

The Howey Political Report



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“QUOTE” OF THE WEEK

“He was playing three-dimensional chess while the rest of us were playing checkers”

- State Sen. Teresa Lubbers, on Senate Finance Chairman Larry Borst’s role in getting tax restructuring passed

How an epic tax bill morphed into law

HPR Special Report

By **BRIAN A. HOWEY** in Indianapolis

The House vote Saturday evening stood at 54-43, and the concurrent resolution to supplant the tax code last tweaked a generation ago looked dead. The sponsor, Ways and Means Chairman B. Patrick Bauer, made what was universally described as a “half-hearted” speech to get the votes (“this glass is half-empty or half-full”); then waved off concluding remarks, simply saying, “Let it roll.”

Yet after the vote there was little panic among lobbyists in the hallways outside the House. A concurrent resolution can have nine lives. There was little of the pandemonium that followed the House vote on June 6 when ailing Rep. Dale Sturtz was missing. On this Saturday night, House Minority Leader Brian Bosma had retreated to his office, only to find Sen. Larry Borst holding a cup of coffee, gently twisting the arm of Rep. Cleo Duncan.

House Speaker John Gregg, described as “an amazing mix of the most lovable guy and the most undisciplined manager” by a colleague, returned to his office and went to work. The speaker announced to his team, “We are going to



get this thing passed. We need four more votes.” Bauer questioned the immediacy of the situation before Gregg asked him to help produce. The leadership went through the names: Reps. Denny Oxley, Scott Pelath, Clyde Kersey, all supporters of Bauer’s bid for speaker. There was Rep. Russ Stilwell, who

agreed to switch after getting an OK from labor.

It had been a day of soul-searching for Democrats. In his bid for speaker, Bauer had promised millions of dollars of budgetary “sprinkles,” particularly to the Black Caucus. During morning and afternoon caucuses, the Democrats had heard from Lt. Gov. Joe Kernan, who asked them to pass the bill. Gregg said it was Reps. Dan Stephenson, Duane Cheney, and John Day “who spoke most eloquently” in favor of passage.

Gregg called Bosma and said, “It’s time to end this.” Bosma agreed, although neither would cast an affirmative vote, creating just one of the most interesting historic quirks.

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SCHULTZ TO BE NEW BUDGET DIRECTOR: Sources have told HPR that former legislator Marilyn Schultz will be named budget director by Gov. Frank O'Bannon.

INDIANA SENATE VOTE ON HB1001SS: Here's how members of the Indiana Senate voted Friday on a tax-increase and tax-restructuring plan. It was approved 33-15. Republicans for (21) Alting, Borst, Bray, Ford, Gard, Garton, Hershman, Jackman, Johnson, Kenley, Landske, Lawson, Long, Lubbers, Merritt, Miller, Riegsecker, Skillman, Waterman, Weatherwax, Wyss. Republicans against (10) Adams, Clark, Meeks, Meeks, Nugent, Paul, Server, Wheeler, Young, Zakas. Democrats for (12) Alexa, Antich, Bowser, Broden, Hume, Lanane, Lewis, Mrvan, Rogers, Simpson, Sipes, Young. Democrats against (5) Blade, Breaux, Craycraft, Howard, Lutz. Not voting -- Harrison (R), Smith (D)

INDIANA HOUSE VOTE ON HB1001SS: Here's how members of the Indiana House voted Saturday on a sweeping tax-restructuring plan. The plan passed 51-45. Republicans for (12) Ayres, Cherry, Espich, Hoffman, Mangus, McClain, Munson, Scholer, Ulmer,

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Bosma was coming up with his own list: Reps. Matt Whetstone, Richard Mangus, Rich McClain and David Yount.

“Bosma and I really matured in our relationship,” Gregg said. “It got to the point where Paul (Mannweiler) and I were. The leaders must have a good private relationship where they can speak freely, openly and honestly. I commend Bosma for saying they had some folks who would vote for it a second time.”

On the second tally, the votes slowly were compiled until it reached a climactic conclusion, 51-45. It joined past milestone efforts in 1963, 1973, 1982 and 1987.

Who would have believed?

No one -- *no one* -- could have fathomed the last seven days of the first special Indiana General Assembly session of the 21st Century.

