



What is the price tag of controversy?

Costs of defending court cases on Obamacare, PPIN, immigration & marriage hard to gauge

By **BRIAN A. HOWEY**

INDIANAPOLIS – What is the cost of controversy?

In the past five years, legislation passed by the Indiana General Assembly has defunded Planned Parenthood and created new immigration laws, and there have been moves to amend the Indiana Constitution to prohibit same-sex marriage.

In addition, the Indiana attorney general has challenged a key provision in the Affordable Care Act, and the Indiana treasurer attempted to thwart the merger of Chrysler and Fiat.

The Republican-dominated legislature passed these controversial measures over increasingly smaller and weaker Democratic minorities. The responding Democratic battle cry often has been: See you in court. And we've seen the law defunding Planned Parenthood and parts of the immigration law struck down by the federal appellate courts.



Attorney General Greg Zoeller has found himself and his staff busy defending what he calls "the big issues of our day" emanating from the Indiana Statehouse to Congress.

Planned Parenthood has essentially moved the defense of its interests out of the legislative arena. There are no aligned political action committees funding candidates and making endorsements. Planned Parenthood relies on the American Civil Liberties Union of Indiana and its national affiliates to challenge and successfully strike down laws.

How much is this costing Indiana taxpayers?

Continued on page 4

The governor's speech

By **TERRY STAWAR**

NEW ALBANY – In his recently published book, "The Secret Life of Pronouns," University of Texas social psychologist James W. Pennebaker describes how the frequency of the words, phrases and punctuation marks we use can reveal our inner feelings, self-concept, social intelligence, and even mental health.



Pennebaker's work focuses on what he calls "function words." These include pronouns, articles, prepositions and other seemingly insignificant words which are often more revealing than the intended meaning of what we



"I am willing to take a chance on the truth."

- Doug Bailey, founder of The Hotline, who died this week at age 79



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say. Function words account for only a fraction of our vocabularies, but make up about 60 percent of the language we use.

People are extraordinarily inaccurate in estimating their own and other people's word frequencies so in order to objectively study these patterns, Pennebaker and his associates developed a software application called the Linguistic Inquiry and Word Count (LIWC). The LIWC calculates how frequently people use various categories of words. Researchers have examined a wide range of texts, using the LIWC, including e-mails, speeches, tweets, historical documents, college essays, and even suicide notes. You can use a light version of the LIWC to analyze tweets at www.analyzewords.com, by simply entering a Twitter handle.

Much of what the LIWC reveals is counter-intuitive. For example, President Obama was criticized by several commentators for overusing the pronoun "I" in his speeches. After a careful analysis of press conference transcripts, Pennebaker concluded that Obama actually had the lowest use of "I" words of any modern president. While Obama's speech contained 2.6 percent "I" words, George W. Bush averaged 3.4 percent, Clinton had 4 percent, and George H. Bush's speech yielded 5.2 percent. Pennebaker notes that Obama's use of "I" words, however, does not reflect humility, but rather signals self-confidence, emotional distance, and possible rigidity. According to Pennebaker, commentators were wrong about not

only how many self-references the President made, but also about what his pronoun use signified.

Another of Pennebaker's discoveries is that people readily accommodate other people's linguistic styles. He calls this "Language Style Matching (LSM)." You can check out how well your style matches that of others at www.secretlifeofpronouns.com/exercise/synch.

To further put the LIWC program through its paces, I tried it out on three speeches made by Indiana's new governor, Mike Pence. I used a 2010 speech on the American presidency he gave at Hillsdale College in Michigan, along with the governor's 2013 inaugural speech and State of the State



address.

My contrary wife, Diane, pointed out that professional speechwriters often write these addresses, therefore, any analysis must take that into account. So in deference to her argument, my interpretations, refer only to the text of the speech and not necessarily the speaker.

All three of Pence's speeches demonstrated very similar language style. According to Pennebaker's LSM application, the language style matching scores ranged from "above average" to "very much above average."

The 70 LIWC factor scores for all three speeches were compared to the 2007 LIWC norms. Words with the highest and lowest frequencies were identified. The governor's speeches show a very high use of "we" words, which is consistent with being confident, self-assured, but also perhaps a bit distant. In regard to content words, the highest frequencies



were seen for words relating to money, achievement and work. None of this is very surprising, given the governor's stated focus on jobs, taxes and the economy.

Words related to inhibition, such as "block," "constrain" and "stop" were also relatively high in frequency, which may reflect his traditionally conservative philosophy in regard to government. For example, on his first day in office the governor put a halt to all new state regulations to encourage job creation.

Religious words were next highest in frequency, followed by words related to death. The religious references are also understandable. The governor once defined himself succinctly as, "a Christian, a conservative, and a Republican, in that specific order." Surprisingly, however, death-associated words were found at twice the expected frequency.

Within the actual text the words "die," "bury," "grave," "murder," "corpse," "blood-soaked" and "souls" were found. All of these words, however, came exclusively from the Hillsdale speech, in which the governor made many historical references that dealt with themes of warfare, strife and sacrifice, and they account for high frequency of death-associated words.

Overall there was also a high frequency of people-related words, which most political speeches are likely to have. The governor's speeches contained a lot of large words and quite a few articles, which is typical for higher status educated males.

At the other end of the spectrum, the governor's speeches had very few words that signaled assent, such as "yes," "agree" and "OK." This is consistent with the large number of inhibition words. You can't agree all that much, when you're inhibiting things. There was a very infrequent use of "I" words, which fits in with the high "we" word usage. There were no sexual words present, which is probably a very prudent policy for political speeches, as candidates in the last election learned.

There were few words associated with friends (such as "friend," "buddy" and "neighbor"), which would be expected in political speech. The lack suggests some distancing and perhaps excessive formality. Feeling words were also relatively low, suggesting an emphasis on rational rather than emotionalism. There was a low frequency of words relating to the past, which I found unusual, considering the historical features of the Hillsdale speech. This may reflect a purposeful attempt to maintain attention on listeners' current concerns.

Words associated with the body were also used infrequently, which may be related to the overall dearth of feeling words. The data also suggest openness to auditory information, given the low frequency of both "seeing" and "feeling" words, while "hearing" words were closer to the norm.

Finally, the governor's speeches used relatively few words associated with "home." Like the lack of "friend" words this might also reflect formality instead of folksiness, and perhaps an emphasis on work and business, as opposed to domestic themes.

When comparing the governor's speeches to President Obama's latest inaugural and state of the union speeches, surprisingly the inaugural addresses matched language style at the "far above average" level and the "State" speeches matched at the "above average" level. Even the Hillsdale speech, which criticized President Obama's word choice, ironically matched the president's inaugural and State of the Union addresses the most, at the "far above average" level.

Comparing the combined Pence speeches with the combined Obama speeches, there was significant overlap. Both had very few "I" words, "sexual" words, "body" words, "feeling" words, or words associated with the past. Both sets of speeches had high frequencies of "we" words, big words, inhibition words, and words related to "money," "people" and "achievement." The governor's speeches, however, also contained a high frequency of words associated with "work," "religion" and "death" while the president's speeches were characterized by a high number of words relating to "certainty," "causality" and the future.

Pennebaker says that linguistic style is as unique as a fingerprint. Although Gov. Pence's and President Obama's speeches both contained strong signature features, I was struck by the many similarities. Of course, despite big differences in political philosophy, comparable contexts (such as inaugurations or outlining legislative agendas) may engender comparable styles.

Just to be fair I also did a LIWC analysis of this column. Oddly enough this column also ends up looking very similar in style to the speeches discussed. This may be because it cites so many of the words found in them. Also keep in mind the analysis may reveal as much about my editor, Diane, as it does about me. ❖

Stawar is a columnist for the News & Tribune in in New Albany and Jeffersonville.





Cost of controversy, from page 1

The easiest answer comes in the Chrysler/Fiat merger challenge by Treasurer Richard Mourdock, who paid \$2 million to the New York law firm of White & Case instead of using the Indiana attorney general's office. Thomas Lauria, lead White & Case attorney, had already developed a legal challenge and multiple sources said the firm had been fishing for a plaintiff in the spring of 2009 when Mourdock stepped up. Mourdock claimed he pressed the case due to his "fiduciary duties" but many others saw it as a limelight precursor to his U.S. Senate bid that was launched in 2011. Lauria billed more than \$1,000 an hour in a case that lasted six weeks and ultimately ended when the U.S. Supreme Court refused to hear it.

Eric Bradner of the Evansville Courier & Press reported in October 2012 that while Mourdock was waging a Senate campaign he opted for outside counsel because he figured the case was too complicated for anyone else to tackle on such short notice. He learned Lauria's team was ready to go – if they could find a client.

