

The Howey Political Report



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“QUOTE” OF THE WEEK

“My days as the Lone Ranger are over with. I need my posse...”

- Senate Finance Chairman Larry Borst when he essentially pulled the plug on tax restructuring

Indiana leaders miss historic opportunity

O’Bannon, legislature lack courage

By **BRIAN A. HOWEY** in Indianapolis

The first day of this week began with Hoosiers - lawmakers and the rest of us - gazing at titanic figures and events. There was the “*Season on the Brink*” movie about Bobby Knight on ESPN. And over on CBS, “*911*” proved to be one of the most compelling documentaries ever made. Two French brothers and filmmakers followed FDNY’s No. 7 fire station, the first units to respond to the World Trade Center, from spring of 2001 where a “probe” was getting inducted, to the atrocities of Sept. 11. The grim looks on grizzled faces of firefighters as human bodies pummelled the lobby roof was both heartbreaking and an epic display of humanity under fire.

Hoosiers saw courage, and in the case of Knight defiance and audacity, on display.

But when they looked to their Statehouse, there was no such commodity of the former; but an abundance of the latter. It was a session without heroes - though some tried. Passing tax restructuring was just too much of a hurdle on a loaded banquet plate of public policy. The press had goaded legislators to go where they hadn’t dared to tread in 30 years and show “courage.” The 150 of them - led by a few political men - just didn’t have the maturity to handle it.

And the most freshman among them - former U.S. Marine Corps pilot and Rep. Scott Reske, the appointed Democrat from Anderson, talked with incredulity how some of the veterans had pulled him aside to teach him about “courage.”

“It was absurd,” Reske said. “Compared to so many other things, voting on an issue like tax restructuring doesn’t take much courage.” Reske was prepared to vote for tax restructuring, then go home in a potentially competitive district he had never faced before and defend his votes.

Hoosiers, Reske reasoned, will understand if you take time to explain the logic of it all. The freshman and journalist pondered the bizarre nature of the collective legislature, fearful of their own voters, the very ones who charged them to make prudent, wise and timely decisions for their homeland.

In Reske’s mind, there wasn’t the need to muster up much courage on March 14, and what little that was really needed just never materialized.

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HOUSE SUSTAINS PUBLIC ACCESS VETO: The House sustained Gov. Frank O'Bannon's veto by a 68-29 vote after a lengthy discussion. Many of the remarks included harsh words for the media, which has supported open records and criticized the bill's proponents. The open records act determines which documents are public and allows citizens to access a variety of information ranging from roll-call votes to financial statements. "Some of (the media) think because I ran for office I volunteered to be in that Truman movie," said Rep. Duane Cheney, D-Portage, referring to the film in which millions of TV viewers watched every movement by Jim Carrey's character (Mike Gruss, Fort Wayne Journal Gazette). "It doesn't go that far." House Speaker John Gregg said, "If we override the veto, we're sending the wrong message to the Hoosiers of Indiana." Steve Key, a lobbyist for the Hoosier State Press Association, said the bill protecting the General Assembly was too broad - a realization legislators came to this year. "I think time was a factor," he said. "Last year, (the bill) became an emotional firestorm." Key said the HSPA plans to help craft legislation next year that would solve some of the members concerns, including protecting con-

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Gov. O'Bannon

The governor was strangely detached. After the Kernan plan was announced, many at the Statehouse knew of the tireless travels of Doc Bowen and Bob Orr back in '73 and '87, pushing their milestone tax and education plans. Evan Bayh stoked what he called "the white heat of public opinion" with his fly-arounds and delivered budgets and an excise tax cut amid a pile of legislative arms twisted out of sockets.

O'Bannon stayed put and did business in his nice guy role. He failed to stroke Borst by asking him to do the right thing for the state. O'Bannon was aloof from legislative leaders, with one telling HPR that his only face-to-face meeting occurred on March 7 and amounted to little more than banal chatter. There were a few public appearances, a statewide television address, and a smattering of editorial board visits. Then came his mid-January State of the State address. But that was it. There was no effort to stoke up grassroots support in an effort to apply heat to recalcitrant legislators. It was as if O'Bannon had lost the fire in the belly not unlike President George H.W. Bush did in

1992.

