on Budget Reform, 2017

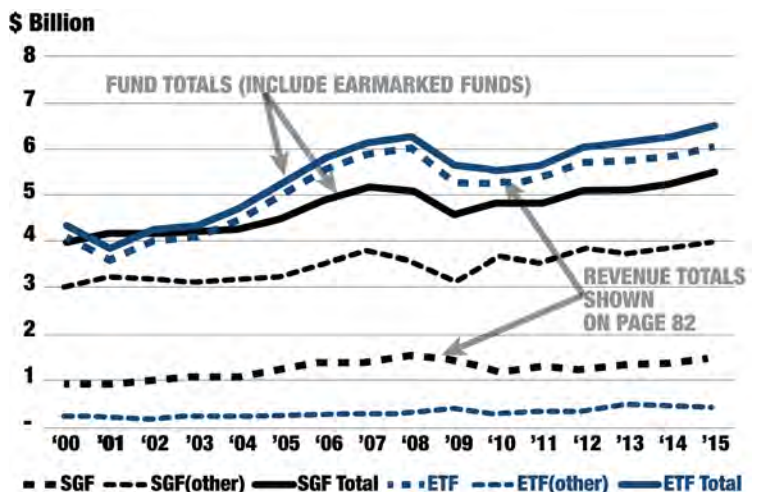
on tradition and status quo, rather than solid information and collective priorities.

## FILLING IN THE INFORMATION GAP

One key challenge recently identified by the JTF was a lack of solid information about the State's finances, based upon empirical data, rather than “random assumption or anecdotes developed over the years by lobbyists, special interests, and the media” (as cited in Kennedy, 2017). Both a lack of access to most state funds and this lack of information limit our elected representatives' ability to adequately assess existing funds and prioritize needs, both key requisites of allocating limited state dollars to meet public and collective priorities.

Our authors help fill in this gap in credible information by providing objective data, analyses, and recommendations for adapting our state revenue and budgeting systems to meet the changing needs of the 21st century economy. Specifically, they address the adequacy, equity, and reliability of Alabama's revenue system from a comparative, economic, and historical perspective.

## ALABAMA SGF AND ETF REVENUE



Original chart from JTF, 2018, p. 7. Modified by GEDI, 2018.



## STATE GENERAL FUND REVENUE (2017) AND EXPENSES (2018)

| REVENUE (2017)          | \$ (Millions)   | %          | EXPENSES (2018)   | \$ (Millions)   | %          |
|-------------------------|-----------------|------------|---|-----------------|------------|
| Insurance Co. Taxes     | \$ 319.8        | 16.7       | Medicaid  | \$ 755.2        | 37.1       |
| Use Tax                 | 225.2           | 11.7       | Corrections   | 472.1           | 23.2       |
| Cigarette Tax           | 163.3           | 8.5        | Judicial  | 127.1           | 6.2        |
| Property Tax            | 154.4           | 8.0        | Mental Health   | 118.3           | 5.8        |
| Sales Tax               | 103.6           | 5.4        | Human Resources   | 65.6            | 3.2        |
| Alcoholic Beverage Tax  | 100.6           | 5.2        | Law Enforcement   | 51.8            | 2.5        |
| Alabama Trust Fund      | 98.0            | 5.1        | Public Health   | 34.9            | 1.7        |
| One-Time Receipts       | 87.7            | 4.6        | Legislative   | 32.6            | 1.6        |
| Leasing & Rental Tax    | 77.3            | 4.0        | Other   | 380.5           | 18.7       |
| Corporate Taxes         | 75.5            | 3.9        | <b>TOTAL</b>  | <b>\$ 2.0 B</b> | <b>100</b> |
| Court Costs             | 61.9            | 3.2        | Data Sources: Alabama Legislative Fiscal Office, 2018b and 2018c; and Fulford, 2018.  |                 |            |
| Lodgings Tax            | 49.9            | 2.6        | In addition to these funds, the State annually receives about \$9 billion in federal funds and \$5 billion from earmarked state taxes, grants and fees. This money is excluded from the legislative budgeting process |                 |            |
| Oil & Gas Severance Tax | 33.9            | 1.8        |   |                 |            |
| All Other               | 368.7           | 19.2       |   |                 |            |
| <b>TOTAL</b>            | <b>\$ 1.9 B</b> | <b>100</b> |   |                 |            |

## EDUCATION TRUST FUND REVENUE (2017) AND EXPENSES (2018)

| REVENUE (2017) | \$ (Millions)   | %          |
|----------------|-----------------|------------|
| Income Tax     | \$ 3,892.5      | 61.5       |
| Sales Tax      | 1,811.7         | 28.6       |
| Utility Tax    | 388.0           | 6.1        |
| Use Tax        | 165.1           | 2.6        |
| Other          | 70.1            | 1.2        |
| <b>TOTAL</b>   | <b>\$ 6.3 B</b> | <b>100</b> |

| EXPENSES (2018) | \$ (Millions)   | %          |
|-----------------|-----------------|------------|
| K-12            | \$ 4,416.8      | 68.8       |
| Universities    | 1,260.9         | 19.7       |
| Postsecondary   | 368.3           | 5.7        |
| Other           | 370.9           | 5.8        |
| <b>TOTAL</b>    | <b>\$ 6.4 B</b> | <b>100</b> |

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# HOW ALABAMA TAXES COMPARE

TOM SPENCER



## BACKGROUND

Alabama collects less in state and local taxes than any other state in the Union. This has been a basic fact of life in this state since the early 1990s. It lies at the root of our perpetual struggles to balance state budgets. It underlies the difficulties we face when trying to provide our citizens with the level of government services enjoyed by citizens of other states.

Annually, the U.S. Census Bureau surveys state and local governments across the country about their revenues and expenditures. Released in the fall of 2017, the data for 2015 is the most recent year available. This survey makes it possible to compare the finances of state and local governments across the 50 states. Since the late 1980s, the Public Affairs Research Council of Alabama (PARCA) has analyzed the resulting data to determine how Alabama taxes and revenue compare to other states. In the analysis, state and local spending are considered together, because states vary greatly in how they divide up responsibilities, between state and local governments, for financing the operation of services like schools, roads, courts, healthcare, and public safety. In the end, the combined revenue from state and local taxes is used to provide government services.

*As a bottom line, Alabama governments have less tax money available to pay for those services.*

## ALABAMA'S TAXES AND REVENUES COMPARED TO OTHER STATES

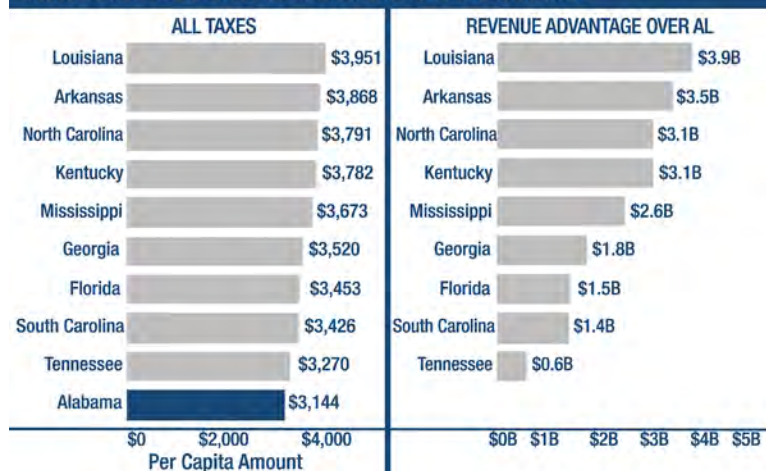
In 2015, Alabama state and local governments collected a total of \$15 billion in taxes, or \$3,144 per resident. Across the U.S., the median value for state and local taxes per capita was

**“[I]f Alabama collected taxes at the median state per capita rate, its local and state governments would have an additional \$6 billion ...”**

\$4,379. Thus, the median state had a per capita tax advantage of \$1,235 over Alabama. In other words, if Alabama collected taxes at the median state per capita rate, its local and state governments would have an additional \$6 billion to spend building and maintaining roads; providing police and fire protection; operating civil and criminal courts; supporting schools and colleges, libraries, and parks; and performing a myriad of other government functions.

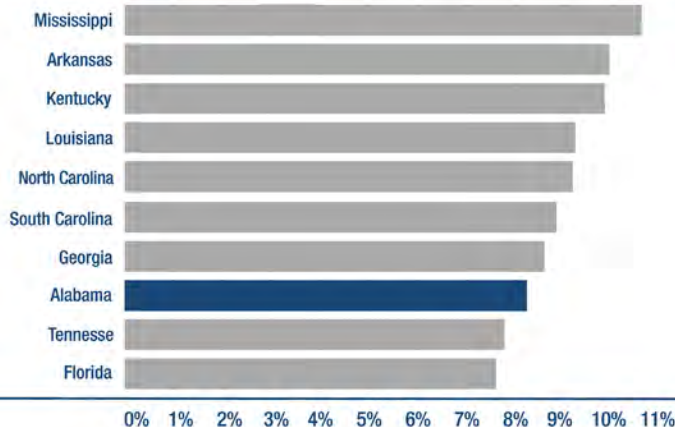
National comparisons are not always convincing because of regional economic differences. But Alabama stands out even in the Southeast. The table shown below presents two sets of calculations. On the left, the Southeastern states are compared and ranked on their total state and local tax collections divided by their populations, producing a total for tax collections per capita. Alabama ranks at the bottom. The state closest to Alabama in terms of per

### STATE AND LOCAL PER CAPITA TAXES COMPARED



Data Source: U.S. Census Bureau.

