



WAYNE STATE
UNIVERSITY

State Legislative Oversight: **Alaska**



Capacity and Usage Assessment

Oversight through Analytic Bureaucracies:	High
Oversight through the Appropriations Process:	High
Oversight through Committees:	Moderate
Oversight through Administrative Rule Review:	Limited
Oversight through Advice and Consent:	Moderate
Oversight through Monitoring Contracts:	Limited
Judgment of Overall Institutional Capacity for Oversight:	High
Judgment of Overall Use of Institutional Capacity for Oversight:	Moderate

To read the full 50 state study report or to discuss the Alaska state report, please contact Benjamin.Eikey@wayne.edu.



This report is sponsored by the Levin Center at Wayne Law

Legislative Oversight in Alaska

Capacity and Usage Assessment

Oversight through Analytic Bureaucracies:	High
Oversight through the Appropriations Process:	High
Oversight through Committees:	Moderate
Oversight through Administrative Rule Review:	Limited
Oversight through Advice and Consent:	Moderate
Oversight through Monitoring Contracts:	Limited
Judgment of Overall Institutional Capacity for Oversight:	High
Judgment of Overall Use of Institutional Capacity for Oversight:	Moderate

Summary Assessment

Alaska has two analytic bureaucracies that actively collaborate with the legislature to conduct oversight. Appropriations subcommittees focus attention on the performance of the agencies within their jurisdiction. Standing committees often hold hearings to examine agency performance and utilize audit reports in doing so. The legislative responsibility to review administrative rules is increasingly handled by standing committees instead of the Administrative Regulatory Review Committee (ARRC). This may increase the role played by standing committees in overseeing the executive branch. However, there has been minimal legislative oversight of administrative rules in the past. Sunset reviews are thorough and frequent. Overall Alaska excels in oversight through committees and through the appropriations process. It faces more challenges with respect to oversight through administrative rule review and through advice and consent.

Major Strengths

Alaska has various “best practices” that make it a state with good legislative oversight. First, the Division of Legislature Audit and its legislative auditor report directly to the Budget and Audit Committee (LBAC), which is also a joint committee. This makes it easier to communicate reports to both chambers. These reports include special audits conducted on state contracts, which are discussed during committee hearings. Audit reports are utilized by various standing committees throughout the legislature and can have a direct impact on legislation. The Legislative Finance Division (LFD) also assists the LBAC, but the LFD primarily serves the finance committees. LFD staff members appear to be very active in their service to these committees, from fiscal notes to presentations on the governor’s budget. During standing committee hearings, committee members question agency representatives and heads thoroughly. Appropriations subcommittees are instructed to examine agency performance before turning to budget requests.

Challenges

Despite Alaska's many strengths, there are some instances of limited oversight within the state. The administrative rule review process has not worked well in the past. To its credit, the legislature is trying to improve the process, but it remains to be seen whether it develops systematic reviews that stress benefits and costs of rules. Although Alaska's legislature examines financial problems with state contracts through its ethics rules, there is no evidence that the legislature reviews the performance of contractors delivering public services. Moreover, Alaska appears to have numerous quasi-public authorities that manage large sums of money and control valuable resources—similar in many ways to New Jersey's Port Authority. These entities tend to be very hard for legislatures to oversee. Alaska appears willing to try to rein in their authorities, but there appear to be hundreds of them according to media reports. So the problem could overwhelm the capacity of a part-time legislature, albeit a highly professional one.

Relevant Institutional Characteristics

Alaska's legislature is ranked the eighth most professional in the nation (Squire, 2017). Baugus and Bose classify it among the seven states that assign full-time responsibilities to their legislators, yet provide them with less than full-time pay (approximately \$50,000 per year plus per diem of \$275 per day in a state with the 8th highest cost of living in the country).⁵⁷ The Alaska legislature holds legislative sessions roughly 90 days of the year (NCSL, 2010). So, with the per diem payments, an Alaska state legislator would expect to make around \$75,000. The Alaska legislature also may hold special sessions (sometimes known as extraordinary sessions), which may be called by the governor or the legislature. For the legislature to call a special session, two-thirds of the membership must respond in the affirmative to a poll conducted by the presiding officer of each house (NCSL, 2009). According to the legislature's schedule, four special sessions were held in 2017.⁵⁸

The number of state legislators in Alaska is small—40 in the house and 20 in the senate. This small legislature has a relatively a sizeable support staff, with 341 permanent staff and 172 session-only staff (roughly 500 staff during session) as of 2015 (NCSL, 2017). These staff members include personal staff, committee staff, partisan staff, and non-partisan professionals from legislative services agencies such as the Legislative Finance Division. Alaska is not among the approximately 15 states that currently have term limits for legislators (NCSL, 2015).

Ferguson (2015) considers Alaska's governor's to be the most powerful in the country. Consistent with this, a reference guide on the Alaska Constitution reports that the governor is one of the most institutionally powerful in the nation⁵⁹ based on power granted in Article III of the Alaska Constitution.⁶⁰ For instance, the Constitution “allows the governor to appoint all executive officials and to set the agenda when calling special sessions of the legislature.”⁶¹ Alaska's governor can use the line-item veto for the state's budget. Legislative overrides of gubernatorial vetoes occur in joint sessions of the legislature in which two-thirds of the entire

⁵⁷ https://www.missourieconomy.org/indicators/cost_of_living/, accessed 11/7/18.

⁵⁸ <http://akleg.gov>, accessed 7/27/18.

⁵⁹ <http://www.gvpt.umd.edu/lpbr/subpages/reviews/McBeath.htm>, accessed 6/27/18.

⁶⁰ <http://ltgov.alaska.gov/treadwell/services/alaska-constitution.html>, accessed 7/27/18.

⁶¹ <http://www.gvpt.umd.edu/lpbr/subpages/reviews/McBeath.htm>, accessed 6/27/18.

legislature must vote to override the veto, but to override a gubernatorial veto of revenue or appropriations bills or a line item in the budget requires a vote by three-fourths of the legislature—45 of the 60 members.⁶² The governor can make adjustments to the budget when the legislature is not in session if necessary to maintain a balanced budget. Interim committees would have shared the authority “with the governor ... to approve or disapprove revisions to the budget” under a 1978 ballot proposal, but citizens rejected this proposal.⁶³ Alaska is one of three states that have a unitary executive branch, meaning the governor has extensive influence over the bureaucracy (Schwartz, 2010). For example, Alaska’s governor appoints its attorney general. Alaska has no secretary of state; the lieutenant governor performs many duties that a secretary of state would typically perform. The governor’s appointment power is discussed further in the Oversight Through Advice and Consent section.

Data from 2004 reveals that Alaska had 16.6% of its entire workforce employed by state or local government. This share was larger than any other state. As of 2004, the state also had 8.3% of its entire workforce employed in K-12 education, which was also higher than the rest of the country (CATO, 2006).

Political Context

Over the last fifty years, Democrats have never controlled both chambers of Alaska’s legislature. From 1978-1994, neither party controlled both legislative chambers. However, since 1994, the Republican Party has maintained legislative control of both chambers, except during the first four years of the Obama Administration when legislative control was again divided (NCSL, 2017). Even though there were more Republicans holding seats in the House in 2018, a coalition of three Republicans and two of the three Independents, plus all 17 Democrats effectively gave Democrats control of the lower legislative chamber in 2017-18.⁶⁴ Although legislative control tended to favor the Republican Party over the last fifty years, party control of the governorship has alternated between the Republican Party and the Democratic Party roughly every five to ten years since 1979. Interestingly, in 2018, the governor of Alaska identified with the Independent Party; he previously ran in 2010 as a Republican and lost.