Here's how OAG spokesman Bryan Corbin explained his office's role in that case: "Once the Chrysler matter reached the U.S. Supreme Court, our solicitor general (Thomas Fisher) entered an appearance as counsel of record along with the treasurer's outside counsel. The work of preparing and filing briefs in the U.S. Supreme Court is anticipated in our regular budget and we don't track the attorney hours. We initially paid a \$300 court filing fee, but by rule we recovered that cost from Chrysler when the Supreme Court granted our petition for writ of certiorari and vacated the decision of the Second Circuit."

Many of the other controversial cases did end up with Indiana Attorney General Greg Zoeller's office. And this is where the question of how much do Indiana taxpayers spend on these cases winds up in an "apples vs. oranges" dynamic.

Since Fiscal Year 2001, the office of attorney general has seen its budget increase from about \$11.30 million in 2001, to \$16.81 million in 2009 the year Zoeller took office, to \$19.03 million in FY2013-14. The AG budget going into effect on July 1 is almost \$3 million more than the budget passed in 2011. During this period, Zoeller served as chief deputy to Attorney General Steve Carter from 2001

until his election to the office in 2008 and assuming the reins in 2009. During this time, the OAG with its current stable of about 150 attorneys has taken on a number of new duties that have resulted in some of the budgetary increase.

OAG Financial Officer Tom Bodin notes that OAG appropriations from the General Fund have an annualized growth rate of 1.884%, the CPI measure of inflation annualized growth rate is 2.264%, and the total OAG main budget line annualized growth rate equals 4.088%.

"The Indiana attorney general is required by law to defend state statutes the legislature passes from legal challenges plaintiffs file against the state," Corbin explained. "When the legislature approves our budget in advance, we assume that some legal work the AG's office will handle in the future might include defending statutes and appearing before various courts, including the U.S. Supreme Court; it's intrinsic to the job. Our current budget, approved by the legislature in 2011, was approximately \$16.2 million, the vast majority for payroll for attorneys and staff, and we don't exceed our budget."

Corbin said the AG's office caseload includes approximately 1,600 criminal appeals cases and 3,000 civil cases involving state entities each year, of which the cases HPI inquired about are just five. "Our attorneys and staff would have been paid the same whether we had those five cases or not," Corbin said.

"Prior to Attorney General Carter, the AG's office sometimes utilized private outside counsel for some high-profile cases such as the White River fish kill," Corbin continued. "Starting under AG Carter in 2001, such high-profile cases were for the most part brought back inside the attorney general's office and assigned to our solicitor general or to other deputy AGs in our office. Among the solicitor general's job duties are participating in cases bound for the U.S. Supreme Court where the state has an interest, drafting and reviewing amicus briefs and arguing certain cases in the federal appellate courts. Attorney General Zoeller maintained that structure when he succeeded AG Carter in 2009."

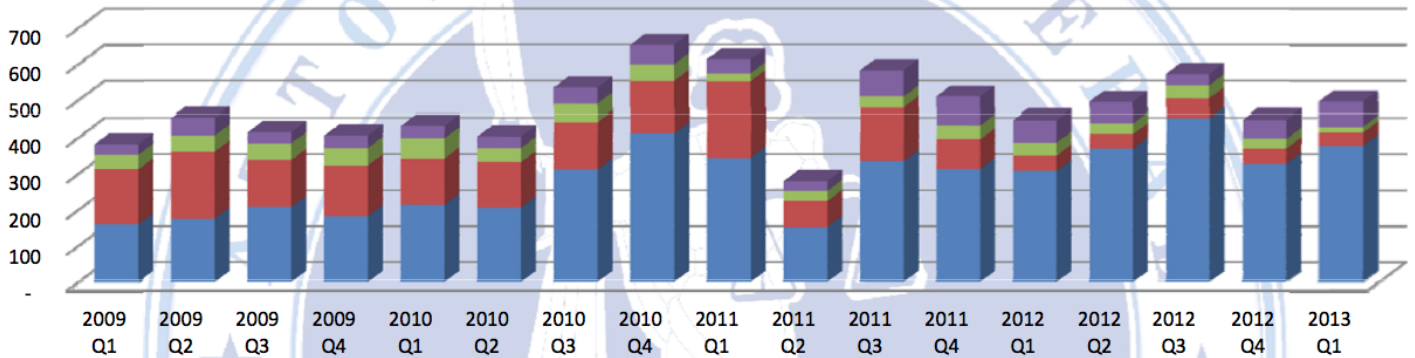
"It is hard to do billable hours because our business model is almost opposite that of the private sector," Zoeller explained to Howey Politics Indiana. "We have thousands of cases to manage. You move resources around and designate resources on where the work flow is. There are five divisions on the whole. Some of these big law firms have these meetings of the managing partners. Once I went just to know how it worked. I found there are discussions based on business and hours and I found it just to be the opposite of the way we function. Nobody gets bonuses



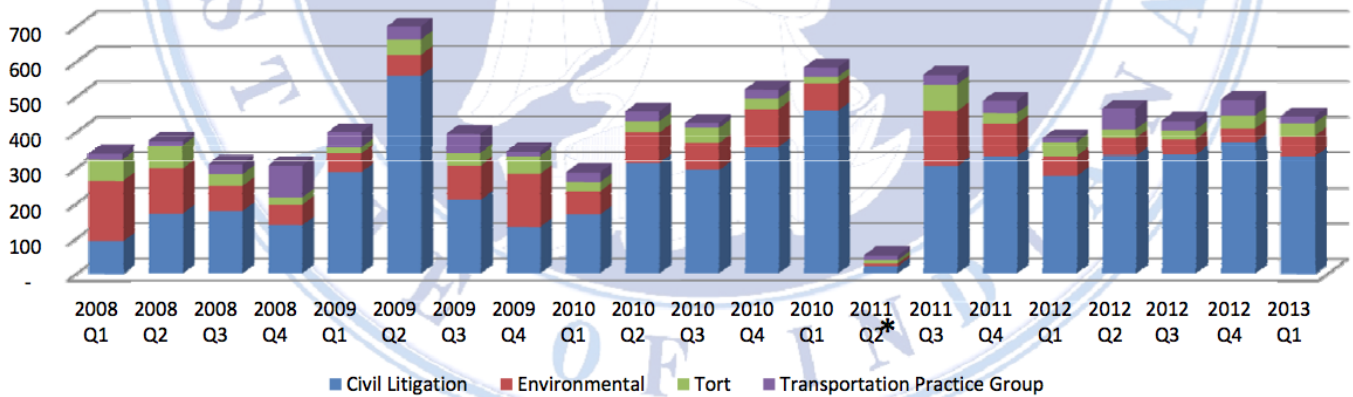
Treasurer Richard Mourdock went outside the attorney general to press his case against the Chrysler/Fiat merger.



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for running up a bunch of hours. It's just the opposite." Zoeller said that in some cases the courts will award a fee. "So when we win a case and they ask for fees, they'll ask for a billable track. We do go back and try and calculate and we always base it on the billing rate of the firm against us," he said.

From 2008 to the present, Corbin explained, the state has paid \$916,426.37 in plaintiffs' attorneys' fees to ACLU of Indiana in 16 lawsuits where ACLU prevailed against the state.

Immigration case

The AG's office defended the state immigration law, SEA 590, from a legal challenge in U.S. District Court for the Southern District of Indiana. This spring, Federal Judge Sarah Evans Barker permanently enjoined the challenged portions of that statute. "The state will not appeal," Corbin said. "We continue to defend different provisions of SEA 590 in a separate lawsuit in U.S. District Court for the Northern District of Indiana. Legal work in the Southern District case was handled primarily by one deputy attorney general as lead counsel who was assisted by other deputy

AGs as co-counsel. Attorney hours were not tracked, but all work on both cases has been performed within our current agency budget. No attorneys' fees or damages to the opposing side have been ordered."

Zoeller confirmed that he intends to approve payment of \$155,000 in attorney fees to ACLU of Indiana, which prevailed in *Buquer v. Indianapolis*, the legal challenge to the 2011 immigration statute. The check has not been issued yet but payment will be forthcoming soon, Corbin said.

"The annual salary of our deputy attorney general who was lead counsel on the immigration case is \$60,435.18 and the annual salary of our solicitor general who worked on the other cases you inquired about is \$119,080.78, but both are assigned many other cases and must multi-task," Corbin explained. "Other attorneys, law clerks and paralegals – all salaried – assisted them in some manner in the five cases (HPI had inquired about) but there is not a total figure of hours or dollars that can be readily isolated or extracted at this point."

Zoeller said the OAG's Civil Litigation office handled the immigration case. "Three of our lawyers worked on it,



when the Arizona case was ahead of ours, (Solicitor) Tom Fisher and probably another attorney ... asked the Supreme Court to take the Arizona case out of turn. We argued to Judge Barker that the Arizona case was to be a guide to the bill that we passed. The bill we passed was modeled after Arizona."