## STATE & LOCAL TAXES AS A PERCENT OF PERSONAL INCOME



Data Sources: U.S. Census Bureau, U.S. Bureau of Economic Analysis.

capita tax collections is Tennessee, which collects \$126 more per resident than Alabama. The top Southeastern state in terms of taxes per capita is Louisiana, which collects \$809 more per resident than Alabama. The second chart illustrates the tax revenue advantage governments in the region enjoy over Alabama. This advantage results from the difference between Alabama's per capita tax collections and those of the other states. That per capita advantage over Alabama is then multiplied by Alabama's population. If Alabama collected taxes at the same per capita rate as Tennessee, its governments would have an additional \$600 million to work with. At Mississippi's per capita rate, Alabama would have \$2.6 billion more to spend. At North Carolina's per capita rate, Alabama state and local governments would have an additional \$3.1 billion to spend providing services.

### WHY ARE TAXES SO LOW ON A PER CAPITA BASIS?

Our lowest-in-the-nation ranking in revenue results from two primary factors: tax rates that are lower than most other states and a base of wealth that is smaller than most other states. Comparing total personal income to total state and local taxes collected, Alabama ranks 46th in the country, with state and local tax collections amounting to 8.2% of the state's total personal income. As shown above (right), the only Southeastern states that rank behind Alabama on this measure are Florida (7.6%) and Tennessee (7.8%). Both have higher total personal income per capita than Alabama, allowing them to collect less as a percent of total personal income and still yield far more in taxes on a per capita basis. While Mississippi's total personal income is lower than Alabama's, its

state and local tax collections equaled 10.6% of the state's total personal income for 2015. Because of that greater tax effort, Mississippi state and local governments have more to spend on a per capita basis.

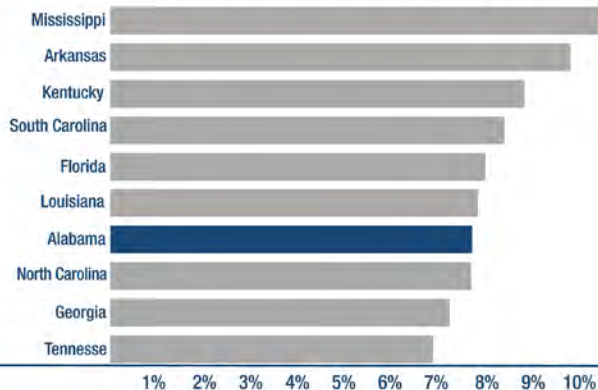
### TAX BURDEN AS A PERCENT OF GDP

Another way of measuring the tax burden is to calculate tax collections as a percent of each state's gross domestic product (GDP), a measure of economic output. Alabama tax collections amount to 7.5% of its GDP. The U.S. average for state and local taxes as a percent of GDP is 8.7%. As with the personal income measure, states like North Carolina, Georgia, and Tennessee have a higher level of economic output than Alabama on a per capita basis. Thus, those states can tax a lower percentage of economic activity and still yield a much higher amount in taxes per capita (as shown on the previous page).

### WHAT WE CHOOSE TO TAX

While a state's tax base and its tax rates are primary drivers of the total revenue collected, a state's tax system is also affected by the mix of taxes it chooses to apply. Every state has a unique blend of taxes. Most states depend on some combination of the three principal tax sources: income, property value, and sales transactions (what we earn, own, and buy). A tax system that is balanced among these three sources promotes fairness and stability. Alabama's tax sys-

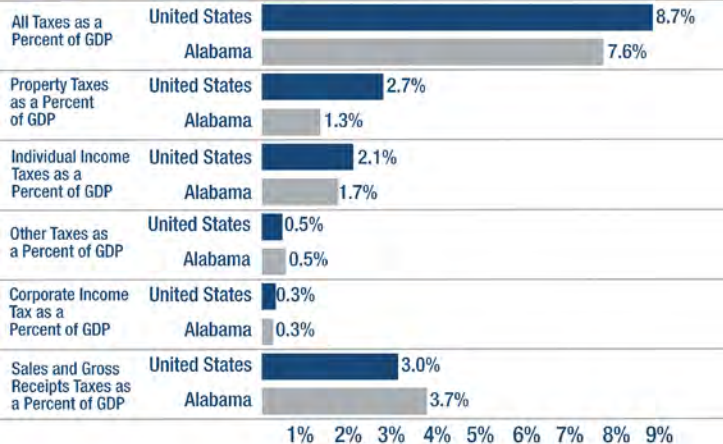
## STATE & LOCAL TAXES AS A PERCENT OF STATE GDP



Data Sources: U.S. Census Bureau, U.S. Bureau of Economic Analysis.

“Our lowest-in-the-nation ranking in revenue results from two primary factors: tax rates that are lower than most other states and a base of wealth that is smaller...”

## STATE & LOCAL TAXES AS A PERCENT OF STATE GDP



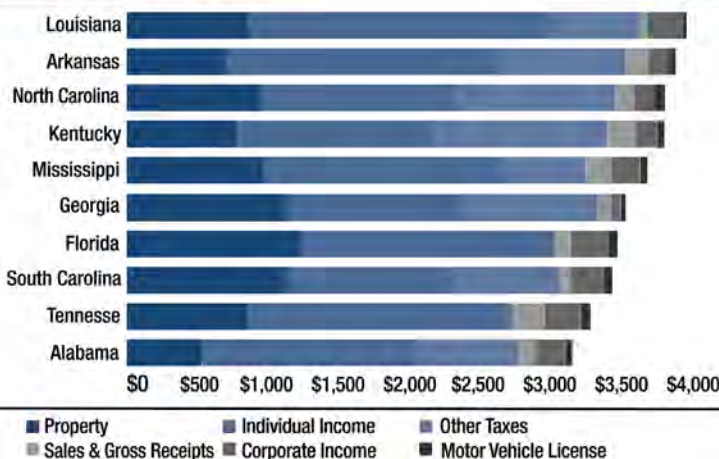
Data Sources: U.S. Census Bureau, U.S. Bureau of Economic Analysis.

tem is not balanced. The figure at right compares Alabama's tax mix to that of the average U.S. state. The relative share of each tax is expressed as a per-centage of GDP.

Alabama's overall tax burden is lighter, comprising a smaller share of GDP than the average U.S. state. Property taxes are particularly low. Alabama's property taxes represent only 1.3% of GDP, compared to 2.7% in the average state. Alabama's per capita property tax collections could be doubled and still be below the U.S. average. Alabama personal income taxes are also lower than the national average, while corporate income and other taxes are roughly equivalent to those in other states, in terms of per-centage of GDP. Alabama sales and gross receipts tax, on the other hand, is a higher share of GDP than in the average state, indicating that *Alabama depends more heavily on sales taxes to produce tax revenue.*

The figure below compares Alabama's state and local tax mix with other Southeastern states, expressed on a per capita basis. The chart shows the different mix of taxes each state uses to produce total state and local tax revenues. Alabama's bar is shorter than that of any other state, reflecting lower per capita tax collections overall. Also, Alabama has the lowest per capita property tax collections in the nation. Meanwhile, other states exhibit their own unique mixes. Florida does not have an income tax but makes up for it with high per capita property and sales tax collections. Tennessee also has a minimal income tax but makes up for it with higher property, sales, and corporate income tax collections.

## PER CAPITA TAX MIX



Data Source: U.S. Census Bureau.

## THE TAX MIX: A BALANCING ACT

Although Alabama collects less in state and local taxes per resident than any other state, that does not guarantee low taxes for all. Because of the imbalance in the tax structure, taxes fall more heavily on some groups than others. A sound tax structure avoids placing too heavy of a burden on any particular group. Most states take measures to protect households with low incomes from taxation - in hopes of encouraging economic advancement. As lawmakers consider options for adding tax revenue, questions of balance and fairness should be considered.

## PROPERTY TAXES

Alabama's low property taxes primarily benefit those who own homes, farms, and timberland. Those properties are taxed on just 10% of their value. That assessment is further reduced through homestead exemptions and valuations based on the current use of the property, rather than current market rates. Meanwhile, taxes on commercial and industrial property are double that of residences or farms, because that property is taxed on 20% of its value. Property owned by utilities is taxed on 30% of its value,

**“Although Alabama collects less in state and local taxes per resident than any other state, that does not guarantee low taxes for all. Because of the imbalance in the tax structure, taxes fall more heavily on some groups than others.”**



three times the rate of residential or agricultural property. Under the current system of property classification, an increase in property taxes would be borne more heavily by businesses and utilities. Increases would likely be passed along to consumers and renters (since apartments are considered commercial property). And higher tax bills for utilities would likely be passed along to rate payers. Alabama property taxes are hard to change. Caps have been placed in the Alabama Constitution, and any change to property tax rates requires approval, not just from the Legislature, but also a vote of the people.

**“Alabama has the lowest per capita property tax collections in the nation.”**

**“Alabama’s per capita property tax collections could be doubled and still be below the U.S. average.”**

## SALES TAX

Partly because of the difficulty of raising property taxes, Alabama state and local governments have developed a heavy reliance upon the sales tax. Alabama’s rates are among the highest in the country. And unlike many other states, Alabama’s sales tax applies to groceries and medications. Alabama is one of three states that continue to apply their sales tax fully to food purchased for home consumption without providing any offsetting relief for low-and moderate-income families (Figuroa & Waxman, 2017). Because low- and moderate-income families spend a greater share of their incomes on basic necessities, a greater share of those families’ incomes goes to paying state and local taxes. Alabama’s high sales taxes contribute to the regressive nature of its tax structure. According to the Institute on Taxation and Economic Policy, Alabama’s tax system is the 12th most regressive state and local tax system in the nation (Davis et al., 2015). Under a regressive tax system, the poor pay a greater share of their income in taxes than the wealthy.

Despite high sales tax rates, Alabama’s per capita state and local sales tax collections rank 30<sup>th</sup> among the 50 states. Alabama’s sales taxes are not as productive, because of the smaller tax base of economic activity and because Alabama’s sales tax is narrow in comparison to most states. Alabama applies its tax to almost all sales of goods, but it does not apply the

tax to most kinds of business, professional, computer, personal, and repair services. In recent decades, a greater share of economic activity has shifted toward consumption of such services. According to a survey conducted by the Federation of Tax Administrators, Alabama taxes 37 out of 168 categories of services (Minnick, 2008). The median state applies the sales tax to 55 different services.

