AGENDA
Legislative Oversight Workshop
Levin Center at Wayne State University Law School
August 8, 2016 -- NCSL

Introductions & Overview (1:00 to 1:20 p.m.)

Phase 1: Investigating the Problem (1:20 to 1:50)

- Where do investigations come from?
- Writing an investigative plan
- Tools you can use
- Building in bipartisanship
- Adjusting course

Exercise: Drafting and Discussing Investigative Plans (1:50 to 2:40)

Phase 2: Writing Up Investigative Results (2:40 to 2:45)

Phase 3: Conducting a Hearing (2:45 to 3:00)

- Hearings as theater and story
- Hearings as a way to effect change
- Time, panels & witnesses
- Building in bipartisanship
- Hearing materials
- Dealing with the media

Exercise: Drafting and Discussing a Hearing Plan (3:00 to 3:50)

Phase 4: Following Up (3:50 to 3:55)

Questions and Wrap-Up (3:55 to 4:00)
Steps in a Complex State Oversight Effort

For best results, maximize bipartisan participation.

(1) Determine available resources – staff, funds, time, partners.

(2) Research general topic, locate prior reports, and frame the oversight focus.
   Conduct bipartisan preliminary briefings with service agencies, experts, targets, others.
   Meet with bipartisan partners to develop consensus on factual questions, policy issues.

(3) Collect documents and data—use letter requests, subpoenas; bipartisan requests if possible.

(4) Conduct bipartisan interviews of key persons, agencies, companies, whistleblowers.
   Decide whether hearing is appropriate.

(5) Adjust oversight focus & write-up findings—use report, memo, case histories, other format.
   Include executive summary.
   If possible, include findings of fact and recommendations.
   Meet with bipartisan partners to review drafts, revise content, reach consensus.
   Consider submitting final version to targets 24 hours before public release.

(6) Design hearing panels and select witnesses—work with bipartisan partners.

(7) Send witness letters, each spelling out the issues to be addressed by the selected witness.

(8) Create hearing charts to illustrate key points—work with bipartisan partners.

(9) Select documents for hearing exhibits; number and redact; create packet for hearing.

(10) Draft opening statement, questions, press release, and possibly background memo.

(11) Meet with bipartisan partners about hearing issues, tone, possible solutions.

(12) Conduct briefings for any other hearing participants or outside parties.


(14) Conduct hearing; release opening statement, write-up of investigation, charts, exhibits.

(15) Draft post-hearing questions, issue any referral letters; make bipartisan if possible.

(16) Take actions to address identified problems —reforms, follow-up meetings, bully pulpit.
Investigative Plan

Focus of Inquiry, including possible factual questions and policy issues:

Possible Investigative Partners:

Possible Service Agency:

Possible Research & Experts:

Possible Preliminary Briefings:

Possible Document Requests:

Possible Interviews:

Other:
State Legislative Report Plan

Who Will Work on Report:

Possible Report Request:

Possible Report Title:

Possible Topics for Factual Findings:

Possible Areas for Policy Recommendations:

Possible Major Report Sections:

List of Possible Reviewers (Agency; Officials; Bipartisan Partner; Targets):

Possible Timeline
   Deadline for initial draft:
   Deadline for completion of internal reviews:
   Deadline for revised draft:
   Deadline for completion of bipartisan review:
   Deadline for revised draft:
   24-Hour period for draft to be reviewed by targets:
   Deadline for public release:
State Legislative Hearing Plan

Panel One: ________________
Main points to be made by this panel:

Hearing charts and exhibits:

Witnesses, with key questions for each:

Panel Two: ________________
Main points to be made by this panel:

Hearing charts and exhibits:

Witnesses, with key questions for each:

Panel Three: ________________
Main points to be made by this panel:

Hearing charts and exhibits:

Witnesses, with key questions for each:
Hearing Media Plan

Early release of a report?
   How many days before the hearing?
   Press release, press calls, or press conference?
   Participants?

Press advisory on hearing?
   How many days before the hearing?

Press release on hearing?
   How many days before the hearing?

Press conference on hearing?
   How many days before the hearing?
   Participants?
   Exclusive or broad release?

Individual press calls?
   How many days before the hearing?
   Who makes them?
   What message?

Post-hearing press release?

Other post-hearing press events?
   On supplemental report, new findings, or developments?
   On follow-up with agencies or private sector entities?
   On referral letter?
   On floor statement or speech?
   On introduction of reforms?

