



WAYNE STATE
UNIVERSITY

Center for Urban Studies

Legislative Oversight in Maryland

Capacity and Usage Assessment

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

Summary Assessment

The State of Maryland has extremely well-funded, highly professional legislative support staffs that produce a wealth of information and evidence for the legislature. The legislature and the Office of the Legislative Auditor (OLA) work collaboratively to ensure that state agencies implement audit recommendations. Several oversight functions are performed by joint committees, which could lead to bipartisan balance in oversight if partisan control of the chambers were split (it is not currently).

Major Strengths

Maryland's legislature is especially good at using its relationships with other units (support staff or agency staff) to improve government performance. Moreover, it is willing to use the "sticks" at its disposal at least sometimes to impose consequences when "carrots" do not work. The legislature uses the OLA to conduct follow up audits to determine whether agencies have improved their performance after an audit report. If there is no improvement, the legislature sometimes appears to "adjust" the agency's budget. Maryland's legislature makes occasional use of sunset review to determine whether licensing and regulatory entities should continue to exist. It does eliminate some of them, but not often. More typically, the legislature uses its rule review authority to work collaboratively with agencies to make adjustments to administrative rules without formally blocking or delaying them. This collaborative approach may reflect the governor's power to overrule legislative objections.

Challenges

The senate uses its confirmation authority to challenge gubernatorial appointments, but the governor has thwarted this form of legislative oversight by using recess appointments to install nominees that the legislature had already challenged. This conflict appears to arise from partisanship between the Republican governor and Democratically-controlled senate rather than from a sense of institutional checks and balances. The legislature appears poised to pass a law prohibiting this challenge to its prerogatives. Despite the legislature's desire to improve the contracting and procurement processes, Maryland's legislature, as is the case in most states, has limited direct methods to oversee state contracts. It is using OLA audits where ever possible to monitor contracts. Based on a legislative audit of the procurement system, the state is centralizing and standardizing this process. The role of the legislature in this new system is minimal. The legislature's rule review determinations can be overridden by the governor.

Relevant Institutional Characteristics

Despite a short legislative session, Maryland's General Assembly is rated by Squire (2017) as the 10th most professionalized state legislature in the country.¹ The duration of the general assembly's regular session is approximately 3 months. In 2014 it spent 69 days in regular session and 71 days in 2013.² This compares favorably to states with no limits on session length, as Squire finds that very few of these states exceed 70 actual session days. Committees meet in the interim between sessions. The Legislative Policy Committee, a joint committee composed of 14 senators and 14 delegates, can hold hearings and subpoena witnesses, as well as prepare legislation and refer matters to other interim committees throughout the year. Moreover, Maryland has extensive staff resources, and legislators receive fairly generous pay—especially for a chamber with limited session length. As of 2015, the general assembly had 773 total staff members, 656 of whom were permanent.³ All members of the general assembly receive annual salaries of \$47,769, with the exception of the Senate President and Speaker of the House, who each receive \$62,044; all members receive an additional \$45 per day for meals, \$103 per day for lodging, and \$0.535 per mile driven.⁴ Assembly members are not term-limited.⁵ Based on the Council of State Governments' Governor's Institutional Power GIPI Index, Maryland's governorship is tied with Ohio as the third most powerful among the fifty states.⁶ Maryland's governor is limited to two consecutive terms.⁷ The Maryland Governor has extensive powers with respect to the annual appropriations process and as a result is responsible for providing an initial budget proposal to the state legislature. Once the legislature has that proposal they may only make cuts. They may not transfer proposed spending between agencies or provide greater funding to an agency than is being requested by the Governor (Council of State

¹ Squire, Peverill (2017). A Squire Index Update. *State Politics & Policy Quarterly 2017, Vol. 17(4)* 361 –371; Retrieved from: <http://journals.sagepub.com.proxy.lib.wayne.edu/doi/full/10.1177/1532440017713314>

² Ibid.

³ National Conference of State Legislators (2016). Size of State Legislative Staff: 1979, 1988, 1996, 2003, 2009, 2015. Retrieved from: <http://www.ncsl.org/Documents/legismgt/StaffingData1979-2015.pdf>

⁴ National Conference of State Legislatures (2017). 2017 Legislator Compensation Information. Retrieved from: <http://www.ncsl.org/research/about-state-legislatures/2017-legislator-compensation-information.aspx>

⁵ National Conference of State Legislators (2015). The Term Limited States. Retrieved from: <http://www.ncsl.org/research/about-state-legislatures/chart-of-term-limits-states.aspx>

⁶ Council of State Governments, The (2015). *The Book of the States*. Table 8-4; p. 252. Lexington, KY

⁷ Ballotpedia. Governor of Maryland. Retrieved from: https://ballotpedia.org/Governor_of_Maryland

Governments, 2016). The governor has line-item veto authority with respect to the budget, but the general assembly may override a gubernatorial veto with a three-fifths vote in both chambers.⁸ Maryland has a much smaller than average proportion of its citizens working in state and local government employment—10.2% compared to 11.3% nationally. This means that it is in 42nd place nationally. The areas in which its percentage of workers is much smaller than other states are education and welfare. The proportion of its population employed in safety and service also lag the national average for state and local government employment, but only slightly.

Political Context

In 2018 Maryland had a divided state government—a Republican governor, with Democratic control of both chambers of the general assembly. As of March 2018, the Democrats held a 33-14 advantage over the Republicans in the senate. In the lower chamber, the Democratic advantage is 91-50.⁹ Democrats have held majorities with “veto-proof margins—in both chambers since 1922.”¹⁰

Despite the Democrats’ historical dominance of the general assembly, substantial political disagreements exist within the party’s membership. This is particularly the case between progressive Democrats—including many members of the general assembly’s Black and Latinx caucuses—versus conservative Democrats, often from districts won by Republican Governor Larry Hogan. State progressive groups, including some Democratic assembly members, have recently called for primary challenges to Democrats who have sided with Republicans on issues including immigrants’ rights, cash bail, and medical marijuana.¹¹ Despite these internal factions, according to Shor and McCarty’s (2015) criteria Maryland Senate Democrats are the ninth-most liberal in the country, while its house Democrats are the 11th-most liberal.

Maryland’s Republican assembly members are less conservative than Republican legislators in other states. Senate Republicans are only the 43rd most conservative in comparison to their counterparts in other states, while house Republicans are the 26st-most conservative (Shor and McCarty 2015). Despite this liberal tilt in both parties, Maryland’s Senate and House, as a whole, are rated as the 13th and 9th most politically polarized, respectively, in the country.¹²

Dimensions of Oversight

⁸ Ballotpedia. Maryland General Assembly. Retrieved from: https://ballotpedia.org/Maryland_General_Assembly

⁹ Ballotpedia. Maryland General Assembly. Retrieved from: https://ballotpedia.org/Maryland_General_Assembly

¹⁰ Hicks, J. (5/7/17). How Md. Republicans plan to break the state senate’s supermajority in 2018.