There was a pending leadership vacuum in the majority House party and active campaigns for speaker. Bosma and Gregg were horse trading votes. Two political enemies -- the once recalcitrant Sens. Larry Borst and Robert Garton -- stepped up and presented a united front against “the gamers.” Minority Senate Democrats and renegade Republicans tried an end-around Borst and Garton, fearful of a stalemate. The ISTA and the

Indiana Chamber and Manufacturer’s worked to provide the votes. The Alliance for Indiana’s Future, a patchwork of common and adversarial organizations, teamed up to push for a solution. And Gov. Frank O’Bannon, who seemed to move only in the shadows, played the role of grand arbitrator while critics howled that he was “missing in action.”

It took God six days to create the heavens and earth; and it took the O’Bannon-Kernan administration and the Indiana General Assembly eight months and seven mind-numbing days with little rest to accomplish something that appeared to be much more complex -- to bring Indiana’s tax code into the 21st Century ... *less than five months before an election.*

Here’s how it happened:

Brian Bosma and John Gregg

For Gregg, it was a legislative capstone, the exclamation mark on a 16-year career that at one point suggested further service in Congress, or at least in plush offices on the Statehouse second floor. “John just wanted to go back to Sandborn, but not on a low note,” Rep. Winfield Moses observed.

His last three votes were jaw drop-pers, each against his governor’s tax restructuring goal. While Gregg held true

to his own efforts to stem the "expansion of gambling," he paved the way for a historic compromise and retrieved the votes when it mattered most.

For Bosma, it was an elevation of his career, a breakthrough as a real power broker. When the two hugged on the House floor after sine die, Bosma would say, "That was the end of our service together. That was his last act.

"We had been talking all day. We had probably 10 conversations over the phone. That's the way the legislative process works. You have to have the communication, unless you have a clear working majority. I don't know if there was any horse trading. Due to lack of administration's involvement in the process, legislative leaders had to step in and get the job done. I've served in six or seven special sessions, and there's always been strong gubernatorial leadership to bring the process to a close. That was not the case this year. Legislative leaders had to step up to the plate."

Not only did Bosma find four additional GOP votes on Saturday, he personally directed an agonizing stare-down vote on June 6 that sent the bill to a Senate in turmoil. In the subtle pandemonium of that day with an elusive 51st vote, Bosma began protesting. "Chill, Bosma, or you'll be back in the hospital," Gregg shouted to the histoplasmosis-afflicted Republican.

Bosma rushed from his front row seat to Rep. Mary Kay Budak, whose light was glowing nay. "Is it 50 now?" the LaPorte Republican nervously asked her caucus leader. Bosma glanced up at the board and faced the most dramatic decision of the year. If House Bill 1001ss didn't get 51 votes, the issue would be dead. Whetstone's light on the tally board finally went nay, and Budak nervously fingered her button. Bosma glanced at the tallyboard one last time, then grimaced and told her, "Do it."

Bosma walked a fine line between caucus discipline and allowing legislators to vote their conscience and district. "I

think a second special session would have been disastrous for the state and the institution of the legislature," the Indianapolis Republican said. "Or no bill passing would have brought one that would have been closer to the original House Democratic version. While I did not want to vote for it, I knew there were those on the bubble who were willing to bring the process to a close. Those folks did what they wanted to do."

And there was the courageous vote by Rep. Dean Young in February to keep the process alive during the regular session, something minority Democrats did to keep Doc Bowen's plan alive in the Senate back in 1973. There was Rep. Jeff Espich, who helped engineer the House Republican economic incentives that were lauded, rejected, and finally worked into the final plan. Espich would part with Bosma and vote yes on the final bill.

"We've had discipline in the caucus without being heavy-handed," said House Republican communications director Tony Samuel. "Throughout the process we chose to be positive and work toward a solution. That's what you saw when Brian went to Mary Kay Budak."

B. Patrick Bauer

The Democratic Ways and Means chairman was the almighty rogue. When Gov. O'Bannon deferred to him at the start of the May 14 special session, some wondered who was really governor. Or speaker in waiting. The pending retirements of Gregg, Reps. Mark Kruzan and Susan Crosby added the truly surreal layer to the special session. Unprecedented. It was a setting of power plays, mirages, paybacks and promises. The last Bauer regular session plan was so controversial that Senate Republicans walked away from it with 36 hours left. Now Bauer was back, promising millions to potential supporters. For instance, Rep. Earl Harris got \$10 million for a Gary harbor development no one else wanted.

