Libertarian Training Center

Indiana State and Local Government:

Problems and Solutions for Today's Problems

By Peter Soldato

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Friend of Liberty,

Good information is hard to find quickly in our frenetic world. Peter Soldato spent the summer working on a project with the Libertarian Party of Indiana. He began researching the issues that Americans and Hoosiers care about the most.

He identified the reasons why an issue needs solving, and how to fix it. These aren't official Libertarian Party of Indiana solutions, but they are thought stimulating, and workable. They help to move society and government in a libertarian direction.

We hope you find it useful in your daily conversations with potential voters.

Sincerely,

Chris Spangle

Executive Director

Libertarian Party of Indiana

INDIANA STATE RESEARCH

INDIANA GOVERNMENT RESEARCH

- Indiana's form of government is closely modeled on the federal government with three branches: executive, legislative and judicial.

Indiana General Assembly

- The Indiana General Assembly is the state legislature, or legislative branch, of the state of Indiana. It is a bicameral legislature that consists of a lower house, the Indiana House of Representatives, and an upper house, the Indiana Senate.

- The General Assembly meets annually at the Indiana State House in Indianapolis.

- Members of the General Assembly are elected from districts that are realigned every ten years. Representatives serve terms of two years and senators serve terms of four years.

- Both houses can create bills, but bills must pass both houses before it can be submitted to the governor and enacted into law.

- Indiana has a part-time legislature that does not meet year-round. The General Assembly convenes on the first Tuesday after the first Monday in January. During odd-numbered years the legislature meets for 61 days (not necessarily consecutively) and must be adjourned by April 30. During even-numbered years the legislature meets for 30 days (not necessarily consecutively) and must be adjourned by March 15. The General Assembly may not adjourn for more than three days without a resolution approving adjournment being passed in both houses. The governor has the authority to call on the General Assembly to convene a special session if legislators are unable to complete necessary work within time allotted by the regular sessions. Special sessions of the General Assembly were rarely called in the state's early history, but have become more commonplace in modern times.

- The General Assembly delegates are elected from districts. Every ten years the districts are realigned by the General Assembly using information from the US Census Bureau to ensure that each district is roughly equal in population. The districting is maintained to comply with the United States Supreme Court ruling in Reynolds v. Sims.

- The Senate and House of Representatives each have several committees that are charged with overseeing certain areas of the state. Committees vary in size, with between three and eleven members. The committees are chaired by senior members of the majority party. Senators and Representatives can be members of multiple committees. Most legislation begins within the committees who have responsibility for

the area the bill will affect. Once approved by a committee, a bill can be entered into the agenda for debate and vote in the full chamber. Although not common, bills can be voted on by the full house without going through the committee process.

- Indiana legislators make a base annual salary of $22,616, plus $155 for each day in session or at a committee hearing and $62 in expense pay every other day.

- The authority and powers of the Indiana General Assembly are established in the Constitution of Indiana. The General Assembly has sole legislative power within the state government. Each house can initiate legislation, with the exception that the Senate is not permitted to initiate legislation that will affect revenue. Bills are debated and passed separately in each house, but must be passed by both houses before they can submitted to the Governor. Each law passed by the General Assembly must be applied uniformly to the entire state; the General Assembly has no authority to create legislation that targets only a particular community.

- The General Assembly is empowered to regulate the state's judiciary system by setting the size of the courts and the bounds of their districts. The body also has the authority to monitor the activities of the executive branch of the state government, has limited power to regulate the county governments within the state, and has sole power to initiate the process to amend the state constitution.

Indiana Senate

- The Indiana State Senate consists of 50 members elected to four-year terms. The Lieutenant Governor over the Senate while it is in session and casts the deciding vote in the event of a tie.

Indiana House of Representatives

- The Indiana House of Representatives consists of 100 members elected to two-year terms

Supreme Court of Indiana

- The Supreme Court of Indiana is the state supreme court of Indiana. The court was established by Article Seven of the Indiana Constitution and is the highest judicial authority within Indiana.

- In 2008, the court consisted of one Chief Justice and four Associate Justices, the constitutional minimum. The Indiana General Assembly may increase the number of Associate Justices to a maximum eight for a total of nine Justices.

- The court is assisted in its administrative duties by a board of five commissioners. The commissioners are nominated by the Judicial Nominating Commission and appointed by the governor.