States, including Alabama, have pursued a variety of options for broadening the sales tax to capture the sales activity now being transacted on the Internet. Those transactions have generally been off-limits to taxation. However, as Internet sales constitute a greater share of economic activity and siphon business away from traditional retailers, there are ongoing efforts to apply the sales tax to Internet transactions. For example, in 2015, the Alabama Legislature enacted a Simplified Sellers Use Tax, which allowed Internet retailers without a physical presence in the state to collect an 8% tax on the retailer’s Internet sales activity in Alabama. The total amount collected is then submitted to the State, which keeps half of the proceeds and then distributes 25% to counties and 25% to cities, with distributions made in proportion to city and county populations. As of January 2017, 85 retailers, including Amazon, have joined the program. In FY 2017, the Simplified Sellers Use Tax brought in \$25 million.

### ALABAMA’S U.S. RANK ON PER-CAPITA TAX COLLECTIONS, 2015

| STATE & LOCAL TAX SOURCES | AL RANK   |
|---------------------------|-----------|
| PROPERTY                  | 50        |
| SALES AND GROSS RECEIPTS  | 30        |
| General Sales             | 31        |
| Selective Sales           | 20        |
| Motor Fuel                | 27        |
| Alcoholic Beverage        | 3         |
| Tobacco Products          | 42        |
| Public Utilities          | 5         |
| Other Selective Sales     | 29        |
| INDIVIDUAL INCOME         | 36        |
| CORPORATE INCOME          | 35        |
| MOTOR VEHICLE LICENSE     | 44        |
| OTHER TAXES               | 28        |
| <b>ALL TAXES (TOTAL)</b>  | <b>50</b> |

Data Source: State & Local Government Finance, U.S. Census Bureau. Retrieved from [census.gov/govs/local](https://census.gov/govs/local).



“Alabama applies its tax to almost all sales of goods, but it does not apply the tax to most kinds of business, professional, computer, personal, and repair services. In recent decades, a greater share of economic activity has shifted toward consumption of such services.”

## SELECTIVE SALES TAXES

When searching for tax revenue, Alabama governments sometimes turn to selective sales taxes to avoid passing a general tax increase. As an example, Alabama ranks high in per capita collections of taxes on alcoholic beverages (No. 3 in the U.S.) and on public utilities (No. 5 in the U.S.). Alabama ranks in the middle of states when it comes to per capita collections on motor fuel. Alabama’s fuel tax rates are relatively low, but the state enjoys a high volume of pass-through traffic, which boosts per capita collections. In 2015, per capita revenue on tobacco products remained relatively low (No. 42 in the U.S.). However, Alabama’s 25-cent-per-pack increase in cigarette taxes, which occurred during that same year, should raise the state’s future ranking in comparison to other states. Nonetheless, Alabama’s per-pack tax rate is still ranked 39<sup>th</sup> in the nation, according to the Tax Foundation.

## INCOME TAXES

In 2015, Alabama’s income tax revenue per capita ranked 36<sup>th</sup> out of the 43 states that collect income taxes. In many states, the income tax is progressive, applying a higher rate to more affluent taxpayers and serving as a balance against the regressive nature of other taxes. However, in Alabama, several features of the tax work to prevent this. Alabama’s threshold for taxing income is the lowest in the nation. Most states set a higher income threshold than Alabama in order to allow poor households to keep more of the money they earn. In Alabama, a family of four be-

“Alabama’s threshold for taxing income is the lowest in the nation. Most states set a higher income threshold than Alabama in order to allow poor households to keep more of the money they earn.”

gins paying income taxes on anything earned over \$12,600. And the state’s top tax bracket, 5%, kicks in at \$5,000 in earnings beyond exemptions and deductions.

The income tax rate and the deductibility of federal income taxes are both embedded in the Alabama Constitution, so any change to the rate would require an amendment to the constitution. However, other state income tax deductions can be changed legislatively. Eliminating certain deductions or diminishing their value for those with high incomes would be one approach to increasing revenue generated by the state income tax.

## CONCLUSION

As the state’s political leadership continues to grapple with how to pay for prisons, roads, healthcare, and education, they need to keep three questions in mind:

- ❶ Is the tax system adequate to provide the level of service and investment needed to make Alabama a competitive state?
- ❷ Is the tax system equitable, fairly spreading the cost of needed services and encouraging economic independence and advancement?
- ❸ Is the tax system efficient in providing stable and sustainable revenue without imposing undue burden and complexity?

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# GROWING THE ALABAMA ECONOMY

SAM ADDY, PH.D.



## INTRODUCTION

Alabama's people and leadership deserve praise for growing the state economy faster than the national economy since 1929. As incredible as that may seem, data from the U.S. Bureau of Economic Analysis (n.d.) bears this out. From 1929 to 2016, personal income for the nation grew at an annual rate of 6.2%, slightly lower than the state's 6.4%. Even more impressive is the annual per capita income (PCI) growth rate, with Alabama's 5.7% clearly outpacing the nation's 5.0%, as the nation's population grew at 1.1% yearly compared to 0.7% for Alabama. The state's PCI rose from \$319 in 1929 to \$38,896 in 2016, going from 45.6% to 79% of the national PCI (which went from \$699 to \$49,246). This growth is remarkable, but Alabama still ranks very low on many socioeconomic indicators such as educational attainment, health, and per capita income (despite its faster growth). Growth of the Alabama to U.S. per capita income ratio over time is illustrated in the graph below.

Continuing this growth depends on what Alabama does going forward. Were the growth trend in the ratio of state-to-national PCI to continue, the state's PCI would be at par with that of the nation in 2071. Is that acceptable? Do we want to wait that long to achieve this outcome? In fact, the ratio of state-to-national PCI

peaked at 84.3% in 1995 and has been on a slow decline since. Swift action must therefore be taken to reverse the two-decade decline in the ratio of state-to-national PCI, as well as to grow faster, if PCI parity before 2071 is a desired goal. Interestingly, and not coincidentally, the ratio of state tax receipts to state gross domestic product (GDP), which peaked at 5.3% in 1992, had declined to 4.9% in 2016.

What should the state do to grow faster? It is common knowledge that Alabama uses its competitive advantages and other tools to achieve economic development successes. Factors that make the state attractive include:

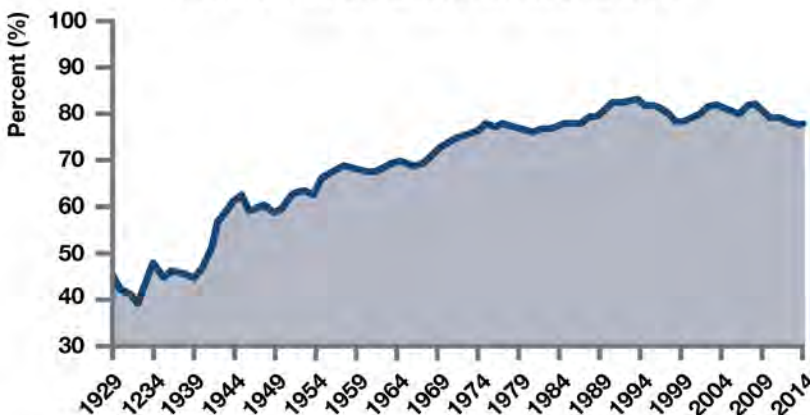
- 1 A ready and available workforce;
- 2 A pro-business climate with low input costs;
- 3 Being a right-to-work state;
- 4 Low cost of living;
- 5 Availability of all modes of transportation (road, rail, air, water, and pipeline);
- 6 Availability of natural resources such as land, water, forests, and minerals; and
- 7 Economic incentives.

However, the focus has mainly been on growing the private sector. The main challenge for Alabama is that very little attention has been devoted to advancing the public sector. There seems to be

some unwillingness to raise revenues necessary to tackle major public sector issues of education, infrastructure, health, and prisons – even though that is exactly what is needed. After all, it has been established that the state's current tax system raises inadequate revenue, is regressive, and is inefficient in both collection and use.

To grow the economy, it is important to understand a few things. First, at the most basic level, economies are systems

ALABAMA : U.S. PER CAPITA INCOME RATIO



GEDI adapted from original submitted by Sam Addy, 2017.

**“The main challenge for Alabama is that very little attention has been devoted to advancing the public sector. There seems to be some unwillingness to raise revenues necessary to tackle major public issues of education, infrastructure, health, and prisons - even though that is exactly what is needed.”**

with two interacting parts or growth engines: the public and private sectors. As such, economic growth requires firing both private- and public-sector engines, while continuously ensuring a proper balance between them. Indeed, a healthy public sector enables the private sector and economy as a whole to grow in the best way possible. The production, distribution, and consumption of all goods and services require the use of some public services or assets both directly and indirectly. For example, we use public roads to get to private businesses. Also, product safety and quality standards and other government regulations help to protect consumers and the environment and promote competition.

In Alabama's specific case, the goal should be broad-based economic growth with an increased ratio of state-to-national PCI growth rate. Sustained and optimal economic growth will require rebalancing the economy by raising public spending as a share of GDP in a way that positively reforms the state's tax system. This will enable investment in education, infrastructure, and healthcare and also adequately fund the provision of other public services to support private sector and overall economic growth.