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Whetstone, Young, Yount. Republicans against (33) Alderman, Atterholt, Becker, Behning, Borrer, Bosma, Brown, Buck, Budak, Buell, Burton, Dillon, Dumezich, Duncan, Friend, Frizzell, Herndon, Hinkle, Kruse, Lutz, Mock, Murphy, Noe, Pond, Richardson, Ripley, Ruppel, Saunders, Smith, Thompson, Torr, Turner, Wolkins. Democrats for (39) Aguilera, Avery, Bauer, Bodiker, Bottorff, Brown, Cheney, Cochran, Cook, Crooks, Crosby, Dobis, Dvorak, Frenz, GiaQuinta, Goodin, Grubb, Harris, Hasler, Harrell, Kersey, Klinker, Kromkowski, Kruzan, Kuzman, Lawson, Leuck, Mahern, Moses, Oxley, Pelath, Reske, Robertson, Smith, Stevenson, Stillwell, Tincher, Weinzapfel, Welch. Democrats against (12) Adams, Bardon, Bischoff, Crawford, Denbo, Dickinson, Fry, Gregg, Liggett, Lytle, Porter, Summers. Not voting -- Foley (R), Steele (R), Sturtz (D), Day (D).

DAY, STURTZ, FOLEY, STEELE MISS HISTORIC VOTE: Rep. John Day, D-Indianapolis, voted "yes" the first time but was not present for the final vote. He apparently went to Shapiro's Deli for a bit to eat after the first vote and got back just after the second. State Rep. Vern

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Tincher stayed for both votes despite receiving word on the House floor that his sister had died unexpectedly. Rep. Dale Sturtz did not vote because he was recovering from triple bypass surgery. Rep. Brent Steele was vacationing in Costa Rica. Rep. Ralph Foley was said to be sick.

WHAT THE TAX PLAN

DOES: The bill will divide \$33 million in annual gambling profits among counties that don't already reap financial benefits from casinos. The bill also will increase the sales tax to 6 percent starting Dec. 1 -- after the Nov. 5 election and before the Christmas shopping season. It will raise the state's homestead credit to 20 percent; increase the renter's deduction by \$500 to \$2,500; and tie the state's Earned Income Tax Credit to 6 percent of the federal credit. In addition, it will phase out the business inventory tax over five years; create a tax credit for venture capital firms that finance start-up firms; eliminate corporate gross income tax; and double the research tax credit to 10 percent. Finally, it will increase the cigarette tax 40 cents a pack, to 55.5 cents; and raise the gasoline tax by 3 cents a gallon, to 18 cents (Indianapolis Star).

SCHOLER VOTED FOR 21ST FUND: After voting

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When Bauer seemed to come around to Republican viewpoints, Espich asked him on the House floor, "How much in new spending?" The answer was a staggering average \$1 billion a year.

But Bauer's real problems began three weeks ago, when *Times of Northwest Indiana* reporter Terry Burns broke the story about a \$10,000-a-head fundraiser for Bauer *attended by members of the gaming community during the special session*. When the *Indianapolis Star* finally picked up on the story with one week left in the session, the reaction badly surprised Bauer. On Saturday morning, the *Star* was reporting that Bauer was under investigation by Missouri officials, and editorialized that Indiana should be probing, too. On the House floor, Bauer would note on Saturday, "The same people who attend your fundraisers attend mine." Bauer's problem was that some of the speaker votes were still pushing for the goodies; thus the "half full, half empty" speech and the complaints that the administration had jerked away \$400 million of a coveted billion.

Still, Lt. Gov. Joe Kernan and the IMA's Pat Kiely praised Bauer for making the bill more business friendly. When it finally was sent to the Senate on D-Day, everyone knew it was in for a makeover, something Bauer would call a "16-week solution."

Larry Borst

State Sen. Teresa Lubbers described Senate Finance Chairman Larry Borst's critical role in tax restructuring like this: "He was playing three-dimensional chess while the rest of us were playing checkers."

Watching Borst operate in what HPR had often called the "three-ring circus" was akin to being in a fun house with the concave mirrors, with plenty of smoky pizzazz for good measure. Did Borst really want tax restructuring, or political advantage?

One lobbyist noted, "You guys (the

press) let him shift his position every other day."

In March, when he eloquently moved the original tax restructuring bill off the Senate floor, it seemed like he was seeking a solution. But when the Senate Republicans threw in the towel on March 13, some 36 hours before the end of the regular session, it seemed questionable.

Two events occurred that seemed to bring Borst and Garton around: the April and May revenue reports that revealed about a \$200 million shortfall.

The train wreck had happened.

While Garton lamented the special session, saying the governor "always gets his way," his signals from May 14 forward suggested action. "There was no question that he was engaged in this process from the time we went back in," Kernan said of Garton. "His leadership had a lot to do with it."

