

# IOWA TRANSPARENCY NEWSLETTER



## An Unenlightened Spectacle

by Doug Stout

Apparently the Obama Administration has been more than a little busy recently. Of course, it is tiresome work distributing so much of the taxpayers' money in such a very short time. President Obama did get the "Recovery.gov" site up as promised and we commended him for doing it, although it has yet to meet expectations. However, as the CATO Institute pointed out on April 13, not all of President Obama's transparency promises have been kept so well. They issued a statement relating to President Obama's transparency promises and his pledge regarding the public posting of legislation prior to being signed into law by the President: "...As part of this commitment, he said that the public would have five days to look online and find out what was in the bills that came to his desk before he signed them... He has now signed 11 bills into law and gone, at best, 1 for 11 on his five-day posting promise."<sup>1</sup>

This is an Administration which has prided itself on its ability to multi-task. They can spend money from every department of the federal government at the same time without missing a beat, and he can still make it home in time to take the new puppy "Bo" for a walk and bowl a game in the White House bowling alley before supper, and still be live on Jay Leno's show before the kids are in bed. So you would think that

one of his thousands of staff, if not the President himself, should have the time to post the new legislation as promised.

In the scheme of things, it may not seem as important as some of the other things the Administration has been faced with, but keeping a promise and keeping the public light shining on the process are important parts of accountability. It is a very big Administration and they pride themselves on being tech savvy, so I am sure there are plenty of capable people to handle the task.

On the state level, there just can't be too much transparency when it comes to public information being readily available to the taxpayer. However, it has really been a mixed bag on how much transparency we are getting from our elected officials themselves. We are witnessing all too transparent behavior from some when faced with highly charged policy debates as we came out of the Easter weekend and near the end of the State Legislative session. Senate Democratic Majority Leader Gronstal had said he hoped to have the Legislature adjourned by April 2<sup>nd</sup>. I wish they had accomplished that, I am afraid nothing good is going to come of these extra weeks, at least nothing that will restore our faith in the political process. Recently, in response to a reporter's question, our State Senate Majority Leader,

thought by some to be the real power broker in State Government, said that one of our esteemed Congressman...well, here is the actual quote by Senator Gronstal: "Steve King's too chicken to run for Governor because he knows he'd get his butt beat."<sup>2</sup>

There is no truth to the rumor that the Congressman responded with the old "rubber and glue" line from grade school...about it bouncing off him and sticking to the Senator...but he did respond with a cryptic: "Senator Gronstal is afraid to allow a vote on marriage."<sup>3</sup> I don't know... does this exchange explain what they mean when they talk about political "fear mongering?"

*Des Moines Register* columnist Marc Hansen described our recent demise of civility this way in an April column: "Iowa is fast becoming the angry state. We have people treating words like poison-tip arrows, shouting at one another about same-sex marriage and tax deductibility and school dropout rates."<sup>4</sup>

The unacceptable racial comment made on the floor of the Iowa Senate by Senator Hatch, which led to his public apology, is far too serious of a matter to even make light of when discussing how our public officials and leaders have seemingly lost track of the limits of their rhetorical discretion.

Then we even have our Senior

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United States Senator talking about financial executives taking advantage by drinking the mother's milk of taxpayer sustenance straight from the bottle, so to speak... rather than drinking baby formula I presume. This came only days after his comments that the AIG executives might consider taking sharp knives and removing themselves permanently from the company in a violent manner. I know that the Senator explained that he was just using rhetorical excess, and everyone knows that Iowa's favorite son, a mild mannered, religious farmer and political icon, would never be seen menacing a sharp knife unless there was going to be fresh chicken for dinner. But it was an irresponsible comment to make, and one that was better left unsaid. We can usually count on our Senior Senator to bring a civil tongue to the debate. If there is going to be a statesman representing Iowa in the United States Senate, it surely isn't going to be left to "Give 'em hell Harkin" to keep the debate on a respectable tone as we debate serious issues of fiscal accountability and responsibility?

Our Senior Senator also caught some flack about his initial reaction to the Iowa Supreme Court decision. When asked whether he supports an amendment to the state constitution which would ban gay marriage, he replied: "You better ask me in a month, after I've had a chance to think."<sup>5</sup> He clarified his remarks to indicate the time lapse was only to consider the appropriate strategy to move forward and that he clearly disagrees with the Iowa Supreme Court ruling. He said "Iowans ought to have their say. They ought to be able to decide."<sup>6</sup>

When you are looking for leadership on the state level you normally turn to the Governor. It was reported that he was at a golf tournament in Georgia this month, so he should have had some time to

mull over Iowa's problems. He is in charge of running the state and setting the policy agenda for the state Legislature. For 100 hours he pondered the issue of whether he was "pleased" or "disappointed" with the Supreme Court decision, probably consulting with dozens of politicians, his staff, and interest group leaders to inquire of them whether he was "pleased" or "disappointed" with the decision. In the end, he came down on the side of... well he came down on the side of leaving things as they now stand. This is the conclusion of his statement:

*"Yet, the Supreme Court of Iowa, in a unanimous decision, has clearly stated that the Constitution of our state, which guarantees equal protection of the law to all Iowans, requires the State of Iowa to recognize the civil marriage contract of two people of the same gender. The Court also concluded that the denial of this right constitutes discrimination. Therefore, after careful consideration and a thorough reading of the Court's decision, I am reluctant to support amending the Iowa Constitution to add a provision that our Supreme Court has said is unlawful and discriminatory."*

*"As Governor, I must respect the authority of the Iowa Supreme Court, and have a duty to uphold the Constitution of the State of Iowa. I also fully respect the right of all Iowans to live under the full protection of Iowa's Constitution."<sup>7</sup>*

From a legal perspective, most of us would agree that the Governor should respect the authority of the Supreme Court to interpret the Iowa Constitution and we understand his duty and oath to uphold the Constitution. However, there is a reason that there is an established process to amend the Constitution. One of those reasons is called "checks and balances." If the Supreme Court makes an interpretation of the Constitution which is at odds with

the Legislature's interpretation of the Constitution and of the people of Iowa's interpretation of the Constitution, then it is a proper role of the Legislative Branch and Governor to seek a change to the language of the Constitution being interpreted. It is always the role of the court to interpret what the law means, not to decide what it should have meant. It is the role of the Governor and elected Legislature to determine the correct public policy for the state and to draft statutes, and if necessary propose Constitutional Amendments, to reflect those policy choices.

