



WAYNE STATE  
UNIVERSITY

Center for Urban Studies

## Legislative Oversight in Connecticut

### Capacity and Usage Assessment

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

### Summary Assessment

Our review of legislative oversight in Connecticut suggests that the state's general assembly is reasonably successful in monitoring and restraining the state's executive branch, particularly through the formal oversight mechanisms at its disposal. Much of this oversight appears to be conducted directly by professional staff members performing statutorily-mandated tasks under the general direction of the legislature—notably within the Office of the Auditors of Public Accounts (APA), as well as by legal staff attached to the Joint Legislative Regulation Review Committee (LRRC), and by the fiscal analysts for the Appropriations subcommittees. Connecticut's relatively short legislative sessions are likely to reduce the opportunities for committee members to conduct the type of in-depth oversight that the general assembly's analytic resources might potentially offer. Conversely, the cooperation that occurs between the chambers through the general assembly's joint committee system may explain—at least in part—the extent to which meaningful oversight of a strong governorship actually does take place. Additionally, the system of dual auditors, one appointed from each political party, decreases the risk of lax monitoring and oversight during periods of one-party control of both the legislative and executive branches of the state's government.

### Major Strengths

Connecticut continues to be a leader in experimenting with good government reforms. It is currently involved in a multi-year experiment with Results-based Budget Accountability (RBA). This program emphasizes information about whether state programs make people better off. It currently is used systematically in agency budget requests and legislative budget decisions.

The Joint Legislative Regulation Review Committee (LRRC) has balanced partisan membership with co-chairs from each political party. This committee uses this authority fairly regularly to force agencies to revise or withdraw rules. All permanent committees are joint committees bringing together members across chambers.

## Challenges

Connecticut's audit agency, the Auditor of Public Accounts (APA), employs nearly 100 auditors, but yet conducts few performance audits. Most of the APA's audit efforts concentrate on fiscal audits rather than performance audits. Until recently, the Joint Legislative Program Review and Investigations Committee conducted reviews of state programs. But this committee was terminated in 2016. Furthermore, in 2017 fewer than 50% of APA's nearly 400 audit recommendations were implemented. The LRRC is supposed to review all rules every seven years. In practice, it appears that this does not occur. Connecticut's legislature lacks formal authority to review state contracts, but it has effectively, albeit infrequently, used special audit investigations of agencies involved in these contracts to insert itself into contracting problems.

## Relevant Institutional Characteristics

Despite its short session length, Squire (2017) ranks Connecticut's General Assembly as the 13<sup>th</sup> most professionalized legislature in the country. The duration of the general assembly's regular session is roughly five months in odd-numbered years (in which the state's biannual budget is prepared), and approximately three months in even-numbered years.<sup>1</sup> Legislators' "[s]alaries range from \$28,000 for rank and file to \$38,689 for Senate President and House Speaker".<sup>2</sup> Legislators are not term-limited.<sup>3</sup> As of 2015, the general assembly had 590 total staff members, 465 of whom were permanent staff.<sup>4</sup> All standing committees, called permanent committees of the Connecticut General Assembly, are joint committees. Occasionally, select committees are formed to address a specific issue. These select committees are time-limited rather than permanent.

According to Ferguson (2015) the Connecticut Governor's office has the 8<sup>th</sup> strongest institutional powers in the country, based on data from the Book of the States. Ferguson finds that the Connecticut governorship's institutional powers are particularly strong in its "veto power", "tenure potential", and appointment powers; its budgetary and "party control" powers, however, are less extensive. The governor possesses the line-item veto; a 2/3<sup>rd</sup> vote of both legislative chambers is required to override any gubernatorial veto. During the Connecticut General Assembly's 2018 Session, the governor vetoed 7 of the 207 bills passed. One such veto

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<sup>1</sup> [https://ballotpedia.org/Connecticut\\_General\\_Assembly](https://ballotpedia.org/Connecticut_General_Assembly), accessed 5/8/18.

<sup>2</sup> <http://www.ncsl.org/research/about-state-legislatures/2017-legislator-compensation-information.aspx>, accessed 5/8/18.

<sup>3</sup> <http://www.ncsl.org/research/about-state-legislatures/chart-of-term-limits-states.aspx>, accessed 5/8/18.

<sup>4</sup> <http://www.ncsl.org/Documents/legismgt/StaffingData1979-2015.pdf>, accessed 5/8/18.

was overridden by the house, but the senate failed to do the same.<sup>5</sup> Connecticut is one of the 24 states that have no gubernatorial term limits. The governor nominates almost all top department and agency executives, most of whom require confirmation by the general assembly.

Connecticut is a geographically small, densely populated New England state with a relatively small state bureaucracy. As of 2004, 10.7% of the state's workforce was employed by either state or local government—the 17<sup>th</sup> lowest percentage among the 50 states (Edwards, 2006).<sup>6</sup> Despite a relatively low state unemployment rate of 4.9%, the state has a substantial budget deficit, with extensive debt and severely underfunded state pension funds.<sup>7</sup> Consequently, Connecticut's credit rating has been downgraded in recent years by three of the four major ratings agencies.<sup>8</sup>

## Political Context

Connecticut is one of eight states where both chambers of the legislature and the executive branch are controlled by the Democratic Party.<sup>9</sup> Democrats currently hold a 79 to 71 seat advantage in the lower chamber,<sup>10</sup> while the state's senate is evenly split (18 seats each) between Democrats and Republicans, with the Democratic lieutenant governor holding the tie-breaking vote.<sup>11</sup>

Democrats have a substantial advantage in party affiliation in the state. Of the more than 2-million registered voters in Connecticut, 36% are registered Democrats, 20% are registered Republicans, while 42% are not registered as either, making Connecticut one of the eight states in 2015 in which there were more registered independents than registered members of either major party.<sup>12</sup> Accordingly, candidates for statewide office have found some success making 3<sup>rd</sup> party runs for office. For example, in 1990 Lowell Weicker won the governorship as an Independent, after serving in the US Senate as a Republican<sup>13</sup>; and in 2006, Joseph Lieberman was reelected to the senate as an Independent, having left the Democratic Party after losing in the party's primary earlier that year.<sup>14</sup> This could explain why the Connecticut General Assembly is somewhat less polarized than the typical state legislature. Shor and McCarty (2015) ranked the state house as the 36<sup>th</sup> most polarized in the country, while the senate was closer to the median, ranking as the 27<sup>th</sup> most polarized upper chamber in the country.

In recent decades, Connecticut has had several prominent instances of corruption at both the state and local levels, with various officials convicted of corruption-related offenses. For instance, former Governor John Rowland “served about 10 months of a year-and-a-day sentence

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<sup>5</sup>[https://www.ctnewsjunkie.com/archives/entry/20180625\\_general\\_assembly\\_fails\\_to\\_override\\_any\\_of\\_malloys\\_7\\_vetoed/](https://www.ctnewsjunkie.com/archives/entry/20180625_general_assembly_fails_to_override_any_of_malloys_7_vetoed/), accessed 7/18/18.

<sup>6</sup> <https://object.cato.org/sites/cato.org/files/pubs/pdf/tbb-0601-29.pdf>, accessed 5/8/18.

<sup>7</sup> <https://ctmirror.org/2017/01/30/a-legacy-of-debt-connecticut-standing-on-its-own-fiscal-cliff/>, accessed 5/9/18.

