

# State Department of Transportation Oversight



## Summary

The cornerstone of the American system of government is the separation of powers. The intent of the separation of powers is “to prevent the concentration of power and provide for checks and balances.” (AASHTO, 2016, p.34). One of the checks on the balance of power is legislative oversight of executive branch agencies. (NCSL). Since the departments of transportation (DOT) fall under the executive branch, legislative oversight of DOTs acts as a check on the balance of power. Within the states, legislative oversight of DOTs varies with regard to the type of oversight and the amount of the oversight. The legislative oversight of DOTs may increase the friction between the legislature and the DOT. (NCSL). However, an intersection of powers and duties between the legislature and DOTs creates opportunities for collaboration. (AASHTO, 2016).

This document examines how state legislatures exercise accountability over DOTs and evaluates how the Alabama Legislature’s oversight of the Alabama Department of Transportation (ALDOT) compares to other states. Numbers in figures add to 51 due to inclusion of the District of Columbia.

## Conclusion

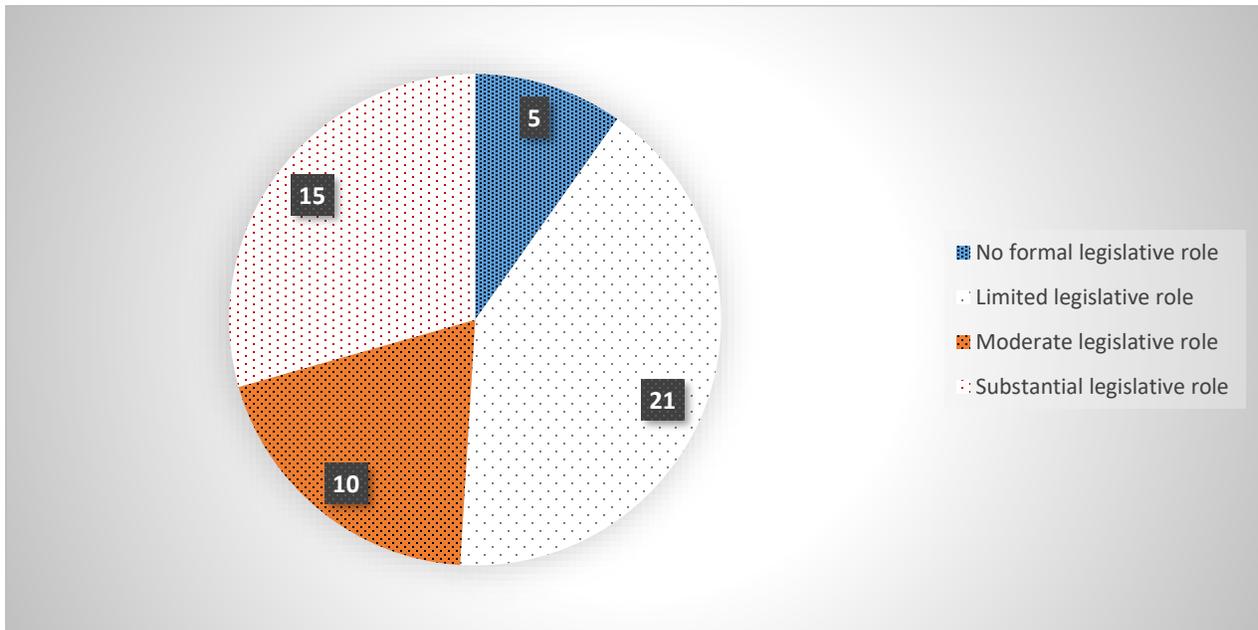
According to AASHTO’s method, Alabama is one of fifteen states where there is a substantial legislative role in the DOT planning process. Like 35 other states, Alabama has a comprehensive legislative review of DOT administrative rules. Alabama is one of seventeen states where the Legislature is not involved in selecting DOT leadership. Alabama is one of sixteen states that do not have eligibility requirements for DOT leadership.

## Legislative Role in Planning Process

State legislatures’ role in the DOT planning process range from a substantial role to a moderate role, a limited role, or no formal role. (AASHTO, 2016). The most common role for a legislature to play is a limited role in the DOT planning process followed by those with a substantial role (see fig. 1). According to the American Association of State Highway and Transportation Officials (AASHTO), the Alabama Legislature has a substantial role in the DOT planning process. (2016). Alabama has a permanent Joint Transportation Committee (JTC) composed of Senators and Representatives. The JTC performs the following powers and duties relating to the DOT planning process:

- Reviews and considers concurring in a five-year highway plan and any proposed deviation from the intent of the plan. (Ala. Code § 29-2-4(b)(1)).
- Reviews and considers concurring in the DOT’s annual fund allocation plan. (Ala. Code § 29-2-4(b)(2)).

