

# Drama at the Statehouse

## Participants Review 2007 Legislative Session

By Tom Schuman

**N**o, this isn't the beginning of a new *BizVoice*® classic movie column. But when one of the roundtable participants uses "The Good, the Bad and the Ugly" to describe the outcome of the 2007 legislative session, it's hard to resist.

The comment referred only to a categorization of some of the various bills passed. (Continue reading to find out who said it and what he or she meant). For you movie buffs, there was no reference to comparing Statehouse participants to Blondie (Clint Eastwood, the "good" guy), Angel Eyes Sentenza (Lee Van Cleef, the "bad" one) or Tuco (Eli Wallach, the "ugly" in the 1966 classic).

Finally, the Eastwood festival did not continue. There was absolutely no "make my day" line so famously uttered by Inspector (Dirty) Harry Callahan in 1983's "Sudden Impact."

Participating in the annual review of the Statehouse show:

- **Rep. Brian Bosma** (R-Indianapolis), the House minority leader
- **Kevin Brinegar**, president of the Indiana Chamber of Commerce
- **Pat Kiely**, former legislator and current chairman of the Indiana Manufacturers Association
- **Sen. Vi Simpson** (D-Bloomington), assistant minority floor leader in the Senate

### Report card

A simple beginning: What grades do we give out for the 2007 session?

"A few weeks after the session, I guess I feel better about it than I did during the session," Kiely opens. "I'd probably give it a B-minus." After discussing various specifics, he adds, "The budget probably spends a little too much, and we better hope the economy holds up. The property tax stuff is probably not going to make anybody happy, but we cleared some big issues that I think will make it a little easier to deal with in the future."

An honestly balanced budget, paying back monies owed to universities and local governments, and restoring positive provisions that were left out of the initial House Democrat version all pleased Bosma.

"Although it spent more than it would have had Republicans been in control of the House, (the budget) is not a disaster, and that's actually what I thought it might be," he offers. Bosma also starts out in the B-minus range, but after providing details on the property tax legislation (more to come, and it's not in the good or bad categories for the representative who has held his seat since 1986), he states, "We haven't even begun to chip away at the iceberg of problems on this. So that drops my grade maybe to a C-plus, because it really is a problem."

Brinegar agrees with the high C, low B assessment. He bemoans the fact that the business community had to play so much defense, defeating everything from requiring employers to verify the number of employee exemptions to various tax increases and massive property tax shifts. He points out that his session review for the Chamber board of directors featured nine PowerPoint slides filled with "over 40 pieces of bad business legislation."

Questioned by Simpson whether he was grading the outcome or what happened during the session, Brinegar replied, "Both, because I think the outcome would have been greater had business organizations been able to spend more time working on pro-jobs, pro-economy legislation that was offered and less time on things that would have made Indiana a worse place to do business."

Despite what she calls "an incredibly slow start," Simpson contends that "the end product was pretty good." She adds strong budget appropriations for education and the legislation that helps reduce the number of people without health care insurance to the positive side of the ledger. Pressed for a grade, Simpson says, "I would say it's a B-plus. It's not an A, but it's a B-plus."

## Property tax problems

Bosma is the film reviewer. "There was plenty of good, there was some bad and then there was some tremendously ugly." A tax exemption for patent-derived income is among the positives, while the lack of House majority consideration of a variety of other economic development measures falls into his "bad" category.

"Then we get to the true ugly, and that is how we handled homeowners' property taxes this year. The rebate program, which I understand was insisted upon by the House Democrat leadership, allows homeowner taxes to go up 24% now and promises a check for a little bit over half of that amount in December of this year, if we're lucky, and that is a public policy disaster.

"This will likely be written about in public policy books," Bosma warns, "as an example of how not to cut taxes for people."

Among those who will suffer through this process, according to the panelists: the 60% of homeowners that pay their property taxes through a mortgage escrow account; anyone who sells a home or goes through a divorce or separation; and maybe everyone else in the state of Indiana.

Kiely, when asked whether House Bill 1478 was another quick fix or steps toward a long-term solution, doesn't mince words. "I think we made permanent steps toward the next lawsuit." With homestead deductions changing each year, he gives the example of three homes of equal value resulting in dramatically different property tax bills.

"If that meets the constitutional requirement of assessed and taxed equally, then we'll have to really redefine what equal means before this is over." Residential property owners or renters, he believes, would be most likely to challenge the action in court.

Bosma returns to the rebate scenario. "That's 1.75 million checks, 1.75 million letters, 1.75 million addressed envelopes and if the check is over a certain level, 1099 forms coming from the auditor to the individual. It is a fiasco."