Zoeller continued, "There's a group working with a collection of offices of attorney general who filed an amicus brief supporting the Arizona case. We did our work through another state's case arguing that Indiana should be allowed to ... fill the vacuum since Washington has failed to deal with the issue. We thought well, why don't we do it until they get their act together. It was a better legally structured argument."

"In a lot of those cases, if the other side wins on any portion of the merit – they don't even have to win the entire case – but if they have won in any subsequent way, the way the courts view that is if it's a benefit to the state to allow people to challenge, and not have to pay their own legal fees," Zoeller explained. "In the immigration case ... there's a petition for these fees submitted to the court by opposing parties. I think there were ACLU, Lewis & Wagner, a private firm, and then a group out of Washington, a group that does immigration cases. The three of them put together their billing statement and they submit to the court. There's usually a discussion between my attorneys, the attorneys on the other side, and after that formal request for fees has been made, we haggle something that everybody agrees to. We go back to the court and the court awards fees to them."

Planned Parenthood Defunding

The most sensational case was the 2011 defunding of Planned Parenthood that passed by wide margins in both the Indiana House and Senate and was signed into law by then-Gov. Mitch Daniels.

Defending the state statute that prohibited Medicaid funding for abortion providers, House Act 1210, was assigned to the solicitor general at the trial court and appellate court levels and in the state's administrative appeal to the Health and Human Services Center for Medicare and Medicaid. Appellate filing and docketing fees have been approximately \$755 in this appeal. Corbin said, "We currently have not been required to pay attorneys' fees for the opposing side or any damages."

In October of 2012, the U.S. 7th Circuit Court of Appeals in Chicago, by a 2-to-1 decision, agreed with the lower court that had blocked enforcement of the Indiana law. The 7th Circuit panel reversed part of the lower court's

ruling of last year. The appeals court said Indiana was within its authority to discontinue funding from two federal grants Planned Parenthood had received, totaling \$150,000 from the Disease Intervention Services (DIS) program. The 7th Circuit majority decision said Planned Parenthood had not shown its rights had been violated when the state made a decision about eligibility conditions for

disbursing the federal block grant.

At the time of the ruling, Zoeller said, "The people's elected representatives in the legislature decided it did not want an indirect subsidy of abortion services such as payroll and overhead to be paid with taxpayer's dollars and so crafted this law. Although the injunction concerning Medicaid funding was not lifted, we note that the 7th Circuit found the State has the legal authority to decide how federal block-grant dollars – which are tax dollars – will be distributed. We will review this opinion more thoroughly with our clients before deciding how best to continue to defend the Indiana law."

Zoeller explained to HPI, "If you pay money into a corporate structure and they're able to use the fungibility of money so that it pays the salaries and all those kinds of things can be moved around, you really can't avoid the indirect support of taxpayers for the abortion services that aren't supposed to be funded at all with taxpayer money. The effort is not unique to Indiana. If you ask an accountant to look over the books of PPIN and ask the question, whether any of the funds that come through the state were federal taxpayers might indirectly support their operations, they'd tell you, yes. I thought it was a legitimate question. You couldn't just look at it and say, yes, that was constitutional. These were unasked questions. By definition, that's why we thought it was worthy of a Supreme Court review because there is no case that cites the unasked answers."

"If you look at the man hours and the use of resources for the ACA challenge, the immigration, the Planned Parenthood defunding, all of these kinds of things, what you are really talking about is the big issues of our day," he explained. "When people say why did you choose to lead or participate with your colleagues, that's what people elected me to do. I'm not going to sit out the most



Attorney General Zoeller with Speaker Brian Bosma.



important constitutional questions of the day because they might require some hard work on our part. We've done a pretty good job of managing the day to day. Nobody has complained that we failed to spend time on criminal appeals. That's a lot of work. That's why we created the office of solicitor."

Zoeller said the PPIN defunding was modeled after one from another state. "It was not drafted uniquely in Indiana," Zoeller said. "There's a number of states that had variations, so my office was not involved in a bill draft. Sometimes they'll come and ask us about those attorney/client discussions about how able or difficult a bill might be to defend. We've had that discussion sometimes when asked, and sometimes they don't. We're always available for any legislator or leadership who wants to know. I am always available to offer that kind of advice."

PPIN, represented by attorneys with the ACLU of Indiana and Planned Parenthood Federation of America, filed suit to protect health care access for the Hoosiers who utilize preventive health services at its health centers across Indiana, including lifesaving cancer screenings, birth control, well-woman exams and STD prevention and treatment.

"This has been a long fight, but one that has been worthwhile because we've been fighting on behalf of our patients and their access to lifesaving, preventive care such as Pap tests, breast and testicular exams, birth control and STD testing and treatment," said Betty Cockrum, PPIN's president and CEO. "While the state has been trying to score political points and wasting taxpayer dollars, we've been standing up for the Hoosiers who count on us every day. We look forward to the day the preliminary injunction in this case becomes permanent.

The ACLU's Jane Henegar added, "We are happy that the Supreme Court's action lets stand the appeals court ruling that the state does not have plenary authority to exclude a class of providers for any reason. Federal law protects the right of Medicaid patients to choose a health care provider free of interference from the state."

Same sex marriage

The General Assembly has passed a constitutional amendment prohibiting same-sex marriage in one of the two required sessions before it becomes a referendum before voters. House Speaker Brian Bosma and Senate President David Long withheld the legislation this year, awaiting a U.S. Supreme Court ruling on two similar cases that will be released later this month.

The OAG filed amicus briefs that the solicitor general authored and co-authored in the DOMA and Proposition 8 cases. These were completed "within our existing agency budget," Corbin said. For context, since January

2009 the Indiana attorney general's office has authored or co-authored 22 amicus briefs that other states have joined, and have joined (signed onto) 82 amicus briefs that other states authored, that were filed in the U.S. Supreme Court or federal circuit appeals courts. State governments do not have to pay a fee or obtain permission from one of the litigants in order to file amicus briefs in the U.S. Supreme Court.

Obamacare

To participate in the multi-state legal challenge to the Affordable Care Act with 25 other states in the trial court, federal appeals court and U.S. Supreme Court levels, the Indiana attorney general's office spent no tax dollars on outside lawyers, paid no legal fees and spent nothing additional beyond the agency's annual budget approved by the legislature in advance. A state statute allows the Indiana attorney general to prepare a report for an Indiana member of Congress about pending federal legislation at the member's request.

Former Sen. Richard Lugar made such a request to the AG in January 2010 for the Affordable Care Act legislation that still was pending before Congress at the time. The 55-page report and analysis on the health care legislation that Attorney General Zoeller and Solicitor General Fisher drafted for Senator Lugar in early 2010 anticipated some of the legal issues later raised in the multi-state lawsuit. Once the multi-state legal challenge was filed in March 2010, the Indiana AG's office did not pay any additional filing fees or outside counsel to participate at the trial or appellate court levels. Instead, the report to Lugar served as Indiana's in-kind contribution to the multi-state group's litigation efforts.

Zoeller told HPI, "When we go out and meet with members of the U.S. Supreme Court, they appreciate the fact that the state solicitor offices have allowed sovereign states to give our perspective to the court. We are listened to. Chief Justice John Roberts had a reception for us and he complimented the fact that states are sovereign and giving the court their view regularly enough that we start to have a dialogue."

"Parts of the ACA that were struck down were based on arguments of Indiana and five other states that the exertion of Medicaid and a threat of a loss of all our funding was unconstitutional coercion of another sovereign," Zoeller continued. "We actually won that case on that point. That's why each state is having to have these decisions to join the expansion of the federal (Medicaid) program. If you have your own program approved, or if you have a hybrid, all of that is because we argued that was a position from a sovereign state, and not something the federal government could just tell us we have to do at the risk of losing all of our Medicaid money." ❖



Donnelly, Walorski find nexus of military sex assaults and suicides

By **BRIAN A. HOWEY** and **MARK SCHOEFF JR.**

WASHINGTON – The wars in Iraq and Afghanistan are either over or winding down, but the specters of death and justice have taken a new tandem shift this year with the issues of U.S. military suicides and sexual assaults within the ranks.

Emerging are the corresponding nexus of the two issues. Though there isn't much data available, a likely link may include sexual assaults that fuel the suicide rate.

The two numbers that have captured the attention of Sen. Joe Donnelly and Rep. Jackie Walorski are these:

- 349 suicides in 2012, surpassing the 295 American soldiers killed in combat in the Afghanistan theater of operations;
- 26,000 sexual assaults within the 1.8 million military personnel in 2012, according to a Department of Defense survey, while only 3,374 cases were officially reported. These ranged from rape to groping and are a 35-percent increase from the 19,300 cases in a similar report issued in 2010.