- Reviews the DOT's budget on an annual basis. (Ala. Code § 29-2-4(b)(3)).
- Issues a report to the Governor, Lieutenant Governor, House of Representatives, Senate, and public that compares the actual performance of ALDOT in terms of highway construction, maintenance, and costs of the same, to the original plan for the immediate preceding year. (Ala. Code § 29-2-4(b)(6)).
- Recommends the necessary funding for ALDOT budgets to the Governor to the extent necessary beyond funds already provided by law. (Ala. Code § 29-2-4(b)(7)).



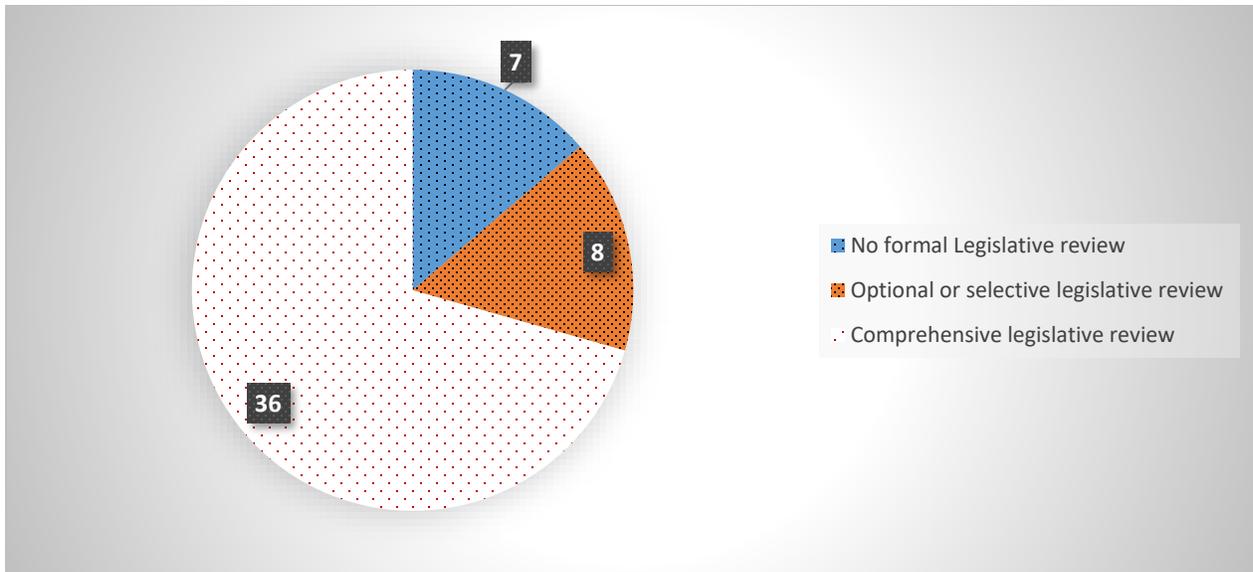
**Fig. 1. State Legislative Roles in the DOT Planning Process.** AASHTO, *a 50-State Review of State Legislatures and Departments of Transportation*. (2016).

## Legislative Oversight of Administrative Rules

Administrative rules are adopted by agencies in the executive branch to implement law. Every legislature has the power to override administrative rules by passing new laws. Some states have additional legislative reviews to ensure that administrative rules comply with statutory authority and legislative intent. The additional legislative reviews vary from a mandatory legislative review of all proposed administrative rules, to optional review of rules, to no formal legislative review. (AASHTO, 2016). The majority of states have a comprehensive legislative review of DOT administrative rules (see fig. 2).