<sup>8</sup> <https://ctmirror.org/2017/05/12/ct-takes-another-credit-rating-hit-on-wall-street/>, accessed 5/9/18.

<sup>9</sup> [https://ballotpedia.org/Connecticut\\_General\\_Assembly](https://ballotpedia.org/Connecticut_General_Assembly), accessed 5/9/18.

<sup>10</sup> [https://ballotpedia.org/Connecticut\\_House\\_of\\_Representatives](https://ballotpedia.org/Connecticut_House_of_Representatives), accessed 5/9/18.

<sup>11</sup> [https://ballotpedia.org/Connecticut\\_State\\_Senate\\_elections,\\_2018](https://ballotpedia.org/Connecticut_State_Senate_elections,_2018), accessed 5/9/18.

<sup>12</sup> <https://ivn.us/2015/01/19/8-states-party-registrations-lags-behind-independent-registration/>, accessed 5/9/18.

<sup>13</sup> [https://www.nga.org/cms/home/governors/past-governors-bios/page\\_connecticut/col2-content/main-content-list/title\\_weicker\\_lowell.default.html](https://www.nga.org/cms/home/governors/past-governors-bios/page_connecticut/col2-content/main-content-list/title_weicker_lowell.default.html), accessed 6/18/18.

<sup>14</sup> <http://www.newsweek.com/joe-lieberman-fbi-director-republican-independent-612868>, accessed 6/18/18.

after pleading guilty to corruption-related charges in 2004”, followed, a decade later, by a one-and-a-half-year prison term for subsequent crimes committed as a political consultant.<sup>15</sup> In 2010, Hartford Mayor Eddie Perez was convicted of corruption; his conviction was overturned in 2016 by the Maryland Supreme Court, due to concerns over jury contamination, but he ultimately pled guilty to the same charges at his retrial in 2017.<sup>16</sup> In 2011, State Senator Thomas Gaffey resigned after pleading guilty to misdemeanor larceny.<sup>17</sup> Then-State Senator Ernest Newton, too, was convicted of corruption in 2005, serving five years in prison, followed by a six-month sentence in 2015 for campaign finance law violations.<sup>18</sup> Most recently, State Representative Victor Cuevas was convicted of mortgage fraud in 2016.<sup>19</sup>

## Dimensions of Oversight

### Oversight Through Analytic Bureaucracies

The Office of the Auditors of Public Accounts (APA) is Connecticut’s legislative analytic bureaucracy charged with auditing the state’s executive branch agencies. It is headed by two State Auditors, one Democrat and one Republican.<sup>20</sup> State Auditors (formally referred to as Auditors of Public Accounts) are nominated by the General Assembly and require confirmation by both chambers (p. 21).<sup>21</sup> The APA lists 104 staff members on its website, 99 of whom are auditors of various ranks (including the two State Auditors and a Deputy State Auditor).<sup>22</sup> Connecticut appropriated \$12.2 million in 2015 to fund the APA (NASACT, 2015).

The APA’s powers and duties are established by CT General Statute Title 2, Chapter 23, Section 2-90.<sup>23</sup> Subheading (c) of the statute stipulates that “[each] such audit may include an examination of performance in order to determine effectiveness in achieving expressed legislative purposes.”<sup>24</sup> The statute further requires the APA to conduct regular audits of all state agencies and other public state-level entities<sup>25</sup>; it also audits the information provided in the State Comptroller’s Comprehensive Annual Financial Report and the state’s Federal Single Audit.<sup>26</sup> The APA also may conduct performance audits of state programs and agencies.<sup>27</sup> Additionally, the APA is required by statute to conduct whistleblower investigations.<sup>28</sup> It conducts IT audits, but is not empowered to conduct any local government audits (NASACT, 2015).

<sup>15</sup> <http://www.courant.com/news/connecticut/hc-john-rowland-release-20180117-story.html>, accessed 5/9/18.

<sup>16</sup> <http://www.courant.com/news/connecticut/hc-eddie-perez-pleads-guilty-20170831-story.html>, accessed 5/9/18.

<sup>17</sup> <https://ctmirror.org/2011/01/03/gaffey-resign-plead-guilty-pac-case/>, accessed 5/9/18.

<sup>18</sup> <https://www.ctpost.com/local/article/Newton-lands-job-helping-fellow-ex-offenders-11237473.php>, accessed 5/9/18.

<sup>19</sup> <https://www.justice.gov/usao-ct/pr/former-state-representative-admits-mortgage-fraud-scheme>, accessed 5/9/18.

<sup>20</sup> [https://ballotpedia.org/Auditor\\_\(state\\_executive\\_office\)](https://ballotpedia.org/Auditor_(state_executive_office)), accessed 6/3/18.

<sup>21</sup> <https://www.cga.ct.gov/2018/rpt/pdf/2018-R-0031.pdf>, accessed 6/3/18.

<sup>22</sup> <https://www.cga.ct.gov/apa/contact-staff.asp>, accessed 6/3/18.

<sup>23</sup> [https://www.cga.ct.gov/current/pub/chap\\_023.htm#sec\\_2-90](https://www.cga.ct.gov/current/pub/chap_023.htm#sec_2-90), accessed 6/3/18.

<sup>24</sup> [https://www.cga.ct.gov/current/pub/chap\\_023.htm#sec\\_2-90](https://www.cga.ct.gov/current/pub/chap_023.htm#sec_2-90), accessed 6/3/18.

<sup>25</sup> <https://www.cga.ct.gov/APA/about-duties.asp>, accessed 6/3/18.

<sup>26</sup> <https://www.cga.ct.gov/APA/aud-descriptions.asp>, accessed 6/3/18.

<sup>27</sup> <https://www.cga.ct.gov/APA/aud-descriptions.asp>, accessed 6/3/18.

<sup>28</sup> <https://www.cga.ct.gov/APA/whistle-info.asp>, accessed 6/3/18.

During 2017, the APA “completed 29 audits of state and quasi-public agencies and made 398 audit recommendations”, roughly 43% of which have been implemented (APA Annual Report, 2017; p. 2).<sup>29</sup> Final reports of each audit are distributed to “to agency heads, members of the General Assembly, Appropriations Committee, Governor, Lieutenant Governor, Comptroller, Treasurer, Attorney General, Secretary of the Office of Policy and Management, Connecticut State Library, designated federal agencies, news media and, when appropriate, members of boards and commissions and others” (p. 3).<sup>30</sup> While there were only three “performance” audits produced in 2018 (as of October 5), these were the first such audits that the APA has conducted since 2006.<sup>31</sup> Performance audits can be requested by legislators, and the APA tends to “fulfill all (such) requests” (interview notes, 5/30/18). There were also three special audits completed during 2018 (as of October 5). These audits were described: 1 program evaluation, 1 performance review, and 1 interim progress report, which assess economic impacts of a program. So the APA produced 6 reports that could, depending on one’s definition, be considered to fall into the category of *performance audit*. Even so, the bulk of APA resources are devoted to fulfilling statutorily-required responsibilities, particularly financial audits of agencies, the Federal Single Audit, and preparing the State’s Comprehensive Annual Financial Report. Importantly, however, agency performance is one of the various criteria considered within the APA’s regular, statutorily-required audits. (interview notes, 5/30/18)

