

INDIANA CENTER ON GOVERNMENT ETHICS: A PROPOSED BIRTH*

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INTRODUCTION

The purpose of this paper is to explore the creation of the Indiana Center on Government Ethics. In this document, I will discuss problems the Center could address, how such a center might function, its potential challenges, and its potential benefits.

I use the term “government ethics” broadly and include matters in which private interests can tilt—or can be reasonably perceived as tilting—public actions. Included in this is campaign finance, where political contributions may be seen as buying either access or outcomes. The term includes the potential impact that professional lobbyists may wield in their interactions with policymakers. It includes election administration, where laws, districting, or management may impact or even preordain election outcomes. Also included are issues pertaining to standards of conduct for individuals serving in government. Ethics, as used here, does not include matters of personal conduct by public servants unrelated to their positions.

The intended audience for this paper includes prospective partners: individuals and organizations that could participate in some way in the concept, development, and operation of the Center. If an ethics center of this type is to succeed in Indiana, it will only happen with the assistance and support of many. Funding, other physical resources, ideas, experience, creativity, and credibility are just a few of the assets that would be required if this concept is to advance. The ideas in this document should be considered only a starting point. Hopefully, those who read this will respond with suggestions for improving upon these ideas.

I. THE PROBLEMS

Every few years, one or more Indiana newspapers publish an exposé detailing an ethics failing of the Indiana General Assembly. These have included the “Statehouse Sellout” series of the 1990’s,¹ the Build Indiana Fund (“BIF”)

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1. Suzanne McBride et al., *Statehouse Sellout: How Special Interests Hijacked the Legislature*, INDIANAPOLIS STAR, Feb. 11-15, 1996, at A1; Suzanne McBride & Janet E. Williams, *Statehouse Sellout: Business as Usual*, INDIANAPOLIS STAR, Apr. 13-15, 1997, at A1; Suzanne McBride & Janet E. Williams, *Statehouse Sellout: Following the Money*, INDIANAPOLIS STAR, Aug. 10-13, 1997, at A1; Suzanne McBride & Janet E. Williams, *Statehouse Sellout: The Business of Lawmaking*, INDIANAPOLIS STAR, Jan. 18-20, 1998, at A1; Suzanne McBride & Janet E. Williams, *Statehouse Sellout: The Prospects for Change*, INDIANAPOLIS STAR, Mar. 1-3, 1998, at A1.

problems from 2001,² various articles on “revolving door” issues,³ as well as potential conflicts of interest between members’ legislative duties and their careers.⁴

What is rarely examined is the institutional failing within the Indiana legislature to establish a comprehensive ethics structure as so many other state legislatures have done.⁵ Such a program, with professional staff, could establish arms-length and specific standards of conduct; develop a body of advisory opinions, precedents, and casework; and provide ethics training to legislators and staff. What little ethics guidance exists now emanates largely from informal discussions between members—sometimes within the ethics committee framework—but virtually never with a written record. A more formalized ethics structure might also have the capacity to head off programmatic failings such as those built into BIF.

Although committees on ethics exist in both houses of the legislature, they are woefully ill-equipped, structurally and otherwise, to provide the type of independent, pro-active approach that is needed. Such an arms-length ethics program exists in the executive branch.⁶ It exists, to at least some degree, in most legislative branches in other states—but not in Indiana. This vacuum makes it inevitable that problems will arise—and then fester.

Legislators are not the only group of Hoosier public servants in need of an ethics structure. Most local governments in Indiana have the same problem.⁷ Although many states extend coverage of civil ethics laws to at least some local officials, Indiana does not.⁸ The jurisdiction of the Indiana State Ethics Commission is limited to the executive branch of state government. With the exception of criminal penalties—applicable only in extreme circumstances—most local officials have no guidelines concerning conflicts of

2. Michele McNeil Solida, *Projects Get Millions in Violation of State Law*, INDIANAPOLIS STAR, June 24, 2001, at A1.

3. Kelly Lucas, *Former House Speaker Turns Lobbyist*, IND. LAW., Dec. 5-18, 2001, at 5; Mary Beth Schneider, *Legislator Follows Trend with Departure*, INDIANAPOLIS STAR, Nov. 21, 2001, at B1; Tim Swarens, *Unwilling to Resist the Lure of Gamin Industry’s Call*, INDIANAPOLIS STAR, Nov. 21, 2002, at A26.