In May, President Obama reacted to the daunting sexual assault statistics, saying, "Not only is it a crime, not only is it shameful and disgraceful, but it is also going to make our military less effective than it can be. As such, it is dangerous to our national security. So this is not a sideshow. This goes to the heart and core of who we are and how effective we're going to be."

Obama summoned Defense Sec. Chuck Hagel and Army Gen. Martin Dempsey, chairman of the Joint Chiefs of Staff, to the White House and said it was imperative that a solution be found.

Sen. John McCain, a Vietnam POW and former

Republican presidential nominee, crystalized the emerging furor over the issue when he told the Senate Armed Services Committee, "I had a woman come up and say to me, 'Would you recommend my daughter go into the military at this time?' He responded, "Gentlemen, I did not have the ability that I would recommend their daughter go into the military. I don't ever want to be in that position again."

Donnelly told Howey Politics Indiana in an interview on Monday, "This has been an extraordinarily serious issue for a number of years. It is finally at a place where everyone is taking it seriously."

Donnelly said that statistics he has seen reveal that a female sexual assault victim in the military is 14 times more likely to consider suicide than other personnel. "This is an incredibly damaging action that has caused people to contemplate suicide, to think about it," he said. "We have to be watching not only the sexual assault scourge, but also ongoing mental health issues.

"We just saw Gen. Odierno fire one of the generals because of their conduct in regard to this issue. We have worked as a committee on the readiness subcommittee, but also as an overall committee – Senate Armed Services – to put an end to this scourge."

For Rep. Walorski, military sexual assault has become a signature issue.

In her second week in office, the Jimtown freshman Republican began working on legislation to help victims of sexual violence. She was alerted to the problem during briefings given to members of the House Armed Services Committee, one of the panels to which she was appointed. A measure written by Walorski, R-2nd CD, and Rep. Loretta Sanchez, D-Calif., strengthens military whistleblower protections by extending them to victims of sexual assault. The legislation

requires an Inspector General investigation into reports of retaliation against people who bring forward claims of alleged rape or other forms of sexual misconduct.

The focus on the topic in Congress has intensified. Walorski's measure is part of the defense authorization bill that the House was scheduled to vote on this week. Last week, the Senate Armed Services Committee held an eight-hour hearing on military sexual assault.

"This is a tough issue. This is an extremely sensitive issue," Waloski said. "It's time for Congress to take a stand. It's time to eradicate this from the military."





The reason that there are so few reports of sexual assault is the pervasive fear of workplace retaliation and abuse in the military, according to Walorski. She calls the situation "blatantly wrong."

"These are the finest professional fighters in the world, and they deserve to have a safe place to fight for the freedoms of our nation," Walorski said.

Donnelly was asked whether 26,000 assaults among 1.8 million Department of Defense personnel is statistically similar to the general population or those attending college.

"I don't know whether that's an abnormal amount," he said. "But here's what I do know. When you go into the military, there is a sacred bond between members of the military. The whole effort is based on a trust between one another that you know the person to your left or the person to your right has your back, unflinchingly, unquestionably, that you never have to think twice about that. Because if you do, everything starts to break down. This is a violation of that most basic trust that we're supposed to have in the military."

Sex scandals in the military are not a new thing, the most obvious coming in 1991 with the Tailhook scandal. "But what we've seen is a significant increase in the past couple of years," Donnelly said. "A part of that is that it is now being reported and it is now being charged. Now, are there statistically more events of this occurring right now? Likely not. The reporting is much higher at this point."

Donnelly called last week's Senate Armed Services Committee hearing extraordinary. "It was a stunning hearing in that it was attended not only by Gen. Dempsey, who was chairman of the JCS, but also the chief of the other five branches, Army, Air Force, Navy, Marines and Coast Guard. Each of the chiefs showed up, along with their counsel, to show on their side how seriously they took this." He noted that Marine Gen. Amos told the committee, "On Marine turf, the buck stops with me. I have a solemn obligation to end this."

"My response to him was, 'General, that's exactly right and we're so grateful you feel that way,'" Donnelly said. "And on my end, the buck stops with me because I have a responsibility with the American people and every member of the military that this never happens to them. We have to end this because it could be anybody's son or daughter, brother or sister."

As for solutions, Sen. Kirsten Gillibrand, D-NY, has written legislation that would prompt reporting of these crimes outside the chain of command. "That is under discussion at this point," Donnelly said. "We are trying to make a determination on whether that step has to be

taken."

Another outcome could include having a case advance up the command chain if a JAG officer and a commander cannot agree on a charging offense. "So this does not become something affected by friendship or personal feelings," Donnelly said. "This is a decision that is extraordinarily critical, has to be made right, that we don't want colored by factors other than the facts."

Walorski's legislation has more than 100 bipartisan cosponsors. A similar bill was introduced last week in the Senate by Sens. Amy Klobuchar, D-Minn., and Claire McCaskill, D-Mo.

As she promotes her first major bill, Walorski emphasizes that she has the backing of both parties. The process is teaching her "the power of working together across [party] lines and being unified with one purpose."

Support also is coming from the Obama administration. Walorski said Defense Secretary Chuck Hagel has



Sen. Donnelly surveys a display of the "Clothesline Project" - art made by female sexual assault victims in the U.S. military.

been instrumental in drawing attention to the sexual assault issue.

In a statement Tuesday, the White House warned that it would veto the House defense authorization bill in its current form but praised the sexual assault portion of the measure.

"The administration appreciates the support of the Congress in working to eliminate the threat that sexual assault in the military presents to our service members and our national security," says the statement. "The administration will continue to work with Congress to identify actions that can be taken to address this urgent priority that is essential to the health and readiness of our armed forces."

Ultimately, it may take a change in military culture to effectively address the problem of sexual assault. But that deeper analysis is not possible with so few victims reporting the incidents.

"That's why this bill is so important - to get the



conversation started," Walorski said.

Walorski's legislation does not go as far as a measure introduced by Sen. Gillibrand, Under Gillibrand's bill, military lawyers, rather than anyone in the chain of command of the alleged perpetrator, would decide whether to prosecute a sexual assault case.

Donnelly backed Gillibrand's bill in a vote in the Senate Armed Services Committee on Wednesday. The measure was taken out of the Senate's defense authorization measure, 17-9, and replaced by language written by the committee chairman, Sen. Carl Levin, D-Mich. Levin's provision puts the prosecution decision in the hands of the next most senior officer in the chain of command and makes retaliation against the victim a crime. "I have concluded that only a significant, serious change to the status quo will lead to a truly 'zero tolerance' policy," Donnelly said in a statement following the vote. "In light of the seriousness and size of this problem, I supported Senator Gillibrand's proposal in the [defense authorization bill]. I think this is the right way to go as we seek to enact a zero tolerance policy for sexual assault in the Armed Forces."

Military suicides

Donnelly conducted a six-city Indiana tour last week which became a fact-finding mission. What did he learn?

"That it cuts across all economic levels, all education levels and all different wars," Donnelly said. "I sat with vets in American Legions across the state and they said, 'Look, when I came home, I didn't know what to do with myself. I felt overwhelmed, I felt challenged, I felt I had nobody to talk to, that I had all these pressures creeping up on me.'"

Donnelly's first bill is the Jacob Sexton Military Suicide Prevention Act of 2013, named after Farmland, Ind., native Jacob Sexton, who took his own life in 2009 in a Muncie movie theater. Sexton was an infantryman in the Indiana National Guard. He was home on leave from Afghanistan and was scheduled to return to his unit the next week. Family members said the suicide came as a complete surprise. They said Jake seemed happy and showed no signs of unusual behavior, stress or depression. "We were very open and I would ask him if everything was fine and if he didn't mind going back. He said he was fine with that," Barbara Sexton, Jake's mother, told WISH-TV.

Donnelly continued: "In talking to Jacob Sexton's

parents, his dad told me, 'What we didn't know was all the other challenges that Jacob was having to deal with. After the (funeral) services, so many of his friends who had served with him said they knew Jacob wasn't himself the last few months.'

Donnelly explained, "One of the most important things we can do is have the commanding officer in charge, if they see something, that they immediately let us know and that it be, in no way, shape or form, a mark on the young man or woman's career."

Donnelly's suicide bill would establish a pilot program aimed to integrate mental health components into a service member's annual health assessment in an effort to better identify risk factors for mental illness so that service members can access preventive care.