*Vignette: The APA’s Investigation of Public Agency Severance Agreements*

*Recent legislation limiting Connecticut public agencies from issuing exorbitant severance packages to departing employees in exchange for such employees accepting non-disparagement agreements provides a notable example of an APA audit being utilized by the general assembly to restrain executive branch practices. The APA’s exposition of such practices began in its 2016 Annual Report to the General Assembly,<sup>32</sup> which noted that it had identified “large payments made by state agencies to departing state employees... made for the purpose of avoiding costs associated with litigation or as part of non-disparagement agreements.” (p. 27) 2017 legislation to restrict such payments was passed unanimously by the Senate and nearly-unanimously by the House, “only to be vetoed by Gov. Dannel P. Malloy for reasons unrelated to that portion of the bill.”<sup>33</sup>*

*The APA’s subsequent 2017 Annual Report<sup>34</sup> also notes the practice of providing large settlements attached to non-disparagement agreements (NDAs) to departing employees. This report highlights the case of the Connecticut State Lottery’s former president and CEO, Anne Noble, whose departure “cost taxpayers hundreds of thousands of unnecessary expenses and is*

<sup>29</sup>[https://www.cga.ct.gov/apa/reports/annual/Annual%20Report%20to%20the%20Connecticut%20General%20Assembly\\_20180130\\_CY2017.pdf](https://www.cga.ct.gov/apa/reports/annual/Annual%20Report%20to%20the%20Connecticut%20General%20Assembly_20180130_CY2017.pdf), accessed 6/3/18.

<sup>30</sup>[https://www.cga.ct.gov/apa/reports/annual/Annual%20Report%20to%20the%20Connecticut%20General%20Assembly\\_20180130\\_CY2017.pdf](https://www.cga.ct.gov/apa/reports/annual/Annual%20Report%20to%20the%20Connecticut%20General%20Assembly_20180130_CY2017.pdf), accessed 10/5/18.

<sup>31</sup> <https://www.cga.ct.gov/APA/audit-performance.asp>, accessed 6/3/18.

<sup>32</sup>[https://www.cga.ct.gov/apa/reports/annual/Annual%20Report%20to%20the%20Connecticut%20General%20Assembly\\_20170127\\_CY2016.pdf](https://www.cga.ct.gov/apa/reports/annual/Annual%20Report%20to%20the%20Connecticut%20General%20Assembly_20170127_CY2016.pdf), accessed 7/13/18.

<sup>33</sup> [https://www.ctnewsjunkie.com/archives/entry/20180409\\_ct\\_government\\_not\\_immune\\_to\\_non-disclosure\\_agreements\\_and\\_generous/](https://www.ctnewsjunkie.com/archives/entry/20180409_ct_government_not_immune_to_non-disclosure_agreements_and_generous/), accessed 7/13/18.

<sup>34</sup>[https://www.cga.ct.gov/apa/reports/annual/Annual%20Report%20to%20the%20Connecticut%20General%20Assembly\\_20180130\\_CY2017.pdf](https://www.cga.ct.gov/apa/reports/annual/Annual%20Report%20to%20the%20Connecticut%20General%20Assembly_20180130_CY2017.pdf), accessed 7/13/18.

another glaring example of why these arrangements require third-party scrutiny.” (p. 27)<sup>35</sup> This agreement allowed Noble to remain in her position—with its \$212,000 annual salary—long enough to accrue the requisite service time to qualify for a state pension, while simultaneously paying her an additional \$25,000 per month as a consultant. The auditors surmised that “it appears that the principal reasons for the transition agreement were to enhance Ms. Noble’s retirement benefits and to not reveal the existence of a Department of Consumer Protection investigation and pending action against Ms. Noble that would have suspended or terminated her license...”<sup>36</sup>

The APA further revealed large severance payments to the former heads of “quasi-public” state agencies, such as the Connecticut Housing Finance Authority and Access Health CT, as well as several state university officials. In most cases, little or no information was given regarding the reasons for these officials’ terminations. Moreover, each severance package included an NDA.<sup>37</sup>

In response to the APA’s findings, legislation was introduced to require that any NDA-included severance agreements of over \$50,000 from public or “quasi-public agencies” must be reviewed by the State’s Attorney General.<sup>38</sup> The legislation, included in a larger bill “[to] implement the recommendations contained in the annual report of the Auditors of Public Accounts”, was passed unanimously by both the Senate and House on May 9<sup>th</sup>, 2018, and signed into law by Governor Malloy on June 11<sup>th</sup>.<sup>39</sup>

In addition to the APA, there are 3 other legislative analytic bureaucracies. The Office of Fiscal Analysis (OFA) provides analysis of agency and program budgets for general assembly committees, mainly for the Appropriations Committee and the Finance, Revenue and Bonding Committee.<sup>40</sup> The Office of Legislative Research (OLR) conducts research for the substantive, “nonfiscal legislative committees”.<sup>41</sup> Lastly, the Legislative Commissioners’ Office (LCO) provides legal advice to general assembly members, and drafts legislation.<sup>42</sup>

Prior to 2017, the Joint Legislative Program Review and Investigations Committee conducted reviews of state programs. The committee was dissolved in 2016, with five of its eleven staff members reassigned to the APA.<sup>43</sup> Prior to its dissolution, the committee was assisted by a legislative analytic bureaucracy, the Office of Program Reviews and Investigations, which was dissolved along with the committee in 2016.<sup>44</sup>

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<sup>35</sup>[https://www.cga.ct.gov/apa/reports/annual/Annual%20Report%20to%20the%20Connecticut%20General%20Assembly\\_20180130\\_CY2017.pdf](https://www.cga.ct.gov/apa/reports/annual/Annual%20Report%20to%20the%20Connecticut%20General%20Assembly_20180130_CY2017.pdf), accessed 7/13/18.

<sup>36</sup> [https://www.ctnewsjunkie.com/archives/entry/20180409\\_ct\\_government\\_not\\_immune\\_to\\_non-disclosure\\_agreements\\_and\\_generous/](https://www.ctnewsjunkie.com/archives/entry/20180409_ct_government_not_immune_to_non-disclosure_agreements_and_generous/), accessed 7/13/18.

<sup>37</sup> [https://www.ctnewsjunkie.com/archives/entry/20180409\\_ct\\_government\\_not\\_immune\\_to\\_non-disclosure\\_agreements\\_and\\_generous/](https://www.ctnewsjunkie.com/archives/entry/20180409_ct_government_not_immune_to_non-disclosure_agreements_and_generous/), accessed 7/13/18.

<sup>38</sup> [https://www.ctnewsjunkie.com/archives/entry/20180509\\_senate\\_forwards\\_nda\\_threshold\\_bill\\_to\\_house/](https://www.ctnewsjunkie.com/archives/entry/20180509_senate_forwards_nda_threshold_bill_to_house/), accessed 7/13/18.

<sup>39</sup> [https://www.cga.ct.gov/asp/cgabillstatus/cgabillstatus.asp?selBillType=Bill&which\\_year=2018&bill\\_num=175](https://www.cga.ct.gov/asp/cgabillstatus/cgabillstatus.asp?selBillType=Bill&which_year=2018&bill_num=175), accessed 7/13/18.

<sup>40</sup> <https://www.cga.ct.gov/ofa/add-faqs.asp>, accessed 6/3/18.

<sup>41</sup> <https://www.cga.ct.gov/olr/about.asp>, accessed 6/3/18.

