



Office of Senate President Pro Tempore Del Marsh  
Press Clips  
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## **Alabama Senate approves 'crowd funding' for small business start-ups (AP)**

The Alabama Senate is trying to give people a new way to raise money to start small businesses. The Senate voted 31-0 Thursday for a "crowd funding" bill sponsored by Republican Sen. Arthur Orr of Decatur.

The legislation is backed by the Alabama Securities Commission. It would allow someone trying to start a small business in Alabama to use social media and advertising to find small investors who live in the state. It is limited to raising \$1 million, and it is restricted to Alabama businesses and investors because of federal regulations.

The proposed legislation is an option for people trying to start small businesses in a tough credit market, Orr said.

His bill now goes to the House for consideration. House Speaker Mike Hubbard, R-Auburn, said Thursday he favors the bill because Alabama needs innovative ways to give small businesses access to capital. But he said he has not had a chance to gauge support in the House.

The director of the Alabama Securities Commission, Joe Borg, said enactment of the legislation would create a significant opportunity for Alabama entrepreneurs. "While investment in startup businesses has risk, the potential rewards in promoting new business and job formation in our local communities are invaluable," Borg said.

## **Lawmaker: Alabama must make 'fundamental system-wide changes' in prisons (al.com)**

MONTGOMERY, Alabama – Sen. Cam Ward, R-Alabaster, had likened Alabama's overcrowded prison system to a box of dynamite

The Department of Justice "probably lit the fuse" with findings of unconstitutional conditions at Tutwiler Prison, he said.

"We're going to have to make some fundamental system-wide changes. We can't continue going on this road," said Ward, who is chairman of the Joint Legislative Prison Committee.

Legislative leaders today said something must be done to improve Alabama's prison system. But they also said there were no easy immediate answers.

Allen Farley, vice-chairman of the oversight committee, called for an independent investigation of the prison system.

"Nobody should ever be treated the way that these ladies have allegedly been treated," Farley said.

Farley called the officers who allegedly committed the abuses "scum."

"You cannot buy integrity. You've got to go back and sit down and look at who we've got working for us, how long they've worked for us, what their background is, what allegations they've got against them," Farley said.

Ward said he hopes to invite the Council of State Governments to conduct a review of the state prison system.

"We all know there is an issue with the prisons. There is overcrowding. Something has to be done," Speaker of the House Mike Hubbard, R-Auburn, said.

Hubbard, Ward and Senate President Pro Tem Del Marsh met with the representatives of the Council of State Governments on Wednesday.

Sen. Arthur Orr, R-Decatur, said he was concerned about corrections funding before the DOJ report. Gov. Robert Bentley's proposed General Fund budget gives the prisons essentially level funding.

"One of my areas of interest was to try to increase the appropriations for corrections," Orr said. He said the DOJ report made that more pressing.

Ward said even if Alabama built prisons, it would not address the shortage of corrections officers.

"You don't have enough officers overall. You really don't have enough female officers," Ward said.

The state is also discussing moving some of the nonviolent Tutwiler inmates to a now-closed state institution that once housed mentally disabled patients. A spokesman for the department said that was a long-term goal.

Ward said the troubles in the prison system are not new.

"Hopefully, this DOJ report will really wake everybody up." Ward said.

Senate President Pro Tem Del Marsh, R-Anniston, said the findings in the DOJ report are serious.

"We want to get to the bottom of that," Marsh said. "We want to make sure that our prisons are run correctly. We want to make sure the funding for our prisons is adequate. And we're addressing those things and are trying to continue to address those things."

"We're taking it very seriously," he said. "We want those things looked into, but also work to solve the long-term problems of our prisons."

## **[Senate committee approves proposed constitutional amendment to impose term limits on legislators \(al.com\)](#)**

Alabama legislators would be limited to three four-year terms under a proposed constitutional amendment approved today by a state Senate committee.

There are no term limits for state lawmakers under current law. Alabama governors are limited to two four-year terms.

The bill, by Sen. Trip Pittman, R-Montrose, moves to the Senate. It would also have to pass the House and be approved by voters statewide to become law.

Pittman said he thought three terms was the right number because while it would result in a mix of new legislators and those with some experience.

Pittman sponsored the same bill last year, but it failed to pass.

The Senate Constitution, Campaign Finance, Ethics and Elections Committee approved the bill today. The committee also approved:

-- A bill to govern appointment of Alabama delegates in the event states call for a convention to amend the U.S. Constitution.

-- A bill to set limits on what Alabama delegates could do in the event of such a convention.

-- A bill to require lobbyists to report all allowed spending on public officials, eliminating the \$250 threshold that triggers the reporting requirement now.