Op-ed or column?
State Legislator’s Follow-Up Plan

Immediate Hearing or Report Follow-Up
(Post-hearing letters, report distribution list, referral letters, additional research)
Items:
Timeline for each:

List of Possible Reforms

Follow-Up with Agencies
Goal:
Activities:
Timeline for each:

Follow-Up with Private Sector Entities
Goal:
Activities:
Timeline for each:

Rulemaking or Legislative Recommendations
Items:
Activities:
Timeline for each:

Bully Pulpit
/Public statements, speeches, op-eds, columns, media interviews/
Items:
Timeline for each:

Other
August 7, 2016

Alan Miller
President, AFSCME Local Union No. 405

Dear Representative Smith:

I am writing to you today about the poor returns being earned by the State Investment Fund, which invests not only state and local taxpayer dollars, but also money from multiple pension funds supporting state and local police officers, fire fighters, teachers, and other government workers, including state legislative employees. As you may know, the recent state audit report shows that the $30 billion State Investment Fund has earned less than a 2% return in each of the last five years, lagging far behind its investment goals. The state actuary now predicts a likely shortfall in retirement benefits beginning in 2030. The purpose of this letter is to urge your committee to undertake an intensive investigation of how the State Investment Fund is being managed.

As you know, the State Investment Fund is overseen by the State Investment Board, which has seven Trustees led by longtime Board Chair Charlie Green. The Board employs its own team of investment professionals and also uses three outside money management firms. The Board’s investment team is led by Executive Director John Aldridge and Chief Investment Officer Joe Baker. The three outside money managers are Able Investments, an established money manager that is located in the state capital and handles about $10 billion of the fund’s assets; Wall Street Partners which is located in New York City and manages about $5 billion; and Security Fidelity Investments which is here in our state and about two years ago was awarded a contract to invest up to $1 billion in “alternative,” “higher yield” investments.

None of the three money managers has turned in the performance expected; in fact, all three have been out-performed by the state’s own investment team. Rumors are circulating that the outside money managers are charging high fees, involving the state in inappropriate high-risk investments, and using younger, inexperienced personnel to invest the state’s funds. There is even a rumor that some of the funds have been embezzled.

I don’t know if any of those rumors are correct. What I do know is that the State Investment Board’s returns over the last five years are unacceptable and noticeably below what is reported by other state funds. We urge you to take a close look at what is going on and take the steps needed to protect workers’ pensions before it’s too late.

Thank you for your attention to this critical issue. If you would like more information, feel free to call me at any time.

Sincerely,

Alan Miller
Evaluation for August 8, 2016 NCSL
Levin Center Legislative Oversight Workshop

What did you like about the workshop (not including the instructors—that’s the next question)?

How were the instructors?

Please rate the value of the following activities on a scale of 1-5, where 5 is the highest score, and let us know what you found useful and not useful about each:

Working on an Investigative Plan:

Working on a Hearing Plan:

Handouts:

How could future oversight workshops be improved?

How was the workshop in promoting bipartisan investigations? What could we do better?

Would you be interested in attending a more comprehensive training on oversight skills and practices?

Would you attend a two-day training session in Detroit?

If not, would you attend if your travel and lodging expenses were covered?

If you would be willing to discuss the workshop further, please provide contact details:
Having returned to Michigan after 36 years in our nation’s capital, I am often asked how I dealt with the infighting, gridlock, and partisanship that too often overwhelms Washington, leading to chaotic government and a growing list of unsolved problems. I’m asked whether I believe Congress is broken.

I do not. My years in the U.S. Senate defy that conventional view of Congress, in part because I spent much of my time immersed in the world of oversight, wielding bipartisan tools that provided a powerful antidote to the ills that often plagued the rest of Washington. Oversight enabled me to work with Senate colleagues from both parties to analyze complex problems, develop reforms and effect real change.

Two examples involving credit cards and the financial crisis illustrate what I mean. Not too long ago, unfair credit card practices were rampant. Banks that issued credit cards were unilaterally raising interest rates on families in debt, even for those paying their debt in compliance with bank rules. Banks were charging multiple over-the-limit fees for exceeding a card limit once, and even charging interest on debt already paid.
My subcommittee launched an oversight investigation. We commissioned a report, collected examples of abuses and held hearings to confront the bank CEOs, some of whom changed their practices in response. In 2009, Congress enacted bipartisan legislation that put a stop to most of the credit card abuses we documented. It was a slam dunk for hundreds of millions of credit cardholders.