<sup>42</sup> <https://www.cga.ct.gov/lco/>, accessed 6/3/18.

<sup>43</sup> <http://www.courant.com/opinion/editorials/hc-ed-two-state-agencies-doing-same-thing-is-wasteful-20160929-story.html>, accessed 6/3/18.

<sup>44</sup> <https://ctmirror.org/2016/09/21/ct-legislatures-chief-investigative-panel-to-lose-all-staff/>, accessed 6/10/18.

The Office of Fiscal Analysis (OFA) provides staff for the Joint Appropriations Committee. Its other responsibilities include several that are likely to aid the legislature with oversight: to review state agency and program budget requests, to check executive revenue estimates and budget proposals, to prepare fiscal notes for proposed legislation, analyze costs of executive programs and proposed agency regulations, study programs, respond to requests from the Joint Committee on Legislative Management, and to compare fiscal note estimates and resulting impacts of legislation two-years and four-years after passage.<sup>45</sup>

## Oversight Through the Appropriations Process

Connecticut's biennial state budget requires approval by the general assembly. The process is as follows: state agencies submit their respective budget requests to the Office of Program Management (OPM), which submits its proposed state budget to the governor's office, which then submits its revised budget recommendation to the Joint Appropriations Committee, which—through public hearings and the deliberations of its subcommittees—prepares legislation to implement its revised state budget, which is then voted on by both chambers of the General Assembly.<sup>46</sup>

Much of the oversight conducted by the Joint Appropriations Committee is done through its subcommittees (interview notes, 6/6/18). Of the 13 subcommittees, 10 are assigned to monitor specific agencies, with the assistance of OFA analysts.<sup>47</sup> Subcommittee members tend to attain some expertise in the functions of their assigned agencies through their ongoing interactions with such agencies, including informal interactions and relationships formed with agency staff. These relationships tend to facilitate cooperation between the subcommittees and agencies in preparing and finalizing agency budgets. Additionally, the expertise of subcommittee chairs has been important in dissuading executive branch actions—such as certain reorganization attempts by the governor—which did not reflect a sufficient understanding of the responsibilities and functions of certain agencies (interview notes, 6/6/18). Such hands-on practices at the subcommittee level have also resulted in some degree of bipartisan cooperation within the nearly evenly-split committee (21 Democrats, 20 Republicans). During 2017 budget negotiations, for instance, committee members from each party went so far as to exclude the governor from the ultimately-successful budget negotiations, as his preferred budget was viewed as unacceptable by the Republican minority. (interview notes, 6/6/18)

The State's adoption of results-based accountability (RBA) budgeting has assisted the Joint Appropriations Committee in monitoring the budget requests of state agencies, particularly within those areas in which RBA budgetary analysis practices have been implemented (interview notes, 6/6/18). The shift to RBA started in 2005 as a way to link quality of life outcomes with state-funded programs. Moreover, the program is designed to identify actions needed to improve

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<sup>45</sup> <https://www.cga.ct.gov/ofa/add-resp.asp>, accessed 10/5/18.

<sup>46</sup> <https://www.cga.ct.gov/2017/ofarpt/2017OFA-0299.pdf>, accessed 6/10/18.

<sup>47</sup> <https://www.cga.ct.gov/app/special/Subcommittee%20Assignments.pdf>, accessed 6/10/18.

outcomes.<sup>48</sup> The specific results focus on employment and training for Connecticut citizens and students.<sup>49</sup>

The Joint Appropriations Committee meets annually near the end of the calendar year to hear from fiscal analysts about the state's revenue and long-term budget needs. The November 30<sup>th</sup>, 2016 is the most recent one of these meetings archived and available for viewing.<sup>50</sup> OFA and the Office of Policy and Management both made presentations to inform legislators about the state's fiscal conditions. In other words, both the governor's and the legislature's budget analysts provided their perspective on state revenues and expenditures. These presentations occupied the first hour of a three-hour hearing. The chair limited committee members to two questions each. The chair started by asking about fixed costs for specific public programs. She wants a specific list of fixed and non-fixed costs. Legislators primarily wanted additional information about why New York was recovering more quickly from the 2008 financial crisis. Several legislators asked for information on whether actions taken in previous budgets were producing the intended effects. For example, the legislature chose not to cut funds to local governments in the hope that property tax increases would abate. But the general assembly wanted information on whether the millage rates continued to rise or not. A Republican legislator expressed frustration that there was natural growth in revenue not in spending, saying that it reflected a partisan approach by a nonpartisan support agency. The same legislator also complained that actuarial reports that typically were produced earlier in the year were not yet available. One legislator asked about what the state's policy was if cities go bankrupt paying for pensions. OFA staff referred to bankruptcy proceeding such as occurred in Detroit. He explains that the general assembly cannot abrogate pension responsibilities. Those would have to be negotiated. Both the governor's and the legislature's analysts explained several times that the fixed costs were based on existing legislation and not a choice they were making. These programs included things like the current Medicaid program. Those, as they acknowledged, could be changed by the legislature, but they have to base their calculations on existing laws.

Legislators on this committee demonstrated extensive understanding of the budget and revenue estimates. The questions were quite specific, and most of the legislators seemed capable of exploring budget details in great depth.

Hearings on specific agency budgets and appropriations are conducted by appropriations subcommittees. The Appropriations Committee on Human Services Subcommittee met with two state agencies (Department of Children and Families and Department of Social Services) on the governor's budget proposal on February 21, 2018.<sup>51</sup> The Department of Children and Families commissioner presented information on what the department does with the funds allocated to it. Commissioners' questions were exceptionally detailed and specific. They demonstrated high levels of familiarity with specific programs and the populations served. One legislator was particularly concerned about dollars appropriated for juvenile justice services that appeared to have been comingled with money for other programs. Questions to Department of Social Services staff probed for information about asset tests used determine eligibility for various social services programs.

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<sup>48</sup> <https://portal.ct.gov/SDE/RBA/Results-Based-Accountability>, accessed 10/5/18.

<sup>49</sup> [https://www.cga.ct.gov/ofa/Documents/year/OD/2012OD-20120125\\_Results%20Based%20Accountability%20Summit.pdf](https://www.cga.ct.gov/ofa/Documents/year/OD/2012OD-20120125_Results%20Based%20Accountability%20Summit.pdf), accessed 10/5/18.

<sup>50</sup> <http://www.ctn.state.ct.us/ctnplayer.asp?odID=13482>, accessed 10/5/18.

<sup>51</sup> <http://www.ctn.state.ct.us/ctnplayer.asp?odID=15007>, accessed 10/5/18.

## Oversight Through Committees

One signal characteristic of the Connecticut General Assembly is the extent to which it is cooperative across chambers. The 2017 general assembly's *Rules and Precedents* delineate the specific functions of its 22 joint standing committees—including the departments that fall under each committee's jurisdiction—as well as three statutory joint committees (pp. 1-6).<sup>52</sup> Per general assembly precedent, committees are responsible for oversight of agencies that fall within their specific substantive purview. That is, no specific committee explicitly charged with conducting overall oversight of the executive branch; rather, each committee is responsible for oversight of certain agencies, according to subject matter, and determined according to legislative precedent. For instance, the 2017 Rules and Precedents cites the case of a bill pertaining to milk sold in public schools; ultimately, the deputy speaker referred the bill to the Finance Committee, ruling that—as it both affected local school board finances, and pertained specifically to milk in schools (not milk in general)—it was not under the jurisdiction of the Environment Committee (Joint Rules and Precedents, pp. H121-H122).<sup>53</sup> The general assembly also can create “select committees” that are authorized to meet on a temporary basis to address specific issues that arise. Occasionally these committees are transformed into permanent committees. These committees are formed infrequently. There is no distinction between standing committees and interim committees. Standing committees appear to meet even when the general assembly is not in session.

