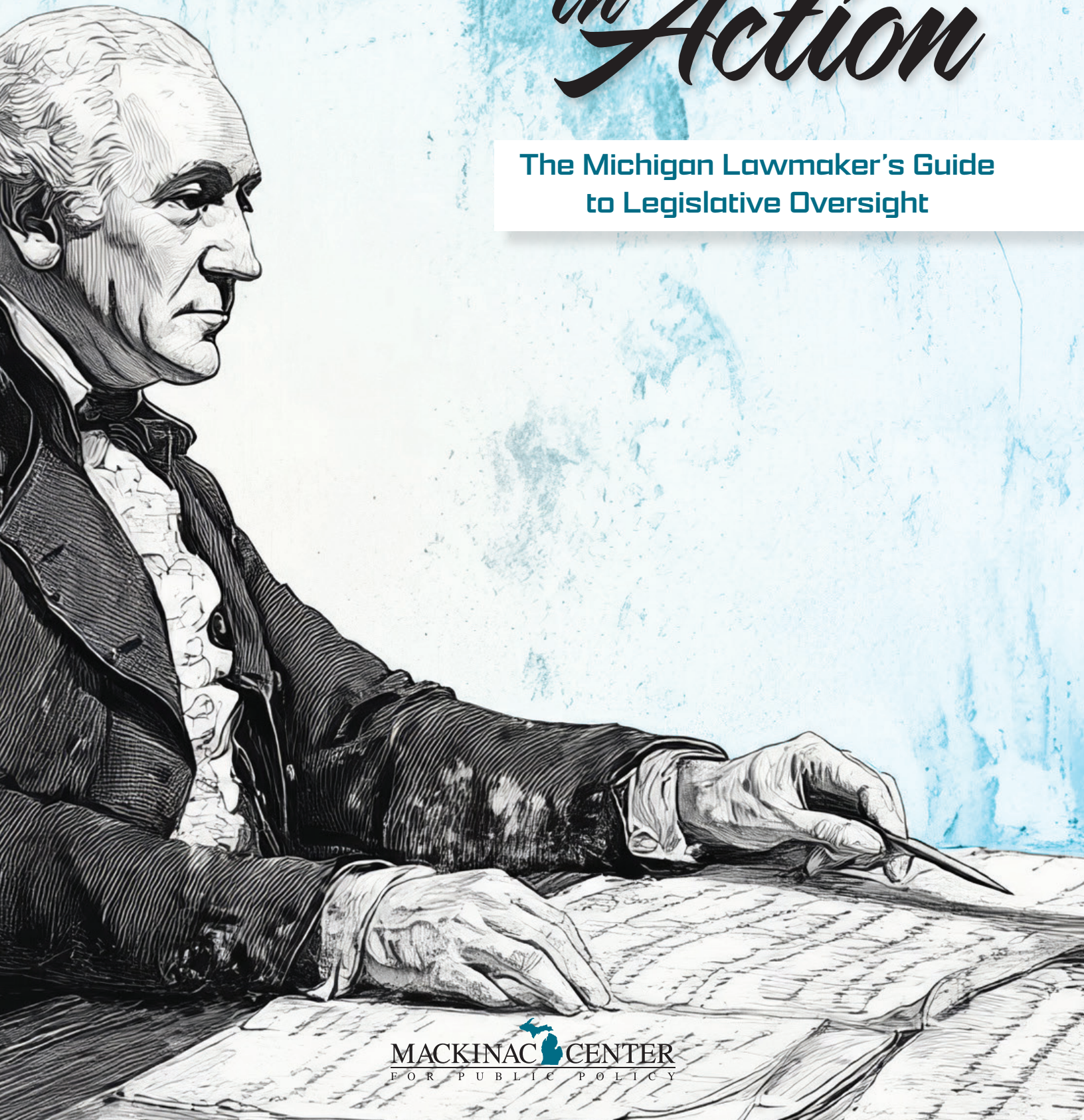


# *Accountability in Action*

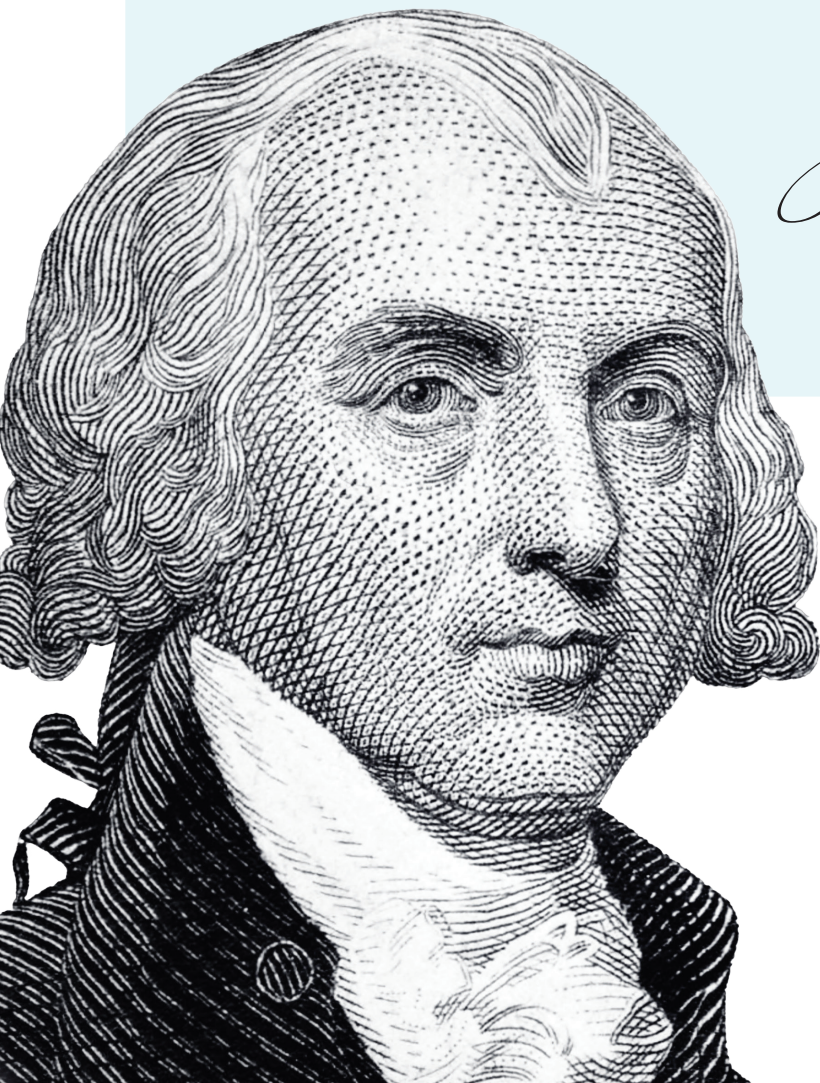
The Michigan Lawmaker's Guide  
to Legislative Oversight





*“If angels were to govern men,  
neither external nor internal controls on  
government would be necessary.*

*In framing a government which is to be  
administered by men over men, the great  
difficulty lies in this: you must first enable  
the government to control the governed; and  
in the next place oblige it to control itself.”*



*James Madison*  
The Federalist Papers  
No. 51, Feb. 8, 1788

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The content in this report was adapted by  
the Mackinac Center from a work written  
by Justice Daniel Kelly (ret.).



# Introduction

“Oblige it to control itself.” A lot of history and philosophical spade work went into making that short phrase possible. And when James Madison wrote it, he couldn’t have known whether the constitutional structure he helped create would actually fulfill that obligation. But he bet everything on the hope that it would. Madison believed that the separation of powers, the grand schematic design of the constitution, would lead the three branches to keep the corporate whole under control. The success of that gambit would be critical for preserving freedom, for, as he put it, “There can be no liberty where the legislative and executive powers are united in the same person, or body of magistrates.”


*“A republic, if you can keep it.”*


*Benjamin Franklin*

The founders gave us no promise we would forever enjoy the blessings of liberty. Instead, they gave us a plan of government, a finely crafted mechanism that requires from every generation an active commitment to its faithful implementation. But it’s only a piece of parchment until we pick it up and put it into operation. This is what Benjamin Franklin meant when asked whether the Constitutional Convention had proposed a republic or a monarchy: “A republic, if you can keep it.” We determine whether we will keep or lose it — we do, not some external dynamic. It is only and solely our energetic attention to the republican experiment that gives it continued life. Should our interest ever flag, so will the republic.

