

IOWA TRANSPARENCY NEWSLETTER



Practical Transparency: Making the People's Business Known

by Justin Jenkins

“Keep your eye everlastingly on those who administer your governmental units for you; your town, your county, your State, your National Government. Make them understand that you are applying the rule of thrift and savings in your personal affairs, and require them to apply it in their management of your public affairs. If they fail, find other public servants who will succeed. If they succeed, give them such encouragement and inspiration as will be represented by a full measure of hearty appreciation for their efforts.”

~ President Warren G. Harding¹

Perhaps most notable about President Harding's articulate call for government transparency was his repeated use of the possessive pronoun “your,” by which he meant “the people.” He admonished his audience to observe watchfully those who oversee “your governmental units for you: your town, your county, your State, your National Government.” He became even more specific when he referred to the government's “management of your public affairs.” President

Harding understood the key principle underlying government transparency, which is the fact that the government is a public servant of the people, and that the government's affairs are the people's business. Unfortunately, when the state fails to undertake needed measures to foster openness and accountability, taxpayers are often left with little idea about what “their” business entails — or how much they're paying for it.

In the State of Iowa, we the people should call upon our government officials to enhance transparency in two essential ways. First, the State should close loopholes in its current open records and open meetings laws, thereby holding local governing bodies to high standards of public disclosure. Second, the State should take an important step to improve its own effort at transparency by building, updating, and maintaining an online, user-friendly information database that would provide citizens with easily accessible information regarding state expenditures at no charge. Interestingly enough, both of these proposals appeared as bills in the State General Assembly this past session. Unfortunately, both measures languished and died.

Apparently, “Iowa transparency” includes letting Iowa taxpayers into a meeting just long enough to watch their elected officials press a green or red button and then adjourn. How does this work? Well, good citizen, meet the “walking quorum meeting,” at which small, non-quorum clusters of a governing body cycle in and out of a meeting chamber to discuss policy. So long as there are never enough members in the room at one time to make quorum, no public meeting legally exists. Once these roving policymakers have hashed out the policy question sufficiently, they may then convene a public meeting and vote on the question with little or no discussion. Think “walking quorum meetings” sound far-fetched? Well, they are exactly the loophole for which the current Iowa open meeting law allows.²

Here's a real life example of how this circumvention of state transparency requirements works. In 2004, the Polk County Board of Supervisors and the Des Moines City Council decided to meet to discuss a matter pertaining to public funding of the Prairie Meadows Racetrack and Casino in Altoona. To avoid a public meeting, “no more than two members of the five-person county board would

IOWA TRANSPARENCY NEWSLETTER

October 2008

Volume 1, Number 2

Public Interest Institute

Dr. Don Racheter,

President

IOWA TRANSPARENCY NEWSLETTER is a monthly newsletter reporting on government transparency in our state.

IOWA TRANSPARENCY NEWSLETTER is published by Public Interest Institute at Iowa Wesleyan College, a nonpartisan, nonprofit, research and educational institute whose activities are supported by contributions from private individuals, corporations, companies, and foundations. The Institute does **not** accept government grants.

Contributions are tax-deductible under sections 501(c)(3) and 170 of the Internal Revenue Code.

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meet with no more than three members of the seven-person Des Moines council."³ This series of meetings eventually allowed the present members of both bodies to obtain the same information sans the nuisance of opening their proceedings to taxpayers.⁴ One burning question remains: Don't you, as an Iowa taxpayer, have the right to be in on discussions — and not merely votes — on how to spend your hard-earned tax money? If so, then calling the kind of Polk-Des Moines foolishness "transparency" makes a mockery of citizen-based governance.

In addition to loopholes in the open meetings law, gaps also exist in the State's open records regulations. Enter the defunct Central Iowa Employment and Training Consortium (CIETC), an intergovernmental agency which received grants to provide training and employment programs in eight Iowa counties as well as the City of Des Moines. The CIETC was rolling merrily along when a "report issued by the Office of Auditor of State on March 31, 2006, identified unallowable uses of federal funds, including excessive compensation for CIETC executive employees, improper allocation of salaries and supplemental payments to federal grants and indication of 'less than arm's length' transactions between Iowa Workforce Development and CIETC." In addition, the audit discovered that CIETC had failed to document certain financial transactions and information in its records, committed "significant cost allocation errors," and failed to comply with other requirements pertaining to its activities.⁵ At the criminal trial, a former CIETC accountant was found guilty of twenty-nine charges related to what prosecutors called a three-year conspiracy to inappropriately

pad CIETC salaries. All in all, the misappropriated funds totaled around \$1.5 million in taxpayer money.⁶

