



## Marriage amendment on the brink

A highly anticipated committee vote delayed until next week as 4 Republicans mull

By **BRIAN A. HOWEY**

INDIANAPOLIS – State Rep. Wendy McNamara has a three-ring binder with 400 pages of material on HJR-3, the constitutional marriage amendment. And she also found herself in the near exclusive company of Gov. Mike Pence, when she escorted him to his State of the State address Tuesday evening.

McNamara, along with Republican State Reps. Jerry Torr, Dan Leonard and Casey Cox, continued to find themselves in the epic crosshairs of what has become one of the most compelling policy and political debates in modern Indiana history. The expectation on Monday was for three or four hours of House Judiciary Committee testimony, and then a vote that would send HJR-3



Gov. Mike Pence with State Reps. Dan Leonard and Wendy McNamara prior to the State of the State address Tuesday evening. (HPI Photo by Brian A. Howey)

on the fast track where, once dealt with, would allow the Indiana General Assembly to deal with tax repeals, a replacement for Common Core and criminal code reforms.

But in a twist few saw coming, gridlock appears to have settled on the committee, with the fate of the amendment and the 2014 election cycle in Indiana hanging in the balance.

“We anticipated a committee vote,” said Curt Smith of the Indiana Family Institute. “There are a couple who are undecided. We are guardedly optimistic.”

“There was a lot of compelling testimony on

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## Pence climbs Mt. Baldy

By **BRIAN A. HOWEY**

INDIANAPOLIS – One of the most unique places in Indiana is Mount Baldy on the southern rim of Lake Michigan.

In a state with no mountains and Southern Indiana ridges that rise only 1,000 feet above sea level, Mount Baldy is conspicuous as a rounded sand dune towering over the Michigan City harbor. This is my hometown, and as a child, climbing Mount Baldy and rolling down through the squeaky white sand was a summer ritual and one enjoyed by other kids growing up there, like Scott Pelath, Don Larsen and John G. Roberts.



**“We are reviewing those standards. I’m pretty confident there are going to be changes to those standards. And Indiana will be adopting a new set of standards.”**

*- Supt. Glenda Ritz, on changes coming to Common Core*



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It became a generational thing when I would take my two sons up to the top where a lesson would be taught. To the east was Michigan City and Long Beach. To the west was the Chicago skyline. Looking north, there was 380 miles of fresh water sea stretching well beyond the horizon all the way to Manistique, Mich. This was a view of "freedom and unparalleled opportunity, adventure and danger."

**To the south** was the Indiana State Penitentiary, a massive Civil War era chamber of punishment, as-



sault and despair. If you happened to have been atop Mount Baldy on Sept. 26, 1933, you might have heard the pops of a gun battle as John Dillinger sprang Harry Pierpont, Charles Makley, John Hamilton, Walter Dietrich and Russell Clark, who would make up the infamous Dillinger Gang.

To my sons, Mount Baldy was a lesson of choices, opportunities, challenges and consequences.

As evil as that 1933 incident was – portrayed in the opening scene of the Johnny Depp film "Public Enemies" – what occurred nearly eight decades later on July 15, 2013, was the antipodal event, when 6-year-old Nathan Woessner, hiking on Mount Baldy with his father Greg and a friend, disappeared, as the Associated Press described it, "without warning or sound."

**During his State** of the State address Tuesday night, Gov. Mike Pence picked up the narrative. "His dad ran to the scene, marshaling help even while frantically digging for his son," Pence said of the drama. "Michigan City police and fire raced to the dune and were joined by

beachgoers using their bare hands as local businesses rushed machinery to clear away the sand. Even reporters covering the story were seen using their notepads to dig. For nearly three hours, no one out of the nearly 140 people on that sand dune gave up until a firefighter felt a hand beneath the surface and pulled little Nathan to safety. They called it the Miracle on Mount Baldy."

Nathan had sifted 11 feet below, close to a netherworld holding who knows how many souls.

Nathan was limp and cold, with no pulse, no breathing. LaPorte County Deputy Coroner Mark Huffman ordered the boy into the back of a pickup truck and he was taken to a waiting ambulance. As the truck bounced over the dune, the AP reported, a medic noticed something astonishing: The boy took a breath. Then, a cut on his head started bleeding. The jolt apparently shocked Nathan's body back to life, Huffman said.

"Man, I tell you that was such a great feeling," Huffman said. "This is not something that I as the chief deputy coroner get to report that often. It's an absolute miracle this child survived."

**When Gov. Pence** called the hospital to talk to the family, he said, "I told him I thought it was a miracle. Greg told me, 'Governor, this is everyone's miracle.'" And so it is.

"That's the Indiana way. We are strong and good people, but we are never stronger than when we work together," Pence said.

While Pence made a televised pitch aimed at average Hoosiers, he made a push for his business tax

repeal, his pre-K education program, and waded into the controversies of the day – the marriage amendment, and the board of education feud with Education Supt. Glenda Ritz.

But it was this last part of the speech that Gov. Pence does best. He has the Clintonian gift of empathy. He maintains a positive outlook. The glass is always more than half full.

**It reminded me of former** Republican Chairman Mike McDaniel's observation about Gov. Frank O'Bannon after his passing a decade ago. "During the last 34 years, politics in Indiana has evolved into a full contact sport," McDaniel wrote. "Politics is truly a rough and tumble life today. A lot of good people stay away from politics and public service because it has become so mean-spirited. Yet throughout this evolution, Frank O'Bannon kept his civility. People liked Gov. O'Bannon because they sensed that he genuinely liked and cared about them."

And this is territory that Gov. Pence has staked.

His vigorous brand of conservatism brings out the critics from the center and left. But when the topic of Pence comes up, the preface is nearly always "he's a nice guy" or something akin to that.

Polling over the last year finds the political ground quaking on a number of social issues that tend to be moving away from the governor. But with his approval in the 60th percentile – and much of it driven by his friendly personality – the Hoosier governor along with his super majorities in the Indiana General Assembly are in an enviable position to continue to move this state into the conservative worldview.

There were two elements of the Pence address that won't get much coverage because of the marriage and tax repeal stories.

The first was his comments against an expansion of traditional Medicaid, with the state potentially leaving more than \$10 billion of federal funding on the table.

"The sad truth is that traditional Medicaid is not just broke, it is broken," Pence said, reiterating an oft-stated position. "Research shows that the program does not lead to better health outcomes and in some cases hurts the very people it is supposed to help. One analysis found two-thirds of the children on Medicaid who needed to see a specialist, couldn't.

**"Traditional Medicaid** is not a system we need to expand. It's a system we need to change. The Healthy Indiana Plan is the right place to start. The Healthy Indiana Plan is consumer-driven healthcare that moves people from emergency rooms to primary care and encourages low-income Hoosiers to take more ownership of their own

healthcare decisions.

"Let me be clear, we will continue to work in good faith with federal officials to expand our Healthy Indiana Plan," Pence emphasized. "I will oppose any expansion of our health insurance system that condemns vulnerable Hoosiers to substandard health care or threatens the fiscal health of our state."

**While Democrats and** a recent letter from more than a dozen clergy have questioned his Medicaid decision, on this front Pence has wide public support. But this will also be one of his greatest challenges, whether the U.S. Department of Health and Human Services grants his request to expand HIP, or refuses. While so much attention has been placed on tax cuts, jobs and education, this is the epic issue on the plate that stands to impact the most Hoosiers, and we are only in the beginning chapters.

There also was Pence's tribute to Karen Sauer, the "single mom who felt called to adopt," as he put it.

This was fascinating because it was a breakaway from the Pence worldview of whole families with a mom and dad. Here was a single woman who fished Neven and Dusten out of the foster care sector, and provided a durable, loving home, even if it doesn't meet the Ward and June Cleaver threshold.

Pence made his pitch for adoption, perhaps the most conspicuous acknowledgement of a Howey Politics Indiana column by Howard County Republican Chairman Craig Dunn, who last summer urged his party to go beyond bringing all children out of the womb and build a world of support and care.

"Adoption is a beautiful way for families to come together forever," Pence said. "We can better support families like Karen's by expanding and improving adoption in Indiana. We can improve the way we place children from state care into adoptive homes, and we can support every parent who is willing to lovingly adopt a child into their home. Let's make it our aim to make Indiana the most pro-adoption state in America."

**There is so much to** do for kids in a state where 22% of them live in poverty and another 34% live in single parent households. But it also is an acknowledgement of what many of us know: Same-sex couples and untraditional family units can provide nourishing environs for Hoosier kids. That nuance is often unrecognized in the current polarized debate over "traditional marriage." The reality is there is a lot of gray area in real lives.

The other thought is, there is sooooo much work to do on this front and it's a good place to start.

But there was a lot of work to do, too, when Nathan Woessner slipped below the sands of Mount Baldy.





## Marriage, from page 1

both sides," McNamara said. "There was a lot of information disseminated. There's a lot of material to digest."

The classic fly-on-the-wall wish leading up to Pence's address came prior to the reception, with Rep. Leonard and McNamara's escorting of Pence to the House chambers. The trio waited outside the House chamber for 15 minutes, with McNamara smiling and making small talk with Pence; the stoic Leonard stood nearby while the governor glanced at his binder of text, and appeared to pray.

Most observers didn't expect Gov. Pence to weigh in, but he did about two-thirds of the way through his speech, saying, "Now on the subject of marriage, we are in the midst of the debate over whether Indiana should join some 30 other states that have enshrined the definition of marriage in their state constitutions. Each of us has our own perspective on the matter. For my part, I believe in traditional marriage, and I have long held the view that the people, rather than unelected judges, should decide matters of such great consequence to the society."

The governor added, "Reasonable people can differ, and there are good people on both sides of this debate. No one, on either side, deserves to be disparaged or maligned because of who they are or what they believe. So let's have a debate worthy of our people with civility and respect. Let's protect the rights of Hoosier employers to hire who they want and provide them with benefits that they earn. And let's resolve this issue this year once and for all. And then, let's come together to support every Hoosier family. One way we can do that is by helping the family budget."