- The Supreme Court has no original jurisdiction in most cases. This means that it can only hear cases that are appealed to the court after having been previously heard in lower courts. Most cases begin in local circuit courts where the initial trial is held and a jury decides the outcome of the case. The circuit court decision can be appealed to the Indiana Court of Appeals or the Indiana Tax Court, who can choose to hear the case or to enforce the lower courts decision. If the parties still disagree with the outcome of the case, they can appeal the decision to the Indiana Supreme Court. The Supreme Court can choose to hear the case and possibly overturn to the previous judgment, or the court can decline to accept the case and uphold the decision of the lower courts. The Supreme Court does have original and sole jurisdiction in certain specific areas including the practice of law, discipline or disbarment of Judges appointed to the lower state courts, and supervision over the exercise of jurisdiction by the other lower courts of the State.

- When the court accepts cases, they will review the documentation of the trials in the lower court and sometimes allow oral arguments before making a decision. In some cases the Justices will issue a decision without hearing arguments from either side, and base their decision solely on the evidence submitted in the lower courts. The court can order a new trial take place in the local court, overturn the decision or lower courts and enforce its own decision, or uphold the decision of lower court.

- Article Seven of the state constitution governs the term length of Supreme Court Justices. When there is a vacancy on the court, a new justice is nominated using a variation of the Missouri Plan. First, a list of three qualified nominees is created by the Judicial Nominating Commission who then submit the list to the Governor. The Governor then picks the new Justice from the list. If the Governor fails to choose a replacement within sixty days, the Chief Justice or the acting Chief Justice must do so.

- The Chief Justice is chosen by the Judicial Nomination Commission from among the sitting Associate Justices and serves a term of five years. The Chief Justice is appointed for terms of five years and presides over the court. When the position of Chief Justice becomes vacant the most senior member of the court serves as the acting Chief Justice until a new Chief Justice is chosen by the Judicial Nominating Commission. The Chief Justice also serves as chairman of the Judicial Nominating Commission.

- Justices are appointed to a term that could potentially last for ten years. Once a new Justice is chosen, he may serve for two years before being subjected to a retention election held during the first statewide election after the Justice's completion of the Justice's second year in office. The Justice is listed on the ballot with the option to be retained or to be rejected from the court. If retained the Justice may serve out the remainder of his ten year term. After a term is completed, a Justice must be reappointed by the same process used to appoint him originally in order to remain on the court. A Justice can be impeached by a majority vote of both houses of the Indiana General Assembly for misconduct. It is mandatory for a Justice to retire at age seventy-five, even if their term is incomplete.

- The eligibility requirements to be nominated as a justice of the Supreme Court are established in Article Seven of the Indiana Constitution. The candidate must be a citizen of the United States and reside within the state of Indiana before being considered for the office. The candidate must also have been admitted to the practice of law in Indiana for at least ten years prior to their candidacy, or must have served as a judge of a circuit, superior, or criminal court of the State of Indiana for five years. The candidate cannot be under an indictment in any court in the United States with a crime punishable as a felony. The Judicial Nominating Commission must also ensure that they are the "most highly qualified public candidates" available.

State Elected Officials

- Governor
    - The governor, elected for a four-year term, heads the executive branch.

    - The governor is elected to a four-year term, and responsible for overseeing the day-to-day management of the functions of many agencies of the Indiana state government. The governor also shares power with other statewide executive officers, who manage other state government agencies.

    - The position of governor has developed over the course of two centuries. It has become considerably more powerful since the mid-20th century after decades of struggle with the Indiana General Assembly and Indiana Supreme Court to establish the executive branch of the government as an equal third branch of the state government. Although gubernatorial powers were again significantly expanded by constitutional amendments during the 1970s, Indiana governors remain significantly less powerful than their counterparts in most other states.

- The governor's powers are established in Article V of the Constitution of Indiana, and the governor has wide-ranging executive authority to manage the government of the state.

- The governor works in concert with the state legislature (the bicameral Indiana General Assembly, consisting of the Indiana House of Representatives and the Indiana Senate) and the state supreme court (the Supreme Court of Indiana) to govern the state. The governor has the power to veto legislation passed by the General Assembly. If vetoed, a bill is returned to the General Assembly for reconsideration. Unlike other states, most of which require a two-thirds supermajority to override a veto, the Indiana General Assembly may override the veto with only a simple majority vote in both chambers.

- One of the governor's most important political powers is the ability to call a special session of the General Assembly. During a two-year period, the assembly can meet on its own for no more than 91 days, and this often prevents them from passing all the legislation they intend to. This can give the governor considerable influence in the body which will often compromise on issues with him in exchange for a special legislative session

- Among his other powers, the Governor can call out the state defense force (the Indiana Guard Reserve) or the Indiana National Guard in times of emergency or disaster. The Governor is also charged with the enforcement of all the state's laws and the Indiana Code through the Indiana State Police. The Governor also has the ability to grant a pardon or commutation of sentence of any person convicted of a crime in the state, except in cases of treason or impeachment.