## **U.S. constitutional convention bills advance in Ala. Senate (Anniston Star)**

by Tim Lockette

MONTGOMERY — A committee in the Alabama Senate gave the go-ahead to two bills that would lay groundwork for Alabama's participation in a national convention to add amendments to the U.S. Constitution.

The bills' sponsors — Sen Arthur Orr, R-Decatur, and Sen. Trip Pittman, R-Daphne — say they're trying to establish the rules for a constitutional amendment convention in the unlikely event one happens. Both attended a meeting in Virginia last year known as the Mount Vernon Assembly held by state lawmakers who favor a state-called convention to amend the Constitution.

"The likelihood of this happening is slim," Pittman told committee members.

The U.S. Constitution has been amended 27 times since its drafting in the 18th century. Amendments usually come into effect after approval by approval of two-thirds both houses of Congress, followed by ratification by three-fourths of the states.

Article V of the Constitution also allows another route to amendment — a constitutional convention convened at the request of the legislatures of two-thirds of the states. That has never been done before, but the idea has become popular among conservative activists in recent years.

Alabama has already thrown its lot in with the constitutional convention effort. In 2011, the legislature passed a resolution, sponsored by Orr, that called for a constitutional convention to create a balanced budget amendment.

The application for a convention was part of a longer bill urging Congress to pass just such an amendment. Resolutions often pass in both houses in a pro-forma process, without debate. Legislative

records show the resolution passed both houses in a voice vote, and there's no record of who cast votes for or against the resolution.

Orr and Pittman proposed bills this year that would set up a process for appointing delegates to a constitutional convention and would establish qualifications for delegates to that convention. Both bills passed out of the Senate's Constitution, Campaign Finance, Ethics and Elections Committee by a 5-0 vote Thursday and are on their way to the Senate. Only Republican members of the committee were present at the meeting.

Orr said other legislators in other states who attended the Mount Vernon Assembly are proposing similar bills in their legislatures this year.

"What I like about the Mount Vernon Assembly process is that they understand they need to have a process in place before they start making applications (for a convention)," he said.

Orr said the Mount Vernon Assembly members will meet again this summer to decide on a set of rules for a constitutional amendment convention. Pittman and Orr have both said the assembly last year was called by state lawmakers and was attended by only state lawmakers — not lobbyists or members of the press.

Orr said he filed a request with the lieutenant governor's office to have the state pay for his travel to the assembly. If that request is denied, he said, he'd pay for it himself.

Asked how many states have already adopted resolutions to request a convention, Orr said the website [bba4usa.org](http://bba4usa.org) tracks requests for a convention for a balanced budget amendment. According to that site, operated by a group called the Balanced Budget Amendment Task Force, 20 states have passed such resolutions, including Alabama. The site also identifies 16 states that are "targeted" for resolutions this year, including Georgia, South Carolina and Tennessee. Not on the "targeted" list are large, historically Democratic-leaning states such as New York, Illinois and California.

Orr said that in a convention, he would expect each state to have a single vote.

"That's a non-negotiable where Alabama is concerned," he said.

Democrats have largely dismissed the convention bills as an election year stunt. Sen. Roger Bedford, D-Russellville, said he'd rather see an effort to reform Alabama's Constitution of 1901, which has nearly 900 amendments.

"What I'd like to see is a new Alabama state constitution and a rewrite of the longest constitution in the nation," he said.

## **Alabama Senate approves bill to allow expungement of criminal charges in certain cases (al.com)**

The Alabama Senate today approved a bill that would allow people who were charged, but not convicted, of certain crimes to get their records wiped clean.

Sen. Roger Bedford, D-Russellville, said he hears from people who made mistakes years ago or were found not guilty and are blocked from career opportunities because of the arrest records.

"Over the years I've heard from parents whose children made a mistake in high school or in college and matured, grew up, and then later were trying to get a coaching job or trying to get into a professional school or even hired at work, and they were denied oftentimes for charges that ultimately were thrown out," Bedford said.

The senator said an example would be when police stop a car full of teenagers, find marijuana, and charge everyone in the car. Only one is eventually convicted, but the arrest records follow the others forever.

Bedford's bill was heavily amended on the Senate floor today before it passed by a vote of 26-3. It now moves to the House of Representatives.

The Senate removed a section that allowed a person convicted of a misdemeanor or traffic violation to apply for expungement.

Other amendments added specific felony charges that could not be expunged, such as violent crimes.

Under the bill, a person seeking an expungement would pay a \$600 fee and file a petition to the court that handled the case. If the prosecutor objects, the court would hold a hearing to decide whether to grant the petition. No hearing is required if there is no objection.

In 2003, a judge dismissed charges of extortion and attempted extortion against Bedford, charges that Bedford said at the time were politically motivated.

Bedford said that if his bill becomes law, he had no plans to petition the court to expunge records of that case.

"I'm doing this to try to provide an opportunity for everyone in Alabama to have an equal opportunity," Bedford said. "It's certainly nothing automatic. You have to apply for it in the court."