4. Janet E. Williams & Suzanne McBride, *Personal Stakes Anchor Some Legislation*, INDIANAPOLIS STAR, Jan. 19, 1998, at A1.

5. For information and examples of other states’ legislative ethics structures, see National Conference of State Legislatures Center for Ethics in Government, *State Ethics Commissions: Jurisdiction*, http://www.ncsl.org/programs/ethics/ec_jurisdiction.htm (last visited May 18, 2006).

6. See the Indiana State Ethics Commission, as governed by IND. CODE §§ 4-2-6-1 to -14 (2005); Ethics and Conflicts of Interest. For examples in other states, see the National Conference of State Legislatures Center for Ethics in Government, *supra* note 5.

7. A few municipalities have their own ethics ordinances, usually including a board or commission. These include: Indianapolis/Marion County, Fort Wayne, Kokomo, Jeffersonville, Valparaiso, and Portage.

8. David H. Maidenberger, *Ethics Update*, COUNCIL ON GOVERNMENTAL ETHICS LAWS (COGEL), Dec. 2000.

interest, gifts, nepotism, or personal use of government property. As a result, problems commonly arise. A few examples include:

- A mayor accepted an all expense paid trip to an out-of-state football game, as well as other gifts from vendors of other city projects. No law, civil or criminal, was violated. There was no disclosure requirement.⁹
- Another mayor used a city credit card to charge more than \$8000 in personal expenses, including wedding rings, finance charges, and late fees. Following a state audit, he took out a personal loan and paid off the card. The county prosecutor said no laws were broken.¹⁰
- A county commissioner, whose public responsibilities included approval of all county spending, sold air filtration systems to county agencies. The Commissioner filed disclosure statements for several, but not all, of the sales.¹¹ The little known disclosures legitimized the disclosed sales under a Byzantine state law.
- A county assessor hired both her mother and her sister to work in her office. Only one of her six person staff was not related to either the auditor or her chief deputy.¹² No law governs nepotism in local offices in Indiana.

Similar failings exist in campaign finance and election law in Indiana. The Washington-based Center for Public Integrity gave Indiana a failing grade in a study examining campaign finance enforcement, filing requirements, and reporting laws for state political party organizations. It is not the first such grade for our state.¹³

Indiana government has taken a piecemeal approach at best to campaign finance matters. Historically, Indiana law has focused almost exclusively on disclosure with few restrictions on how funds may be donated to candidates and spent by their committees.¹⁴ Even so, its system of disclosure, although better in

9. Diana Vice & Arline Sprau, *Mayor Heath Admits Taking Gifts from City Vendor*, FAMILY TIMES (Lafayette, Ind.) Fall 1999.

10. Cathy Kightlinger, *Mayor Henry Pays off City Credit Card*, CHRON.-TRIB. (Marion, Ind.), Aug. 17, 2001, at 1.

11. Tim Logan, *No Charges for Elkhart County Official; State Audit Uncovers No Wrongdoing*, SOUTH BEND TRIB., Oct. 19, 2001, at A2.

12. *Elected Officials Often Hire Their Own When Jobs Are Vacant*, INDIANAPOLIS STAR, June 9, 2000.

13. The Center for Public Integrity conducted a survey in 2002 examining the reporting, filing, public access, and enforcement filed by state-wide political party committees. Indiana scored a 56 and ranked 32 out of 50, warranting a failing grade. The Center for Public Integrity, *Disclosure Rankings: Nationwide Numbers*, <http://www.publicintegrity.org/partylines/report.aspx?aid=664> (last viewed May 18, 2006).

14. EDWARD D. FEIGENBAUM & JAMES A. PALMER, CAMPAIGN FINANCE LAW 2000: A SUMMARY OF STATE CAMPAIGN FINANCE LAWS WITH QUICK REFERENCE CHARTS (2000) (containing Indiana-specific information in charts 2A and 3A); Janet E. Williams & Suzanne McBride,

certain respects than in some states—thanks to technological innovations—still omits information that many observers find to be important elements of a disclosure system.¹⁵ Indiana never imposed limits on the amounts that individuals or political action committees could contribute to campaigns, leaving itself vulnerable to concerns that one or a few groups can buy the loyalty of—or access to—a public official by financing a large portion of a campaign.