Recent evidence suggests that neither of Alaska’s legislative chambers is especially polarized along party lines (Shor and McCarty, 2015). These authors ranked Alaska’s house as the 35th most polarized lower legislative chamber and its Senate as the 25th most polarized upper chamber based on differences between median roll call votes for each party in each chamber. This moderate approach to ideology and party is consistent with the success of an independent for governor and the successful write-in candidacy of Lisa Murkowski for U.S. Senate after she lost the 2010 Republican Party primary, the year of the Tea Party insurgency.

⁶² https://ballotpedia.org/Alaska_State_Legislature, accessed 11/11/18.

⁶³ [https://ballotpedia.org/Alaska_Budget_Powers_of_Legislative_Interim_Committees,_Proposition_2_\(1978\)](https://ballotpedia.org/Alaska_Budget_Powers_of_Legislative_Interim_Committees,_Proposition_2_(1978)), accessed 7/27/18.

⁶⁴ https://ballotpedia.org/Alaska_State_Legislature, accessed 11/11/18.

Dimensions of Oversight

Oversight Through Analytic Bureaucracies

The primary analytic bureaucracy that helps Alaska's legislature conduct oversight is the Division of Legislative Audit (DLA). This unit was created in 1955 and given authority to conduct performance audits in 1971.⁶⁵ Alaska's "sunset law" passed in 1977, requires DLA to consider public need for boards, commissions, and programs when it conducts performance reviews of programs that might be terminated. In 2013, HB 30 mandated some performance reviews; other performance reviews are requested by legislators. The Division of Legislative Audit receives all its authority from Alaska Constitution Article IX, Sec. 14 and Alaska Statute 24.20.241-311, which essentially grant the division the primary responsibility of holding government agencies accountable to the laws enacted by the legislature. In doing so, they have the authority to obtain information and issue subpoenas (NCSL, 2015).

The DLA is headed by the legislative auditor, a constitutional officer, who is appointed by the interim Legislative Budget & Audit Committee (LBAC), subject to the approval of the entire legislature. The LBAC consists of six representatives and six senators. In 2018, the committee was comprised of four Democrats, seven Republicans, and one member without a party affiliation.⁶⁶ The legislative auditor manages a team of 34, consisting mainly of certified public accountants (CPAs).⁶⁷ The legislative auditor must have been a CPA for at least five years prior to his or her appointment.⁶⁸ The DLA receives a total of \$6,506,300 from state appropriations amongst other sources (NCSL, 2015). The DLA does not audit local governments; local governments hire independent CPA firms to audit themselves (interview notes, 2018).

Under the general direction of the LBAC, the DLA produces five types of audits: the statewide single audit, performance audits/reviews (which include sunset audits), special audits, IT audits, and financial audits.^{69,70} Special audits are the only audits that legislators who do not serve on the LBAC can request. In these cases, legislators will discuss the potential audit with the legislative auditor. If, after this discussion, the legislator or the auditor decides that an audit is needed, the request will be submitted to the LBAC.⁷¹ The LBAC reviews all preliminary reports and will make "a motion to release the preliminary report to the audited agency for their formal response" (interview notes, 2018). The legislative auditor will review the response and determine if there are any disagreements, and if so, add comments to the report to address them. The final report, including the preliminary report, the agency response, and any additional legislative auditor comments, goes back to the LBAC. A motion is then made to release the report to the public and, in the case of a special audit, a copy is additionally sent to the requestor (interview notes, 2018).

⁶⁵ http://lba.akleg.gov/download/annual_report/2017-Annual-Report.pdf, accessed 11/8/18.

⁶⁶ <http://www.akleg.gov/basis/Member/Detail/30?code=ORT>, accessed 7/27/18.

⁶⁷ <http://legaudit.akleg.gov/employment/auditor-positions/>, accessed 7/27/18.

⁶⁸ https://ballotpedia.org/Alaska_Legislative_Auditor, accessed 7/27/18.

⁶⁹ <http://legaudit.akleg.gov/about/>, accessed 7/27/18.

⁷⁰ <http://legaudit.akleg.gov/employment/auditor-positions/>, accessed 7/27/18.

⁷¹ <http://lba.akleg.gov/audit-request/>, accessed 7/27/18.

During 2016, the DLA conducted a total of nine audits, of which five were special audits, three were sunset audits, and one was the state’s single audit. During 2017, the division conducted ten audits, of which eight were sunset audits, one was a special audit, and one was the single audit. During 2018, twelve audits were conducted; three special audits and nine sunset audits. Sunset audits are dictated by AS 44.66. The DLA can conduct performance audits of any state agency, however, in 1977, the legislature passed a “Sunset Law” which “[requires] the division to conduct performance audits of boards, commissions, and agency programs subject to termination under 44.66.”⁷²

Vignette: The Special Audit of the Alaska Mental Health Trust Authority

The division, in June 2018, released a special audit on the Alaska Mental Health Trust Authority (AMHTA), revealing issues of transparency and indicating that various laws had been violated. These laws included the Alaska Executive Branch Ethics Act and the Open Meetings Act. It was alleged that the authority did not notify the public and other board members about meetings and other means of business, such as the demotion of an individual or issuing proposals. Furthermore, according to AS 37.14.031, principal funds must be managed by the Alaska Permanent Fund Corporation (APFC), but since 2008, the authority’s board of trustees has kept funds in a separate account and used them to “invest in commercial real estate around the country.” The authority believes that the law allows for these investments, since it doesn’t “clearly identify alternative investment opportunities, other guiding authorities do.” The audit clarifies that, although these investments are valid, a consultant hired in 2016 revealed the risks with this investment strategy, and the audit notes that this report had been disregarded by members of the authority and kept from the rest of the authority and the public (DLA, 2018).

The trust argued that it made about \$3 million more by investing in the real estate than it would have made in the Alaska Permanent Fund. No one stole money, and the real estate has proved to be a good investment, but it was all illegal according to the audit. The audit judged the trust’s investment strategy as too risky for the long-term.⁷³

Recommendations included not investing in commercial real estate and consulting with the APFC before making investments. In response, the authority said that they would implement recommendations made (they have since implemented training on ethics, conflicts of interest, and the Open Meetings Act), rewrote their bylaws, and agreed that “the trust has not met the community’s expectations regarding open meetings and public notifications in the past.” Nonetheless, the authority said that they will also be seeking “legislative changes” to allow for more flexibility in investing (Hillman, 2018).

Meeting minutes from February 23, 2017, held by the LBAC, reveal that the Budget and Audit Committee chair asked the legislative auditor if the DLA could conduct the audit of the authority sooner than the projected timeline.⁷⁴ As one reporter opined, “Alaska entrusts billions in assets to various authorities and quasi-public corporations that are run by obscure boards that

⁷² <http://legaudit.akleg.gov/about/>, accessed 7/27/18.

⁷³ <https://www.alaskapublic.org/2018/06/05/special-audit-finds-alaska-mental-health-trust-authority-violated-multiple-state-laws/>, accessed 11/11/18.