The bill says that if an expungement petition is granted, records would be sealed, including arrest records, booking or arrest photographs and other records.

According to the bill, the proceedings regarding the expunged charges were deemed never to have occurred, and courts and other agencies must reply to any inquiries that no record exists.

## **[Hubbard says cupboard is bare for employee raises \(al.com\)](#)**

MONTGOMERY, Alabama -- Alabama House Speaker Mike Hubbard said Thursday that he doesn't see how the state can afford raises for employees, as state agencies have requested funding beyond their current year budgets.

Last week, Gov. Robert Bentley proposed four percent raises for state employees, conditional upon the state finding other sources of revenue, such as sales taxes on online purchases.

However, Hubbard said Thursday that the money just isn't there.

"I would love for us to have the resources to provide state employees with a raise, but as you know there is not enough money to go around on what agencies say they need to operate," he said.

## **[Bill would move Alabama's voter registration deadline seven days earlier \(al.com\)](#)**

MONTGOMERY, Alabama --- The deadline for voters to register before an election would move to seven days earlier under a bill approved this morning by a Senate committee.



Currently, voters are not allowed to register within the 10-day window before an election. The bill would expand that window to 17 days.

The change would effectively mean that voters could register no later than the third Friday preceding a Tuesday election, rather than the second Friday.

County voting registrars support the move, which is also supported by the Secretary of State's office. Ed Packard, director of the Elections Division for the Secretary of State, said county registrars receive a large number of registrations right at the deadline, which makes it difficult to accurately process and print the voter lists before elections.

The bill says the lists must be printed within a 10-day window before the election.

The same bill was proposed last year but failed to pass. Black lawmakers opposed it, saying it would suppress voting.

The Senate Constitution, Campaign Finance, Ethics and Elections Committee approved the bill today, sponsored by Sen. Bryan Taylor, R-Prattville. It moves to the Senate floor.

## **Lawmakers considers emergency voting during storms (AP)**

MONTGOMERY, Ala. (AP) - The Alabama Legislature may make it easier for voters to cast absentee ballots when there is a hurricane or other weather emergency.

The Senate passed a bill Thursday that would allow voters statewide to cast emergency absentee ballots when the governor declares a state of emergency. The bill's sponsor, Republican Sen. Greg Reed of Jasper, said it is the result of Hurricane Isaac, which arrived on the Gulf coast when many Alabama towns were having municipal elections. He said people were faced with the choice of missing the election while they went to the coast to check on family and property, or staying home to cast a regular ballot on election day.

Reed's bill now goes to the House for consideration.

## **Propane shortage prompts Bentley to declare emergency: Declaration allows governor to invoke laws barring propane providers from price gouging (AP)**

RAMER — Chicken farmer Jeremy Brown had 171,000 peeping reasons to worry about the frigid weather and a crunch in the propane industry as the sun began setting Thursday and temperatures headed toward the teens.

Brown uses gas-fueled heaters to keep temperatures about 90 degrees in his six poultry houses, which each hold about 28,500 days-old chicks, and the birds would die quickly without the warmth.

So Brown and other farmers are keeping in close contact with each other and propane suppliers amid what industry officials describe as a delivery bottleneck caused by surging demand amid the frigid cold snap.

“It can create quite a problem, because without the propane and without this heat we can’t raise these birds,” said Brown, walking through a sea of chirping chicks in one of his houses.

The potential for a propane gas shortage led Gov. Robert Bentley to declare a state of emergency Thursday night.

Bentley said in a statement that the emergency declaration allows him to invoke laws barring propane providers from price gouging, and suspends the propane gas industry’s regulations on the purchase and sale of the gas. The declaration also will lift federal motor carrier regulations on propane being brought into the state, he added.

Lisa Fountain, executive director of the Alabama Propane Gas Association, said increased demand in Alabama and other regions made it hard to distribute gas as quickly as farmers and other large users are burning it. The situation is even more complicated because a major gas supplier has quit making deliveries, citing shortages.

“What we have is a logistical nightmare with transportation right now,” Fountain said between phone calls from poultry farmers and state officials in her office.

Emergency declarations issued because of cold weather in the Midwest and the East have loosened the rules for propane truck drivers, she said, and that has resulted in out-of-state companies driving south for propane.

"Some of those transports are coming into the state of Alabama and creating a little bit of a bottleneck down at the pipeline," she said.

Brown, who farms in rural Montgomery County, said he had his storage tanks topped off so he now has about 6,000 gallons of propane, or enough for about a week.

While Brown locked in a price of \$1.35 a gallon when the weather was warmer, other growers are paying up to \$1 a gallon more, making it harder to turn a profit.

"It's not good," he said. "People are going to have to take out loans to buy propane."

