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# **CONSTITUTIONAL REFORM IN ALABAMA: A NECESSARY STEP TOWARDS ACHIEVING A FAIR AND EFFICIENT TAX STRUCTURE**

*A Working Paper Prepared to Assist the Committee on Taxation and Debt  
of the Alabama Citizens Commission For Constitution Reform*

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## **Introduction**

It has been well documented that Alabama's state tax structure is the worst in the nation. Alabama's income and sales taxes impose unfairly heavy burdens on the poorest Alabamians, while the income and property tax structures allow Alabamians earning significant levels of income and owning substantial valuable property to escape with the lightest tax burden, leaving the state and the local areas with inadequate revenues that do not meet the minimum needs of Alabama's citizens.<sup>1</sup> It has also been well documented that Alabama's 1901 Constitution locks in the present inequities and procedurally prevents the state and especially the local areas from enacting needed tax legislation in an efficient manner.<sup>2</sup> This working paper offers assistance to the Committee on Taxation and Debt of the Alabama's

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<sup>1</sup> See generally The PARCA Report, A Publication of the Public Affairs Research Council of Alabama, number 42, Spring 2001 <<http://parca.samford.edu/How%20Alabama's%20Taxes%20Compare%20-%2097.html>> [hereinafter PARCA Report]; Susan Pace Hamill, *An Argument For Tax Reform Based on Judeo-Christian Ethics* (forthcoming Fall 2002 edition of the *Alabama Law Review*) [hereinafter Hamill].

<sup>2</sup> See generally James W. Williams, *Alabama's Revenue Crisis: Three Tax Problems*, in A CENTURY OF CONTROVERSY 101-13 (Bailey Thomson, 2002) [hereinafter Williams] and Wayne Flynt, *A Tragic Century: The Aftermath of the 1901 Constitution*, in A CENTURY OF CONTROVERSY 36-42 (Bailey Thomson, 2002) [hereinafter Flynt]; MALCOLM COOK MCMILLAN, CONSTITUTIONAL DEVELOPMENT IN ALABAMA, 1798-1901: A STUDY IN POLITICS, THE NEGRO, AND SECTIONALISM 329-32 (1978) [hereinafter MCMILLAN]; WILLIAM WARREN ROGERS ET AL., ALABAMA: THE HISTORY OF A DEEP SOUTH STATE 343-54 (1994) [hereinafter ALABAMA HISTORY]; Laura D. Chaney, *Alabama's Constitution-A Royal Pain in the Tax: The State's Constitutionally Defective Tax System*, 32 *Cumberland Law Review* 233 (2001).

Citizens Commission For Constitutional Reform, as they examine Alabama's 1901 Constitution, and discusses the need for a reformed constitution in order to foster the creation of a fair tax structure for all Alabamians and to allow the state and the local areas the flexibility they need to efficiently enact tax legislation to meet the future needs of Alabama's citizens.

This working paper first outlines the provisions of Alabama's 1901 Constitution that address the income tax structure and walks through the general constitutional amendment process which must be followed in order to change these provisions. This working paper then identifies the numerous provisions of the 1901 Constitution that address Alabama's property tax structure. The constitution caps the property tax rate at the state level, dictates the process for determining the portion of the property's value subject to the property tax rates and significantly limits the ability of local areas to raise property taxes to meet local needs. This working paper strongly argues that constitution reform is absolutely essential for Alabama to achieve a fair tax structure that allows the state and the local areas to appropriately and efficiently enact needed tax legislation. Without a fair tax structure that efficiently provides adequate revenues to meet the minimum needs of all Alabamians, especially the poorest Alabamians, Alabama is doomed to remain at or near the bottom of all measurements of quality of life and well being.

This working paper makes two broad recommendations to the Committee on Taxation and Debt concerning how a reformed constitution should ideally address the important issue of state and local taxes. Using the 16<sup>th</sup> Amendment to the United States Constitution as a model, this working paper recommends that the reformed constitution delegate the taxing power to the appropriate legislative body and not contain any details or limitations addressing the substantive tax provisions. The reformed constitution should delegate the legal power to enact the substantive tax provisions that affect all Alabamians to the State Legislature. The reformed constitution should also delegate to the appropriate local governing bodies the power over local property tax rates on property located within those borders. This working paper also briefly discusses the administrative process as a tool to ensure that citizens have an opportunity to be heard when tax changes are proposed at the state or local levels and identifies important tax standards that should be uniform at the state and local levels. Finally this working paper concludes by noting that the provisions of the 1901 Constitution that lock in the substantive inequities of both the income and property tax structures and procedurally cripple the local areas from enacting adequate property taxes cannot withstand moral scrutiny.

## I. The 1901 Constitution and the Income Tax Structure

The constitutional convention that resulted in the 1901 Constitution did not provide for the levy of income taxes. During the early 1930s, after Alabama's leaders rejected the Brookings Institution's recommendation to increase property taxes, a serious fiscal crisis erupted which resulted in Alabama's first income tax in 1933.<sup>3</sup> Amendment 25 of the 1901 Constitution, which created Article XXII, levies income taxes on all individuals and corporations and caps the individual income tax rate at five percent and sets forth minimum exemptions for individual taxpayers.<sup>4</sup> These exemptions, which have never been increased, are woefully inadequate and result in the poorest Alabamians paying income taxes deep below the poverty line, starting at as little as \$4,600 a year.<sup>5</sup> Amendment 225, which was added in 1965, requires that individual taxpayers be allowed a deduction for federal income taxes paid for Alabama state income tax purposes.<sup>6</sup> This deduction, which is not allowed by most states, greatly benefits Alabamians at the highest income levels by proportionately reducing their Alabama state income tax as their ability to pay rises.<sup>7</sup> Revenues collected from Alabama's state income tax are well

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<sup>3</sup>See Flynt, *supra* note 2 at 37, 39; ALABAMA HISTORY, *supra* note 2 at 497-499. The Brookings Institution conducted a study of Alabama's state government and concluded that the 1901 Constitution "warped and distorted" the state's ability to raise revenue, creating a "gravely defective" budget with "ridiculously" low property taxes. Despite the recommendation of the Brookings Institution that the property tax structure be reformed to produce more revenue, Governor Miller refused to challenge the Black Belt planters and the Farm Bureau, and instead proposed a gas tax and state income tax. The voters, angered by the gas tax, rejected both proposals. The lack of revenue caused the state government to almost collapse, denying some teachers their salaries and closing the state's entire school system in December of 1932. Prompted by this crisis, the Governor convinced the Legislature and the voting citizens to pass a constitutional amendment authorizing Alabama's first income tax by assuring them that the wealthiest Alabamians would bear the burden of the income tax. Primarily due to the lobbying efforts of educators, a large portion of the revenues from the income tax were earmarked for education. *Id.*

<sup>4</sup>ALA. CONST., of 1901, amend. 25 (1932). The exemptions allowed must be at least \$1,500 for single taxpayers, \$3,000 for married and head of household taxpayers and \$300 for each dependent under the age of 18. *Id.* Amendment 25 also caps the corporate income tax rate at 3%, which was raised to 5% by Amendment 212 and to 6½% by Amendment 662.

<sup>5</sup>See Hamill, *supra* note 1 at 12; Williams, *supra* note 2 at 108-09.

<sup>6</sup>ALA. CONST., of 1901, amend. 225 (1965).