O'Bannon maintains he properly sold the plan. "I crisscrossed the state, not only to make speeches, but I went to every editorial board in the major cities. We had seven hearings around the state.; certainly I made one of those. I made two television appearances and speeches based on that. I put out information every week on the importance of these two bills. There has been more information provided than ever in the history of Indiana."

Once again, O'Bannon's top priority didn't pass the legislature. When Sen. Garton let the air out of the tax balloon on Tuesday, O'Bannon only chirped in defiance, saying at a time legislators waited his emphatic leadership, "At this point, it's up to them to pull this thing together. We've done all the talking. It's as plain as the nose on your face that we have to do something." It was not effective.

O'Bannon shed his nice guy persona at noon on Thursday and pounded the table, saying, "It is wrong and not responsible for the Senate Republicans to declare this session over with 12 hours left to work. They say they've been set up this session. If they were set up for anything by me, the House or Senate

Democrats, they were set up for success.”

The governor accused Garton and his Republicans of failing to participate in “good faith negotiation” and “good government. It’s just plain wrong. Hoosiers will see it for what it is - a delaying tactic so they can get through the election and then come back and raise taxes even higher than they need to be if they would just act now.”

O’Bannon continued, “It causes great pain and disruption on the homeowners and the businesses coming to the state. This is the year to do it; common sense tells us to do it; good government tells us this is the year to do it; except it’s an election year. That’s wrong. This is the year to do it.”

Asked if he would call a special session, O’Bannon was noncommittal. “I think the people of Indiana will demand that there be a special session. It’s very difficult to call a special session when one of the parties says there is nothing to do until next year.”

Many Statehouse observers felt that O’Bannon foreclosed his options on Wednesday when he said he would only call a special session when the four caucuses came to an agreement. It may have been a tactical blunder that allowed Garton to press the hardline Republicans in the Senate to pack it in.

Joe Kernan

Lt. Gov. Kernan got the process rolling by unveiling a plan deemed credible across party lines last October. So credible, that it may have thrown a kink into Garton’s delaying strategy in order to seek political advantage in 2004. Since then, Kernan played a conspicuously background role, doing what a good LG or vice president does and defer to the chief. That, too, may have been a strategic error. Kernan is the future of the Democratic Party and had a considerable surplus of goodwill, whereas O’Bannon (and particularly his staff) had alienated

many Democrats, as a steady stream of bad press revealed last August.

Some believe Kernan was shunted aside because some in the administration thought he would be a political lightning rod of ambition. In hindsight, Garton played the 2004 card anyway, and Kernan might have used the goodwill to put the program over the top. Remember, despite Bowen’s and Orr’s campaign stumping on behalf of the 1973 tax restructuring plan and the 1987 A Plus effort, both were passed with slim margins while controlling both chambers.

Some believe Kernan is inoculated from failure in two scenarios: That a restructuring plan passes later this year, staving off a tax crisis and populist revolt; or if it fails and a revolt ensues, he can wave his plan and say he tried his best. The problem with that last scenario is that the administration didn’t deliver.

Kernan sustained collateral damage. There was a constant drumbeat by Republicans and acknowledged by Democrats that Indiana’s economic development game has really fallen off. The administration did little to counter that, and it’s easy to imagine all sorts of negative sound bites: The loss of 100,000 jobs; the decline in personal income; etc.

Pat Bauer

The Ways and Means Chairman wore a two-faced mask and tried to execute the plan in the midst of a leadership power play. Bauer carried the administration’s water, to the point where Borst says Bauer basically usurped the governor (see HPR Interview on page 6). His drive to succeed John Gregg as speaker presented a new dimension to his activities (such as promising Bill Crawford Ways and Means chairman).

Bauer could be both arrogant and pliable. He refused to give Ways and Means Republicans more than a few hours to read the bill in January. While he complimented the House Republicans on their

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stituent and whistleblower mail.