Franklin’s insight is equally instructive with respect to the states. The U.S. Constitution says, “The United States shall guarantee to every state in this Union a Republican Form of Government.” Every one of us, therefore, is responsible for tending to the health of not one but two republics. Michiganders have taken the first, and largest, step in faithfully carrying out that trust — after careful consideration, they elected . . . you.

*And so now it falls to you to strengthen and  
preserve the republican form of government in  
Michigan and the freedoms it helps protects.*





Whether you are a veteran or a freshman legislator, your two major responsibilities are the same. The first is to peer into the indefinite future and, with the help of your colleagues, discern the public policy that will best promote human flourishing in Michigan. This is the most obvious duty and is likely the one that fired your imagination enough to run for office.

The second duty, legislative oversight, is the subject of this report. It is less obvious, but no less important. Legislators are responsible for overseeing the execution of the law and staying informed about the world. You must recognize when it is time to make, amend or repeal a law.

This guide is based on the premise that the separation of powers between the governmental branches is, as the late Supreme Court Justice Antonin Scalia once wrote, “not merely to assure effective government but to preserve individual freedom.” And it depends on committed legislators like you who will use the Legislature’s inherent oversight authority to answer Ben Franklin’s challenge.





# *Legislators: Custodians of the law*

The Legislature pipes the tune to which the other two branches dance. It alone has the power to make the state's laws. The Michigan Constitution is unambiguous and categorical on this point: "The legislative power of the State of Michigan is vested in a senate and a house of representatives." Only the Legislature has the power "to make, alter, amend, and repeal laws," as the Michigan Supreme Court put it in a 1933 decision.

Because the grant of lawmaking power to the Legislature is so complete, it necessarily follows that the other two branches of government act in response to, and in the context of, the Legislature's work. The governor, for example, is entrusted by the constitution only with the power to execute the law, not to make it.

The judiciary's role is even more limited than that of the executive — but it necessarily responds to the Legislature's chosen tune just as surely. Courts neither make the law nor execute it. They merely apply pre-existing law to resolve the specific disputes brought to them by contesting parties. "It is emphatically the province and duty of the judicial department to say what the law is," the Supreme Court said in its 1803 decision *Marbury v. Madison*. "Saying" describes, it does not create.

From these descriptions, it should be apparent that the Legislature necessarily plays the lead role in our form of government. The authority of both the executive and judicial branches is but a derivative of the legislative authority to create law. What is the governor to execute, if not the law? Or what is a court to decide if not what the law says?

*The authority of both the executive and judicial branches is but a derivative of the legislative authority to create law.*

This "first among equals" status necessarily calls into existence the Legislature's oversight responsibility. Legislators cannot simply cast their bread on the water and walk away. Although the law belongs to the public and the other branches of government once enacted, the Legislature remains its custodian. And a responsible custodian will continually make sure the law is effective, respected, up-to-date, and retired when no longer needed.

*Although the law belongs to the public and the other branches of government once enacted, the Legislature remains its custodian.*

# *Four reasons why oversight is essential*

## **Is the executive doing it right?**

The first rationale for conducting legislative oversight is probably also one of the most obvious: determining whether the executive is executing the law as the Legislature intended. Legislation, labyrinthine as the process might be, is always pursued for some specific purpose. There is an objective to achieve — a right in need of protection, a behavior in need of banning, a sum of money in need of appropriating, a program in need of creation. Presumably, each piece of legislation represents a real-life goal the legislators believed the bill would advance.

But sometimes even the noblest legislative intent doesn't successfully make the transition to reality. When a bill fails to achieve the desired effect it's usually due to one of three dynamics: 1) ambiguity, 2) motivated reasoning or 3) the law of unintended consequences.

*But sometimes even the noblest legislative intent doesn't successfully make the transition to reality.*

Ambiguity is the bane of judiciaries across the country. The English language is versatile and, in the right hands, beautifully poetic. With those attributes, however, comes the risk of imprecision. This is such a common problem that the late Justice Antonin Scalia could co-write an entire book focused on 57 canons of construction that courts use to discern what statutes mean. If jurists, steeped as they are in the discipline of rigorously discerning the meaning of written texts, sometimes find it difficult to discover a statute's proper operation, it should come as no surprise that the executive might encounter similar difficulties.