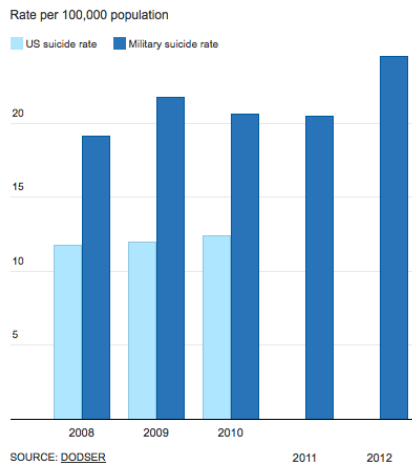
"This bill seeks to better identify service members struggling with mental health issues and to ensure they receive the assistance they need before resorting to this tragic act," Donnelly said in a statement. "The current mental health systems for both active and retired military rely on a service member's or a veteran's willingness

to self-report suicidal thoughts and seek out assistance. The back-up to this system is if family members, peers, or coworkers identify changes in behavior and recommend that their loved one or peer seek assistance. The pilot program would expand that review of fitness to include a more detailed mental health review and identify risk factors for mental illness, so that service members can access preventive care. The bill would also integrate a first-line supervisor's input, as the supervisor plays an important role in a service member's life and may be aware of relationship or financial problems but is not able to address them unless the service member speaks up."

He is also studying the Indiana National Guard's pioneering J9 program. "It has actually become one of the leading programs across the nation that works on all these family issues," Donnelly said. "Instead of having separate issues of suicide, or family problems, sexual assault, there are different areas which work constantly together at a table to eliminate all of them." He said the J9 program is now a model program for 17 other state guards.

Asked where he thought these two issues might evolve in five years, Donnelly said, "This is an all-in effort. This is a war by our leaders and by our folks in the House and Senate now. This needs to end immediately. I hope it's not five years, I hope it's next month, next week or tomorrow." ❖

How military suicides compare





A bizarre end: Democrats defend Pence veto; GOP votes to override

By **BRIAN A. HOWEY**

INDIANAPOLIS – It was somewhat of a bizarre twist during the final act of the 2013 Indiana General Assembly session.

House and Senate Democrats rallied to the defense of Republican Gov. Mike Pence's veto of HEA1546.

And Republicans in the super majority chambers voted overwhelmingly to override Pence's first veto.

On Wednesday the Indiana House voted 68-23 and the Senate 34-12 to override. Conservative Sens. Mike Delph, Jim Banks, Scott Schneider, Jim Tomes, Brent Waltz and Mike

Young voted in the minority.

Pence vetoed the bill saying that taxes on residents of Jackson and Pulaski counties were illegally collected.

The bill had originally passed the Indiana House 98-0 and the Senate 48-1.

A statement released by the governor's office said: "Governor Pence stands by his veto, and regrets that it was not upheld by the Indiana General Assembly today. While this bill contained some positive provisions, the Governor believes that when Hoosiers pay taxes that are not owed, they should be offered relief. Hoosiers can be assured that Governor Pence and his administration will continue to put taxpayers first."

State Sen. Lonnie Randolph, D-East Chicago, said the legislation "hoodwinks" the taxpayer. "What kind of a government are we creating?" Randolph asked.

State Rep. Eric Turner, R-Cicero, in urging the override, said that vetoing the legislation "would cost local taxpayers more than if we did nothing." He noted that both counties had voters renew the CAGET taxes that are used to support the funding of local jails. Local officials in both counties also unanimously supported the legislation.

But State Rep. B. Patrick Bauer, D-South Bend, said that not overriding the veto "would set a terrible precedent. It collects money not authorized. This governor shows he did pretty good in law school."

In the Senate debate, State Sen. Brandt Hershman, R-Buck Creek, said that overriding the veto would "be the least burdensome, the least costly, and the least disruptive solution" for both counties.

Hershman said that sustaining the veto would have other consequences in other parts of the omnibus bill, including a "tax increase" on the widows of veteran GIs.

State Sen. Ed Charbonneau attended the Pulaski County Council meeting Monday night and reported that none of the three commissioners and seven councilman "had received any comment from any taxpayers not in favor" of the legislation.

Charbonneau, R-Valparaiso, said the legislation is "consistent with taxpayer intentions" and added, the "solution is a very pragmatic one."

Senate Minority Leader Tim Lanane, D-Anderson, said he was "surprised" by the veto. He said he would not support the override because he had approached it "as a lawyer" and that the tax collections are not legal.

State Sen. Lindel Hume, D-Princeton, made the distinction that the taxes were collected "not illegally, but mistakenly."

Pence had urged lawmakers to uphold the veto, saying, "If Hoosiers owe taxes, they should pay them. But when Hoosiers pay taxes that are not owed, they deserve relief. House Enrolled Act 1546 of 2013 did not meet that standard. It would approve, after the fact, the collection of taxes that were not owed. While there are valuable elements of this legislation, retroactive approval of taxes collected is not the best remedy, and for that reason I vetoed this legislation."

Pence said that 30,400 taxpayers in Jackson County paid \$1.1 million that should not have been collected because a 0.1% local option income tax was no longer authorized by law. In Pulaski County, 12,400 taxpayers paid \$4.9 million "above and beyond what they owed in taxes."

Pence said that the revenue paid for operating costs, not debt, in both counties. Pence said the bills he vetoed "legalized and



State Rep. Eric Turner "respectfully" called for the override of Gov. Mike Pence's veto, while Rep. B. Patrick Bauer defended the new governor on Wednesday.



validated" these overpayments. "For that reason, I vetoed the bill," Pence explained. "I believe taxpayers should have full and fair notice of any proposed tax and have an opportunity to make their voices heard during the legislative process at both the state and local levels."

"We sincerely appreciate the concerns expressed

by Governor Pence; however this issue demanded an immediate solution. By overriding this veto, we have acted in the best interests of Hoosier taxpayers," said Speaker Bosma.

Sen. Randolph noted that it "shows courage for vetoing this on principle." ❖

A small victory in the nasty Indiana meth war

By MAUREEN HAYDEN

INDIANAPOLIS — Police and prosecutors fighting the meth epidemic won a small victory recently, when the Indiana Court of Appeals upheld the use of an electronic registry that tracks the legal sale of pseudoephedrine, the key ingredient in methamphetamine.

The appeals court ruled that information in the registry, the National Precursor Log Exchange, could be used as evidence under the "business record exception" to the hearsay rule, which otherwise excludes testimony or documents that quote people not in court.



It was a victory because of the critical role the registry plays in Indiana's efforts to curb meth. Investigators use it to find "smurfers," people who get paid by meth makers to go from one pharmacy to the next to buy pseudoephedrine-containing

cold medicine.

In the case that went to the appeals court, information in the registry was used to build a drug-dealing case against a 24-year-old southern Indiana man who was part of family meth-making operation, cooking up the chemically volatile, highly addictive drug in their home.

But I also use the word "small" to describe the legal victory's impact on what can only be called a scourge, if you define that word, as Merriam-Webster's Online Dictionary does: "A source of widespread dreadful affliction and devastation such as that caused by pestilence or war."

You can measure the dreadful damage in any number of ways:

By the millions of public and private dollars spent on cleaning up toxic meth labs, including \$17 million spent just by Indiana State Police since 1995.

Or by the record 1,726 meth lab busts made by the Indiana State Police last year -- more than twice the busts made by ISP in 2006.

Or by the average cost of a hospital stay of a meth patient, most of them uninsured, injured when their home-grown meth lab bursts into flames: \$130,000, according to an Associated Press study last year of the most active meth states which, sadly, includes Indiana.

Or by the horrifying number of children found by police busting the clandestine meth labs in bedrooms, basements and backyards throughout Indiana. In 2012 alone, there were 372 of them, including the 2-year-old son of that defendant in the appeals court case. Many of those children tested positive for meth, having been exposed to it just by breathing in the chemical fumes produced when their caretakers were cooking the drug.

Or we could measure it by the countless police reports that frighteningly mirror the fictional meth-maker Walter White on TV's "Breaking Bad." In that appeals court case, police who found that 2-year-old also found a laptop computer which showed the last Internet searches made on it before the bust: "How to manufacture methamphetamine" and "how to silently kill someone."

Almost every year since 2005, the Indiana General Assembly has debated legislation aimed at restricting access to the cold medicines that contain meth's primary precursor. And each time it passes a new law tightening those restrictions, legislators hail it as the right fix.

This year is no different. They rejected a measure favored by the Indiana State Police and mayors of the most scourge-ravaged communities that would have returned pseudoephedrine to its long-ago controlled status, requiring a doctor's prescription to buy it. They approved a bill, favored by cold-medicine makers and many legitimate users, that instead further limits the amount of pseudoephedrine a consumer can buy over the counter, to what amounts to about an eight-month supply.

I'm an allergy-suffering, legitimate user of pseudoephedrine and go nowhere without it, but I'm willing to risk my eight-months supply on a sure bet: Absent some drastic action by the General Assembly, I'll be reading and writing about clandestine meth labs and 2-year-olds in harm's way for years to come. ❖

Maureen Hayden covers the Statehouse for the CNHI newspapers in Indiana.