- In addition to constitutional powers, governors also have a considerable degree of statutory authority. Most of the authority exercised by governors on a daily basis are derived from statute, giving the General Assembly a great degree of power to expand or consist the governor's authority.

- The governor also can influence the state court system through the appointment of judges. In Indiana, when vacancies occur on the Supreme Court, Tax Court, and circuit courts, the Judicial Nominating Commission interviews candidates and sends a list of three candidates for each vacancy to the governor, who chooses one. Justices of the peace and superior courts judges are elected in Indiana; if a vacancy occurs (such as by death or resignation) the governor may make an appointment, who holds the office until the next general election. The authority to make such appointments gives the Governor considerable sway in setting the makeup of the judiciary.

- The annual salary of the Governor of Indiana is $95,000. Additionally, he receives $6,000 annually for discretionary spending and expenses.

- Lieutenant Governor

  - The Lieutenant Governor of Indiana is a constitutional office in the US State of Indiana. Republican Becky Skillman, whose term expires in January 2013, is the incumbent. The office holder's constitutional roles are to serve as President of the Indiana Senate, become acting governor during the incapacity of the governor, and became governor should the incumbent governor resign, die in office, or be impeached. Lieutenant governors have succeeded ten governors following their deaths or resignations. The lieutenant governor holds statutory positions, serving as the head of the state agricultural and rural affairs bureaus, and as the chairman of several state committees. The annual salary of the lieutenant governor of Indiana is $76,000.

  - The lieutenant governor is elected on the same election ticket as the Governor in a statewide election held every four years, concurrent with United States presidential elections. Should a lieutenant governor die while in office, resign, or succeed to the governorship, the constitution specifies no mechanism by which to fill the vacated gubernatorial lieutenancy. Historically, the position has generally remained vacant during such events. The last attempt to fill such a vacancy in 1887 led to the outbreak of violence in the state legislature known as the Black Day of the General Assembly.

  - To become lieutenant governor of Indiana, a candidate must have been a United States citizen and lived within Indiana for the period of five consecutive years before the election. The candidate must also be at least thirty years old when sworn into office. The lieutenant governor may not hold any federal office during his term, and must resign from any such position before being eligible to be sworn in as lieutenant governor. Before taking the office, the candidate must swear an oath of office administered by the Chief Justice of the Indiana Supreme Court, promising to uphold the constitution and laws of Indiana.

  - The lieutenant governor has two constitutional functions. The primary function is to serve as the President of the Indiana Senate. In the Senate the lieutenant governor is permitted to debate on legislation, introduce legislation, and vote on matters to break ties. As presiding officer in the Senate, lieutenant governors also have partial control over what legislation will be considered, and influence on the legislative calendar. Unless a special session is called by the governor, the Senate meets for no more than 91 days in any two years period, leaving the

lieutenant governor free from his or her senatorial duties in the remainder of the year.

- The secondary function is to serve as a successor to the governorship should it become vacant, or act as governor if necessary. If a lieutenant governor should succeed to the governorship, the office of lieutenant governor and President of the Senate become vacant; the duties are taken over by the Senate President pro tempore.

- The majority of the powers exercised by the lieutenant governor are statutory and have been assigned by the Indiana General Assembly. The first additional powers granted to the lieutenant governor were added in 1932 when the office holder was made the head of the state's agricultural commission. The office's powers have since expanded to include the chairmanship of the Office of Community and Rural Affairs, the Indiana Housing and Community Development Authority, Office of Energy and Defense Development, and the Office of Tourism Development.[10] As head of the various office and committees, the lieutenant governor controls many patronage positions and is permitted to fill them by appointment. Important positions filled by the lieutenant governor include the members of the Corn Marketing Council, the Main Street Council, Steel Advisory Commission, and the Indiana Film Commission.

- In addition to the chairmanship of the committees, the lieutenant governor is also a participating member of the Natural Resources Committee, State Office Building Commission, Air Pollution Control Board, Water Pollution Control Board, and Solid Waste Management Board.

- The annual salary of the lieutenant governor of Indiana is set by the Indiana General Assembly and is $76,000.

- Attorney General
  - The Indiana Attorney General is the chief legal officer of the State of Indiana in the United States. Attorneys General are chosen by a statewide general election to serve for a four-year term. The forty-second and current Attorney General is Greg Zoeller.