The Washington Post. Retrieved from: https://www.washingtonpost.com/local/md-politics/how-md-republicans-plan-to-break-the-state-senates-supermajority-in-2018/2017/05/07/91ad978c-2e99-11e7-8674-437ddb6e813e_story.html?utm_term=.b66b23bfd139

¹¹ Hicks, J. & Wiggins, O. (4/28/17). In Annapolis, progressive groups want to fight the Democratic establishment.

The Washington Post. Retrieved from: https://www.washingtonpost.com/local/md-politics/in-annapolis-progressive-groups-want-to-fight-the-democratic-establishment/2017/04/27/c6a55ef6-2486-11e7-bb9d-8cd6118e1409_story.html?utm_term=.0b76a1a451bc

¹² Shor, B. & McCarty, N. (2015). "Aggregate State Legislator Shor-McCarty Ideology Data, June 2015 update", doi:10.7910/DVN/K7ELHW, Harvard Dataverse, V1, UNF:6:l5O+/whNdgWGB1Vt4nEheA==

Oversight Through Analytic Bureaucracies

The Maryland Department of Legislative Services (MLIS) is the principal bureaucracy tasked with providing support to the legislature. MLIS was created as the central agency for all analytic legislative needs via statute under chapter 635 and 636 of 1997. The department provides analytical, legal, and ethical services to the legislature. The MLIS houses several legislative agencies including the Office of the Executive Director, The Office of Legislative Information Systems, the Office of Policy Analysis, and the Office of Legislative Audits (OLA). The Office of Legislative Audits (OLA)—which is analogous to the Office of the Auditor General in many other states—plays a key role in legislative oversight. Even though the OLA is part of the MLIS, it reports directly to and is directed by the legislature’s Joint Audit Committee (JAC), performing 1) fiscal audits, 2) follow-up reports, 3) performance audits, as well as other 4) special reviews and investigations. The OLA has a large nonpartisan staff of 115 and a FY2018 budget of \$14,315,855.¹³ This is an increase over its \$13.2 million appropriation for 2015 (NASACT 2015). Nearly all these staff members perform some analytical function for the OLA. The OLA does not audit local governments (NASACT 2015). In the 2017 fiscal year the OLA, released 43 fiscal audits and follow up reports and 8 non-fiscal audits; including 2 performance audits and 6 special audits. In 2016 the OLA released 61 fiscal audits and 15 performance audits; 11 of which were special audits. Upon completion audits are distributed to the Office of the Governor, the legislative leadership, to relevant agency heads, and to the Joint Legislative Audit Committee (JAC). The JAC then is responsible for reviewing the audit reports. After the JAC reviews the audit reports—as well any responses from the affected agencies—the JAC submits a formal review of the audit report to the general assembly. Follow up reports may occur after a fiscal or performance audit when either the auditors or the legislators want to make sure agencies implement audit recommendations and come into compliance.

Fiscal audits serve as the principal tool of the legislature for overseeing agency spending, including agency procurement and review of agency contracts. These audits are scheduled and performed regularly by OLA although they may be formally requested by the legislative leadership and informally by the Office of the Governor, agencies, and legislative staffs.¹⁴ Performance audits, like fiscal audits, are typically performed on a regular schedule because they are required by statute. Unlike fiscal audits, performance audits pay greater attention to the efficient implementation of public programs in Maryland and not to the agencies’ ledgers. Performance audits are conducted less frequently than other audits—only 2 were performed in 2017 and only 4 were performed in 2015. Instead the legislature appears to prefer using the ‘special’ report mechanism to evaluate the performance of public programs.

A review of special reports between 2015 and 2017 revealed that these audits regularly take two practical forms: 1) either as a non-audit alternative to performance audits or as 2) a type of investigation preceding a performance audit. Special reports—unlike performance audits—do not offer recommendations on how to improve program/agency performance. Instead, when acting as a non-audit review of an agency, the report appeared to be more narrowly focused and exclusively fact-finding. Special reports of this nature are frequently utilized to “follow-up” with agencies that have continually failed to come into compliance with the recommendations made in prior performance audits. In these cases, the legislature regularly associates some of the

¹³ <http://msa.maryland.gov/msa/mdmanual/07leg/legser/html/legser.html#audits>, site visited 4/17/2018.

¹⁴ Fiscal audits are additionally described in greater detail in the section on *Oversight through State Contracts*.

agencies' administrative appropriations with a satisfactory report by the OLA. This practice of tying administrative appropriations to satisfactory OLA reports is an effective tool among state auditors and a powerful mechanism of legislative oversight in Maryland.

According to one knowledgeable source, performance and special audits are becoming increasingly popular amongst legislators. This source hypothesizes that this increased interest is a result of new generations of legislators who have substantial experience working as bureaucrats and as legislative staffers in nearby Washington D.C. (Interview A 2018).

Oversight Through the Appropriations Process

While finances in Maryland are good (the state has a AAA bond rating), budget battles nevertheless ensue along partisan lines between the governor and the legislature. In 2017, Republican Governor Hogan proposed a 2018 budget that was approximately \$20-million dollars less than the 2017 budget. He argued that this cut would not result in any loss of public services, however Democrats were skeptical and believed services would inevitably be cut under the proposed budget. Additionally, Democrats accused Governor Hogan of misleading the Marylander's into believing he had reduced spending by reducing the state budget and then "inappropriately" dipping into the state's "rainy day" fund, "even though it isn't raining."¹⁵

To exercise greater influence over the state budget, the legislature relies less on the regular appropriations process choosing instead to include funding in statutes. This limits the funds that are subject to the governor's budgetary powers and/or to the governor's administrative discretion. Additionally, the legislature utilizes Budget Reconciliation and Financing Acts (BRFAs). These are passed via the normal legislative process as statutes and are therefore not subject to the governor's budget powers. Although the governor may still veto the bills, the legislature may be able to override the veto. While these statutory funding mechanisms have become increasingly popular, the Democratic Party in the legislature needs to maintain a veto-proof majority to pursue their priorities using these tools. Moreover, these tools do not help the legislature adjust gubernatorial budget amounts upward (Interview D 2018).

Though the governor is proving to be an effective barrier to increasing the budget of state agencies, the legislature retains substantial authority to cut agency funding. One example of this is in the case of the Department of Human Resources. In 2014, the legislature passed an act creating a program designed to encourage the creation and maintenance of savings accounts for children in the foster care system. The legislature passed a statute that included funding for the new program, but after two years the department had yet to implement the program. The legislature responded to this failure to implement policy by eliminating the funding the department was set to receive for the program (Interview D 2018).

Another way appropriations committees attempt to stay apprised of the performance of the agencies within their jurisdiction is by holding audit hearings in conjunction with the agencies budget hearing. An example of this can be found in the Department of Juveniles Services (DJS), where the Joint Audit Committee and appropriations committees from each chamber all held their own hearings into the agency's performance. The audio/visual from these hearings demonstrates legislators asking DJS staff about audit recommendations, agency

¹⁵ <https://wtop.com/maryland/2017/01/maryland-lawmakers-say-rainy-day-funds-help-budget-holes/>, accessed 10/4/18.

performance, agency needs as they relate to services, personnel issues including retention and burnout, and specifics regarding operations. The details are discussed further in the section titled "Oversight of Procurement and State Contracts" and the section's vignette.