Economies continuously evolve with changes in demographics as well as economic structure, which makes determining the optimal ratio of state tax revenues to GDP an ongoing task. A first step for Alabama should be acknowledgment of the scale of the problems in the public sector. Funds are needed to properly address workforce development (education and other programs), healthcare, infrastructure improvements, economic development incentives, and other public services, as well as to avoid budget shortfalls. In 2003, then Governor Riley proposed raising revenues by \$1.2 billion, which was 1.0% of the 2001 state GDP—the latest GDP data at the time—to address several needs in the state (Addy & Ijaz, 2003). Those needs remain, cost more, and suggest raising revenues by at least that same 1.0% share of

state GDP. The latest data on Alabama GDP is \$205.6 billion for 2016; 1.0% of that is about \$2.0 billion

Would a \$2.0 billion rebalancing be worthwhile? The economic impacts of a dollar spent in the economy depend upon how and for what it is spent. So the question can be rephrased to: “What are the net economic impacts of shifting \$2.0 billion from personal consumption to government spending?” The economic impact of \$2.0 billion in personal consumption expenditure is nearly \$4.0 billion in output or gross economic activity, of which \$2.0 billion is contribution to state GDP and \$1.1 billion is earnings (wages and salaries) for 19,842 jobs. Government spending of \$2.0 billion results in even better economic impacts of nearly \$5.0 billion in output, of which \$2.5 billion is contribution to state GDP and \$1.5 billion is earnings for 29,896 jobs. Government spending impacts are higher, because such spending is currently suboptimal. The rebalancing is thus worthwhile, as it generates net impact gains of \$1.0 billion in output, of which \$0.5 billion is contribution to state GDP, and \$0.4 billion is earnings for 10,054 jobs.

## **RECOMMENDATIONS FOR REFORM**

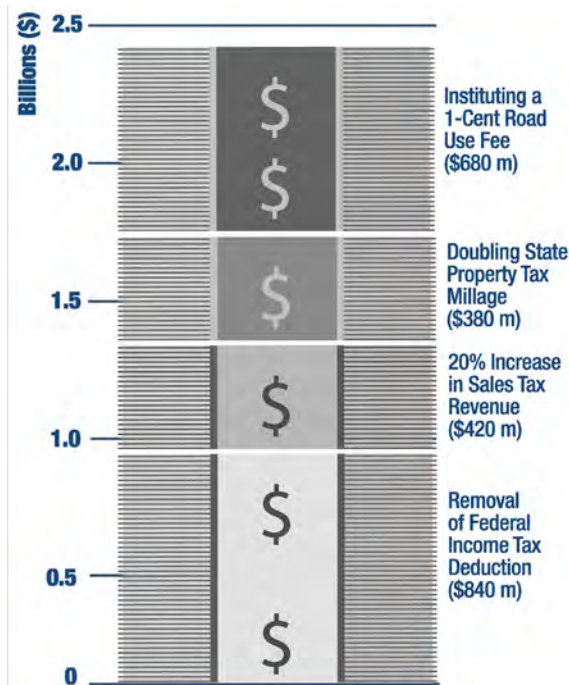
Reforming the state's tax system should not be pursued just to raise the recommended \$2.0 billion in new revenues. As noted earlier, the current state tax system has problems of revenue adequacy, tax fairness, and efficiency in collection and use. Efficiency deals with balance among revenue sources, flexibility of revenue distribution and use (i.e., the earmarking issue), and general management of tax revenues to minimize waste and promote best use of funds. One suggestion to address at least some of these issues while generating the necessary revenue combines:

- ❶ Removing the federal income tax deduction;
- ❷ Lowering the sales tax rate, but broadening the base so as to raise 20% more sales tax revenues;
- ❸ Raising the state property tax rate from 6.5 mills to 13.0 mills;
- ❹ Instituting road use fees of 1-cent per mile; and
- ❺ Using some of the new revenues for economic incentives and budget reconciliation.

These actions can be implemented right away or phased in over, perhaps, three to five years.

Of the state's \$189.2 billion total personal income in 2016, net earnings (i.e., earnings by place of work adjusted for social insurance contributions and residence) was \$112.6 billion. Assuming these net earnings were subject to federal income tax at a 15% effective

rate, applying the state income tax rate of 5% would mean that removing the federal tax deduction could raise about \$840 million. A 20% increase in sales tax revenues would generate \$420 million. Doubling the state property tax rate would bring in \$380 million. Instituting a 1-cent road use fee would generate \$680 million (from about 68 billion miles traveled per year). As shown below, these actions would collectively raise about \$2.3 billion; the excess over \$2.0 billion could and should be used for worthwhile economic incentives. While raising revenues to address the adequacy problem, these actions will also make the state tax system more efficient and fairer.



### Federal Income Tax Deduction

The federal income tax deduction is an example of a tax expenditure which can have distorting effects that make tax systems inefficient and unfair. Reducing or eliminating tax deductions is not the same as raising taxes, because it is really a removal of subsidies. Such deductions are essentially subsidies instituted at some point that enable those who can take advantage of them to pay lower state taxes than they otherwise would have. The removal of deductions just takes taxpayers back to what they would or should have paid without the allowed subsidy. So eliminating them is not the same as raising taxes. In addition, the federal income tax deduction is probably the most significant factor for the regressive nature of the state tax structure, since it benefits higher-income people much more than it does low- and medium-income people. This is because federal in-

**“Lowering the state sales tax rate and broadening the base so as to apply the new rate to services is needed, because sales taxes contribute significantly to the regressive nature of the state’s tax structure, and the state’s economic structure has been changing.”**

come tax rates are higher than Alabama’s and the federal income tax is progressive and thus enables higher income earners to deduct higher shares of their income. Removing the federal income tax deduction will make the state tax income less regressive, and thus, fairer.

### Sales Tax

Lowering the state sales tax rate and broadening the base so as to apply the new rate to services is needed, because sales taxes contribute significantly to the regressive nature of the state’s tax structure, and the state’s economic structure has been changing. Sales taxes are mainly on goods in Alabama, and they fall more heavily on low- and medium-income people who spend more of their income on sales-taxable items. Therefore, lowering the state sales tax rate will help to make the tax structure fairer. The service sector is the larger and faster-growing part of the economy, as consumers spend increasingly more on services than on goods. Sales tax collections used to be higher than income tax collections, but the reverse is now true. Goods production and services provision both use public goods and services for which revenues are needed. Thus, revenues must be generated from both goods and services, not just from goods.

### Property Tax

Raising the state property tax rate is necessary, because the current small property tax receipts constitute a significant part of the problem with the state’s tax structure. This action will help to reduce the regressive nature of the tax structure and make revenue collection more efficient by creating a better balance between revenue sources. Low property tax rates benefit higher-income and wealthier people more since they tend to own property. A higher, but fair, rate is needed.

### Road Use Fees

Alabama’s gas tax is currently insufficient for funding basic maintenance and necessary improvements for

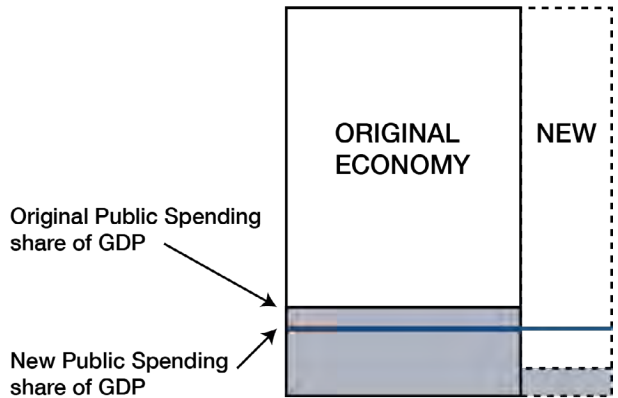


the state's road infrastructure. Further, as the automotive industry employs new technological advancements to increase fuel economy, the power of the gas tax (as a critical revenue source) will continue to decline. Thus an alternative funding mechanism is needed. A road use fee based on vehicle miles traveled (VMT) is the proper tool for such revenue, because it focuses on road use—the actual public service provided—rather than the gas tax, which was a decent proxy in the past but is inappropriate now. This could be paid annually at tag renewal with varying fees for different vehicle types (e.g., using axle or weight classes). The proposed 1-cent per-mile fee for cars would generate \$100 for 10,000 miles traveled within a year. The gas tax need not be phased out, as its significance will naturally decrease over time, and it will help generate some revenue from vehicles that are not domiciled in Alabama. To ensure revenues match road infrastructure expenditure needs, the VMT fee could be indexed to inflation or assessed and adjusted appropriately every few years.

### Economic Development Incentives

Economic development incentives are another example of tax expenditures. Unlike the federal income tax deduction, economic development incentives are investments that must be accompanied by new revenue; otherwise, they reduce the funds available for normal public sector spending and thus unbalance the economy by lowering the effective public spending share of GDP. The following figure demonstrates this point, with the shaded area representing public spending in the economy. For example, an economy with a 5% tax rate that uses a 1% tax rate as an incentive to grow by a tenth - will reduce its effective tax rate to 4.6% for the time period in which the incentive applies, because the 10% growth in the economy is accompanied by just 2% growth in tax revenues. Use of economic incentives unaccompanied by additional revenue is a major reason why the ratio of Alabama state tax receipts to state gross domestic product (GDP) declined from its peak of 5.3% in 1992 to 4.9% in 2016. When using incentives, selectivity is essential, as these investments must be in projects that will pay off; the projects

### The Economic Impact of Economic Development Incentives Unaccompanied by New Revenue



GEDI adapted from original submitted by Sam Addy, 2017.

must provide jobs that pay more than the existing average wage. Incentive programs should be evaluated up front and periodically to ensure they are worthwhile.

### CONCLUSION

Although Alabama's economy grew faster than the national economy from 1929 to 2016, the state still ranks low on many socioeconomic indicators, and there is danger of regressing. The state tax system, which raises inadequate revenue and is regressive and inefficient, is a major impediment to faster economic growth. To grow the economy faster, the state will need to invest more in its people (education and health) and infrastructure to support private sector growth. Tax reform that addresses all of these issues and also raises revenues to the tune of about 1% of state GDP can help set the state economy on a faster growth path. Indeed, tax reform can be an economic development tool if done properly and well.