If the Governor is now saying that he thinks the Court decision was a correct interpretation of the Constitution and the correct policy for the State of Iowa to follow, then that is a policy decision he has made and he should say so. If that is not his position, he should support an orderly, respectful approach to altering the Constitutional language, in the legal manner intended, so that the policy implications are consistent with his view of the proper policy for the State of Iowa and then let the people of Iowa have the final say on what their own Constitution should say about the issue.

If you read his statement carefully, it appears that his conclusion is that he would not seek to change any decision made by the Supreme Court, because if they said it, it must be correct. However, even if you take the legal approach, that if they said it... it must be a correct interpretation of the current language; this still begs the question as to whether the language should be changed?

So on one hand we have a Governor who is not transparent enough in providing leadership on fiscal or public policy issues and a State Senate Majority Leader who could perhaps be more statesmanlike and a little less transparent in throwing around playground insults.

Meanwhile the Legislature still

appears in late-April to be intending to pass a bonding measure of over \$750 million dollars to burden Iowa children with debt, even though the latest Iowa Poll showed that 71% of Iowans opposed the bonding plan.<sup>8</sup> The leaders of both the House and the Senate have now pointed the finger of blame at the Governor of their own party for delaying an early adjournment of the Iowa General Assembly.

*The Des Moines Register* described the lack of openness in this year's legislative process in an April 6<sup>th</sup> *Register Exclusive* in the following manner. The paper bemoaned the lack of transparency this year and gave as one example: "A group of Democratic legislators met in secret for weeks to come up with their own plan to bond for \$700 million over 20 years, challenging Governor Chet Culver's own borrowing plans..."<sup>9</sup>

*The Des Moines Register* article also quotes Judie Hoffman, a lobbyist for the League of Women Voters, as saying: "In some ways, things have improved. There's more openness in the beginning stages of the process. But later on, (Legislators) rarely work out differences publicly anymore. As bills move forward, changes are made behind the scenes, and you're not always sure where or why they are being made."<sup>10</sup>

So, when the important decisions are being made the famous "backroom talks in smoke-filled rooms," are still taking place in our Iowa Legislature. Albeit we can probably assume, without the smoke which formerly fouled the Capitol's air, unless they are violating Iowa's new smoking guidelines. The "good old boy" negotiating deals are still taking place - they may now include a few more women than in the old days - but what they do not include is any oversight by the public, or the members of the press corps, or the light of day shining in on how the deals were being cut and how the

legislation was being shaped.

The Democrat leadership also currently continues to try to find the votes to raise taxes on Iowans by ending federal deductibility even during a severe recession. They seem to have changed the specifics of the legislation on almost a daily basis under the assumption that if they can claim to cut tax rates on 51% of the people, it will be good for the economy of Iowa to raise taxes on the other 49%?! Economists do not agree on many things, but I have not heard one yet who said it was a good idea to raise taxes on anybody during a recession, because it slows down purchasing and stifles job creation. Maybe it would be helpful if they gave up the approach of trading insults and throwing around "locker room" language and made more policy decisions beneficial to Iowa's economy.

Also, at least so far they have failed to conclude work on bipartisan legislation increasing state government transparency by creating a very useful website, which sailed through the House by a vote of 96-3.<sup>11</sup> The site would not solve the problems of legislative secrecy, but would go a long way toward helping to alleviate the public's inability to view spending by state agencies. The proposal, originally proposed by Republican legislative leaders and endorsed by Iowans for Tax Relief, has been lauded by the media, reshaped to suit Democrat concerns, and passed by an overwhelming majority in the Iowa House of Representatives. At this point, it still appears it will be left to languish in the depths of the Senate State Government Committee by Senate Majority Leader Gronstal.

I can only conclude, as originally said by Gideon J. Tucker in 1866, and often repeated by Mark Twain - "No man's life, liberty or property are safe while the Legislature is in session."<sup>12</sup> So I hope you hung on to your wallet, your car keys, and your

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sense of decorum during the last few days of the session. Who knows where the secret deals worked out behind closed doors will next lead this group of overspending legislative leaders...in their elusive search for a rational and responsible fiscal policy? Will they take more money out of your pocket, or bond it out of your children's future tax payments in order to try to keep their spending levels at their current inflated levels? Even the Obama Administration's so called "stimulus payments" to the state have not satisfied their appetite for additional sources of revenue, when every other Iowan is tightening their belt. Make sure you are not waiting for some sign of their intentions directly outside the Capital when they start their dignified rush for the Capitol door exits, probably under the cover of darkness some weekend. I doubt that they will be in the mood to thank you for paying their salaries and expenses and for

making their jobs possible with your tax dollars when they charge the ex-its. The end should come soon; their daily expense allowance has run out for the year.

You will know when the session is over. Just listen for the public address system:

"Ladies and Gentlemen...Iowa taxpayers...Please proceed home. Gronstal has left the building.... please come back next year... and drive home safely. Your funding for this year's festivities makes this show possible and we hope you have really enjoyed this year's spectacle... because your children will be paying for it for years to come. Thank you again and goodnight."

(Endnotes)

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