<sup>7</sup>See Hamill, *supra* note 1 at 16 n.39. See also Arise Citizens Policy Project, A Plan for Progressive Tax Reform in Alabama 4 (2000) [hereinafter Arise Project] (noting that the "wealthiest 1% of Alabamians receive 32% of the benefits from [the deduction for federal income taxes paid], for an average 1999 tax break of over \$7,200. The very poorest Alabamians—the twenty percent of taxpayers with income less than \$12,000 in 1999—receive an average tax break of \$3 from the deduction for federal income taxes.").

below the national average per person and are largely earmarked to cover specific expenditures designated for public education.<sup>8</sup>

In order to make the income tax structure more fair by removing the burden from the poorest citizens, or to eliminate the earmarking of income tax revenues, the State Legislature must secure a constitutional amendment.<sup>9</sup> In order to amend the 1901 Constitution, Article XVIII sections 284 and 285 state that the State Legislature must introduce a bill or resolution detailing the proposed amendment, the bill must pass both the House and the Senate by a three-fifths vote of all of those elected, and finally the bill as a proposed constitutional amendment must be ratified by the majority of voters participating in a state wide election.<sup>10</sup>

## **II. The 1901 Constitution and the Property Tax Structure**

The constitutional convention creating the 1901 Constitution, provided for the levy of property taxes, but also imposed significant limitations at both the state and local levels. Article XI, section 214 of the 1901 Constitution limits the property tax rate at the state level to 6.5 mills, which translates to just over one-half of one percent, while section 260 of Article XIV earmarks 3 of the 6.5 mills for support and maintenance of public schools. In order to increase the property tax millage

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<sup>8</sup>Hamill, *supra* note 1 at 10 n.17 (Alabama ranks near the bottom in per capita revenues from income taxes); Williams, *supra* note 2 at 106 (noting that 87% of the state's tax dollars are earmarked for specific purposes, with almost all of the income tax revenue being earmarked to pay teachers' salaries); PARCA Report, *supra* note 1 at 1 (noting that seven of every eight tax dollars in Alabama are earmarked, while most states earmark less than 30%).

<sup>9</sup>Because the language of Amendment 25 provides that the state income tax rate "shall not exceed 5 percent," the Legislature must secure a constitutional amendment to raise the rate. Similarly, because Amendment 225 requires the federal taxes paid deduction, a constitutional amendment is necessary to eliminate that deduction. However, because the exemptions are stated as a minimum, the language strongly indicates that the Legislature can raise the exemption amounts without a constitutional amendment. However the exemption amounts have never been raised and the standard deduction (which is not a constitutional provision) has not been raised since 1982. See Arise Project, *supra* note 7 at 1. However, if the Legislature raised the exemption amounts income tax revenues would substantially decrease unless the raising of the exemptions were also accompanied by other changes to the income tax structure, such as raising the 5% rate or eliminating the federal taxes paid deduction, which clearly require a constitutional amendment. Because Alabama cannot afford to lose revenues, in that revenues are the lowest per capita in the nation and the state faces constant budget crises, income tax reform designed to mitigate the burden on the poor cannot occur without a constitutional amendment.

<sup>10</sup>ALA. CONST., of 1901, art. XVIII, §§ 284 and 285. In addition to these basic procedures, the constitutional amendment process imposes other cumbersome procedures. For example, the bill must be read on three separate days in both the House and the Senate, before gaining the three-fifths majority vote of the elected members and notice of the state wide election and proposed constitutional amendment must be published in every county for four weeks prior to the election. The Governor's approval is not required if a majority of the voters vote for the proposal. See also ROBERT MCCURLEY AND KEITH NORMAN, ALABAMA LEGISLATION 219-20 (4th ed. 1997) [hereinafter MCCURLEY & NORMAN] (outlining and discussing each step of the constitutional amendment process).

rate at the state level or eliminate the earmarking of state property taxes, the Legislature must secure a constitutional amendment.<sup>11</sup>

The 1901 Constitution also imposes significant limitations on local property tax millage rates. Article XI, section 215 limits the property tax rate at the county level to 7.5 mills and section 216 limits the property tax rate at the municipal level at 5 mills, but also provides for a range of limitations between 3 and 15 mills and other details concerning the spending of the property tax revenues for specifically named municipalities.<sup>12</sup> In addition to the property tax millage limitations on counties and municipalities generally, the constitution also limits the property tax millage rates that can be imposed by any local area to support public schools. The combined effects of Article XIV, section 269 and Amendments 3, 202 and 382 limit the property tax rate that can be imposed to support public schools to 15 mills, which translates to one and one-half percent.<sup>13</sup> Because these limits concerning property tax rates are already authorized in the constitution, the procedures for local areas actually levying property tax rates up to these limits are presumably locally based.<sup>14</sup>

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<sup>11</sup>ALA. CONST., of 1901, art. XI, § 214; ALA. CONST., of 1901, art. XIV, § 260. *See supra* note 10 and accompanying text (detailing the constitutional amendment process under Article XVIII, sections 284 and 285).

<sup>12</sup>ALA. CONST., of 1901, art. XI, §§ 215 and 216. Although the property tax rate limitation for municipalities imposed by section 216 is generally 5 mills, the following municipalities are individually identified and given specific millage limitations (identified in parenthesis) and specific directives, which do not apply to municipalities not individually identified, for spending the property tax revenues. Individually named municipalities are: Mobile (15 mills); Birmingham, Huntsville, Bessemer, and Andalusia (10 mills); Montgomery (12.5 mills); Troy, Attalla, Gadsden, Woodlawn, Brewton, Pratt City, Ensley, Wylam, and Avondale (5 mills); and Decatur, New Decatur, and Cullman (3 mills).

<sup>13</sup>ALA. CONST., of 1901, art. XIV, § 269 (providing that the counties may levy an additional property tax at a rate not to exceed 1 mill to be utilized for school purposes); ALA. CONST., of 1901, amend. 3 (creating Article XIX) (providing that the counties may levy an additional property tax at a rate not to exceed 3 mills to be utilized for public school purposes, and also that the school districts in any county may levy an additional property tax at a rate not to exceed 3 mills to be utilized for public school purposes); ALA. CONST., of 1901, amend. 202 (providing that the governing bodies of the counties may levy an additional property tax at a rate not to exceed 3 mills to be utilized for educational purposes); ALA. CONST., of 1901, amend. 382 (providing that the school districts may levy an additional property tax at a rate not to exceed 3 mills to be utilized for public school purposes). The combined effects of these amendments, which increased the property tax millage rates allowable to support schools totals 15 mills at the respective governing levels. These millage rates are allowed in addition to all property taxes authorized by other provisions of the Alabama Constitution of 1901. *See also* Williams, *supra* note 2 at 105 (stating that the original 1901 Constitution allowed property tax of 1 mill, with three amendments authorizing another 14 mills); Ira W. Harvey, *Alabama 5* [hereinafter Harvey] (stating that the 1901 Constitution as amended allows “as a mix of county wide and school taxes up to 15 mills” for supporting public schools).

<sup>14</sup>See Harvey, *supra* note 13 at 5 (noting in his discussion of funding for education that local areas with property tax millage rates that are currently at the constitutionally imposed limit must propose an amendment to the constitution in order to levy property taxes at higher rate, thus implying that local areas are permitted to raise taxes up to the limits imposed by the constitution without going through the constitutional amendment process).