  - The annual salary of the Attorney General of Indiana is $79,400.

- Auditor
  - Indiana State Auditor is an elected office in the U.S. State of Indiana.

- Auditor of State, is the chief financial officer of the State of Indiana. He has four primary duties including accounting for all of the State's funds; overseeing and disbursing county, city, town, and school tax distributions; paying the State's bills; and paying the State's employees. The Auditor of State is the Administrator of the State of Indiana Deferred Compensation Plan.

- The annual salary of the auditor of Indiana is $66,000

- Secretary of State

  - The Secretary of State of the U.S. state of Indiana is one of five constitutional officers originally designated in Indiana's State Constitution of 1816. Since 1851 it has been an elected position.

  - The Secretary of State has authority of several state departments, and is considered to be the second most powerful member of the executive branch of the state government. Among his powers is the ability to certify state elections, oversee the state's Department of Administration, enforce state business regulations, and to manage the state business services. As of 2009, the Secretary of State is Todd Rokita. The annual salary of the Secretary of State of Indiana is $66,000.

  - The Indiana Secretary of State is a constitutional office first established in the 1816 Constitution of Indiana. Between 1816 and until 1851, the Secretary of State was nominated by the governor and confirmed by the state senate. With adoption of the current constitution in 1851 the Secretary of State's office was filled by a public statewide election every four years.

  - To be eligible to serve as Secretary of State, a candidate must be at least thirty years old on the day they take the oath of office. Secretaries of State take office on January 1, following their election and hold office for four years. Should they resign, be impeached, or die in office the governor has the power to appoint a temporary Secretary of State to serve until the next general election. The new

Secretary of State, either appointed to elected, may only complete the term of the previous Secretary of State, not serve a new four year term. A Secretary of State may be elected to consecutive terms, but may serve no more than eight years in any twelve year period. As of 2007, the salary for the secretary is $66,000 annually.

- The Indiana Secretary of State is a constitutional office in the executive branch of the Government of Indiana. The constitution delegates power to oversee state elections by registering candidates, creating ballots, and certifying winners. Additionally all campaign financing information is also reported to the secretary who ensures it is compliant with state laws. This is accomplished through the Indiana Election Commission which is headed by the secretary who must personally sign off on all decisions. In cases of contested election, the Secretary of state is also the head of the State Recount Commission which has final authority in certifying elections.

- The Indiana General Assembly has granted the secretary additional statutory powers to maintain the state's registry of notaries, overseeing the state's criminal records, and managing the statewide human resources and payroll for the entire state government. The secretary oversees all these tasks as the head of the Indiana Department of Administration which has a several hundred member staff which is hired through the state merit system, denying the secretary a significant number of patronage position under his control.

- The Indiana Securities Division is placed under the leadership of the secretary. The division is statutory and is responsible for enforcing regulations on the purchase, sale, and trade of all security investments in the state. The division is responsible for granting operating licenses to collection agencies who wish to collect debts within the state. The division investigates violations of the state securities laws, can levy fines on law violators, and can request the Indiana Attorney General peruse criminal charges. As of 2007, the division regulated over 1,000 trading firms and their nearly 40,000 agents.

- The secretary also heads the statutory Division of Business Services. The division is responsible for maintaining the records of all corporations operating within

Indiana, which in 2007 amounted to over 250,000 active and inactive corporations. Non-profit businesses, limited liability companies, and limited liability partnerships also are required to register with the division. The division also approves trademarks and service marks for state companies. The division also maintains Indiana's Uniform Commercial Code which documents the assets and finances of businesses that fall under jurisdiction of the code.

- Treasurer
  - The Indiana State Treasurer is a constitutional and elected office in the executive branch of the government of Indiana. The treasurer is responsible for managing the finances of the U.S. state of Indiana. The position was filled by appointment from 1816 until the adoption of the new Constitution of Indiana in 1851, which made the position filled by election.
  - Treasurers take office on February 10 following their election and hold office for four years. Should they resign, be impeached, or die in office the governor has the power to appoint a temporary treasurer to serve until the next general election. The new treasurer, either appointed or elected, may only complete the term of the previous treasurer, not serve a new four year term. A treasurer may be elected to consecutive terms, but may serve no more than eight years in any twelve year period. As of 2007, the salary for the treasurer is $66,000 annually.

