Best Practices in Legislative Oversight

Prepared for the Maine Legislature's Government Oversight Committee

Ben Eikey & Ian McKnight

State Oversight Academy

Carl Levin Center for Oversight and Democracy

January 2025

Levin Center for Oversight and Democracy

U.S. Sen. Carl Levin

Pennsylvania Oversight Committee

Wayne State Law School

North Carolina General
Assembly
Oversight Workshop

- Workshops for Congress, state, international legislatures

- Videos, testimony, webinars, social media

- Research & Reports (50-state analysis, contract oversight, more)

- Conferences, panels & events

- State Oversight Academy

- More: stateoversight.org

DC Council Oversight Workshop

LEVIN CENTER
STATE OVERSIGHT ACADEMY

State Oversight Academy Resources

- Workshops for legislators and staff
- Committee testimony
- Oversight consulting
- State Oversight Leaders
- Support for oversight scholars and annual symposium

- State Legislative Oversight Wiki
- Online tutorials and masterclasses
- Portraits in Oversight
- Blog
- Newsletter

LEVIN CENTER

STATE OVERSIGHT ACADEMY

State Oversight Academy
State Legislative Oversight Wiki
go.levin-center.org/wiki

Agenda

- The Levin Center and State Oversight Academy
- Legislative Oversight Basics
- Maine in a National Context
- Getting More Out of Hearings
- Interactive Exercise

LEVIN CENTER

STATE OVERSIGHT
ACADEMY

Handouts

A. Agenda and Handouts (1 page)

B. Levin Center Online Resources (1 page)

C. Tips for Great Hearing Questions (1 page)

D. Sample Hearing Questions (4 Pages)

E. Hearing Planning Exercise Worksheet (2 pages)

What is Legislative Oversight?
The "eyes and voice" of the people

"It is the proper duty of a representative body to look diligently into every affair of government and to talk much about what it sees. It is meant to be the eyes and the voice, and to embody the wisdom and will of its constituents."

-- United States Supreme Court[1]

----
[1] *Trump v. Mazars USA, LLP*, 140 S.Ct. 2019, 2031 (2020), citing *United States v. Rumely*, 345 U. S. 41, 43 (1953).

LEVIN CENTER
STATE OVERSIGHT ACADEMY

Cycle of Accountability

Problem/Outcome → Oversight → Legislation → Law → Regulation → Implemention → Problem/Outcome