## **Poultry farmers scramble as state's propane supply dwindles (Decatur Daily)**

None of the icy forecasts are records, but that doesn't mean it isn't going to remain bone-chilling cold.

After a night of possible single-digit temperatures, highs today aren't expected to top 30, National Weather Service forecaster Dan Dixon said.

"Tonight won't be as cold as Thursday, and I'm predicting between 18 and 20 degrees," he said. "That's cold enough."

Glenn Boyles, electric manager for Decatur Utilities, said utilities are still making their appeal to the public for voluntary load reduction.

"The main thing is to try to keep the peak demand down at any given time, especially as the temperatures continue to drop," he said. "Our main goal is to keep the TVA system up and reliable ... We don't have any major issues at this point. We haven't heard anything from TVA except just be prepared in case they need some additional help from us."

Gov. Robert Bentley issued a state of emergency Thursday in response to a propane gas shortage. He said the order will guarantee an uninterrupted supply of propane gas and other home heating fuels.

The declaration allows Bentley to invoke the state law prohibiting price gouging. It also allows consumers to purchase propane from any company that sells it, regardless of prior contracts.

According to the governor's office, the state of emergency will lift federal transportation motor carrier laws and allow greater flexibility in the delivery to homes, schools and businesses.

The declaration is in effect until "the threat to public safety and health shall cease to exist."

A lack of propane has become a critical concern to poultry farmers in north Alabama who need the fuel to keep their young birds alive.

Poultry producer and state Sen. Clay Scofield, R-Guntersville, said he's been getting "calls like crazy" from worried farmers.

"What we are understanding is that (suppliers) can't keep up with demand," he said. To keep young chicks healthy, the temperature needs to be about 92 degrees in farmers' chicken houses.

Lisa Fountain, executive director of the Alabama Propane Gas Association, said she's trying to direct customers to new suppliers since one large company stopped making deliveries, citing shortages.

Birds are big business in Alabama. Broilers are the No. 1 agricultural product in the state. In 2012, the state produced about 1 billion broilers. Only Georgia had more.

Fountain said the emergency declaration allows transport drivers to pick up more loads by bypassing driver-hours laws.

"A grower near Montgomery said it's costing him \$1,000 a day to heat his chicken houses," she said.

Brett Hall, deputy commissioner of the Alabama Department of Agriculture and Industries, said a lot of trucks have been coming into Alabama from the Midwest looking for propane.

## **[Bill to regulate teen tanning approved by Ala. House committee, has support of some UAB doctors \(al.com\)](#)**

A bill in the Alabama House of Representatives that would regulate the use of ultraviolet (UV) tanning facilities by teenagers in the state -- and which is supported by some doctors and researchers at UAB -- was approved by the House Health Committee Wednesday and is awaiting a vote in the full house.

House Bill 254, introduced by Rep. Ron Johnson, R-Sylacauga, seeks to create greater parental control over teens' tanning visits.

The UAB doctors and other health professionals who support the bill say that tanning, especially with UV tanning beds, increases the risk of skin cancer.

"Overwhelming scientific evidence has shown that UV radiation -- the same radiation coming from indoor tanning beds -- causes skin cancer," said Dr. Jennifer Herrmann, chief resident at the UAB Department of Dermatology.

They also say that teenagers are particularly vulnerable to what they call the deleterious health effects of tanning beds.

Teens' skin is "biologically more vulnerable" than that of adults, according to Dr. Robert Conry, an associate professor of medical oncology at UAB and a scientist at the UAB Comprehensive Cancer Center.

Herrmann said she helped draft the bill introduced by Johnson along with other dermatologists, including some from UAB, and the Alabama Medical Association.

The bill offers the following restrictions on tanning by teens:

--No person 16 or 17 years of age shall use a tanning device unless a parent or legal guardian provides written consent.

--No person 15 years of age shall use a tanning device unless a parent or legal guardian provides written consent and is present in the room during the operation of the device.

--No person 14 years of age or under shall use a tanning device, though they may receive spray tans.

--The consent form to be signed by parents will contain a strongly worded warning about the dangers of UV radiation.

--And no one will be allowed to use a tanning device without protective eyewear.

Conry said that legislation is necessary at least in part because teens, in addition to their biological vulnerability to tanning, are less careful about the way they tan.

"They will be less judicious in the use of the UV tanning beds and be more likely to suffer burns," he said.

Conry's daughter Lindsey, a sophomore at Auburn University, said that tanning is inordinately popular among teens.

"When I was a high school student, there were only 3-4 of my friends that had never used indoor UV tanning out of 40-50 of my close friends," she said in an email. "Indoor tanning became the 'in thing' and a social activity to be involved in after school."

She said young women are particularly susceptible to the appeal of indoor tanning.

