

Amendments to Statement of Principles on Legislative Oversight

Summary: The federalist principles outlined by the authors of the United States Constitution divided power among the legislative, executive, and judicial branches. Their intent was to provide checks and balances against one branch becoming tyrannical. The States followed this structure as they drafted and ratified their own state constitutions. Powers and authority are clearly outlined to constrain government officials and protect the people's freedom and liberty. Legislative oversight is a fundamental pillar of the American system of government. As such, the principles of oversight should be clearly understood.

Guiding Principles of Legislative Oversight

Seeking Information- The state legislature must have the information necessary to conduct oversight activities. Therefore, the legislature must have the ability to hold hearings, compel the appearance of government officials, and compel the production of documents. Legislative committees must have the authority to compel the production of information from the agencies, commissions, and other government bodies within their jurisdiction. Individual members of the legislature must, at a minimum, have the ability to request any document or information that would be available under Freedom of Information Act provisions in their state. Any request from a legislator should be treated as a priority by the relevant parties. Individual legislators should be subject to internal procedures to ensure the record requests are legitimate and not intended to flood the system for political gain. To be effective, there must be penalties that can be imposed if agency personnel refuse to cooperate fully with proper legislative requests.

Oversight Committees- State Legislatures should form and empower oversight committees to conduct regular oversight activities, including, but not limited to, tracking how all taxpayer dollars are spent and the effectiveness of what the money was spent on. The oversight committee should not infringe on or limit the ability and responsibility of other committees to gather information or conduct appropriate oversight in their area of jurisdiction.

Transparency- The processes and procedures of oversight should aim to maximize transparency of the decision-making. All government agencies, commissions, boards, bodies, or contracted organizations must keep all records necessary for the legislature to do this work. All tax dollars should be traceable from collection to destination. All contracts or agreements between government bodies, or a governmental body and outside organizations, vendors, entities, or individual "third party entities" should have records retained that clearly show the decision-making process that led to entering into an agreement or contract with any governmental, non-governmental, or third-party entity. from inception to completion, including any records of payments made and proof of services performed.

Limitations on Legislative Authority- It is important to distinguish between oversight and criminal and civil investigations undertaken by prosecutors. The legislative branch's oversight authority is intended to help legislators to make informed decisions about the appropriation of public funds, how government agencies and officials exercise powers and responsibilities, whether expenditures of public funds were proper and accounted for. Any time there is an indication or suspicion that there has been a criminal act or civil breach, the legislature should refer such matters to the appropriate authorities.

State Audits – The legislature should ensure regular financial, ~~compliance procedural~~, ~~economy and efficiency~~, and ~~effectiveness performance~~ audits of all government agencies, commissions, boards, bodies, entities receiving government funding, and all public elections. Audits should be conducted for the purpose of ensuring that audited entities are acting within their statutory authority, complying with state law, and employing appropriate safeguards against fraud and improper use of public dollars. States without an existing state auditor would be well served by instituting such a position. Regardless, the legislature may consider creating a legislative audit bureau or function to further the legislature’s oversight responsibilities.