"What happened in the Senate turned into 'who's going to run this place,'" said the IMA's Pat Kiely. When HB 1001ss passed the House on June 6, Sen. Robert Meeks was in the back of the chamber and Chairman Bauer was quick to name him the Senate sponsor. By that following Monday, it was Borst who had wrested back control.

There was a lot of speculation about the Borst and Garton rivalry. After the spring revenue numbers, they ended up on the same page and, working in tandem, were truly a remarkable force. Any notions of a Senate power realignment are fantasy for at least the next two years. Borst and Garton are at a power apex, their legacy billowing to new proportions. Their most audacious move was seizing a suggestion out of the governor's office a week before the climactic vote aimed at a concurrent resolution. They embraced it. "By not sending a bill to the conference committee, they essentially controlled the conference committee," Kiely said. "By keeping the bill in the Senate, they got to dictate." That galled Bauer.

At the beginning of the final week,

Sen. Vi Simpson teamed up with Republican Sen. Johnny Nugent in an attempt for an end-around. "For the first time the finance leaders are talking to each other face to face," said Sen. Greg Server, R-Evansville (*Jennifer Whitson, Evansville Courier & Press*). "I think the peons putting together a program motivated them."

Simpson feared that a stall was in the works, with an ending similar to that of March 12-14. "I think they knew we had the votes and thought, 'If we don't do it, somebody else will,'" she said.

By late last Thursday afternoon, those fears seemed to be materializing and by late that night, after Simpson and Borst amendments had failed, it looked like a second special session was looming. In pleading for his amendment, Borst said, "It would be a shame to deepsix this."

Minutes after it failed, Borst was saying, "I think the wheels have already fallen off. I know this is the end of session. So be it."

At 10:40 p.m., Borst and Garton went to see Gov. O'Bannon, where they were expected to discuss an amendment that could be offered before a final vote.

Before he met with O'Bannon, Borst said, "The gamers out in the hall have their hands wrapped around the throat of this bill and are choking it. If the governor sits there and allows them to do it, I don't know what's going to happen to the state of Indiana."

Gamers in the Hall

Aside from the bad April and May revenue numbers, if anything forced Borst and Garton together, and made a deal with Gov. O'Bannon palatable, it was the gaming lobby.

Early in the special session, Rep. Eric Turner released a three-page document outlining the 103 registered gaming lobbyists. It read like the "Who's Who" of the Indiana political establishment -- former speakers, legislators, party chairs, power attorneys and white shoe law firms.

The elected leaders had long vowed to prevent an "expansion of gambling." While the 103 lobbyists seemed to muster their resolve, ultimately that powerful lobby would keep the bill alive. HB 1001ss was a Christmas tree bill for the gaming industry -- dockside, French Lick, pull tabs for the horse tracks and OTBs. It fractured the Senate Republicans into three camps. Sen. Meeks said the GOP was hopelessly divided over cigarette tax, gaming and an income tax hike. For the "gamers," it was a very clear vision of, as economist Bill Styring might put it, "Cadillacs for Christmas, for everyone!"

The business and manufacturing lobby had similar incentives, but the end result for them was full of potential Pandora's boxes. As HB 1001ss moved forward, it was the gaming lobby that seemed to keep breathing life into it at points where it could have derailed, at least until Borst's Heimlich maneuver. By Friday night, the gaming lobby had more incentive to kill it, and after Borst and Simpson struck a deal with O'Bannon, they seemed resigned to its fate by Saturday afternoon.

While the gaming lobby posted \$170 million in profits in May for only the second time (a 12-percent increase over May 2001), they tried to make the case that any industry remaining static means doom. The final bill, gently tweaked at the behest of lobbyist Joe Loftus to keep the higher taxes away from some of the smaller casinos, was devastating for Argosy and Hoosier Park at Anderson. Centaur's Kurt Wilson bitterly complained of being "demonized" despite the thousands of jobs and the development of an accompanying agriculture sector. But attaining dockside in any other setting would have been a victory.

For a time on Saturday, the snub of French Lick seemed like a deal breaker, until the second roll of the dice.

Gov. O'Bannon

At his doorstep on the second

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against similar proposals during the regular and special legislative sessions, Rep. Sue Scholer, R-West Lafayette, supported the final compromise. "It comes back to what I thought was important, economic development, the 21st Century Research and Technology Fund and a spending cap. This is not a time you can do lots in taxes. We needed to move forward. The bill was a reasonable step" (*Lohrmann, Lafayette Journal & Courier*). Scholer had voted against the bill when it moved from the House to the Senate earlier this month. Democrat Joe Micon publicly took her to task for not supporting the bill.