Conventional forms of public financing of campaigns have never been seriously debated in Indiana. Record amounts of funds are often spent on competitive races. Enforcement of what few restrictions exist can be hamstrung by an “FEC-like” election commission, where equal numbers of members are nominated by political party chairs. Local enforcement of campaign finance laws is handled—or ignored—by county election boards with local news media often ill-equipped to provide significant information about local campaign funding and spending. Questions also exist on campaign expenditures. Among them: What are legitimate uses of funds? How much specificity is expected on disclosure of expenditures?

Campaign finance is but one entry point for private interests to skew governmental actions. Others include the private interests of public servants—and elections, where limiting competition can predetermine the outcome. Another significant entry-point in Indiana is lobbying. Our lobby law, rife with ambiguities and inconsistencies, fails to cover many potentially significant lobbyist-legislator interactions. It is based largely on disclosure rather than regulation. Auditing and enforcement are often hamstrung by structural problems with the law.

Non-existent in Indiana is a non-governmental organization that is able to consistently monitor issues related to government ethics. Common Cause Indiana¹⁶ does an admirable job in offering feedback for media consumption, monitoring legislation, and providing committee testimony on ethics, election, and campaign legislation. However, its voice is a lonely one in the Statehouse. The organization is not equipped for ongoing policy analysis and development.

Campaign Expenses Padded with Perks, INDIANAPOLIS STAR, Aug. 19, 1997, at A1.

15. According to *Plugging in the Public*, federal law, the District of Columbia, and twenty-seven states require the contributor’s occupation and employer to be reported. ELIZABETH HEDLUND & LISA ROSENBERG, CENTER FOR RESPONSIVE POLITICS, PLUGGING IN THE PUBLIC: A MODEL FOR CAMPAIGN FINANCE DISCLOSURE (1996), http://www.opensecrets.org/pubs/law_plug/plugindex.html. Indiana law does not require disclosure of one’s employer and requires that occupation be disclosed only for contributions above \$1000. IND. CODE § 3-9-5-14 (2005). A 1998 *Indianapolis Star* survey indicated that ninety-six percent of readers favored tougher campaign finance reporting requirements. Suzanne McBride & Janet E. Williams, *Special Interest Influence Should Be Curbed, Readers Say*, INDIANAPOLIS STAR, Mar. 3, 1998, at A4.

16. See Common Cause Indiana, Homepage, <http://www.commoncause.org/site/pp.asp?c=dkLKN1MQIwG&b=192843> (last visited May 18, 2006). Common Cause is a nonpartisan nonprofit advocacy organization founded in 1970 by John Gardner as a vehicle for citizens to make their voices heard in the political process and to hold their elected leaders accountable to the public interest.

News organizations can be effective in reporting on a problem after it has reached a critical point. But no one is charged with the task of establishing, monitoring, advising, or enforcing non-criminal standards of conduct in much of state and local government.

What is lacking in Indiana is a means to work through these issues. Neither within nor beyond government does there exist a structure dedicated to analysis and improvement on such matters. The creation of the Indiana Center on Government Ethics (“ICGE”) is proposed to fill this void.

II. THE INDIANA CENTER ON GOVERNMENT ETHICS¹⁷

The Indiana Center for Government Ethics would be a non-profit, non-governmental public policy organization that would objectively assess and focus on government ethics problems. In addition to policy analysis, the ICGE would offer policy options to lawmakers and administrators. It would work to place these problems—and prospective solutions—on the public radar screen and to actively nurture change.

The ICGE would work with public officials, the news media, and the public in undertaking this mission. It would take the point of view that government and public service are necessary and worthy. Its focus would primarily be on Indiana government, both state and local.

The mission of the ICGE would be to elevate government ethics issues in the Hoosier consciousness, focusing public attention on these issues, assisting in the development and analysis of government ethics policies, and providing information and alternatives to Hoosier policymakers and citizens.

A. Issues

What are government ethics issues? As used in this document, government ethics issues are those in which governmental action can be inappropriately influenced by factors involving private interests. That private citizens can and must impact governmental processes is a hallmark of our democracy. Seeking to impact government with speech, protest, and similar actions is quite different, however, than doing so through means considered inappropriate or unlawful. Bribery is certainly beyond the pale of acceptability. Not all such actions are so obvious. In many instances, there are not clear lines between what is appropriate and what is not. When does a campaign contribution cross the line into bribery? When does a gift to a government official move from harmless gratitude to inappropriate influence?