With study of the issue continuing, Kiely says it's even possible that people may end up paying state taxes on their state tax rebate.

### 'A cork in the hole'

Brinegar moves to a different area of the same topic, citing spending and structure as part of the long-term problem.

"The structure was not enough a part of the equation and ultimately there isn't going to be enough money to continue the status quo." Comparing Florida's 67 counties, 67 school districts and zero townships to Indiana's 92, 294 and 1,008 in those respective categories, he concludes, "We've got to weed out the waste and inefficiency of the structure, just like we do in the private sector in this intensely competitive global economy."

Simpson and Kiely believe the effort is hindered by poor statistical data. The release of trending numbers (indicating the projected severity of property tax increases in certain counties) with just a few weeks to go into the session turned the focus of the debate from possible long-term relief to providing short-term assistance for homeowners.

Those trending numbers "were all over the place and incomplete," according to Simpson. "Everybody in the last couple of weeks panicked. We've raised everyone's expectations

because everyone thinks we've solved the property tax problem when, in fact, we've just temporarily plugged the hole.

"We did the best we could with the money that we had, but what we did was put a cork in the hole. It's going to pop in another year or two, and we're going to be right back where we are today."

Simpson says the complexities of the issue make it difficult to deal with during the legislative session. Brinegar notes that part of the answer might be a commission or blue ribbon group "going on this now rather than waiting until 2009 and trying to craft something during and throughout that legislative session."

If so, help is needed. Kiely says he probably had better data 20 years ago when he was serving as House Ways and Means chairman than what is available today. Simpson agrees. "We simply do not have access to the kind of research and modeling information that we need to make good public policy decisions on tax."

### Efficiency missing

Legislative debates about Indianapolis Works have been dominant in the last three years. There has been slight progress, but not the full reform needed to truly complete the Uni-Gov structure that was innovatively adapted in the late 1960s. Statewide, 2006 legislation laid out a blueprint for consolidations at various levels, but noticeable progress has been minimal.

"One thing that's required are local officials who are willing to move forward," states Bosma, who does cite some successes and ongoing



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Indiana Chamber of Commerce

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efforts. “There are tools. There need to be more. But local elected officials need to be committed to saying we have the tools to eliminate duplication and layers and government, and we will use them.”

Those leaders need to face reality, Kiely proclaims. While the state once had 3% of the national income, that figure is now closer to 1.8%. While manufacturing remains critical, there’s no hiding that the closing of plants has reduced property wealth in a number of cities.



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(D-Bloomington)*

The bottom line, he says, is, “They used to have all this assessed valuation and all this wealth, and now they have none of the above, but they want to continue to run government at the same level. They haven’t adjusted their lifestyle. They’ve got to get their property tax rates down or they’re going to continue to be in what they’re already in – economic death spirals.”

Simpson argues that part of the solution is having a Legislature that has the “courage and the political will to give them more local autonomy, not less, in terms of raising revenue from other sources.

Not so fast, Kiely counters, pointing out that police and fire pension problems have supposedly been solved three times by giving local governments access to additional funds. “But they went and spent it on something else, and now it’s the state’s problem.”

Past bad practices – including increased state replacement credits for local property taxes that simply repeated the prior year’s levies plus 5% or more – have only added to the problem. The state property tax replacement credits that now total \$2.2 billion are the second biggest line item in the budget behind education.

Bosma offers, “We’ve been rewarding poor tax policy at the local level for a long time.” While saying he doesn’t philosophically disagree with more local government funding options, “Hoosiers expect the General Assembly to control their property taxes. It is the number one item that people are concerned about, and they expect the General Assembly to deal with it.”

Simpson terms it a parental-child relationship between state and local government, one that she would like to see change. Voters, she says, should have the ultimate say for evaluating the decisions that local government officials make.

## Review process

Capital project review boards, part of the property tax legislation, are intended to bring some accountability to local government spending. What looks good on paper, however, may not play out that way in reality.

Kiely says similar panels have not worked in the past. Bosma would have preferred more countywide elected officials as part of the makeup of the boards. Simpson, Monroe County auditor before coming to the Senate in 1984, believes a strategy will quickly emerge for candidates running for election to the board.

“When I was auditor,” she recalls, “there was a township trustee who ran every four years for office and was always elected overwhelmingly. His campaign promise was that he would never spend a penny on poor relief. People loved him. They thought that was great. The people who are going to run for this board, all they’re going to have to do is stand up and say, ‘I’ll never approve a project because I don’t want your property taxes to go up.’ That’s going to be pretty irresponsible, but I bet that happens.”

Brinegar concurs. “I support this conceptually, but have concluded that I have serious doubts as to whether it’s going to work in practice.”