TEMPERS FLARE OVER GERMANENESS: Emotions flared in the House over a decision by the Senate to kill a bill there, and Rep. Win Moses, D-Fort Wayne, threatened to kill a multitude of Senate bills (Tim Starks, Evansville Courier & Press). Additionally, Bauer has tied the passage of a dockside gambling bill and a gas tax increase bill to tax restructuring and a budget fix. He said he wants this to be known as a tax overhaul session, not a gambling session.

PORTER COUNTY BAILOUT PLAN PASSES: After months of uncertainty, a proposed \$28 million, state-funded bailout for beleaguered Porter County is finally on its way to Gov. Frank O’Bannon’s desk (Terry Burns, Times of Northwest Indiana). On Wednesday, both the Republican-led Senate and Democratic-controlled House overwhelmingly approved a revised bailout package, clearing the way for the governor to sign the measure into law. The legislative approval came only a day before the General Assembly prepared to adjourn for the year. State Rep. Duane Cheney, D-Portage, one of the architects of the bailout legisla-

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tion, admitted passage of the measure "came as a relief. But I'll be even more relieved when it's actually signed," he added. "I always was confident it would pass, but it was frustrating that it took this long."

BURTON TELLS BLITZER "WE HAVE DOCUMENTATION FOR EVERYTHING: U.S. Rep. Dan Burton appeared for several minutes last night on CNN to discuss the results of his committee's investigation into the pardons made by former President Bill Clinton in his last days of office. "I think the record speaks for itself," Burton told Wolf Blitzer. "Bill Clinton's brother [Roger], I think, was told by his brother the president that, if he could make some money by working on issues and other things during the last year of the Clinton presidency, that he would welcome that."

SUPREME COURT UPHOLDS FORT WAYNE ANNEXATION OF ABOITE: About 23,000 Aboite Township residents will call Fort Wayne home in 2006 under a ruling issued by the Indiana Supreme Court on Tuesday (Fort Wayne Journal Gazette). The unanimous decision from the state's highest court overturned both the trial and appellate decisions previously barring the 13-square-mile annexation. "Yahoo!" said Mark GiaQuinta, an

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amendments, he shot them down anyway. The irony there is that when the end game came, the House Republican plan had the most credibility across the spectrum.

When the end game arrived, Bauer was left to spout with spite at Garton and Senate Republicans. "I wish they would just put the November election aside and sign the report," he said at a press conference with O'Bannon at noon Thursday. "I wish they would put the 2004 election aside and sign the report. Good government is good politics. They ought to think about that instead of making this governor make onerous cuts all summer and fall. Does that help them in November? It doesn't. I think they ought to try and shake off this Republican Party process of trying to force government to punish homeowners."

When it came to the public, Bauer was the good warrior, conducting nine public hearings and a number of open Ways and Means and conference committee sessions. By Thursday, he believed he was set up by Garton and Borst, who were pulling a string of red herrings. "We had many, many hours of private meetings to promote many, many of their suggestions and then to not respond, yes, there is a suspicion that they never meant to do anything at all, just as Sen. Garton said before this session started," Bauer said.

Larry Borst

Was he just going through the motions (red herrings) just to keep the press from getting vitriolic? To reporters who witnessed his passionate speech before the Senate when he urged his colleagues to spare the Hoosier people "financial and emotional distress," he seemed real.

But Borst was all over the map. He was originally against tax restructuring this year, then came around in January, got vividly involved in February (former GOP Chairman Mike McDaniel said he could see the fervor in Borst's eyes), before the Lone Ranger pulled in his

horns and rejoined the "posse." After announcing the deal was off, Borst was evasive as to when restructuring could occur (see *HPR Interview*, page 6). June? September? November? In 2003?

HPR believes Borst was outmaneuvered by his GOP rival Garton, who allowed 17 senators to support Borst's plan that he knew would never fly with Bauer. When Borst tried to fall back into the House Republican plan, Garton and Republican hardliners refused to budge from the deal he spoke so passionately about. As one observer pointed out, "Maybe he did too good of a job in selling his plan."