**“To grow the economy faster, the state will need to invest more in its people (education and health) and infrastructure to support private sector growth.”**

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**“Tax reform ... can help set the state economy on a faster growth path. Indeed, tax reform can be an economic development tool if done properly and well.”**

# INSIGHT FROM PREVIOUS TAX REFORM EFFORTS

JIM WILLIAMS



## WHY TAXES?

Some public services primarily benefit those who use them. Highways, hospitals, and licenses are examples. These services often are financed by fees charged to those who benefit directly. But in each of the fifty states, broad-based taxes are levied to pay for public services that benefit all citizens, such as schools and public safety.

For example, would you pay for prisons unless you had to? Probably not – surely you do not plan on spending the night in one! Yet it is easy to see that we all benefit from having violent criminals locked up securely. Likewise, we all benefit from good public schools, even those of us who have no children enrolled. States with better-educated residents tend to have higher personal incomes, and this creates benefits throughout society.

Experience has shown that the fairest way to pay for services that benefit an entire community or state, rather than only individual users, is through a tax system that allocates the burden according to

A revenue system should balance the amount of income earned, the sales prices of goods and services purchased, and the market value of property or other assets owned.



ability to pay. There are three broad definitions of a taxpayer's ability to pay: the amount of income earned, the sales prices of goods and services purchased, and the market value of property or other assets owned. Tax experts suggest that a revenue system should balance these components – just as a three-legged stool is steadied when its legs are in balance.

## WHY TAX AND BUDGET REFORM?

The problem with taxes is that, to each taxpayer, our payments often seem much more real than the benefits involved. Because tax benefits are often general and indirect, we fail to compare the costs with the full benefits, as we would when making a personal investment. We are tempted to look at the taxes alone, as if they were a complete loss, while taking the benefits for granted, often ignoring indirect benefits altogether. This is particularly true if there is the slightest hint of governmental waste.

None of us wants to pay more in taxes than he or she has to. We would all prefer to take a free ride on someone else's tax dollar. Unfortunately, it is entirely possible to shift the tax burden from some taxpayers onto others, to waste tax dollars that are collected, or to employ budget gimmicks that pass today's costs onto tomorrow's taxpayers. When these things happen, and everyone finds out (as they inevitably will), no rational taxpayer wants to invest again until the rules are changed for the better.

Think about these dynamics for just a minute, and you will understand why confidence in the tax system, and the related budgeting process, is so crucial. Taxpayers must have faith in the fairness, adequacy, and efficiency of taxes and budgets to make the necessary connection between the costs of a public investment and its benefits. When the system of

**“Because tax benefits are often general and indirect, we fail to compare the costs with the full benefits, as we would when making a personal investment. We are tempted to look at the taxes alone, as if they were a complete loss, while taking the benefits for granted, often ignoring indirect benefits altogether.”**

taxing and budgeting commands no respect, the willingness to invest in public services simply dries up.

While tax problems are present in all states, in Alabama the failure to create a fair, adequate, and efficient system of taxing and budgeting has led to what is, in effect, a perpetual budget crisis. The *2017 Interim Report* of the Legislature's Joint Task Force on Budget Reform described this crisis in its opening paragraph:

Year after year, session after session, the Alabama Legislature returns to Montgomery to answer the same, age-old question: "What are we going to do to fill the hole in the General Fund Budget?" (p. 1)

The ultimate purpose of tax and budget reform in Alabama is to restore public confidence in government by improving the fairness, adequacy, and efficiency of taxes and budgets.

**"When the system of taxing and budgeting commands no respect, the willingness to invest in public services simply dries up."**

## **WHAT EFFORTS AT TAX AND BUDGET REFORM HAVE BEEN MADE, AND HOW SUCCESSFUL HAVE THEY BEEN?**

In recent years, three official efforts, involving both Governors and the Legislature, have been made to bring about comprehensive solutions to the state's tax-and budget-related problems. While none of these efforts was immediately successful as a package, a number of their proposals have been adopted over time. Other proposals from these efforts remain viable as starting points for future tax and budget reform. The three reform reports, along with their key proposals and ultimate successes, are summarized below.

### **1. The Alabama Commission on Tax and Fiscal Policy Reform (1991)**

The Legislature, in 1990, created the Alabama Commission on Tax and Fiscal Policy Reform. The report of this commission, presented in January 1991, recommended revenue-neutral changes to produce a broad-based, low-rate tax system "capable of producing adequate revenues, in a fair way, and without compromising economic development in the state" (p. 20). The Governor and Legislature would then decide if tax increases were necessary and would have the power to budget

**"The ultimate purpose of tax and budget reform in Alabama is to restore public confidence in government by improving the fairness, adequacy, and efficiency of taxes and budgets."**

revenue to meet the needs of the state. A package of implementing bills was debated but did not pass.

**Key tax proposals.** Income taxes would be conformed more closely to the federal income tax, the sales tax base would be broadened to include services, and ad valorem taxes on all types of property would be assessed at 100% of the market value. Tax rates would be reduced for revenue neutrality. There would be a new 1-mill tax on intangible property.

**Key budget proposals.** Earmarking of taxes would be eliminated except for highway user taxes. Property tax incentives would be limited.

**Successes.** In 1992, the Legislature limited property tax abatements to ten years' duration and eliminated them altogether for education taxes (AL Act 1992-599). In 1999, the Legislature began to un-earmark portions of selected sales taxes, moving revenue from the Education Trust Fund to the General Fund (AL Act 1999-650).

### **2. The Tax Reform Task Force (1992)**

In October 1991, the Governor appointed a Tax Reform Task Force to formulate a plan to reform the state's tax system and produce additional revenue for state services. The Task Force, in its deliberations, decided to also develop accountability reforms for state government and education, on the premise that any increase in funding must be accompanied by better performance and accountability. The 1992 Task Force report represented a "more practical" version of the reform package proposed a year earlier, and it produced more successes over time.

**Key tax proposals.** Income taxes would be based on federal taxable income, with no federal income tax deduction. The corporate income tax rate would be raised to 6.5%, coupled with a reduction of the franchise tax. The sales tax base would be broadened to include some services. Utility taxes would be streamlined and broadened to include cable TV. Mandatory school property



taxes would be increased to 20 mills; the state ad valorem tax would be raised from 6.5 to 14 mills; and utility property would be assessed at 20% of its value, the same as other business property. There would be a new 1-mill tax on intangible property.

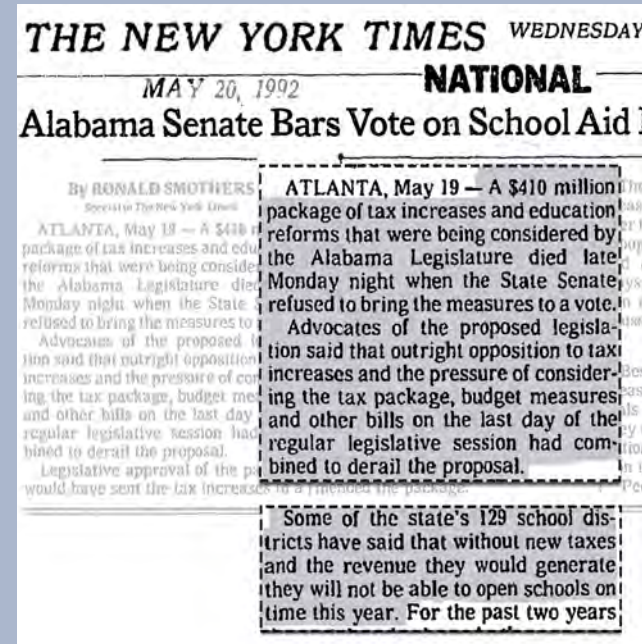
**Key accountability proposals.** Income tax revenue would be earmarked for education generally, rather than just for teacher salaries. The Department of Revenue would be required to report tax revenue lost because of tax credits and exemptions (known as “tax expenditures”). Property tax incentives would be limited.

**Successes.** As mentioned above, in 1992, the Legislature limited property tax abatements to ten years’ duration and eliminated them altogether for education taxes. The Legislature also streamlined utility taxes that year (AL Act 1992-623). In 1999, the Legislature raised the corporate income tax rate to 6.5% and created the business privilege tax (AL Act 1999-664). In 2005, the Legislature proposed and voters approved a 10-mill requirement for school property taxes (AL Act 2005-215; AL Const. amend. 778). In 2015, the Legislature required the Legislative Fiscal Office to begin reporting revenues lost due to tax expenditures (AL Act 2015-237). The first tax expenditure report was published in January 2017 (Alabama Legislative Fiscal Office, 2017).

### 3. Governor Riley’s Accountability and Tax Reform Plan (2003)

Upon taking office in 2003, Governor Riley faced a large budget imbalance. After thorough study, he proposed a broad set of spending accountability measures, reforms to several state taxes, and investments to improve education (Alabama Partnership for Progress, 2003). A number of these reforms were adopted by the Legislature in 20 separate acts tied to a proposed constitutional amendment known as Amendment One. If adopted, the amendment would have un-earmarked any revenue created by the tax reforms and enacted spending accountability measures. Amendment One, however, was defeated by the voters.

**Key tax proposals.** Income taxes would be based on federal adjusted gross income; tax rates, exemptions, and deductions would be raised; and the federal income tax deduction would be eliminated. The sales tax base would be broadened to include some services, and the sales tax rate on automobiles would be raised. Utility taxes



Excerpts from *The New York Times* tell the “short story” of Alabama’s 1992 tax reform efforts. Compiled by GEDI, 2018.

would be further streamlined. Insurance premium tax credits would be reduced. The cigarette tax rate would be increased, with additional local cigarette taxes prohibited. Property recording tax rates would be increased. State property taxes would be assessed at 100% of value, with a reduced tax rate; local taxes on business property would be



assessed at 22% of value. There would be a new 1-mill tax on intangible property.

**Key accountability proposals.** Under the Riley plan, none of the new revenue would be earmarked. Public employees would see increased costs for health insurance and longer service times for retirement. There would be tenure reforms for public school employees and financial management reforms for the State Department of Education and local school systems. The added revenue would be invested in educational improvements, including: more days of instruction; reading, math-science, and distance learning initiatives; and college scholarships.