## Top casualties

While Gov. Daniels emerged from the legislative session with a scorecard of seven wins, two partial victories and three setbacks, two high-profile items were primarily in the “no” category. Those were public-private transportation partnerships in Central Indiana (Indiana Commerce Connector) and Northwest Indiana (Illiana Expressway), and a leasing of the Hoosier Lottery to provide additional college scholarships for students who stay in the state after graduation, enhanced life sciences



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Indiana Manufacturers Association*

research and pension relief.

Legislation passed the Senate, but was not given a hearing in the House. Public sentiment against the highway projects prompted the governor to pull them back from consideration, although \$1 million was provided for a study of a portion of the Illiana Expressway.

Politics was the big winner.

"It's clear that the House Democrats have (taken polls) on the issue of privatization; they think it obviously polls well, and it's something they want to take into next year's election," Kiely claims. "I think (House speaker) Pat Bauer laid down the gauntlet early that 'we're going to stop the governor's privatization move as much as we can.'"

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The public backlash could have been avoided, at least in part, according to Bosma. If studies had identified more precise highway locations, "I believe that greater portions of public sentiment would have dried up. Virtually everyone agrees that they are positive economic tools for our infrastructure, but everyone in an eight-county area (in Central Indiana) thought it was going to go through their backyard or their front yard or their house."

Brinegar says there is no logical reason to oppose the lottery proposal.

"You cannot make a reasonable argument that that proposal is any different than what we already do with the riverboats or the horse tracks. They're privately owned and operated, and they're regulated very carefully and very significantly by the state," he shares. "By not moving forward on that, we passed over a \$200,000 (annual) annuity, which the lottery has taken in only twice in its history, and upwards of \$2.5 billion (up-front payment) that would have addressed some very important priorities."

Kiely says that if the lottery proposal had still been in play at the end, the \$2.5 billion or possibly slightly more (well above the original \$1 billion estimate) could have been substituted for the slot machines at the horse tracks. The up-front money from those additions at Hoosier Park in Anderson and Indiana Downs in Shelbyville was needed to provide the property tax relief.

Not all of Daniels' ideas are great, Simpson submits. She believes he was rewarded for his good proposals, but the "discussion of we're not going to privatize everything in state government, let's slow this down a little bit — that's a legitimate concern."

Brinegar accepts that all may not agree on certain proposals, but expresses concern when the House Democrat opposition, in this case, fails to offer viable alternatives. Simpson says her

Senate Democrat caucus proposed a bonding of the lottery revenue stream instead of a leasing, but that was not considered.

Kiely was not in concert with the potential allocation of the lottery proceeds. "We've got a million people needing retrained, and we spend no money doing that. That's a bigger problem to me than pumping up the universities additionally. If we don't deal with the workforce issues here, we won't need a lot of this in the future."

As for future prospects of the legislation, Bosma takes a realistic view in predicting that the "Central Indiana Commerce Connector and the lottery proposal stay on the back burner until, oh, I don't know, after November 2008. I don't see the governor bringing those back at this point. He took the political heat, and I don't see next session as the time when he comes around again."

### Lack of action ahead

What will take place in 2008? Reflecting, the experts lean toward a very active 2006 short session, featuring the Major Moves transportation and job creation plan, being an aberration. Again, political realities are expected to be in play.

Emphasizing the extremely close races in recent elections and the current razor-thin 51-49 Democrat control in the House, Bosma forecasts, "My guess is the 2008 session, the focus at least for the majority party in the House, will be what is politically expedient, not what is necessarily expedient for the future of the state."

In discussing the 2006 agenda and accomplishments, he adds, "That's not been the history for my colleagues on the Democrat side in the House. My guess is that we won't see any giant policy initiatives that will come out of the House, and my guess is the governor is pretty silent on the move-Indiana-in-an-entirely-new-direction issue as well, and everyone tries to keep their head low until November 2008."

Earlier, Kiely had jokingly suggested a General Assembly session of two weeks of receptions before proceeding directly to conference committees, in reference to the typical last-minute changes and adjustments. Here, he includes, "I think they're going to have to fix a few things they broke (in the property tax area), and I would predict they get out of there early. I don't think either party is going to be taking on a bunch of heavy issues in what is going to be a wild election year."

Simpson is even more straightforward. "If we didn't have to come back and fix some of the broken things that Pat keeps referring to, it's probably a session we could skip."

Looking ahead to that November 2008 election, Brinegar concludes, "In my 26 years (of affiliation with the General Assembly), I've never felt that anybody ever got unelected because of tax and particularly property tax issues. This election could be an exception to that."

#### INFORMATION LINK

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