

## Background

In late 2017, the Public Affairs Research Council of Alabama (PARCA) surveyed Alabama voters to determine their thoughts about the general direction of the state and the issues that most concern them. PARCA partnered with Samford University to survey policy professionals from across the state, including academics, journalists, business and nonprofit leaders, and lobbyists. Their responses provided a list of 17 critical issues facing Alabama. PARCA partnered with USA Polling at the University of South Alabama to ask registered voters about these 17 issues. The voters' responses generated the Top Ten list of voter priorities. Details about the survey and its methodology can be found in the full [Alabama Priorities](#) report.

## Key Findings

*Voters broadly agree* on the critical issues facing the state.

*Voters are not polarized* along traditional political, ideological, racial or generational lines. There is a significant gap between the priorities of experts and the priorities of voters.

Policymakers have an opportunity to *inform and educate voters* on critical and systemic challenges facing the state.

Policymakers have an *opportunity to respond* to immediate, often highly personal issues that concern voters.

Elected officials and candidates have *an opportunity to show leadership* and to *build broad coalitions* to address Alabama's most pressing challenges.

Over the summer and fall, PARCA has produced summary briefs on each of the top ten priorities chosen by Alabama voters, counting down from #10. Each brief answers four critical questions: what is the issue, why does it matter, how Alabama compares, and what options are available to Alabama policymakers.

### ALABAMA PRIORITIES

1. K - 12 Education
2. Healthcare
3. Government Corruption and Ethics
4. Mental Health and Substance Abuse
5. Poverty and Homelessness
6. Jobs and the Economy
7. Crime and Public Safety
8. Job Training and Workforce Development
9. Improving the State's Image
10. Tax Reform

## #3: Government Corruption & Ethics

### What is the Issue?

Government corruption and ethics is the 3<sup>rd</sup> most important issue for Alabama voters. Nearly two-thirds of respondents, 65%, indicated that they were very concerned about the issue. On a scale of 1 – 5 where 1 is “not at all concerned” and 5 is “very concerned,” respondents on average rated corruption and ethics 4.24.

By comparison, only 47% of voters indicated they were very concerned about the issue of tax reform and only 56% were concerned with jobs and the economy. Majorities of nearly every demographic or political group are concerned, but there are some differences among partisan identifiers: a majority of Republicans are very concerned, while two-thirds of independents and over 80% of Democrats are very concerned.

For Republicans, Government Corruption and Ethics ranks 7<sup>th</sup> in the top ten issues; for both independent and Democrats, it ranks as 3<sup>rd</sup>. Conservatives rank it 5<sup>th</sup>; moderates, 2<sup>nd</sup>; liberal, boomers, and the Greatest/Silent generation, 3<sup>rd</sup>. For Gen Xers and for millennials, government corruption and ethics ranks 4<sup>th</sup>, behind K-12 education, healthcare, and mental health or poverty and homelessness, respectively.

The issue of corruption has drawn a great deal of attention in Alabama’s media for decades as the result of several high-profile scandals involving state officials. Alabama’s most eminent historian, Wayne Flynt, recently noted that three of the last six elected governors have been removed from office due to some form of corruption.<sup>1</sup> The previous Speaker of the House, several legislators, and community college administrators have been convicted on corruption charges, as have some local officials, such as those involved in the scandal surrounding the Jefferson County sewer system.

The key feature of corruption is the diversion or use of public resources for private use, whether to an official or to the official’s supporters, businesses, friends, family, or others. Self-dealing is a common feature, with bribery and corruption usually spoken in the same breath, while graft is also used to describe various kinds of illegal side payments. While bribery, a *quid quo pro* arrangement with a public official for an official act, is almost universally illegal, there are loopholes and legal blind spots that allow some behaviors to avoid legal sanctions.

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<sup>1</sup> 2018 Brewer Tolbert Award acceptance speech to the Alabama Appleseed Center for Law & Justice, September 20, 2018.