### Compelling McNamara

In McNamara, we find a compelling figure. She was part of the class of 2010, originally recruited to take on State Rep. Trent Van Haaften, who abruptly moved into the 8th CD nomination when U.S. Sen. Evan Bayh opted out of his reelect. Now paired against State Sen. Bob Deig, McNamara won a razor-thin victory in 2010 and two years later, when many thought her vulnerable to a reelection bid against Van Haaften, came away with an impressive victory.

McNamara's inner contemplation on HJR-3 is a continuum of independent Evansville area female legislators like Sen. Vaneta Becker and Rep. Suzanne Crouch (now state auditor), who weren't afraid to buck the status quo. Those two took the bold step in 2009 and 2010 to

question Gov. Mitch Daniels' FSSA/IBM welfare reforms, with the two sounding the alarms that people were falling through the cracks. Daniels was not amused, but in the fall of 2010 came to a similar conclusion and pulled the plug on IBM. The result was a successful relaunch into the "hybrid" FSSA system. But the willingness to confront the status quo is not dissimilar to the path McNamara finds herself on today.

Judiciary Chairman Greg Steuerwald has yet to call for a second committee meeting with no listing posted this morning. Speaker Bosma is saying the vote won't come until next week. Asked if he had the votes on Monday, Steuerwald, "We'll have to wait and see. I'll discuss this with every committee member. It's fair to say the committee has given due consideration."

Asked if he would pass on a vote if HJR-3 was going down to defeat, Steuerwald said, "I'll have to make that decision if and when it happens."

The delay, said Indiana Freedom's Megan Robertson, "has given us more time to empower supporters to contact legislators. All of them have been getting calls, emails, letters and constituent meetings. Our folks are reaching out to these legislators."

Before Pence's speech, amendment author and State Rep. Eric Turner told HPI that while he doesn't know when the Judiciary Committee will meet again, he still expects it to pass there and head to the House floor for a debate and vote.

Senate President Pro Tempore David Long said that it might not occur until next week. And Long told Howey Politics Indiana that if HJR-3 doesn't pass out of the House Judiciary Committee and the House, he doesn't expect it will be debated on and voted in the Senate.

While McNamara may be under intense pressure from the family organizations to move the bill out of committee, there are at least two other elements that could be in play. One is that while a number of her House GOP colleagues have said they will vote for the bill if it comes to the floor, there appears to be a growing number who would rather not have to deal with it. The "clarifier" bill is seen by many as an acknowledgement that the second sentence in the amendment is deeply flawed.

Second, while Eric Miller and others have hinted at potential primary challenges, the bookend to that is Indiana Freedom's Megan Robertson, an operative with a vivid Republican pedigree (Mayor Greg Ballard, U.S. Rep. Luke Messer). If a McNamara were to vote



**Gov. Pence with undecided Reps. Leonard and McNamara outside of the House Chambers on Tuesday. (HPI Photo by Brian A. Howey)**

against the amendment, the emerging Indiana Freedom network (and funding) would almost certainly be available to someone like McNamara if she killed it in committee. And if McNamara didn't have significant reservations about HJR-3, she wouldn't be in the position she is in today.

The clarifier legislation sent an unmistakable message that the amendment was deeply flawed.

And a poll by Chesapeake Beach Polling released by Senate Republicans on Wednesday indicated that while the marriage amendment is favored 53 to 41%, when informed of the second sentence and its potential impact on future civil unions, opposition to the amendment increases to 54%.

### HB1533 clouds the issue

The most critical twist in the marriage equation came late last week when HB1533 surfaced to "clarify" the controversial second sentence that appeared to make any type of civil union impossible.

In the revamped legislation, it would "recognize legal status" of Indiana residents in:

1. The extension of employment benefits by private sector employers, political subdivisions of the state, or state educational institutions to any beneficiary designated by an employed individual;
2. The adoption and enforcement of local ordinances granting to any category or class of persons equal opportunities for education, employment, access to public conveniences, access to accommodations, or acquisition of property or to rent property; an individual from entering into or enforcing terms of a power of attorney, a will, a trust, or another similar lawful agreement or instrument (regardless of name) established for the benefit of another person;
3. An individual from giving or enforcing a lawful consent or other instrument (regardless of name) that grants powers, rights, or privileges to, imposes obligations on, or provides for the use by or transfer of property to another person;
4. The protections provided under Indiana's domestic violence laws or who may qualify for protection from domestic violence;
5. Or action by the General Assembly to protect or provide for the property, health, or safety of unmarried persons by appropriate legislation."

Smith of the Indiana Family Institute said that the changes come not as a concern, but "just responding to those concerns."

In a statement, Smith said, "We applaud the introduction of HJR 3 and its companion bill, HB 1153, before the Indiana General Assembly. Both the proposed resolution and the companion bill make a valuable contribution to promoting a marriage culture in Indiana. And as we all know, children benefit the most from a culture of marriage. Kids need both a mom and a dad. HB 1153 is especially important in underscoring what legislators, legal scholars and pro-family organizations alike have been stressing for the past decade. This debate is about letting the people decide what role marriage should play in public life."

### Long and Bosma's mixed signals

What followed was a difference in opinion between Long and Bosma – both attorneys – that has essentially twerked perceptions. "I believe that the language gives future legislators and generations, and perhaps the current one, the ability to provide for unmarried couples regardless of their orientation. I think that it is a smart addition to make that clear," Bosma said of HB1153.

But Long said, "I can't define a civil union for you. I am not sure I can find anybody that can effectively define a civil union for you. Domestic partnerships are more definitive. They are more of them out there."

At Monday's Judiciary testimony, HB1153 found itself in the crosshairs of two conservative Republican heavyweights, Peter Rusthoven and Jim Bopp Jr. Opponents characterized the "clarifier" legislation as a poorly written codicil to the amendment. Rusthoven testified that

the current amendment and companion erodes "certainty" and has sent an almost identical constitutional amendment in Wisconsin before its Supreme Court. Rusthoven pushed the idea that it should be "elected officials representing the people" who should decide the issue, "and not by the courts." He suggested that the poorly written amendment and companion legislation could be considered the "Full Employment for Lawyers Act" as the ensuing legal process could take three years or longer.

Bopp, a long-time constitutional attorney from Terre Haute, brushed aside many of Rusthoven's observations, calling them "red herrings" and suggested that marriage actually results in different rights and responsibilities. Asked about the meaning of the second sentence, Bopp acknowledged that it would "prohibit" civil unions. Bopp said that HB1153 "deals with some of the red herrings" and that it ad-



**Gov. Pence with Senate President Long and Speaker Bosma during the State of the State address on Tuesday. (HPI Photo by Matthew Butler)**

dresses the intentions of the amendment by “the framers.”

State Rep. B. Patrick Bauer, D-South Bend, said that voters on the amendment next November “will be voting blind” because they will not have access to the companion legislation.

Bopp suggested that HB1153 should be “offered as an amendment” and Bauer pounced, suggesting that an amendment to HJR-3 would essentially restart the process. “I agree with you,” a giddy Bauer said. Bopp objected, declaring, “No, an amendment on HB1153.”

Bopp added that voters won’t be balloting “blind” because “there will be a campaign.” The supreme irony there is that Bopp instigated the Citizens United and Stand Now U.S. Supreme Court cases that have redefined campaign finance law, though none of that would be applicable to a state referendum.

It created one of the most compelling showdowns in recent memory, and since the GOP maintains super majorities in both chambers, a fascinating intra-party controversy.

Tension over the marriage amendment surfaced late last year in the Indiana Republican Central Committee, which by a reported 15-6 margin, opposed the amendment fearing it would damage the 2014 and 2016 tickets. A resolution against what was then HJR-6 was pondered, and Long and Bosma appeared before the committee to say it was overstepping its bounds into policy matters.

The Central Committee met on Wednesday, with sources telling HPI that at this point it intended allowing the legislature to deal with the matter.

There have been other twists. Bloomberg News analyzed the Indiana showdown and observed on Wednesday: “Indiana’s debate about same-sex marriage was once all about morals. Now it’s about business. Debate on the matter this week in Indiana’s legislature comes a decade after 11 states approved constitutional bans on gay marriage. Now, businesses and executives are taking more active roles in undoing them. Nike Inc. and its executives put up \$280,000 in Oregon to repeal that state’s measure in November. General Mills Inc. opposed a ban in Minnesota in 2012. The involvement of business in the heartland Hoosier state could persuade companies to get involved elsewhere, said E. Joshua Rosenkranz, a lawyer for Orrick, Herrington & Sutcliffe in New York who represented 100 companies in a U.S. Supreme Court brief opposing a California ban last year. They included Apple Inc., General Electric Co. and Google Inc. ‘The business community increasingly sees marriage equality as a business imperative,’ Rosenkranz said in an e-mail. ‘The more companies who step forward, the more willing other companies are to

join in the fight.”

## The monster eats the village

Legislative Democrats saw Pence’s remarks in the speech as a point of no return unless Republicans on the Judiciary Committee slam the door shut. “He had one last opportunity to douse the flames of this marriage debate here in Indiana and instead of using the bully pulpit to help us set this issue aside he took the opportunity to lead us even further into that particular conflagration,” remarked Democratic House Minority Leader Scott Pelath, D-Michigan City. “And that I believe is the most regrettable part of the speech.”

“If he was going to show bold leadership on that issue this evening,” Senate Minority Leader Tim Lanane agreed with his colleague, “he would have said, I’m asking the General Assembly simply to bypass that whole issue and work on these other things.”

Not only does Pence want to resolve the marriage debate soon, he seemed wanting to assuage major concerns like those of the business community when he said, “Let’s protect the rights of Hoosier employers to hire who they want and provide them with benefits that they earn.” This suggests Pence finds the most contentious aspect of HJR-3, the infamous second sentence — “A legal status identical or substantially similar to that of marriage for unmarried individuals shall not be valid or recognized”—will not endanger employer benefits and privileges lent to same-sex couples. Both corporations and public universities have vocally dis-

agreed.