"Women and girls definitely feel more pressure to stay tan year round and thus indoor UV tan much more often than guys," she said. "Girls tend to equate bronze skin with beauty and social acceptance where guys consider athletics more defining."

She also bemoans what she said is a lack of knowledge or appreciation by teens of tanning's effects.

"High school girls are almost completely unaware of the serious health consequences of indoor UV tanning," she said. "Even those who are aware of risks never believe anything bad will happen to them."

Inverness resident Bethany Harris, 21, one of Conry's patients, has endured three bouts with cancer since she was 19, including tumors on her back and neck.

Harris said that she tanned regularly in high school, sometimes purchasing a one-month package from a tanning facility. "When I was younger I would go... when we had dances and stuff like that when we would wear dresses," she said.

She said she believes that indoor tanning caused her cancers. "Now that I know about the risks, there is no doubt that was what it's from," she said.

Tanning has a powerful appeal for teens, according to Harris. "Half the people don't even know the risk," she said. "They are just going to get dark and to look good."

Johnson introduced another tanning bill in 2013, HB 179, which was indefinitely postponed and did not come up for a vote by the full House.

That bill -- unlike HB 254 -- would have prohibited minors under the age of 18 from using indoor UV tanning facilities.

The bill also provided for fines of tanning facilities that failed to obey the law's mandates.

But Herrman said Tuesday that the backers of HB 254 have worked to craft a bill that can gain support from the tanning industry and win passage in an election year.

Industry spokesperson Joseph Levy of the American Suntanning Association (ASA) said last week that his group is trying to "work constructively to forge legislation that makes sense with the sponsors" of the bill.

Levy said that he hoped to get a bill that "would underscore the ASA protocols that are already in place at the facilities."

"We want parental consent for any minor coming into the facility," Levy said. "We want everyone to be warned about the dangers of overexposure. We want them to understand the proper way for the equipment to be used. The equipment needs to be used by a trained operator."

Levy said that he is also skeptical of governmental overreach.

"If you force the teen to not tan indoors, you are driving that youth to tan outdoors or in a home unit," he said. "We know this happens. Two-thirds of teens will tan more aggressively outside or in someone's home unit if you create the environment for an underground industry."

Backers of legislation regarding tanning beds across the country sometimes overemphasize the dangers of exposure to UV rays, according to Levy.

"Where we have objected, as we did last year, is the context the bill was dropped in, which is that any exposure is bad and any use of a facility is bad," he said. "That is not good science."

Alabama is presently the only state in the Southeast without any regulation of teen access to tanning beds.

"Our current legislation fails to protect our children, and we believe this is unacceptable," Herrmann said.

There is no word as yet as to when the bill will come up for a vote in the House.

## **Summary of action in Alabama Legislature (AP)**

MONTGOMERY, Ala. (AP) — A summary of action in the Alabama Legislature on Thursday, the sixth meeting day of the regular session:

### HOUSE:

—Approved a bill to end the Alabama Health Insurance Program for high-risk people who have trouble getting health insurance because the new federal health care law provides coverage. Goes to Senate.

—Approved a bill to create the Fair Ballot Commission, which would issue statements on what would happen if people vote for or against a proposed constitutional amendment. Goes to Senate.

### SENATE:

—Passed a bill to allow county tag officials to sell vehicle registrations covering two years. Goes to House.

—Approved a bill to clarify that a wine bottle resealed by a restaurant does not violate Alabama's law prohibiting open liquor containers in cars. Goes to House.

—Passed a bill to allow the expunging of some criminal court records. Goes to House.

### COMMITTEES:

—Approved two bills setting up procedures for selecting delegates and setting parameters for how they can operate if there is ever a state-led convention to amend the U.S. Constitution. Goes to Senate.

### AGENDA:

—House meets at 1 p.m. Tuesday and Senate at 2 p.m.

## **Physical test - especially push-ups - a hurdle for women seeking jobs at Tutwiler prison, commissioner says (al.com)**

WETUMPKA, Alabama – Among dozens of recommendations for Alabama prison officials as they address sexual abuse at Julia Tutwiler Prison for Women, federal authorities have urged hiring more female employees at the facility.

State Prison Commissioner Kim Thomas told AL.com that the Alabama Department of Corrections is trying to recruit more women, but that has proved difficult. In many cases, 22 push-ups stand in the way of women who seek jobs with ADOC, he said.



Men and women who aspire to work in the prison system – or as any peace officer in Alabama – must complete a series of rigorous physical fitness requirements.

"They've got to train for this on their own, do this on their own to get ready for this test," Thomas said. "The biggest hurdle (for women) has been the push-ups."

The Alabama Peace Officers Standards and Training Commission establishes the physical fitness requirements for law enforcement officers throughout the state.