### Why Does Corruption Matter?

Empirical studies<sup>2</sup> have correlated public corruption with numerous negative outcomes, including:

<ul style="list-style-type: none"> <li>• bureaucratic inefficiency</li> <li>• low business investment</li> <li>• poor health outcomes</li> <li>• weakened civil and political rights</li> </ul>	<ul style="list-style-type: none"> <li>• slower economic growth</li> <li>• higher income inequality and poverty</li> <li>• loss of political legitimacy</li> </ul>	<ul style="list-style-type: none"> <li>• expansion of black markets or shadow economies</li> <li>• “brain drain”</li> <li>• fiscal deficits</li> <li>• weakened education system</li> </ul>
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The economic effects could perhaps be seen in Alabama’s slower than average economic recovery after the Great Recession, which also meant that Alabama’s education revenues were among the slowest to recover as well, creating a vicious cycle of poor performance.<sup>3</sup> These factors may chase off educated people and deter highly-skilled people from considering moves to Alabama.

Corruption diminishes opportunities for economic and social advancement, causing highly skilled people to leave, resulting in a brain drain and diminishing the economic vitality of the state

Voter concern about government corruption in Alabama is cause for concern for policymakers. People outside Alabama can be deterred from investing in Alabama, and highly-skilled people in Alabama may emigrate to other states, as many of the state’s college-educated residents tend to do.<sup>4</sup> Fortunately, there is also a great wealth of research on how to minimize corruption. Most of those methods involve removing the opportunity to engage in corrupt behavior. Of course, resistance to reform is typically most intense by those who benefit from lax controls and private gains from the status quo.

### How Does Alabama Compare?

Some practices, typically prohibited in other states, have long skirted ethical boundaries in Alabama. Activities such as dual office holding, nepotism in employment, revolving doors between legislators and lobbyists, as well as legal but questionable practices, such as allowing sheriffs to pocket monies intended to feed inmates have drawn scrutiny. Until the passage of the 2010 ethics law, fees paid to legislators for referring people to lobbyists were not considered illegal. Instances

<sup>2</sup> Eugen Dimant and Guglielmo Tosato “Causes and Effects of Corruption: What has Past Decade’s Empirical Research Taught us? A Survey,” *Journal of Economic Surveys*, January 2017, p. 13.

<sup>3</sup> Crain, Trisha Powell, “Alabama K-12 education spending third worst catching up to recession cuts,” *AL.com*, Posted Dec 4, 2017 [https://www.al.com/news/index.ssf/2017/12/alabama\\_k-12\\_education\\_spending.html](https://www.al.com/news/index.ssf/2017/12/alabama_k-12_education_spending.html)

<sup>4</sup> Quoc Trung Bui, “The States That College Graduates Are Most Likely to Leave,” *The New York Times*, Nov. 22, 2016, <https://www.nytimes.com/2016/11/22/upshot/the-states-that-college-graduates-are-most-likely-to-leave.html>

such as these have been highlighted in Pulitzer Prize-winning news reports and commentaries by reporters for Alabama newspapers and frequently provided leading stories for Alabama radio and television stations.<sup>5</sup>

Alabama has also received attention from organizations that are specifically focused on government corruption. The Center for Public Integrity has produced two 50-state studies, under the banner of *State Integrity Investigation*: one in 2012 looking at 14 specific categories of state government and a slightly modified follow-up in 2015 looking at efforts to fight corruption.<sup>6</sup> Alabama earned a C- minus in 2012 and a D+ in 2015.

Although Alabama's grade declined from a C+ to a D- between the two studies, the ranking of Alabama actually improved as [so many other states also declined in their rankings](#). In the 2015 study, Alabama scored well in executive accountability and internal auditing but had problems with public access to information and political financing. Other areas of concern included judicial accountability, state civil service management, procurement, and lobbying disclosures.