In addition to the BRFA's and statutes that simultaneously create programs and appropriate money, the legislature ties administrative appropriations to agency performance. As discussed earlier, special evaluations performed by the Legislative Auditor's office, which are done as "follow-ups" to previous performance audits, regularly tie some amount of administrative appropriations to a satisfactory finding by the auditor. Most frequently \$100,000 or \$200,000 in appropriations is leveraged against the agency's non-compliance (The Office of Legislative Audits, 2017). These "follow-up" reports increase the risk of budget cuts for bureau chiefs and provide additional tangible incentives for departments to implement legislative priorities.

Oversight Through Committees

The Maryland Senate is organized into six standing committees. Four cover substantive areas of public policy and two concentrate primarily on oversight activities. The substantive committees are: 1) *The Education, Health, and Environmental Affairs Committee*, 2) *The Judiciary Proceedings Committee* 3) *The Finance Committee* and 4) *The Budget & Taxation Committee*. The two oversight committees are: the *Executive Nominations Committee*, which reviews the Governor's appointments, and the *Rules Committee*, which is responsible for the internal rules of the Senate. Similarly, three of the seven committees in the lower chamber have explicit oversight roles: *The Appropriations, Health and Government Operations*, and *The Rules and Executive Nominations Committees*. Additionally, the Maryland legislature is organized into 17 joint committees, six of which are designated to perform a specific oversight function, the remaining 11 are organized around either narrow policy areas or around legislative services. Special joint committees, as the following vignette demonstrates, can be formed to investigate poor performance by executive branch agencies.

Vignette: Voter Registration IT Programming Error

On July 12th, 2018, an interim joint legislative committee of legislators from the House Committee on Ways and Means and the Senate Education Health and Environmental Affairs Committee (interview notes 2018) held a hearing to investigate voter registration errors affecting tens of thousands of Maryland voters. Officials from the Motor Vehicle Administration (MVA), Board of Elections, and Department of Transportation were quizzed about what had gone wrong. Several individuals also provided testimony on the effect the errors had on polling places. The hearing demonstrates that standing committees in Maryland can collaborate to leverage their expertise and authority to oversee state agencies.

The problem involved voters whose changes to their voter registration were not processed correctly and had been told at their polling place that they were not registered. At the start of the hearing, the chair summarized the issue and provided the various conflicting explanations that had been given up to that point:

Trampling on the constitutional rights of individuals who vote, I'm totally appalled by it... I've heard three versions of what actually happened, which I'm utterly

amazed this is probably more distorted facts than in my state senate race... The first thing that we heard was that it was an oversight—alright, possible. The second was—initially it wasn't a computer glitch and then now it's a computer glitch... The third was, that the state board actually omitted to read their emails, and I find that quite interesting that the state board actually omitted to read their emails when they were forwarding the necessary information.

The chair called on officials from the MVA and its parent organization, the Maryland Department of Transportation, to provide testimony and answer questions. The head of the MVA explained that citizens were affected by an IT programming error. Citizens updating their address using the MVA website or kiosk and choosing to update their voter registration without purchasing an ID card or driver's license were never forwarded on to the State Board of Elections to have their registrations updated. The official apologized for the error and defended the digital system, stating that while this error occurred, there were issues in the past with paper registrations getting lost and lauded the digital system's efficiency and overall improved customer service.

The official stated that the error was uncovered by a single complaint by an MVA employee checking their registration, which triggered an internal investigation. It took about a week from the initial complaint to uncover the issue in its entirety. All the emails associated with the error were given to the Maryland Department of Elections so that they could contact the individuals. In response to Chair Conway's concern that the number of errors kept changing, the official stated that in their haste to send out the list, they hadn't scrubbed for duplicates and on another occasion, they accidentally used an "AND" instead of an "OR" in a search query, resulting in a much smaller list. Questions by legislators focused on the exact count of errors including requests for a written briefing with the final counts including an explanation for how they were determined.

Aside from questions about the error itself, legislators had three broad concerns: how would the MVA prevent a similar error, questions about the MVA broadly (personnel and culture), and questions about the impact the error had on the election. Some legislator's questions focusing on corrective action. These included: What audit procedures have been introduced? What kind of testing has been conducted of your IT systems? and Have you terminated any employees responsible? One exchange involved a former computer programmer turned legislator who focused on the specific operations of the software testing and details about the updated software. Another series of questions teased out the audit procedures before and after the error. Legislators also wanted to know what they could do to improve the MVA systems.

The official assured legislators that they had reviewed all their processes as a first step, conducted an IT Division review, identified single points of failure, corrected software, and added regular auditing that included manual audits of the information sent to the State Board of Election. This was part their response to an audit that was held by the MVA with an emphasis on investigating anomalies. The official initially stated they would not discuss personnel issues, but later did say it was a contractor who was responsible for the error. The official often cited the use of aging software running on COBOL, IT systems dating back to the 1970s, 228 software applications, and 44 databases running on a variety of programs. Legislators were generally sympathetic to these difficulties although little attention was paid to addressing these deeper issues, such as

monitoring the performance of contractors and appropriating money to pay for upgrades to IT hardware and software.

Legislators also asked questions about the MVA broadly. These questions probed topics such as whether the culture and organization of the MVA is appropriate to handle elections; questions about the appropriateness of certain questions on MVA application forms; questions about the voter registration application process; and general questioning about the management of the MVA. One legislator stated “this has been one of the most mismanaged administrations I’ve seen in state government (42 minute mark)” and expressed concerns about key personnel decisions. The official refused to answer personnel questions at the hearing. The official assured legislators of their commitment to provide the Department of Elections and State Board of Elections with critical voter registration information and work with them on improving application forms.

The issue of greatest concern was whether the outcome of the election was in anyway altered by the error. The official stated every provisional ballot was checked against their list to ensure every eligible vote counted. Regarding the consequences the error had on voting, the official stated:

We certainly understand that voting by provisional ballot was an inconvenience for some Maryland voters, and we deeply regret the inconveniences this programming error occurred, but the most important thing at the end of the day for us was making sure every vote counted.

Legislators asked whether citizens were turned away from the polls, what actions were taken to ensure everyone who was not properly registered because of the error were informed and able to vote, whether provisional ballots suppressed the vote of those asked to cast them, and wanted to know how many people were impacted, how many provisional ballots, how many polling locations, questions about voter suppression in particular those of minorities, what auditing systems are in place, and questions about the voting process. Legislators often shared anecdotes from constituents about the suppressing effect the incident had on the vote and two individuals testified at the end of the hearing on this point. The official stated that after removing duplicates, the number of people whose voter registration address wasn’t updated due to the error was about 71,000. Of those 71,000, 3,500 cast provisional ballots and another 5,000 effected voters were able to vote through normal means. Neither the MVA nor State Board of Elections officials would comment on whether voting provisional ballot suppressed the vote, although the latter did say they would share some studies with the legislature after doing more research. No one seemed to point out the fact that the 8,500 voters who cast provisional ballots (3,500) or voted some other way (5,000) is approximately 12% of the 71,000 voters affected by the error-- an exceptionally low voting rate for the 2016 general election.