Lanane said Tuesday evening if the governor really wants to protect the benefits offered by employers then HJR-3 must be amended and have its second sentence removed, meaning it cannot be placed on the ballot in November and thus resolved this year.

Asked why the Governor felt such urgency in bringing HJR-3 to a final conclusion this year, Pelath answered, “He wants finality before the 2016 election.” In other words, Pence seems to support the amendment but does not want to face it, if it were amended now, on the same ballot when seeking reelection. “It seems people are running away from their bill here,” observed Rep. Ed Delaney, D-Indianapolis, during the HJR-3 hearing Monday.

“The speech was 85-90 percent dealing with other issues, not the marriage amendment,” Lanane said. “I’m finding this to be a common theme, by the way, by the members of the Republican Party. They seem wanting to run from this resolution, which they have written, they have proposed, and they put forward. They own this resolution, but now it comes time, this is not the most important issue for them.”

Pelath quipped, “It’s very hard to keep the monster they’ve created from eating the village.” ❖



**Sen. Lanane and Rep. Pelath greet Gov. Pence prior to his address. (HPI Photo by Matthew Butler)**



# It was Rusthoven v. Bopp on HJR-3 debate

By **MATTHEW BUTLER**

INDIANAPOLIS – The air Monday morning at the Indiana Statehouse was filled with a general sense of anxious anticipation; it was palpable that a weighty issue was to be deliberated and decided. One side of the issue was out in conspicuous force; its supporters filled the chamber to standing room only and the public balcony. Outside, an overflow crowd gathered to watch through the glass doors and follow the closed circuit video feed. All of the press galleries were equally cramped. Lawyers on both sides stood and made their cases to the panel, sometimes deploying Latin legal maxims. There were tough questions and technical responses.

No, this wasn't a contentious case before the Indiana Supreme Court, but rather the House Judiciary Committee hearing the same-sex marriage amendment (renamed from HJR-6 to HJR-3) and its newly drafted companion resolution HB1153.

Matters of jurisprudence and constitutional law did, indeed, attract almost all of the questions and concerns of the panel's Democrats. State Rep. Ed Delaney, D-Indianapolis, often led the charge. The main point of contention after Rep. Eric Turner, R-Cicero, introduced the bill was HJR-3's second sentence: "A legal status identical or substantially similar to that of marriage for unmarried individuals shall not be valid or recognized." Opponents say that language will spark a torrent of legal challenges threatening the existing benefits of same-sex couples as well as weigh down the courts (and perhaps the attorney general) with costly litigation. Instead of letting the specifics of marriage and the status of domestic partner benefits be decided by legislators and Hoosier voters, the courts will end up being forced to weigh in and decide. They predict a legal mess.

**On the other hand**, proponents of HJR-3 want to preempt what they see as an all but certain legal challenge to Indiana's existing marriage laws. Proponents contend a constitutional ban on same-sex marriage would reinforce traditional marriage. Instead of letting courts and judges adjudicate the meaning of marriage, they argue the voting public should decide this November.

During the testimony, two Indiana Republican legal heavyweights spoke before the committee: Peter Rusthoven, a partner at Barnes & Thornburg, and Jim Bopp Jr., the conservative attorney of Citizens United fame. Their respective legal opinions of the amendment's details

and implications could hardly be at greater variance.

**After establishing** his conservative bonafides, Rusthoven, former associate counsel to President Ronald Reagan, argued on behalf of Freedom Indiana that the amendment's language all but guaranteed open-ended legal challenges. "I believe this amendment, speaking particularly of the second sentence of the amendment, creates substantial uncertainty about what the law is," he began his case. Rusthoven alluded to his fellow Republicans, Speaker Brian Bosma and Sen. David Long, giving conflicting interpretations on the sentence's meaning. "What are we doing with this second sentence? With this second sentence we are turning future decisions about what will and will not be recognized in Indiana to the courts," Rusthoven argued. The proposed constitutional phrasing, in other words, was quite open to interpretation.

As a conservative, Rusthoven said he would like



**GOP legal heavyweights Jim Bopp Jr. and Peter Rusthoven debate the marriage amendment and the controversial "clarifier" bill that has muddied the picture. (HPI Photo by Matthew Butler)**

to see such decisions reserved for the legislature. Citing HR1153 "as a sincere effort" to address these many concerns about the second sentence, he did not think it would influence judges' decisions, or at least not in the intended manner.

**In referring to the** changes in the composition of the legislature between the first passage of the amendment in 2011 and this 2014 session, Rusthoven noted three senators and 17 representatives who voted for the amendment were no longer in office. "Simply this body pronouncing what people believed two years ago when they voted on this is something the courts view with skepticism," he said. "It is unclear to me exactly what this will and will not resolve." In keeping with the courtroom atmosphere, Rusthoven said HB1153 would have 'Expres-

sio unius est exclusio alterius' applied to it. That is, when items are expressly mentioned and listed, it excludes all others. He quipped the resolution would constitute an employment act for lawyers as the courts ironed out those murky details.

A very likely challenge, Rusthoven believed, would come against a public entity extending benefits to a same-sex partner. It could be a process, he estimated when questioned, taking at least three years and, perhaps, require public dollars to protect the amendment and the companion resolution.

**Enter Indiana University's** General Counsel Jackie Simmons. She voiced the concern that many of the benefits the public university provides to faculty and staff in same-sex partnerships could be interpreted as "substantially similar to that of marriage" and thus threatened by legal action. "There is a high risk IU will be sued," she said if the amendment were passed. And, she worried, "There is a high likelihood IU will lose."

To Bopp, the basis of this legal opposition to HJR-3 is meritless exaggeration. "I want to disagree with my longtime friend Peter Rusthoven on two critical points," Bopp began. First, he said the committee, the larger legislature, and, finally, the voters should not demur from passing the amendment (or any good law) out of fear of legal challenge. Acknowledging America was already a "litigious society," he argued "most issues end up in the courts one way or the other, whether those challenges don't or do have merit."

As for specifics, Bopp expressed confidence the amendment could withstand all but certain legal challenges: "It is clear what it legalizes and what it prohibits," adding, "Peter seemed not to be able to understand words like 'substantially similar' or 'recognition,'" Bopp said. "These are well understood words that have definitive legal meaning."

He seemed to intimate that legal challenges would come and go quickly. As he elaborated during question time, "All of the red herrings will just disappear." Curt Smith, president of the Indiana Family Institute, confidently echoed that sentiment later in the hearing: "There will be litigation."

**Like the opposition,** Bopp dedicated time to the companion resolution. "HB1153 deals with some red herrings, some distractions about what is the effect of this amendment," he said. "The benefit of HB1153 is that it addresses the meaning of the amendment by the framers of the amendment. That's exactly what the courts look to." Far from seeing HB1153 with "judicial skepticism," as Rusthoven argued, Bopp argued it clearly lays out the intent of the framers.

As for the "red herrings," such as same-sex benefits those in the opposition warn are endangered by the amendment, Bopp said these in isolation, or even in small aggregates, do not constitute the legal status of marriage.

Instead, he argued the examples cited by the opposition, such as pensions and child custody, fall under the rights of individuals to enter contracts and write wills that specify guardianship, respectively.

"There will be no legal change by the adoption of this amendment," he asserted and therefore, he concluded, the reason there is such strong opposition is that traditional marriage law in Indiana "is vulnerable" to those who want to redefine it. Asked for elaboration by Rep. Delaney on this point, Bopp responded, "You know what the [Indiana] Constitution does? It protects the rights of people against you."

**Ever the proponent** of unfettered political speech, Bopp dismissed other testimony that sending this measure to the voters should be avoided because of the message it sends. "Well what does that tell you," he asked rhetorically, "that there are people so intolerant of other people's views that a simple debate about the question offends them that they want to leave the state. And, even more troubling than that is a direct attack on democracy;



**Curt Smith (left) of the Indiana Family Institute, Chairman Steuerwald and Rep. B. Patrick Bauer, and Rep. Eric Turner. (HPI Photos)**

you cannot debate and discuss something that some people will be offended by." This elicited derisive laughter from much of the gallery. If the amendment were to pass the legislature, Bopp told Howey Politics Indiana, he was not actively involved in any organized effort to push the amendment once before the voters. He does believe the ensuing debate would attract a considerable amount of out-of-state money on the "homosexual rights side."

Some may say it's fitting the committee proceedings had such a judicial air (at times), as many fully expect the last word on the issue to either be overturned or upheld by courts. If that were not enough to make events Monday seem only preliminary, the refusal of Chairman Rep. Greg Steuerwald, R-Avon, to allow vote on HJR-3 seemed even more anticlimactic to the crowded chamber.

**It was overheard** many times, people asking each other, "So, what's next?"

In the short term, the House Republican leadership has to decide how to resolve the contentious bill still technically in committee. Perhaps the chair felt time constraints – testimony ran well over the time allotted – precluded a vote Monday or there is a lack of confidence in the necessary votes. ❖



# Business tax repeal may be on life support

By MAUREEN HAYDEN and SCOTT SMITH  
CNHI Statehouse Bureau

INDIANAPOLIS –The Indiana General Assembly has barely begun, but Gov. Mike Pence’s push for a full elimination of the business personal property tax already appears to be on life support.

House Speaker Brian Bosma, R-Indianapolis, is calling for individual counties to be allowed to voluntarily phase out the tax. Senate Tax & Finance Committee Chair Brandt Hershman, R-Monticello, is calling for elimination of the tax for small businesses only. Hershman’s cut would save businesses about one-sixth what Pence’s plan calls for.

In theory, getting rid of the tax, which detractors say is essentially a tax on all capital investment, could spur economic activity in a state that has been steadily sliding down the rankings for personal income.

“I can guarantee that the personal property tax isn’t going to be eliminated in this session,” State Rep. Mike Karickhoff, R-Kokomo, told a legislative forum in Kokomo last week. “But long term, it’s in our best interest to find a better revenue stream than business personal property tax.”