**Successes.** In 2004, the state cigarette tax rate was raised, and further local cigarette taxes were prohibited (AL Act 2004-545). In 2006, financial reforms for the State Department of Education and local public schools were enacted (AL Act 2006-196), a 180-day school instructional year was required (AL Act 2006-251), and increased investments in reading, math-science, and distance learning programs were begun. The individual income tax threshold was also increased in 2006 (AL Act 2006-352). In 2010, the Legislature outlawed hidden budget allocations (AL Act 2010-759). Public employee health insurance and retirement reforms were initiated in 2011 (Alabama Legislative Fiscal Office, 2017, pp. 10-13), along with changes to teacher dismissal procedures (AL Act 2011-270).

## WHAT INSIGHTS CAN WE DERIVE FROM THESE TAX AND BUDGET REFORM EFFORTS?

There is no greater issue for Alabama government than the need to create a fair, adequate, and efficient system of taxing and budgeting. Three comprehensive plans have received serious attention in recent years. None of them succeeded initially, but over time, a number of measures tracking or closely related to their proposals have been adopted. Much has been learned in the process that can promote future efforts at tax reform. Key insights include the following:

- 1 The reforms that have been adopted, even though enacted individually, are no less significant than they would have been if adopted as a package. It is important to recognize that tax and budget improvements have been adopted; this should encourage reform efforts going forward.

- 2 Experience has shown that Alabama voters are unlikely to favor a comprehensive reform package, but that does not mean there should not be a plan. Proposals that focus on a single tax or budget reform issue can lead to comprehensive improvements if each one is aimed at implementing part of a commonly held vision for the tax and budget system. The record clearly shows that, even though the three recent tax and budget reform plans did not initially succeed, they have provided a foundation for successful reform proposals in later years.

- 3 It is important to have the analytical tools necessary to implement sound tax and budget improvements. These include data on tax expenditures and earmarking, as well as a sound budget system: elements included in past tax and budget reform packages. In 2016, the Legislature created a Joint Task Force on Budget Reform to focus on improving state tax and budgeting practices. *The Interim Report* of the Task Force (2017) recommended:

- A tax system based on guiding principles, such as simplicity and fairness;
- A budget system based on state priorities and total funds allocated to each agency;
- A standing committee to review earmarks and make recommendations for their reduction, so that budgets can focus on needs and priorities; and
- a joint committee to review the state's new tax expenditures report annually and make recommendations to end or modify them - at the start of each legislative session.

These proposals should be implemented. Their significance for future tax and budget reform efforts cannot be overstated.

**“Three comprehensive plans have received serious attention in recent years. None of them succeeded initially, but over time, a number of measures tracking or closely related to their proposals have been adopted. Much has been learned in the process that can promote future efforts at tax reform.”**

# G.O.P. Chief's Idea for Raising Alabama:

JUNE 4, 2003

By DAVID M. HALBFINGER

## In Alabama, Taking On Taxes

Gov. Bob Riley is proposing a \$1.3 billion tax increase in a state that Alabama collects the least per person in taxes...

| State        | Per capita state and local taxes, including property, sales and income taxes, for 2000 |
|--------------|--|
| S. Dakota    | \$2,599  |
| Arkansas     | \$2,229  |
| Mississippi  | \$2,214  |
| Tennessee    | \$2,185  |
| Alabama      | \$2,117  |
| U.S. AVERAGE | \$3,100  |

Source: Public Affairs Institute/Council of Alabama

Yet this same Mr. Riley has stunted his state and his party, and risked his political future, by calling for Alabama's largest tax increase ever: \$1.3 billion, or 22 percent of the taxes the state now collects.

What is more, this conservative Republican wants not merely to raise taxes but to redistribute money from the wealthy to Alabama's working poor.

In one fell swoop, it seems, Mr. Riley is trying to overhaul what many here in Montgomery acknowledge is one of the nation's most dysfunctional state governments, and drag Alabama's finances, schools and prisons into the 21st century — if not, some might say, the 20th.

Gov. Bob Riley of Alabama

option. If we ever demand the level of excellence out of education that we do out of football, we'll be fine."

# The New York Times

VOL. CLII... No. 52,598 NEW YORK, SATURDAY, SEPTEMBER 6, 2003



an Excerpt/The New York Times  
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## A Tax Increase? \$1.2 Billion? Alabamians, It Seems, Say No

By JEFFREY GETTLEMAN

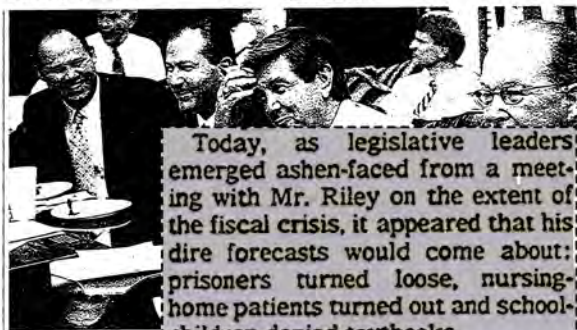
"There's nothing else Alabama can do but raise taxes," Mr. Riley said in an interview. "We're last in all the things that are good, first in all the things that are bad."

Mr. Riley, trying to connect to an important Alabama tradition, yelled out, "If we don't accept mediocrity in a football team, why do we accept it in everything else?"

Despite the fervor of his campaign, though, all polls indicate that most voters are going to say no to Mr. Riley's plan on Tuesday, when the state votes on it in a referendum.

# The New York Times National Report

THURSDAY, SEPTEMBER 11, 2003 A10 SEPTEMBER 11, 2003



Gov. Bob Riley of Alabama, third from

Today, as legislative leaders emerged ashen-faced from a meeting with Mr. Riley on the extent of the fiscal crisis, it appeared that his dire forecasts would come about: prisoners turned loose, nursing-home patients turned out and school-children denied textbooks.

## With Tax Plan Rejected, Alabama Braces for Cuts

By DAVID M. HALBFINGER

as if he had just won an election. "We're going to open that up, we teachers will not be laid off this school year. Nothing else is off the part workers without jobs and forcing many struggling schools to close.

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The New York Times tell the "short story" of Alabama's 2003 tax reform efforts. Compiled by GEDI, 2018.



# VISION AND STRATEGY

# A NEW GAME PLAN FOR ALABAMA

JOE A. SUMNERS, PH.D.



## INTRODUCTION

When it comes to college football, the state of Alabama is the benchmark for success and the envy of the Southeastern Conference (SEC) - and the entire nation. The University of Alabama recently won the 2017 national championship, losing only one game – to cross-state rival Auburn University. For eight of the last nine seasons, either Alabama or Auburn has played in college football’s national championship game. During this period, among the states that host an SEC football team, only two other states had a team make it to the national championship game - Alabama beat LSU in 2011 and Georgia in 2017 (Figure 1). Football victories and championships are expected at Alabama and Auburn, and coaches who do not meet these lofty expectations will soon be looking for employment elsewhere.

“We can gain insights from our successful college football programs about what it takes to succeed: 1) vision and leadership, 2) talent, 3) strategy and teamwork, and 4) investment . . . [W]e need to improve in each of these areas. We need a new game plan.”

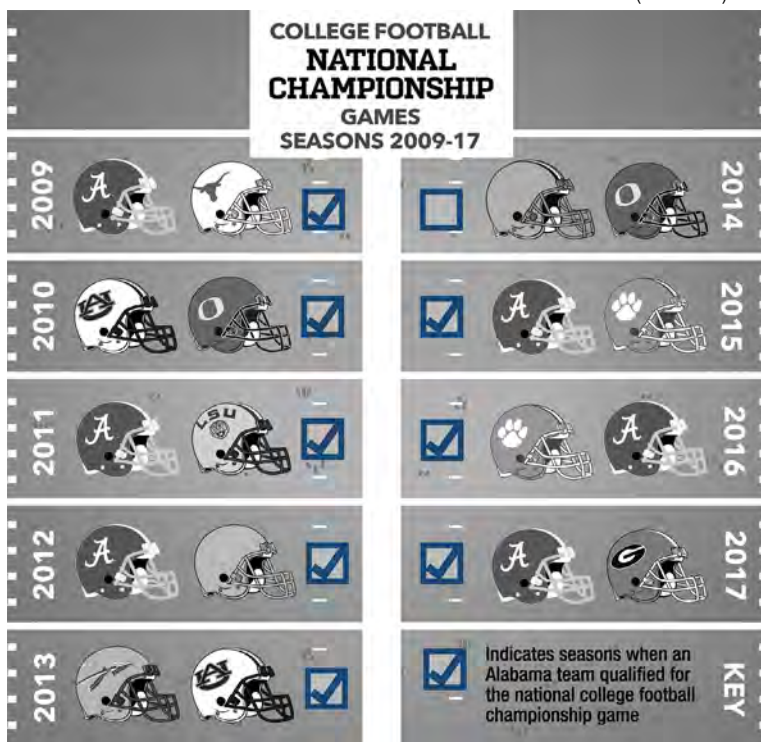
When it comes to other comparative state measures of economic health and quality of life, Alabama rarely approaches such lofty heights. In fact, we tend to place near the bottom of most rankings. As shown in Table 1 (opposite), Alabamians earn only 81% of the national median income, ranking 48<sup>th</sup> among U.S. states. We also rank in the bottom half of southern states in educational attainment (Table 2). Our job growth has been near the bottom of southern states (Table 3). While other southern states have experienced robust population growth in the 21<sup>st</sup> Century, our growth has been relatively stagnant (Table 4).

We live in a U.S. region with states having similar histories and circumstances. So why are we relative laggards in measures of income, educational attainment, and job and population growth? More importantly, what would it take for Alabama to move up in these rankings and become the regional benchmark for success?

