

IOWA TRANSPARENCY NEWSLETTER



Hiding Something in Plain Sight Actually Works Pretty Well

by Doug Stout

“Eternal vigilance is the price of liberty.” – Thomas Jefferson¹

It is time for all levels of government to let the “sun shine in” on their public records. The internet and the level of general and affordable access to on-line information have made a more open process both possible and affordable. We must all demand more accountability and more “useful and understandable information” from our public entities.

As part of its effort to be a positive force in bringing more sunlight into the workings of our state government, the Public Interest Institute is creating a website to offer more information to the public. The transparency web site will be located at www.iowatransparency.org. It will add to the “openness” agenda by providing data on how state Legislators are voting on bills that impact your wallet. It will also show how state expenditures would be impacted if all of the legislation sponsored by

your elected representatives had actually been passed into law.

Searchable databases and the ability to see what your government is doing from the comfort of your own desk, in your own home, has made “eternal vigilance” no longer a life-changing endeavor. Interested citizens and journalists at all levels should now be able to keep an eye on even the most mundane expenditures and activities of their government without needing the investigatory budget of the *Washington Post* or the *Wall Street Journal*.

The problem with government “in the shade” was not usually that necessary information had not been recorded somewhere; most often it was just disguised as a “tree” conveniently hidden in a vast forest of information, located in the basement of the city courthouse or in the state law library. There will, of course, always be a few scoundrels and scandals in every sector of our society and those

officials with clearly improper intentions. However, just as dangerous to the credibility of the elected government are those decisions and expenditures which are made with the relative certainty that they will never be uncovered or examined by the public eye. Those decisions create terrible temptations for government officials to pursue their own agendas rather than an agenda that the taxpayer would be more comfortable with, even if their intentions are well meaning and the actions are well within the bounds of the law.

The “hiding in plain sight” concept is often illustrated in movies and television shows about courtroom dramas. The story is common. The small understaffed attorney sues the corporation who has “done their client wrong.” She asks the corporation to provide its files so that she can find the “smoking gun” to prove her case. The corporation “complies” with their legal requirement to provide the information. The “information”

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comes in hundreds of boxes, which are delivered by a fleet of semi-trucks and as a practical matter is virtually useless.

This is often the problem with information from the federal government and from state and even local government. It is not that the information does not exist, but few of us have the time or inclination to find the "needle in the haystack" in government files and records. The information is not kept in a format that is meant to be "user friendly." This is sometimes the intent, or it may just be that it has never been a priority to make the information readily accessible. Bureaucracies have never been known to focus their primary energies on simple and effective public access to their actions.

So what is the most important function of having the "sun shine in" on our public records in a fashion that allows it to be examined in detail? I would assert that the most important feature of the whole exercise is actually deterrence. Deterrence? Why do I say that the most important aspect is deterrence? There is an old saying that there are not enough police in the world to enforce a law which does not have the support of the general populace. We depend on the cooperation and acceptance of the general public to self-enforce most lawful and appropriate conduct.

When following the law or doing the right thing, the aver-

age citizen does not normally make a conscious "cost-benefit" analysis of the odds of getting caught. But they do factor in the "worst-case" scenario of getting caught in an improper activity. Anyone working in the public eye is always told in Iowa not to write anything down officially that you would not be comfortable reading about on the front page of the *Des Moines Register*. Making all public records discoverable in a practical sense brings that same analysis to all our government officials. Don't take any official action that you would feel uncomfortable explaining into a live microphone or in an open city council hearing.

There is another factor to consider. Too often we are very cynical about the actions of our civil servants. In Iowa, most are just normal, hard-working, honest employees. In the course of doing their everyday jobs, many make decisions that result in the expenditures of your tax dollars. They may be following their agencies' interpretation of state or federal law in a reasonable manner, but if those records are not kept in an orderly fashion and readily available, it may never be apparent what the actual cost of those laws or regulations are to the treasury. It may also be hard to discern what unintended consequences those interpretations are having on expenditures.

Good government requires constant adjustments. The world is

a fast changing place and regulations that may have made sense last year may be overtaken by changing dynamics, either in the government or in the private sector. The more oversight and attention that is given to the outcomes of policies and the expenditures that result from them, the better the ability to fine-tune the operations at all levels of government to best meet the public need in the most cost-efficient and sensible fashion.

