Legislative Oversight in the States

By Robert D. Boerner

Among the many roles played by state legislatures—enacting laws, appropriating funds, representing constituents—is the duty to oversee the activities of the executive and judicial branches of government. Legislative oversight gains little public attention and probably inspires few people to run for office. But, legislative oversight is a fundamental check and balance under the American system of representative government.

State Action

The Benefits. Legislative oversight produces many benefits for state legislatures. It helps ensure that agencies follow legislative intent in carrying out programs and are good stewards of taxpayer dollars. Oversight enables state legislators to determine whether public programs are effective in achieving their statutory goals, and to identify opportunities to improve programs and reduce costs. Finally, legislative oversight helps state legislatures to identify what went wrong when problems arise and to craft reforms to prevent such problems from recurring.

Legislative oversight of government agencies can take many forms. Among the most common are routine committee hearings in which agencies are required to explain their programs and how they use their budgets. State agencies also may be required to respond to media stories and complaints made by citizens and interest groups. Or, state legislatures can appoint special committees and task forces to investigate allegations of agency misfeasance. In many states, committee staff conduct research and oversight studies during interims between legislative sessions. One of the strongest oversight tools however is the work of legislative offices specifically created to carry out these activities.

Almost all state legislatures have created specialized program evaluation offices charged with carrying out oversight studies. For example, Arizona law established the Office of the Auditor General to be an independent source of impartial information concerning many governmental agencies and to provide specific recommendations to improve their operations. More than 45 state legislatures have established similar offices. These offices are generally nonpartisan research units. They typically function like the Government Accountability Office, Congress’ primary oversight entity at the federal level, in that they report directly to their state legislatures but typically have some degree of organizational independence. State legislatures have given these units almost unique access to governmental information, including the ability to examine non-public records such as tax returns.

Program evaluation offices complete a variety of useful and timely products for state lawmakers that assist in legislative oversight. Performance audits/evaluations, for example, can address
issues such as whether agencies are following legislative intent, whether programs are well-managed and are producing the desired results, and whether policy alternatives could improve operations and save money. Financial and compliance audits determine if agencies are spending money as intended by the legislature and are making financial transactions in a legal manner. Some offices also conduct sunset reviews that assess whether state agencies and programs need to continue to exist. Some offices additionally issue reports on “best practices” by agencies or school districts, and directly assist their legislatures in bill drafting and conducting fiscal analyses of state budgets.

The kinds and number of reports completed by each office vary based on the size and responsibilities of the office. For example, the Wisconsin Legislative Audit Bureau’s primary products are program evaluations and financial audits. The bureau however also conducts best practices reviews of local government operations to highlight effective and innovative service delivery methods. It also prepares letter reports on narrower issues of legislative concern. The Florida Office of Program Policy Analysis and Government Accountability issues formal program evaluation reports and provides research assistance for legislative leadership and members. The Mississippi Joint Legislative Committee on Performance Evaluation and Expenditure Review has issued 479 formal reports, produced 5,063 assistance memos and fiscal notes, and has conducted 1,730 background checks on gubernatorial and other appointments over its 32-year history.

**Cost Savings.** A benefit of legislative oversight is that it can identify potential savings of taxpayer dollars. Approximately one-quarter of the legislative evaluation offices track the level of cost savings recommended in their studies and implemented by the state legislature and state agencies. Since 1982, for example, the California State Auditor’s Office has identified more than $1 billion in cost savings. Over the past four years, the South Carolina Legislative Audit Council has averaged $34 million a year in financial benefits identified in its reports. And, since its creation in 1975, the Utah Office of the Legislative Auditor General has identified possible cost savings and revenue increases of more than $132 million.

**Challenges.** Legislatures face several challenges in conducting oversight, including the never-ending tug of war that characterizes the separation of powers between the legislative and executive branches. It can be difficult to obtain valid data from agencies, governors can resist oversight as ‘micromanagement’ and demands for studies can overwhelm the capacity of legislative evaluation offices. It can also be difficult to structure processes that effectively use oversight information in the committee and budget processes. Nonetheless, given the increasing scope of policy challenges facing legislatures under federal devolution and ever-growing budget constraints, the need for effective legislative oversight will continue to grow.

**Selected References**


NLPES Home Page: http://www.ncsl.org/programs/nlpes

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