It is fine for a widget manufacturer to vocally oppose and work against a tax on widgets. But when he or she tries to influence the decision by making inordinately large contributions to the campaigns of policy makers or buying gifts for them, then the decision-making playing field can be skewed.

These issues can also be election-related. If parties or other interests act to reduce or eliminate electoral competition through dollars, districting, or election

17. See Appendix A for possible activities of the ICGE.

laws, then that too can tilt the playing field, often even eliminating any “game.”

Legitimate debate over proposed answers may be contentious and solutions illusive. Nevertheless, being attentive to such issues is critical to our government, especially in an era of deep cynicism. In no case should such questions be ignored or the status quo assumed to be a given. Making government work and making its workings honorable take constant effort. In Indiana, far too little effort has been made. These questions of boundaries between what is appropriate and inappropriate—and how these boundaries should be patrolled—are the types of issues on which the ICGE would focus.

B. Functions

Within these issue areas, the ICGE would perform four general functions: policy analysis, issue leadership, information clearinghouse, and education.

1. *Policy Analysis.*—A primary function of ICGE would be policy analysis. Some issues will likely require ongoing monitoring and analysis; others would likely be selected as determined by need and resources and perhaps be a subject of rotating focus.

The ICGE would organize either temporary or ongoing task forces by issue area. The teams would examine Indiana laws, regulations, and ordinances in a given area, find strengths and weaknesses, compare ours to those in other states, and develop proposals as needed for consideration by policymakers. These groups would be composed of individuals who bring a variety of talents and experiences from academia, government, law, and other fields.

Possible subjects for these groups include, but are not limited to, campaign finance, lobby regulation, legislative ethics, local government ethics, election-related matters, local judicial campaigns, and Indiana’s criminal statutes dealing with public administration. Over time, other topics would certainly arise to which the Center could respond as deemed appropriate. Issue teams would monitor not only pertinent legislation, but also administrative practices of relevant boards, commissions, and agencies.

2. *Issue Leadership.*—The ICGE’s policy analysis function would not stop with a report. Policymakers seldom act to place government ethics issues at center stage. On the few occasions in recent years when such a bill was introduced in the General Assembly, it either languished from a lack of leadership or was pulled apart by differing viewpoints. Issue leadership is no guarantee that an objective will be achieved, but it is certainly a necessary prerequisite. For government ethics bills to advance, the ICGE could fill a void by maintaining an ownership stake in suitable proposals, stewarding them into and finding a way to help them through the lawmaking process and attempting to build coalitions along the way. Like children, sound proposals need nurturing, support, and attention. Conception is critical, but, if left alone, most of this legislation will wither. All too often, the absence of leadership on these issues is fatal.

For example, several times in the last decade, potentially significant campaign finance legislation was introduced, including proposed limits on either contributions or spending. Key players created and endorsed competing

proposals.¹⁸ These were among the few occasions in recent Indiana history when such proposals gathered much attention. The issue quickly died away, however, in the face of stalemate and resistance. No one fought to resuscitate the proposals or expended political capital trying to craft a compromise. Many expressed disappointment and/or criticism—but none could or would step into the process and administer “legislative CPR.” These proposals may have all died anyway, but in the absence of issue leadership, the fatalities were guaranteed.

In the face of legal limitations and on the lobbying activities of charitable organizations and other realities, the ICGE would have to craft and carefully observe appropriate policies concerning any legislative activity in which it decided to engage. Nonetheless, giving or maintaining life to relevant and worthy legislation would hopefully be among the functions of the ICGE.¹⁹

3. *Information Clearinghouse.*—Another function of the ICGE would be to serve as a clearinghouse on governmental ethics issues. It would collect information, making it available to policymakers, news media, and other interested parties. This information would include laws and policies of other jurisdictions, research studies, and any available online discussions concerning government ethics related matters. More than just a library, through newsletters and other mechanisms, the Center’s clearinghouse would “push” this information on ethics policies and programs to public officials throughout Indiana. It would collect and freely share this data with jurisdictions in and beyond the state.