The general assembly's organization of committees according to the agencies to which their subject area pertains may provide a legislative model by which committee members gain a technical familiarity with issues and agency functions that would—at least hypothetically—facilitate quality oversight. One recent example involving high profile problems at the state's Department of Children and Families (DCF) suggests that the general assembly's joint committees will act, at times, in a bipartisan manner to check perceived dysfunctions within executive branch agencies. The same example, however, suggests that such bipartisanship has its limits.

### *Vignette: Oversight of the Department of Children and Families (DCF)*

*Recently, legislation to reform existing oversight mechanisms of the state's Department of Children and Families—approved by the Committee on Children and passed by the General Assembly—was vetoed by Governor Malloy.<sup>54</sup> The legislation followed a series of controversies involving the Department<sup>55 56</sup>, which has been under federal supervision since 1992.<sup>57</sup>*

<sup>52</sup> <https://www.cga.ct.gov/html/rulesprecedents.pdf>, accessed 6/15/18.

<sup>53</sup> <https://www.cga.ct.gov/html/rulesprecedents.pdf>, accessed 6/15/18.

<sup>54</sup> [https://www.ctnewsjunkie.com/archives/entry/20180613\\_malloy\\_vetoes\\_dcf\\_oversight\\_bill/](https://www.ctnewsjunkie.com/archives/entry/20180613_malloy_vetoes_dcf_oversight_bill/), accessed 7/19/18.

<sup>55</sup> [https://www.ctnewsjunkie.com/archives/entry/dcf\\_chief\\_defends\\_actions\\_prior\\_to\\_death\\_of\\_hartford\\_teen/](https://www.ctnewsjunkie.com/archives/entry/dcf_chief_defends_actions_prior_to_death_of_hartford_teen/), accessed 7/19/18.

<sup>56</sup> [https://www.ctnewsjunkie.com/archives/entry/child\\_advocate\\_seeks\\_to\\_strengthen\\_safety\\_net\\_for\\_children\\_with\\_disabilitie/](https://www.ctnewsjunkie.com/archives/entry/child_advocate_seeks_to_strengthen_safety_net_for_children_with_disabilitie/), accessed 7/19/18.

<sup>57</sup> <https://assets.documentcloud.org/documents/3116238/Juan-F-Exit-Plan.pdf>, accessed 7/19/18.

*On December 19<sup>th</sup>, 2017, the Committee on Children held hearings<sup>58</sup> in response to a report by the Office of the Child Advocate on the case of Matthew Tirado, an autistic 17-year-old who died by starvation under the care of his neglectful and physically-abusive mother, shortly after the DCF ended protective supervision of the family<sup>59</sup>, “[withdrawing] a neglect petition to the court and [closing] its case file”.<sup>60</sup> The State Child Advocate, Sarah Eagan, testified that the DCF failed to follow its own procedures in monitoring Tirado’s care, despite numerous incidents of neglect and abuse. Eagan did acknowledge, however, that the failures were not the Department’s alone, but rather that Tirado’s death constituted “a multi-system breakdown” (13:45 in hearing video). She further noted the legal obstacles that the Department faces in gaining access to children at risk of abuse or neglect.<sup>61</sup> During the hearing, Republican committee members tended to be more direct in their questioning of DCF Commissioner Joette Katz, while Democratic members—as well as Katz herself—tended to emphasize systemic issues, including the legal, budgetary, and workload-related constraints under which the DCF operates.<sup>62</sup>*

*Even prior to the Tirado case, Commissioner Katz had been a frequent target of criticism from Senate Minority President Pro Tempore Leonard Fasano (R) (despite his not being a member of the Committee on Children). The Senator had called for Katz’s resignation in 2015, following a report by the Child Advocate “detailing abuse and underreporting at DCF’s two locked facilities”,<sup>63</sup> and in 2016, following “the near-death of a toddler” who nearly starved to death in a foster home that was under DCF supervision.<sup>64</sup> Following the Office of the Child Advocate’s December 11<sup>th</sup>, 2017 report<sup>65</sup> on Tirado’s death, Fasano again called for Katz’s resignation, this time in a letter to Governor Malloy.<sup>66</sup>*

*Senator Fasano, along with seven other Republican co-sponsors, introduced SB-188, a bill to reform oversight of the DCF; it was referred to the Committee on Children on February 22<sup>nd</sup>, 2018.<sup>67</sup> The bill markedly increases legislative oversight of the DCF by modifying the composition and functions of the State Advisory Council on Children and Families (SAC). Among its provisions, the bill removes the 13 gubernatorially-appointed members from the council, replacing them “with 12 members appointed by legislative leaders and one member appointed by the Juvenile Justice Policy and Oversight Committee (JJPOC) chairpersons. It also adds... the Children’s Committee chairpersons and ranking members, the child advocate, and the chief public defender, or their designees to the council...” (p. 1) Additionally, it increases the scope of the council’s oversight of DCF, requiring that the council advise both the DCF and Committee on Children accordingly, and that the council annually report its findings and*

<sup>58</sup> <http://www.ctn.state.ct.us/ctnplayer.asp?odID=14834>, accessed 7/19/18.

<sup>59</sup> <http://www.ctn.state.ct.us/ctnplayer.asp?odID=14834>, accessed 7/19/18.

<sup>60</sup> [https://www.ctnewsjunkie.com/archives/entry/dcf\\_chief\\_defends\\_actions\\_prior\\_to\\_death\\_of\\_hartford\\_teen/](https://www.ctnewsjunkie.com/archives/entry/dcf_chief_defends_actions_prior_to_death_of_hartford_teen/), accessed 7/19/18.

<sup>61</sup> <http://www.ctn.state.ct.us/ctnplayer.asp?odID=14834>, accessed 7/19/18.

<sup>62</sup> <http://www.ctn.state.ct.us/ctnplayer.asp?odID=14834>, accessed 7/19/18.

<sup>63</sup> <https://ctviewpoints.org/2015/07/29/call-for-dcfs-katz-to-resign-is-about-children-not-politics/>, accessed 7/19/18.

<sup>64</sup> [https://www.ctnewsjunkie.com/archives/entry/one\\_calls\\_for\\_a\\_hearing\\_another\\_for\\_a\\_resignation/](https://www.ctnewsjunkie.com/archives/entry/one_calls_for_a_hearing_another_for_a_resignation/), accessed 7/19/18.

<sup>65</sup> <https://www.ctnewsjunkie.com/upload/2017/12/MT.final.12.11.2017.pdf>, accessed 7/19/18.

<sup>66</sup> [https://www.ctnewsjunkie.com/archives/entry/dcf\\_chief\\_defends\\_actions\\_prior\\_to\\_death\\_of\\_hartford\\_teen/](https://www.ctnewsjunkie.com/archives/entry/dcf_chief_defends_actions_prior_to_death_of_hartford_teen/), accessed 7/19/18.