In addition to capping the property tax millage rates that the state, county, municipalities and school districts can levy, the 1901 Constitution contains other provisions which prevent the state and the local areas from raising adequate property tax revenues. In 1978, Amendment 373, commonly known as the “Lid Bill,” amended section 217 of Article XI. The “Lid Bill” dictates the details concerning the portion of the property’s value that can be subject to the millage rates, creates a different, but still very cumbersome, constitutional amendment procedure for raising property tax millage rates above the constitutionally prescribed limits, and imposes significant limitations on the dollar amount of property tax revenues that can be collected.<sup>15</sup>

The “Lid Bill” divides property into four classes with each class having a different percentage of the property’s assessed value subject to the millage rates.<sup>16</sup> Class I, which assesses its property at thirty percent of fair market value, the highest assessment ratio of the four classes, consists of all utility property, for example property owned by Alabama Power. Class II, which assesses its property at twenty percent of fair market value, consists of all real and personal property that does not fit in any of the other three classes and includes most commercial and industrial property, for example ordinary businesses such as restaurants and malls, as well as factories. Class IV, which assesses its property at fifteen percent of fair market value, contains all passenger automobiles and motor trucks owned and operated by an individual for personal or private use. Class III, which assesses its property at ten percent of fair market value, the lowest assessment ratio of the four classes, covers timber acres, other agricultural property, single-family owner-occupied residential property, as well as historic buildings and sites.<sup>17</sup> This structure, which can only be changed if the Legislature secures a constitutional

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<sup>15</sup>ALA. CONST., of 1901, amend. 373 (1978).

<sup>16</sup>ALA. CONST., of 1901, amend. 373(a) and (b) (1978). The “Lid Bill” was not the first amendment to the constitution that applied different assessment ratio’s to different classes of property. Although section 211 of Article XI (the original constitutional provision in 1901) provided that all property shall be assessed in the same proportion, Amendment 325 of Article XI, the apparent predecessor to the “Lid Bill”, provided for three classifications of property, with definitions that slightly differ from the “Lid Bill” and slightly higher assessment ratios.

<sup>17</sup> *Id.* In addition to the low 10% assessment ratio for Class III property the “Lid Bill” requires the Legislature to provide an alternate valuation structure for timber acres and agricultural based on its “current use.” ALA. CONST., of 1901, amend. 373(j) (1978). The “current use” technique values the property significantly less than the standard valuation procedure, which seeks to define what a willing buyer would pay in an arms length transaction. *See* Hamill, *supra* note 1 at 23 nn.76 & 78 (providing a detailed description of the “current use” valuation process for both timberland and agricultural land); Hamill, *supra* note 1 at 28 n.90 (discussing how “current use” valuation almost always requires a substantially smaller portion of the property’s value to be subject to the millage rate which explains why owners of timber and agricultural property will almost always elect “current use” valuation).

amendment,<sup>18</sup> results in very little of the property's true fair market value being subject to taxation. Moreover, even within the classes of property, great disparities exist in the proportion of property taxes borne, with timber acres, which cover approximately seventy-one percent of Alabama's land mass and constitute a source of substantial profits, paying less than two percent of Alabama's property taxes, averaging less than \$1 an acre.<sup>19</sup>

The "Lid Bill", which only dealt with property taxes, along with the additional procedures established by Amendments 425 and 555, provide an elaborate constitutional amendment procedure for all local bills, including those that raise property tax millage rates in local areas beyond the constitutionally prescribed limits. First, a local referendum must be passed in accordance with certain procedures, including a public hearing. Then, the local bill must be sent to the State Legislature and passed by three-fifths of the elected members of both the House and the Senate. If no dissenting vote was cast in either the House or the Senate, the local bill must be passed by a majority of the Local Constitutional Amendment Commission, which consists of the Governor, the Presiding Officer of the Senate, the Attorney General, the Secretary of State and the Speaker of the House of Representatives. Finally, the bill must be passed by a majority of the voters in the

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<sup>18</sup>See *supra* note 10 (detailing the constitutional amendment process under Article XVIII, sections 284 and 285). Although the section (c) of the "Lid Bill" technically allows local areas to raise or lower the assessment ratio (but not greater than 35% or less than 5%, in accordance with (d)) of each of the four classes of property by following the constitution amendment procedure applicable to local bills provided within "Lid Bill" and subsequent amendments, the combination of cumbersome procedures including the requirement that the bill pass the Legislature, *see infra* note 20 and accompanying text, and the influence of powerful lobby interests representing owners of timber acres and to a lesser extent agriculture, make it highly unlikely that an attempt by local areas to raise the assessment ratios would succeed. No constitutional amendments (at least as of October 1, 2000) involve a local area raising or lowering the assessment ratios set forth by the "Lid Bill".

<sup>19</sup>Hamill, *supra* note 1 at 27-31 and Appendix C (Alabama's commercial property (Class II) which provides 56% of all property tax revenues by far shoulders the greatest proportion with personal residences (Class III (non-current use)) which provide 29% of all property tax revenues also contributing a significant proportional share. Public utilities (Class I) and personal motor vehicles providing 9% and 4%, respectively, contribute smaller proportional shares of all property taxes. Finally, timber and agriculture (Class III (current use)) by providing only 2% of all property tax revenues contribute a *de minimis* proportion. Because the proportion contributed by timber and agriculture equals 2%, timber alone proportionately contributes less than 2%); *id.* at Appendix E (documenting that timber acres, including privately owned timber acres produce substantial profits). *See also* Williams, *supra* note 2 at 108 (discussing the relative property tax burden of each of the four classes of property and indicating that a significantly higher percentage of the market value of Class I (public utilities), Class II (commercial) and Class IV (personal motor vehicles) are subject to the property tax millage rates than Class III (timber, agriculture and personal residences), which have a very low percentage of the market value subject to the millage rates; also noting that urban areas have greater ability to raise property tax revenues due to a larger concentration of commercial property, while rural areas being dependent on timber, and to a lesser extent agriculture and personal residences cannot raise adequate property tax revenues, regardless of the millage rate); Hamill, *supra* note 1 at 41-44 and Appendix D & E (school districts in most rural counties tend to be poorly funded because the property tax base is dependent on timber with very little other commercial property).

affected local area. However, if a dissenting vote is cast in either the House or the Senate, even if the three-fifths positive threshold is met, or if the local bill fails to receive majority support in the Commission, then the local bill must be voted on in a statewide election, and in addition to receiving a majority of the votes cast in the affected area also must receive a majority of the votes cast across the state in areas that are not affected by the local bill.<sup>20</sup> These constitutionally mandated procedures that substantially impede the ability of local governments to raise local taxes to meet local needs has produced the largest number of constitutional amendments within a single category, totaling well over 190 amendments, and represent only one of many examples that make Alabama's constitution a spectacle and an object of ridicule.<sup>21</sup>

In addition to severely limiting the value of property subject to the millage rates, and making it extremely difficult for local areas to raise local millage rates, the "Lid Bill" imposes absolute dollar limits on the amount of property taxes that each particular piece of property can generate. These limitations are expressed as a percentage of the property's value, before reducing such value by the applicable assessment ratio. The effect of these limitations cap property taxes at the lowest levels on property already allowed to exclude the largest portion of its value from the tax base. Property tax on Class I property (public utilities) cannot exceed two percent of the property's value before applying the thirty percent assessment ratio.