The State Board of Elections chair explained their main effort was to educate voters and that they did this through the media, their website, word of mouth, and by emailing those individuals effected by the error. She testified their intervention resulted in an increased usage of their online website that allows voters to determine their registration status and polling location. The official stated that usage of their website doubled, an indication that their efforts to get the message out on the error bore fruit. Although 90.6% of provisional ballots were counted in full or in part, the official could not say how many people were turned away from the polls who did not cast a provisional ballot. She stated

that in the future they would conduct election-judge training that emphasized giving out provisional ballots when in doubt.

It is apparent that Maryland's legislators are capable of asking tough questions when agencies fail and that committees and the two chambers can work together to investigate problems. Even though legislators asked pointed and probing questions about this performance failure, potential legislative solutions such as same day registration or money to upgrade hardware and software were not discussed. It is not clear what consequences or corrective actions, if any, were forced upon the agencies at fault. Moreover, the contractor does not appear to have been called out publicly or to have suffered consequences for this error. Indeed, agency officials seemed reluctant to reveal the contractor's involvement and responsibility.

Oversight Through the Administrative Rules Process

In Maryland, all proposed regulations are reviewed by the 20-member Joint Committee on Administration, Executive, and Legislative Review (AELR) and the Department of Legislative Services (DLS) (Schwartz 2010). The committee's powers are largely advisory, and AELR does not appear to meet often. In 2015, it met twice: once in March and once in December.¹⁶ The committee consists of ten senators and ten delegates appointed by the leaders of their respective chambers. While the committee may vote to oppose the adoption of a regulation—if they find that it contradicts the law or its intent—the governor may override such opposition, allowing the regulation to go into effect. Emergency regulations, however, require explicit committee approval.¹⁷ DLS staff prepares a monthly synopsis of the rules for committee members to aid in their review of dozens of proposed rules.¹⁸

The rule review process has several steps. (See Figure 1.) First, the promulgating agency submits the proposed regulation to the AELR, at which point the DLS performs a fiscal and legal analysis, which is then presented to the committee. After a period of at minimum 15 days, the proposed regulation is published in the *Maryland Register*. The agency must also estimate the economic impact of the proposed rule for the state, including its impact on business and taxpayers. If the economic impact is substantial, then the agency must prepare a full economic impact statement. The AELR then has 45 days to formally review the proposed regulation, including a 30-day public comment period, in which members of the public may submit their opinions directly to the proposing agency. During the 45-day review period, the committee may conduct hearings; if it finds that the regulation violates the law or its intent, it may vote to oppose the regulation; it may also place the regulation on hold, pending further discussions with the proposing agency. The Department of Legislative Services assists the AELR in this. If the

¹⁶ <http://mgaleg.maryland.gov/Pubs/legislegal/2015-Hearing-Schedules-and-Addendums.pdf>, accessed 10/4/18.

¹⁷ Joint Committee on Administration, Executive, and Legislative Review (website). Regulation Review Process. Retrieved from:

<http://mgaleg.maryland.gov/webmga/frmAELR.aspx?pid=aelrpage&stab=04&id=aex&tab=subject7&ys=2018RS>

¹⁸ <http://mgaleg.maryland.gov/pubs/committee/aelr/2018-AELR-synopses-regulations-received-1-15-2018-through-2-8-2018.pdf>, accessed 10/4/18.

committee does not take any action, the agency may adopt the regulation after the 45-day review period ends.¹⁹

According to someone familiar with the regulatory review process (interview B, 2018), there is generally a high degree of cooperation between the promulgating agency and the committee (Interview A 2018). For instance, the initial publication of a proposed regulation frequently reflects changes agreed upon during informal discussions between the committee and proposing agency, prior to the official review period. “Agencies tend to be receptive” to committee concerns, and in general, “are very good about communicating” with the committee. While disagreements do occur between agencies and the committee, staff characterizes the oversight conducted by the AELR as “very effective, with respect to the regulatory process.”²⁰ If, however, the AELR does vote to oppose adopting a rule, then the agency cannot adopt the rule unless the governor overrides the legislature.

Oversight Through Advice and Consent

The Maryland Senate conducts oversight of the executive branch through its constitutionally-stipulated “advice and consent” powers.²¹ Each of the 19 cabinet-level executive branch agency heads appointed by the governor requires approval by the senate.²² According to the Senate Executive Nominations website, “For all appointments made by the Governor which require Senate advice and consent, the Committee reviews and interviews gubernatorial appointees. The Committee then reports its recommendations on those nominations to the Senate.”²³ This committee met 10 times during 2018. Its first meeting of the year, January 29th, 2018, which featured 19 nominees, lasted for one hour.²⁴ The chair opened the meeting by stating that there was a “light” schedule for the first meeting. This suggests that nominees are typically considered in batches of 20 or more. Most of the nominees were for judicial positions, such as district court judge. A legislator introduced each nominee, the nominee spoke for a minute or two, and typically there were no questions for any nominee from any committee members. Only one nominee, Secretary of the Department of Health, involved more discussion. Several committee members spoke in support of his nomination. He had previously served in the legislature. His statement laid out four tasks for the department and discussed his vision. There were a few substantive questions about the relationship between the department and the legislature. In general, the questions were friendly rather than aggressive, and several legislators clearly knew the nominee well.

Not all meetings of the Senate Executive Nominations Committee are as uneventful as this one. Maryland’s senate regularly fails to consent to political nominees of all levels from bureau chiefs to commissioners (Interview D 2018).

¹⁹ Ibid.

²⁰ Interview D, Personal Interview. 8 March 2018.

²¹ *Maryland Constitution* (2015). Article II, Sections 10-14. Retrieved from: <http://mgaleg.maryland.gov/pubs-current/current-constitution-maryland-us.pdf>

²² Maryland Manual Online. Maryland at a Glance. Executive Branch. Departments. Retrieved from: <http://msa.maryland.gov/msa/mdmanual/01glance/html/mdgovt.html>

²³ Maryland Manual Online. Senate. Standing Committees. Executive Nominations Committee. Retrieved from: <http://msa.maryland.gov/msa/mdmanual/05sen/html/com/03execf.html>

²⁴ <http://mgahouse.maryland.gov/mga/play/6c81c4b3-c494-4a7b-b5f4-127b163df5e2/?catalog/03e481c7-8a42-4438-a7da-93ff74bdaa4c>, accessed 10/3/18.

Scrutiny of gubernatorial appointments by this committee has resulted in the increased use of recess appointments by Governor Hogan.²⁵ A particularly controversial example of such practice occurred during last year's general assembly recess, when Hogan reappointed two cabinet-level department heads who had been previously rejected (one by committee vote, the other by absence of a hearing) by the Senate Executive Nominations Committee.²⁶ Democratic lawmakers argued that these reappointments were unconstitutional, and accordingly, the general assembly passed a budget in which neither of the two unconfirmed, "acting" cabinet secretaries were provided salaries.²⁷ Republicans countered that because neither appointee was formally rejected by vote of the senate as a whole, the governor's recess reappointments were legal.²⁸ Ultimately, a county circuit court judge ruled that the two acting secretaries be paid their salaries.²⁹

Gov. Hogan has since used similar methods—using recess appointments, followed by immediately withdrawn nominations at the beginning of subsequent legislative session—to place three appointees on the Handgun Permit Review Board without senate confirmation. At the January 29th, 2018, the committee chair mentioned these nominees and said that the governor was looking for people to replace them.³⁰ The committee expressed its frustration with the fact that these "rejected and to be withdrawn" appointees were still sitting on the Handgun Permit Review Board while the governor's office looked for replacements. This, according to committee members, is making a mockery of the committee, and senate Democrats said that they planned to pass legislation to prohibit this practice.³¹ This ongoing episode illustrates the lengths to which both the governor and the general assembly are willing to go in order to assert their respective prerogatives with respect of executive branch appointments.