Even if neither the House Republicans nor the Senate Republicans support simply getting rid of the tax, which generates just over \$1 billion a year for local government, even broaching the idea has caused consternation in Howard County. About 30 percent of all funding for local government in Howard County comes from property taxes paid on business equipment. Chrysler Group LLC alone pays almost \$21 million a year in business personal property tax to local government and schools in Howard County, most of which couldn’t be shifted onto other taxes, even if that’s what local officials wanted.

The state’s Legislative Services Agency, which studied the impact of a total elimination, estimated the average Howard County taxpayer, earning around \$40,000 a year, would have to pay an additional \$928 a year in local income taxes to make up the lost revenue.

The city of Kokomo would take the biggest hit, in terms of total dollars, losing about 20 percent of its budget to a total elimination, a dollar sum roughly equal to what the city spends on police protection

each year. Northwestern Schools would take an even bigger hit, losing 44 percent of its revenue stream. That’s why the Indiana Chamber of Commerce, the biggest proponent of the tax shift apart from Pence, has been unequivocal in saying the tax can’t be eliminated without replacement revenue.

“Absolutely no one has called for that money to be taken away without some type of replacement revenue stream,” said Bill Waltz, the chamber’s vice president of taxation and public finance. “There is no way that all personal property tax can be eliminated overnight. That is not going to be the proposal.”

At a local chamber of commerce meeting in La-Grange County last week, Pence indicated he’s not asking for a sudden cut. “I want to say to the people in the General Assembly and around the state we should find a way to phase out the business personal property tax. I am open to a broad range of approaches to doing that,” Pence said. “But time and growth will be our friend here. We can do this over time in a growing economy, [in a way] that will be responsible and not unduly burden our local communities or shift the tax burden to individuals.”

Karickhoff, who chairs the House Ways & Means Committee’s budget subcommittee, said he didn’t expect a vote Tuesday on the House Republican proposal, which would allow counties to eliminate the business personal property tax on new businesses. Even so, a line of mayors waited to testify in committee on House Bill 1001 Tuesday evening.

Over in the Senate, the majority caucus is proposing a measure which exempts small businesses from personal property tax liability if they have less than \$25,000 of personal property in a county.

This change is projected to exempt up to 71 percent of business personal property tax filers. In addition to at least partially paying for the cuts by eliminating some current state tax credits, the Senate plan also would create an 11-member Blue Ribbon Commission to study the impact of the business personal property tax on Indiana’s economic competitiveness. This commission would include representatives from state and local government and the business community.

Make no mistake, though: Their goal is to eventually eliminate the business personal property tax and not replace it with what they consider another “onerous” tax.

Ohio is often cited as an example of what Indiana hopes to avoid. The business personal property tax was replaced in Ohio with what Hoosier legislators would call a gross receipts tax, a tax on



**State Rep. Mike Karickhoff says the business personal property tax won’t be eliminated this session.**

business revenue, regardless of how much profit a business makes.

But lawmakers say Pence's suggestion that a tax which brings in \$1.1 billion a year in revenue for local governments can be eliminated without shifting some the burden to individuals is hard to imagine.

"At this point, it's not readily apparent how you could achieve a complete elimination without a replacement source," Hershman said. "And we've got to be cautious. How do we implement a replacement source without causing an undue burden? The solution is not readily apparent right now."

Around mostly rural 70 counties in Indiana have very little dependence on the business personal property tax. But around 20 counties are heavily dependent on it. Without any funding coming from the state, Howard County's local income tax rate would have to jump from 1.6 percent to almost 4 percent to make up the revenue lost to a total elimination. Right now, that's not even possible. The county would have to apply to the Legislature for special taxing authority.

Even if the locals or the legislature refused to increase the local income tax rate, the reduction in the size of the county's tax base caused by eliminating business personal property taxes would mean increased taxes on real property. The state fiscal analysis indicated taxes paid by Howard County homesteads would jump by 30 percent; agricultural property would increase by 11.5 percent.

Most Howard County properties would be pushed up against their respective property tax caps by a total elimination, and because of the caps, local government would lose about \$24 million. Another \$11 million in property taxes would shift to other property taxpayers, Howard County Assessor Jamie Shepherd said.

"You would not only shift the property tax portion onto homesteads and other real property, but you would also be asking those same taxpayers to pay a higher income tax to help absorb the loss," Shepherd said.

State Sen. Jim Buck, R-Kokomo, wants Indiana to consider the way the state of Alabama eliminated the business personal property tax. There, the state plans to phase in a rebate of all business personal property tax. Under the plan, businesses in Alabama will pay their personal property taxes and the state will refund those payments as a tax credit.

"I think it draws attention to the fact that this is a huge number," Buck said of his proposal. He said he's spoken of the idea with Pence's staff, only to be told the state can't afford to fund the full amount of the tax cut.

"States complain about what the federal government dumps on us. This would be a case where the locals can justifiably complain about what the state dumps on them," Buck said. ❖



NASDAQ	4214.88	31.86 ▲ 0.76%
NASDAQ-100 (NDX)	3609.84	29.19 ▲ 0.82%
Pre-Market (NDX)	3595.08	14.43 ▲ 0.40%
After Hours (NDX)	3609.11	-0.73 ▼ 0.02%
DJIA	16481.94	108.08 ▲ 0.66%
S&P 500	1848.38	9.5 ▲ 0.52%
Russell 2000	1171.29	7.86 ▲ 0.68%

Data as of Jan 15, 2014

### GALLUP DAILY Jan 12-14, 2014

Obama Approve 40%; Disapprove 52%  
Congressional Approval 13% (Gallup, Jan. 5-8)

### Pence Approval/Disapproval

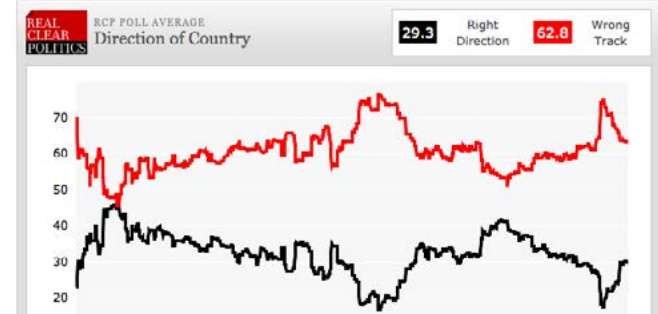
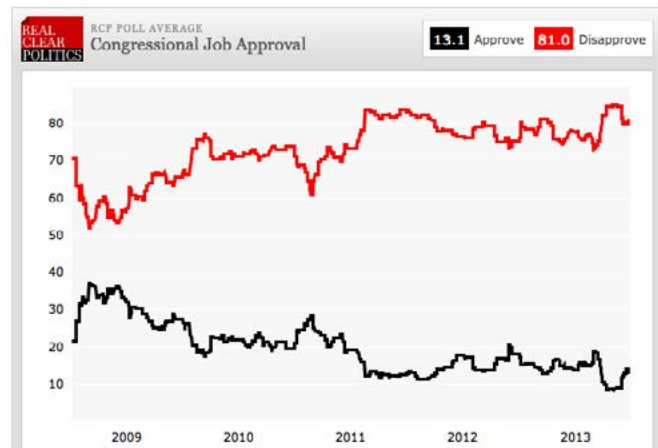
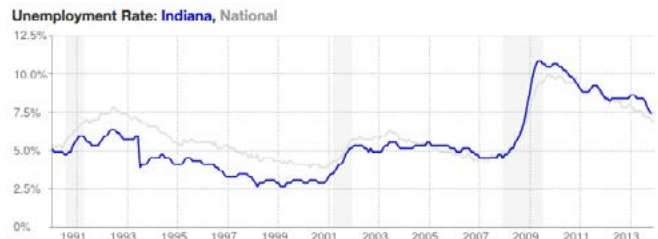
63/37% (Public Opinion Strategies, Dec. 17)

### Indiana Right/Wrong Track

54/38% (POS, Dec. 17)

### U.S. Employment

Underemployed 17.4%; Unemployed 7.6%



# Bauer, Lutz, Mrvan Young file for reelect

By **BRIAN A. HOWEY**

INDIANAPOLIS - What's left of the legislative Old Guard began filing for reelection last week.

In this vanguard is State Rep. B. Patrick Bauer, who filed for his 23rd election, having served since 1970. It came a year after Bauer was sidelined by his caucus as minority leader. The former speaker and foil to Gov. Mitch Daniels was replaced by State Rep. Linda Lawson, who then gave way to current Minority Leader Scott Pelath.

Other veterans filing this past week include State Sen. Richard Young, D-Milltown, who entered the Senate in 1988, and Democrat Sen. Frank Mrvan Jr. who has spent two stints in the Senate, the earliest beginning in 1978. In the House, State Rep. Jack Lutz, who entered that

chamber in 1991, and Republican State Rep. Kathy Kreag Richardson (1992), filed for reelection.

The biggest change came when State Sen. Sue Landske announced last week she would not seek reelection. Landske, R-Cedar Lake, who was elected to the Senate in 1984, is undergoing cancer treatments and has not attended Senate sessions so far this year. Last autumn, Landske announced a bid for reelection and then said she was battling cancer.

## Siekman to challenge Messer

Democratic Rising Sun attorney Lane Siekman announced his intention to challenge U.S. Rep. Luke Messer in CD6. "It's official, I'm in," said Siekman. "I have spent the past several months talking to civic leaders, party officials, and the voters of the 6th District and people are upset with this Congress and its inaction on important issues. The congressional approval rating is at its lowest point in history because we have allowed big money and special interests to gain control. The Citizens United decision has put our democracy up for sale to the highest bidder. We have a Congress that is tied up in partisan bickering and failing to live up to its responsibility to provide solid leadership and policy. We as a nation are suffering. I considered entering the race in 2012 but I can no longer stand by and just watch. Luke Messer is part of the problem. He pushed for a shutdown of the government last fall and helped to manufacture a crisis over the debt ceiling. In doing so, He risked the financial solvency of this nation. This taking us to the brink of disaster is just another example of the destructive winning at all costs attitude in our nation's capitol."