During this past legislative session, the Iowa General Assembly had an opportunity to prevent such debacles as the "Polk County Polka" and CIETC scandal from recurring. The Iowa Senate passed measures which would have accomplished a number of positive changes, such as banning roaming gnome focus groups and requiring public disclosure of "subcontracts involving public boards and outside organizations" (the latter requirement being a direct response to the CIETC fiasco).⁷ In addition, the proposal would have created a state commission,⁸ known as the Iowa Public Information Board,⁹ with authority to enforce Iowa's transparency regulations and to investigate citizen-alleged violations of sunshine laws by Legislators and court clerks — two powers which the State Ombudsman's Office currently does not possess.¹⁰ This legislation, originally identified as Senate File (SF) 2411, would have enhanced Iowa transparency by closing some of the loopholes in current open records and open meetings laws¹¹ and by providing a mechanism for enforcement of those laws. Earlier this year, state legislative leaders reportedly called these kinds of changes a "top priority." Now that top priority is dead.¹²

In addition to SF 2411, which would have enhanced local government transparency, the Legislature also failed to deliver on a measure which would have improved openness on the state level. On February 28, Iowa Representative Jamie Van Fossen (R-District 81)¹³ introduced House File (HF) 2439,¹⁴ a bill instructing the Iowa Department of Management to establish,

no later than January 1, 2010, a “searchable budget database web site” to provide taxpayers with information regarding the amounts, recipients, purposes, and projected outcomes of state expenditures, including all “grants, contracts, and appropriations.” The bill would have mandated that all state agencies (including state universities) regularly provide the Director of the Department of Management with required information for publication on the website and that the Director update the website a minimum of once a year.¹⁵ On March 4, HF 2439 was referred to a House State Government Subcommittee.¹⁶ No meeting was ever held, and the bill died with adjournment.

Why are our state Legislators balking at the notion of shedding more light on the government’s business? If they are confident that their management of “our” affairs is acceptable, why are they so reluctant to open it to public scrutiny? Bill Woodruff, a contractor who spent \$1,000 out of his own pocket to collect information regarding financial matters in the Ames school district, has his own theory about the State’s inaction: “The government is kind of a big family, and it’s almost impossible to get it to act against its own family.”¹⁷ Not surprisingly, many members of this family, such as the School Administrators of Iowa, the Iowa Association of School Boards, the Iowa League of Cities, and the Iowa State Association of Counties, produced lobbyists against SF 2411!¹⁸

What is desperately needed in Iowa is a conscientious move toward practical transparency. “Practical transparency” is a term coined by The Sutherland Institute, a Utah-based think tank, and it means the provision of useable information in a format conducive

to clear comprehension and easy configuration.

Configuration is both the aggregation and, conversely, the partitioning of data into a limitless number of forms to serve the research purposes of each individual citizen. The dispersal of budget information across a gaggle of complex printed records requiring tedious examination is unacceptable, as is a system which requires citizens to submit, by fax or snail mail, a written request for specific information from a government bureaucracy.¹⁹ While the availability of budget information is a minimal criterion for transparency, practical transparency requires that such information also be easily accessible and comprehensible to the layperson.

Information was not readily accessible when details of government business were recorded on paper. With the advent of the Internet, however, the potential for transparency has increased dramatically.²¹ The preeminent model of practical transparency is a free, searchable, and continually updated website with user-friendly configurative and cross-referencing capabilities. A good rule of thumb is that the degree of practical transparency achieved is inversely proportional to the number of mouse clicks required to find the desired information.

An excellent example of an online budget database is the Missouri Accountability Portal (MAP).²² Updated daily, the MAP is the Missouri citizen’s hub of information regarding state agency expenditures, tax credits for economic development, and state employee salaries.²² Visitors to the MAP may search by “State Agency,” “Expenditure Category,”

“Contract,” or “Vendor.”²³ Each of these categories contains a spreadsheet of expenditures for more particular categories, which in turn link to categories of progressively greater specificity. The MAP is practical transparency at its best. What a shame that Iowa passed up the chance to implement its own Accountability Portal.