BECKER, LIGGETT, ALDERMAN SAID NEGATIVES OUTWEIGHT POSITIVES: Rep. Vaneta Becker said the negatives in the bill outweighed any positives (*Whitson, Evansville Courier & Press*). "I have said from the very beginning, don't raise taxes and cut education at the same time," Becker said. She also said she opposed the bill because it didn't reinstate cuts to domestic violence programs and home health care for seniors. "It also doesn't fix the bottom line," she said, adding that if the bill doesn't generate the revenue it claims it will, legislators are going to be forced to raise taxes again

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next year. "I'm concerned whether the budget figures are right. If it's not done right, we have to do it again," she said. But Rep. Brian Hasler, D-Evansville, called Becker's reasons "the excuses of the moment." "If people are truly concerned about the Evansville Psychiatric Children's Center, they should be a yes vote on this bill," Hasler said. "We could have done a lot better," said Rep. Robert Alderman, R-Fort Wayne (Kelly, Fort Wayne Journal Gazette). "So many things seem to benefit the average person but there's a price tag on those things." There was also criticism from both sides of the aisle that the bill was lopsided in favor of business interests and put too much burden on individual Hoosiers. "I don't want to leave here with something we know is not responsible that punishes individual taxpayers with such a substantial tax shift," said Rep. Ron Liggett, D-Redkey.

AYRES, LAWSON, CHENEY VOTE YES, DESPITE 'BAD STUFF': "It's not perfect, there's a lot of bad stuff in it, but considering the (economic) situation we're in, it gives Northwest Indiana a chance," said Rep. Ralph Ayres, R-Chesterton (Terry Burns, Times of Northwest Indiana). Rep. Linda Lawson, D-Hammond, said

floor stood Sens. Borst and Garton at 10:40 p.m. last Thursday. "When the Borst amendment didn't pass, and the Simpson/Nugent amendment didn't pass, all of a sudden they were at the point where they didn't have anything," O'Bannon told HPR Monday afternoon.

"The majority really wanted to do something, but there was still negotiating going back and forth and that was still being played out. Certainly that's when I thought, I knew, they could pass it because they were so close to what Sen. Borst wanted, going from 100 percent of schools off the property tax roles to 60 percent; no income tax; Bauer agreeing on some of the business taxes.

"They were that close. That's why I certainly asked them, particularly with Sen. Garton, to go back one more time. I thought they could do something. By 1 a.m. Friday, "Sen. Garton wasn't very sure that anything could be done," O'Bannon said.

How did O'Bannon respond? "I said, 'Let's try one more time.'"

Lt. Gov. Joe Kernan said that after O'Bannon's statement, "We made some recommendations on where there was common ground. From there, Sen. Borst went back to work and drafted an amendment that ultimately passed."

O'Bannon's background is instructive of how he operates. He served only two years in the majority in the Indiana Senate out of 18. By the time he joined Evan Bayh on the ticket in 1988, the "no new taxes" era had emerged. Democrats were burned when 1984 presidential nominee Walter Mondale told the nation that he would raise taxes. President George H.W. Bush told the nation to "read my lips, no new taxes," and was defeated in 1992 when he did.

When O'Bannon finally ran for governor, it was he who was demonized as a "big taxer" by Republican Stephen Goldsmith. In the Sept. 11, 1996, edition of HPR, it was reported, "O'Bannon showered the press corps with documenta-

tion showing votes since 1971 that he had made for cutting taxes and even included the Dec. 16, 1982, special session rollcall when O'Bannon voted against the largest tax increase in Hoosier history."

His most effective campaign ad placed him on a Victorian front porch, holding a property tax bill vowing to hold the line against increases. At a gubernatorial debate at Crown Point, O'Bannon had



called for welfare and school taxes to be removed from property taxes. He also called for a commission, insisting that Indiana was burdened with a

19th Century tax system. It can't be done in piecemeal fashion, O'Bannon said.

Goldsmith would have been an activist governor with an array of legislation ready to go in January 1997.

O'Bannon and the Democrats had put every man hour available into winning the 1996 campaign. They were not ready for tax restructuring when he took office.

By 1998, O'Bannon had selected a huge Blue Ribbon Commission on Taxes. Commission chairman Kurt Zorn talked of establishing a "framework" for property tax reform. By October of that year, with a \$2 billion surplus, Republicans were accusing O'Bannon of hiding behind the commission. There was internal division within the Democratic Party between the "spending wing" and the "tax cut wing."