## Statewide money totals

In Indiana campaign finance reports posted today, Republican Treasurer candidate Wayne Seybold posted \$67,629.99 and had \$44,488.79 cash on hand; Don Bates Jr. posted \$31,110 and had \$22,116 cash on hand; and Kelly Mitchell posted \$3,200.08 and had \$1,453.88 cash on hand. Republican Secretary of State Connie Lawson posted \$190,703.07 and had \$332,100.06 cash on hand; Democrat Beth White posted \$116,793 and had \$114,146.29 cash on hand.

## Candidate Filings

**Congress:** 1st CD Rep. Pete Vislosky (D), 4th CD Todd Rokita (R); 4th CD Todd Rokita (R); 5th CD Allen Ray Davidson (D) and David William Ford (D); 6th CD Lane Siekman; 7th CD Rep. Andre Carson (D), JD Miniear (R), Gordon Smith (R); 8th CD: Andrew T. McNeil (R); 9th CD Bill Bailey (D).

**Indiana Senate: Democrat:** District 1 Frank Mrvan Jr.; District 4 Karen Talian, District 25 Tim Lanane, District 38 Timothy Dale Skinner, District 45 Julie Berry, District 47 Richard D. Young, Jr. **Republican:** District 14 Dennis K. Kruse, District 19 Travis Holdman, District 21 James R. Buck, District 23 Philip L. Boots, District 31 Crystal D. LaMotte and James W. Merritt Jr. District 43 Chip Perfect, District 46 Ron Grooms, District 47 Harris Lloyd Whitis, District 48 Mark Messmer, District 49 Jim Tomes.

**Indiana House Democrat:** District 6 B. Patrick Bauer, District 9 Scott D. Pelath, District 17 Jim Banks, District 31 Crystal D. LaMotte, James W. Merritt Jr.; District 33 Shon Byrum, District 34 Sue E. Errington, District 43 Clyde Kersey, District 46 James R. Mann II, District 73 Doug Leatherbury, District 87 Christina Hale, District 91 Patrick Lockhart, District 92 Karlee D. Macer, District 96 Gregory W. Porter. District 10 Charles "Chuck" Moseley, District 68 Rick L. Gill, District 93 Ryan Guillory; **Republican:** District 2 Jayson Reeves, District 4 Ed Soliday, District 5 Dale DeVon, District 13 Sharon Negele, District 16 Douglas L. Gutwein, District 18 Timothy P. Harmon, District 28 Jeffrey A. Thompson, District 30 Mike Karickhoff, District 31 Kevin Mahan, District 32 P. Eric Turner, District 34 Stuart Kennan, District 35 Jack Lutz, District 37 Todd Huston, District 39 Jerry Torr, District 42 Alan Morrison, District 46 Bob Heaton, District 48 Adam M. Bujalski and Doug Miller, District 49 Wesley Culver, District 51 Dennis J. Zent, District 52 Ben Smaltz, District 55 Cindy Meyer Ziemke, District 57 Sean R. Eberhart, District 58 Woody Burton, District 59 Milo Smith, District 60 Peggy Mayfield, District 65 Eric Koch, District 67 Randy Frye, District 69 Jim Lucas, District 70 Rhonda J. Rhoads, District 74 Lloyd Arnold, District 75 Ron Bacon, District 82 David L. Ober, District 84 Bob Morris, District 91 Michael S. Scott, District 2, Jayson Reeves, District 15 Hal Slager, District 20 Tom Dermody, District 24 Steve Braun, District 25 Donald J. Lehe, District 29 Kathy Kreag Richardson, District 48 Doug Miller, District 56 Richard (Dick) Hamm, District 79 Matthew S. Lehman, District 83 Kathy Heuer. ❖





# Chris Christie and the big snooze

By PETE SEAT

INDIANAPOLIS – Both adored and scorned for his brash and unrestrained interactions with constituents, New Jersey Gov. Chris Christie has found himself embroiled in a scandal of epic proportions. A case that could end his chances of securing the 2016 Republican presidential nomination, or any other ambition, for that matter.

At least, that's what the Washington, D.C.-New York media corridor think. In the rest of America, however, it's just one big snooze fest.



In fact, the past week provided a perfect case study in both the great disconnect between the East Coast and the rest of America and the power of savvy crisis communications.

While "Bridge-gate," the less-than-original term being used to describe the four-day two-lane closure of roads leading to the George Washington Bridge last fall, is the subject of fervent nattering on cable television, it's not resonating with the American public.

A Pew Research poll released Monday showed that only 18 percent of Americans have watched Christie news "very closely." Compare that to 28 percent who say the same of stories about the economy and 44 percent who were glued to cold-weather-related coverage.

What's more, even those who have paid attention don't care.

A full 60 percent of respondents said their opinion of Christie remains the same, including 55 percent of Democrats. For those watching the latest from Trenton "fairly" or "very" closely the numbers are 57 percent and 50 percent, respectively.

But how in the world could this be?

**Salon's Joan Walsh**, an MSNBC political analyst, gleefully declared that it was "over" for Christie's 2016 chances just a day after she mused about the prospect that he could be booted from the governor's mansion. And Jonathan Chait of the *New Yorker* magazine said 2016 for Christie was, wait for it, "a bridge to nowhere." Well, that answer is found in Christie's textbook example of Crisis Communications 101.

In September 2013, portions of the George Washington Bridge in Fort Lee, N.J., were closed for what was supposedly a traffic study. In the months that have followed, we've been told that "traffic study" was merely a euphemism, as Christie's now former deputy chief of staff directed, through an email exchange, that it was "time for

some traffic problems in Fort Lee" in order to allegedly get back at the city's Democratic mayor for not endorsing the governor's reelection campaign.

Those problems caused headaches for motorists getting to work, driving their kids to the first days of the school year and just trying to get from Point A to Point B.

**Christie quickly dismissed** the allegations that the lane closures at the world's busiest bridge were politically motivated during an early December 2013 press conference, telling the press, "I was the guy out there, in overalls and a hat. I actually was the guy working the cones out there."

When the damaging emails came to light on Jan. 8, however, we saw a much different side of Chris Christie, one that has helped keep his poll numbers from plummeting.

Through his office, Christie issued a statement just hours after the story broke to feed the media beast and buy him some time to play in-house reporter, gathering all the necessary facts before facing the cameras the next morning. It was then that Christie personally apologized to the people of New Jersey for the conduct of his staff, assured his constituents that he played no role in the lane closures, reported that he took swift action in firing two individuals, and answered every single question lobbed at him.

For two hours he filibustered the political world with CNN and MSNBC carrying the press conference live for every minute. Through it all, he displayed something we don't often see in politicians, humanity. He was apologetic and remorseful, even calling himself embarrassed by the episode. He repeatedly spoke of his disappointment in the members of his team who had let him down. He was honest and forthcoming about the events from his vantage point. From the press conference he immediately headed to Fort Lee to meet with the mayor and bring some closure to the situation.

**But by Monday**, MSNBC was still on the case devoting 211 minutes to Christie during evening coverage according to a PolitiFact analysis. A day later, as hyperbolic Christie headlines still blazed across the covers of the *Washington Post* and papers in New Jersey, the front pages of Indiana's four largest newspapers were covering another top story, a story that was griping towns and cities alike; an issue with a unique ability to unite and divide like no other – potholes. ❖

**Pete Seat is senior project manager at the Indianapolis-based Hathaway Strategies. He was previously a spokesman for President George W. Bush, U.S. Sen. Dan Coats and the Indiana Republican Party. He joins Howey Politics Indiana as a regular columnist.**

# Indiana needs to rethink its gaming

By **CRAIG DUNN**

KOKOMO – I dreamed a dream of time gone by, when hope was high and casino profits thriving. I dreamed that profits would never dry. I dreamed that gamblers would be forgiving. Ohio has killed the dream I dreamed.

Okay, so it will never be a catchy show tune, but there's no doubt that the gambling situation in Indiana has got state budget officials feeling like Les Miserables.

A trip down memory lane might be in order here. There was a time when Indiana had no legal gambling of any kind. The tawdry crime of gambling was the exclusive business of pool halls, cigar stores, punchboards in bars



and bingo in the church basement. The Indiana Legislature took a look around and saw millions of Hoosier dollars flowing outstate to lotteries in Ohio, Michigan and Illinois. The prevailing thought was, "Hey, why should we let these other states shear our sheep when we can do it ourselves?"

Legislative thought went from, "Gambling bad, Indiana good" to "Gambling good for teacher retirements, Indiana smart." The first innocent lottery began in October 1989 and before you could cry "jackpot," Indiana government officials and business interests looked at legalized gaming the way Bugsy Siegel looked when he arrived in the Las Vegas desert.

As they say, the rest is history. Visions of funding the teacher pension shortfall quickly vanished along with most of our quaint views on the evils of gambling. Indiana swiftly introduced the concept of building large gambling casinos on concrete pillars and calling them riverboats in 1993, sat back and watched revenues explode as residents of Ohio, Kentucky, Illinois and Michigan crossed the border to gamble in the Vegas of the Bible belt. By 2009, Indiana had the third largest gambling revenues in the country.

**The road to riches** was paved with compromise. The Indiana Legislature had to salve its conscience and stroke its religious supporters by cloaking gaming in a unique straitjacket. Casinos were confined to bodies of water, unless it was expedient to put them elsewhere. Casinos were placed in the outer extremities of the state, unless it was expedient to put them elsewhere. We focused on gambling machines as if losing money to human dealers was less savory. We kept casinos and race tracks separate until we didn't.

For over 20 years Indiana taxpayers have had less tax money picked from their pockets by government because of our ability to stick our hands into the pockets

of statistically challenged residents of our neighboring states and those of our own. This has been a good thing! I've always felt that government should tax the willing well before it taxes the tax averse.

That brings us square upon the horns of our current dilemma. Because our neighboring states have grown weary of Indiana skimming the cream of gambling dollars from the milk pails of their own residents, they have enabled the construction and operation of their own edifices of chance near the Indiana borders. These gambling establishments have done some significant damage to our state revenues and the forecast is for more rain and no sunny skies.