For example, very few local governments in Indiana have an ethics program of any kind. Those that wish to develop one have few resources to consult. Cities or counties that have or want such laws are unlikely to communicate with one another or even know which other entities to contact. Yet there are many models around the country and a wide variety of experiences for government officials to use and to share—if there was only a well-informed link.²⁰ The ICGE can be such a link, not only in providing requested information and researching

18. Emblematic of this were the campaign finance reform machinations in the 1997 session of the Indiana General Assembly, described well in the column by Mary Beth Schneider. Mary Beth Schneider, *Too Many Chefs in the Legislature Might Be Spoiling Recipe for Reforms*, INDIANAPOLIS STAR, Mar. 2, 1997, at C1.

19. “In general, no organization may qualify for section 501(c)(3) status if a substantial part of its activities is attempting to influence legislation (commonly known as lobbying). A 501(c)(3) organization may engage in some lobbying, but too much lobbying activity risks loss of tax-exempt status.” Internal Revenue Service, Political and Lobbying Activities, <http://www.irs.gov/charities/charitable/article/0,,id=120703,00.html> (last visited May 18, 2006).

20. Examples of such models include: National Civic League, *Model City Charter Revision Project—Eighth Edition*, <http://www.ncl.org/npp/charter/memos/ethics.html> (last visited May 18, 2006); Municipal Research and Services Center of Washington, *Sample Codes of Ethics*, <http://www.mrsc.org/subjects/personnel/ethics.aspx> (last visited May 18, 2006); Association of Minnesota Counties, *Model Ethics Policy*, http://www.mncounties.org/Publications/FYIs/02%20FYI%20PDFs/Model_Ethics.pdf (last visited May 18, 2006); Illinois Attorney General, *Ensuring Open and Honest Government: Model Ethics Ordinance*, http://www.ag.state.il.us/government/ethics_ordinance.html (last visited May 18, 2006).

issues upon request, but also in placing information on the desks and in the minds of public officials.

A few years ago, the Kentucky State Auditor's Office produced a study on how its state law on local ethics was functioning.²¹ Part of the study included an exploration of selected other states, how they handled local ethics, and the pros and cons of each.²² This study, like many other research projects produced around the nation, can be of great use to policymakers, not only in Indiana, but across the nation.

Many entities, both within and beyond government, have conducted research that could be highly useful to policymakers.²³ Groups such as the Council on Government Ethics Laws ("COGEL"), National Civic League, Campaign Finance Institute, California Voter Foundation, and others have produced studies that should be collected, catalogued, and made available to others. This would be a key function of the ICGE. Informing current and would-be policymakers, among others, as to how various entities deal with such problems may sensitize Hoosiers to the options that exist for ethics-related laws in Indiana.

4. *Education.*—Another function of the ICGE would be to provide education. This could take several forms. One principal function would be to raise public awareness of government ethics problems as well as potential solutions. Although similar to the clearinghouse function, the focus here would be more general—and more on the public than on policymakers.

For example, the ICGE could provide speakers to groups around Indiana. During such a forum, the ICGE speaker could discuss not only the purpose and activities of the ICGE, but the primary issue areas on which it is focusing at the time. This can include the problems, potential solutions, roadblocks, and what the audience might do to help. Information might also be provided on legislative priorities for consideration both in the General Assembly and by local governments.

Similar opportunities for public education can be created through opinion-editorial ("op-ed") pages and other media, where the ICGE can inform and try to engage Hoosiers in the process of improving governmental processes in Indiana. Through public engagement, policymakers can be encouraged to elevate these

21. EDWARD B. HATCHETT, JR., AUDITOR OF PUBLIC ACCOUNTS, LOCAL GOVERNMENT ETHICS CODES AND BOARDS: PERFORMANCE AUDIT (2000), *available at* http://www.auditor.ky.gov/Public/Audit_Reports/Archive/2000LocalGovernmentEthicsCodeBoards.pdf.

22. *Id.* at 32-39.

23. Council on Government Ethics Laws, www.cogel.org (last visited May 18, 2006) (producing a model government ethics and campaign finance law and providing annual updates on significant events occurring within its purviews of interest: campaign finance, ethics, freedom of information, and lobbying); National Civic League, <http://www.ncl.org/> (last visited May 18, 2006) (publishing important reports and ethics provisions for city charters); Campaign Finance Institute, <http://www.cfinst.org> (last visited May 18, 2006) (producing public forums and research on campaign disclosure, the impact of campaign finance reform, and political convention financing); California Voter Foundation, <http://www.calvoter.org> (last visited May 18, 2006) (studying and reporting on topics including campaign disclosure, voter engagement, and voting technology).

matters on the public agenda.