*The executive's agenda may not always square with what the Legislature is trying to accomplish.*

The second dynamic that might stand between legislative intent and real-world application is motivated reasoning. The executive's agenda may not always square with what the Legislature is trying to accomplish. Creative members of the executive branch may, for instance, prefer an alternative reading of the law that conforms to their desired outcome. Or, in enforcement matters, the law could drop so far down in the executive's priority structure that it may as well not exist at all.

*Every tweak or rule placed on a system as complex as human society will, without fail, produce consequences that no one expected.*

The third dynamic is the law of unintended consequences. Every tweak or rule placed on a system as complex as human society will, without fail, produce consequences that no one expected. This is not a commentary on legislators' capabilities. It is, instead, a function of the knowledge problem — the unavoidable reality that a smallish group of people (148 legislators, let's say) cannot possibly identify and account for how all 10 million Michiganders will respond to any given input. Those unexpected consequences can be so great as to wholly undermine the Legislature's initial intent. Sometimes a piece of legislation just misses the mark.

*The Legislature must vigorously exercise its oversight authority to ensure execution of the law really does follow the course it set.*

These dynamics demonstrate why a responsible Legislature — a Legislature that truly directs the state's public policy — cannot be content as a disinterested spectator once it introduces its law to the public arena. It must vigorously exercise its oversight authority to ensure execution of the law really does follow the course it set. Anything less will surrender the Legislature's leadership position to one of the other governmental branches.

### **Societies Are Fluid. Laws Are Not.**

Michigan is dynamic — not just in one dimension, but in a multitude of dimensions. Its population changes constantly. Its economy grows and shifts, incorporating new sectors that couldn't have been imagined a generation ago, while leaving behind others thought to have been permanent institutions. In an unending feedback loop, Michiganders adapt technology to their way of life, which in turn influences their lives in unexpected ways. They move from farms to urban centers to the suburbs and exurbs, and then back downtown.

In the midst of that turbulent landscape, the Legislature is responsible for peering into the uncertain future and determining what laws to adopt, amend or abolish. But laws, unlike the state, are not dynamic. Once adopted, they remain static, impervious to the changes swirling around them. Which makes the task of legislating akin to painting a portrait of a subject who insists on wandering around the studio instead of quietly maintaining a pose.

This means some laws will have a limited shelf-life. Some need constant attention. Every year, for example, the Legislature must adopt a new budget. Given the scope and reach of state government, that document represents a complex balancing act between competing priorities and innumerable demands on Michiganders' resources. Other laws need less frequent attention but cannot be set on autopilot. Laws governing new technologies, with their attendant privacy concerns and impact on safety, fall into this category. So do laws regarding infrastructure development, food and drug safety, employment relations, tax structures designed to incentivize certain types of behavior and discourage others, and on and on.

*The interaction of static laws and a dynamic society makes oversight authority an essential tool for a responsible and responsive Legislature.*

The interaction of static laws and a dynamic society makes oversight authority an essential tool for a responsible and responsive Legislature. In this context, oversight is all about foresight and preparation. Regular investigations and hearings about how the law plays out on the ground are the Legislature's antennae, keeping them abreast of subjects that may require revisiting existing laws, or contemplating fresh legislation.

#### **Mission accomplished?**

*"Nothing is so permanent as a temporary government program."*

*Milton Friedman*

Nobel-winning economist Milton Friedman once quipped, "Nothing is so permanent as a temporary government program." Institutional inertia makes it difficult to end a program once it begins. And even when there is a continuing justification for the program, it may drift off target over time without periodic realignment.

There are several components to program-related institutional inertia. One is that beneficiaries obviously want the state's assistance and will be reluctant to let it go when the circumstances giving rise to the program no longer exist. Continued program revenue is frequently easy to obtain — it only requires the Legislature to continue doing what it's been doing.

Another component contributing to institutional inertia is the unremarkable fact that programs require employees to implement them. This is inertia-friendly for both the agency and its employees. The latter develop subject-matter expertise as they carry out the program's functions, which may or may not be transportable to different jobs should the program end. For the agency, FTEs are gold.