**A comparison of Indiana** Gaming Commission statistics for the month of November in 2012 and 2013 should suffice to reveal the extent of the problem. Tax collections for November 2013 trailed those of 2012 by nearly \$5 million. Turnstile counts were down by over 147,000 from November 2012. Fewer people and less gambled funds equals less tax collected. You can almost hear the collective groan from Indiana's publicly financed universities as the continued fall of state revenues led to a 2 percent cut in funding. For January to November, 2013, the state's share of gambling revenues was down by \$37 million. The bad news is that the new Horseshoe Casino in Cincinnati did not even open until March 2013, or the drop in revenues would have even been worse.

Indiana has reached a crossroads of sorts when it comes to its relationship with gambling. For more than 20 years we have been able to benefit from gambling without looking as if the state is actively promoting it. We've reached a point where we can no longer act like we are half pregnant. Long gone is any reasonable claim to virtue because we saddled our gambling institutions with arcane restrictions. It was easy to do when we had no real competition. We now have to sing for our supper and unless we want to continue to see further revenue declines, we will need to take competitive countermeasures.

**If we want to restore** gaming revenues we will need to recognize that those revenues are vital to our state's economic interest. We will need to allow full-fledged, no-holds-barred casino operations with all of the games and stakes that gamblers both in-state and out of state desire. Not to mention the jobs it would create, we need table games at the racinos to compete with casinos that have table games. Does it really matter whether you lose money to a machine or a dealer? If gamblers want more table games, then give it to them.

We must have casinos that are destinations in themselves with hotels, fine dining options and regular entertainment. We should look at casinos such as the Horseshoe in Cincinnati and the Four Winds in New Buffalo, Mich., as our competition and do them one better. Forget the riverboat stilts and do some serious and appealing construction.

We must have casinos that are convenient to major city locations, located in attractive and inviting business

districts. There is a reason that Starbucks operates on just about every major corner, in high traffic and safe areas; it is all about customer convenience.

**There is no reason why** residents of South Bend should go to New Buffalo to part with their money. Let them do it at home. If given the option, I'm sure more gamblers would enjoy gaming in the Merrillville area rather than in such gambling backwaters as Gary, Hammond and East Chicago. The parking lot is full of Illinois license plates at the Four Winds New Buffalo. Why?

Finally, we must expand the number of casinos with new locations west of Indianapolis, in north central

Indiana, near South Bend and in the Fort Wayne area. This strategy will increase employment, increase construction work, stem the flow of dollars out of state and boost tax revenues.

Indiana is way past the point where we can claim to be gambling virgins. We are in a knockdown and dragout battle for tax revenues. It's time we adopt an attitude of whatever money that is made in Indiana, stays in Indiana. ❖

**Dunn is chairman of the Howard County Republicans.**

## SBOE quickly approves A to F standards

By **MATTHEW BUTLER**

INDIANAPOLIS – Indiana State Board of Education members moved quickly Wednesday through an abbreviated January business agenda before stepping into a day-long strategic planning session to establish a mission, vision and goals for K-12 education in Indiana.

Last week's monthly board meeting was canceled due to weather, and the modified agenda was concluded prior to the previously scheduled planning meeting. Major business items included the approval of A-F grades for school corporations just released by the Indiana Department of Education (DOE), approval of cut scores for CORE

Computer Education content assessment for licensure (515 IAC 8-2-2), approval of early testing windows for IREAD-3, and a discussion regarding the DOE waiver process as related to last week's extreme weather.

DOE staff explained the grades assigned to corporations represent a combined model which includes the elementary and middle schools, high schools and weighted overall averages. Showing overall improvements reflecting individual school grades for 2012-13, Indiana school corporations collectively earned one more A, 25 more B's and 18 fewer C's than the previous year. Eighteen corporations received D's, compared to 25 last year and 4 received F's versus 6 earned last year.

"I'd recommend we consider an analysis of schools with similar statistics to better determine what is working in a school with a B versus a similarly situated school with a D," said board member Dan Elsener. "What habits of attitude, heart and mind are present or absent in one school that makes it more successful than another and what can we share to assist with others' improvement?" Superin-

tendent Glenda Ritz explained DOE was in the process of evaluating school improvement plans and considering a future electronic format to better capture school components that contribute to success. She pledged to bring additional information to the board in a couple of months. Dr. David Freitas suggested that Indiana also consider researching best practices from out of state in sharing successes.

**COMMON CORE CHANGES COMING:** Many Hoosier educators took Gov. Mike Pence's remarks about education standards in his State of the State address as an indicator Indiana is moving away from the Common Core (Moxley, StateImpact). Though Pence did not mention the nationally-crafted academic standards by name, he made clear he favored student expectations set at the state level during his annual address. But it wasn't news to the state's top education official, who says that's been the plan all along. "We always adopt our own standards," says state superintendent Glenda Ritz. "It just so happens that in 2010 the State Board of Education adopted the Common Core as its standards. We are reviewing those standards. I'm pretty confident there are going to be changes to those standards. And Indiana will be adopting a new set of standards." Ritz's Department of Education is currently working with the State Board of Education to review the state's academic standards — a requirement of Common Core "pause" legislation passed in 2013. But she says teams of educators and experts are also looking at the old Indiana Academic Standard indicators teachers were still using as the state made the switch to Common Core. As a result, the end product won't be based on any one set of standards. "To just give a very simple, elementary example: In reading, you teach kids how to find the main idea in a passage," says Ritz. "The main idea is found in Common Core. It's found in our Indiana Academic Standards." Right now the State Board's deadline for adopting new academic standards is July 1 — and Ritz says the education panel needs to hit their mark if they want to roll out new assessments in time for the 2015-16 school year. ❖





# CJ Dickson urges criminal code reforms

INDIANAPOLIS - Chief Justice Brent Dickson is praising legislators for what he calls a "masterful" job of revising Indiana's criminal code -- and urging them to stick with it (Berman, WIBC). Legislators voted last year to expand Indiana's five categories of felony to seven, to allow finer distinctions in sentencing and give judges more leeway. In his State of the Judiciary address, Dickson acknowledged some final tweaks are likely before the new code takes effect in July. But he says legislators shouldn't undermine their core achievement by diminishing judges' discretion. He says that flexibility is essential to keeping prison costs under control while keeping the public safe.



Dickson says the court is working with the Indiana State Bar Association to require annual reporting of the volunteer legal services attorneys provide. The chief justice says the court is rapidly expanding a program to provide alternatives to detention for juvenile offenders. The program has been implemented in 19 counties so far. Dickson says it's cut juvenile detention in those counties nearly in half without any increase in reoffense rates.

## CHURCH CHILD CARE STANDARDS PROPOSED:

Legislators are trying to satisfy objections from church-run child care ministries to a proposed toughening of health and safety standards (Berman, WIBC). Legislators voted last year to require smoke detectors and hot and cold running water in all child-care centers. Representative Kevin Mahan (R-Hartford City) says the minimal scope of that bill is "an embarrassment." He's introduced a bill to expand the law, with minimum requirements for room size, the number of adults present, nutrition, daily activities, and sanitation. The regulations would only apply to centers which receive government money through the Child Care Development Fund. Church day cares are exempt from licensing requirements but do have to meet health and safety regulations. The Indiana Catholic Conference and the Registered Ministry Advisory Council both support the changes.

**ADOPTION TAX CREDIT PASSES COMMITTEE:** Gov. Pence's call to make adoption easier in Indiana has cleared its first legislative hurdle (Berman, WIBC). The House Family and Children Committee unanimously endorsed the governor's proposal for a tax credit to defray the cost of adoption. There's already a federal credit linked to household income -- Pence's plan would add a state credit equal to 10% of the federal credit, making it worth up to \$1,200. Michele Jackson, executive director of MLJ Adoptions in In-

dianapolis, says cost is the main obstacle to adoption. The tax credit still needs a green light from the House Ways and Means Committee before the bill goes to the floor.

**HOUSE COMMITTEE TWEAKS EXISTING EXPUNGEMENT LAW:** Lawmakers set to work Wednesday fine-tuning a law passed last year that gives some convicted felons the ability to expunge their crimes from their records (Troyer, Statehouse File). House Bill 1155 is the result of time the author -- Rep. Jud McMillin, R-Brookville -- spent last summer traveling the state and discussing the expungement law's successes and problems with prosecutors, attorneys and other court officials. The House Criminal Law and Sentencing Policy Study Committee passed the bill 10-2 on Wednesday after some amendments. Some of the changes are meant to help make the process easier for defendants. McMillin told the committee that the bill fixed the "poison pill" issue with the original law -- that a defendant couldn't fix a petition once it was filed. "That really scared a lot of people," McMillin said.

**SENATE BILL SB 159 CREATES ADULT CHARTERS:** More adults could have a chance to attend a charter school under a bill an Indiana Senate committee debated Wednesday (Wise, Indianapolis Business Journal). Senate Bill 159, authored by Sen. Luke Kenley would allow the creation of new adult high schools and create an appropriation for the charter schools so they don't pull their funding from K-12 funds.

**SENATE COMMITTEE PASSES CURSIVE WRITING:** Sen. Jean Leising, R-Oldenburg, has not given up (Clark, Statehouse File). For the third straight year she has convinced the Indiana Senate Education Committee to pass a bill that requires schools to teach cursive writing. "Cursive writing got demoted because of the Common Core standards," said Leising, "The Common Core did not include, specifically, any references to cursive writing and there was a shift toward keyboarding."

**SENATE COMMITTEE PASSES MILITARY BASE BILL:** Lawmakers are considering legislation to give communities options in a battle to save military installations in danger of closing (Campbell, Statehouse File). The Local Government Committee approved Senate Bill 260, which now moves to the full House for consideration. Federal officials plan to launch the next Defense Base Closure and Realignment process in 2016 and some Indiana locations are thought to be in danger of making the list.