Indiana moves to offense on synthetic drug war

By **MAUREEN HAYDEN**

CNHI Statehouse Bureau

INDIANAPOLIS – In the quickly evolving war on synthetic drugs, Indiana has moved from defense to offense by passing ever-broader laws to combat a shape-shifting enemy operating in a legal gray zone.

Its newest weapon, a “lookalike” drug law, is unlike anything that other states have tried and may become a model law for the nation, according to national drug-law experts. But first it has to withstand a legal challenge.

At issue is Senate Act 536, known as the synthetic drug lookalike law, signed by Indiana Gov. Mike Pence in early May and put into effect immediately under an emergency provision in the bill.

It makes it illegal to possess or sell products that look like the chemically enhanced substances banned under previous laws targeting products sold legally as incense or bath salts but that mimicked the effects of marijuana and cocaine when smoked or ingested.

“It’s a pioneering effort to get these dangerous substances off of store shelves,” said Heather Gray, the research attorney for the National Alliance of Model State Drug Laws. “It could be a model for other states.”

It’s also the third synthetic-drug law in three years in Indiana, prompted by reports beginning in 2009 of poisonings, psychotic episodes, and deaths among mostly teenage users.

The two previous laws specifically outlawed the man-made chemicals in products like K-2 and Spice, which had become popular alternatives to illegal street drugs. And they gave police and prosecutors the power to crack down on retail outlets selling the items by threatening to arrest the owners and shut down their businesses.

Indiana Attorney General Greg Zoeller said the laws made a dent: Across the state, hundreds of gas stations and convenience stores that are part of national chains pulled the products, and others like them, from their shelves. “We didn’t get rid of it entirely. But we made it illegal and got it away from the candy bars and the cigarettes,” Zoeller said. “We wanted kids to know this is dangerous stuff.”

But it wasn’t enough. Indiana, like every other state caught off-guard by the swift emergence of synthetic drugs, couldn’t keep pace with what Zoeller calls the “greedy drug makers” who stay one step ahead of the law.

That’s because of the nature of synthetic drugs and the endless variety of lab-created chemicals that go into their making. As states raced to outlaw the chemicals, suppliers quickly responded by tweaking their formulas to create new and legal substances that produce similar mind-altering effects.

State Sen. Jim Merritt, who’s led the legislative battle against synthetic drugs, worked with Zoeller and the state’s police and prosecutors to come up with a solution, one that “throws a blanket around this to stop it,” said David Powell, head of the Indiana Prosecuting Attorneys Council.

“We didn’t want to encourage these intoxicating synthetics to come in under a different name every time we outlaw one,” Powell said. “It’s a silly game that everyone was playing and we’re all tired of it.”

The result was legislation that goes far beyond the past laws that identify synthetic drugs based on their chemical makeup. Instead, it creates a broader definition of synthetic drugs based on appearance. It gives police and prosecutors significant authority to label a product a “look-alike” drug if it visually resembles a product that contains a banned substance, even if it doesn’t. Merchants selling those lookalike products can face drug trafficking charges and civil actions to seize their inventory and assets.

At the bill signing with Pence, Merritt said the law was a desperately needed approach to keeping dangerous substances out the hands of teenagers, the drug makers’ targeted audience. “Today’s ban breaks new ground on this issue,” Merritt said. “I hope it will serve as a blueprint to other states in the fight against these poisons.”

But first, a federal judge has to decide whether the law will stand. In late May, after police in several Indiana communities used the new law to raid convenience stores selling lookalike products, a lawsuit challenging the new law was filed in the U.S. District Court in Indianapolis.

It was brought by four businesses that sell or make aromatherapy products, including herbal incense and air fresheners that look a lot like the banned products laced with synthetic drugs. The lawsuit, filed against every county prosecutor and the state, argues the new lookalike law gives the state far-reaching power to arbitrarily confiscate legal products from legitimate businesses.

Indianapolis attorney Mark Rutherford, who filed the suit, said the new law is so vague that it’s impossible to ascertain what is legal or illegal when it comes to aromatherapy and incense products. Under the law, Rutherford said, police and prosecutors could decide that almost anything, from potpourri to talcum powder, are synthetic drug lookalikes.

Rutherford said his clients are harmed by “the bad apples” in their industry who intentionally thumb their nose at the law. “We’re happy when the bad guys are





prosecuted," he said. But he said the lookalike law is based on a false premise that all products that look like the ones laced with synthetic drugs are drug-laced. "It is like calling all blonds stupid, therefore anything that looks like a blond is stupid," Rutherford said. "Law enforcement thinks (my) plaintiffs look like blonds, thus they are stupid. It is a despicable practice."

Indiana University McKinney School of Law Professor Joel Schumm isn't surprised the law is being challenged. He described it as "very different than the

hundreds of other crimes" spelled out in the Indiana criminal code. "Most people can look at a law and know what conduct applies. They can read a law and know what they have to avoid to keep from breaking that law," Schumm said. But under the lookalike law, he said, "it's not clear what's criminal or what's not."

Zoeller and Merritt are convinced the court will let it stand, giving the state some leeway to protect the public by closing what they call a loophole in the existing synthetic drug laws. ❖

Is the Great Recession finally over in Indiana?

By **MORTON J. MARCUS**

INDIANAPOLIS — This column is not intended to confuse you, but to share the difficulty of making flat statements about a complicated matter. Be patient and, maybe, together we can make sense out of what appears to be chaos.

Is it over? Has the recession ended? What do we mean "the recession has ended."

The answer from a national perspective is YES. If you are still or again unemployed, your recession continues.



Whether the recession is over may depend on where you live and how we define "recession".

Unemployment is the greatest concern we have about recessions. Workers without jobs are in trouble. Their incomes are down because unemployment compensation does not substitute for the pay of a full-time job and they may be without health insurance.

If we compare April 2013 with the start of the recession (approximately)

April 2008, we find only Vermont and Alaska have more persons unemployed today than five years ago. However, conditions in those two states are very different.

In Vermont there are now more people employed than in 2008 and there are more people looking for work. This is probably a good situation. Encouraged by growing employment, more Vermonters are looking for work. The data say that 79 percent of the added labor force found jobs.

By contrast, in Alaska there are fewer employed persons than in 2008. The data suggest 94 percent of those without jobs withdrew from the state's labor force.

Alaska is not a place folks hang around if work is not available.

Indiana is among the 16 fortunate states where employment grew, the number unemployed dropped, and the size of the labor force increased. We have 193,000 more persons employed now than in April 2008. Of these, 100,000 were previously counted as unemployed and 93,000 as labor force entrants or re-entrants.

The reader should be careful not to take these descriptive words too seriously. We do not know if the 100,000 decline in the number unemployed is because Hoosiers without jobs went back to work. As told, the story is a convenient convention to describe a complex set of possible relationships. Other states enjoying similar positive conditions included Michigan, Ohio, Illinois and Wisconsin. However, it remains too early for the Great Lakes governors to start thumping their chests about the superiority of their economic progress.

Indiana still has 167,000 unemployed workers. Many of these people have been without jobs for an extended period. Together, the five Great Lake states have 1.4 million persons unemployed, 18 percent of the national total of 7.9 million without jobs.

Less fortunate than the Great Lakes region were 13 states, including North Carolina, Kentucky, Tennessee and Texas, where the jobless numbers declined, but so too did employment and the labor force. This scenario suggests states where those losing jobs either become unemployed or leave the labor force.

The national picture is like Indiana. While employment increases, unemployment declines and the labor force grows.

Does this suggest a healthy labor market? Are students who leave school to take jobs shortchanging themselves and their futures? Are retired folks being pressed by economic necessity to return to work? The lack of answers confounds policy makers and economists alike. ❖

Mr. Marcus is an independent economist, writer and speaker. Contact him at mortonjmarcus@yahoo.com



Donnelly right where he wants to be: the middle

By **JACK COLWELL**

WASHINGTON – U.S. Sen. Joe Donnelly says he's right where he wants to be, in the middle, shot at by both sides in the heated political warfare in Washington.



After a congressional recess tour of Indiana, Donnelly concluded he also is where his Hoosier constituents want him to be, in the ranks of moderates, an endangered species in Washington.

"Washington is completely disconnected," Donnelly said in an interview in his Senate office. Hoosiers are concerned about "the daily realities in their lives," jobs, education and the future for their children and grandchildren,

Donnelly said.

Nobody asked him back in Indiana about what somebody said somewhere in past talking points about Benghazi or some of the other endless disputes that take center stage in Washington, Donnelly said.