By the time the Indiana General Assembly went into session in 1999, it was Republicans thumbing their noses at restructuring. "The time to do it was two years ago in 1997 or two years ahead in 2001," Borst said in the Dec. 11 edition of HPR. "The politics of taxation does drive policy." Speaker John Gregg added, "No one wants to do a tax shift." And Sen. Vi Simpson added, somewhat prophetically, "It is a legislator's job to put forward creativity. We don't have to wait for the governor."

The year 2001 presented the “day and night” division of the O’Bannon tenure. He had won a 15-percent victory over David McIntosh in 2000 on a record of decreased crime, more cops, 300,000 new jobs, his “Taxpayer Protection Plan,” and, by the way, tax cuts that inspired the bumper sticker, “Thanks a billion.”

Shortly after his 2001 inaugural, the bad news began tumbling out of a national recession. O’Bannon’s priorities were the budget (which he let become law without his signature) \$600 million out of balance, and a full-day kindergarten plan, which ultimately was killed by Bauer. Borst was calling for dealing with reassessment in 2003. By Sept. 11, 2001, when terror struck the nation, Indiana was reeling with the loss of more than 100,000 manufacturing jobs, a decline in personal income, and virtually no cogent economic development strategy.

It was in May of 2001 that O’Bannon told Kernan to begin working on a tax restructuring plan, which was ultimately unveiled on Oct. 18.

The gubernatorial model the Hoosier public policy community was using to gauge O’Bannon was established by Gov. Otis Bowen, who used his last few years as speaker and the 1972 gubernatorial campaign to make the case for his property tax reforms. In 1987, Gov. Robert D. Orr feverishly worked the public for support of his A-Plus education reforms that augmented his legacy.

O’Bannon approached tax restructuring not so much as an advocate, but as a facilitator and, ultimately, an arbitrator in a state with a constitutionally weak governorship.

“I’d say that’s a good observation,” O’Bannon told HPR. “We got split houses here, one Democrat, one Republican.” Bowen and Orr had GOP legislatures, and yet barely got their historic initiatives passed.

“It’s a tremendous difference,”

O’Bannon said. “I have somewhat more support in the Democrat House and we were focused there to make sure we got enough votes out. That was the first challenge when I talked to all of them in early January. Chairman Bauer took the lead in December and had seven hearings around the state that helped get people focused. Still, it was hard to get focused. In January, a lot of legislators didn’t think we needed the budget help.

O’Bannon said that while the administration “could provide the numbers” (something Borst complained he couldn’t get almost until the end), he felt it was the “legislature’s domain” to forge the plan.

While Bosma complained that O’Bannon didn’t communicate with leadership until the very end, the governor said he met with 23 House Republicans to try and get a plan passed. “Not only did they not want to do anything, they felt no responsibility to help with these two problems,” O’Bannon said. “The political focus in Indiana was over spending, when we ranked 45th in the country in spending. That’s hard to get past the political rhetoric to state what the need is. We finally got there this past week.”

As for not releasing a new plan on May 14 as promised, O’Bannon press aide Mary Dieter said the administration feared a brand new plan would have been “a lightning rod.” The administration knew that going with the Bauer plan that had been panned in the Senate in March “was risky, but putting out another plan would just delay everything.”

Gov. O’Bannon said, “Calling them back in a special session was the right thing to do. I think letting them pick up in negotiations where they left off instead of starting with a whole new plan; our plan would have been a mix of theirs. They were the only ones who could do it in the legislative process.”

Then there was the threat of a second special session. “Sen. Garton told

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while she hoped lawmakers would do more to overhaul taxes and fix the budget, the bill heading to the governor’s desk is at least a start. Rep. Duane Cheney, D-Portage, agreed, saying the final legislative compromise might not go far enough, but it addresses some immediate fiscal problems in the region. “It’s the only way we’re going to get revenues to stave off further cuts in education, Medicaid, prisons and parks,” he said. “It’s the best we could do under the circumstances.”

LEGISLATORS LAMENT FRENCH LICK SNUB: Rep. Jerry Denbo, D-French Lick, voted against the bill yesterday, saying it was unfair to cut Orange County, which has the state’s highest unemployment rate, out of the legislation. “The people who have no money always get left out,” he said (Stedman, Louisville Courier-Journal). “The people with money get what they want.”