**HOUSE COMMITTEE CHANGES SCHOOL GUN BILL:** A House committee Wednesday significantly scaled back legislation that would have lowered the penalty for carrying a gun on school property (Smith, Indiana Public Media). Rep. Jim Lucas, R-Seymour, authored the bill that would have lowered the penalty for gun possession on school property from a felony to a misdemeanor. ❖

# Who pays for the free lunch after tax cut?

By JACK COLWELL

SOUTH BEND – Free lunch? Politicians keep promising it. So, once again, I cite a favorite and accurate adage about these political promises: “There’s no such thing as a free lunch.”

Somebody pays for it. Probably you. One way or another.

Gov. Mike Pence, who tends to disregard the adage, now offers one heck of a lunch to a bunch of Indiana businesses - \$1 billion in goodies - through eliminating the property tax on equipment.



But it’s not free.

Who would pay for it?

Not the governor. The \$1 billion doesn’t come out of his state budget.

It would be paid for by Indiana counties, cities, towns, schools, libraries and other local units of government now receiving the revenue from the property tax paid by the businesses.

Brings to mind another saying: “Robbing Peter to pay Paul.”

That might make governmental sense if Peter was rich, Paul long neglected. Here it’s the other way around. Local government and schools, to be robbed again, have seen their ability to fund services curtailed over and over again by the state. And state politicians themselves brag about already providing a wondrous business climate.

For decades, the state has been curtailing sources of revenue for local government and schools through tax caps and elimination of taxes.

That’s not all bad. Reducing property taxes was welcome. The disagreement is over how they always do it - over who pays for it.

**As respected Hoosier** economist Morton Marcus writes: “The Indiana General Assembly is generous when giving away the revenues of local governments.” Marcus says state government has for 40 years waged “a war on the property tax and local democracy. We have insisted on controlling local spending, denying cities and towns self-determination.”

State officials long complained about unfunded federal mandates.

Well, big government at the state level does the same to small government at the local level, mandating controls and loss of revenue, while failing to provide state funding to pay for all that’s decreed.

The state did provide a maddening system of local option taxes, known without words as CAGIT, CEDIT, COIT

and LOIT. Local officials were told: “Hey, if we didn’t leave you with enough for your streets and roads, your fire and police protection or for your school kids, hit up your local taxpayers with option taxes, wheel taxes or a referendum asking ‘em to pay more.”

**Local officials either** took the blame for reduced services or the wrath for raising taxes. And state officials boasted of balancing the budget “without raising your taxes.”

They provided a free lunch paid for locally.

Offering a free lunch can bring results. The adage about no such thing goes back to saloons in the 19th Century advertising “free lunch” for customers who came in to drink. The food was salty. And many a customer stayed on for multiple rounds to quench thirst, paying a lot for the free goodies.

Would the \$1 billion in goodies for Indiana businesses bring results?

Nobody knows if the property tax cut for a business would cause the owner to expand and hire an additional worker.

Nobody knows if news of the business tax break would entice some company to locate in Indiana.

We do know who would pay for this “free lunch.” It would be the Indiana counties, cities, towns, schools, libraries and other local units of government.

Initially, Gov. Pence specified no replacement for the lost revenue. Now, backers may offer some new option tax or other gimmick - something else shifting blame for any tax hikes to local officials.

Local cutbacks, like a so-called free lunch, can be costly.

**A company deciding** whether to locate or expand in Indiana could well look first at negative and neglected local conditions. Are streets, roads and highways in deplorable shape? Do schools get poor grades and systems such as Mishawaka Schools lack resources to maintain buildings? Does a large percentage of the workforce lack even high school diplomas? Do headlines tell of violent crime in cities, especially Indianapolis, Fort Wayne and Gary, but in South Bend and most other cities, too?

Want to buy this free lunch? ❖

**Colwell has covered Indiana politics over five decades for the South Bend Tribune.**

# Tax repeal and replacement revenue

By SHAW FRIEDMAN

LAPORTE - The State Chamber of Commerce flunked its political assessment of its business personal property tax proposal.

How else to explain State Chamber President Kevin Brinegar walking a plan – the proposed elimination of the state’s business personal property tax – into the governor’s office without any reasonable replacement revenue source?



One can only imagine how the conversation must have gone when Brinegar went into Room 206 sometime last fall to pitch this Edsel of an idea to the governor’s staff. Certainly the governor had to figure that his longtime ally had vetted the concept past GOP politicians and local chambers. Surely Brinegar wouldn’t put the governor out there on front street with a plan that would eliminate \$1 billion a year from already

strapped communities and schools without having evaluated how this would play politically and lined up support in the ranks?

Seems like that’s exactly what happened. The Indiana Chamber leadership has become so insular and so tone deaf that it doesn’t even poll its individual chambers for legislative ideas. Certainly, local chambers who are more attuned to the needs of local government and schools would have told Brinegar and his colleagues what they thought of this. It didn’t happen. Turns out the state chamber has a “federation” of local chamber leaders who are told after the fact what the brass in Indianapolis have come up with as legislative ideas. Kinda like the state chamber’s support for the bill that no longer requires school superintendents be licensed. They didn’t ask the locals about that one either.

**The state chamber’s** leadership has now been exposed as so oblivious to Main Street and so much in thrall to its big corporate members that it completely missed the boat on how this one would play out in the hinterlands. So eager apparently is Brinegar to placate a few highly profitable multinational corporations like BP, Eli Lilly and Mittal Steel (the Indianapolis Star told us in a detailed piece on Jan. 5 how they stood to make out like bandits with the tax’s elimination) that he misled his longtime ally Mike Pence and left him twisting in the wind. With reporters pressing the governor on how local governments were supposed to make up the \$1 billion in lost revenues, Pence mumbled some platitudes about letting the legislature figure it out and maybe having them adopt local option

taxes.

As Star columnist Matthew Tully wrote, the original state chamber proposal embraced by Pence caused outright panic in many local government quarters. Worse yet, there was the normally politically astute Pence in the awkward position of calling for what Tully termed “a large scale tax cut for businesses and then leaving it to state lawmakers or local officials to deal with the consequences.”

**As the state chamber** and this governor found out rather quickly, reaction was swift and sure and it came just as much from Republican leaders around the state as Democrats. The reason that Republican legislators are tripping over themselves to back away from this absurd tax cut for already profitable big businesses that would cripple local schools, libraries, cities and towns is because those same legislators are finding widespread opposition to the plan from Republican mayors as well as city and county officials.

As Andy Kostielney, president of the St. Joseph County Commissioners, a died-in-the-wool Republican, told the South Bend Tribune “it’s difficult to keep getting revenue deductions from the state without ways to really shift or replace those.” The Republican mayor of Mishawaka had similar feelings about the proposal. “We asked our controller what the impact would be,” said Mayor Dave Wood, “and he said 16% of our general fund budget. There’s no way in the world we can absorb that kind of impact.”

Their comments mirrored those of Democrats like South Bend Mayor Pete Buttigieg who stated what the state chamber obviously can’t see: “Indiana already has one of the lowest tax climates in America. Nudging those taxes down from super low to ultra low is going to have much less impact than strengthening our work force and infrastructure.”

House Minority Leader Scott Pelath echoed Mayor Buttigieg when he said “there’s no evidence that getting rid of this tax will bring one job to Indiana. But there will be without question a shift in the tax burden to homeowners, consumers and it will lead to more shortfalls for local government.”

The proposal also begs the question of whether our biggest businesses in Indiana don’t have some obligation to help carry the load of providing services that they benefit from. Professor Morton Marcus has made the point in numerous articles, that if our state’s education system is to help provide more of the trained workforce that the state chamber is saying it needs, then big business needs to step up and assume its fair share of the tax burden.

**What’s forgotten** in this debate is that localities already possess the ability to abate these business personal property taxes when and if an industrial prospect is looking at locating in a given community. Simply saying, as Brinegar maintained to the governor, that somehow this tax’s elimination will mean anything different in our ability to lure and grow business is without foundation, evidence or statistical backing.



Let's be honest, the chamber's oft-touted political acumen was MIA on this one. Why not suggest making up some of that lost revenue by going after scofflaw multi-state and multinational corporations that already are not paying their fair share? When the non-partisan Multi-State Tax Commission based in Washington, D.C., estimates that various tax shelters and accounting gimmicks used by certain multi-state corporations like transfer pricing and offshore tax havens are costing Indiana nearly a half billion a year in lost tax revenues and the chamber goes mute on that, we see nothing but ideological blinders on.

**The chamber's proposal** which was adopted up by this governor as his number one priority was dead on arrival not just because Democrats were uniformly opposed but because so many Republicans across the state ranging from local school board members, mayors and

county officials told their Republican legislators, "No way!" That's why Speaker Bosma and Senator Long are looking for some face-saving way out for the governor with perhaps giving local counties the option on this particular tax.

Bottom line: In politics, you have to trust that your allies don't push you into doing something that can't be answered for or justified. Governor Pence ought to perhaps take a hard look next time Kevin Brinegar walks a proposal into Room 206 and declares it's the best idea since sliced bread. This trickle-down nonsense of Brinegar's to gouge already hard-pressed cities, towns and schools was a very bad idea that got exposed in very short order. ❖

**Shaw Friedman is former legal counsel for the Indiana Democratic Party and a longtime HPI colum-**

## Illinois GOP candidate revving up NW Dems

By RICH JAMES

MERRILLVILLE – It is often said that the residents of Northwest Indiana know more about the politics and the candidates in Illinois than in Indiana.

There is a good deal of truth in that.  
It is all about television.



This corner of the state receives its television news from the network affiliates in Chicago. The national networks don't have affiliates in Northwest Indiana.

There probably are those living in Northwest Indiana who think the Hoosier governor is Pat Quinn, not Mike Pence. It's the television influence.

For the last several months, Northwest Indiana folks have had a heavy dose of Bruce

Rauner, one of the four Republican candidates for Illinois governor this year.

Rauner is a multi-millionaire conservative who doesn't much care for public schools, teacher unions or the middle class.

**He wants to lower** the Illinois minimum wage from \$8.25 an hour to \$7.25 an hour.

Rauner is spending millions on Chicago television commercials.

And while no one in Northwest Indiana can vote for Rauner, his television commercials likely will energize unions and Democrats in general in this corner of the

state.