During basic training, applicants must pass a physical agility and ability test that simulates job-related activities such as jumping down from porches or stairs, walking along walls or rafters during a chase and checking buildings for suspects. They also must complete 22 push-ups in 60 seconds, complete 25 sit-ups in 60 seconds, and run 1 ½ miles within 15 minutes and 28 seconds.

If an applicant fails the exam, they can re-test once within 48 to 72 hours.

According to information available from other states, the requirements are similar across the nation.

## **[Alabama prison commissioner 'will not tolerate' problems at Tutwiler but says Justice Department report includes 'inconsistencies' \(al.com\)](#)**

BIRMINGHAM, Alabama – A week after federal officials released a report about abuse at Julia Tutwiler Prison for Women, Alabama's prison commissioner acknowledges that problems persist at the facility but takes issue with claims that state officials are not striving for reform.

The Alabama Department of Corrections Commissioner Kim Thomas met Thursday with AL.com to discuss a recent Department of Justice report outlining cases of sexual abuse at Tutwiler Prison for Women.

The meeting lasted nearly two hours, much of it involving Thomas walking through a series of letters and reports detailing his actions regarding Tutwiler since he became commissioner in 2011.

"As a correctional professional who takes a lot of pride in my work and cares very deeply about doing the right thing, to me the most egregious, the most despicable tasteless act of abuse of power is to do

something like that, whether it's sexual harassment or sexual misconduct," Thomas said. "That's the most egregious abuse of power that exists."

#### Allegations of sexual abuse surfaced in 2012

In May 2012, the Equal Justice Initiative, a Montgomery nonprofit watchdog group, released a report claiming that it had "uncovered evidence of frequent and severe officer-on-inmate sexual violence" and asked the U.S. Department of Justice to investigate the Alabama Department of Corrections.

Thomas said he was not given a copy of the EJI report that prompted the investigation.

In June 2012, Thomas asked the National Institute of Corrections to send a team of experts to conduct an assessment of Tutwiler, in an effort to be "transparent and open."

"I asked them to make recommendations to my administration for steps to be taken to deal with inappropriate staff conduct and to create a safer, healthier environment for Tutwiler," Thomas said.

During the September 2012 visit, NIC investigators conducted interviews with staff members and inmates and were given access to various corrections department records.

Frank Albright was the Tutwiler warden at the time. In November 2012, he was reassigned to Kilby Correctional Facility and has since retired. Bobby Barrett stepped in as warden at Tutwiler, but Thomas said the shuffling was not connected to the complaints or the investigation.

"It's best to refresh the staff and give him some new challenges," Thomas said. "We also wanted to have some bright eyes at Tutwiler. It wasn't in direct response to the EJI complaint or any negative behavior on the part of warden. Warden Albright was always responsive to my directives and things I wanted to accomplish at Tutwiler."

After the NIC report was released in January 2013, Thomas outlined a plan for ADOC staff to implement changes at Tutwiler by following 58 specific steps in accordance with the report's recommendations.

"If there's 58 items in here we've completed 57 of those," Thomas said Thursday. "This is not a static document though. These are things that are evolving."

U.S. Department of Justice officials conducted their own investigation in April 2013 and, in a report released Jan. 17, declared conditions at Tutwiler unconstitutional.

The report condemns the "toxic, sexualized environment" at Tutwiler and the failure of prison officials to address the problem, despite having knowledge that it persisted for nearly two decades. The DOJ announced that it will expand its probe.

Thomas disputes the allegation in the DOJ report that one-third of all staff members had been involved in sexual misconduct involving inmates.

"I think there are a lot of inconsistencies in the DOJ letter and I look forward to working with them to work through these inconsistencies," Thomas said.

#### Changes implemented at Tutwiler

##### Tutwiler and Staton Prisons

An inmate reads inside a dormitory at Julia Tutwiler Prison Wednesday, Sept. 4, 2013, in Elmore County near Wetumpka, Ala. (Julie Bennett/jbennett@al.com)

Both the NIC and DOJ reports appear to confirm some of the EJI findings released in May 2012, including the practice of male officers watching female inmates shower and go to the bathroom. Consultants in both investigations found flaws in the process of reporting and investigating complaints by female inmates about sexual misconduct of male employees.

"I'm not going to sit here today and say there aren't problems," Thomas said. "There are problems at Tutwiler and other correctional facilities. I'm here to help fix those issues and I'm not going to tolerate it."

Closing Tutwiler is not the solution because relocating nearly 1,000 inmates would be daunting, Thomas said. He denounced the past practice of moving inmates to facilities in other states, far away from their families.

Thomas' many proposed changes include reworking policies about gender-specific principles; training staff members on gender sensitivity and the Prison Rape Elimination Act; making a concerted effort to hire female employees; and revamping the process of inmates submitting complaints.

Thomas outlined what happens when an inmate makes a complaint about abuse, a process that he said has changed in the wake of the reports.