  - The treasurer’s powers are both constitutional and statutory. The treasurer's constitutional powers make him the chief financial office of the state government and give him control over all of the state's financial assets. Because the state operates with a large reserve fund, this give the treasurer control over a large amount of money. In 2007, the total state portfolio was valued at over $5 billion.[1] The treasurer is permitted to invest the funds several different ways, including investments in United States Bonds, Certified Deposits, repurchase agreements, and money market mutual funds.[1]

  - The Indiana General Assembly has assigned the treasurer additional statutory power and made him a member of the state Board of Finance, Indiana Finance Authority, Indiana Transportation Finance Authority, State Office Building Commission, Recreational Development Commission, Indiana Grain Indemnity Fund Board, Indiana Underground Storage Tank Financial Assurance Board, and the Indiana Heritage Trust Committee. Additionally, the treasurer is the vice-chairman of the Indiana Housing Finance Authority and the Indiana State Police

Pension Fund. As a member of these boards, the treasurer has a wide range of influence on the state's financial management.

- The treasurer is also the head of several of the most important state financial organizations. The treasurer is chairman of the Indiana Bond Bank, a state controlled bank that provides financing to municipal government to allow for large infrastructure investments. The bank then sells the debts as secured bonds on the national market. This allows local governments to secure credit a low rate of interest. The treasurer is also the chairman of the Indiana Education Savings Authority which manages savings accounts for college educations. The treasurer chairs the Public Deposit Insurance Fund and the Board for Depositories that insures the deposits of municipal governments in the state, much as the FDIC insures private accounts, except without limiting the amount of the insurance. The Indiana Institute for Public Funds Management is private organization that was developed to provide financial education for municipal government leaders. The treasurer is designated by the organization its chairman.

- Superintendent of Public Instruction
  - The Superintendent of Public Instruction is an elected office in the state government of Indiana. The official is an elected member of the executive branch of government and work with the state Board of Education as head of the Indiana Department of Education to oversee certain areas of public schools in Indiana.

  - The position was created in 1851 with the adoption of the Constitution of Indiana, and filled in the first general election following its creation.

  - The annual salary of the Superintendent of Public Instruction of Indiana is $79,400.

  - The Superintendent serves as voting member and the chair of the Indiana State Board of Education, an eleven member body with its ten other members

appointed by the Governor of Indiana. The board sets statewide school policy and has limited control over curriculum.

- The General Assembly, the legislative branch, consists of the Senate and the House of Representatives. Indiana's fifty State Senators are elected for four-year terms and one hundred State Representatives for two-year terms. In odd-numbered years, the General Assembly meets in a sixty-one day session. In even-numbered years, the Assembly meets for thirty session days.

TOWNSHIP GOVERNMENT

- A township in the United States refers to a small geographic area, ranging in size from 6 to 54 square miles (15.6 km² to 140.4 km²), with 36 square miles (93 km²) being the norm.

- The township government is a local unit of government, originally rural in application. They are geographic and political subdivisions of a county. The township is identified by a name, such as Washington Township. The responsibilities and the form of the township government is specified by the state legislature.

- The most common form of township government has an elected board of trustees or supervisors. Some additional offices, such as Clerk or Constable, may also be elected. The most common responsibilities include such things as road maintenance, land use planning, and trash collection.

- In most midwestern states, a civil township often corresponds to a single survey township, but in many cases, especially in less populated areas, the civil township may be made up of all or portions of several survey townships. In areas where there are natural features such as a lakeshore or large river, the civil township boundaries may follow the geographic features rather than the survey township. Municipalities such as cities may incorporate or annex land in a township, which is then generally removed from township government (although this varies--Indiana is the only state where every portion of the state is part of a township government, regardless of other municipalities,

while in other states, some types of municipalities like villages remain a part of the township while cities are not. As urban areas expand, a civil township may entirely disappear—see, for example, Mill Creek Township, Hamilton County, Ohio. In other expanding urban areas, the township may incorporate itself into a city; this can be seen in the numerous square cities of Hennepin County, Minnesota.

- A **Township Trustee** is an elected official in the local government of the U.S. state of Indiana. A township trustee administers a township, which is a political subdivision of a county, and in common with most other state officials serves a term of four years.

- The duties of a township trustee include:
    - Providing fire protection and ambulance service to unincorporated areas of the county
    - Providing for poor relief and burial of the indigent
    - Maintaining cemeteries and burial grounds
    - Resolving fence disputes
    - Investigating claims of livestock killed by dogs
    - Controlling weeds and underbrush
    - Managing the township budget and financial records
    - Preparing an annual financial report

- The trustee is assisted by a three-member Township Board whose members are also elected to four year terms. Duties of the board include adopting the annual budget, serving as a board of finance and approving township contracts. In January of each year, the trustee presents to the board an annual report showing the receipts, expenditures, investments and debts of the township. The approved report is then published in local papers for public inspection.