The ICGE can also undertake more formal education, offering ethics training classes and workshops for public officials. It could also work to develop an ethics curriculum for political science and public affairs students.

These four functions would be at the core of the ICGE. More examples of activities within these functional areas can be found in Appendix A.

C. Structure & Operations

The ICGE, as envisioned by the author, will be an independent, not-for-profit corporation. It will have staff (volunteer, at least in the beginning), a respected and knowledgeable Board of Directors to provide governance, supplemented, perhaps, by a Board of Advisors.

Credibility will be a necessary asset of the ICGE. Participants will need to be both bi-partisan and, at the same time, non-partisan: Democrats, Republicans, and others will need to be present and involved. Although their involvement would be sensitive to the partisan nature of Indiana's political culture, their actions at the Center should strive to be non-partisan. One can expect lawmakers to be skeptical of a new organization that may be proposing limits on the conduct of those lawmakers. Some of that skepticism will never be displaced, but at a minimum the ICGE will have an obligation to provide partisan balance as well as a good working knowledge of government.

The ICGE would have to be much more than a one or two person show. Not only are varied skills needed, but its success depends in part upon bringing together knowledge of and ties to the governmental and non-profit sectors. A great deal of talent in these areas exists throughout Indiana. Attracting and involving such individuals will be a necessary challenge for the ICGE.

The ICGE will work closely with Hoosier academic institutions. A number of potential partnership opportunities exist with different programs, centers and departments, including, but certainly not limited to, the Program on Law & State Government at the Indiana University School of Law—Indianapolis,²⁴ the Mike Downs Center for Indiana Politics at Indiana University—Purdue University Fort Wayne,²⁵ and the Poynter Center for the Study of Ethics and American Institutions at Indiana University—Bloomington.²⁶

Policy research by students and faculty as well as work internships are just two examples of assistance that can be provided from academia. In turn, the ICGE can provide students with an opportunity for hands-on experiences to learn and impact public policies on government ethics.

Mutually beneficial partnership possibilities also exist with other non-profit organizations. A few examples include the Indiana Association of Cities &

24. Program on Law and State Government, Indiana University School of Law—Indianapolis, http://indylaw.indiana.edu/Programs/Law_State_Gov (last visited May 18, 2006).

25. Mike Downs Center for Indiana Politics, Indiana University—Purdue University—Fort Wayne, <http://www.mikedownscenter.org/> (last visited May 18, 2006).

26. Poynter Center for the Study of Ethics and American Institutions, Indiana University—Bloomington, <http://poynter.indiana.edu/> (last visited May 18, 2006).

Towns²⁷ and the Association of Indiana Counties²⁸—each with strong knowledge of local government and the ability to communicate with its officials. Governmental entities such as the Indiana Lobby Registration Commission²⁹ and the Indiana Election Commission,³⁰ as well as related non-governmental organizations such as the Governmental Affairs Society of Indiana³¹ possess expertise and resources that can benefit the Center's work. In addition to these and many more Hoosier organizations, collaboration opportunities also exist with national organizations, such as the Center for Public Integrity in Washington.³²

This paper does not pretend to paint a complete picture of how the ICGE would be structured and operate. At this stage, not even all the questions—much less the answers—can be conceived. The objective of this document is to provide a general concept that can be modified and built upon.

D. Funding

Obtaining sufficient funding would no doubt be the single greatest challenge for the ICGE. Since the work of the ICGE would focus on Indiana, perhaps philanthropic resources within Indiana could be attracted. Foundations, family charitable entities, corporations, and individuals might plausibly be attracted as financial supporters of this unique venture in Indiana. With a focus on ethics, it is also plausible that innovative fundraising among churches and other religious and civic institutions could yield positive results. Reaching out to these groups for even low-level financial assistance provides several potential benefits. In addition to possible revenue for the ICGE, these organizations can provide a means of engaging Hoosiers in government ethics issues. Seminars and training programs may also have some potential to provide supplementary income.

Realistically, the beginnings of the ICGE will likely be austere. Yet, projects such as the information clearinghouse can likely be undertaken with minimal resources, as can other programs that could help the ICGE establish credibility, partnerships, and priorities.