⁷⁴ http://www.akleg.gov/basis/Meeting/Detail?Meeting=HBUD%202017-02-23%2012:00:00#tab3_4, accessed 7/27/18. hardly anyone pays attention to. Combining huge amounts of money with no oversight is

a dangerous mix.”⁷⁵ The LBAC appears to have recognized the risk at least in this instance.

In addition to the DLA, the LBAC has another professional support unit, the Legislative Finance Division (LFD). The LFD is a nonpartisan legislative agency that serves the LBAC and two standing finance committees. The primary responsibilities of the Legislative Finance Division are outlined in Alaska Statute 24.20.231. In brief, the division is a nonpartisan legislative agency that provides fiscal analyses on the budget, appropriations, and revenue. They collaborate with the Office of Management and Budget agency to ensure that state government finances are in order (AS 37.07). During 2017, the LFD has prepared seventeen operating budget reports, eight capital budget reports, one supplemental budget report, and more than a hundred fiscal notes. The division also conducts studies and prepares other miscellaneous documents, including yearly publications and informational papers.⁷⁶ According to an interviewee, appropriation bills are drafted by the LFD. Although the LFD does not produce financial audits, they may assist the DLA in conducting their financial audits by confirming the accuracy of the appropriation bills mentioned. The LFD possesses a staff of roughly 30, of which about 27 are fiscal analysts assigned to a specific area of responsibility (LFD, 2017).

In addition to its other responsibilities, the LFD is required, per AS 24.20.231(7), to examine performance audits to identify potential savings, producing reports called Legislative Finance Assessment of Performance Review Savings. During 2016, LFD produced two of these reports: one on the Department of Education and Early Development and one on Postsecondary Education. The LFD did not identify potential savings in either program, but in a letter to the LBAC, dated January 3, 2017, LFD Director David Teal said that the review helped these agencies prioritize their resources to cope with budget cuts previously imposed by the legislature.⁷⁷

Interestingly, in 2010, the LFD conducted a Budget Clarification Project in response to Alaska’s anticipated shortfall of \$677 million for fiscal year 2011. In hopes to simplify state finances, the project reassigned approximately 60 minor funds to the General Operating Fund (Alaska Policy Forum, 2010), specifically allocating \$750 million into the “other funds.”⁷⁸ The project also aimed to increase transparency and decrease unnecessary spending. The project confirmed LFD findings that several state departments “had been routinely siphoning money from the Alaska State Permanent Fund to pay for departmental expenses.”⁷⁹ This entity will be discussed further in the next section.

Oversight Through the Appropriations Process

Legislative oversight during the appropriations process is largely conducted by the House and Senate Finance Committees and their respective standing subcommittees. With the exception of a short statement in the Alaska State Legislature Uniform Rules that all bills involving appropriations, revenues, or bonding must be referred to the Finance Committee, there is no

⁷⁵ <https://www.adn.com/opinions/2018/06/24/the-mental-health-trust-broke-the-law-but-that-matters-less-than-the-crisis-at-hand/>, accessed 11/11/18.

⁷⁶ <http://www.legfin.akleg.gov/AgencyInfo/AboutLFD.php>, accessed 7/27/18.

⁷⁷ http://lba.akleg.gov/download/annual_report/2017-Annual-Report.pdf, accessed 11/8/18.

⁷⁸ https://ballotpedia.org/Alaska_State_Legislature, accessed 7/27/18.

⁷⁹ https://ballotpedia.org/Alaska_State_Legislature, accessed 7/27/18.

mention of the House and Senate Finance Committee's, and their respective subcommittees', oversight responsibilities in the Alaska Constitution, chamber rules, or statutes. However, the Alaska legislature does provide *Layman's Guide to the Budget Process*, which provides a description of the appropriations process.

The budget process begins with the preparation, review, and submission of agency budgets by the executive branch to the legislature. The House and Senate Rules Committees then introduce appropriation bills that are referred to the House and Senate Finance Committees. Then, these bills are referred to various subcommittees for examination. This examination process may involve public hearings. However, these public hearings usually only include testimony from departmental experts.

After the examination process, appropriations bills are sent back to the House and Senate Finance Committees along with recommendations. The House and Senate Finance Committees consider these recommendations and then develop a final version of the bill. Usually, there are discrepancies between the House and Senate final bills, in which case a conference committee reconciles differences between the bills (Alaska Legislature, 2017). The governor can item-veto appropriation bills (CSG, 2008). A two-thirds vote of the combined chambers may override the governor's veto,⁸⁰ but an override has not occurred for at least two years (interview notes, 2018).

Meeting minutes, audio, and video files document fifty or more committee hearings held by the House and Senate Finance Committees. During these hearings, the committees listen to the presentations of the governor's budget from the Alaska Office of Management & Budget (OMB). During the appropriations process, the LFD assists finance committees in various ways. LFD creates reports analyzing appropriations and the budget, such as capital and supplemental budget reports, as well as fiscal notes. They also provide an overview of the governor's budget proposal,⁸¹ a compliance report that includes the responses of each agency (Intent Memo),⁸² along with many other supplemental items throughout the year and during the budget process.⁸³ The director of the LFD presented that division's analysis of the governor's budget to legislators during the January 20 hearing. LFD staff answered questions throughout the meeting.⁸⁴ According to an interviewee, LFD fiscal staff often attends finance committee hearings—not just those on the governor's budget—but on other bills with a fiscal impact. LFD staff provides fiscal and other types of analysis (interview notes, 2018). When time came for the director of the OMB to present, he remarked that the LFD version would help legislators better understand the OMB presentation.

A video archive of a House Finance Committee meeting held on January 20, 2017,⁸⁵ reveals that members asked very specific questions of the OMB director. In one instance, a member asked if agencies were considering allowing employees who were eligible to retire early with three months' severance pay—an idea the Alaska Court System had pitched. In further elaboration, "high-step employees with high salaries would be replaced with younger workers at a great savings." The director responded that although many people were retiring, not many of them were being presently replaced. This was because "a retirement incentive program often involved an employee that would require hiring three people to replace them." Nonetheless, she

⁸⁰ https://ballotpedia.org/Veto_overrides_in_state_legislatures, accessed 7/27/18.

⁸¹ <http://legfin.akleg.gov/Overview/Overview2019.pdf>, accessed 7/27/18.

⁸² <http://legfin.akleg.gov/Miscellaneous/FY18IntentMemo.pdf>, accessed 7/27/18.

⁸³ <http://legfin.akleg.gov/index.php>, accessed 7/27/18.

⁸⁴ http://legfin.akleg.gov/Charts/Budget_History_Presentation_September_2017.pdf, accessed 7/27/18.

⁸⁵ <https://www.360north.org/gavel/video/?clientID=2147483647&eventID=2017011036>, accessed 11/8/18.

said it would be a consideration although implementation would have to be done in a “smart way.” The legislator noted that replacing tenured employees would also mean more job opportunities.