<sup>67</sup> [https://www.cga.ct.gov/asp/cgabillstatus/cgabillstatus.asp?selBillType=Bill&which\\_year=2018&bill\\_num=188](https://www.cga.ct.gov/asp/cgabillstatus/cgabillstatus.asp?selBillType=Bill&which_year=2018&bill_num=188), accessed 7/20/18.

recommendations to both the Committee on Children and the Appropriations Committee. Lastly, it changes the council's name to the State Oversight Council on Children and Families.<sup>68</sup>

On February 27<sup>th</sup>, 2018, the Committee on Children held public hearings on SB-188.<sup>69</sup> Written and in-person testimony were both largely in favor of the bill. For example, in written testimony submitted to the Committee, Senator Fasano (R) criticized the DCF for what he characterized as the Department's failure to adhere to its own requirements and procedures, stating that "[n]umerous reports from the Office of Child Advocate and other state officials over the last several years have highlighted 'gross systems failures' and 'institutional failures and omissions' within DCF operations that have contributed to the abuse, neglect and even death of children under DCF supervision."<sup>70</sup> Within his testimony, he alluded to various specific cases in recent years, including that of Matthew Tirado, noting the absence of any legislative appointees on the SAC, and arguing that the general assembly should have a larger role in conducting oversight of the DCF.<sup>71</sup> Additional persons submitting testimony in support of the bill included Child Advocate Eagan; Steven Hernandez, Executive Director of the Commission on Women, Children and Seniors; Christine Rapillo, the state's Chief Public Defender; and others.<sup>72</sup> Two co-chairs of the SAC (whose positions on the commission would be eliminated by the bill) and two DCF officials were the only persons to testify in opposition to the bill.<sup>73</sup>

The Senate passed SB-188 on May 4<sup>th</sup>, with 33 Senators voting in favor and 3 opposed.<sup>74</sup> The House then passed the bill on May 9<sup>th</sup>, by a vote of 142 to 6.<sup>75</sup> All nine of the legislators who voted against the bill were Democrats.

Governor Malloy vetoed SB-188 on June 13<sup>th</sup>. In his message to the secretary of state, announcing his intention to veto the bill, Malloy contended that he had previously agreed after negotiations with Committee on Children members to support an earlier version of the bill<sup>76</sup>, but could not support the current version, which he argued "represents a significant intrusion by the legislative branch into the functioning and administrative authority of an executive branch agency in violation of the separation of powers doctrine."<sup>77</sup> Notably, the original version of SB-188 reduces the number of gubernatorially-appointed commission members from 12 to 5, whereas the amended version that the governor ultimately vetoed removes all twelve of the gubernatorially-appointed members.<sup>78</sup>

On June 25<sup>th</sup>, the senate voted again on the bill, with a 2/3 majority in both chambers required to override the governor's veto. The override failed, with 16 votes in favor, 15 against, and 5 Senators absent and not voting. The votes were strictly along party lines, with 16

<sup>68</sup> <https://www.cga.ct.gov/2018/BA/pdf/2018SB-00188-R01-BA.pdf>, accessed 7/20/18.

<sup>69</sup> <http://www.ctn.state.ct.us/ctnplayer.asp?odID=15049>, accessed 7/19/18.

<sup>70</sup> <https://www.cga.ct.gov/2018/kiddata/tmy/2018SB-00188-R000227-Fasano,%20Leonard,%20Senator-Connecticut%20General%20Assembly-TMY.PDF>, accessed 7/20/18.

<sup>71</sup> <https://www.cga.ct.gov/2018/kiddata/tmy/2018SB-00188-R000227-Fasano,%20Leonard,%20Senator-Connecticut%20General%20Assembly-TMY.PDF>, accessed 7/20/18.

<sup>72</sup> [https://www.cga.ct.gov/asp/menu/CommDocTmyBill.asp?comm\\_code=kid&bill=SB-00188&doc\\_year=2018](https://www.cga.ct.gov/asp/menu/CommDocTmyBill.asp?comm_code=kid&bill=SB-00188&doc_year=2018), accessed 7/20/18.

<sup>73</sup> <https://www.cga.ct.gov/2018/JFR/s/pdf/2018SB-00188-R00KID-JFR.pdf>, accessed 7/19/18.

<sup>74</sup> <https://www.cga.ct.gov/2018/VOTE/s/2018SV-00203-R00SB00188-SV.htm>, accessed 7/22/18.

<sup>75</sup> <https://www.cga.ct.gov/2018/VOTE/h/2018HV-00289-R00SB00188-HV.htm>, accessed 7/22/18.

<sup>76</sup> <https://www.cga.ct.gov/2018/BA/pdf/2018SB-00188-R000092-BA.pdf>, accessed 7/22/18.

<sup>77</sup> <https://www.ctnewsjunkie.com/upload/2018/06/5C795D355082444D9BCEE7756CA714CA.pdf>, accessed 7/22/18.

<sup>78</sup> <https://www.cga.ct.gov/2018/BA/pdf/2018SB-00188-R01-BA.pdf>, accessed 7/22/18.

*Republicans voting to override the veto, and two absent and not voting. 13 of the 15 Democrats who had initially voted in favor of the bill voted not to override the governor's veto, with the remaining two absent and not voting; of the three Democrats who had initially voted no, two did so again, while the third was absent and did not vote.*<sup>79</sup>

This ill-fated attempt to reform the SAC illustrates two apparently contradictory tendencies within the general assembly's recent oversight practices. On the one hand, SBB-188 had enjoyed overwhelming support among legislators and experts (such as the Child's Advocate, various state commission members, et al.) prior to Governor Malloy's veto; accordingly, one might reasonably infer that democratic senators' refusal to override the veto can be attributed to partisan political calculations. Indeed, of the seven bills that Malloy vetoed during the 2018 session, none were overridden by both chambers. One of the vetoed bills, HB-5171 (a bill "[t]o prohibit the Governor from making rescissions to a town's education cost sharing grant during the fiscal year"),<sup>80</sup> was overridden by the house, before failing to reach the 2/3 majority necessary in the senate, despite having initially passed the upper chamber unanimously, prior to the governor's veto.<sup>81</sup> Of the 18 Democratic senators—all of whom initially voted for HB-5171—only four voted to override the veto, whereas 10 voted against, while four were absent and did not vote.<sup>82</sup>

On the other hand, these initially-bipartisan attempts to check executive prerogatives suggest that legislative authority to conduct oversight is frequently asserted by the general assembly and its joint committees, albeit more aggressively by members of the opposition party. In the case of SB-188, for example, the vast majority of Democratic legislators initially voted for a bill that would have dramatically increased legislative oversight of an executive branch agency, and thus would have diminished the Democratic governor's authority over that agency. Further, given Senator Fasano's unremitting criticism of Commissioner Katz and the DCF—which began well before the introduction of SB-188—it is quite plausible that he, along with other Republican legislators, perceived an opportunity to score political points over the repeated high-profile shortcomings of an agency under the direction of an opposing-party governor, rather than solely perceiving an opportunity to conduct legitimate oversight.

## Oversight Through the Administrative Rules Process

Article XVIII of the Amendments to the Constitution of the State of Connecticut, adopted in 1982, establishes that, "[the] legislative department may delegate regulatory authority to the executive department; except that any administrative regulation of any agency of the executive department may be disapproved by the general assembly or a committee thereof in such manner

<sup>79</sup> <https://www.cga.ct.gov/2018/VOTE/s/2018SV-00395-R00SB00188-SV.htm>, accessed 7/23/18.