III. WHAT NEXT?

The immediate priority in creation of the ICGE is completing the formal organizational process, seeking 501(c)(3) status, attracting people, building a

27. Indiana Association of Cities and Towns, <http://www.citiesandtowns.org> (last visited May 18, 2006).

28. Association of Indiana Counties, <http://www.indianacounties.org> (last visited May 18, 2006).

29. Indiana Lobby Registration Commission, <http://www.in.gov/ilrc/> (last visited May 18, 2006).

30. Secretary of State: Indiana Elections Commission, <http://www.in.gov/sos/elections/iec/index.html> (last visited May 18, 2006).

31. Governmental Affairs Society of Indiana ("G.A.S.I."), <http://www.governmentalaffairsociety.org/> (last visited May 18, 2006).

32. Center for Public Integrity, <http://www.publicintegrity.org/> (last visited May 18, 2006).

website and beginning the planning process for the work of the ICGE.³³

IV. CONCLUDING THOUGHTS

The ICGE would bring together talent and experience for the purpose of analyzing and developing laws and policies furthering ethics in Hoosier government and elections. It would gather and share information on how other jurisdictions accomplish these ends, examine the advantages and disadvantages of such approaches, and consider what might work in Indiana's unique political culture. It would work with Hoosiers to raise public awareness of these issues and to enact positive changes.

Is it realistic that such a center can be created and function in the Hoosier political culture? There are numerous reasons why the odds favor a negative response. Challenges in raising financial resources would be among those at the top of the list. Public cynicism or disinterest also weighs against success. Reluctance among potential institutional partners to make waves among lawmakers and others who can impact their institutional well-being may also dissuade some who otherwise might be favorably disposed.

While acknowledging the challenges, I prefer to think that now is a good time to make this effort. There is an increased sensitivity to ethics—thanks in part to embarrassments and scandals that have been in the news recently. With the news media quick to point out instances of ethical lapses by government insiders, some of those insiders may welcome assistance in exploring other methods of operation. Certainly, many insiders will be wary of the ICGE or any effort that may favor the development of tighter standards of behavior either on political campaigns or conduct in office. Yet, these same policymakers are finding their environment under the stress of vastly increasing amounts of special interest influence in the form of campaign contributions, intense lobbying, issue advertisements, and other pressures. Some have begun expressing concerns that they are “increasingly called upon to referee market-share battles between billionaires.”³⁴ Those wary of this trend may, too, find a high quality policy research center to be an idea whose time has come.

If the ICGE does its job well, it would ultimately be seen as a pro-government resource. It may rankle some in power—and would at times—but it would, hopefully, come to be viewed as a credible partner of Hoosier policymakers—and not as a stone thrower—although, there will be times for criticism. One hopes that a long-term result of the ICGE would be to reduce cynicism of government.

Again, this document offers only preliminary ideas for the Indiana Center on Government Ethics. It is not an operations manual for a new organization, but a starting point for discussion.³⁵

33. Those wishing to help are welcome to contact the author at david@maidenberg.com.

34. “*Stuff of Government*” at Stake?, 15 IND. LEGIS. INSIGHT No. 9, Feb. 24, 2003, at 1.

35. Feedback and assistance from readers is welcomed and appreciated.

APPENDIX A

Possible Activities of the ICGE (by function)

These are examples of activities that could be performed by the Center in furtherance of its mission. This is intended as a sampling of possible activities and not a comprehensive list of all that the Center might do. Its listing by function is somewhat oversimplified, as many activities could pertain to multiple functions.

POLICY ANALYSIS

Legislative Branch Ethics:

- Research ethics structures and codes for state legislatures and consider which options might be applicable to Indiana.
- Develop proposals for an ethics code for the legislative branch, as well as an administrative mechanism to provide training, advisory opinions, and enforcement.
- Examine Indiana's personal financial disclosure laws for legislators, including strengths and weaknesses. Seek to work in cooperation with the Center for Public Integrity, which has studied these laws in Indiana and across the nation.
- Develop a proposal for improving the disclosure program. (This may have application to other branches of government as well.)

Executive Branch Ethics:

- Examine whether ethics laws should apply more comprehensively to members of state boards and commissions.
- Examine whether ethics laws should be amended to facilitate the payment of financial incentive awards by state government and, if so, how.
- Study laws pertaining to conflict of interest for state contractors (IND. CODE § 5-16-11 (2005)) and consider options for improving or abolishing this little understood section of law.
- Study whether (and if so, how) ethics laws should be made applicable to "temps" who otherwise look and act like state employees but are actually contractors or employees of private businesses.