The House Finance Committee also listened to the individual budget requests and justification from each executive department. For instance, on January 30, 2017, the committee met all morning and all afternoon. In the morning they heard from the Public School Trust Fund and took public testimony and also considered the appropriation for education and student transportation. They spent the afternoon listening to presentations about the mental health budget and the appropriation for the operating budget, loans, and funds, plus budgets for three state agencies, (corrections, public safety and natural resources). Details of these budgets were provided in the Fiscal Year 2019 Department Budget Overviews. The corrections commissioner described cuts to his department’s budget totally \$32 million dollars over several years. He said that the legislature had based these cuts on an assumption that prison populations would decline. That assumption has proved false, so he said that the department was asking for an increase in its budget. The director and his staff used PowerPoint slides to provide detailed information across time about the agency’s budget and a detailed breakdown of the use of the those funds. Committee members asked questions that demonstrated knowledge of the program. With respect to a new program, a legislator asked about problems the department might be having recruiting staff for that program. Another legislator asked about funds that were supposed to be used for victim restitution based on a bill that he said was passed years ago. A legislator asked about the potential for video court hearings and other internet based processes to reduce the cost of transporting prisoners. The committee chair ended the discussion by encouraging committee members with more questions to attend the subcommittee hearing on corrections and to pass questions to members of that subcommittee.

During parts of his presentation, the commissioner of Corrections referred occasionally to discussing certain topics in more detail at the subcommittee hearing. These comments imply that legislators are even more actively engaged in monitoring the budget and the department’s programs through the subcommittee.⁸⁶ This is consistent with video evidence of a hearing held by the House Finance Subcommittee on Corrections held on January 26, 2017.⁸⁷ At the outset of this first meeting of the subcommittee for the 2017 legislative session, the chair read the charge for the subcommittee as well as various procedures and other administrative requirements. He read from a document during the first minute of the hearing that stated that during the subcommittee a “high level program review will identify what’s working well, what can be modified, eliminated, or enhanced to meet each department’s mission. Subcommittees will also examine indirect expenditures to determine ways that departments can potentially increase revenue or decrease or reduce expenditures.” The commissioner of corrections and his staff member provided a much more detailed description of the department in this setting. For example, he explained the difference between Alaska’s centralized corrections system and most other states that use a system of county jails in addition to state prisons. Committee members asked questions throughout the presentation.

The subcommittee’s discussion of Title 47 offenders demonstrates the high level of oversight capacity exhibited by Alaska’s legislators. Title 47 prisoners are non-criminal bookings. These include alcohol and drug intoxication. The law requires that officers who pick these people up must take them to the hospital first, but the default last stop is the prisons if the officers cannot find anywhere else to put them. The commissioner described risks to staff from

⁸⁶ <http://www.akleg.gov/basis/Meeting/Detail?Meeting=HFIN%202017-01-30%2013:30:00>, accessed 7/27/18.

⁸⁷<https://www.360north.org/gavel/video/?clientID=2147483647&eventID=2017011074>, accessed 11/10/18

managing this population and the strain this is putting on corrections resources. He also noted that there had been several deaths in the prisons among this population. He asserts that the problem is getting the hospitals and the prison system on the same page because people who cannot, for example, keep their airways clear on their own are ending up in jails rather than in the hospitals. The commissioner reported that the number of Title 47s in jails is decreasing, and he is working with local communities to identify other more appropriate places to put this population.

After the commissioner described costs associated with incarcerating intoxicated people under Title 47, subcommittee members asked several questions. One subcommittee member asked about the per prisoner costs, and another pointed out that during the 1990s, there were people under Title 47 who were not merely intoxicated. He wanted to know what had changed. The commissioner said that officers still bring people with mental health problems to the jails under Title 47, but the number is smaller than the intoxicated population, and they are not as medically fragile. Therefore, he is not as worried about dealing with that portion of the Title 47s. Another committee member wanted to know why the percentage of intoxicated Title 47s in the corrections system was dropping. The commissioner said that after they have one of these deaths or other problems he visits the communities and expresses his angst about the problem, and then the Title 47s from that area drop for a while. But, then the number of Title 47s rise again. So the commissioner said that there needs to be policy change to resolve this problem rather than just visits from him to hospitals to express his concerns. Another committee member asked how other states handle this population—people who have committed no crime, but are intoxicated from drugs or alcohol. The commissioner said that in most states this is a county problem, and that it is handled differently by different counties. Because Alaska has a unified corrections system, the state prisons are involved in ways that in most states they are not. Additionally, because Alaska is so cold, people freezing on the streets is a bigger problem than it is in most states. Therefore, according to him, it is understandable why the situation evolved and why Title 47 was created in the first place. Another committee member asked the commissioner to describe the specific steps involved with the police officer, the hospital and the corrections department that unfolds when a Title 47 person is brought into custody. The commissioner, in his description of the steps, said that there is not an established standard that hospitals use to evaluate the person when the officer brings them to the hospital and identifies that as part of the problem. There is a lot of variation. So, “medically cleared” means different things. Prison medical staff then looks at the person, and they may say, “Gee, this does not look safe.” Then our medical staff is in a tense situation with the local hospital staff if they call the hospital back and challenge their assessment. Therefore, our staff tended to accept the person into the jail. The commissioner said, “Part of my approach has been to encourage our staff to push back on the hospitals.” Another committee member wanted to know how many Title 47 offenders are repeat offenders and also asked how the 24% (mentioned by the commissioner) decrease fits in to overall trends in this population. The commissioner described one “frequent flyer” from Fairbanks who had been incarcerated 50 times in the past year under Title 47. So, he acknowledged that repeat offenders are a problem.

At this point in the meeting, the chair asked committee members to hold remaining questions unless they were about specific numbers on the slides to allow the commissioner to finish the formal presentation at this first meeting of the subcommittee. One subcommittee member in particular continued to ask questions about the numbers on the slides until the chair reiterated that there would be opportunities for more discussion later. This was a very lively

discussion in which legislators asked questions that indicated their knowledge of the department and their interest in understanding the challenges and problems involved.

Knowledgeable observers told us that while “[i]t is required by statute that agencies are to submit a performance-based budget, even though the legislature doesn’t necessarily use them, [they] are utilized by agencies and are presented (to the legislature by agencies).” Yet, this emphasis on performance-based budgeting may have influenced the subcommittee charge, which was read at the outset of the corrections subcommittee meetings, to focus on agency performance in the context of the agency budget presentation. The subcommittee met four more times during the month of February. Agenda items for those meetings were inmate and behavioral health, community residential centers, pretrial services, electronic monitoring, budget amendment proposals, and budget closeouts. Corrections subcommittee members’ questions during this initial hearing focused on agency performance more than is typical in many legislative hearings that we have listened to in other states. We consider this hearing to be a good example of solution-driven, evidence-based oversight.

Oversight Through Committees

Meeting minutes, as well as audio and video recordings of committee meetings, reveal that most standing committees met frequently. One committee, the Senate Resources Committee, held 32 meetings during 2017.⁸⁸ In 2018 this committee consisted of seven Republicans and one Democrat. This is an instance in which seats on a committee are apportioned so that the minority party holds fewer committee seats (1 of 7 or 14%) than one would expect based on its proportion in the legislature (six of 20 seats, or 30%). During their meetings, the Senate Resources Committee concentrated on passing legislation, hearing testimony from expert witnesses on environmental projects and on confirming gubernatorial appointments.