The size of its appropriation is commonly based on how many full-time equivalent employees it has. Ending a program could mean losing the FTEs, which means diminished flexibility and capacity for staffing other activities within the agency's portfolio, and the greatest threat of all: reduced revenue.

*Programs that fly under the radar will find little to no public resistance to continued funding — even if the program is not achieving its objective or there is no further need for its existence.*

A third component contributing to this inertia is the near invisibility of most state programs and administrative functions. Most voters are aware of the larger ones — the Healthy Michigan Plan, the Unemployment Insurance Agency, WIC and MI Bridges. These address needs and issues that aren't likely to abate — the poor and unemployed will always be among us. But once we get past the top tier of programs, they drop pretty quickly from public view. How many people know about, much less keep tabs on, state programs like the Second-Stage Growth Solutions program, the Kinship Care Resource Center or the Fixed Guideway Capital Investment Program?

Programs that fly under the radar will find little to no public resistance to continued funding — even if the program is not achieving its objective or there is no further need for its existence. It is entirely possible that the teeming multitudes of state programs are effectively and efficiently carrying out their intended purposes. But even if they are, institutional inertia can keep them from their potential best.

Perhaps one of the greatest sources of cynicism and disconnect between the people of Michigan and their state government is tied up in this institutional inertia. They see (and feel) the enormous amounts the government charges them, yet they have very little idea where the money goes or how it's used. People instinctively know that a comparable lack of information about their own finances would quickly lead to utter ruin. As a result, they inevitably suffer from a gnawing nervousness that the government might be wasting their money or, worse, just giving it to people more highly favored by officeholders. The result is a growing and corrosive distrust of those to whom they have lent their authority.

The most transformative exercise of oversight authority can occur in this field. Notwithstanding all of the factors contributing to institutional inertia, programs really must wrap up when they accomplish their objectives. And they really must be modified when it becomes apparent that they aren't having the intended effect. But the program-ending or -amending cues will never come to light unless the Legislature exercises its oversight authority to ensure the program is moving toward its goal, or at least that there is a continuing fit between the program and the need it was created to address. Without that oversight, the justification for any given program can become as empty as the "Animal House" fraternity, the chief virtue of which was that it had "a long tradition of existence to its members and to the community at large."

*Without that oversight, the justification for any given program can become as empty as the “Animal House” fraternity, the chief virtue of which was that it had “a long tradition of existence to its members and to the community at large.”*

Just doing this work, however, is not enough — Michiganders must see the Legislature doing this work. Checking up on the innumerable programs that consume their tax payments must be a high-visibility project. Oversight hearings that regularly require program administrators to justify the resources they consume can start the long trek toward rebuilding trust between the people who create value and the people who tax and spend it.

### **No Trespassing!**

The Michigan Constitution is the document by which the state government came into existence. It is the grand charter by which the people lent, and continue to lend, some of their native authority to government officials. But they didn't lend the authority as an undifferentiated mass to be allocated and traded among government officials as they might deem expedient. Instead, they compartmentalized it so that each branch would exercise only the type of authority corresponding to its function. Our status as free people served by their chosen state government, as opposed to a government served by its people, depends on fidelity to this arrangement.

And yet, in a vitally important sense, the constitution is completely inert. It is a memorialization of a foundational agreement, not an agent of volitional action. It has no motive power, no ability to defend itself. Its structure, function, and promises come to life only through the work of officers periodically chosen by the people who lend their authority to it.

*The constitution has no motive power, no ability to defend itself.*

This reality has sobering consequences. It means that, should one of our chosen officers opt to poach on a coordinate branch's authority, no automatic corrective will chase him away. There is a popular misconception that the state Supreme Court will referee any border disputes and ensure trespassers are sent back to their proper constitutional territory. But the courts do not have a free-floating mandate to track down and remedy constitutional violations. Their authority is simply to resolve cases brought to them. Consequently, the first line of defense must be the officers manning the governmental branch suffering the trespass.