Eyes and Voice of the People

LEVIN CENTER
STATE OVERSIGHT ACADEMY

Cycle of Accountability

Problem/
Outcome

Oversight

Implemention

Regulation

Legislation

Law

Eyes and Voice of
the People
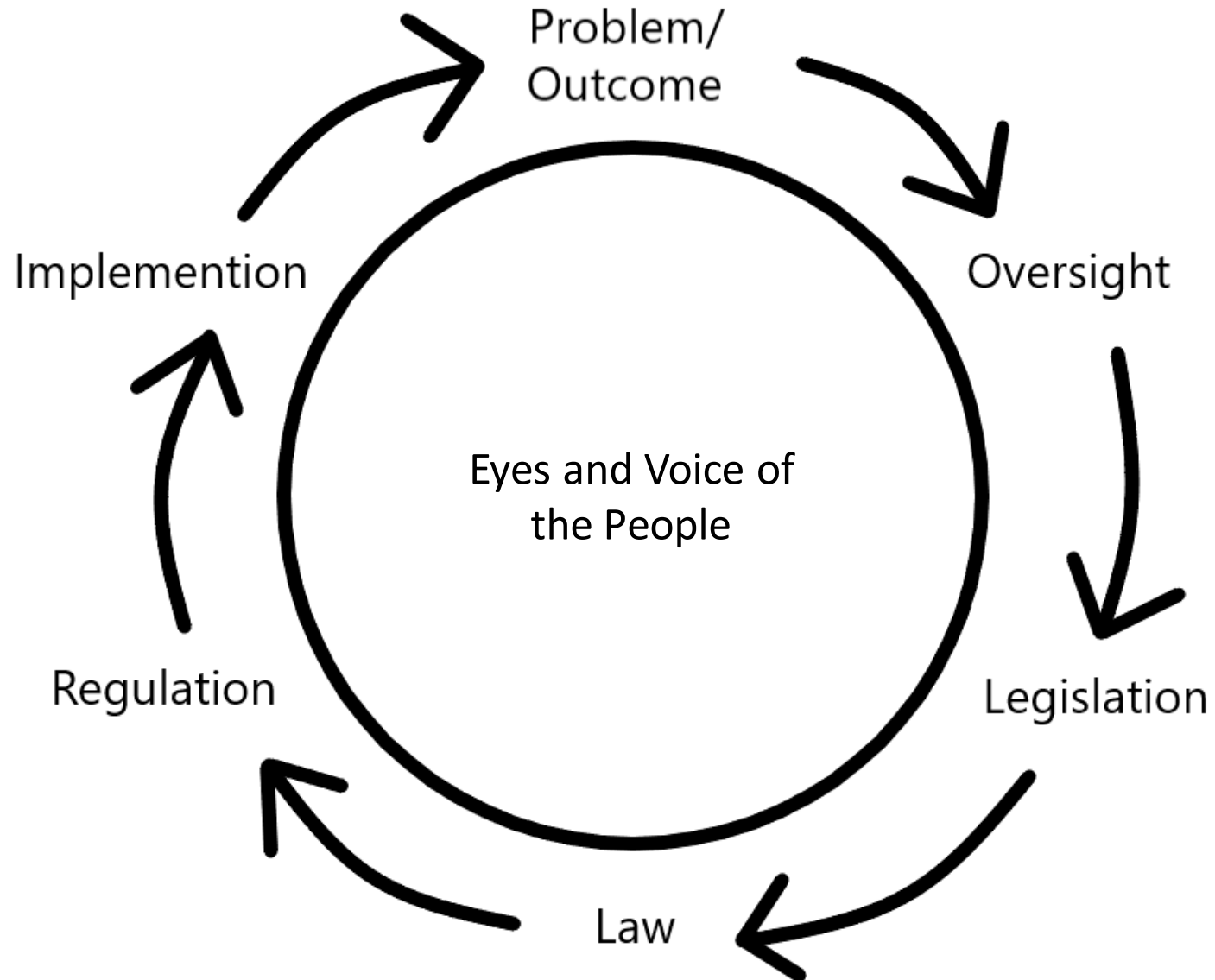
LEVIN CENTER
STATE OVERSIGHT
ACADEMY
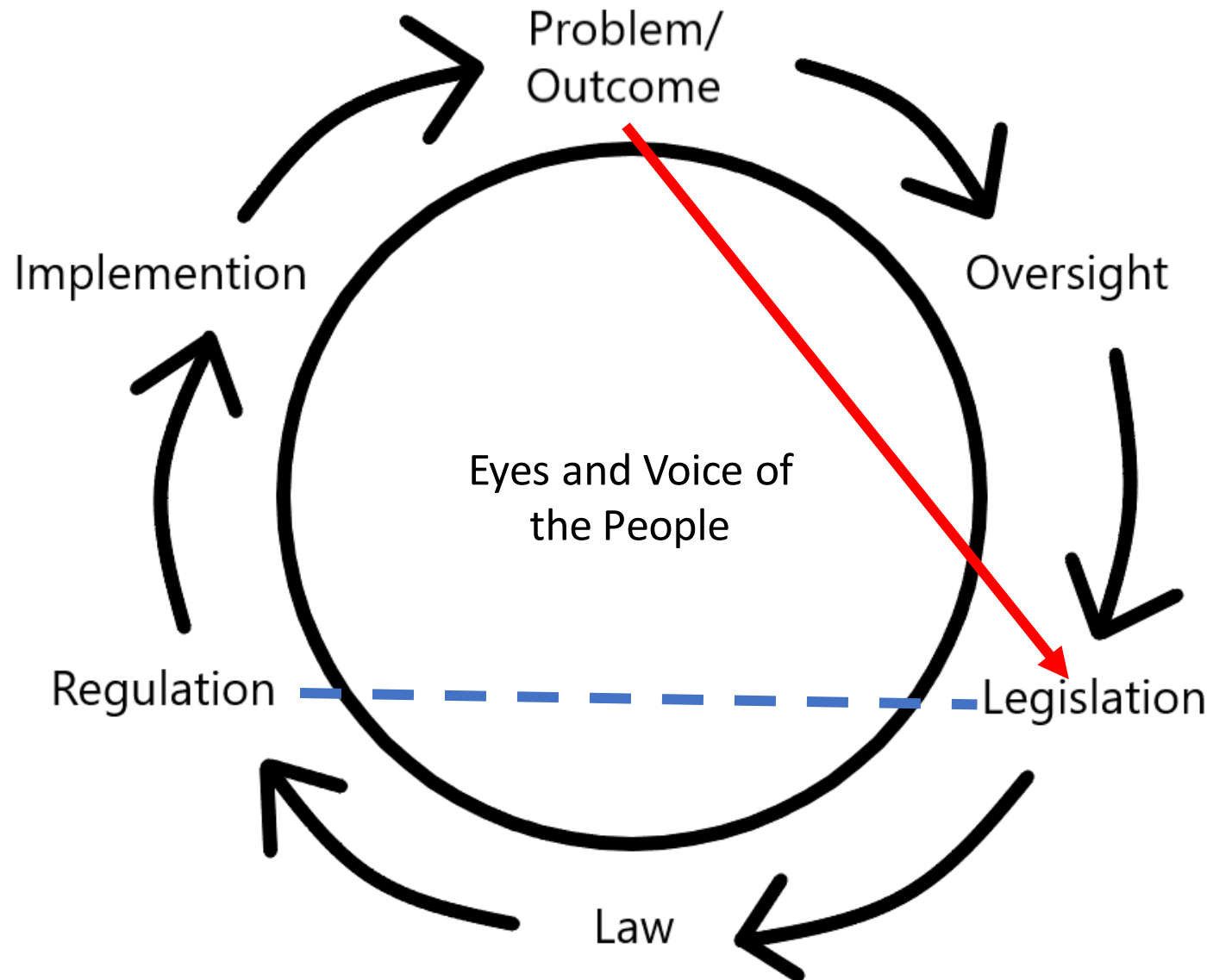
Routine or Event-Driven Oversight?