DOBIS PREDICTS NO NEW GAMING LAWS FOR A DECADE: State Rep. Chet Dobis had rare praise for the Republican Senate Finance Chairman Larry Borst, who refused to allow pull-tab slot machines for race tracks or a casino in French Lick. “This session we finally took the process back from the gaming industry,” Dobis said (Steve Walsh, Gary Post-

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Tribune). He predicted the General Assembly would not pass another major gambling bill for a decade.

HARRIS, MOSES TO GET OPPONENTS: While most Northwest Indiana lawmakers will not have opposition in the general election, Republicans are challenging House leadership, including Rep. Earl Harris (Steve Walsh, Gary Post-Tribune). Thursday was the deadline for the parties to announce whether they will hold a caucus before June 30 to fill a vacancy on the November ballot. Seven local state representatives and two state senators will not be challenged in the fall. One exception is Harris, D-East Chicago, who is also vice chairman of the House Ways and Means Committee. Though Harris has one of the most heavily Democratic districts in the state, Republicans have filed to hold a caucus to appoint a candidate in his district. Also as part of a GOP campaign to target House leadership, the party filed to hold a caucus in the seat held by House Ways and Means Committee chairman Pat Bauer, D-South Bend. Architect Matt Kelty of Fort Wayne, a former aide to U.S. Sen. Dan Coats, has announced he will challenge Rep. Win Moses in HD81. The Howey Political Report reported on Friday. "We think people see a lack of leadership out of (Gov. Frank) O'Bannon and the leadership in the

me, 'Frank, I know you're not kidding on that.' I told John Gregg I was not kidding on that, even if it would cost a lot of friendships, which it would and has. It's still the right thing to do for the state of Indiana. They were so close to getting it done."

Progress during Gov. O'Bannon's tenure cannot be truly assessed until the end. An activist governor would present great initiatives, twist elbows and detour the asphalt trucks away from recalcitrant legislator's districts to get things done. O'Bannon is not prone to issuing threats, or slapping backs. "People kept saying he was missing in action," Dieter said. "That's just not true. It's not his way. He's a facilitator who works quietly."

In 2002, as he did in June 1997 when the House Republicans handed him a special session and he bartered workers comp increases for new Indianapolis stadiums, O'Bannon's most vital 72 hours weren't at the beginning, but at the end of the process. At his tactical best, it was O'Bannon that pressed for the ultimately successful concurrent resolution course.

"The governor made some right decisions in the last few days," said Kiely. "Bauer pretty much put his plan together in isolation of the governor's office. The governor was helpful in the end, the lieutenant governor was more helpful to get more Democrats to pass the thing."

"We were adjusting our plan up until the last week," O'Bannon explained, "looking at the best of both plans that had passed the houses. Chairman Borst and Chairman Bauer were getting to that point, but the biggest challenge was that no one really wanted to do it. Politically, people wanted to put it off a year."

Nine changed votes

They were Democratic Reps. Clyde Kersey of Terre Haute; Thomas Kromkowski of South Bend; Dennie Oxley of Milltown; Scott Pelath of Michigan City; and Russell Stilwell of Boonville, and Republicans Richard Mangus of Lakeville; Richard McClain of Logansport;

Matthew Whetstone of Brownsburg; and David Yount of Columbus, who changed their votes Saturday night. As soon as Gregg saw the 51st representative vote yes, he closed the machine.

Rep. Dennie Oxley, D-English, said, "I was hopeful after the first vote that we would have a chance to go back and make some things in this bill better," Oxley said (Lesley Stedman, *Louisville Courier-Journal*). "But after talking with my colleagues, I realized that was not going to happen. This bill is definitely better than no bill." Rep. Russ Stilwell didn't like the failure to restore cuts to a home health care program for the elderly and that it represented a greater shift of the tax burden from businesses to individuals. The bill passed the House in early June with funding for those programs restored, but Senate Republicans stripped them out. "I'm disappointed the governor's office didn't broker a better deal in the Senate," Stilwell said (Jennifer Whitson, *Evansville Courier & Press*). "I think that first concurrence vote was important," Rep. Scott Pelath, D-Michigan City, said, "because the administration had to realize that we weren't satisfied with everything, and he needed to make some improvements, and I think he did that" (Martin DeAgostino, *South Bend Tribune*).

One influential lobbyist told HPR that while the O'Bannon meeting with Borst and Garton was ultimately catalytic, "That breakthrough would have been for naught had the ISTA not stepped up." That helped shore up House Democratic votes. "If the ISTA had gone the other way, I believe the vote would have gone the other way. The bill really isn't good news for K-12 education. (And it's certainly not great for higher ed.) But, the ISTA concluded that the potential long-term impact of meaningful business tax reform coupled with some infusion of general fund dollars were enough to offset the grave funding uncertainties."