When a complaint is first made, the staff member and inmate are separated. In some situations, the staff member can be transferred to another correction facility while the investigation is pending. ADOC then notifies the local district attorney and sends cases to the DA for prosecution.

ADOC investigates the complaints, then turns them over to the district attorney's office to weigh evidence and determine whether to pursue prosecution. At that point, Thomas said, it is out of ADOC's hands.

"I wish that some of these people were punished more harshly, but I don't have a say-so in that process," he said.

Thomas believes that the updated process will spark an initial increase in complaints as inmates become less wary of the possible repercussions reporting abuse. Ultimately, Thomas said, he expects the number of complaints to drop significantly.

Thomas said legislators have been responsive to the department's needs and supportive of initiatives, including allocating funds for more officers and setting up a camera system in the prison. In March 2013, legislators approved a 5 percent pay differential for Tutwiler employees.

A task force was appointed to address recruiting new employees and retaining current ones. Thomas said the department has not had as much success as he had hoped in hiring female employees, partially because of the physical fitness requirements for law enforcement officers in Alabama.

The NIC sent a team to an executive leadership conference in Alabama to train employees on handling gender issues and gender sensitivity. In June 2013, the NIC offered a presentation on gender-responsive strategies at the ADOC training academy in Selma.

"We have to start recognizing and realizing that women have a different pathway to prison," Thomas said. "They require different treatment approaches."

## **[Alabama still won't release scores for non-failing schools \(al.com\)](#)**

The Alabama Department of Education will not release accountability scores nor the rankings for the state's public schools.

The GOP majority in the Alabama Legislature last year passed the Alabama Accountability Act, ordering education officials to identify so-called failing schools.

To do that, the law required the state to rank all public schools according to combined performance in reading and math. The state must hunt for schools that repeatedly land in the bottom 6 percent.

But the state last year denied public records requests from AL.com for scores of schools in the top 94 percent. The state turned down a formal request from Huntsville City Schools.

Pursuant to the AAA law, the programmers were only looking for the bottom 6% and only received information on the bottom 6%.

"I'm still curious. I haven't changed my position on that," said Laurie McCaulley, a member of the Huntsville school board, this week. "How can you determine the bottom 6 percent without ranking the top 94 percent?"

Last week the state issued a new list of 76 failing schools, and once again declined to provide comparable data for non-failing schools.

In short, the state said the scores for non-failing schools were not created and therefore can't be provided.

Here's the full response from the Alabama Department of Education:

"The bottom 6% - the schools identified on the state legislator's criteria for "failing schools" - were queried by computer. The programmers who input the query used to make that determination did not design the program to identify and rank all schools in Alabama.

Pursuant to the AAA law, the programmers were only looking for the bottom 6% and only received information on the bottom 6%.

Of the bottom 6%, no school is identified as being first or last on the list - there is no ranking. They are all randomly in the bottom 6%."

The ranking system marked a new turn in Alabama education and forced officials to boil down a large pool of test data into one single number for each school.

By law, those schools that finish in the bottom 6 percent at least three times over six years are labeled as failing. Students are given options to request transfers or use state tax credits to attend private school.

The state releases the single "score" for each failing school, even for years when they weren't in the bottom 6 percent. For instance, Greene County High got a 72 last spring, which is not failing. The school got a 58 the year before, which was in the bottom 6 percent.

But school officials in Huntsville argued that educators can't see the margin between the failing and the non-failing. Was a school cutting it close? Which schools need attention to avoid slipping? Who has two years in the bottom 6 percent and is at risk during the next round of testing?

David Blair, president of the Huntsville board, said on Tuesday that he didn't expect that Huntsville would make another records request. "At this moment, we're not going to pursue the matter."

State education officials have said they do not support the new ranking system. For one thing, the state now combines average scores across two subjects across three separate tests that were not designed to be averaged. For more on the formula, [click here](#).

Education officials have pointed out that the underlying test results in math and reading are available online for all schools. The accountability scores and rankings are not.

## **[Alabama would avoid federal elections supervision under new bill \(Montgomery Advertiser\)](#)**

WASHINGTON — Alabama will be two missteps away from renewed federal supervision of its elections if congressional legislation to restore part of the Voting Rights Act becomes law.

The bill introduced last week would rewrite the rules to determine which states need strict oversight based on the likelihood their election-related changes would harm minority voters.

The old rules, which applied to Alabama and all or part of 14 other states with a history of voting discrimination, were thrown out by the U.S. Supreme Court last year because they were based on outdated voting data.

Under the proposed update, states that violate the federal Voting Rights Act at least five times in the most recent 15-year period would be subject to "pre-clearance." That means they would have to prove to the Justice Department or a federal court in advance that any change to their election procedures wouldn't disenfranchise minority voters. At least one of the five violations would have to be statewide.