### Alabama Approach

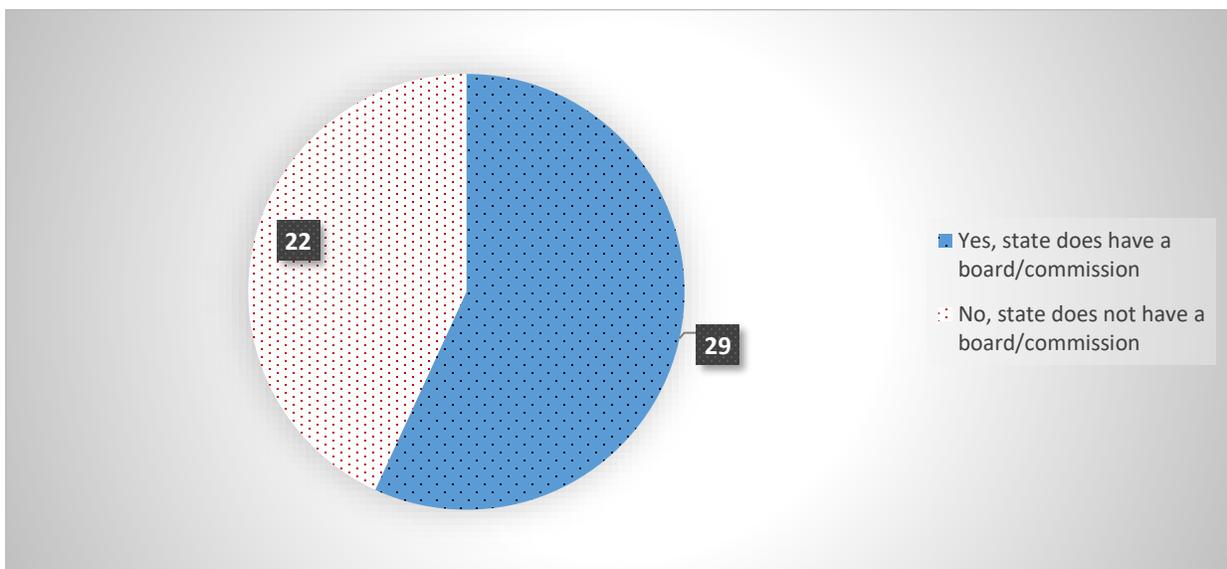
According to AASHTO, Alabama has a comprehensive legislative review of DOT administrative rules. (2016). The Joint Committee on Administrative Regulation Review approves or rejects all proposed rules. (Ala. Code § 41-22-5). If the committee does not object to a rule within 35 days, the rule passes. (Ala. Code § 41-22-5).



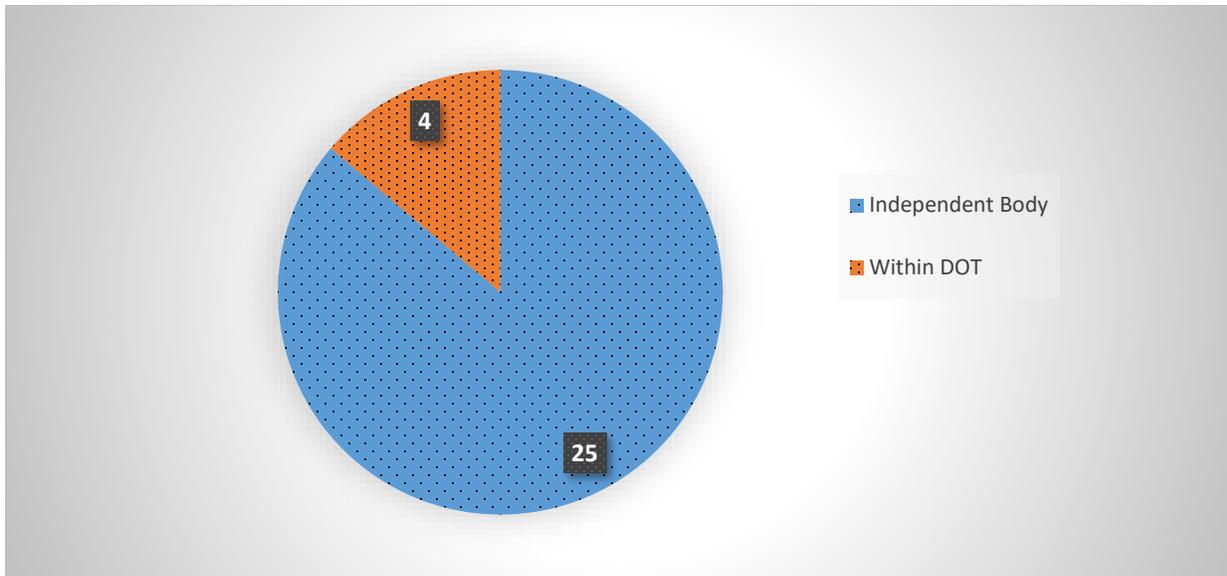
**Fig. 2. State Legislative Review of DOT Administrative Rules.** AASHTO, *a 50-State Review of State Legislatures and Departments of Transportation*. (2016).