*The first line of defense must be the officers manning the governmental branch suffering the trespass.*

Infringements on the Legislature's constitutionally vested authority can come from many quarters, so legislators and their staff must keep a close eye on the boundaries. Over the last couple of decades some of those intrusions have received substantial attention.

## *A guide to your oversight power*

This section briefly explains the constitution's grant of authority for legislative oversight, how the modern administrative state requires rigorous oversight, and the limits to how this power may be used.

### **Legal authority**

It is not enough that the Legislature needs to engage in oversight activities. It must, as a matter of first principles, have the authority to do so.

Each branch of government addresses a different moment in time. The judiciary, for example, is responsible for matters of the past. Cases that come before the court concern matters that have already occurred: a law was broken, a contract was breached, etc. The executive branch, on the other hand, is associated most strongly with the present. The governor's primary responsibility is to execute the law; that is, she is to carry into effect, today and each day as they arrive, the laws adopted by the Legislature. The constitution gives the Legislature the most difficult task to accomplish — to it belongs the future.

*The constitution gives the Legislature the most difficult task to accomplish — to it belongs the future.*

The Legislature's task is hard because of the knowledge problem. We can imagine an impressive array of possible developments, but we don't know which will occur. It's impossible to imagine all of the decisions, processes, values, trade-offs, risks, mistakes, rewards, and preferences that result in a policy that works for a collection of 10 million Michiganders. The permutations are incalculable. As Thomas Sowell has said, "It takes considerable knowledge just to realize the extent of our own ignorance."

*“It takes considerable knowledge just to realize  
the extent of our own ignorance.”*

*Thomas Sowell*

And yet this is the Legislature’s job. Lawmakers must peer into the murky unknown and, using as much discernment as they can muster, determine what laws will improve people’s lives. Discernment is a wisdom that comes from a thorough knowledge of the field the Legislature seeks to affect, an appreciation of the proper role of incentives and sanctions, an acknowledgment that human nature is not infinitely malleable, and an understanding that not every problem has a legislative solution. Perhaps most importantly, it comes from an acknowledgment of how little it is truly possible to know about how a new law will affect the richly complex and decentralized network of relationships that is Michigan.

The best chance the Legislature has of deciding which laws will improve the livelihoods of Michiganders in the future is knowledge about past and current events. It needs a mechanism capable of providing relevant, timely, precise information specific to matters in need of the Legislature’s attention. That mechanism is oversight. Whether through hearings, investigations, or other means, this is how the Legislature learns what it needs to know to perform its duties. And that “need to know” points directly to the legal basis for the exercise of oversight authority.

*The Legislature’s oversight authority is entirely  
bound up with what it means to legislate.*

This authority comes from Michigan’s constitution, and yet one may search that document from beginning to end without ever finding the word “oversight.” The Legislature’s oversight authority is entirely bound up with what it means to legislate. The authors of the constitution were aware that legislators would not arrive in chambers already possessed of all the information needed to discharge their duties. And they wanted the Legislature to perform its duties well. Consequently, when they conferred on the Legislature the power to legislate, they understood that they were simultaneously granting it the power necessary to inform itself sufficiently to carry out that function.

The United States Supreme Court confirmed this in the 1957 decision *Watkins v. United States*. The “power of inquiry” (as oversight is sometimes known) is “auxiliary” to the legislative power: “We are of opinion that the power of inquiry — with process to enforce it — is an essential and appropriate auxiliary to the legislative function.” The Michigan Supreme Court reaffirmed this authority in 2018, writing, “The power to investigate and to do so through compulsory process plainly falls within the legislative sphere.” To that end, the Legislature may commence and conduct investigations, hold hearings, and require citizens to provide testimony and documents.



## Scope

*The Michigan Constitution provides the Legislature the general power to create law, so the scope of this authority is broad.*

## Subject matter

Because the Legislature's oversight authority is an essential element of its general lawmaking authority, lawmakers can conduct oversight related to any matters that fall within their power to legislate. The Michigan Constitution provides the Legislature the general power to create law, so the scope of this authority is broad. It includes determining how the other branches operate, monitoring the performance of elected officials, financing the state, and overseeing local units of government, including public schools.