We can gain insights from our successful college football programs about what it takes to succeed: 1) vision and leadership, 2) talent, 3) strategy and teamwork, and 4) investment. In order to successfully compete with the states of our SEC rivals, we need to improve in each of these areas. *We need a new game plan.*

We can gain insights from our successful college football programs about what it takes to succeed: 1) vision and leadership, 2) talent, 3) strategy and teamwork, and 4) investment. In order to successfully compete with the states of our SEC rivals, we need to improve in each of these areas. *We need a new game plan.*

FIGURE 1: ALABAMA LEADS IN COLLEGE FOOTBALL.





## SEC STATE STANDINGS

TABLE 1: MEDIAN HOUSEHOLD INCOME  
SEC STATES (2012-16)

|                   | MEDIAN HH INCOME | % OF NATION |
|-------------------|------------------|-------------|
| National Average  | \$ 55,322        | -----       |
| Texas             | 54,727           | 99          |
| Georgia           | 51,037           | 92          |
| Missouri          | 49,593           | 90          |
| Florida           | 48,900           | 88          |
| South Carolina    | 46,898           | 85          |
| SEC State Average | 46,892           | 85          |
| Tennessee         | 46,574           | 84          |
| Louisiana         | 45,652           | 83          |
| Kentucky          | 44,811           | 81          |
| ALABAMA           | 44,758           | 81          |
| Arkansas          | 42,336           | 77          |
| Mississippi       | 40,528           | 73          |

Data Source: U.S. Census Bureau, American Community Survey 5-year Estimates.

TABLE 2: % ADULTS (25+) WITH BACHELOR'S DEGREE OR MORE  
SEC STATES (2012-2016)

|                   | % OF ADULTS AGE 25+ |
|-------------------|---------------------|
| National Average  | 30.3                |
| Georgia           | 29.4                |
| Texas             | 28.1                |
| Florida           | 27.9                |
| Missouri          | 27.6                |
| South Carolina    | 26.5                |
| Tennessee         | 25.4                |
| SEC State Average | 25.2                |
| ALABAMA           | 24.0                |
| Louisiana         | 23.0                |
| Kentucky          | 22.7                |
| Arkansas          | 21.5                |
| Mississippi       | 21.0                |

Data Source: U.S. Census Bureau, American Community Survey 5-year Estimates.

TABLE 3: % JOB GROWTH  
SEC STATES (2012-2016)

|                   | % GROWTH |
|-------------------|----------|
| Florida           | 17.8     |
| Georgia           | 12.2     |
| Texas             | 11.5     |
| South Carolina    | 10.8     |
| Tennessee         | 10.6     |
| United States     | 9.3      |
| SEC State Average | 8.9      |
| Kentucky          | 8.2      |
| Missouri          | 7.5      |
| ALABAMA           | 5.5      |
| Mississippi       | 4.9      |
| Arkansas          | 4.5      |
| Louisiana         | 3.9      |

Data Source: U.S. Census Bureau, County Business Patterns.

TABLE 4: % POPULATION GROWTH  
SEC STATES (2010-2017)

|                   | % GROWTH |
|-------------------|----------|
| Texas             | 12.6     |
| Florida           | 11.6     |
| South Carolina    | 8.6      |
| Georgia           | 7.6      |
| Tennessee         | 5.8      |
| United States     | 5.5      |
| SEC State Average | 5.4      |
| Louisiana         | 3.3      |
| Arkansas          | 3.0      |
| Kentucky          | 2.6      |
| Missouri          | 2.1      |
| ALABAMA           | 2.0      |
| Mississippi       | 0.5      |

Data Source: U.S. Census Bureau.

## VISION AND LEADERSHIP

Nick Saban, Alabama’s head football coach – and one of the best ever – came to the University of Alabama in 2007 with a clear vision of what he wanted for his program – to consistently win national championships. Auburn’s head football coach, Guz Malzahn, has a similar approach. He has very high expectations for his football team and does whatever it takes to put into place the people, structure, and processes needed to reach his expectations. Mediocrity is not an option.

The State of Alabama, sadly, tends not follow the example of its two successful major college football programs. We consistently set our sights too low. In 1989, new Mississippi Governor Ray Mabus observed that his state suffered from the “tyranny of low expectations.” The same could be said about Alabama – then or today. Alabamians who hear about our dismal rankings on comparative measures of economic health and educational performance are rarely surprised. We have become accustomed to mediocrity, or worse; indeed, it is all we have ever known.

For a very long time, our state’s political leaders have failed Alabama citizens. Rather than inspiring us to conquer the barriers that hold the state back, Alabama’s elected officials too often appeal to the worst in us. They capitalize upon our weaknesses – stoking racial and cultural division, catering to special interests, and making excuses for why it is not possible to invest in our people or the infrastructure required for a modern economy. We can do better. Proverbs 29:18 says, “Where there is no vision, the people perish.” We need a bigger vision for Alabama – a vision of the kind of state we desire for ourselves and for our children and grandchildren.

Alabama’s vision should include (Figure 2):

- 1 Ethical leadership from state and local government elected and appointed officials – who are committed to excellence in public service and who subordinate narrow special and personal interests to the needs of the whole;

- 2 A state Constitution that enables, rather than hinders, solutions to state and local challenges;
- 3 A tax structure that provides adequate government revenues, fairly distributes the burden, and ensures that funding is reliable;
- 4 Quality public schools and strong colleges and universities – an educational system that is the envy of other states;
- 5 Quality healthcare and essential public services in every part of the state – urban, suburban, and rural;
- 6 A humane criminal justice system that protects citizens and effectively rehabilitates offenders to a productive return to society;
- 7 Economic vitality and job growth in all areas of the state;
- 8 Vital, empowered city and county governments aggressively dealing with local problems and working collaboratively to ensure a better quality of life for their citizens; and
- 9 Citizens who take pride in their state and communities and are actively involved in their own governance.

FIGURE 2: PROPOSED VISION FOR ALABAMA



**“For a very long time, our state’s political leaders have failed Alabama citizens. Rather than inspiring us to conquer the barriers that hold the state back, Alabama’s elected officials too often appeal to the worst in us ... we can do better.”**

Our shared vision should be to rank at the top of all southern states in measures of educational and economic performance. We should strive to be the best, just as we are in college football. Of course, this will take time and it will not be easy. An interim goal might be to do no worse than the median of our SEC state rivals. Every good coach knows that championships require hard work and sustained commitment.

**“States and communities that fail to produce and attract educated and skilled workers are at a huge disadvantage in the competitive world of economic development, which is increasingly shifting from a emphasis on recruiting industry to recruiting talent.”**

## **TALENT**

Nick Saban is an excellent recruiter. For seven of the past eight years, the University of Alabama’s football recruiting class was ranked #1 in the nation. Each of Gus Malzahn’s recruiting classes at Auburn has ranked among the top ten in the nation. In addition, these coaches are committed to further developing the talent of those recruits once they arrive on campus, empowering them to perform to their full potential. Saban and Malzahn know they cannot win championships without top talent.

The same is true for the State of Alabama. Developing and attracting talent must be a top priority. This requires providing excellent schools and state-of-the-industry workforce training, as well as developing innovative talent recruitment strategies for key employment sectors. In the 21st-Century knowledge economy, outstanding education – pre-K, K-12, and post-secondary – is essential for successful economic development. States and communities that fail to produce and attract educated and skilled workers are at a huge disadvantage in the competitive world of economic development, which is increasingly shifting from an emphasis on recruiting industry to recruiting talent.

Alabama has, however, historically undervalued public education. In 2016, state K-12 spending per pupil was only 78% of the national average (NEA, 2017). That is \$2,581 less per child than an average U.S. school system. While many wealthy suburban school districts are able to provide excellent schools – due to higher property values and a greater willingness to support school taxes – many rural and inner-city schools struggle to survive. These schools tend to have larger class sizes, inadequate curricular materials, and little funding to provide additional learning and professional development opportunities for teachers to improve their skills.

The need to elevate our talent pools is not limited to business and industry. We need to ensure top talent in

all employment sectors, including government, education, and healthcare. And we must work to ensure that all parts of the state have access to this talent and that every individual has fair access to the tools and resources needed for educational advancement. We also need innovative strategies for improving “quality of place” in all parts of the state. Places that successfully attract high-quality talent are characterized by quality healthcare, attractive downtowns and neighborhoods, excellent schools, and good shopping and amenities.

## **STRATEGY AND TEAMWORK**

As good coaches, both Saban and Malzahn know that winning a football game requires a good game plan on offense, defense, and special teams. They also know that executing a game plan requires each team member to perform their assignment well, whether quarterback, safety, linebacker, or offensive lineman. Each one plays a very different, but critical, role on the team, and they all must work together to experience success. One weak link can mean failure for the entire team.

The State of Alabama and its communities also require good strategy and teamwork. One of the most common deficiencies we find in many Alabama communities is “disconnectedness.” There are many excellent people, programs, and projects, but individuals and organizations too often work independently, rather than in concert with one another. At the community level, we need strategic plans and structures that bring together key local stakeholders – from government, education, and business – to identify common concerns, and work collaboratively towards shared goals. At the state level, we have two huge challenges directly related to issues of strategy and teamwork – the 1901 Alabama Constitution and the critical challenges of Rural Alabama.

### **The 1901 Constitution**

The *1901 Alabama Constitution*, our fundamental state law, was created to disenfranchise blacks, limit

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and obstruct government action, and protect narrow special interests. Sadly, it achieved these aims incredibly well. Many states, including all of our southern neighbors, have made major revisions to their constitutions in order to adequately address the many problems and challenges facing them. Not Alabama. So restrictive that it has required 929 amendments, the *1901 Constitution* remains a major obstacle to effective, efficient state and local government. It preserves a flawed tax structure and hinders self-government for the people of Alabama by denying local governments the power they need to deal with local problems. The people of Alabama deserve a government that enables them to meet their basic needs and ensure a better future for their children. The *1901 Constitution* is a major obstacle to these aspirations.