### Board or Committee Overseeing or Advising DOT

A little over half of the states have a transportation board or commission that governs or advises the DOT (see fig. 3). The majority of the boards are independent bodies with decision-making authority, but some of the boards are a part of the DOT itself (see fig. 4). Utah and Washington’s transportation commissions have no direct authority over the DOT. Utah’s commission prioritizes projects and determines how available funds are spent. Washington’s commission sets ferry fares and toll rates and develops a four-year policy plan. Alabama does not have a transportation board or commission that governs or advises the DOT. (AASHTO, 2016).



**Fig. 3. States with a Board or Commission that Oversees/Advises DOT.** AASHTO, *a 50-State Review of State Legislatures and Departments of Transportation*. (2016).



**Fig. 4. States with Transportation Boards Inside DOTs vs Independent Bodies.** AASHTO, *a 50-State Review of State Legislatures and Departments of Transportation*. (2016).

### Resources Provided to DOTs to Support Oversight Program Compliance

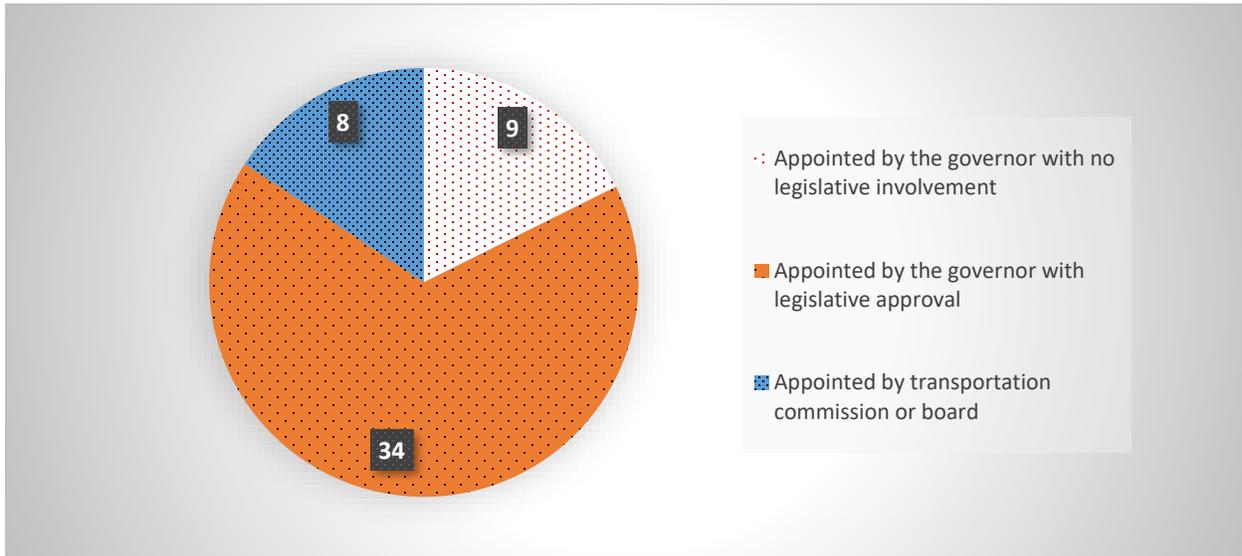
State DOTs must devote resources to comply with legislative oversight requirements. As part of their compliance with oversight requirements, DOTs may have to draft and submit reports, prepare and participate in legislative hearings, respond to information requests, and take part in the budget process. However, only seven states supply DOTs with funding for legislative oversight compliance. (AASHTO, 2016). Most DOTs use funds from their normal operating budget to ensure compliance with oversight requirements, including Alabama (see fig. 5).



**Fig. 5. States that Supply Resources to DOTs to Support Compliance with Oversight Programs.** AASHTO, *a 50-State Review of State Legislatures and Departments of Transportation*. (2016).