Constitution of Indiana

- There have been two Constitutions of the State of Indiana. The first constitution was created when the Territory of Indiana sent forty-three delegates to a constitutional convention on June 10, 1816 to establish a constitution for the proposed State of Indiana after the United States Congress had agreed to grant statehood. The delegates approved the constitution 33-8. In preparing Indiana's fundamental law they borrowed heavily from existing state constitutions, especially those of Virginia, Ohio, and Kentucky. The original constitution was adopted without being submitted to the people. The current constitution is the Constitution of 1851, with numerous amendments.

Current Constitution

- The changes in society and the concerns can be noted by the comparison of the preambles to the original 1816 constitution, and the current constitution. The preamble to the original 1816 constitution read:

"We the Representatives of the people of the Territory of Indiana, in Convention met, at Corydon, on monday the tenth day of June in the year of our Lord eighteen hundred and sixteen, and of the Independence of the United States, the fortieth, having the right of admission into the General Government, as a member of the union, consistent with the constitution of the United States, the ordinance of Congress of one thousand seven hundred and eighty seven, and the law of Congress, entitle "An act to enable the people of the Indiana Territory to form a Constitution and State Government, and for the admission of such state into the union, on an equal footing with the original States" in order to establish Justice, promote the welfare, and secure the blessings of liberty to ourselves and our posterity; do ordain and establish the following constitution or form of Government, and do mutually agree with each other to form ourselves into a free and Independent state, by the name of the State of Indiana."

The preamble of the current constitution reads:

"TO THE END, that justice be established, public order maintained, and liberty perpetuated; WE, the People of the State of Indiana, grateful to ALMIGHTY GOD for the free exercise of the right to choose our own form of government, do ordain this Constitution."

Articles

The Constitution consists of a preamble and 16 articles. They are as follows:

1. Bill of Rights
2. Suffrage and Election
3. Distribution of Powers
4. Legislative
5. Executive
6. Administrative
7. Judicial
8. Education
9. State Institutions
10. Finance
11. Corporations
12. Militia
13. Indebtedness
14. Boundaries
15. Miscellaneous
16. Amendments

General Provisions

- The entire article 3 is the shortest provision of the entire constitution, having one section consisting of one sentence: “Section 1. The powers of the Government are divided into three separate departments; the Legislative, the Executive including the Administrative, and the Judicial: and no person, charged with official duties under one of these departments, shall exercise any of the functions of another, except as in this Constitution expressly provided.”
- Article 5, Section 1, provides that the governor may not serve more than 8 years in any twelve-year period.

- Article 5, Section 8, prohibits anyone holding federal office from being governor.

- Article 7, Section 2, declares the state Supreme Court to have one Chief Justice and not less than four nor more than eight associate justices.

- Article 7, Section 15, provides that the four-year term limit for elective office set forth in article 15, section 2 does not apply to judges and justices.

- Article 9 provides for the state to create and fund "education of the deaf, the mute, and the blind; and for the treatment of the insane" and "institutions for the correction and reformation of juvenile offenders" but provides that counties may "provide farms, as an asylum for those persons who, by reason of age, infirmity, or other misfortune, have claims upon the sympathies and aid of society."

- Article 12, Section 1, declares the militia to be "all persons over the age of seventeen (17) years, except those persons who may be exempted by the laws of the United States or of this state".

- Article 13 currently only has one section, (sections 2 through 4 having been repealed) limiting indebtedness of municipal corporations to two percent of the property tax base except in the

event of a war or certain other defined emergencies, if requested by petition of certain property owners in the area.

- Article 15, Section 2, provides for creation by law of offices not defined by the constitution, and where someone is appointed, may be for a term "at the pleasure of the appointing authority" but elected offices may not have a term longer than four years.

- Article 15, Section 7, prohibits making any county less than 400 square miles (1,000 km^2) or reducing the size of any existing county which is smaller than this.

Amending the Indiana Constitution

- The amendment procedures available under the Indiana Constitution are more restrictive than in those of nearly any other state. Only one system is allowed (the legislatively-referred constitutional amendment), and this procedure in Indiana is itself more restrictive than in most states, since any proposed amendment must be approved by two successive sessions of the Indiana General Assembly before it can go to a vote of the people.
- Details of how the legislatively-referred constitutional amendment process works in Indiana, as defined in Article 16, are:

    - An amendment can be proposed in either chamber of the Indiana General Assembly.
    - An amendment must be agreed to by a simple majority of the members elected to each of the two chambers.
    - If that happens, the same amendment can be proposed in the next session of the legislature that convenes after a general election has taken place.
    - If the amendment is approved by a simple majority vote of both chambers of the general assembly in that second legislative session, the amendment is then to be submitted to a statewide vote of the people at a general election.
    - If a majority of those voting on the question approve it, the proposed amendment then becomes part of the Indiana Constitution.