The enigmatic Borst may have gotten tangled up in the rope Garton allowed him to have.

Brian Bosma

On the face of things Bosma tried to come up with a fair deal and in the end, both Borst and Bauer seemed to be headed in his caucus's direction. However, Bosma tried to instill caucus discipline. But in 1973 the Bowen plan passed because several Democrats voted their consciences. He was effective there, losing on Rep. Dean Young on the critical House floor vote.

The House minority leader, who will probably face a challenge to his caucus leadership next November, was also walking a tight rope in his caucus. There were the hardliners who signed no tax pledges and would not vote for any revenue enhancement, no matter what. Others saw it in the pragmatic Bowen perspective, knowing you have to raise some taxes to lower others. Bosma's decision to highlight the economic development crisis may have laid the foundation for the GOP's assault on Joe Kernan in 2004.

While Bauer praised the House Republican plan, he swatted it down and gave his rivals cover when all but one were opposed.

Dean Young

The Hartford City Republican car-

ried the legislature's profile in courage and kept the process alive in February.

John Gregg

The speaker showed flexibility when he backed away his oft-stated goal of needing 10 to 15 House Republicans to give the plan "bipartisan support."

However, Gregg threw a curve ball into the process when he announced his retirement, setting off a power struggle involving Bauer.

Whether it was the lack of greater bipartisan support in the House, O'Bannon's detachment, Bauer's pursuit of power, when the deal looked to be unraveling, Gregg quickly threw in the towel and joined Garton in eschewing a special session.

Robert Garton

He was the lone stanchion against tax restructuring and he prevailed. Here's how Garton evolved since the Kernan plan was announced, in his own words:

Oct. 19, 2001: "We hope we can work together. We think there are issues that should be addressed."

Dec. 13: "This year the governor can break the legislature until he gets what he wants. He could cause tremendous stress on families. He could put jobs in jeopardy because many of us have to make a living. I hope that doesn't occur, but that possibility is real."

Jan. 7, 2002: "The governor can break the Legislature. I hope that doesn't occur, but that possibility is real."

Jan. 8: "There are some fundamental differences. There are philosophical differences, but I hope we have a straightforward debate. Only time will tell."

Jan. 14: "We're all prone to hyperbole, but it doesn't help your credibility. The state is not going to come to a stop. This is not going to change your very way of life."

Jan. 15: "The last time he (Gov. O'Bannon) talked to the public, he told

them to contact their legislators. They did, and they didn't want what the governor wants," Garton said. "Boy, did we get e-mails and calls and letters saying, 'No.' "

Jan. 24: "If it is approved, I think they are going against broad-based public sentiment. Based on e-mails, phone calls and letters, there is no support or very, very little support for a tax increase of any kind."

Jan. 28: "I welcome the tax increases because it means Republicans will take control next year."

March 8: Garton reaffirms his opposition to any plan with any tax increases. "I made that commitment early and I'm staying with it."

March 11: "It will be a tough vote for about five of us if the caucus wants the bill to go to the floor. But I am not going to use rules to block legislation the caucus wants."

March 13: In a special session, Garton predicted, "I will control the agenda."

Epilogue

This historic session began with extreme irony. Standing before the House on Jan. 4 were members of the Marion County rescue task force, one of the first units to be called to "the pile" - the World Trade Center. With them was a real, live New York firefighter thanking the State of Indiana for being there when they were needed.

In less than 75 days, it was a lesson that was lost on 152 people who couldn't muster up the same nerve to act.

The political implications are hard to gauge now. Will teacher layoffs and closed labs and gyms arouse heat from constituents? When will larger escrow amounts for taxes begin showing up with increased mortgage payments? Will a little old lady be found dead in her cold house in November 2003 because she paid her taxes and not her heat? Will the state's bond rating drop? When any of that reaches critical mass is to be determined. ❖

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attorney for the city's case. "We understand that this is not an opinion that everyone will be happy with, but I think in 50 years we'll look back and see it as one of the most important decisions affecting the city of Fort Wayne ever handed down." The annexation, which includes nearly all of Aboite Township, will take effect Jan. 1, 2006, and it's estimated that those in the annexed area could see at least a 30 percent increase in their property taxes payable in 2007.