A video archive of a meeting held on February 6, 2017, examined Alaska’s Primacy Program for Water and Air, which requires the Alaska Department of Environmental Conservation (DEC) to regulate air and water quality under the primacy authority of the Clean Air Act and the Clean Water Act. The commissioner of the DEC was at the meeting to provide an overview of those duties and to summarize a discussion the commissioner had with the federal agencies. Following, the overview legislators asked questions. One legislator asked, in order to protect the fishing industry, if they should “get involved in helping steer S. 168 so it doesn’t impact fisheries” and “if the state is still faced with getting a waiver on [the issue].” Furthermore, that if the Incidental Discharge Act (VIDA) – S. 168 passes, many vessels that have deck discharge would be permanently exempted. However, if it did not pass, the fishing industry is at risk; for instance, the industry says that it is impossible for halibut boats to meet non-discharge standards. The commissioner responded that so far, “[they have not] heard any pushback on exempting fishing vessels.” This exchange indicates that the legislature routinely works with state agencies to encourage them to advocate for the issues that legislators care about.

The Senate Resources Committee met on February 22, 2017⁸⁹ to discuss compensatory mitigation for wetlands destruction through the federal Clean Water Act. This represents an example of police patrol oversight with committee members seeking to understand complex

⁸⁸ http://www.akleg.gov/basis/Committee/Details/30?code=SRES#tab2_7, accessed 7/27/18.

⁸⁹ <https://www.360north.org/gavel/video/?clientID=2147483647&eventID=2017021321>, accessed 11/11/18.

regulations in order to judge the work of a bureaucracy. The director of the Office for Project Management Permitting (OPMP) and the Department of Natural Resources commissioner presented information about this issue. The Army Corp of Engineers implements the federal standards, but the EPA has oversight authority and worked with the Army Corp of Engineers to develop the regulations. Basically, developers buy wetlands mitigation credits. One committee member asked that the OPMP presenter to explain who is affected by this regulation—someone building a house or someone building several houses or . . . The answer: typically any large project, meaning something of 10 acres or more, there is subjectivity and discretion. Another legislator asked if this applied to creeks as well as marshes. The answer: any sort of water on the property. The OPMP director explained the difficulties that arise with applying a program designed for the contiguous 48 states to Alaska where the practice of remediating other wetlands to compensate for wetlands diminished in a development project is difficult. This is because most of the existing wetlands are pristine rather than abandoned after degradation and in need of mitigation. Therefore, the logic of mitigation credits, which works well in the contiguous United States, is very difficult to implement in Alaska. The Army Corps of Engineers has a lot of flexibility, and applicants can offer creative solutions to mitigate wetlands loss. One committee member asked what the state was doing to try to address this issue. The commissioner said that as is often the case, national programs do not fit well in Alaska. There just are not mitigation banks where developers can go to buy mitigation credits. One committee member asked whether Alaska could create a mitigation bank. Yes, and that’s what they have come to discuss. One committee member in particular, complained about the burden the federal regulations placed on small developers and native populations living on reservations. One committee member asked where the money paid for project mitigation goes. They paid for a deed restriction for private land owners, so that money went to the private land owners. Most committee members were not well versed in these federal regulations, and most of the questions they asked were requests for information about how the regulations work. The hearing persuaded the committee to support a state managed mitigation bank as the best solution for Alaska to facilitate developers’ ability to comply with the federal Clean Water Act. The presenters described the use of a GIS tool to identify the value of different pieces of land with respect to mitigation credits. The chair asked whether they needed any statutory changes to proceed. The answer: they were using existing statutes. This was an example of an agency reporting to the legislature to keep it informed of initiatives it was undertaking and gaining support for the proposed program. It indicates that this agency is responsive to the legislature and wants to make sure that it has the support of the legislature before proceeding with projects—an indication that institutional prerogatives for checks on executive authority are respected in Alaska. The legislative committee appears willing to be engaged and demonstrated interest in understanding the issue and associated problems and potential solutions.

Although standing committees appear to be engaged in some facets of legislative oversight, the audit committee does not appear to conduct specific substantive oversight itself; instead it appears to facilitate the production of evidence and information to be used by other committees. Detailed meeting minutes and audio and video files from past meetings held by the Legislative Budget & Audit Committee are available on the committee’s website.⁹⁰ The audio and video archives that are available range from less than an hour to a few hours long. These videos show that during their meetings, the LBAC spends most of their time discussing the logistics of conducting auditing reports rather than holding hearings on the contents of the audit.

⁹⁰ http://www.akleg.gov/basis/Committee/Details/30?code=HBUD#tab2_7, accessed 7/27/18.

Unfortunately, much of this business is done during executive sessions, which is not available to the public. Because the LBAC determines whether to release the audit publicly, the committee can hear the audit report in a closed executive session. This means that there is no recorded archive available for that portion of the meeting. The hearing of the LBAC held on February 23, 2017, featured a presentation of the financial audit of the state legislature itself. It was a “clean” audit report, and there was almost no discussion of this audit. The next audit on the agenda was a discussion of whether the audit of the Mental Health Trust Authority could be prioritized and finished before some other audits that were in the pipeline. The audit staff discussed the tradeoffs involved in delaying other audits to pursue the Mental Health Trust Authority audit. As described in detail in the section on Oversight Through the Analytic Bureaucracy, it appears that the LBAC’s decision to prioritize the special audit of the Mental Health Trust Authority was prudent. This recording of the LBAC clarifies the control that the committee has over the work of the DLA. Additionally, the committee discussed the work and the funds needed to pay various contractors that could help with the state’s single audit. There was a discussion of an RFP for these contractors. Legislators were invited to work on the RFP to identify the scope and methods of upcoming audits.

As described in the Oversight Through the Analytic Bureaucracy section of this paper, the state’s sunset audits are essentially performance audits of boards, commissions, and similar entities. These audits include recommendations for whether an entity should expire according to whether it still meets a public need. The sunset report will be forwarded to a committee of reference to determine whether it should be reestablished (DLA, 2017). For the year 2017, these audits made up 80% of all audits conducted by the Legislative Audit Division. All but one audit recommended extensions and all recommendations, except for the termination of the Alaska Health Care Commission, were passed into law by the legislature.⁹¹ This is further evidence that standing committees are actively involved in oversight of the executive branch in Alaska and that legislators use audit reports in this process. We discuss details of this sunset review process in the section on Automatic Mechanisms of Oversight.

Oversight Through the Administrative Rules Process

Alaska’s legislature recently repealed the statute that authorized its Administrative Regulatory Review Committee (ARRC) (Chap. 7 SLA 2018, H.B. 168). It reassigned the legislature’s administrative rule review powers to the standing committees of jurisdiction. It remains to be seen how this will affect the rule review process in Alaska. Although this bill became effective on August 1, 2018, rule review ended in 2016 because “the house and senate declined to appoint anyone to the committee during the 30th Legislature” (interview notes, 2018). In fact the ARRC has not introduced legislation to repeal rules since 2003 (interview notes, 2018), so the demise of the ARRC may not have altered the de facto checks and balances between the legislative and executive branches of Alaska’s government. Here we explain workings of the ARRC to provide context for the likely process when the standing committees of jurisdiction assume this responsibility.