### Rural Alabama

In 2000, Governor Don Siegelman's Commerce Commission, charged with developing an economic development plan for Alabama, stated in its final report:

*Clearly, there are two Alabamas, one urban and one rural. The first is enjoying relative success . . . The second, for the most part, is making little or no progress, and continues to keep Alabama from being recognized as a serious competitor.*

Since that report, things have gotten worse as we have witnessed the ongoing depopulation of rural Alabama. While Alabama counties with populations over 100,000 have grown by 20% since 2000, counties of less than 25,000 saw their populations decrease by 10%. During this period, 21 of the 26

counties with populations below 25,000 lost population, including Lowndes (-25%), Macon (-22%), and Perry (-21%). At the same time, almost every metro county experienced strong growth, including Baldwin (51%), Shelby (49%), and Madison (44%). As rural communities lose population, they are also losing their tax base, workforce, and community leadership.

Compared to metro areas, rural counties have a greater percentage of their population over 65, higher unemployment, lower median family incomes, a lower percentage of high school graduates, and lower average ACT scores. Rural schools and hospitals face an immediate crisis in attracting qualified healthcare providers and teachers. *There are still "two Alabamas", and the gap between the two continues to widen.*

While the problems of rural areas are obvious, practical solutions are not. How can rural communities attract good jobs without an educated workforce? How can they educate a workforce without adequate school funding? How can communities improve schools without the tax base that economic development would provide?

What is Alabama's strategy to address this multifaceted rural crisis? There is no apparent strategy. There are state and federal agencies that provide targeted financial resources for rural communities and occasional Band-Aid® legislative remedies to address discrete rural concerns. However, there is no state agency dedicated exclusively to rural interests and no comprehensive approach to identifying and addressing the critical issues facing rural Alabama, which includes over two-thirds of our counties. We need a game plan for addressing the particular needs of rural Alabama – the weakest link on "Team Alabama".

**"There are still 'two Alabamas', and the gap between the two continues to widen."**

### INVESTMENT

Nick Saban and Gus Malzahn are constantly seeking investments to upgrade personnel – coaches and administrative support. They strive to provide state-of-the-art athletic facilities – practice fields, weight rooms, stadium upgrades, and academic support centers. They understand that, to win championships, they must have the resources and tools to compete at the highest level.

The State of Alabama has a different attitude toward investment. *Alabama ranks dead last among the 50 states in what it asks from taxpayers, with the nation's lightest overall state and local tax burden.* Of course, Alabama has by far the lowest property taxes





**“When we fail to provide revenues to adequately maintain and grow our physical and human infrastructure, public services deteriorate, the economy stagnates, and people and businesses look for opportunity elsewhere. In the 21<sup>st</sup> Century knowledge economy, this is truer than ever.”**

in the nation; the average U.S. state has combined state and local property taxes that are almost three times those in Alabama.

Many would cheer this as a good thing. In fact, one of the arguments advanced by proponents of low taxes is that they serve as an economic development incentive to attract business and industry. This argument may have made sense in the 20<sup>th</sup> Century, but less so today. Alabama now operates in a much different economy, characterized by free trade, corporations seeking inexpensive labor in other countries, and smarter machines replacing humans. A world where high-quality industries are now less interested in low taxes and more interested in a highly educated labor force, modern infrastructure, and public amenities that contribute to a high quality of life. If you do not believe me, you can ask the corporate executives who decide where to locate their businesses. In fact, *Area Development* magazine does just this each year. In its *2016 Executive Survey*, the top three site selection factors were: 1) availability of skilled labor, 2) highway accessibility, and 3) quality of life.

While it is true that businesses do not like to pay taxes, what they like even less are substandard school systems that fail to educate children and provide a skilled workforce, and governments too poor and feeble to provide the vital infrastructure investments needed to build an economy on. There is no escaping the old adage that “you get what you pay for.” When we fail to provide revenues to adequately maintain and grow our physical and human infrastructure, public services deteriorate, the economy stagnates, and people and businesses look for opportunity elsewhere. In the 21<sup>st</sup> Century knowledge economy, this is truer than ever. The Scriptures provide this truth: “Whoever sows sparingly will also reap sparingly, and whoever sows bountifully will also reap bountifully” (2 Corinthians 9:6).

Those who oppose needed investment argue that we are a poor state and cannot afford it. Of course, one may wonder whether our state would be more prosperous if previous state leaders had made greater investments in Alabama’s people and physical infrastructure. If Alabama were to employ the same tax obligation as Mississippi (which is surely a poorer state), we would bring in an additional \$2.6 billion dollars each year (Table 5) – more than our entire FY’18 General Fund budget (\$1.85 billion). *Make no mistake: mediocrity is not our fate; it has been our choice.* In 2018, we will also choose – or not – to make the investments required to become the state we can be.

## OUR CHOICE

Of course, the issues considered here have been studied and talked about by many groups, on many occasions, over many years. I have been a part of many of these statewide discussions, including the Commission of Tax and Fiscal Policy Reform (1990), the Symposium on the Alabama Constitution (1995),

**“Make no mistake: mediocrity is not our fate; it has been our choice.”**

**TABLE 5: STATE AND LOCAL REVENUE PER CAPITA SEC STATES (2015)**

|                         | TAXES PER CAPITA | NATIONAL RANK | IF ALABAMA TAXED LIKE . . . |
|-------------------------|------------------|---------------|-----------------------------|
| ALABAMA                 | \$ 3,144         | 50            | + \$ -----                  |
| Texas                   | 4,126            | 28            | 4.8 billion                 |
| Louisiana               | 3,951            | 33            | 3.9 billion                 |
| Arkansas                | 3,868            | 34            | 3.5 billion                 |
| Kentucky                | 3,782            | 38            | 3.1 billion                 |
| Missouri                | 3,673            | 40            | 2.6 billion                 |
| Mississippi             | 3,649            | 41            | 2.5 billion                 |
| Georgia                 | 3,520            | 43            | 1.8 billion                 |
| Florida                 | 3,453            | 46            | 1.5 billion                 |
| South Carolina          | 3,426            | 48            | 1.4 billion                 |
| Tennessee               | 3,270            | 49            | 612 million                 |
| Other SEC State Average | 3,672            | -----         | 2.6 billion                 |
| National Average        | 4,883            | -----         | 8.4 billion                 |

Data Source: Tax Policy Center, Urban Institute & Brookings Institution.

the Task Force on Economically Distressed Counties (1999), the Black Belt Action Commission (2003), and the Alabama Rural Action Commission (2004). In dealing with these concerns, there has been more talk than strategy, investment, and action. Those who desire a better game plan for Alabama still wait.

The State of Alabama is once again at a crossroad. One road, the road we have been traveling for over a century, is for those who think things are fine just as they are – ranking near the bottom of southern states is not too bad. The other road is for those who believe that Alabama has the potential for so much more. *The question facing us is, will we strive to be champions, or once again be willing to settle for less – content in our state of low expectations?*

If we make the right choice, Alabama's best days are certainly ahead of us. We are a great state with abundant natural resources and good, hard-working people, situated in the heart of the Sun Belt. We have many examples of Alabama's capacity for great accomplishment in areas having nothing to do with football. In a Pulitzer-Prize-winning series, editors for *The Birmingham News* wrote,

We are a people who carved a world healing center out of a mountain of iron; who turned cotton fields into moon ship factories; who, even in the shackles of poverty and the disunity of prejudice, relentlessly crawled forward. And we have done all that though our state has not been on our side. (Casey, Jackson, & Kennedy, 1990)

In particular instances, government and business leaders have worked together to recruit some of the nation's most coveted economic development prizes, including the Marshall Space Flight Center, Mercedes-Benz, Hudson Alpha Institute for Biotechnology, Honda, Google, Hyundai, Boeing, and Airbus. In 2018, a joint venture of Toyota and Mazda announced the location of a new automobile manufacturing plant in Huntsville. The Alabama Department of Commerce regularly wins the Golden Shovel Award, given by *Area Development* magazine for excellence in state job creation and economic development. Alabama's economic development professionals do an outstanding job of marketing Alabama's assets, with fewer tools and resources than other southern states. If we would only do as well in investing in the quality of our product – sites, schools,



**“The State of Alabama is once again at a crossroad ... [t]he question facing us is, will we strive to be champions, or once again be willing to settle for less - content in our state of low expectations?”**

workforce, healthcare, transportation, broadband - then we might be able to take these particular wins to scale, expanding economic success to areas throughout the state.

In 2018, gubernatorial and legislative elections will bring new leadership to Alabama. The elected governor and state legislature are presented with a historic opportunity to put the state on the path to become a southern benchmark for effective government, economic prosperity, and quality of life. If our political leaders will embrace a greater vision for Alabama and commit to the highest standards of excellence and public service, then Alabama has the chance to be the best in more than just college football.

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## AFTERWORD

Joe A. Sumners, Ph.D.  
Executive Director, GEDI

We hope you enjoyed reading *Alabama Issues 2018*. Since becoming Executive Director of GEDI in 2015, one of my primary goals was to revive the quadrennial publication of *Alabama Issues*, last published by the Auburn University Center for Governmental Services in 2002. My hope is that this publication will generate discussion about the important issues and challenges that face us and that we find new ways to work together to address them.

I would like to thank our authors for their commitment to Alabama and for their thoughtful articles about the important issues facing this great state. I want to especially thank our editor, Amelia Stehouwer. She has invested several months of her life into this project and has a deep commitment to improving the lives of the people in her home state. She inspires me with her passion and tenacity. She had the help of a brilliant student assistant, McLayne Barringer, who will be attending law school at Northwestern University and has a very bright future.

We give the final words of this publication to my friend Ron Casey, the Pulitzer Prize winning journalist and editorial page editor for *The Birmingham News*, who passed away in 2000.



**“THE STATE OF ALABAMA  
ISN’T SOME FAR-OFF,  
UNCONTROLLABLE THING.  
IT’S US. IT CAN BE WHAT  
WE WANT IT TO BE.”**

**- RON CASEY, 1990**



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