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<sup>20</sup>Amendment 373(f) sets forth the details concerning the making of a local proposal to raise property tax millage rates, the requirement that this local proposal pass both the House and the Senate as a regular legislative bill and the receipt of the majority of votes in the affected area in a local election. ALA. CONST., of 1901, amend. 373(f) (1978). Amendment 425 created the Local Constitutional Amendment Commission and required all local bills to be unanimously approved by the Commission. ALA. CONST., of 1901, amend. 425. Amendment 555, added the additional requirement that the passage of the bill by the House and the Senate not only be approved by three-fifths of the elected members but also not have any dissenting votes, loosened the approval standard by the Commission from unanimity to majority, and made it clear that local bills that receive a dissenting vote in either the House or the Senate or fail to receive majority support in the Commission must also be approved by the majority of votes cast in a statewide election, in addition to receiving a majority of votes in the affected local area. ALA. CONST., of 1901, amend. 555. *See also* ROBERT MCCURLEY, THE LEGISLATIVE PROCESS 63 (5th ed. 1991) [hereinafter MCCURLEY] and MCCURLEY & NORMAN, *supra* note 10 at 231.

<sup>21</sup>*See* Appendix (listing 193 constitutional amendments of the Alabama 1901 Constitution as of October 1, 2000 (published by Samford University) involving local areas raising or otherwise altering local taxes). Because numerous local constitutional amendments, many involving local taxes, appear on ballots every year, the total number of constitutional amendments involving local tax concerns definitely exceeds the total number reported as of October 1, 2000 and probably exceeds 200. The opening pages of the 1901 Constitution (as published by Samford University) identifies local property taxes as the subject of over 180 amendments, local acts and procedures as the subject of 118 amendments and local borrowing as the subject of over 100 amendments. These three categories clearly account well over half of the total amendments, with the tax category clearly showing the greatest number of amendments of these three. The opening pages of the 1901 also Constitution (as published by Samford University) highlight examples of constitutional amendments that are absurd and reprints numerous quotations from newspapers across the state criticizing the constitution.

Similarly, property tax on Class II (commercial property) and Class IV property (personal motor vehicles) cannot exceed one and one-half and one and one-fourth percent of their respective values before applying their respective assessment ratios of twenty and fifteen percent.<sup>22</sup>

Finally, property taxes on Class III property (personal residences, timber acres, agricultural property and historic sites), which enjoy the most favored treatment, cannot exceed one percent of the property's value before applying the ten percent assessment ratio. For example, a Class III personal residence with a fair market value of \$100,000 can only be assessed a total property tax up to \$1,000 even if a greater amount would otherwise be due under the millage rate that was passed by a valid constitutional amendment.<sup>23</sup> Only the cities of Mountain Brook, Vestavia and Huntsville can collect property taxes from individual properties above these limits imposed by the "Lid Bill".<sup>24</sup>

The combination of the constitutional provisions that, limit the state property tax rate, allow only a small portion of the property's value to be subject to the millage rates, impose cumbersome constitutional amendment procedures for local areas needing additional property tax revenues, and finally, the absolute dollar limitations on property tax revenues set forth by the "Lid Bill," leaves the state and the local areas perpetually revenue starved and unable to fund minimum needs such as public education. Alabama's property tax revenues are by far the lowest per capita in the nation, which directly results in Alabama's total revenues being by far the lowest per capita in the nation.<sup>25</sup> In addition, Alabama's constitutionally mandated low property taxes indirectly cause Alabama's total tax burden to be

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<sup>22</sup> ALA. CONST. of 1901, amend. 373(i) (1978).

<sup>23</sup> *Id.* (1% of \$100,000 equals \$1,000). The local tax assessor applies any "Lid Bill" dollar limitations before sending the property tax notice to the property owner. If the "Lid Bill" disallows the collection of a portion of the property tax, the actual property tax collection enjoyed by the state, county, municipalities and school districts imposing millage rates is reduced proportionally according to each of their relative millage rates as compared to the total, which is obtained by adding up all four levels of millage rates. *Id.*

<sup>24</sup> *Id.* See also Harvey, *supra* note 13 at 13 (noting that Mountain Brook, Vestavia and Huntsville had properties within their borders bearing greater dollar property tax burdens than the "Lid Bill's" limits, and because of that were specifically exempted). Arguably a municipality could join Mountain Brook, Vestavia, and Huntsville as municipalities exempted from the "Lid Bill's" limits by successfully securing a constitutional amendment (which presumably could be passed under the procedure for local bills, *see supra* note 20 and accompanying text, but that is far from clear). However, no constitutional amendments (at least as of October 1, 2000) exist exempting other municipalities. Moreover, a statewide constitutional amendment, *see supra* note 10 and accompanying text, could eliminate the Lid Bill's absolute dollar limitations or increase the limits by raising the percentage of the property's value which measures these limitations.

<sup>25</sup> See PARCA, *supra* note 1 at 1; Williams, *supra* note 2 at 105-106; Hamill, *supra* note 1 at 19-21.

shifted disproportionately and unfairly to the poorest Alabamians, those least able to pay. Most local areas struggling to meet minimum needs raise sales taxes to oppressively high levels, which proportionately impose the greatest burdens on the poorest Alabamians. Sales taxes are not addressed in the constitution and therefore are totally under the control of the State Legislature and the local governing bodies. Alabama imposes sales tax rates among the highest in the nation, fails to exempt even the most basic necessities, such as food, and when considering all sources of revenue, relies the heaviest on sales taxes, which make up more than fifty percent of Alabama's total revenues.<sup>26</sup>

### **III. Recommendations For Reform of Alabama's 1901 Constitution**

Alabama's 1901 Constitution unacceptably encumbers the normal legislative process in the area of taxation at both the state and the local levels. In order to create and perpetuate a fair tax structure in an efficient manner, the reformed constitution should delegate the power to enact, amend and repeal legislation concerning taxation to the appropriate legislative body. The 16<sup>th</sup> Amendment of the United States Constitution provides no details or limitations concerning the federal income tax structure, but instead delegates these powers to Congress.<sup>27</sup> Because every American is subject to the same rules regarding the federal income tax, it is appropriate for Congress to enjoy the flexibility to enact, amend and repeal federal income tax laws to meet the needs of the nation. All Americans, by exercising their right to vote for two senators, one member of the House of Representatives, and the President of the United States have the ability to indirectly influence tax policy at the national level. Moreover, because most legislative proposals at the national level, which includes virtually all tax legislation, are public and therefore subject to media scrutiny, concerned citizens and groups have ample informal opportunities to contact their elected representatives and express their views and therefore do not need the administrative procedures applicable to federal rules and regulations.<sup>28</sup>

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<sup>26</sup>See Hamill, *supra* note 1 at 16-18; Williams, *supra* note 2 at 105 (noting that in 1998, Alabama's state and local sales tax burden was 122% of the national average and is the largest source of municipal revenues).

<sup>27</sup> U.S. CONST. amend. XVI (1913) (stating “[t]he Congress shall have the power to lay and collect taxes on incomes, from whatever source derived, without apportionment among the several states and without regard to any census or enumeration.”).