CLARK COUNTY 'REPUBLICAN' CHALLENGED; REMOVED: A Republican candidate for Clark County Council District 2 was removed from the ballot for the primary election at the request of Clark County Republican Chair Glenn Murphy, Jr., who applied a new state law for the first time in an Indiana election (Mary Jane Maytum, Jeffersonville Evening News). The candidate, Fred L. Juliot of Clarksville, had voted in the Democrat primary, but filed as a Republican candidate in February of this year. A state law enacted in July 2001 prevents a candidate from running under a different party affiliation than what he or she voted in the primary unless they have received approval from the county chair of the party affiliation for which they are

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filing.

GOP CANDIDATES REACT TO BENSON WITHDRAWAL:

Kent Benson's withdrawal from the Republican secretary of state race means the nomination is still up for grabs. "I don't think there is a clear front-runner. I'm not sure Kent was, either," Indiana Republican Chairman Jim Kittle said (Mary Beth Schneider, Indianapolis Star). "I have enjoyed getting to know Kent Benson over the last several months, and know him to be committed to helping the Republican Party take back control of state government in Indiana," said Mike Delph, a top aide to U.S. Rep. Dan Burton and one of four remaining candidates. "I wish him the best in the future, and would encourage him to stay active in grassroots politics." Marion County Coroner John McGoff said, "I fully understand that running Statewide takes a toll on a family. I just want to congratulate Kent on running a clean and positive campaign. Kent elevated the profile of this race and made incredible inroads in just a short amount of time. I have been very impressed with the level of support that he was able to garner as a new statewide candidate. I wish him the best and hopes that he will stay involved in the political

Borst no longer the 'lone ranger'

INDIANAPOLIS - Senate

Finance Committee Chairman Larry Borst sat down with HPR's Brian Howey around 10:30 Thursday morning and conducted this *HPR Interview*.

HPR: Is tax restructuring dead?

Borst: I assume this session is going to end today. Sen. Garton said he and Speaker Gregg agreed there should not be a special session called. Sen. Garton feels that there is enough money and through more cuts the governor can manage the budget. As far as restructuring is concerned, it's not that critical. It would have been nice to have it this year, so, I don't know. I was asked about a special session yesterday and my answer was no. Asked if one was going to be called, my answer was yes because the governor and Pat Bauer want more money for the budget. I don't believe either one of them are that hung up over not getting restructuring. Bauer's committee report really isn't restructuring. I would have extreme difficulty in looking at restructuring when it was just a mere shadow of what we passed in the Senate. With a little more work and a little more time, we could come to a conclusion and do something meaningful. Sen. Kenley called on the governor to put together a task force. I told the people from the old Alliance that we could create a new alliance and sit down and start on this.

HPR: So, can you pick up on this where you left off, whether it's June or August or after the election?

Borst: Yeah, we can pick up on it because we know where the hangups are, whether it's the tax on payroll and some of the supplemental tax, or the assumption of 100 percent of the school costs. I've already talked to Dan Clark (ISTA) about that. He'll be involved in some of the ad hoc meetings. I don't need a special session to go ahead and do that. I think we're on the right track. We know how to do it now maybe we go out and find a different

source of money.

HPR: Your speech on the Senate floor earlier this month that there was no need to create emotional and financial distress for some homeowners, who won't be able to pay the higher taxes. What do you say to them?

Borst: I'd tell 'em I'm one man out of 150. I'm one philosophy out of the 150. I represent the philosophy of most of the Republicans in the Senate. We're up

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against the philosophy of the governor and the House. That's the two that didn't get along and really compromise, so the two will fall back and regroup. I hope to fall back and regroup and come up with gangbusters.

HPR: When does the regrouping occur?

Borst: They asked Sen. Garton that. He talked to the governor this morning. There's nothing definite.

HPR: What's best for you?