Although the CSG State of the States report lists Maryland among the few states that require their governor to submit executive orders to the legislature, we find no evidence of any

²⁵ Washington Post Editorial Board (7/16/17). A partisan brawl in Maryland. *The Washington Post*. Retrieved from: https://www.washingtonpost.com/opinions/a-partisan-brawl-in-maryland/2017/07/16/c634c75e-65a9-11e7-8eb5-cbccc2e7bfbf_story.html?utm_term=.7e6ca9dfde6a

²⁶ Dresser, M. & Cox, E. (3/13/17). Maryland Senate panel rejects Hogan appointee. *The Washington Post*. Retrieved from: <http://www.baltimoresun.com/news/maryland/politics/bs-md-hogan-appointment-rejected-20170313-story.html>

²⁷ Cox, E. (7/7/17). Maryland attorney general: No paychecks for unconfirmed members of Hogan cabinet. *The Baltimore Sun*. Retrieved from: <http://www.baltimoresun.com/news/maryland/politics/bs-md-hogan-appointees-paycheck-20170707-story.html>

²⁸ Gaines, D. (4/12/17). Governor reappoints Peters as state planning secretary after lack of confirmation. *The Frederick News-Post*. Retrieved from: https://www.fredericknewspost.com/news/continuing_coverage/annapolis_2017/governor-reappoints-peters-as-state-planning-secretary-after-lack-of/article_ce01130f-0410-5783-bfc2-54b375bc4b89.html

²⁹ Watkins, O. (12/14/17). Judge rules Maryland Treasurer must pay disputed Hogan appointees. *The Washington Post*. Retrieved from: https://www.washingtonpost.com/local/md-politics/judge-rules-maryland-treasurer-must-pay-disputed-hogan-appointees/2017/12/14/aea0c11a-e0fb-11e7-89e8-edec16379010_story.html?utm_term=.8bcde1a70815

³⁰ <http://mgahouse.maryland.gov/mga/play/6c81c4b3-c494-4a7b-b5f4-127b163df5e2/?catalog/03e481c7-8a42-4438-a7da-93ff74bdaa4c>, accessed 10/3/18.

³¹ Gaines, D. (1/29/18). Confirmation questions arise in Maryland Senate again, this time related to Handgun Permit Review Board. *The Frederick News-Post*. Retrieved from: https://www.fredericknewspost.com/news/politics_and_government/confirmation-questions-arise-in-maryland-senate-again-this-time-related/article_99b4d6b7-3064-585c-aad7-a5eeeb622418.html

legislative review. The only legislative action with respect to gubernatorial executive orders is that they are published by Department of Legislative Services.³²

Maryland is also among the states in which the governor uses the power of executive orders to make policy, and this has raised constitutional questions and led to public outcry. For example, Governor Hogan issued an executive order prohibiting state agencies from entering into contracts with companies that boycott Israel.³³ This action is widely criticized as overstepping his authority. But even executive orders that are not likely to elicit oversight from the judicial branch, such as changing the start and end dates for all public schools in the state³⁴ can trigger checks on gubernatorial power. After Gov. Hogan issued an order requiring states to start the year after Labor Day and end it before June 15th, the legislature responded to public outcry over this by passing a bill (with veto-proof majorities in both chambers) to allow school districts “flexibility” and control over their school calendar. It appears that this is the only power the legislature has to rein in gubernatorial executive orders, however.

The Maryland constitution (Section II Article 24) stipulates that reorganization of executive branch agencies can be enacted by the governor.³⁵ If such reorganization is “inconsistent with existing law, or create[s] new governmental programs”, it requires an executive order, subject to rejection “by a majority vote of all members of either chamber of the general assembly.”³⁶ This is special sort of EO that is subject to legislative review. There are several rules that govern the use of these special EOs. “They must be submitted during the first 10 days of the legislative session, and the General Assembly has 50 days to disapprove of the EO by issuing a Resolution and getting a majority vote of all members” (personal correspondence 10/4/18). Agency reorganization seems to occur periodically; the most recent substantive executive reorganization occurred in 2008, with the creation of the Department of Information Technology, which had previously been an office in the Department of Budget and Management.³⁷

Oversight Through Monitoring of State Contracts

The state legislature has few mechanisms that allow it to effectively intercede in matters of contracts and procurement (Interview A 2018, Interview C 2018). The principal tool available to the legislature to monitor procurement and contracts is the fiscal audit mechanism performed by Maryland Department of Legislative Services’ (MLIS) Office of Legislative Audit (OLA). Additionally, the MLIS has policy analysts dedicated to reviewing the state’s procurement process.

³² http://dlslibrary.state.md.us/publications/OED/A/EO_2006.pdf, accessed 10/4/18.

³³ <https://www.nbcwashington.com/news/local/Maryland-Governor-Signs-Order-to-Block-Boycotts-of-Israel-452530273.html>, accessed 10/4/18.

³⁴ https://www.washingtonpost.com/local/md-politics/maryland-general-assembly-moves-to-give-flexibility-to-local-school-districts-creating-school-calendars/2018/03/28/acdd25ec-32b0-11e8-94fa-32d48460b955_story.html?utm_term=.d4a6fa9303d4, accessed 10/4/18.

³⁵ *Maryland Constitution* (2015). Article II, Section 24. Retrieved from: <http://mgaleg.maryland.gov/pubs-current/current-constitution-maryland-us.pdf>

³⁶ *Ibid.*, p. 24.

³⁷ Maryland Manual Online. Maryland at a Glance. Executive Branch. Departments. Retrieved from: <http://msa.maryland.gov/msa/mdmanual/01glance/html/mdgovt.html>

In 2014, MLIS at the request of the governor performed an in-depth review of the state's procurement system. The report concluded that Maryland's procurement process was generally opaque, often failed to comply with existing practices, and was not in line with the best practices exhibited in some other states. Specifically, Maryland's procurement process lacked centralization and a modern "eProcurement" system. An earlier report from the Urban Institute stated that this decentralization made contracting with the state unnecessarily difficult for nonprofit organizations, which had to manage a wide array of contract requirements and dates from various out-contracting state agencies (de Leon, Pettijohn, & Nemoff, 2013).

The 2014 MLIS report made two principal recommendations: first, that Maryland create a Chief Procurement Officer (CPO) with the authority to design specialized procurement procedures as necessary and second, to standardize the state's procurement system. By implementing both primary recommendations—as well as the reports additional, secondary, recommendations—Maryland's procurement process would become more centralized and procurement would follow a single standard process except for narrowly identified special exceptions (Department of Legislative Services, 2014). After the publication of the 2014 MLIS report, the governor formed a special commission led by the lieutenant governor, and comprised of bureaucrats and private experts to produce additional recommendations. The commission concluded in 2016 making additional recommendations but essentially maintaining the principal 2014 MLIS recommendations (Commission to Modernize State Procurement, 2016).