As of the July 2008 edition of *Inside ALEC*, a publication of the American Legislative Exchange Council, Legislators in twenty-eight states had introduced measures this year to increase government transparency. In 2007, the states of Hawaii, Kansas, Minnesota, Oklahoma, and Texas all passed budget transparency legislation, and Governors in four additional states issued executive orders calling for the creation of transparency websites similar to the one envisioned by Rep. Van Fossen.²⁴

It is high time for Iowa Legislators to follow suit. If money is a concern, our General Assembly might consider engaging in a partnership with the private sector, an option which could potentially help defray some of the costs associated with implementing budget accountability systems. “Tech companies based in-state are often able to help set up the site and there remains the possibility of free assistance with programming and source code from companies like Microsoft and Google.”²⁵ The bottom line is that the means for making increased transparency a reality are there, and money spent on transparency is money well spent.

If our elected and unelected governing officials truly are public servants, then the people, as their supervisors, should expect full disclosure of their operations. Transparency is the tires on the

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NONPROFIT ORGANIZATION
U.S. POSTAGE PAID
MAILED FROM ZIP CODE 52761
PERMIT NO. 338

wheels of democracy. Without them, democracy may roll along, but the ride will be extremely rocky, and only a matter of time will determine whether the whole vehicle will be shaken to pieces.

Endnotes:

¹President Warren G. Harding, "Address of the President of the United States on Taxation and Expenditure at Salt Lake City, Utah," Government Printing Office, June 26, 1923.

²"Bills make government more transparent," editorial, *Waterloo-Cedar Falls Courier*, March 4, 2008.

³"Strong sunshine laws are needed," *Waterloo-Cedar Falls Courier*, May 1, 2008.

⁴"Bills."

⁵Office of Auditor of State of Iowa, State Capitol Building, Des Moines, Iowa, News Release, April 4, 2008, pp.1-2, <<http://publications.iowa.gov/6135/1/0614-1602-B00F.pdf>> (August 6, 2008).

⁶Jeff Eckhoff, "CIETC outrage

not near end," *The Des Moines Register*, July 18, 2008, <<http://www.desmoinesregister.com/apps/pbcs.dll/article?AID=/20080718/NEWS05/807180366>> (August 6, 2008).
⁷"Strong."

⁸Lee Rood, "'Sunshine bill' failed to rise," *The Des Moines Register*, May 7, 2008.

⁹Dan Gearino, "Time runs out on rewrite of sunshine laws," *Waterloo-Cedar Falls Courier*, April 17, 2008.

¹⁰Rood.

¹¹"Strong."

¹²Rood.

¹³"Representative Jamie Van Fossen," The Iowa Legislature, <<http://www3.legis.state.ia.us/ga/member.do?id=42&ga=82>> (August 4, 2008).

¹⁴State of Iowa House Journal, February 28, 2008, p. 432, <<http://www.legis.state.ia.us/pubs/hjweb/pdf/February%2028,%202008.pdf#page=5>> (August 6, 2008).

¹⁵House File 2439, 82nd General Assembly, <<http://coolice.legis.state.ia.us/Cool-ICE/default.asp?Category=billinfo&Service=Billbook&ga=82&hbill=HF2439>> (August 4, 2008).

¹⁶State of Iowa House Journal, March 4, 2008, p.491, <<http://www.legis.state.ia.us/>

pubs/hjweb/pdf/March%2004,%202008.pdf#page=10> (August 6, 2008).

¹⁷Rood.

¹⁸"Lobbyist Declarations for SF 2411," Iowa General Assembly Bill Book, Iowa Legislature, <<http://coolice.legis.state.ia.us/Cool-ICE/default.asp?Category=Lobbyist7Service=DspReport&ga=82&type=b&hbill=SF2411>> (August 5, 2008).

¹⁹"Why Transparency?" The Sutherland Institute, Policy Brief, February 15, 2008, pp.1-2, <http://www.sutherlandinstitute.org/uploads/Why_Transparency_Policy_Brief.pdf> (July 28, 2008).

²⁰Jonathan Williams, "States Fight for More Transparency and Accountability in Budgets," *Inside ALEC*, July 2008, p. 6.

²¹Ibid.

²²Missouri Accountability Portal, Home Page, <<http://mapyourtaxes.mo.gov/MAP/Portal/>> (July 28, 2008).

²³Ibid., Expenditures, <<http://mapyourtaxes.mo.gov/MAP/Expenditures/>> (July 28, 2008).

²⁴Williams.

²⁵Ibid.

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