<sup>28</sup>See James T. O'Reilly, *Applying Federal Open Government Laws to Congress: An Explorative Analysis and Proposal*, 31 Harvard Journal on Legislation 415, 465 (1994) (noting “[l]egislative hearings and markup sessions, as well as conference committee meetings, are the principal decision points for legislation. These are virtually always open, so the need for imposing this law on Congress is questionable.”). For federally promulgated rule and

The example of the United States Constitution delegating to Congress the authority over the federal income tax structure provides a strong model that should be applied in Alabama. All Alabamians are subject to the same rules regarding the state income tax base and rates. All details concerning the income tax structure including, the power to set the income tax rates, the amount of exemptions taxpayers should enjoy at all income levels, and deductions allowed should be constitutionally delegated to the State Legislature. Similarly, the constitution should also delegate to the State Legislature the power to set the state property tax rate and define the portion of the property's value subject to the millage rates because these provisions affect all Alabama property owners, regardless of where the property is located.<sup>29</sup> All Alabamians, by exercising their right to vote for members of the State Legislature and the Governor, have the ability to indirectly influence tax policy at the state level.<sup>30</sup> Moreover, given the public nature of

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regulations, the Administrative Procedure Act, which requires notice, comment and a public hearing provides concerned citizens and groups formal opportunities to express their views. *See* 5 U.S.C. § 553(b)-(d). *See also* CORNELIUS M. KERWIN, RULEMAKING: HOW GOVERNMENT AGENCIES MAKE LAW AND WRITE POLICY 47-58 (2d ed. 1999) (summarizes requirements of the Administrative Procedure Act regarding adoption of regulations) and MICHAEL I. SALTZMAN, IRS PRACTICE AND PROCEDURE 3-6 (3.02[3]) (2d ed. 1991) (same, with an emphasis on tax regulations issued by the Treasury Department). These formal administrative procedures are presumably needed for federal rules and regulations (and are not needed for national legislation) because rules and regulations rarely attract the same level of media coverage as national legislation and ample media coverage is a key element of the informal opportunities to express one's views having any substance. *See Community Nutrition Institute v. Young*, 818 F. 2d 943, 950-51 (D.C. Ct. App. 1987) (*concurring opinion* of Starr, J.) (noting that notice and comment procedures serve as a mandated proxy for Congress to ensure that agency rules are crafted with the same democratic values that is reflected by public participation in the realm of national legislation).

<sup>29</sup>In 1973 a Constitutional Commission, authorized by an act of the State Legislature, delivered a proposed reformed constitution and extensive comments. The 1973 Proposal retained the 5% cap on the income tax rate, the federal taxes paid deduction, the cap on state property tax rates at 6.5 mills and the process for valuing property for purposes of applying the millage rates then in effect (which were the rules under Amendment 325, the predecessor of the "Lid Bill"). *See Proposed Constitution of Alabama: Report of the Constitutional Commission* 110-16 (May 1, 1973) [hereinafter 1973 Proposal]. *See also* WILLIAM STEWART, THE ALABAMA CONSTITUTIONAL COMMISSION 52, 69 (1975) (describing the debate over the tax recommendations by the Commission issuing the 1973 Proposal as "intense" and "among its lengthiest."). By recommending that a reformed constitution delegate all authority over state tax matters to the State Legislature, this working paper respectfully disagrees with the 1973 Proposal and adopts the minority position expressed in the comments, stating "[t]here is much to be said for the view that a constitution should not deal with taxes at all, leaving to the legislature and the people the determination of the amount and kinds of taxes to be levied, subject only to the general requirements of due process and equal protection." 1973 Proposal at 117-18 (cmt.).

<sup>30</sup>Each Alabamian has the right to vote for one member of the House and one member of the Senate, depending on which district they live in. The Alabama Constitution of 1901 provides that the House shall not exceed more than one-hundred and five members and shall be apportioned according to population. ALA. CONST., of 1901, art. IX, § 198. Moreover, the Alabama Constitution of 1901 provides the Senators shall not have less than one-fourth of the House (26.25 or 27) or more than one-third of the House (35). ALA. CONST., of 1901, art. IX, § 197. Currently there are 105 members of the House and 35 members of the Senate. *See* MCCURLEY& NORMAN, *supra* note 10 at 53-56. However, because the people of Alabama do not have the right to ratify state legislation in general, *see*

proposed statewide legislation and the media attention proposed tax legislation would most certainly attract, arguably Alabama citizens and groups would enjoy similar informal opportunities to express their views that are currently enjoyed by all United States citizens. However if removing the power over the state tax laws from the constitution causes great concern that citizens and groups will be left with insufficient opportunities to participate, the reformed constitution could also consider requiring the Legislature to adopt reasonable administrative procedures, perhaps along the lines of Alabama's current administrative process applicable to rules and regulations,<sup>31</sup> in order to provide notice to all citizens and groups and allow those concerned the opportunity to comment before the tax laws become final.<sup>32</sup>

Regardless of whether or not the reformed constitution delegates the power over Alabama's state tax laws to the State Legislature, it is absolutely imperative that the reformed constitution delegate the power to raise local tax rates, including local property tax rates, which only affect Alabamians living, purchasing goods, or owning property within that local area, to the appropriate local governing authorities at the county or municipal level. It makes absolutely no sense to require the State Legislature, the Local Constitutional Amendment Commission, a committee of persons responsible for statewide issues, or the people of the state, who will not be affected by the proposed taxes in that area, to approve or vote on local taxes. The requirement that matters of local concern, including the important

MCCURLEY, *supra* note 20 at 72-116, and the people of the United States do not have the right to ratify national legislation, *see supra* notes 27-28, strong arguments can be made that requiring a majority vote ratification for statewide tax legislation through the constitutional amendment process unduly hinders the ability of the State Legislature to adapt the tax structure to current needs.

<sup>31</sup>The Alabama Administrative Procedure Act requires 35 days notice of the proposed rule and details elaborate procedures allowing interested persons to comment either in writing or pursuant a public hearing. ALA. CODE 41-22-2 (2002).

<sup>32</sup>See *supra* note 28 and accompanying text (discussing informal citizen participation in the proposal of national legislation and the Administrative Procedure Act that applies to federal rules and regulations). See also MCCURLEY, *supra* note 20 at 72-116 (describing the process for enacting legislation at the state level from the introduction of the bill to its codification in the Alabama code; no provisions provide formal notice to the public or require formal public comment). One can argue that it is reasonable to require formal notice and provide formal comment opportunities to concerned citizens and groups when considering statewide tax legislation even though these procedures are not required for statewide legislation generally and are not required at the national level for proposed federal laws for the following reasons. First, tax issues arguably raise greater concerns to most citizens than other legislation, especially if an increase is being considered. Second, a constitutional delegation of the power over Alabama's state tax laws to the State Legislature eliminates the right of the citizens to ratify tax legislation by majority vote and therefore notice and comment opportunities would provide a smoother transition towards adjusting to this change. Finally, the historical lack of trust between the people in general and the State Legislature in Montgomery would be easier to overcome if notice and comment opportunities pursuant to an administrative process were required, at least for a period of time following constitutional reform, for tax legislation.

issue of local taxes, be handled through the constitution is responsible for the overwhelming majority of the amendments and, in addition to impeding the ability of local governments to meet local needs, wastes valuable time at the state level.<sup>33</sup> However when delegating the general authority to local governing bodies, the reformed constitution should require that a majority of the voters affected at the local level approve the proposed local taxes, and could also consider requiring that the local governing bodies adopt reasonable administrative procedures, perhaps along the lines of Alabama's current administrative process applicable to rules and regulations, to allow concerned local citizens the formal opportunity to receive notice and comment on the proposal before the proposal is submitted for vote in a local election.<sup>34</sup>

Although most local tax matters should be addressed only by the local governing authorities, certain tax rules should apply uniformly at both the state and local levels. For example, the value of property subject to the millage rates and the exemptions allowed should not vary across local areas. Similarly the transactions covered by and exemptions allowed from sales taxes also should not vary across local areas.<sup>35</sup> Moreover, strong arguments exist that the sales tax rate should be

<sup>33</sup>When addressing local property tax increases, the 1973 Proposal eliminated the technical requirement of a constitutional amendment but retained the requirement that the local bill be approved by an act of the Legislature. See 1973 Proposal, *supra* note 27 at 116-117. By recommending that the reformed constitution delegate all local tax matters to the local governing authorities, this working paper respectfully disagrees with the 1973 Proposal and adopts the minority view expressed in the comments. See *supra* note 29.