Alaska’s legislature originally could veto proposed rules (the legislative veto) until a state Supreme Court ruling in 1980 (*State v. A.L.I.V.E Voluntary*, 606 P.2d 769) declared that the use

⁹¹ <http://legaudit.akleg.gov/audits/all/>, accessed 7/27/18.

of concurrent resolutions to overturn rules to be unconstitutional.⁹² Furthermore, a constitutional amendment that “would allow the legislature as a whole to annul rules by resolution . . .” failed to pass (Tharp, 2001). So, “when [agencies] promulgate rules . . . the legislature can only check those functions by enacting new statutes according to a standard constitutional procedure,” which usually must be passed by both houses and signed by the governor (Schwartz, 2010). So after 1980, the ARRC could only review rules that were already in effect. In 2004, the legislature sought to participate earlier in the rule review process to reduce the cost of badly crafted regulations, to enhance the effect of ARRC’s opinions, to facilitate public input, and to facilitate collaboration between the executive and legislative branches (Schwartz, 2010). The legislature delegated the power to participate during the public notice and comment period of a rule to the Legislative Affairs Agency (LAA). During this review, “the legislative counsel may consult with the . . . agency or the Department of Law and may make non-binding suggestions. . .” (Schwartz, 2010). The LAA is responsible for “carrying out . . . statutory and rule assignments made by the Legislature,”⁹³ but the LAA has only one attorney to deal with this responsibility. Therefore, legislative rule review in Alaska was inconsistent and sporadic at best even when the ARRC existed (Schwartz, 2010).

Currently, an agency develops the rule, notifies the public, and prepares a fiscal note. Then, after consulting with the agency attorney, the rule is forwarded to the Department of Law. The public can comment during the public hearing. When the public hearing is over, the agency will adopt the rule, and submit it to the Department of Law for review and approval. The governor’s office will also conduct a review of the rule. The agency attorney will review the rule once more, then the regulations attorney reviews the rule and will either approve or disapprove of the rule, and finally, the approved rule(s) will be forwarded to the lieutenant governor’s office (who also is responsible for duties usually performed by a Secretary of State) to be filed, unless it is returned to the agency by the governor.⁹⁴

When a rule is filed with the lieutenant governor, the rules are published in the Alaska Administrative Code,⁹⁵ and are forwarded to standing committees of jurisdiction (previously the ARRC) for review, along with the relevant fiscal information (Administrative Procedure Act). Before it was repealed, the ARRC could hold hearings and collect “comments from other legislative committees, from the public, and from its legal counsel.” The ARRC would determine the rule’s legislative intent and whether it was under the agency’s authority, and the ARRC could make strictly advisory comments to the governor and the agency (Council of State Governments, 2017). This could include the promotion of the revision or repeal of an existing rule or the agency could “introduce a bill that would enact a statute that would supersede or nullify the regulation.”⁹⁶ During the meeting held on the repeal of the ARRC, a representative referenced two distinct times where regulations were reversed by agencies as recommended by the ARRC.⁹⁷ It seems plausible that the standing committees with jurisdiction will perform these same functions.

If a rule is promulgated while the legislature is not in session, the legislature can vote to temporarily suspend a rule until the next legislative session, although this is constitutionally

⁹² http://www.akleg.gov/basis/get_documents.asp?session=30&docid=41024, accessed 7/27/18.

⁹³ <http://akleg.gov/legaffairs.php>, accessed 7/27/18.

⁹⁴ <http://arr.legis.state.ak.us/>, accessed 7/27/18.

⁹⁵ <http://arr.legis.state.ak.us/>, accessed 7/27/18.

⁹⁶ <http://arr.legis.state.ak.us/>, accessed 7/27/18.

⁹⁷ <http://www.akleg.gov/basis/Meeting/Detail?Meeting=HSTA%202018-02-08%2015:00:00>, accessed 7/27/18.

questionable (Council of State Governments, 2017; Schwartz, 2010). A two-thirds majority vote is required, and the legislature has no power to eliminate obsolete rules.

“No legislation to repeal or amend a statute in response to proposed regulations has been introduced by the AARC since 2003. Individual legislators often introduce bills [with] that impact, but it is not clear how many . . . are a result of reviewing regulations or with the . . . goal of changing a specific regulation” (interview notes, 2018). Recently, a proposed regulation “prohibited distilleries from serving mixed drinks in their tasting rooms” (interview notes, 2018). Legislation (SB 45 Chap. 59 SLA 2018) was introduced and passed with an amendment (HB 296) that allowed distilleries to serve mixed drinks. It is important to note that the legislature made recommendations to the agency, but no changes to the rule were made.

The governor can return a rule if it is seen as inconsistent with the law or if it does not adequately respond to comments made by the committee (now the committees of jurisdiction). Otherwise, the attorney general is responsible for approving rules (Schwartz, 2010). Rules become effective after “the Attorney General signs off on the legislative review.” Furthermore, “the Attorney General returns about 25% of rules” (Tharp, 2001). If the rules are approved, the agency will post a summary on the Alaska Online Public Notice System. Consequently, it appears that the Alaska Legislature has a very limited role in the oversight of administrative rules.

Oversight Through Advice and Consent

The advice and consent power of the Alaska legislature is discussed in Article III, Sections 25 and 26 of the Alaska State Constitution, Rule 46 of the Alaska State Legislature Uniform Rules, and Alaska Statute 39.05.080-200. In brief, appointments are submitted by the governor and assigned to a standing committee by the presiding officer of each chamber for a hearing, report, and recommendation. Furthermore, “standing committees of the two houses assigned the same person’s name for consideration may meet jointly to consider the qualifications of the person appointed and may issue either a separate or a joint report and recommendation concerning that person” (Alaska Statute 39.05.080). Confirmation votes typically occur during a joint meeting of the legislature at the end of a session (interview notes, 2018). Lack of a vote to reject means that appointees are confirmed (interview notes, 2018).

Although it is not mandatory for committees to meet on appointments, when they do meet, a committee report is sent to the clerks noting that although they are meeting, the meeting is not an indicator they are approving nor disapproving the appointment. Appointees will be informed of a committee meeting beforehand, and they can choose to testify or to just listen in. Sometimes appointees will attend in person, but most often they “attend” via teleconference (interview notes 2018). Committee members “review . . . a candidate’s experience and interest”⁹⁸ and ask appointees questions about their experience and interests (interview notes, 2018). This happens more often with a new appointment rather than reappointments or interview with appointees that the legislature already knows (interview notes, 2018). During the vote of the entire body, the interview information gathered from the committee meetings will be used by

⁹⁸ <https://gov.alaska.gov/services/boards-and-commissions/appointment-process/>, accessed 7/27/18.

legislators to testify for or against an appointment. If a legislator objects to an appointment, he or she is asked to provide reason for their objection.⁹⁹

Most appointees are confirmed (interview notes, 2018). Both legislative chambers must confirm the attorney general, the adjunct general, heads of the following departments: civil rights, commerce, corrections, environmental protection, fish and wildlife, highways, labor, natural resources, revenue, social services, and transportation. Many other executive positions, such as the state's treasurer, comptroller, and elections administrator are filled by candidates appointed by an agency head subject to gubernatorial approval (Council of State Government, 2014). And there are also nominees for dozens of boards and commissions that require legislative confirmation.