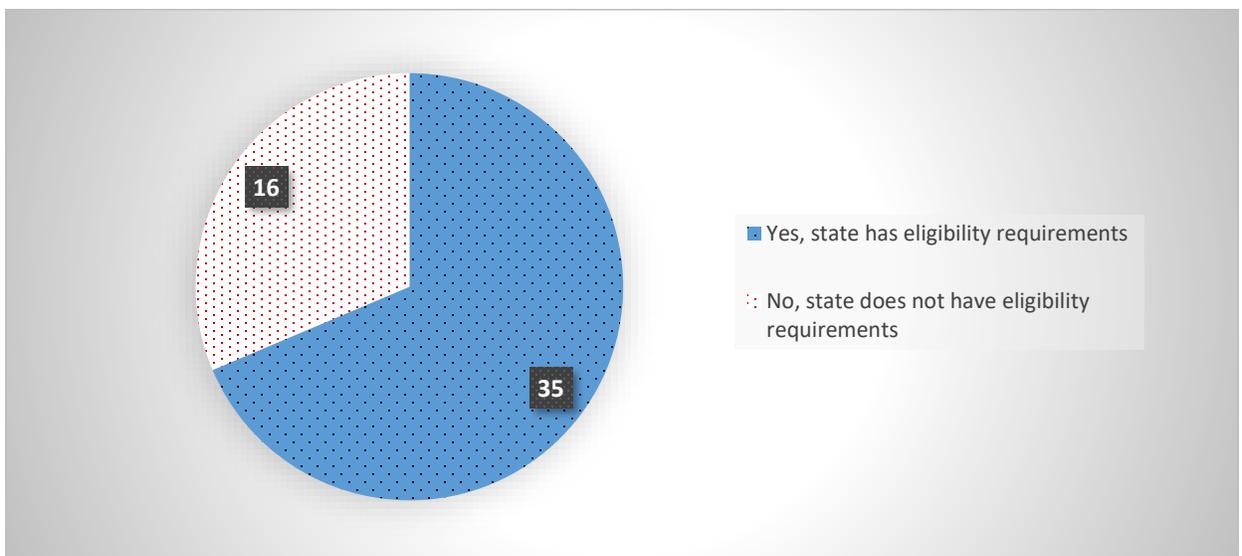
## Selection Method of DOT Leadership

One way state legislatures can exercise oversight over DOTs is by sharing responsibility for the appointment of DOT leadership. Governors have the power to appoint officials who serve as heads of executive agencies, like DOTs. However, in many states, the appointment of DOT leadership requires the advice and the consent of the Senate. (AASHTO, 2016). In a few states, a state transportation commission appoints the DOT leadership (see fig. 6).



**Fig. 6. State selection method of DOT leaders.** AASHTO, *a 50-State Review of State Legislatures and Departments of Transportation*. (2016).

Legislatures can also establish statutory conditions for DOT leadership eligibility. (AASHTO, 2016). Most states have established eligibility requirements relating to citizenship, residency, geographic representation, knowledge, experience, or education (see fig. 7).



**Fig. 7. States with Eligibility Requirements for DOT leaders.** AASHTO, *a 50-State Review of State Legislatures and Departments of Transportation*. (2016).

### Alabama Current Method Appointing DOT Leadership

In Alabama, the governor appoints the director of transportation with no legislative involvement and there are no eligibility requirements. (Ala. Code § 23-1-21) and (AASHTO, 2016).

### References

Ala. Code (1975) § 23-1-21

Ala. Code (1975) § 29-2-2

Ala. Code (1975) § 29-2-4

Ala. Code (1975) § 41-22-5

Financing Transportation. *Project Finance State by State: 2016 Benchmarking Data* (2016).

Retrieved November 16, 2018, from

[http://www.financingtransportation.org/tools/state\\_by\\_state/map.aspx](http://www.financingtransportation.org/tools/state_by_state/map.aspx)

National Conference of State Legislatures. *Separation of Powers – Legislative Oversight*.

Retrieved November 16, 2018, from [http://www.ncsl.org/research/about-state-](http://www.ncsl.org/research/about-state-legislatures/separation-of-powers-legislative-oversight.aspx)

[legislatures/separation-of-powers-legislative-oversight.aspx](http://www.ncsl.org/research/about-state-legislatures/separation-of-powers-legislative-oversight.aspx)

American Association of State Highway and Transportation Officials, *a 50-State Review of State Legislatures and Departments of Transportation*. (2016). Retrieved November 16, 2018,

from [http://www.financingtransportation.org/pdf/50\\_state\\_review\\_nov16.pdf](http://www.financingtransportation.org/pdf/50_state_review_nov16.pdf)

### Acknowledgement

This report was prepared by Justin Fisher for the Alabama Transportation Institute at the University of Alabama.

Produced by the Transportation Policy Research Center, a unit of the Alabama Transportation Institute.