Following the 2016 commission report, the state passed a series of bills reforming procurement by creating branch wide standards, and appointing a Chief Procurement Officer (CPO) who is responsible for "overseeing" all the executive agencies contracts. The intention is that this will result in a clearer and less *ad hoc* procurement processes. While the CPO position created is subject to the 'advice and consent' powers of the legislature, these reforms generally failed to create any new points of access for the legislature to oversee contracts. Instead the reforms only improved the internal oversight of the executive branch (Interview A 2018).

The reforms did, however, reinforce the legislature's authority to advise and consent with respect to the appointed CPO—whose position moved power slightly further from the governor. This may result in the legislature at least structurally gaining some additional influence over the state's procurement practices. So, while procurement reform centralized procurement "oversight," the executive branch by-and-large retained its autonomy in this area.

To assert some oversight of the contract and procurement processes, the legislature once again turned to its analytic bureaucracy, using the fiscal audit mechanism vested in the Office of Legislative Audits. Through this mechanism, the OLA has been in some instances able to identify "misappropriations" and inefficient procurement within the judicial branch. In 2017, the OLA performed a fiscal audit that discovered that the judiciary was procuring services from vendors that did not offer the lowest bid or a better product. The judiciary did this without any explanation. The audit additionally determined that the judiciary had been misreporting its spending (Office of Legislative Audits, 2017). It is unclear whether the legislature reacted to this misuse of appropriations. The 2018 appropriation for the judicial branch was 14% lower than the judiciary requested, but still 3% higher than the year before. (Maryland State Archives, 2017; Maryland State Archives, 2018; Donovan & Marbella, 2017).

In a similar instance, a 2018 OLA fiscal audit report found that the Department of Information Technology (DOIT) paid the state's new centralized "eProcurement" system's vendor a large no-bid contract, which included approximately \$750,000 in questionable charges. The release of the OLA report coincided with DOIT appropriations hearings. The 2019 budget includes increases for the agency of \$40 million or about 60% more than the 2018 DOIT

appropriation (Maryland State Archives, 2018; HB 160, 2018). This does not indicate that DOIT's past behavior had consequences.

While it is very common for fiscal audits to uncover instances of individual malfeasance, i.e., misuse of state credit cards, (Interview D 2018), these misappropriations of state resources are relatively “small” in their scope. It is less common for a fiscal audit to uncover “big” misappropriations of state dollars, such as these cases involving the Judiciary and the DOIT. In the “smaller” instances, the legislature does little of substance to respond to the malfeasance. Generally, an appropriations sub-committee or a substantive standing committee will hold a hearing where agency leaders testify and assure the committee that the bad behavior will stop. Committee members scold agency leaders but generally no additional punitive measures are taken.

Vignette: Department of Juvenile Services

The Office of the Legislative Audit (OLA) does occasionally find evidence of more severe violations of the state's procurement rules. A 2017 audit report of the Department of Juvenile Services (DJS) found that the department had been intentionally structuring millions of dollars in payments to state contractors to avoid the state's competitive bidding requirements.³⁸ In Maryland contracts for services that exceed \$15,000 require a competitive bidding process and must be approved by the State Board of Public Works—headed by the governor—to ensure the state is receiving maximum services for dollars spent. Additionally, Maryland requires that if agencies anticipate that contracts will be between \$5,000 and \$15,000, then the agency must solicit at least two bids.

However, the OLA discovered that of the total \$9-million spent on outside services by the DJS \$7.5-million was in contracts of \$15,000 dollars or less, with one unnamed private contractor receiving 202 such contracts totaling about \$1.5-million.³⁹ The State Legislative Auditor Thomas Barnickel explained, “Now, you would think you could bundle those up very easily, and if they were bundled up, then they would have had to go through the central procurement office... What also made it suspicious is that these were routine types of goods and services that you could buy locally, but yet these companies were being awarded contracts to provide these services many miles away” (Baye, 2017).

In another instance regarding a set of approximately \$264,000 worth of contracts, the contracts had been structured as being less than \$15,000—therefore requiring a minimum of two bids on the contract. However, in these instances both required bids solicited by the DJS were from private contractors that are owned by the same person. And lastly, the audit report found that in numerous instances the contractor had subcontracted out services, effectively acting as a middle-man⁴⁰, raising the question: did the state truly receive the most cost-effective services if the contractor itself was able to get a better deal elsewhere? When asked about this by WYPR Baltimore, the Department of Juvenile Services Secretary claimed the point of the smaller contracts was to allow smaller businesses more ability to compete. He also claimed that many of the small contracts were for emergency maintenance, which inflated the number of small contracts but resolved an immediate necessity.

In addition, to the dramatic procurement violations the report additionally found that the agency had failed to recover all the federal funding that it was entitled to, failed to provide

³⁸ <https://www.ola.state.md.us/Reports/Fiscal%20Compliance/DJS17.pdf>

³⁹ *ibid*

⁴⁰ *ibid*

appropriate upkeep of facilities, and finally failed to take appropriate steps to disburse court-ordered restitution collected by the agency. The audit findings were distributed to the legislature's JAC, the Office of the Governor, and the DJS. The DJS Secretary responded to the report by saying his agency has since made reforms on bidding but denies splitting contracts. The legislature has referred the report to the state's attorney general's office, which has opened its own investigation into the agency.

The audit came up in several hearings: once at the JAC,⁴¹ once at the House Public Safety and Administration⁴² Subcommittee⁴³ of the House Appropriations Committee; and once at the Senate Public Safety, Transportation and Environment⁴⁴ Subcommittee⁴⁵ of the Senate Budget and Taxation Committee. Legislators were interested in learning about the audit recommendations and to be briefed on the "actions taken to address the audit findings." Most audit issues received only single, direct question-response, with no follow up questions. For example, DJS staff was asked by a legislator in the senate hearing about the attorney general's investigation into the invoice splitting. The staff stated that they have no details to give and are awaiting further information like everyone else. It appeared that the direct question-answer approach legislators were taking was at least in part to get staff on the record and then to follow up at a subsequent hearing. For example a previous JAC hearing was referenced by both a legislator and DJS staffer during an exchange in the house hearing.

Invoice splitting featured prominently in both house and senate hearings. The DJS official was asked either directly about the invoice splitting or about repeat audit issues by the chairs of the subcommittees, (1 hour, 44 minute mark house; 59 minute mark senate). The officials responded that invoice splitting is somewhat subjective. One noted that OLA staff at the JAC hearing agreed with the claim to some extent, and both DJS staffers gave the example of asphalt repairs at a facility. Asphalt repairs maybe able to be bundled and bid all at once to get the best deal in some areas of government. But leaving cracked asphalt at a juvenile justice facility for any length of time is a safety risk because someone could use the cracked pieces as projectile weapons. The officials went on to say that they believe the issue won't come up on a future OLA audit because they now have the appropriate controls in place. There were no follow up questions.