<sup>80</sup> [https://www.cga.ct.gov/asp/cgabillstatus/cgabillstatus.asp?selBillType=Bill&which\\_year=2018&bill\\_num=5171#](https://www.cga.ct.gov/asp/cgabillstatus/cgabillstatus.asp?selBillType=Bill&which_year=2018&bill_num=5171#), accessed 7/24/18.

<sup>81</sup> [https://www.ctnewsjunkie.com/archives/entry/20180625\\_general\\_assembly\\_fails\\_to\\_override\\_any\\_of\\_malloys\\_7\\_vetoes/](https://www.ctnewsjunkie.com/archives/entry/20180625_general_assembly_fails_to_override_any_of_malloys_7_vetoes/), accessed 7/24/18.

<sup>82</sup> <https://www.cga.ct.gov/2018/VOTE/s/2018SV-00399-R00HB05171-SV.htm>, accessed 7/24/18.

as shall by law be prescribed.”<sup>83</sup> The Joint Legislative Regulation Review Committee (LRRC) was established under the authority of this amendment (interview notes, 6/14/18).

The LRRC is comprised of 8 house members and 6 senators, with equal numbers of Democrats and Republicans. The committee has two simultaneous co-chairs, one from each party. The committee chairpersonships alternate biennially between house and senate members, ensuring that one member of each party and each chamber holds one of the two chairpersonships at all times.<sup>84</sup>

Proposed regulations are subject to a complex process, even prior to reaching the LRRC. The process is as follows: the proposing agency receives statutory authority to promulgate regulations from the legislature; as required by statute, the agency completes a statement of purpose, a small business impact assessment, and a fiscal note; the proposed regulation is then either approved or denied by the Office of Program Management; if denied, it must be modified accordingly by the agency; if approved, “[the] agency publishes all accompanying documents on the eRegs System and maintains the regulation-making record”; there is then a 30-day public commentary period, followed by agency response and possible revision; the attorney general then reviews the regulation’s legality; if it is not rejected by the attorney general, the regulation is then submitted to the LRRC, the Office of Fiscal Analysis (which issues a report, submitting it to the LRRC), and the “Legislative Committee of Cognizance”; the LRRC also submits the regulation to the Legislative Commissioner’s Office, which reviews it, issues a report, and advises the LRRC.

Only after completion of the above process does the LRRC meet to review the proposed rule. It may either approve, disapprove, or reject the regulation “without prejudice”. If approved, the regulation is published and adopted. If disapproved, it is “referred by House Speaker or Senate President to appropriate committee for consideration”<sup>85</sup>, at which point “[the] general assembly may, by resolution, either sustain or reverse”<sup>86</sup> the LRRC’s action. If “rejected without prejudice”, it is returned to the issuing agency, which revises the regulation, then resubmits it to the attorney general’s office, restarting the review process from that point.<sup>87 88 89</sup> Emergency regulations go into effect for up to 120 days (with a possible 60-day extension) unless explicitly disapproved by the LRRC within 10 working days.<sup>90</sup>

Outright disapproval of new regulations by the LRRC is exceedingly rare; a LRRC staff member could not recall any such action in recent years (interview notes, 6/14/18). Proposed regulations, however, are frequently rejected “without prejudice”; such rejections may occur due to either technical errors or substantive problems, including instances in which a regulation exceeds its legal basis or ambiguity exists in the means by which a regulation is intended to be implemented (interview notes, 6/14/18). Thus, while the committee did not formally disapprove

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<sup>83</sup> <https://www.cga.ct.gov/asp/Content/constitutions/CTConstitution.htm>, accessed 6/15/18.

<sup>84</sup> <https://www.cga.ct.gov/rr/>, accessed 6/15/18.

<sup>85</sup> <https://www.cga.ct.gov/rr/The%20Regulatory%20Process%209%2019%2016.pdf>, accessed 6/15/18.

<sup>86</sup> [https://www.lawserver.com/law/state/connecticut/ct-laws/connecticut\\_statutes\\_4-171](https://www.lawserver.com/law/state/connecticut/ct-laws/connecticut_statutes_4-171), accessed 6/15/18.

<sup>87</sup> <https://www.cga.ct.gov/rr/The%20Regulatory%20Process%209%2019%2016.pdf>, accessed 6/15/18.

<sup>88</sup> [https://www.lawserver.com/law/state/connecticut/ct-laws/connecticut\\_statutes\\_4-170](https://www.lawserver.com/law/state/connecticut/ct-laws/connecticut_statutes_4-170), accessed 6/15/18.

<sup>89</sup> [https://www.lawserver.com/law/state/connecticut/ct-laws/connecticut\\_statutes\\_4-171](https://www.lawserver.com/law/state/connecticut/ct-laws/connecticut_statutes_4-171), accessed 6/15/18.

<sup>90</sup> <https://www.cga.ct.gov/rr/The%20Emergency%20Regulation%20Process%209%2019%2016.pdf>, accessed 6/15/18.

any proposed regulations in either 2015<sup>91</sup> or 2016<sup>92</sup>, proposed regulations were rejected “without prejudice” fairly commonly. In 2015, for instance, 5 proposed regulations were “approved in whole”, 24 were “approved with technical corrections”, 2 were “deemed approved by lack of committee action”; while 10 were “rejected without prejudice”, and 4 were “withdrawn by agency”.<sup>93</sup> In 2016, 4 proposed regulations were “approved in whole” and 28 were “approved with technical corrections”; while 11 were “rejected without prejudice” and 2 were “withdrawn by agency”.<sup>94</sup> The withdrawal of a regulation by the proposing agency tends to occur when such regulation becomes unnecessary due to the passage of a new law or due to intra-agency disagreement over the usefulness of a proposed regulation (interview notes, 6/14/18).

Connecticut General Statutes 4-189i requires that agencies review existing regulations every seven years for various factors, including effectiveness, legality, and continued use; the results of such reviews are to be reported to an LRRC administrator and to the committee of cognizance, the latter of which is required to hold a public hearing on the report’s findings.<sup>95</sup> In practice, however, neither such reviews nor subsequent public hearings occur with any regularity (interview notes, 6/14/18).

### Oversight Through Advice and Consent

Connecticut General Statute, Chapter 46, Section 4-6 prescribes that department heads are appointed by the governor, “with the advice and consent of either chamber of the general assembly”.<sup>96</sup> The state’s 27 department heads are appointed by the governor, and require approval by either chamber of the general assembly.<sup>97</sup> Department heads serve four-year terms that run concurrently with that of the governor.<sup>98</sup> The lieutenant governor (in tandem with the governor), secretary of state, treasurer, comptroller, and attorney general are each directly elected.<sup>99</sup>

According to the general assembly website, “[a]ll executive and legislative nominations requiring action of either or both chambers, except judicial nominations, nominations of workers’ compensation commissioners and nominations of members of the Board of Pardons and Paroles, shall be referred to the committee on executive and legislative nominations.”<sup>100</sup> While there is a clearly delineated confirmation process through the Joint Executive and Legislative Nominations Committee,<sup>101</sup> it appears that the Committee is exceedingly deferential to the Governor regarding

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<sup>91</sup><https://www.cga.ct.gov/rr/2016%20Report%20of%20the%20Legislative%20Regulation%20Review%20Committee%20to%20the%20Connecticut%20General%20Assembly.pdf>, accessed 6/15/18.