In his office is a sign: "Hoosier Common Sense." No, he can't define it exactly, but he said it refers to what any normal person without political motives would understand and want – such as working together for the common good.

But is that possible in the divisive climate here? After all, when the Senate finally passed a budget, a small group that had called for a budget used Senate rules to obstruct sending it on for negotiations with the House.

It got so discouraging for moderates in the Senate that in recent elections, Evan Bayh, a moderate Democrat from Indiana, and Olympia Snowe, a moderate Republican from Maine, both well funded, well liked and well ahead in projections, declined to seek re-election, saying they just didn't want to go back to the useless bickering and stalemate.

"I'm an optimist," Donnelly said

While he acknowledged that what seem to be common sense approaches often are defeated in the political warfare in the House, where he served for six years, as well as now in the Senate, Donnelly said he won't stop trying. "I put my uniform on every day and go play," he said. And he expressed confidence that the moderate team, though with a depleted roster, will win some.

Donnelly cited a Wall Street Journal analysis that mentioned 13 younger moderates on the Democratic side in the Senate – Donnelly among them – that could provide the bridge for constructive compromise on the big issues of spending, debt and taxation.

There are efforts at working together, Donnelly said, even though the news of the partisan bickering overshadows the quiet search for understanding and compromise.

He said a quarter of the Senate membership, with about equal representation of the two parties, met for a private, no-leadership-attending dinner to talk about common goals, common sense.

Donnelly said he has found no problem in working with many of the Republican senators. And neither arm is in a cast as a result of his reaching across the aisle.

He mentioned Sen. John McCain of Arizona, with whom he serves on the Armed Services Committee, as a Republican clearly putting country ahead of politics, often in a very blunt way.

Donnelly related that at a party marking the anniversary of McCain's release as a prisoner of war, McCain quipped that the North Vietnamese "found me as crusty to deal with as you do."

As a moderate in the middle, Donnelly has been a target for both sides, especially on the gun violence issue.

He didn't support a ban on assault rifles, resulting in criticism from gun control advocates. He did support closing loopholes in background checks for gun purchases, bringing criticism from the gun industry.

Donnelly said the closing of loopholes that allow purchases without background checks at gun shows is an example of that "Hoosier Common Sense" motto. He said it makes no sense to have checks at gun stores but not check for criminal or mental health problems before sales at gun shows.

After his recent tour of the state and other travels in campaigning and after his election to the Senate last fall, Donnelly has reached this conclusion about his constituents: His 2nd Congressional District is pretty representative of the entire state, with a similar concerns about jobs, manufacturing, agriculture, education, the future.

And similar desire for him to stand right where he is, in the middle, shot at by both sides in the divisive warfare in Washington. ❖

Colwell has been covering Indiana politics over five decades for the South Bend Tribune.



How to make Congress work

By **LEE HAMILTON**

BLOOMINGTON - I've noticed a recurring question as I talk to people about Congress. What can be done, they wonder, to get Congress back on track? Is our national legislature capable of serious policy-making? At a time when polls say that jobs and the economy are Americans' chief concern, Congress has not passed a single piece of economic legislation. Instead, it's focused on investigations. It's an institution with very little to show for its efforts.



There's a reason for this. Few legislators know how to make it work anymore. Too many don't respect the legislative process and know it intimately, have mastered the substantive and procedural details, and have the political savvy and skill to move a bill to enactment.

How can Congress improve? A few procedural fixes might help, but the real answer is actually pretty simple: Change the way members of Congress work.

First, they need to put in more time legislating on the major challenges facing the country. Only twice this year has Congress been in session for four weeks straight. Its members spend too much of each week at home campaigning and meeting with constituents, and don't use their limited time in Washington well. Much of it goes to meeting lobbyists, legislating on minor if not trivial matters, making the rounds of receptions, and raising funds.

Members have few occasions to get to know one another except in the confrontational settings of committee rooms and the floor of their chamber, and as a result they don't know how to work together. Just as dispiriting, they know even less about what we sent them there to do: Crafting and enacting legislation. It takes skill and perseverance to create meaningful policies that forge common ground among competing interests and ideologies. The time-consuming, difficult work of legislating on complex issues is becoming a lost art.

To begin restoring it, members have to remember that they are a separate, co-equal branch of government. They've allowed Congress to become a reactive body. It takes its cues from the president – either in deference to him or in opposition to him, but always with reference to him. Capitol Hill should be an engine of creative policy-

making and inquiry, not the place that dynamic lawmaking withers.

This can't happen, however, if members of Congress continue putting politics ahead of policy making. Many of the bills passed today in one chamber or the other are not even taken up by the other body. They are posturing, not legislating.

I'm not naive. Politics is always going to be important, but it ought not dominate lawmakers' actions. They can be politicians at election time, but once they reach Capitol Hill our Constitution expects them to be policy makers and legislators. So do ordinary Americans. The partisan maneuvering, the compulsion to send a message rather than legislate, and the lack of solid accomplishment have driven Americans' disdain for Congress to record highs.

If lawmakers want to reverse this, they need to reorder their priorities. They'll rein in their partisan instincts. They'll spend less time asking for money – often from the people affected by the bills they're voting on – and more on building friendships and relationships among colleagues, especially of the opposite party, who can help them enact legislation. They'll ignore trivial bills that give the appearance of action but accomplish little, and learn how to do rigorous oversight, with truth-seeking hearings that are fair and balanced.

They'll master the legislative process, rather than delegating bill-writing and even strategy to staff. They'll send their polite regrets to the invitations that pour in for receptions, dinners, media appearances, and all the other distractions that keep a member of Congress busy, and bear down on the work their constituents sent them to pursue: Crafting legislation, debating bills, deliberating with their colleagues, and reaching consensus on the serious problems confronting the country.

Here's the most important part: They don't need legislation or constitutional amendments or procedural fixes or even years of seniority to start. They just need to go to work and make the Congress and our representative democracy effective at serving the best interests of the country. ❖

Lee Hamilton is Director of the Center on Congress at Indiana University. He was a member of the U.S. House of Representatives for 34 years.



Laying Mayor Clay to rest

By **RICH JAMES**

MERRILLVILLE - Again this week, Lake County is a hotbed for political news.

As former Gary Mayor Rudy Clay was laid to rest this week, he was remembered by friend and foe as a man who cared about people.



Before becoming mayor he served as a state senator, county councilman, county recorder and county commissioner. He also served as Lake County Democratic chairman. Many remember the verbal exchange between Clay and Hammond Mayor Thomas McDermott during the 2008 Democratic primary.

The argument, which reached CNN, was over the delay in the counting and release of the Democratic vote in Lake County. Clay was backing Barack Obama and McDermott was the leading local

supporter of Hillary Clinton in the county.

Clay (pictured) was a fierce defender of his beloved Gary, working tirelessly to make it better. However, most of his hopes for Gary never came to be before he announced he wouldn't continue because of illness. The funeral was at the Gary Genesis Center that was built when Richard G. Hatcher was mayor. While not enemies, Clay and Hatcher never were particularly close.

On another political front, former Lake County Sheriff Roy Dominguez wants an apology from Portage Mayor James Snyder.

Snyder sent three police officers to a Northwestern Indiana Regional Planning Commission meeting when several folks with disabilities showed up to speak. The disabled – most of whom were elderly and one was blind – were there as representatives of Everybody Counts, a group that fights for the rights of the disabled. Dominguez, who is an Everybody Counts board member, said those who came to speak felt threatened by the police presence.

But Snyder said the police presence was justified because there were mayors, commissioners, councilmen

and state legislators at the meeting. What about regular folks?

"The people of Portage have elected me to make decisions to keep them safe from harm and to take preventive measures when necessary as well," Snyder told the Times of Northwest Indiana. Yeah, those disabled folks sure were threatening.

Can you trust Snyder's judgment when it comes to law enforcement? When he was elected mayor in November 2011 he fired Police Chief Mark Becker, a retired FBI agent and one of the most respected law enforcement officers in the state. Snyder said he would interview Becker for the job, but he didn't.

Elsewhere, some counties across Indiana are struggling to comply with a state mandate and consolidate county E-911 services by the end of 2014. Lake County is probably having the toughest time.

The 17 municipalities in the county don't want to give up what they have. But the county finally has hired someone who knows the business. Brian Hitchcock is the E-911 director. He has 31 years of experience in military and public safety communications, but chances are he never has dealt with the kind of politics he will encounter in Lake County.

And there won't be any more prayers before meetings of the Hammond City Council, at least for the time being. Council President Michael Opinker said that will be the case while the U.S. Supreme Court reviews the subject of prayer at local government meetings.

"The government center isn't a place for prayer," Opinker said. "It's public business and that's what we should concentrate on until this thing with the Supreme Court is taken care of."