In the case of your state Legislators, questionable expenditures or votes on fiscal issues tend to be brought up in the “boiling cauldron” of the campaign season, if they are uncovered at all. Most often they are called into question by the opposing party or by the candidate’s election opponent. This is a necessary and important part of the political process. However, the true record of an elected official can often be lost in the political rhetoric. As charges and countercharges fly back and forth, the typical citizen does not have the information necessary to accurately determine what is relevant and what is political theater. They are sometime left dizzy by the spin of the issues by the political professionals.

The more factual information that can be put relatively easily into the hands of the average voter, the less time they have to take from their busy lives to be an involved and informed public citizen. Political professionals often assume the average

individual lives and breathes politics, because that is the case with most of their associates. In actuality, most of us are more concerned about our families, our jobs, our health, our homes, and our cars on a daily basis than on the day-to-day activities of our elected officials.

We take time out from our daily routines to do our civic duties, be good citizens, protect our own interests and the best interests of our state and nation, and try to make wise and informed decisions in choosing our leaders. The more useable information we have in making those determinations, the better choices we are likely to make.

At the federal level, there are many organizations trying to provide the helpful information which a conscientious taxpayer and voter needs in order to make an informed decision. The National Taxpayer’s Union rates every member of Congress to show their voting record on spending legislation for the year.² Citizens Against Government Waste has been trying to better inform the general public about the waste of federal tax dollars since 1984.³ These groups continue to soldier on to uncover and expose the questionable expenditures (and sometimes outright abuses of discretion) that occur in relation to the Congressional appropriation process.

One such effort is the project to publicize and shine light on the

Congressional earmarking process. Earmarking is the process by which Congress specifically directs a government agency to spend money intended for a general purpose, such as bridge repair, for a specific project in their state or Congressional district. This takes away the agencies’ discretion to spend the money where it is objectively needed the most.

You would think shining a bright light on this practice, which for decades took place late in the evening and was buried in obscure report language which accompanies appropriation bills, would make it less common. While the efforts of public watchdogs at least make the efforts more transparent, and perhaps curtail some of the most egregious and indefensible projects, earmarking continues unabated even as we speak. It is a bipartisan endeavor which redirects money away from the most urgent needs of our nation.

One problem is that earmarking is in the eyes of the beholder. While money spent in another part of the country may be seen as an indefensible earmark, money spent in your district may be seen as a worthy investment in infrastructure providing local jobs. Many members look upon such efforts with pride, or at least from the logical perspective, that their failure to seek spending for their own district just means the money will go to someone else’s district, depriving their constituents of an

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equal share of the federal funds distributed.

One would hope that if given the whole picture, the informed citizen would call for an end to all earmarks and see that while the local project may benefit the district, the money being spent in the other 434 Congressional districts on unnecessary or low-priority projects is coming out of their pocket. Groups like Citizens Against Government Waste are helpful in trying to get taxpayers to see the big picture.

Back on the state legislative level, the new website www.iowatransparency.org is just one more tool that we hope can help you make informed decisions when you make your

way to the voting booth. For those of you who have the time and inclination, it is also a way to track the fiscal behavior of your elected officials and to try to influence their choices to more properly reflect your views as a taxpayer.

As Thomas Jefferson said, “Eternal vigilance is the price of liberty.” In today’s complex and complicated world, some sound factual information is helpful in exercising that necessary vigilance. The Public Interest Institute hopes that it is contributing to that pool of factual information for the benefit of the Iowa taxpayer.

Endnotes:

¹ The phrase was used in a speech given by Wendell Phillips on January, 28,

1952. He did not attribute it, but later said it had been attributed to Thomas Jefferson, but that no one had found it in his works. He also said that it had been attributed to Patrick Henry. *Respectfully Quoted: A Dictionary of Quotations*. 1989. <<http://bartleby.com/73/1073.html>> (August 18, 2008) (Other sources attribute it directly to Thomas Jefferson and yet others suggest it may have derived from similar sentiments shared by Irish Statesman John Philpot Curran in 1790).

² “NTU Rates Congress,” *NTU&NTUF*, <<http://www.ntu.org/main/misc.php?MiscID=13>> (August 18, 2008).

³ “Frequently Asked Questions,” *Citizens Against Government Waste*, <<http://www.cagw.org/site/PageServer?pagename=FAQ>> (August 15, 2008).

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