STATE NULLIFICATION

What is Nullification?

- When a state 'nullifies' a federal law, it is proclaiming that the law in question is void and inoperative, or 'non-effective', within the boundaries of that state; or, in other words, not a law as far as the state is concerned.

- **Nullification** is the notion that a U.S. State has the right to nullify, or invalidate, any federal law which that state has deemed unconstitutional. The theory is based on a view that the sovereign States formed the Union, and as creators of the compact hold final authority regarding the limits of the power of the central government. (Under this, the compact theory, the States and not the Federal Bench are the ultimate interpreters of the extent of the national Government's power.)

- One of the earliest and most famous examples of nullification is to be found in the Kentucky and Virginia Resolutions (passed in 1798), as a protest against the Alien and Sedition Acts. In these resolutions, authors Thomas Jefferson and James Madison argued that the states are the ultimate interpreters of the Constitution and can "interpose" to protect state citizens from the operation of unconstitutional national laws.

- Most of us have been taught the idea that nullification, like secession, is unconstitutional; and further, that it is a discredited political doctrine. The federal government is absolutely supreme, thus the states are subordinate entities that must obey federal edicts — this is the reigning dogma in American politics, and one of the pernicious ideas that the elites are laboring to teach to school children. If you ask for proof, the supporters of this dogma (generally federal officials and those who benefit from the favor of same – surprise, surprise) will usually throw a quote from Abe Lincoln at you and tell you that ideas like nullification and secession died at Appomattox, Virginia in 1865. Why? Well, because that's the place where Lincoln and those who supported his authoritarian ideals finally wore down those who disagreed, and forced their surrender on the battlefield. Thus, nullification and secession are 'discredited' political doctrines largely for the same reason that your claim to your wallet can be 'discredited' by a mugger in an alley. "Might makes right" is the most sophisticated reason an authoritarian needs to do anything, although the

idea tends to sell better if he wraps it in Old Glory and calls it “patriotism,” while simultaneously demonizing his opposition as “anarchists” and/or “anti-American.”

A Short History of Nullification

- Nullification has a long and interesting history in American politics, and originates in the Virginia and Kentucky Resolutions of 1798. These resolutions, secretly authored by Thomas Jefferson and James Madison, asserted that states, as sovereign entities, could judge for themselves whether the federal government had overstepped its constitutional bounds, to the point of ignoring federal laws. Virginia and Kentucky passed the resolutions in response to the federal Alien and Sedition Acts, which provided, in part, for the prosecution of anyone who criticized Congress or the President of the United States.

  Kentucky and Virginia Resolutions

  The resolutions opposed the federal Alien and Sedition Acts, which unconstitutionally extended the powers of the federal government. They argued that the Constitution was a "compact" or agreement among the states. Therefore, the federal government had no right to exercise powers not specifically delegated to it and that if the federal government assumed such powers, acts under them would be void. So, states could decide the constitutionality of laws passed by Congress.

  A key provision of the Kentucky Resolutions was Resolution 2, which denied Congress more than a few penal powers:

  “That the Constitution of the United States, having delegated to Congress a power to punish treason, counterfeiting the securities and current coin of the United States, piracies, and felonies committed on the high seas, and offenses against the law of nations, and no other crimes, whatsoever; and it being true as a general principle, and one of the amendments to the Constitution having also declared, that "the powers not delegated to the United States by the Constitution, not prohibited by it to the States, are reserved to the States respectively, or to the people," therefore the act of Congress, passed on the 14th day of July, 1798, and intituled "An Act in addition to the act intituled An Act for the punishment of certain crimes against the United States," as also the act passed by them on the -- day of June, 1798, intituled "An Act to punish frauds committed on the bank of the United States," (and all their other acts which assume to create, define, or punish crimes, other than those so enumerated in the Constitution,) are altogether void, and of no force; and that the power to create, define, and punish such other crimes is reserved, and, of right, appertains solely and exclusively to the respective States, each within its own territory.”

- Other instances of nullification followed, most famously in 1833, when South Carolina nullified the federal Tariff of 1828, which it deemed to be unconstitutional because it was specifically a protective tariff, not a revenue tariff. This act of nullification created a conflict between South Carolina and President Andrew Jackson, and nearly led to war before a compromise tariff was adopted.