<sup>92</sup><https://www.cga.ct.gov/rr/2017%20Report%20of%20the%20Legislative%20Regulation%20Review%20Committee%20to%20the%20Connecticut%20General%20Assembly.pdf>, accessed 6/15/18.

<sup>93</sup> <https://www.cga.ct.gov/rr/regsbyyear.asp>, accessed 6/15/18.

<sup>94</sup> <https://www.cga.ct.gov/rr/regsbyyear.asp>, accessed 6/15/18.

<sup>95</sup> [https://www.lawserver.com/law/state/connecticut/ct-laws/connecticut\\_statutes\\_4-189i](https://www.lawserver.com/law/state/connecticut/ct-laws/connecticut_statutes_4-189i), accessed 6/15/18.

<sup>96</sup> [https://www.cga.ct.gov/2015/pub/chap\\_046.htm](https://www.cga.ct.gov/2015/pub/chap_046.htm), accessed 6/27/18.

<sup>97</sup> [https://www.cga.ct.gov/current/pub/chap\\_046.htm#](https://www.cga.ct.gov/current/pub/chap_046.htm#), accessed 6/27/18.

<sup>98</sup> [https://www.cga.ct.gov/current/pub/chap\\_046.htm#sec\\_4-7](https://www.cga.ct.gov/current/pub/chap_046.htm#sec_4-7), accessed 6/27/18.

<sup>99</sup> [https://ballotpedia.org/File:Connecticut\\_exec\\_org\\_chart.png](https://ballotpedia.org/File:Connecticut_exec_org_chart.png), accessed 6/27/18.

<sup>100</sup> <https://www.cga.ct.gov/exn/>, accessed 6/27/18.

<sup>101</sup> <https://www.cga.ct.gov/2018/rpt/pdf/2018-R-0031.pdf>, accessed 6/27/18.

such confirmations. Of the 99 total nominations to come before the Committee in 2017,<sup>102</sup> and 2018,<sup>103</sup> all were approved, with the Committee unanimously supporting nearly all such approvals. Accordingly, we have not found evidence of either chamber of the general assembly rejecting any agency, commission, or board nominees in recent years.

Per Article V of the CT Constitution, judges are nominated by the governor, subject to confirmation by the general assembly.<sup>104</sup> Such nominations appear to receive more scrutiny than those considered by the Executive and Legislative Nominations Committee. For instance, Governor Dan Malloy's recent nomination of current CT Supreme Court Justice Andrew McDonald to replace the Court's retiring Chief Justice was controversially rejected by a 19-16 Senate vote.<sup>105</sup> Prior to the Senate vote, McDonald's nomination had passed the Joint Judiciary Committee on a 20-20 "unfavorable recommendation", following a 13-hour committee hearing, which ended at 1:00 AM.<sup>106</sup> McDonald was subsequently approved by a 75 to 74 vote in the state House,<sup>107</sup> prior to his ultimate rejection by the Senate.

Connecticut's governor issues very few executive orders: 5 by October of 2018 for the year, and 7 for 2017. The governor cannot use executive orders to reorganize government. The legislature has no power to oversee gubernatorial executive orders. The only requirement is that the governor files the orders with the secretary of state. The governor, however, does not appear currently to use executive orders to make policy. This might reflect one-party government in which it might be relatively easy to achieve policy goals by working with the legislative branch.

### Oversight Through Monitoring of State Contracts

The executive branch Office of Program Management's (OPM) Procurement Standards (2012)<sup>108</sup> delineate the process by which state agencies award and monitor public contracts. General assembly monitoring of state contracts is minimal, with some scattered examples, and, as we found in other states, it occurs in conjunction with audit reports. For instance, the three performance audits conducted in 2018 by the APA each pertain to oversight (or lack thereof) of state contracts by the State Board of Education (SBE) and local school boards.<sup>109</sup> Additionally, the state's "whistle-blower act" (General Statute § 4-61dd), stipulates that malfeasance involving state contracts exceeding \$5 million may be referred to the APA.<sup>110</sup> Lastly, in 2014 the now-defunct PRI Committee produced a lengthy analysis of state agencies' use of "personal service contracts" in procurement. They concluded (p. i) that "Contractor evaluations, as currently utilized, are more perfunctory than meaningful."<sup>111</sup>

<sup>102</sup> [https://www.cga.ct.gov/asp/menu/CommDocList.asp?comm\\_code=exn&doc\\_type=ts&doc\\_year=2017](https://www.cga.ct.gov/asp/menu/CommDocList.asp?comm_code=exn&doc_type=ts&doc_year=2017), accessed 6/27/18.

<sup>103</sup> [https://www.cga.ct.gov/asp/menu/CommDocList.asp?comm\\_code=exn&doc\\_type=ts](https://www.cga.ct.gov/asp/menu/CommDocList.asp?comm_code=exn&doc_type=ts), accessed 6/27/18.

<sup>104</sup> <https://www.cga.ct.gov/asp/Content/constitutions/CTConstitution.htm>, accessed 6/27/18.

<sup>105</sup> <http://www.courant.com/politics/hc-pol-chief-justice-senate-vote-20180327-story.html>, accessed 6/27/18.

<sup>106</sup> <http://wshu.org/post/connecticut-unexpected-drama-chief-justices-nomination#stream/0>, accessed 6/27/18.

<sup>107</sup> <https://www.ctpost.com/news/article/Malloy-McDonald-vote-a-partisan-test-12746533.php>, accessed 6/27/18.

<sup>108</sup> [http://www.ct.gov/opm/lib/opm/PSA\\_POS\\_ProcurementStandards\\_FINAL\\_5-14-12.pdf](http://www.ct.gov/opm/lib/opm/PSA_POS_ProcurementStandards_FINAL_5-14-12.pdf), accessed 6/20/18.

<sup>109</sup> <https://www.cga.ct.gov/apa/audit-performance.asp>, accessed 6/20/18.

<sup>110</sup> [http://www.ct.gov/chro/lib/chro/4-61dd\\_as\\_revised\\_2012.pdf](http://www.ct.gov/chro/lib/chro/4-61dd_as_revised_2012.pdf), accessed 6/20/18.

<sup>111</sup> <https://www.cga.ct.gov/pri/docs/2014/Final%20PSA%20Status%20Report%202012-18-14%20for%20mailing.pdf>, accessed 6/20/18.

## Oversight Through Automatic Mechanisms

There is a mandated review of administrative rules described earlier in the section on *Oversight Through Administrative Rules*. There is no other automatic mechanism to force oversight of board, commissions, programs or agencies to determine whether they should continue to operate. A prior sunset statute was repealed in 2017.<sup>112</sup>

## Methods and Limitations

Although we requested interviews with 15 people about legislative oversight in Connecticut, we were only able to interview two of them. Fortunately, Connecticut's legislature, in collaboration with the Connecticut Network, provides archived recordings of committee hearings that are easily accessible and readily available.

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<sup>112</sup> [https://www.cga.ct.gov/2018/sup/chap\\_028.htm](https://www.cga.ct.gov/2018/sup/chap_028.htm), accessed 6/20/18.

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