<sup>34</sup>See *supra* note 31 (discussing the details concerning administrative procedures applicable to state rules). There are several strong arguments that citizens at the local level should enjoy the right to vote on proposed local tax matters and have the right to formal administrative procedures to express their views even though neither of these rights exist for federal income tax proposals and strong arguments suggest that neither of those rights, especially the right to ratify by majority vote, should exist for state tax proposals. First, proposals at the local level tend to generate less media attention, which arguably render the informal participation opportunities that are adequate for national and state proposals far less effective for local proposals. Second, although a requirement of majority vote ratification and to a lesser extent administrative procedures would substantially impede national and state legislation, these opportunities for direct citizen participation pose far less efficiency oriented problems because of the limited and local nature of all local proposals. Finally, because local taxes represent the third of three tax burdens (federal, state and local) and because the revenues generated have the most visible and arguably greatest impact on the quality of life of the local citizens, public interest at the local level tends to be rather high and therefore it seems more fair to allow each citizen the maximum level of participation concerning local tax matters.

<sup>35</sup>See *supra* notes 16-17 (detailing the technical provisions of the "Lid Bill" allowing for local amendments of the assessment ratios of the four classes of property for purposes of applying the millage rates and noting that no constitutional amendment changes the assessment ratio at the local level). As long as the base remains the same across local areas the tax assessor only has to apply four levels of millage rates to the property and each level of applicable sales tax to the covered transactions. However the ability of local areas to alter the property tax base or the transactions covered by the sales tax would create enormous complexity and inefficiency from an assessment and collection perspective. Moreover different assessment ratios across local areas or different transactions covered by the sales tax across local areas raises equal protection concerns even if from a legal perspective the equal

capped at the local level to limit the oppressive burden sales taxes impose on the poorest Alabamians.<sup>36</sup> However the law creating such uniformity across the state or imposing limits on the ability of local governments to raise taxes should be handled exclusively by the State Legislature and apply across the board to all local areas. There should be no opportunity for some local areas, but not others, to avoid the uniform rules or limitations. If the uniform rules or limitations on local governments become outdated, the State Legislature should have the power to make the needed amendments that also should apply across the board to all local areas.<sup>37</sup>

## Conclusion

It has often been said, especially by those fighting to keep the current constitution, that constitution reform is really a disguise for tax reform. That statement is false in that Alabama's 1901 Constitution impedes the ability of the state and the local areas from achieving effective government in many ways beyond the scope of the tax structure. However, it is also well understood by those who understand the fiscal realities faced by state and local governments that a rational, fair and sound tax structure that raises at least the minimum level of adequate revenues needed is a necessary prerequisite to a well run government. Alabama's tax structure is neither rational, fair, nor sound. Because Alabama's Constitution and its elaborate procedures locks in place the inequitable features of both the income and property tax structures, which represent two of the three most important sources of state and local tax revenue of a well designed tax structure, as a practical matter constitution reform is a necessary prerequisite to tax reform. Until constitution reform is achieved “[n]o real or permanent progress is possible

protection clause is not technically violated. *See infra* note 37.

<sup>36</sup>See sources cited at *supra* note 24, and Hamill, *supra* note 1 at 18, n.47 (discussing the trend of some southeastern states to limit the sales tax rate that can be imposed locally). If Alabama ever reached a point where property taxes reached oppressively high levels, the reformed constitution would allow the State Legislature the authority, under the procedures for enacting statewide tax legislation, to limit property taxes. Because Alabama's property taxes are by far the lowest per capita in the nation and inadequate property taxes are the principal cause of the state's inadequate revenues, *see supra* note 25, the need for such limitations could only arise in the very distant future, if ever at all.

<sup>37</sup>See *supra* note 24 and accompanying text (describing the property tax dollar limits imposed on the “Lid Bill” and the exemption of three areas, Mountain Brook, Vestavia and Huntsville from those limits). Although allowing these municipalities to be exempt from the “Lid Bill’s” limitations appears to raise an equal protection issue, because only a “rational basis” is needed to justify different treatment among local areas, and as long as the same rules apply to the same kind of properties within a particular local area, a “rational basis” for the distinction will be found. *See* ALBERT P. BREWER AND CHARLES D. COLE, BREWER AND COLE: ALABAMA CONSTITUTIONAL LAW 92 (1992). *See also supra* note 24 (indicating a rational reason for exempting these three municipalities from the “Lid Bill” in that properties in those areas already were being taxed above the limits).

in Alabama . . . ”<sup>38</sup> and tax reform represents an important, but not the only, step towards this progress.

The historical background behind the 1901 Constitution shows that the limitations on the ability to raise property taxes were created principally to keep property taxes as low as possible to avoid educating and providing minimum services to the free black population in years following Reconstruction.<sup>39</sup> This motivation, plus other overtly racist language mandating the segregation of public schools renders the 1901 Constitution conclusively immoral with no legitimacy.<sup>40</sup> Although federal law has overruled the overtly racist language in the 1901 Constitution and no legitimate leader would advocate keeping the constitutional provisions regarding taxation in place for racist reasons, the 1901 Constitution, by directly blocking legitimate efforts to remove the unfair features from income and property tax structures while indirectly creating the need for oppressively high sales tax rates, oppresses and fails to meet the minimum needs of the poorest Alabamians, regardless of race, and therefore is as immoral today as it was a century ago.<sup>41</sup>

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<sup>38</sup>See 1973 Proposal, *supra* note 27 at vii.

<sup>39</sup> Before the Civil War a tax on slaves generated a substantial source of Alabama’s revenue. Although repugnant and immoral because these taxes assumed the legitimacy of the institution of slavery, these taxes clearly required the wealthiest individuals to proportionately bear the greatest share of the tax burden. Because taxes on land were very low, small landowners who owned no slaves bore very little of the tax burden. The abolition of slavery removed the value of slaves from the tax base and created many more citizens needing state services such as education and health care, which increased the tax burden of landholding farmers. The 1875 Constitution imposed limitations on property taxes because white landowners in general were very hostile to paying property taxes that would raise revenue to support services utilized by black citizens. The framers of the Alabama Constitution of 1901 continued the racist goals of the 1875 Constitution by stripping black citizens of any political power, including the right to vote, and maintaining low property taxes to benefit wealthy white landowners and the effects of 1901 Constitution negatively impacted all poor citizens, both white and black. The framers of the 1901 Constitution made it difficult to impossible to change the structure of the document, which to this day locks in the inequities of the tax system. WAYNE FLYNT, POOR BUT PROUD: ALABAMA’S POOR WHITES 6, 18, 50, 63, 224-225, 273 (1989); Wayne Flynt, *Alabama’s Shame: The Historical Origins of the 1901 Constitution*, 53 *Alabama Law Review* 67 (2001); McMILLAN, *supra* note 2 at 160-61, 230-31, 318, 352.

<sup>40</sup> Ala. Const., of 1901, art. XIV, § 256 (requiring that “[s]eparate schools shall be provided for white and colored children, and no child of either race shall be permitted to attend a school of the other race.”).

<sup>41</sup> See Hamill, *supra* note 1 at 1, n.\* (linking the substantive argument deeming Alabama’s tax structure as immoral with the procedural issue of constitution reform if “constitution reform is necessary to achieve tax reform”); *id* at pp. 45-77 (Alabama’s tax structure is immoral under any reasonable ethical model for evaluating tax policy and also violates the principles of Judeo-Christian ethics). See also FLYNT, *supra* note 2 at 36 (capturing the full implications of the immoral features of the constitution which existed in 1901 and persist to this day: “Striking down overtly racist sections of Alabama’s constitution became, in retrospect, a relatively easy task of the civil rights movement. The less obvious and more profound discrimination was deeply embedded in the provisions dealing with tax policy, education and home rule.”)