Routine: "cop on the beat"	Event-Driven: "firefighter"
Program Outcomes	Scandal
Budgetary	Disaster
Contracts	Chronic Problems
Compliance	Escalating Problems
Deter Malfeasance	Long-term Investigation

Your Superpowers

- Legislator phone calls and emails get returned.
- Legislators can request investigations and reports.
- Legislator and staff questions trigger research, reconsideration, change.
- Oversight can have as much, or more, impact as legislation.

LEVIN CENTER
STATE OVERSIGHT ACADEMY

Avenues for Legislative Oversight

- Analytic Bureaucracies

- Appropriations Process

- Committees

- Administrative Rule Review

- Advice and Consent

- Monitoring Contracts

LEVIN CENTER

STATE OVERSIGHT ACADEMY

Investigation Topic Origins

- Committee jurisdiction
- Reports
- Constituents
- Personal experience
- Oversight plan, long-term vision

South Carolina

House Oversight Committee
- Full Committee plus five subcommittees
- Video archive and minutes of all meetings
- Public input form, plus info on testimony submission
- Restructuring recommendations for agencies
- Seven-year agency reviews
- Transparency report to citizens
  - Purpose, findings, and recommendations
- All reports available online since 2014

STATE OVERSIGHT ACADEMY
LEVIN CENTER

Phases of an Investigation

1. Fact-Finding

2. Written Product

3. Hearing

4. Follow up

Tutorials: go.levin-center.org/howto

LEVIN CENTER
STATE OVERSIGHT
ACADEMY

Factual Questions

- Not a hypothesis
- Process-orientated
- "How" and "what" questions

Great!	Less great...
What kinds of oil spills happen in the Great Lakes and how are they handled?	How come don't we have bigger fines for shipping companies responsible for oil spills?
How does service availability differ for Medicaid recipients in different parts of the state?	Why are behavioral health services so rotten in rural areas?

For additional resources: go.levin-center.org/resources

LEVIN CENTER

STATE OVERSIGHT
ACADEMY

Institutional Best Practices

- Joint oversight committee
- Bipartisan membership and culture
- Dedicated staff / strong relationship with oversight partners
- Sustained follow-up efforts
- Online presence
- Culture of meaningful oversight work

LEVIN CENTER

STATE OVERSIGHT ACADEMY

Break / Group Photo

Getting More
Out of Hearings

Purpose of Oversight Hearings

- Use theatre and story to…
    - Establish the facts and what happened, put them on the record
    - Compile evidence
    - Hold parties accountable for their actions
    - Show bipartisanship and institutional teeth
    - Illustrate committee work
    - Build public support
    - Unveil policy reforms
- Ideally, hearings spend 80% of their time on problems and 20% on solutions

Getting More Out of Hearings

Why ask good questions at a hearing?

- Get information to solve a problem
- Help the public understand an issue
- Hold responsible parties accountable
- Strengthen the effectiveness of the Legislature
- Attract leadership notice
- Impress the media
- Impress constituents

Keys to Better Questions

- Preparation
  - Meet with your team ahead of time
- Great formatting to set yourself up for success
- More preparation
- Hearings, charts, props, etc.
- Even more preparation

LEVIN CENTER
STATE OVERSIGHT
ACADEMY
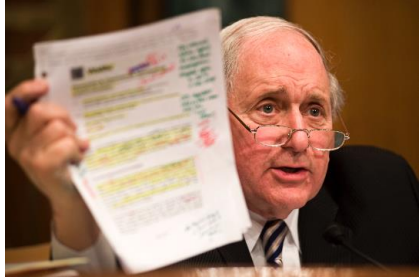
Formatting Questions

- Use one question per page so you can change the order
- Start with subtitle identifying the main subject
- Set the stage for the audience
- Indicate how the witness is likely to answer - and provide follow-up questions with likely answers
- Attach any reference chart, document, or exhibit.

LEVIN CENTER
STATE OVERSIGHT
ACADEMY

Some Recommendations

- Be respectful
- Don't try to surprise a witness
  - Work with the agency beforehand on questions and charts
- Avoid questions you don't know the answer to
- Listen to answers carefully and clarify if needed
- Do your homework
- Come into the hearing knowing what you want to accomplish
- Get public commitments and follow up on them

LEVIN CENTER
STATE OVERSIGHT
ACADEMY

Getting More
Out of Hearings

Q&A

Group Exercise Scenario

Legislators from around the state have received an increasing number of constituent requests relating to long processing times for the Winter Utility Shutoff Emergency Diversion Program (a fictional program). After completing a rapid response review authorized by the Committee, OPEGA released a report showing that wait times have indeed increased drastically and are the result of a new, faulty application processing software. Frontline staff have indicated that their work is slower and more difficult, that training has been inadequate, and that the concerns they have expressed to department leadership regarding the software fall on deaf ears.

Use **Handout E** to develop a hearing plan around the scenario.

Thank you!

For more information:

Ian McKnight, ianmcknight@wayne.edu

Ben Eikey, benjamin.eikey@wayne.edu

stateoversight.org