Interest amongst policy makers in overseeing the procurement and state contracts has generally been low, but it has increased in recent years (Interview A 2018). This increasing interest in oversight of state contracts and procurement could reflect the interests of newly-elected state legislators with significant public finance and procurement oversight experience gained on Capitol Hill (Interview A 2018). Alternatively, it could reflect the increasing

⁴¹ I am having a hard time tracking the A/V down. However, since it is brought up in the other hearings, I know that one happened and some of what took place.

⁴² <https://dbm.maryland.gov/budget/FY2019Testimony/V00.pdf> accessed 9/26/18 we were sent these documents by a source. The source used these documents to identify the appropriate hearing.

⁴³ <http://mgahouse.maryland.gov/mga/play/4fbd3bf5-3349-4d8b-8cb6-d6d664b98790/?catalog/03e481c7-8a42-4438-a7da-93ff74bdaa4c> accessed 9/24/18

⁴⁴ <http://mgaleg.maryland.gov/Pubs/BudgetFiscal/2019fy-budget-docs-operating-V00A-Department-of-Juvenile-Services.pdf> accessed 9/26/18 we were sent these documents by a source. The source used these documents to identify the appropriate hearing.

⁴⁵ <http://mgahouse.maryland.gov/mga/play/389b8a18-d52b-4955-b5a0-fe0b37310293/?catalog/03e481c7-8a42-4438-a7da-93ff74bdaa4c> accessed 9/24/18

privatization of government services, which generates more contracts with private and non-profit vendors.

Oversight Through Automatic Mechanisms

Maryland has a “sunset” mechanism, the Regulatory Review and Evaluation Act, which examines whether licensing and regulatory agencies and their practices and standards are still needed and are not obsolete (Schwartz 2010). Baugus⁴⁶ and Bose categorize this form of sunset mechanisms as ‘Regulatory Sunset Mechanism.’ Although the agencies and the governor are the primary actors in this process, the Administrative, Executive, and Legislative Review Committee (AELR) does review the reports that the agencies prepare, and it can call public hearings to solicit input. Additionally, Baugus and Bose note that, in Maryland between 2007 and 2012, the AELR performed 47 Administrative reviews. Of these reviews, 3 resulted in either the reviewed regulations or boards being eliminated, while 45 reviews resulted in the existing regulatory institutions being retained. (Baugus & Bose, 2015). As Schwartz (2010) reports, the AELR has limited power in this process.

Methods and Limitations

We interviewed four people in Maryland out of nine people that we contacted to inquire about legislative oversight. The state legislature provides archival recordings of committee hearings that are readily available and easy to navigate.

⁴⁶ Baugus was previously employed for five years by the MD Department of Legislative Services performing primarily sunset reviews.

References

- Bailey, S., Fehr, S., Huh, K., Iyengar, A., Loiaconi, A., Moody, J., . . . Zhang, A. (2017). *Rainy Day Funds and State Credit Ratings: How well-designed policies and timely use can protect against downgrades*. The Pew Charitable Trusts, Fiscal Health. Washington DC: The Pew Charitable Trusts. Retrieved from http://www.pewtrusts.org/~media/assets/2017/05/statesfiscalhealth_creditratingsreport.pdf
- Baugus, B., & Bose, F. (2015). *Sunset Legislation in the States: Balancing the Legislature and the Executive*. Arlington, VA: The Mercatus Center at George Mason University. Retrieved from <https://www.mercatus.org/system/files/Baugus-Sunset-Legislation.pdf>
- Baye, R. (2017, November 9). *State agency divided up contracts to skirt rules, audit says*. Retrieved June 20, 2018, from WPYR 88.1FM HD1: <http://wypr.org/post/state-agency-divided-contracts-skirt-rules-audit-says>
- Bendor, J., Taylor, S., & Van Gaalen, R. (1985). Bureaucratic expertise versus legislative authority: A model of deception and monitoring in budgeting. *American Political Science Review*, 79, 1041-1060.
- Bureau of Labor Statistics. (2017). *New York-New Jersey - Labor Force Statistics*. Washington DC: Bureau of Labor Statistics. Retrieved October 1, 2017, from <https://www.bls.gov/regions/new-york-new-jersey/data/xg-tables/ro2xg02.htm>
- Commission to Modernize State Procurement. (2016). *Report of the Commission to Modernize State Procurement*. Commission to Modernize State Procurement. Annapolis, Maryland: [Maryland] Board of Public Works. Retrieved March 20, 2018, from <http://msa.maryland.gov/megafile/msa/speccol/sc5300/sc5339/000113/021600/021624/20170016e.pdf>
- Council of State Governments. (2016). The Legislature. In *The Book of the States*. Washington D.C.: The Council of State Governments. Retrieved from <http://knowledgecenter.csg.org/kc/content/book-states-2016-chapter-3-state-legislative-branch>
- de Leon, E., Pettijohn, S. L., & Nemoff, E. (2013). *Maryland: A Working Model of Nonprofit and Government Collaboration*. Washington D.C.: The Urban Institute. Retrieved March 20, 2018, from <https://www.urban.org/research/publication/maryland-working-model-nonprofit-and-government-collaboration>
- Department of Legislative Services. (2014). *Review of Maryland's Procurement Policies and Structures*. Office of Policy Analysis, Department of Legislative Services. Annapolis, Maryland: Department of Legislative Services. Retrieved March 20, 2018, from <http://mgaleg.maryland.gov/Pubs/BudgetFiscal/2014-Procurement-Structures-Policies-Practices.pdf>
- Donovan, D., & Marbella, J. (2017, March 12). *Maryland Judiciary fails to monitor contracts, audit finds*. Retrieved March 20, 2018, from The Baltimore Sun: <http://www.baltimoresun.com/news/maryland/bs-md-courts-audit-20170512-story.html>
- Edwards, C. (2006). *State Bureaucracy Update*. Washington D.C.: CATO Institute.
- Enten, H. (2015, January 23). Ranking The States From Most To Least Corrupt. *FiveThirtyEight*. Retrieved October 01, 2017, from <https://fivethirtyeight.com/features/ranking-the-states-from-most-to-least-corrupt/>