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APPENDIX

## CONSTITUTIONAL AMENDMENTS ADDRESSING LOCAL TAXES

- Amendment 6: Additional School Tax in the City of Selma
- Amendment 8: Municipal Tax Amendment
- Amendment 13: Tax Rates in Jasper, Cordova, Dora, Oxford, Talladega, Citronelle, Girard, Albany, and Tuscaloosa
- Amendment 16: Mobile County School Tax
- Amendment 17: Tax Rates in Certain Municipalities
- Amendment 19: Walker County Special Road Tax
- Amendment 20: Tax Elections in Certain School Districts in Lawrence County
- Amendment 31: Taxation in Municipality of Attalla
- Amendment 32: Tax Elections in Certain School Districts in Lawrence County
- Amendment 34: Tax for Malaria Control in Limestone County
- Amendment 45: Drainage Districts in Colbert County
- Amendment 52: Special Tax for Educational Purposes in Cities of Decatur & Cullman and for Hospital Purposes in Morgan County
- Amendment 54: Taxation in Municipality of Haleyville
- Amendment 63: Special Tax for Hospital and Public Health Purposes in Montgomery County
- Amendment 65: Special Tax for Hospital and Public Health Purposes in DeKalb County
- Amendment 66: License Tax on Selling, etc. of Motor Fuel in Marshall County
- Amendment 67: Special School Tax in Etowah County
- Amendment 68: Calhoun County Special School Tax
- Amendment 69: Special Tax for Hospital Purposes in Marion County
- Amendment 70: Special Tax for Hospital and Public Health Purposes in Escambia County
- Amendment 71: Tuscaloosa County Special School Tax
- Amendment 77: Special School Tax in St. Clair County
- Amendment 78: Cherokee County Special School District Tax
- Amendment 79: Special School District Tax in Lawrence County
- Amendment 80: Huntsville Special School Tax
- Amendment 82: Jefferson County Consolidation School Tax Amendment
- Amendment 84: Economic Development of Municipalities in Marion County
- Amendment 86: Special School Tax in Monroe County
- Amendment 94: Economic Development of Municipalities in Fayette County
- Amendment 95: Economic Development of Municipalities in Blount County
- Amendment 98: Levy and Collection of Additional Property Taxes in Talladega County
- Amendment 99: Authorizing the Creation of Special School Districts, etc., in Lawrence County

- Amendment 101: Special Property Tax for Public School Buildings in Marshall County
- Amendment 102: Special Ad Valorem Tax for School Purposes on Real and Tangible Personal Property within Chambers County
- Amendment 104: Economic Development of Municipalities of Haleyville and Double Springs
- Amendment 106: Additional Taxes in Morgan County for Public School Purposes
- Amendment 123: Special School Taxes in Cleburne County
- Amendment 124: Special School Tax in Russell County; Tax Anticipation Bonds
- Amendment 128: Economic Development of Bullock County
- Amendment 129: Additional Property Taxes in School Districts of Tallapoosa County
- Amendment 130: Special Tax by School Districts of Colbert County
- Amendment 131: Special Property Tax for Educational Purposes in Butler County
- Amendment 133: License, Excise, etc., Taxes in Wages or Salaries by Municipal Corporations in Walker County
- Amendment 143: Special Property Tax in Barbour County
- Amendment 145: Special taxes in School Districts of Coosa County
- Amendment 146: Special Property Tax for Educational Purposes in DeKalb County
- Amendment 147: Special Property Tax for Educational Purposes in Lee County and City of Opelika
- Amendment 148: Special Property Tax for Educational Purposes in City of Auburn
- Amendment 149: Special Tax in School District No. 1 of Madison County
- Amendment 152: Amendment of Amendment No. 18
- Amendment 153: Special Tax for School Purposes in Winston County
- Amendment 155: Economic Development of Municipality of Uniontown
- Amendment 156: Special Property Tax for Educational Purposes in School District No. 2 of Randolph County
- Amendment 162: Additional Tax for School Purposes in Baldwin County
- Amendment 163: License Taxes for School Purposes in Bullock County
- Amendment 164: Special Property Tax for Educational Purposes in Tuscaloosa County
- Amendment 165: Use of Special School Tax Funds, Refunding of Bonds, etc., in Calhoun County
- Amendment 166: Special Property Tax for Acquiring, etc., Vocational Trade School & Rural & Industrial Development in Chilton County
- Amendment 167: Additional Tax for School Purposes in Choctaw County
- Amendment 168: Additional Tax for School Purposes in Clarke County
- Amendment 169: Special School Tax in Clay County
- Amendment 170: Special Property Tax for Educational Purposes in City of Tuscumbia
- Amendment 171: Special Property Tax for Educational Purposes in City of Sheffield
- Amendment 172: Special Property Tax for Educational Purposes in City of Muscle Shoals
- Amendment 173: Additional Tax for School Purposes in Franklin County
- Amendment 174: Special Property Tax for Acquiring, etc., Vocational Trade School & Rural & Industrial Development in Jackson County

- Amendment 175: Special District Tax for Furtherance of Education in Jefferson County
- Amendment 176: Additional Tax for School Purposes in Lamar County
- Amendment 177: Special Property Tax for Educational Purposes in Lauderdale County
- Amendment 178: Special School Tax for City of Florence
- Amendment 179: Special Property Tax for School Capital Outlay Purposes in Mobile County
- Amendment 180: Special Property Tax for Educational Purposes in School District No. 1, Randolph County
- Amendment 181: Special School Tax in Talladega County
- Amendment 182: Additional School Tax in Washington County
- Amendment 183: Economic Development of Autauga County and Municipalities Therein
- Amendment 186: Economic Development of Franklin County and Municipalities Therein
- Amendment 188: Economic Development of Greene County
- Amendment 189: Economic Development of Municipalities in Lamar County
- Amendment 190: Economic Development of Lawrence County and Municipalities Therein
- Amendment 191: Promotion of Industrial, Commercial, and Agricultural Development in Madison County and City of Huntsville
- Amendment 195: Special Tax for Hospital Purposes in Mobile County
- Amendment 197: Economic Development of St. Clair County and Municipalities Therein
- Amendment 198: Hospital Tax and Tax Anticipation Bonds, etc., in Tallapoosa County
- Amendment 199: Speical Tax and Bond Issue for Public Buildings in Washington County
- Amendment 203: Additional Property Tax for Educational Purposes in Jackson County
- Amendment 204: Special School Taxes in Walker County
- Amendment 205: Special Property Taxes for School Purposes in Marion County
- Amendment 206: Additional Taxes for School Purposes in Coffee County
- Amendment 209: Additional Tax in City of Mountain Brook
- Amendment 210: Warrants Payable Out of Proceeds of Special Taxes for Educational Purposes in DeKalb County
- Amendment 211: Further Provisions as to Additional Tax for School Purposes in Franklin County
- Amendment 216: Warrants Payable from Proceeds of Special School Taxes in Coffee County
- Amendment 217: Economic Development of Clarke County and Municipalities Therein
- Amendment 218: Special School Tax in City of Huntsville
- Amendment 219: Levy of Certain Privilege License Taxes by Municipalities in Mobile County
- Amendment 220: Promotion of Industrial, Commercial, and Agricultural Development in City of Bayou La Batre
- Amendment 221: Economic Development of City of York
- Amendment 230: Special District Tax for Public Hospital Purposes in Baldwin County
- Amendment 232: Special School Tax in City of Anniston
- Amendment 234: Special School Tax for City of Fort Payne
- Amendment 235: Trial Tax or Charge on Litigation in Etowah County
- Amendment 240: Special Ad Valorem Tax for Paying Principal and Interest on Bonds of City of Birmingham
- Amendment 242: Special Property Tax for Recreational Purposes in City of Auburn