*No one is exempt from the obligation to provide the information the Legislature needs to fulfill its duties.*

Although this is not a comprehensive review of all power conferred on the legislative branch, it is sufficient to give a sense of how far its lawmaking authority reaches. Because oversight is derivative of vested authority, and knowledge is the raw material of oversight, it inevitably follows that Michiganders, through their constitution, intentionally created the Legislature with a voracious appetite for knowledge.

## People

By conferring on the Legislature the authority to make law, the people of Michigan also necessarily conferred on their representatives the incidental authority to obtain all the knowledge necessary to make the laws both wise and effective. That knowledge exists either in individuals or the repositories they fashion for its storage. So, the knowledge belongs to the very individuals — “We, the people of the State of Michigan” — who commissioned the legislators to search out the knowledge needed to perform the legislative task.

Because the repositories of knowledge are the same as the grantors of the authority, and the grantors are the citizens of Michigan, no one is exempt from the obligation to provide the information the Legislature needs to fulfill its duties. And, indeed, the United States Supreme Court, in the Watkins case, recognized this truth with respect to Congress's investigatory power:

It is unquestionably the duty of all citizens to cooperate with the Congress in its efforts to obtain the facts needed for intelligent legislative action. It is their unremitting obligation to respond to subpoenas, to respect the dignity of the Congress and its committees and to testify fully with respect to matters within the province of proper investigation.

What the United States Supreme Court said with respect to Congress is no less true of the relationship between the state Legislature and the people of Michigan.

### **The role of the administrative state**

The more active the Legislature is, the broader its practical opportunity to engage in oversight becomes. Nothing illustrates this better than the interaction between the roles of the Legislature and the collection of state departments, agencies, offices and committees known collectively as the administrative state.

*In authorizing the administrative state to execute its laws, the Legislature simultaneously imposes on itself a responsibility to oversee the executive branch's use of that apparatus.*

With the power to create the law comes the responsibility to ensure it is executed as intended. And that means there is a direct relationship between legislative output and the duty to oversee the executive branch's execution of that output through the state's administrative apparatus. In authorizing the administrative state to execute its laws, the Legislature simultaneously imposes on itself a responsibility to oversee the executive branch's use of that apparatus.

Of course, what the Legislature has authority to give, it also has authority to take away. This is significant because it means the entirety of the administrative apparatus of the state remains subject to the Legislature's continued supervision and stewardship. The Legislature is responsible for keeping tabs on whether the administrative apparatus is performing the intended functions in the intended manner, whether certain grants of authority have outlived their usefulness, and whether any of that authority needs restructuring or supplementing.

*The entirety of the administrative apparatus of the state remains subject to the Legislature's continued supervision and stewardship.*

When the Legislature empowered these administrative entities to act, it depended on a great sea of information about the nature, duties and conduct of the executive branch to guide the contours of the grants. Its continuing responsibility for the effective function of that apparatus necessarily carries with it the continued authority to keep abreast of that same sea of information. The full reach of the Legislature's authority covers every source of information within the administrative apparatus.



An agency's rule-making authority — its most consequential power — bears all the hallmarks of legislative authority. An agency's ability to promulgate a rule comes from a loan of legislative power. As such, it may be limited, conditioned or taken away by the Legislature. In short, the whole of the executive's rule-making activity — whether procedural or substantive — is subject to the Legislature's oversight.

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The Legislature not only created the administrative entities and invested them with some of its own power, it also regularly participates in selecting those who will be responsible for their day-to-day operations. The Senate has the power of advice and consent with respect to any single executive who is the head of any principal department. The responsibility to provide advice and consent carries with it the responsibility to remain fully informed of the doings and performance of the parts of the administrative apparatus the nominee proposes to lead. This provides an additional window of oversight authority with respect to the executive's conduct in its administrative agencies.

The Legislature's creation of the administrative state, its investment of the apparatus with some of its own power to make the law, and its regular involvement in decisions regarding who shall lead the administrative entities, together give the Legislature a comprehensive view of the executive branch's activity. That view ranges from a birds-eye structural perspective all the way down to an atomic-level scrutiny of day-to-day operations.

## *Limitations to oversight authority*

These illustrations should give some sense of the immense depth and breadth of the Legislature's oversight authority. It is not, however, unlimited. There are three broadly applicable qualifications on the Legislature's oversight authority. Two of the three address the subjects the Legislature may pursue, while the third limitation relates to the people from whom the information may be obtained.