Institute for Corruption Studies (ICS), an independent research institute within the Department of Economics at the Illinois State University, produces a Corruption Convictions Index which tracks the number of public corruption convictions per 100,000 state employees. In 2015, Alabama had 4.12 convictions per 100,000 state employees,<sup>7</sup> 11<sup>th</sup> highest among the 50 states. However, in 2006 it was 11.02 per 100,000, the 3<sup>rd</sup> highest total; and in 2007 11.13 per 100,000 the 2<sup>nd</sup> highest. Those high rankings came in the wake of convictions concerning the Jefferson County sewer system and the two-year college system. Again, this is a lagging indicator of corruption as cases may take years to build and the number of defendants may be quite large for some instances of corruption involving multiple people colluding.

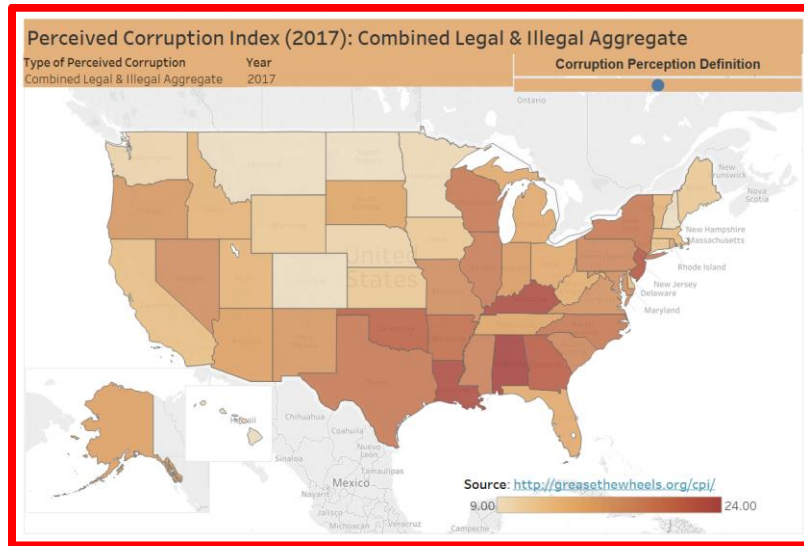
In 2018, ICS ranked Alabama as the having the most perceived corruption in the United States based on data from its fourth *Corruption in America Survey* done in 2017. The map below combines the aggregate scores for both types of corruption in all three branches. Alabama's combined aggregate score was the highest in the United States.

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<sup>5</sup> Brett Blackledge of The Birmingham (AL) News, <http://www.pulitzer.org/winners/brett-blackledge>; John Archibald of Alabama Media Group, Birmingham, Ala., <http://www.pulitzer.org/winners/john-archibald-alabama-media-group>

<sup>6</sup> For additional discussion of the methodology and rankings, see State Integrity Investigation 2012 at <https://www.publicintegrity.org/accountability/state-integrity-investigation/state-integrity-2012>; and State Integrity Investigation 2015 at <https://www.publicintegrity.org/accountability/state-integrity-investigation/state-integrity-2015>

<sup>7</sup> "Corruption Convictions Index," Institute for Corruption Studies, <http://greasethewheels.org/ccli/>



### What Can We Do?

The historical absence of strong structures to monitor and prevent corruption have resulted in attempts to shore up the legal foundations for prosecuting corruption with legislation, such as the ethics law passed in 2010. In 2011, the legislature also provided a guaranteed budget to the Ethics Commission. The 2010 law, together with subsequent reforms, also made it illegal for public officials and employees to accept most gifts valued at \$25 or more. Subsequent to passage, the commission began a training program to ensure that officials and employees knew details of the ethics laws.

### Spend Money Where it Matters

Electing “better people” has almost no empirical foundation. Watching people who are elected more closely has a great deal of empirical support, especially when transparency about their activities is accompanied by vigorous enforcement and sanctioning capabilities.