Borst: Well, let's see, I don't have any plans. Usually I go some place in June. I went to Spain last year. Scotland the year before. This year I don't have any plans.

HPR: You evolved from the issuing of the Kernan plan that tax restructuring could wait until 2003. Then you made a passionate case that the time is now. And now you seem to have fallen back into the we can wait mode.

Borst: The reason I changed were a couple of reasons. I served on the governor's (Blue Ribbon) committee for two years and the rug got pulled out from under it. I had always said, no matter what the legislature thinks on restructuring, you have to have a strong governor leading the charge. You can't get away from it. Bob Orr was one, Otis Bowen was one when taxes were raised. I had thought, and of

course in October it was Kernan's plan, and all of a sudden it became Frank O'Bannon's plan and you've not heard about Joe Kernan. Now maybe we'll start hearing how his plan went down in defeat, not the governor's plan. But anyway I thought the governor was going to lead the charge. I saw the Alliance get together and the Alliance broke up because it was too top heavy; they had to kowtow to the university presidents. In the Senate, you have three weeks where everything is yours and I used those three weeks and I'll fall back and regroup. I think we're so close to coming up with something acceptable to most. So if that's July or August or September, that won't make any difference.

HPR: To use a football analogy, you drove down the field 95 yards but couldn't put it over the goal line.

O'Bannon: The governor assumed the program but the governor never really understood his own program. The governor never said, "Here's my program and if you don't like all the aspects, tell me what you don't like and we'll sit down and we'll work on it. That never happened. Whether he didn't know his program or whether Chairman Bauer horned in and took over, I don't know. But the program that came out of the House wasn't a program. It wasn't well thought out. There were all sorts of deals made to get 50 votes. I don't think this program would get 51 votes on the conference committee report. Any way, he got that thing through and to compare anything to what the House passed would be unfair because it was Bauer's creation and he couldn't get the Republicans to come over. The governor, I would have hoped, would have a lot more suggestions on his own. So I took a look at it and decided that nothing was going to be done and made up my mind that not only was this proposition not going to go down the tubes in Senate Finance, but it was not going down the tube in the Senate and anything the Senate would pass would be vastly superior to anything

the lieutenant governor put together. I accomplished that part of it. That's why I said the other day I was through being the Lone Ranger and I needed my posse because we were working for the caucus.

HPR: Bowen and Orr both spent a lot of energy pushing their tax and education plans in 1973 and 1987. Were you surprised O'Bannon didn't do that?

Borst: He didn't get out. I don't think he really understood the program. He took it away from Joe Kernan and maybe Pat Bauer took it away from him. I don't know. Pat, somehow, some way has assumed in inordinant amount of responsibility over there.

HPR: Does Gov. O'Bannon understand how to get things through?

Borst: My take on Frank, and I've worked with him for 16 years, and never once did he ever help the Republican Party. Never once. I remember going to him and asking him as a leader to the Democrats, for favors. I never, never got them. He never once voted for a tax increase or anything any Republican governor wanted. Frank is an old-time liberal Democrat. If you look at how he operates, he operates the old FDR way. He depends on a lot of coalitions - labor, or teachers or minorities or whatever, which is exactly the opposite of Evan Bayh. Evan Bayh's attitude was "You need me more than I need you" so you better catch on and do it. Frank has accomplished very little in six years .

HPR: I wrote that this could have been the capstone of your career.

Borst: Hey, I started out with Unigov. In 1969, one of my bills was to let women sit at the bar. Then the next one was to put the price of gasoline on the pump.

HPR: OK, how about tax restructuring in 2002 as a bookend? Do you feel let down?

Borst: Well, yes. A little deflated. This is the last day of a long haul; nothing to look forward to. We'll start working on this again. ❖

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process."

SCHNEIDER ENDORSES DELPH: Lawrence Mayor Tom Schneider publicly announced his support for Secretary of State candidate Mike Delph at the Downtown GOP Club in Indianapolis. Schneider was making a campaign appearance in his Marion County Sheriff's race when mentioned his support for Delph. Schneider is also Lawrence Township Republican chairman.