- Ferguson, M. (2013). The Governors and the Executive Branch. In V. Gray, R. Hanson, & T. Kousser (Eds.), *Politics in the American States* (10th ed., pp. 194-231). Washington DC: CQ Press.
- Ferguson, M. (2016). The Governors and the Executive Branch. In V. Gray, R. Hanson, & T. Kousser (Eds.), *Politics in the American States: A Comparative Analysis* (11 ed., pp. 235-274). Washington DC: CQ Press.
- Haider-Markel, D. (Ed.). (2008). *Political Encyclopedia of U.S. States and Regions*. CQ Press.
- HB 1021. Reorganization of State Procurement. (2017, May 5). 590. Annapolis, Maryland: The General Assembly of Maryland. 2017.
- HB 160. Budget Bill: Fiscal Year 2019. (2018, January). Annapolis, Maryland: The General Assembly of Maryland.
- Jennings, K. (2017, August 24). Senate Democrats will miss deadline to block Christie's mental health reorganization plan. *Politico*. Retrieved from <http://www.politico.com/states/new-jersey/story/2017/08/24/senate-democrats-will-miss-deadline-to-block-christies-mental-health-reorganization-plan-114132>
- Johnson, B., & Livio, S. (2017, August 1). N.J. Assembly votes to block Christie's overhaul of addiction care. *NJ.com*. Retrieved from http://www.nj.com/politics/index.ssf/2017/08/nj_assembly_votes_to_block_christies_overhaul_of_a.html
- Kaufman, H. (1981). *The Administrative Behavior of Federal Bureau Chiefs*. Washington D.C.: Brookings.
- Interview C. (2018, March 7). On Legislative Oversight of Procurement. (T. D. Mulligan, Interviewer) Annapolis, Maryland & Detroit, Michigan.
- Lizza, R. (2014, April 14). Crossing Chris Christie. *The New Yorker*. Retrieved October 1, 2017, from <https://www.newyorker.com/magazine/2014/04/14/crossing-christie>
- Maryland State Archives. (2017). *Maryland Budget Highlights: FY 2017*. Retrieved March 20, 2018, from Maryland Manual On-Line: A Guide to Maryland and its Government: <http://msa.maryland.gov/megafile/msa/speccol/sc5300/sc5339/000113/021000/021778/unrestricted/20160027e.pdf>
- Maryland State Archives. (2018, February 26). *Department of Information Technology: Budget*. Retrieved September 29, 2018, from Maryland Manual Online: A Guide to Maryland and its Government: <http://msa.maryland.gov/msa/mdmanual/19dit/html/ditb.html>
- Maryland State Archives. (2018). *Maryland Budget Highlights: FY 2018*. Retrieved March 20, 2018, from Maryland Manual On-Line: A Guide to Maryland and its Government: <http://msa.maryland.gov/megafile/msa/speccol/sc5300/sc5339/000113/022400/022457/20180010e.pdf>
- McArdle, K. (2012, March 29). Chris Christie May Be “Most Powerful,” But He’s Not “All Powerful”. *New Jersey 101.5*. Retrieved October 1, 2017, from <http://nj1015.com/chris-christie-may-be-most-powerful-but-hes-not-all-powerful-audio/>
- McCubbins, M. D., & Schwartz, T. (1984, February). Congressional Oversight Overlooked: Police Patrols versus Fire Alarms. *American Journal of Political Science*, 28(1), 165-179.
- Miller, G., & Moe, T. (1983). Bureaucrats, legislators, and the size of government. *American Political Science Review*, 297-322.
- Murray, B. (2016, September 1). Governor Chris Christie Demands The Legislature Fill Judicial Vacancies In Mercer County. *New Jersey; Governor's Office*. Retrieved from <http://nj.gov/governor/news/news/552016/approved/20160901b.html>

- NCSL. (2015). Size of State Legislative Staff. (B. Weberg, Ed.) *National Conference of State Legislatures (NCSL) website*. Retrieved from <http://www.ncsl.org/research/about-state-legislatures/staff-change-chart-1979-1988-1996-2003-2009.aspx##session>
- NCSL. (2015, 3 13). The Term Limited States. (W. Underhill, Ed.) *National Conference of State Legislatures*, pp. <http://www.ncsl.org/research/about-state-legislatures/chart-of-term-limits-states.aspx>.
- NCSL. (2017, February 28). 2017 Legislator Compensation Information. (G. F. Moncreif, & J. Griffin, Eds.) *National Conference of State Legislators (NCSL) website*. Retrieved from <http://www.ncsl.org/research/about-state-legislatures/2017-legislator-compensation-information.aspx>
- NCSL. (2017, December 4). *Size of State Legislative Staff*. Retrieved March 20, 2018, from National Conference of State Legislators: <http://www.ncsl.org/research/about-state-legislatures/staff-change-chart-1979-1988-1996-2003-2009.aspx>
- New Jersey Legislature. (2017). *New Jersey Administrative Procedure Act, § 52:14B*. Trenton: New Jersey Legislature.
- New Jersey Legislature. (2017, October 01). Public Hearing Transcripts. *New Jersey Legislature Website*. Retrieved October 2, 2017, from <http://www.njleg.state.nj.us/legislativepub/pubhearings2017.asp#SFF>
- Office of Legislative Audits. (2017). *Judiciary*. Maryland State Legislature, Department of Legislative Services. Annapolis, Maryland: Office of Legislative Audits. Retrieved March 20, 2018, from <https://www.ola.state.md.us/Reports/Fiscal%20Compliance/Judiciary17.pdf>
- Office of the State Auditor. (2016). *Department of Environmental Protection: Tire Recycling*. Office of Legislative Services, Office of the State Auditor. Trenton: The New Jersey Legislature. Retrieved from <http://www.njleg.state.nj.us/legislativepub/Auditor/421415.pdf>
- Rizzo, S. (2017, March 27). N.J. credit rating cut for 11th time under Christie. *NorthJersey.com*. Retrieved October 1, 2017, from <http://www.northjersey.com/story/news/new-jersey/2017/03/27/nj-credit-rating-cut-11th-time-under-christie/99708996/>
- Interview A. (2018, February 27). On Procurement Oversight and Analytic Bureaucracies. (T. D. Mulligan, Interviewer) Annapolis, Maryland & Detroit, Michigan.
- Interview D. (2018, March 21). On Legislative Oversight. (T. D. Mulligan, Interviewer) Annapolis, Maryland & Detroit, Michigan.
- Shor, B., & McCarty, N. (2015). Aggregate State Legislator Shor-McCarty Ideology Data, June 2015 update. *Harvard Dataverse*. doi:10.7910/DVN/K7ELHW
- The Office of Legislative Audits. (2017, October 13). Publications. *The Office of Legislative Audits' (OLA) Website*. Retrieved from https://www.ola.state.md.us/top_pgs/Publications/pubs_overview.html
- US Census Bureau. (2015). *State & Local Government Employment and Payroll Data*. Washington DC: US Census Bureau. Retrieved October 1, 2017, from <https://www.census.gov/data/tables/2015/econ/apes/annual-apes.html>
- Will, G. (2011, August 19). Chris Christie, America's Caesar. *The Washington Post*. Retrieved October 1, 2017, from https://www.washingtonpost.com/opinions/chris-christie-americas-caesar/2011/08/18/gIQA3S7kQJ_story.html
- Wilson, W. (1885). *Congressional Government: A Study of American Politics*. Boston and New York: Houghton Mifflin Company.

- WP Editorial board. (2017, July 16). A Partisan Brawl in Maryland. *The Washington Post*. Retrieved October 13, 2017, from https://www.washingtonpost.com/opinions/a-partisan-brawl-in-maryland/2017/07/16/c634c75e-65a9-11e7-8eb5-cbccc2e7bfbf_story.html
- Zernike, K., & Martin, J. (2013, November 6). De Blasio Wins Mayor's Race In Landslide; Christie Coasts To 2nd Term as Governor. *New York Times*, p. A1. Retrieved October 1, 2017, from <http://www.nytimes.com/2013/11/06/nyregion/chris-christie-re-elected-governor-of-new-jersey.html?mcubz=0>

Figure 1

Maryland's Promulgation of New Rules Process