- Amendment 244: Economic Development of Town of Lester
- Amendment 245: Amendment of Amendment No. 191
- Amendment 250: Economic Development of Sumter County
- Amendment 251: Economic Development of Municipality of Livingston
- Amendment 252: Special School Tax in School District No. 1 of Talladega County
- Amendment 253: Special Property Tax for Educational Purposes in City of Jasper
- Amendment 254: Additional Taxes for Hospital Purposes in Winston County
- Amendment 256: Economic Development of Municipalities of Addison and Lynn
- Amendment 259: Promotion of Industrial, Commercial and Agricultural Development in City of Evergreen
- Amendment 261: Promotion of Industrial, Commercial and Agricultural Development in City of Bayou La Batre
- Amendment 262: Hospital Tax in Districts 1, 2 and 3 of Franklin County
- Amendment 263: Economic Development of Municipalities in Geneva County
- Amendment 275: Special Property Tax for Public Hospital Purposes in Mobile County
- Amendment 276: Hospital Tax in District 2 of Walker County
- Amendment 277: Economic Development of Town of Carbon Hill
- Amendment 279: Special Property Tax for Educational Purposes in City of Fort Payne
- Amendment 281: Application of Special School Taxes in City of Anniston
- Amendment 291: Special Tax in School Districts of Calhoun County
- Amendment 292: Special School Tax in School Districts Nos. 1 and 2 of Covington County
- Amendment 293: Special School Tax in School Districts Nos. 1 and 2 of Colbert County
- Amendment 294: Special Tax in School Districts of Lawrence County and Change in Boundaries of School Districts
- Amendment 295: Special Property Tax for Educational Purposes in City of Ozark and Dale County
- Amendment 296: Special Property Tax for Educational Purposes in Etowah County
- Amendment 299: Special School Tax in City of Oneonta
- Amendment 302: Economic Development of Municipalities in Pickens County
- Amendment 303: Promotion of Industrial, Commercial & Agricultural Development in Morgan County & Cities of Hartselle & Decatur
- Amendment 304: Special School Tax in School District No. 1 of Madison County
- Amendment 305: Special School Tax in City of Huntsville
- Amendment 307: Use of Proceeds of Special Tax Levied in Chambers County Pursuant to Amendment No. 72
- Amendment 308: Economic Development of Marengo County
- Amendment 309: Special School Tax in Lee County
- Amendment 310: Special School District Taxes in Talladega County
- Amendment 311: Special Property Tax for General Health Purposes in Lawrence, Limestone and Morgan Counties
- Amendment 312: Economic Development of Bibb County and Municipalities Therein
- Amendment 313: Economic Development of Hale County and Municipalities Therein
- Amendment 316: Special Tax in Mountain Brook School District in Jefferson County

- Amendment 318: Special Property Tax for Library Service in Morgan County
- Amendment 319: Special Property Tax for Public Library Purposes in Baldwin County and Municipalities Therein
- Amendment 324: Special Tax for Improving Enforcement of Laws Relative to, and Providing Facilities for, Juveniles in Lee County
- Amendment 329: Special District Tax for Hamilton Special School District in Marion County
- Amendment 333: Special Property Tax for Recreational Purposes in Tuscaloosa County
- Amendment 335: Special District School Tax in Calhoun County
- Amendment 336: Additional Tax in City of Mountain Brook
- Amendment 348: Local Legislation Regarding Delinquent Tax Notices in Madison County
- Amendment 350: Special Property Tax for Educational Purposes in City of Anniston
- Amendment 351: Special Property Tax for Control of Mosquitoes, Rodents & Other Vectors of Public Health & Welfare
- Amendment 352: Additional Property Tax in City of Vestavia Hills
- Amendment 361: Amendment to Amendment No. 351
- Amendment 385: Special Property Tax in City of Demopolis
- Amendment 393: Amendment to Amendment No. 351
- Amendment 402: Special Property Tax in Chilton County
- Amendment 404: School District tax in Lauderdale County
- Amendment 407: Amendment to Amendment No. 218
- Amendment 409: Additional Ad Valorem Tax in City of Alabaster
- Amendment 420: Additional Ad Valorem Tax in Macon County for Educational Purposes
- Amendment 435: Annual License Taxes, Registration, etc., on Trucks, Trailers, etc., in Conecuh County
- Amendment 442: Privilege, License, etc., Taxes and Securities for Funding County Facilities in Randolph County
- Amendment 455: Repeal of School Tax Exemptions in Madison County
- Amendment 456: Hartselle City School Taxes
- Amendment 458: Truck Tax Established by Pike County Commission
- Amendment 461: Additional Ad Valorem Tax in Wilcox County
- Amendment 462: City of Ozark Special Property Tax
- Amendment 471: Special Property Tax for Public Hospital Purposes in Baldwin County
- Amendment 484: Additional Ad Valorem Tax in Morgan County
- Amendment 501: Fire Protection Districts and Taxes in Monroe County
- Amendment 505: Washington County Fire Districts
- Amendment 527: Fire Protection Tax in Choctaw County
- Amendment 528: Fire Districts and Fire Protection Tax in Conecuh County
- Amendment 539: Business License Taxes in Jefferson County
- Amendment 546: Sales and Use Tax in Limestone County
- Amendment 551: Special Ad Valorem Taxes for Fire Protection and Emergency Services in Montgomery County

Amendment 554: Levy & Collection of Special Ad Valorem Property Tax for Public Library Purposes in Chambers County

Amendment 559: Ratification and Validation of Ad Valorem Levies and Payments in Baldwin County

Amendment 564: Fire Protection and Special Fire Protection Property Tax in Covington County

Amendment 573: Ad Valorem Tax in Morgan County

Amendment 574: Ad Valorem Tax in City of Hartselle

Amendment 575: Additional Ad Valorem Tax within Portion of City of Decatur in Morgan County

Amendment 576: Additional Ad Valorem Tax on Property in Morgan County Outside Cities of Decatur & Hartselle

Amendment 584: Commission Authorized to Levy Ad Valorem Tax for Fire Protection and Rescue Services in Cherokee County

Amendment 587: Business License Taxes on Real Estate Operations and Transactions in Etowah County

Amendment 593: Commission Authorized to Levy Ad Valorem Tax for Fire Protection in Perry County

Amendment 595: Business License Taxes on Real Estate Operations and Transactions in Shelby County

Amendment 603: Commission Authorized to Levy Ad Valorem Tax for Fire Protection in Hale County

Amendment 604: Special Fire Protection Property Tax in Henry County

Amendment 608: Ratification of Levy and Collection of Certain Sales and Use Taxes in School District No. 1 in Madison County

Amendment 610: Commission Authorized to Levy Ad Valorem Tax for Fire Protection in Marengo County

Amendment 637: Dekalb County Ad Valorem Tax for Fire Protection

Amendment 649: Pickens County; Ad Valorem Tax; Fire Protection

Amendment 652: St. Clair County; Ad Valorem Tax; Fire Protection and Emergency Medical Services

Amendment 653: Sumter County; Fire Protection Tax

TOTAL AMENDMENTS: 193