Kromkowski and Pelath said O'Bannon assured them that he would find a way to restore funding cuts for a popular

home health care program, for domestic violence shelters and for youth service bureaus. "Based on that," Kromkowski said between votes, "I can put up a green light one time."

Mangus said he switched his vote for other reasons. "It's time to go home," he said. "That was the best we were gonna get, there's no use coming back for 40 more days." Rep. Matt Whetstone, R-Danville, said, "The first time I voted 'no' because no one wants to vote for a tax increase. But this was a good bill" (Kevin Corcoran, *Indianapolis Star*).

McClain said, "After that first vote, I walked off the floor and walked to an empty part of the Statehouse" (Dave Kitchell, *Logansport Pharos-Tribune*). "I just had to have a talk with myself and try to come up with what I thought would be the best decision. Losing 100,000 jobs is pretty disastrous. It's going to take five to 10 years to get our economic climate back. It will take more than what we've just done."

Celebratory leadership

Late Friday night, Sen. Garton noted lawmakers' willingness to vote for a major tax increase in an election year. "That's courage, folks. I'm proud of the Senate," he said.

Gregg was unabashed in his admiration for Senate leadership. "Garton and Borst apparently patched things up and worked together. No kidding, Garton is tops. He is the most underestimated guy in the place. If I were in a fox hole and could pick only a handful, Bob G. would be one of them."

Garton would characterize it as a "third floor success." Borst said he was "astounded that everything we set out to do is in that bill" (DeAgostino, *South Bend Tribune*). "The first one is a vote your feelings. The second is a 'We go home and don't have to come back' vote." Sen. Simpson called it a "composite" solution. "Although it isn't a perfect work product in my definition, I suppose

it is a legislative work product because it is a little bit of all of us."

Joe Kernan

The process began with Lt. Gov. Kernan last May, and surfaced on Oct. 18, widely praised as an unexpectedly credible plan.

But Kernan was a puzzling figure throughout the first six months of 2002. Popular with Democratic legislators, it was O'Bannon that brought about their loathing with vetos of a pay increase and mixed signals on plans and budgetary numbers. Why wasn't Kernan taking the lead? many asked. The answer is, Kernan was loyal second fiddle in a "facilitator" administration. He wasn't a free-lancer.

Ultimately, when he gave what was described as a "win one for the Gipper" speech before the Democratic caucus on Saturday afternoon, Kernan delivered. "He answered all questions candidly, honestly, sincerely and straightforward," Gregg observed. "Many were tough. He can go into the lions den like Daniel or into the fiery furnace like the three."

Kernan told HPR Monday morning, "The governor weighs the pros and cons of individual circumstances. From beginning to end, he clearly believes the legislative process has to work its way. He stepped in and helped forge the compromise. It's a monumental piece of legislation on the most difficult subject matter the General Assembly can deal with.

"There were parts of the plan that got better in my view since Oct. 18 and parts of the plan that I don't think are as good," said the presumed 2004 Democratic gubernatorial nominee who had to endure months of bad economic news and GOP criticism of his staggered Commerce Department. "From beginning of the process we have said you have to look at this as the total package.

"There's a saying in golf: No room for pictures on the score card. At the end of the day, it's whether you win or lose. This was a win for everybody." ❖

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House," said Luke Messer, executive director of the state Republican Party. Republicans have not found a candidate for either race. Around the state, the GOP filed five caucus intents without candidates. Precinct workers from the district will have until June 30 to find someone and hold an election. Indiana Democrats have called caucuses in four House districts and three Senate, said Political Director Tim Henderson (HPR).

LANDSKE, CHENEY, MRVAN WILL GO UNOPPOSED: This year seven Northwest Indiana House members and two state senators were effectively re-elected when the deadline passed Thursday (Walsh, Gary Post-Tribune). The Democrats had hoped former Lake County tourism director Speros Batistatos would challenge Republican incumbent Sen. Sue Landske, R-Cedar Lake. "He is still in the middle of a job search. His priority right now is feeding his family," Manous said. The Republicans had said two potential candidates were prepared to run against incumbent Sen. Frank Mrvan, D-Hammond. His district was made more heavily Republican by redistricting. "A candidate never emerged," Messer said. In contrast to the past two campaigns, Republicans did not put up a candidate against Rep. Duane Cheney, D-Portage. "What can I say, I'm happy. I hope it's a sign that I'm serving my district," Cheney said.

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