Eliminating opportunities for corruption by eliminating the conditions for self-dealing has been effective in stopping corruption as well.<sup>8</sup>

To stop corruption, there have to be independent eyes and ears in the field, with the capacity to

**“Corruption is neither greed-based nor need-based. It is merely opportunity-based. And where there’s an opportunity for corruption to exist, corruption will exist. And that is my quote.” - Bob Cerasoli, First Inspector General of New Orleans**

<sup>8</sup> It is worth noting that one governor’s conviction for corruption involved a board that issues certificates of need to hospitals, a practice that does not exist in 12 states, including large states like Texas and California. See “CON-Certificate of Need State Laws,” National Conference of State Legislatures. <http://www.ncsl.org/research/health/con-certificate-of-need-state-laws.aspx>

review records and investigate reports of wrongdoing. Local news reporting has been shown to reduce the costs of local government as a result of their presence.<sup>9</sup> Auditors and inspectors general almost always produce a high return on investment.<sup>10</sup>

One of the key functions of the Alabama Ethics Commission is to educate public officials on the ethics law. Ironically, at least one of the same legislators who passed ethics reform has been convicted of violating the new law.

Would training have helped? What evidence is there that ethics training reduces the incidence of corruption? These are questions that need to be answered. Some experts are not convinced.

*“Certainly there is a place for ethics training, but it will not do the work of a reasonable set of internal controls, and everything is off the table without good leadership.”<sup>11</sup>*

While it is difficult to mandate good leadership, spending more money on monitoring and enforcement would probably do more to change behavior than explaining rules to officials about things that they should not be doing in the first place.

### Transparency and Open Data

One of the most efficient ways to deal with corruption is to require transparency and open data to the public. This is increasingly less costly than it has been in the past as technologies have improved and prices have dropped. Nevertheless, the way that information is packaged can make it difficult for anyone outside agency staff to access information. One obstacle to searching ethics disclosures in Alabama is that there is no way to browse the records. One must know the name of

**“Experienced auditors in both government and the private sector will tell you that the real ethics damage in an organization is done, as it was in Kansas City and at GSA, not by frontline workers but by high-level officials. Ambitious people in positions of power and privilege who are determined to exploit their positions are not going to be dissuaded by an ethics-training program. Regular auditing and reporting, along with effective transparency, are reasonable deterrents, but in the end the risk of abuse is always present.” Mark Funkerhouser, Governing, 2011.**

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<sup>9</sup> Gao, Pengjie and Lee, Chang and Murphy, Dermot, Financing Dies in Darkness? The Impact of Newspaper Closures on Public Finance (August 10, 2018). Available at SSRN: <https://ssrn.com/abstract=3175555> or <http://dx.doi.org/10.2139/ssrn.3175555>

<sup>10</sup> John Hudak and Grace Wallack. “Sometimes cutting budgets raise deficits: The curious case of inspectors’ general return on investment.” Center for Effective Public Management at Brookings, April 2015. <https://www.brookings.edu/wp-content/uploads/2016/06/CEPMHudakWallackOIG.pdf>

<sup>11</sup> Mark Funkerhouser, “Why Ethics Training is a Waste.” August 9, 2012. <http://www.governing.com/gov-institute/on-leadership/col-corruption-waste-abuse-ethics-training.html>

a specific individual to find any document. One tried and true way to obscure access to information is to require requestors to know highly specific information to make the request.

Information systems that lock up data behind queries give the impression of releasing information but are actually obstacles to access to information. The ability to download entire databases of public records is the best practice in this regard. The Sunlight Foundation, a national, nonpartisan, nonprofit organization that advocates for open government, has published guidance on how to provide open access to government data, for better public engagement and access at <https://opendatapolicyhub.sunlightfoundation.com/>. Policies developed with the Civic Commons provide additional guidance on good policies: [http://wiki.civiccommons.org/Open\\_Data\\_Policy/](http://wiki.civiccommons.org/Open_Data_Policy/).

### **A Systemic Response**

Just as many symptoms can emerge from a single problem, often the right answer is not one thing, but many things. Unfortunately, when corruption is perceived as isolated and unique, the response is also isolated and unique. This is displayed during every legislative session as local acts are passed to address matters that are truly statewide in scope.

For example, the response to Jefferson County's sewer system debacle was addressed with a narrowly focused legal remedy specifically for Jefferson County, leaving the rest of the state unprotected from an identical scenario. The Jefferson County bankruptcy was an unnecessary opportunity for corruption on a grand scale – and one whose lessons have not been fully learned.