The confirmation process in Alaska appears to be more contentious than it is in many states, perhaps because some of the high profile positions, such as attorney general, are appointed rather than elected in Alaska. Regardless of the reasons, tensions have run high enough in the past (during the 1980s) that the state police had to be called in to keep the peace. More recently Gov. Bill Walker called the legislature into special session in 2015 to vote on his appointees after the legislature delayed the vote as leverage in a standoff over the Medicaid Expansion and his threatened veto of a pipeline bill. The legislature and the governor jostled over confirmations again in 2017 when the legislature delayed voting, and the governor called them into session (Brooks, 2017). Ultimately they confirmed his nominees, but not until May 2017.¹⁰⁰ This evidence of oversight seems to have strong overtones of partisan politics.

The authority of the governor to issue an executive order is granted via Article III, Sec. 23, Constitution of the State of Alaska, although the Book of the States reports that there are no provisions to allow the governor to issue executive orders for emergencies, to respond to federal programs and requirements, nor to appoint state personnel administration or other administration (Council of State Governments, 2014). Alaska's governor issues numerous orders in these categories, however.¹⁰¹ Some of these orders involved emergencies, establishing task forces or setting priorities. It appears that there is a distinction between executive orders and administrative orders that produces this confusion. As of November 11, 2018, Alaska's governor issued 301 administrative orders during his term in office, 2015-2018. Alaska's governor also makes policy through executive order. Gov. Walker infamously expanded Medicaid under the Affordable Care Act using an executive order saying that state law required to him to provide Medicaid to all eligible populations in the state. The legislature sued, but the courts agreed that he was responsible for extending care to anyone eligible.¹⁰² Alaska's governor can issue executive orders to reorganize state government, but must forward these executive orders to the legislature within sixty days.¹⁰³ The legislature can block executive orders via concurrent resolution, although this has not happened recently (interview notes, 2018).

⁹⁹ <https://gov.alaska.gov/services/boards-and-commissions/appointment-process/>, accessed 7/27/18.

¹⁰⁰ <https://gov.alaska.gov/newsroom/2017/05/walker-mallott-administration-boards-and-commissions-appointees-confirmed/>, accessed 11/12/18

¹⁰¹ <https://gov.alaska.gov/admin-orders/index.php>, accessed 11/12/18

¹⁰² <https://www.adn.com/politics/2017/06/26/senate-bill-would-undercut-alaska-governors-authority-over-medicaid-expansion/>, accessed 11/11/18.

¹⁰³ <https://gov.alaska.gov/admin-orders/001.html>, accessed 7/27/18.

Oversight Through Monitoring of State Contracts

According to an interviewee, during certain audits, the DLA investigates compliance with contracts between agencies and state and federal government, and agencies and vendors. Furthermore, Section 39.52.150 of the Alaska Executive Branch Ethics Act covers “Improper influence in state grants, contracts, leases, and loans.”¹⁰⁴ The legislature has their own oversight entity (the Select Committee on Legislative Ethics Act) to administer the Legislative Ethics Act. The executive branch enforces the Executive Branch Ethics Act through the LBA, the Designated Ethics Supervisor (DES), the attorney general, and the relevant board.

The special audit of the Alaska Mental Health Trust Authority (AMHTA) described earlier explicitly cites the Ethics Act; “a fair and open government requires that executive branch public officers conduct the public’s business in a manner that preserves the integrity of the governmental process and avoids conflicts of interests.” As discussed earlier, the AMHTA audit identified several ethics violations. But it also identified problems with the authority’s contracting process, which violated the ethics act. For example, there was “a \$1.375 million Request for Proposal (REP) for a multi-year project was issued without approval and knowledge by the entire board.”

The analytic bureaucracy has authority via legislative audit over the executive branch contracts, which (as in the above special audit) can point out violations of the law. Additionally, it appears individual legislative committees can conduct oversight over state contracts. For example, there was a joint meeting held on July 11, 2018, between the House and Senate Resource Committees on the Alaska Gasline Development Corporation (AGDC). The AGDC works with the federal and state government, specifically Alaska’s Department of Environmental Conservation, the Department of Natural Resources, and the Department of Transportation and Public Facilities.¹⁰⁵ Before the meeting, one of the Senators requested various details and lists pertaining to the corporation’s contractors, services from state employees, executive sessions held by the Board of Directors, and so forth.¹⁰⁶ The meeting focused on the Alaska Liquid Natural Gas (LNG) Project, and the potential “influence of partisan politics on the project,” as committee members remarked that some executive branch employees were working for the AGDC.¹⁰⁷ However, one of these legislators also remarked that although legislative oversight over the project is important, it is also “important not to micromanage what the state corporation is doing.” The Department of Natural Resources and the Department of Revenue were there to present analyses of the project as well, and were asked questions as to how the state would pay for its part in the project.¹⁰⁸

Alaska’s legislature appears to use the tools it has to monitor state contracts, but most of this oversight addresses conflicts of interest and financial issues with contracts. As we know from examining other states, the issue of contractor performance in delivering public services can present serious challenges for state governments. We found no evidence that this sort of

¹⁰⁴ <http://law.alaska.gov/doclibrary/ethics/EthicsAct.html>, accessed 7/27/18.

¹⁰⁵ http://www.akleg.gov/basis/Meeting/Detail?Meeting=HRES%202018-07-11%2009:00:00#tab4_4, accessed 7/27/18.

¹⁰⁶ http://www.akleg.gov/basis/get_documents.asp?session=30&docid=56839, accessed 7/27/18.

¹⁰⁷ <https://www.alaskapublic.org/2018/07/12/legislators-quiz-alaska-lng-project-managers-on-progress/>, accessed 7/27/18.

¹⁰⁸ <https://www.alaskapublic.org/2018/07/12/legislators-quiz-alaska-lng-project-managers-on-progress/>, accessed 7/27/18.

contract monitoring was occurring on a systematic basis in Alaska—a condition that appears to be typical across the states.

Oversight Through Automatic Mechanisms

Alaska requires its legislature to conduct comprehensive reviews of all statutory agencies on a preset schedule (Baugus and Bose, 2015) based on a sunset law that passed in 1977. Alaska appears to not currently have sunrise provisions or to conduct sunrise reviews.¹⁰⁹ According to Alaska Statute 44.66, the Legislative Audit Division and Legislative Finance Division audit the activities of agencies, boards, and commissions under the general supervision of the Legislative Budget and Audit Committee are required to conduct sunset audits. Between 2001 and 2005, Alaska conducted the second highest number of “sunset reports” among the states (Risley, 2008). According to the LBAC, “the audit report, along with other reports and testimony, is considered when determining if there is a public need for a board, commission, or program.”¹¹⁰

Even though the LBAC is responsible for seeing that sunset audits are conducted, it does not have the authority to determine whether an agency, board, or commission should be discontinued. According to Alaska Statute 44.66.050, “Before the termination, dissolution, continuation, or reestablishment of a board or commission, a committee of reference of each house, which shall be the standing committee of legislative jurisdiction as provided in the Uniform Rules of the Legislature, shall hold one or more hearings to receive testimony from the public, the commissioner of the department having administrative responsibility for each named board or commission, and the members of the board or commission involved.” Furthermore, “During a public hearing, the board or commission shall have the burden of demonstrating a public need for its continued existence or the continuation of the program and the extent to which any change in the manner of exercise of its functions or activities may increase efficiency of administration or operation consistent with the public interest.” Lastly, “The committee of reference may introduce a bill providing for the reorganization or continuation of the board or commission.” Moreover, sunset reviews interact with the appropriations process because sometimes it is necessary to appropriate funds to continue the work of a board or commission (interview notes, 2018).