Local Government Ethics:

- Survey local governments, examine ethics issues, and examine whether and how such matters are handled for both employees and officials.
- Seek to work in cooperation with groups such as the Indiana Association of Cities and Towns and the Association of Indiana Counties.
- Examine options for development of proposed, uniform standards of conduct for local government officials in Indiana.

Campaign Finance:

- Perform a complete “inventory” of Indiana campaign finance law, practices, and perceptions. Compare Indiana campaign finance law to laws and practices in other states.
- Examine disclosure of campaign expenditures for specificity and compliance.
- Examine the advantages and disadvantages of imposing limits on campaign contributions or spending.
- Study ways in which campaign disclosure reports can be improved.
- Examine how local election boards enforce and monitor campaign finance reporting.
- Study the dynamics of fundraising in party caucuses and any impact it may have on legislation.
- Examine the strength and weaknesses of media coverage on state and local campaign finance practices, perhaps offering seminars by experienced reporters for those who may wish to learn more.
- Study the effect Indiana campaign finance laws may have on political competition in Indiana.

Lobby Law:

- Perform a complete “inventory” of Indiana lobby law, practices, and perceptions. Compare Indiana to laws and practices in other states.
- List the ambiguities that have been cited in the state lobby law in recent years, examine whether they have been dealt with in any effective way, and propose means of dealing with those that have not.
- Examine the Lobby Registration Commission’s auditing and enforcement difficulties.
- Examine the interplay of lobbying and campaign finance and examine whether legislation should be proposed for dealing with any problems found.
- Examine whether lobby regulation should be extended to the executive branch of state government, and if so, how.

Election Administration:

- Measure and monitor levels of political competition in Indiana, especially in legislative races.
- Examine whether and how the redistricting process in the legislature can be improved to allow for more increased competition.

Criminal Law:

- Examine Indiana's criminal law on conflict of interest (IND. CODE § 35-44-1-3 (2005))—its implementation, enforcement, strengths and weaknesses—and seek ways to improve or replace this cumbersome statute.
- Study all of Indiana's criminal statutes (IND. CODE § 35-44 (2005)) dealing with public administration, perhaps in cooperation with the Indiana Prosecuting Attorneys Council.

ISSUE LEADERSHIP:

- Monitor all legislation potentially impacting ICGE issue areas and share this information with the public.
- Seek to have ICGE proposals introduced and advanced in the state legislature (or other applicable lawmaking bodies) and attempt to build coalitions for these proposals before and during the legislative process.
- Provide analysis and comment at public hearings on legislation when deemed appropriate.

CLEARINGHOUSE:

- Create a government ethics library with information on various approaches dealing with various government ethics issues.
- Publish periodic newsletters and distribute them freely to policymakers throughout Indiana.
- Establish a website for easy access to collected research on government ethics programs.
- On the ICGE's website, develop a set of pages on "How Others Do It," showing Hoosiers that many alternatives exist for sound practices in all areas of government ethics.
- Seek to create a consortium of government ethics organizations in Indiana in order to facilitate interjurisdictional communication on relevant issues. This may include state and local ethics and campaign finance officials, lobby regulators, prosecutors, and others.
- Actively share research and resources with sister organizations, such as COGEL.

EDUCATION & PUBLIC AWARENESS:

- Sponsor periodic seminars on government ethics issues, such as an annual conference.
- Sponsor an occasional luncheon speaker or forum in one or more parts of the state.
- Publish an “annual report” on government ethics issues and practices in Indiana, highlighting matters that have been both problems and successes throughout the year.
- Offer periodic op-ed columns to newspapers around the state.
- Offer training seminars on government ethics issues. (This could be done even in the absence of official guidelines.)
- Offer continuing education classes to professional groups. For example, the ICGE could sponsor an ethics component of continuing education for attorneys interested in government and public affairs.
- Conduct a forum for the news media, discussing media issues in reporting on campaign finance and ethics matters.
- The ICGE might consider making good citizenship awards for exemplary ethics or for high quality reporting of government ethics issues.
- Offer a speakers bureau.
- Periodically survey Hoosiers’ attitudes toward government, pertinent issues, and prospective solutions. Tracking these attitudes over time would be of interest, as would comparing Hoosiers’ attitudes to other regions of the country.