Eight people have been ordained

Gary Catholic Diocese deacons. Bishop Dale Melczyk performed the ceremony. Two are public figures. One is Daniel Lowery, president of Calumet College of St. Joseph. Another is Miguel Arredondo, who is a former chief of the Lake County Police Department, and now is code enforcement manager for the city of East Chicago. ❖

Rich James has been writing about state and local government and politics for more than 30 years. He is a columnist for NWI Times.





Paul Krugman, New York Times: House Republicans have voted 37 times to repeal ObamaRomneyCare — the Affordable Care Act, which creates a national health insurance system similar to the one Massachusetts has had since 2006. Nonetheless, almost all of the act will go fully into effect at the beginning of next year. There is, however, one form of obstruction still available to the G.O.P. Last year’s Supreme Court decision upholding the law’s constitutionality also gave states the right to opt out of one piece of the plan, a federally financed expansion of Medicaid. Sure enough, a number of Republican-dominated states seem set to reject Medicaid expansion, at least at first. And why would they do this? They won’t save money. On the contrary, they will hurt their own budgets and damage their own economies. Nor will Medicaid rejectionism serve any clear political purpose. Medicaid is a joint federal-state program, and the Supreme Court made it possible for states to opt out of the expansion. And it appears that a number of states will take advantage of that “opportunity.” What will that mean? A new study from the RAND Corporation, a non-partisan research institution, examines the consequences if 14 states whose governors have declared their opposition to Medicaid expansion do, in fact, reject the expansion. The result, the study concluded, would be a huge financial hit: the rejectionist states would lose more than \$8 billion a year in federal aid, and would also find themselves on the hook for roughly \$1 billion more to cover the losses hospitals incur when treating the uninsured. Meanwhile, Medicaid rejectionism will deny health coverage to roughly 3.6 million Americans, with essentially all of the victims living near or below the poverty line. And since past experience shows that Medicaid expansion is associated with significant declines in mortality, this would mean a lot of avoidable deaths: about 19,000 a year, the study estimated. Just think about this for a minute. It’s one thing when politicians refuse to spend money helping the poor and vulnerable; that’s just business as usual. But here we have a case in which politicians are, in effect, spending large sums, in the form of rejected aid, not to help the poor but to hurt them. ❖

Abdul-Hakim Shabazz, Indianapolis Star: I thumbed through a report by the National College Republicans on the 2012 election. The report basically said what I have observed for quite some time: At the national level the Republican Party is laying the foundation for its own demise. Here are some of the findings in that report. A plurality, 44 percent, said same-sex marriage should be legal. A majority thought any immigration reform proposal should have a path to citizenship for those already here. Fifty percent wanted to cut government spending, and most

thought the cuts should start with the defense budget. The most damning part of the survey was in participants’ descriptions of the GOP as a whole. Republicans were viewed as “closed-minded, racist, rigid, old-fashioned.” Yikes! This is not good news for a political party that has lost the popular vote in all but one presidential election in the past 20 years and, but for the grace and glory of gerrymandering, would have lost the U.S. House in the last election. The current Republican Party (nationally speaking) has become too old, too white and too inflexible. It’s no longer the party of Eisenhower, Reagan and Nixon, but the party of Palin and Bachmann. I guess every tea party needs a Mad Hatter or two, but Republicans cannot stay on this path if they want to be viable in the future. And despite tea party claims of victory in two recent special congressional elections, all they have done is win in places where Republicans usually win, South Carolina and Missouri. This is like bragging about being valedictorian in summer school. Now this is usually the part where some political troglodyte will question my conservative credentials, call me a RINO (Republican in Name Only) and tell me about how ideologically impure I am and the conservative movement is better off without people like me. I laugh at this because it exemplifies exactly what is wrong with the national GOP. Instead of embracing and working with someone who is with you 70 to 80 percent of the time, the party has allowed itself to be hijacked by extremists who won’t allow room for compromise and thoughtful discussion. ❖

Lou Cannon, Real Clear Politics: Doug Bailey, who elevated the standards and practice of his craft, died in his sleep Monday at 79, leaving friends and family and a political community of which he was a distinguished member to grieve the loss of a singular gentleman in a field not often known for its grace. Bailey was at once an old-time political operator and an innovator fascinated with modern methods of reaching the electorate. Throughout his life he was a moderate Republican, a disappearing breed in an age of conservatives. He deplored the increasingly poisonous tone of politics, so much so that he left the profession altogether in the early 1980s. But Bailey returned with a bang in 1987 with the founding of Hotline, an online compendium of political news and analysis from around the country that became a must-read for anyone with the slightest interest in politics. With typical prescience, he anticipated long before the Internet became a fact of life that Americans would get much of their news online. Those who knew Bailey, including this reporter, admired his creativity and were awed by his decency. He treated clients, adversaries and reporters with fairness and respect. And, as he once put it to me, he was “willing to take a chance on the truth.” ❖





Delegation writes about school cuts

WASHINGTON – Indiana’s seven Republican members of the U.S. House want the White House to account for cuts in school workers’ hours related to the federal health care law (Francisco, Fort Wayne Journal Gazette). Led by Rep. Marlin Stutzman, R-3rd, the GOP lawmakers point to the reduction in hours for part-time school workers in Fort Wayne, Lafayette and Shelbyville because of a pending provision of the Patient Protection and Affordable Care Act. Fort Wayne Community Schools on June 3 trimmed the hours of 610 cafeteria workers and teaching aides from 30 a week to 25 to avoid having to provide them with health insurance. The regulation, scheduled to take effect Jan. 1, requires employers with 50 or more workers to provide insurance to employees who work at least 30 hours a week. “Hundreds of middle class Hoosiers working in schools will now suffer the consequences of a law you told the American people would serve as a solution to making health care affordable for the middle class,” the lawmakers wrote in a letter sent to Health and Human Services Secretary Kathleen Sebelius and Treasury Secretary Jack Lew. The legislators ask whether Sebelius and Lew have projected the law’s effect on school work hours in each state; to provide the number of hours cut so far and the number of jobs affected; and to predict how many people will work 30 to 34 hours in 2014 compared with this year. “Hoosiers and Americans across the country deserve to know how their federal government expected this law would impact their jobs,” the lawmakers wrote. Stutzman’s office said he organized the effort.



According to media reports, Lafayette School Corp. is reducing the hours of 150 workers and Shelbyville Central School System is cutting the hours of about 100 instructional aides and an unspecified number of substitute teachers, bus drivers and coaches.

Coats seeks bill changes

WASHINGTON - U.S. Sen. Dan Coats (R-Ind.), ranking Republican on the Senate Appropriations Subcommittee on Homeland Security, spoke on the Senate floor during Senate debate on immigration reform, calling for changes in the proposed legislation. “I am the son of an immigrant,” Coats said. “My mother’s family came to the United States legally in search of a better life and better opportunities for their children. And what my mother learned and passed down to us is that with these freedoms granted to us as American citizens come responsibilities. Our current immigration system has failed – it has failed the citizens of this country and it has failed those who have been standing in line for years trying to do it right to become legal citizens. Today, we have roughly 11 million undocumented individuals living in our country. Approximately 40 percent of those who are here illegally came here legally on a visa but overstayed. And our borders are still not secure. As the ranking member of the Senate Homeland Security Appropriations Subcommittee, I have traveled to the southwest border, and I have seen firsthand the challenges we continue to face to secure our country’s borders.” Coats added, “I have serious concerns with the current text of the legislation that came out of the Senate Judiciary Committee, and I believe the bill needs to be improved before I could support it. I am particularly focused on improving the border security measures and ensuring that

we don’t make the same mistakes made in 1986. We can’t just rely on trusting that the border will get fixed. We must take steps now to secure it first. Additionally, I want to work with my colleagues to improve the employer verification and the exit system measures, which are essential in any immigration reform bill.”

Snowden denies being a ‘traitor’

HONG KONG - In a new interview, Edward Snowden says he considers himself “neither a traitor nor hero. I’m an American,” according to a report by the Hong Kong English newspaper South China Morning Post. “I believe in freedom of expression,” Snowden told the Post in an interview Tuesday night. “I acted in good faith but it is only right that the public form its own opinion.” The newspaper says the NSA leaker is holed up at a secret location in Hong Kong, and The Guardian is reporting he is now staying in a “safe house.” “People who think I made a mistake in picking HK as a location misunderstand my intentions. I am not here to hide from justice; I am here to reveal criminality,” Snowden said. “My intention is to ask the courts and people of Hong Kong to decide my fate. I have been given no reason to doubt your system.” Snowden said he plans to stay in Hong Kong until he is “asked to leave,” but that he thinks the U.S. government is “trying to bully the Hong Kong government” into extraditing him. “The U.S. government will do anything to prevent me from getting this into the public eye, which is why they are pushing so hard for extradition,” he said.