From 2012-2014, Alaska’s legislature conducted 17 reviews, eliminating zero boards and laws, while renewing all 17 reviewed (Baugus and Bose, 2016). Therefore, it is possible that the legislature makes little or no use of its ability to terminate boards and commissions. Yet it appears that sunset review hearings are vigorous and that legislators take this responsibility seriously. Therefore, the reviews might have accurately determined that all these boards and laws were valuable.

Recently, the Senate Finance Committee, Senate Labor and Commerce Committee, House Finance Committee, and House Labor and Commerce Committee all separately held hearings on H.B. 275 and H.B. 273, which extended the termination of the Board of Massage Therapists and the Marijuana Control Board.¹¹¹ In the Labor and Commerce meeting, held on January 22, 2018, the legislative auditor presented the sunset audit, provided testimony, and answered questions. The director and board members were also present to answer questions. For

¹⁰⁹ <https://www.clearhq.org/page-486181>, accessed 7/27/18.

¹¹⁰ <http://legaudit.akleg.gov/about/>, accessed 7/27/18.

¹¹¹ http://www.akleg.gov/basis/Bill/Detail/30?Root=HB0275#tab4_4, accessed 7/27/18.

instance, the director was asked about investigations, and the director responded that the Alcohol & Marijuana Control Office typically only investigates complaints and does not actively seek out problems. In response, the legislator asked if there were “sting” operations to “get people to break the rules.” In response, the director said that there is the shoulder tap program, which is an attempt by an underage person to get people to purchase alcohol for them and a compliance check to see if underage people could directly purchase alcohol. Furthermore, the director said that they would like to expand these checks onto marijuana regulation, and that the checks overall help enforce the law. This evidence indicates that audits are presented to and utilized by standing committees, specifically during hearings with agencies present.¹¹²

Methods and Limitations

Alaska provides public and online access to video, agendas, and detailed meeting minutes (transcripts) of their committee hearings. All three allowed for thorough investigation of particular topics, such as the usage of audit reports. We also conducted interviews with five out of the eight people we reached out to in Alaska (these numbers do not include individuals who only forwarded us to other individuals). Overall, Alaska’s legislature provided many staff and website resources that improved the accuracy of our assessment of the state’s legislative oversight capacity.

¹¹² <http://www.akleg.gov/basis/Meeting/Detail?Meeting=HL%26C%202018-01-22%2015:15:00>, accessed 7/27/18.

References

- Alaska Legislature (2017). Layman's Guide to the Budget Process. Retrieved from <http://akleg.gov/docs/pdf/budgproc.pdf>
- Alaska Policy Forum (2010). State Rolls Millions into General Fund. Retrieved from <http://alaskapolicyforum.org/2010/07/state-rolls-millions-in-to-general-fund/>
- Baugus, B., & Bose, F. (2015). *Sunset legislation in the states: Balancing the legislature and the executive* (pp. 1-24, Rep.). Arlington, VA: George Mason University.
- Beyle, T. L. (1999). Governors and the executive branch. In *Politics in American states: A comparative analysis* by Gray, V., Hanson, R. L., & Jacob, H. (1999). Washington, D.C.: CQ Press.
- Brooks, J. (2017). Republicans dodge vote on Walker appointees. Retrieved from <http://juneauempire.com/state/2017-04-28/republicans-dodge-vote-walker-appointees>
- Council of State Governments (2008). The Governors: Powers. *The Book of The States*.
- Council of State Governments (2014). Selected State Administrative Officials: Methods of Selection. *The Book of The States*.
- Council of State Governments (2016). Legislative review of administrative regulations: Structures and procedures. *The Book of The States*. Retrieved from <http://knowledgecenter.csg.org/kc/content/book-states-2016-chapter-3-state-legislative-branch>
- Division of the Legislative Audit (2018). Alaska Mental Health Trust Authority Asset Management and Other Select Issues. Retrieved from <http://legaudit.akleg.gov/docs/audits/special/dor/AMHTA-Final-Report-WEB.pdf>
- Division of the Legislative Audit (2017) A Sunset Review of the Department of Commerce, Community, and Economic Development, Marijuana Control Board (board). Retrieved from <http://legaudit.akleg.gov/docs/audits/sunset/dcced/Marijuana-Final-Report-Final-Report-WEB.pdf>
- Harrison, G. (2013). Alaska's Constitution: A Citizen's Guide, Fifth Edition. *Alaska Legislative Affairs Agency*. Retrieved from http://w3.legis.state.ak.us/docs/pdf/citizens_guide.pdf
- Hillman, A. (2018). Special Audit Finds Alaska Mental Health Trust Authority Violated Multiple State Laws. *Ktoo Public Media*. Retrieved from <https://www.ktoo.org/2018/06/06/special-audit-finds-alaska-mental-health-trust-authority-violated-multiple-state-laws/>

- LegiScan (2017). Alaska Legislature | 2017-2018 | 30th Legislature. Retrieved from <https://legiscan.com/AK>
- National Conference of State Legislatures (2009). Size of state legislative staff. Retrieved from <http://www.ncsl.org/research/about-state-legislatures/staff-change-chart-1979-1988-1996-2003-2009.aspx>
- National Conference of State Legislatures (2009). Special sessions. Retrieved from <http://www.ncsl.org/research/about-state-legislatures/special-sessions472.aspx>
- National Conference of State Legislatures (2010). Legislative session length. Retrieved from <http://www.ncsl.org/research/about-state-legislatures/legislative-session-length.aspx>
- National Conference of State Legislatures (2015). The term-limited states. Retrieved from <http://www.ncsl.org/research/about-state-legislatures/chart-of-term-limits-states.aspx>
- National Conference of State Legislatures (2017). Legislator Compensation Information. Retrieved from <http://www.ncsl.org/research/about-state-legislatures/2017-legislator-compensation-information.aspx>
- National Conference of State Legislatures (2017). Full- and part-time legislatures. Retrieved from <http://www.ncsl.org/research/about-state-legislatures/full-and-part-time-legislatures.aspx>
- National Conference of State Legislatures (2015). Program Policy Evaluation's Role in Serving State Legislatures. *Ensuring the Public Trust*.
- National Conference of State Legislatures (2017). State partisan composition. Retrieved from <http://www.ncsl.org/research/about-state-legislatures/partisan-composition.aspx>
- National Governors Association (2017). Former governors' bios. Retrieved from <https://www.nga.org/cms/FormerGovBios>
- Risley, S. John (2008). Legislative Program Evaluation Conducted by State Legislatures in the United States. *Western Michigan University*.
- Shwartz, J. (2010). 52 Experiments with Regulatory Review: The Political and Economic Inputs into State Rulemakings. *Institute for Policy Integrity*.
- Shor, B., & McCarty, N. (2011). The ideological mapping of American legislatures. *American Political Science Review*, 105(3), 530-551.
- Squire, P. (2017). "Measuring State Legislative Professionalism: A Squire Index Update." *State Politics & Policy Quarterly* 361-371.
- Tharp, S. (2001). Legislative Powers of Rules Review in the States and Congressional Powers of Rules Review. Administrative Law Advisory Committee.