In 2008, the financial crisis hit. As the economy went into a tailspin, millions of American families lost homes and jobs. My subcommittee again launched an investigation, producing the only bipartisan report in Congress on key causes of the crisis. We showed how high-risk mortgage loans proliferated, how regulators permitted the increasing risk, how credit rating agencies characterized loan-related financial products as safe when they weren’t and how investment banks knowingly bought and sold toxic loans, some profiting hugely when the loans failed. In 2010, Congress enacted the Dodd-Frank Act, creating the strongest new financial protections in a generation to shield American families from predatory practices. Oversight played a key role.

These and dozens of other investigations show how oversight can produce dividends even in an otherwise dysfunctional Congress. It can analyze problems and lay the groundwork for reform. It is good government writ large. That’s why promoting effective oversight is the focus of the new Levin Center that recently began operating at Wayne State University Law School in Detroit, working with a bipartisan advisory board led by well-known attorney Eugene Driker. Board members include former Senators Tom Daschle, Tom Coburn, Jay Rockefeller and Olympia Snowe, as well as prominent leaders in law, business and the community from Michigan and Washington.

Of course, not all oversight is constructive. Joe McCarthy’s bullying tactics, unfair questions and one-sided investigations still resonate as an example of abusive congressional oversight. He chaired, by the way, the U.S. Permanent Subcommittee on Investigations, the same one I chaired for many years while in the Senate. His actions set the standard for how not to do oversight.

The kind of oversight I support is very different. It requires an in-depth examination of specific case studies to uncover the facts behind a problem. It is relentlessly bipartisan, requiring investigators with different views to work together to dig into what happened, asking as many questions as it takes to reach consensus on key facts. That takes time – two weeks or even two months isn’t enough to build bipartisan trust and a common view of the facts – it takes much longer. Writing up the facts, holding hearings, and recommending reforms are the next steps in an effective oversight effort.

Critics scoff that Washington is incapable of in-depth, bipartisan, fact-based investigations, but our track record proves otherwise. I’ve seen it done. Our inquiries produced stronger anti-money laundering safeguards, measures to combat health care fraud, cleaner Great Lakes, and steps to stop offshore tax evasion, corruption and corporate misconduct.

The Levin Center is designed to be a catalyst for that type of action, encouraging legislative bodies at all levels – from city councils to state legislatures, Congress, and international organizations – to engage in better oversight to solve problems. Our plans include offering practical educational and training sessions taught by proven investigators, such as oversight bootcamps that teach participants how to design investigative, hearing and follow-up plans. Effective oversight techniques aren’t rocket science – most are common-sense procedures requiring fairness, persistence and patience.

The Levin Center also plans to offer courses, conferences and research to promote the value and mechanics of effective oversight, as well as internships and fellowships to build a cadre of individuals versed in oversight as a means for change.

Oversight, when done well, can improve government operations, bridge political divides and stop abuses in the public and private sectors. The Levin Center is intended to become the premier place for training, education and scholarship on fact-based, in-depth, bipartisan oversight. Its ultimate objective is to improve the quality of public policy decision-making through fact-based inquiries. We hope the Center’s work will enrich not only Detroit and Michigan, but our country as a whole.
Workshops led by bipartisan investigators, with decades of congressional experience, in sessions as short as two hours or as long as two days. 

Topics may include:
• How to plan an investigation
• How to involve all parties
• How to ask for and review documents
• How to identify and interview witnesses
• How to draft a report
• How to organize a hearing
• How to work with the media

Leading the way to ... Producing ... Improving your ...
• Bipartisan • Integrity • City/county
• Fact-based • Transparency • Tribe
• In-depth • Accountability • State
oversight and investigations in public policy • National legislature

What we can do for you
Workshops led by bipartisan investigators, with decades of congressional experience, in sessions as short as two hours or as long as two days.

We will tailor training to your specific needs.

Our unique mission
The Levin Center at Wayne Law honors Carl Levin, Michigan’s longest-serving U.S. senator.

During his 36 years in the Senate, he was admired for in-depth, fact-based, bipartisan oversight investigations on major issues.

Part of the mission of the Levin Center is to ensure these techniques are passed on to legislators, their staffs, public officials and future attorneys.

Contact us for details: levincenter@wayne.edu  •  313-577-2731