Rauner is relentless in his attacks on public schools. He talks at length about being fed up with the system in Illinois. He says that led him to launch a series of charter schools in the greater Chicago area.

**He talks about wanting** to give parents more of a voice in public schools at the expense of teacher unions and what he calls their "union bosses."

That is the very thing that has teachers and unions in general seething in this blue collar corner of the state.

It is the very thing that fired up Indiana teachers to oust Republican Superintendent of Public Instruction Tony Bennett while electing teacher Glenda Ritz.

It is the Republican attitude toward education in Indiana that Democrats hope to use to win back the Indiana House or at the least eliminate the super majority the GOP holds in the House.

**The best part about** the Rauner attacks on education is that all the publicity being enjoyed by NWI Democrats is free.

And, I suspect area Democrats also won't lose sight of the fact that one of those who has been advising Rauner is former Indiana Gov. Mitch Daniels, the man who helped launch the attack on public education and teacher unions. ❖

**Rich James has been writing about state and local government and politics for more than 30 years. He is a columnist for The Times of Northwest Indiana.**

**Mark Bennett, Terre Haute Tribune-Star:** A bus pulled up to the curb near the riverfront in downtown Chicago. An advertisement on the side read, "Indiana: We're not only a workforce, but a force that works." A smiling woman was pictured inside a logo shaped like a cog. I spotted that ad on a visit to the Windy City last month and wondered at the question posed: What is Indiana's image in the eyes of the outside world? The "State That Works" marketing campaign aims to "draw attention to the numerous reasons Indiana is a state that works for business," according to the Indiana Economic Development Corp., which launched the promotions last year. The ads tout, as Indiana Commerce Secretary Victor Smith said then, "a low-tax environment that glows vividly with America's best-skilled workforce, a triple-A credit rating and all the ingredients needed to grow a world-class business." The multimedia ads target corporate executives in "high-tax" states, such as California, Massachusetts, New Jersey, New York and, yes, Illinois. In addition to the Chicago buses, 15-second pro-Indiana ads -- "Integrity is our complexion, innovation is our currency" -- flash on jumbo screens on Times Square. The hope is the execs will see the pitch, think twice about Indiana, and locate a business here. The IEDC spent \$65,000 on the promotions in 2013, and spokeswoman Katelyn Hancock stated in an email to the Tribune-Star recently, "The IEDC's 'A State That Works' campaign continues to be very successful." Online ads drew 218,300 clicks from May through September, she reported, exceeding industry standards. Hancock couldn't speculate yet on expenditures for the ads this year, but pointed out that the Indiana legislature appropriated \$3 million for IEDC marketing in the two-year budget. Indiana legislators should think twice about eliminating the state's tax on business equipment (known as the business personal property tax) as Gov. Mike Pence envisions. Despite the logical pluses of adding it to the long list of other tax cuts enacted over the past decade, dropping this tax would shift the burden of funding \$1 billion for local services to work-a-day Hoosiers and further squeeze already-squeezed cities and towns, school districts and libraries. Most supporters of the equipment tax cut seem to acknowledge a replacement source for funding police protection, city parks upkeep and schools is necessary, but have yet to offer a good alternative. Republican House Speaker Brian Bosma's vision, put forth Wednesday, is a scaled-back version of the Pence plan. Indiana's leaders need to consider the impact of fully eliminating the tax. Indiana already has its low-tax, business-friendly status in the quest to lure new companies here. The other half of the economic equation is just as important. High-caliber, long-term, solid-paying employers want to find active, well-kept, energetic and entertaining communities, challenging schools, good roads and properly funded police and fire protection. More importantly, Hoosiers who already live here want that, too. The property-tax caps imposed in 2008 -- the centerpiece of Indiana's decade of tax reform



-- already is hurting local community services in the eyes on some. Image is in the eye of the beholder. ❖

**Matt Tully, Indianapolis Star:** When House Republicans unveiled their 2014 legislative agenda at a Statehouse news conference earlier this week, it was only part of the agenda, the part they wanted you to hear a lot about. It was all about things like education and jobs; you know, the issues that matter in a state that routinely ranks near the bottom when it comes to wages and many education categories. Although there will be plenty of debate about the specifics of that agenda, most Hoosiers would probably agree it is at least focused on the state's most important topics. But conspicuously and strategically missing from the news conference was one key piece of public policy: a constitutional ban on gay marriage. It was a glaring omission, and House Speaker Brian Bosma told reporters it wasn't mentioned Wednesday because it simply wasn't a top-tier issue. It wasn't, he said, part of the party's official agenda. But make no mistake about it, that's just marketing. Because in reality, as one Republican lawmaker told me privately, the amendment was excluded because Bosma and other GOP leaders hoped to downplay it. They want to be seen as the party of jobs and education, not the party being steered by a few social conservative groups. They wanted a flurry of headlines — and they got them — about the nuts-and-bolts issues Hoosiers care about. So, it was only a day after Bosma touted the majority party's economic and education goals that Republicans, without much fanfare, finally introduced the marriage amendment. That introduction seemed to erase any doubt about the measure's fate; anything is possible, but it's hard to see how the legislation doesn't now proceed through the Republican-dominated General Assembly, setting the stage for nearly 10 months of high-profile public debate before voters get the final say in November. ❖

**Larry Sabato, University of Virginia:** There's little reason to think that Obama has a "floor" in approval that he can't dip below. That evidence comes in part from his predecessor: President George W. Bush. To be clear: We're not comparing Obama to Bush because we necessarily think that the current president will suffer the same approval decline as his predecessor. Bush's approval dwindled over the last few years of his presidency, finishing at just 29% in RealClearPolitics' aggregate average. Rather, we're comparing the two because both won elections due, in large part, to fervent support from similarly-sized but different core sets of supporters. For Obama, that core was nonwhites. For Bush, it was white evangelical Christians. Comparing the two presidents' approval ratings with these key groups suggests that it is tenuous to claim that Obama has a higher approval floor because of his stronger support among nonwhites. ❖

## Very little spent on HJR3

INDIANAPOLIS - The first trickle of television airtime has been purchased in what could be a torrent of issue ads this year involving a proposed referendum to ban same-sex marriage (O'Malley, Indianapolis Business Journal). Locally based Advance America Inc., a conservative group headed by attorney Eric Miller, this month spent \$14,050 for 23 spots on top-rated WTHR-TV Channel 13 and \$6,550 for 29 spots on WISH-TV Channel 8, station records show. The ads between Jan. 8 and Jan. 14 sported the images of legislators under a stormy sky. They were said to be trying to stop the Indiana General Assembly from allowing Hoosiers to vote next November to amend the constitution to define marriage as between one man and one woman. "Seven legislators should not stop the people from voting," says the announcer. Advance America spent between \$100 per ad during the early mornings on WTHR to \$1,250 per spot during the station's 6 p.m. newscast. Besides WISH, it was not clear Wednesday morning whether other local stations had run referendum ads; WXIN-TV Fox59 and WRTV-TV Channel 6 have not reported any related data on ad buys. Miller couldn't be reached for comment.



## Big spending expected on HJR-3

INDIANAPOLIS - But referendum votes are uncommon in Indiana, especially one involving such a combative issue. As such, "we have no way of knowing any more than anybody else what's going to happen with this" in ad revenue, said Scott Hainey, director of creative services at WISH-TV. Many groups in the

marriage debate are holding off, for now—waiting to see if the Legislature clears the way for a vote. Hainey also noted that groups are likely to make use of social media and other forms of messaging. Indiana Equality Action so far has relied primarily on social media and forms of grassroots messaging to muster its forces, Sutton said. So-called issue ads have been very, very good for local TV stations in recent years, helping offset the loss of juicy candidate ads during election seasons. For example, in the first half of 2013, WTHR booked more than \$85,000 from 131 gun control ads from Mayors Against Illegal Guns, the brainchild of former New York City Mayor Michael Bloomberg. Issue ads from six different groups—addressing gun control, immigration policy, education, transit and free markets—during the first half of last year brought WTHR about \$372,600.

## Judge rejects ACA suit, Zoeller studies

WASHINGTON - A federal judge in Washington, D.C., rejected on Wednesday a challenge to the Affordable Care Act that's similar to one brought in Indiana by Attorney General Greg Zoeller and more than three dozen school districts (Groppe, Gannett). The judge ruled that people buying health insurance through the federal exchange are eligible for subsidies. The challengers in the dismissed suit — residents and business owners in states with federally run exchanges — had argued that the 2010 Affordable Care Act only authorized subsidies in states that are running their own exchange. Indiana, like most states, chose not to run an exchange and is on the federal exchange. It has argued that the subsidies shouldn't take effect. That's because large employers who don't provide insurance could be subject to penalties if one employee without insurance gets a subsidy for coverage on the federal

exchange. Bryan Corbin, a spokesman for Zoeller, said the state is still reviewing Wednesday's decision.

## Report blames State for Benghazi

WASHINGTON - A stinging report by the Senate Intelligence Committee released Wednesday concluded that the attack 16 months ago that killed four Americans in Benghazi, Libya, could have been prevented, singling out the State Department for criticism for its failure to bolster security in response to intelligence warnings about a growing security crisis around the city (New York Times). The report is broadly consistent with the findings of previous inquiries into the attack on Sept. 11, 2012, but it is the first public examination of a breakdown in communications between the State Department and the C.I.A. during the weeks leading up to the deadly episode at the diplomatic compound where J. Christopher Stevens, the American ambassador, died. It is also the first report to implicitly criticize Mr. Stevens, raising questions about his judgment and actions in the weeks before his death. Like previous inquiries, the Senate investigation does not cite any specific intelligence warnings about an impending attack..

## Pence reappoints Mays to IURC

INDIANAPOLIS - Gov. Mike Pence today reappointed Carolene Mays as Commissioner of the Indiana Utility Regulatory Commission (IURC) (Howey Politics Indiana). Mays was originally appointed to the IURC in 2010. Her current term will end on December 31, 2017. "Carolene Mays has served Hoosiers well in her role as commissioner, ensuring that Indiana has access to reliable utility services at fair, reasonable prices," said Pence.