The four states that would immediately qualify are Georgia, Mississippi, Louisiana and Texas.

In Alabama, a federal court or the Justice Department has objected to three election changes since 2000, according to the Justice Department's civil rights division. So Alabama wouldn't initially be subject to pre-clearance, but one more local violation of the Voting Rights Act plus a statewide infraction — such as a state redistricting plan that disenfranchises minorities — would put it back on the list.

Some view it as progress that Alabama wouldn't start out on the list. State officials, mostly Republicans, have said for years it's unfair to presume the state's election procedures would discriminate if the Justice Department weren't watching.

Any formula used to gauge which states need such supervision should be based on current conditions rather than historical events, said Edward Blum, executive director of the Project on Fair Representation. The group financed Shelby County's lawsuit that led to last year's Supreme Court decision throwing out the old formula.

But Blum said the time frame in the new proposal is too long.

"Fifteen years is a very long time in American political history, and it may indeed be something this court will not tolerate," Blum said.

He also questioned whether it's fair to hold large states such as Texas accountable for the actions of any five of the thousands of small, local jurisdictions they encompass.

"(With) a clear pattern of intentional racial discrimination and animus, then perhaps a pre-clearance provision does have a place," Blum said. "But the formula Congress has offered in this bill is not the one."

Lawmakers said the five-violations-in-15-years formula was written specifically to address last year's Supreme Court ruling, which said pre-clearance should be based on recent events, not on what life was like in the South in the 1960s.

Alabama's record for the past 15 years has not been perfect, but it has fewer run-ins with the Justice Department than many other Southern states. The agency objected to annexations by the city of Alabaster in 2000, and to annexations and a redistricting plan in Calera in 2008.

A third objection in 2007, involving Mobile County Commission elections, was withdrawn and wouldn't count against the state's record if the recent congressional legislation were passed.

Most recently, a federal judge just this month put the city of Evergreen back under pre-clearance for a series of election changes that diminished the power of minority voters.

The last time the Justice Department objected to a statewide election procedure was in 1994 — outside the 15-year window. That objection related to the election of state appellate judges.

Rep. Terri Sewell, D-Birmingham, supports the legislation but said she'll try to convince her colleagues that Alabama should be on the list for pre-clearance.

"I think federal oversight has proven to be a highly effective method of giving Alabama voters the security they need and deterring those who seek to dampen minority voter turnout," said Sewell, the only black member of Alabama's congressional delegation.

The list of official Justice Department objections does not account for multiple cases in which cities or counties withdrew voting changes because the agency warned they would harm minority voters, Sewell said.

"Yes, things are much better in Alabama, but there are also enough incidences of potential voter suppression that I don't think we're out of the woods yet," Sewell said Tuesday.

Civil rights attorney Armand Derfner of South Carolina said that although states such as Alabama would start out in the clear, the new formula would provide a strong incentive for officials to make sure their future voting procedures are fair.

"This keeps the concept of pre-clearance alive, which has been so successful in preventing states and counties from doing bad things," Derfner said. "And the notion that they could bring it on themselves, that has to be a deterrent."

States would automatically fall off the pre-clearance list after 10 years with a clean record, according to the legislation. A city or county could be subject to pre-clearance with three violations in 15 years, or one violation accompanied by a persistently low minority voter turnout.

So how did the authors of the proposed Voting Rights Act amendment decide to draw the line at five violations in 15 years?

Rep. James Sensenbrenner, R-Wis., declined to discuss the delicate bipartisan negotiations that went into the drafting of the legislation. He said the bill was designed to be both constitutional as well as



politically acceptable, and that the formula was not reversed engineered in order to make sure certain states were included and others were excluded.

"It really couldn't be," he said last week when the bill was introduced on Capitol Hill. "In the Southern states before 1965, it was practically impossible for minorities, for African-Americans, to register and vote, because there were all kinds of artificial barriers. That's not the case now."

Election law expert and law professor Richard Hasen from the University of California, Irvine, said the formula itself is not a way to label states.

"I think we need to consider the five-violation test not as an intrinsic measure to separate 'good' from 'bad' states on race relations in voting, but a practical line drawn calculated to preserve as much of pre-clearance as possible while still having a bill which could, one, pass in Congress and two, pass muster before the Supreme Court," Hasen said in an email Tuesday. "Why would five, rather than three or seven be the magic number?"

Gerald Hebert, executive director of the Campaign Legal Center in Washington and an attorney specializing in voting rights cases, said the legislation would make it easier to catch wrongdoing, in part because it would require more disclosure of voting changes before they're implemented. And states with a long record of infractions would be fairly warned that repeat violations would have consequences.

"To the extent there is ongoing voting discrimination in those places, they could in the future be captured (by the formula for pre-clearance) and perhaps in the not-too-distant future," Hebert said.