### **The functional limitation**

The first limitation is really a restatement of the principle from which the Legislature obtains its oversight authority. If the basis for engaging in oversight activities is the need for information to assist the Legislature in intelligently carrying out its lawmaking function, then it must follow that legislators may deploy it for that purpose only and no other. That is to say, oversight is not a license to indulge in generalized curiosity. It must, instead, have a legitimate and substantive connection to its lawmaking function.

*Oversight is not a license to indulge in generalized curiosity.*

It is indefensible for the Legislature to use its oversight authority to intrude on functions committed to other branches of the government. It may not investigate a judicial concern, for example, or interfere with executive functions unrelated to rule making or other activity directed by legislation. The only legitimate purpose of oversight activities is the acquisition of information that will assist the Legislature in wisely and effectively implementing its lawmaking function.

*The only legitimate purpose of oversight activities is the acquisition of information that will assist the Legislature in wisely and effectively implementing its lawmaking function.*

#### **The governmental portfolio limitation**

The second limitation is more difficult to define with bright lines, but it is no less real. This limit is rooted in the understanding that Michigan is not a totalitarian state; it may legitimately speak only to those subjects appropriate for a civil government to address. In the context of oversight, it's important for the Legislature to have at least a working understanding of the legitimate scope of governmental activity, because that scope simultaneously provides a limit on allowable subjects of inquiry.

The state constitution says, "Government is instituted for [the people's] equal benefit, security and protection." The primary purpose of a civil government, therefore, is to protect the rights of people that pre-exist government, thereby securing for them a life in peaceful society with others. One of the most fundamental principles of democratic republicanism is that a government created by a free people has a limited portfolio of issues it may rightfully address.

#### **The individual rights limitation**

*One of the most fundamental principles of democratic republicanism is that a government created by a free people has a limited portfolio of issues it may rightfully address.*

Even when an issue might be within the state's legitimate oversight purview, it is possible that the Legislature may not be able to obtain the information it seeks from a specific person. This is because state and federal constitutions recognize and protect a spectrum of individual rights.



Although everyone has a duty to provide information to the Legislature, that duty “assumes that the constitutional rights of witnesses will be respected,” as the Watkins decision says. It continues, “The Bill of Rights is applicable to investigations as to all forms of governmental action.” This is just as true in state legislatures as it is in Congress.

The contours of these limits have not been extensively explored by the judiciary. One reason for this is that courts only get involved when a witness refuses to testify in a legislative hearing, and that just doesn’t happen very often. The overwhelming majority of witnesses testify voluntarily. Additionally, the judiciary has traditionally been reluctant to second-guess the Legislature’s questioning of witnesses in such hearings.

Despite this, general rules guide the personal limits on legislative oversight. These are summed up in a Supreme Court decision from 1957 that reads, “Witnesses cannot be compelled to give evidence against themselves. They cannot be subjected to unreasonable search and seizure. Nor can the First Amendment freedoms of speech, press, religion, or political belief and association be abridged.”

*The Legislature’s oversight authority, while vast, is not unlimited.*

In sum, the Legislature’s oversight authority, while vast, is not unlimited. It may only be deployed in aid of the Legislature’s lawmaking function. It must have as its object a subject within the legitimate purview of a government serving the interests of a free people. And it must respect the witness’s constitutionally protected rights.

# Conclusion

The Legislature, as the first among otherwise equal branches of government, is both the creator and custodian of Michigan's public policy. Legislative oversight is how it fulfills its custodial role. This authority to do so is inherent in its broad lawmaking power. And the Legislature must regularly and energetically perform this role. Responsible Legislatures do not just legislate and walk away. They constantly look after their creations to ensure they are being honored and are achieving their intended purposes.

*Responsible Legislatures do not just legislate and walk away.*

From one perspective, there is nothing especially complex about conducting oversight. It's simply a process by which the Legislature gathers information about matters within its purview and then presents it to the public. Peeking behind the curtain, however, reveals the depth of intellectual spadework, strategizing, planning and judgment necessary to make oversight successful. This guide hopes to provide lawmakers with some help in making oversight a more regular and permanent part of their legislative duties.







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