- And lest it be assumed that nullification and state sovereignty were political doctrines unique to the Southern states, it should also be noted that there were times when the Northern states also asserted them (in particular, at the Hartford Convention of 1814 and the various "personal liberty laws" that Northerners enacted in defiance of federal fugitive slave laws).

Is Nullification Constitutional? Compact Theorists versus Nationalists

- In his opposition to South Carolina's decision to nullify the Tariff of 1828, Andrew Jackson denounced the idea that a state could "annul a law of the United States," arguing that nullification was "incompatible with the existence of the Union, contradicted expressly by the letter of the Constitution, unauthorized by its spirit, inconsistent with every principle on which it was founded, and destructive of the great object for which it was formed." Senator Daniel Webster of Massachusetts agreed with Jackson in 1833, as did Abraham Lincoln in 1861. These men were nationalists. They believed that the Constitution of the United States had formed a consolidated nation-state, not a confederation, and thus they held to the idea that the Union was sovereign over the states. They also believed that the Constitution had been established among the "people of the United States" in the aggregate sense, not amongst the states themselves, and thus it was not a compact (or agreement) as the Jeffersonians contended.

Is the Union a Consolidated Nation-state, or a Confederation of States?

- Those who favor the consolidated nation-state school have some serious problems to overcome, problems that go all the way back to the colonial era. To begin with, in spite of certain claims made by men like Webster and Lincoln to the effect that the American Union actually began in colonial times, the thirteen British colonies that eventually became the American states were always separate political entities. Certain attempts were made to institute a common government over them, but these plans were defeated by differences arising between the colonies and, further, by interference from Great Britain. Their strongest, pre-independence connection was their status as British subjects, and thus their mutual allegiance to the British

crown. Nor did the Declaration of Independence create an American nation. Indeed, the Declaration merely established that "these United Colonies are, and of right ought to be free and independent states." The colonists made no declaration establishing a Union of any type amongst themselves; they merely announced that they were united in their determination to be free of the British crown. During the Constitutional Convention in 1787, delegate Luther Martin spoke to the truth of this when he said: "At the separation from the British Empire, the people of America preferred the establishment of themselves into thirteen separate sovereignties, instead of incorporating themselves into one."

- Following the Declaration, the new American states began working on a plan of Union, a fact which, by itself, should establish that no such thing existed at the time. Thomas Jefferson recorded in his Autobiography that, "All men admit that a confederacy is necessary. Should the idea get abroad that there is likely to be no union among us, it will damp the minds of the people, diminish our struggle, and lessen its importance…" The plan of Union that finally emerged: the Articles of Confederation, required the agreement of every state to become effective, and so did not go into formal operation until March of 1781, when Maryland became the thirteenth state to ratify the document.

- The Articles of Confederation were a political compact and established a Union of States, as even Daniel Webster later admitted. They declared outright that, "Each state retains its sovereignty, freedom, and independence, and every power, jurisdiction, and right, which is not by this Confederation expressely delegated to the United States." Make note of the mention of sovereignty here, as being applied to the states; this will be important later in addressing nullification specifically.

- In 1788, a convention called to repair defects with the Articles tossed its mandate aside and drafted a new Constitution, which was then presented to the states for ratification. Unlike the Articles, which had been ratified by the legislatures of the states (Rhode Island excepted), the Constitution was to be ratified by the people of each state via conventions called in each for that purpose. Also unlike the Articles, the Constitution was to become effective when ratified by nine states, but, as per its own language, it would be active only "between the states so ratifying the same" (see Article VII). In other words, the Constitution was to be binding only upon those states that agreed to it. As a result, when New Hampshire became the ninth state to ratify the Constitution in 1788, the Union was effectively broken up; Virginia, New

York, North Carolina and Rhode Island had not ratified, and thus were no longer politically united with the other nine states. James Madison testified to this fact in comments he made to Congress on June 8, 1790, concerning North Carolina and Rhode Island, neither of which had ratified the Constitution by that time: "I allude in a particular manner to those two states who have not thought fit to throw themselves into the bosom of the confederacy: it is a desirable thing, on our part as well as theirs, that a re-union should take place as soon as possible."

- Like the Articles of Confederation, the new Constitution was also a compact between the ratifying states, as the language of Article VII (specifically the words, "between the states") demonstrates for us. Patrick Henry, speaking in Virginia's ratification convention, argued that it was actually a consolidated national form of government because it referred to ratification by "the people of the United States"; however, James Madison countered that idea. "Who are the parties to it?" asked Madison, "the people — but not the people as composing one great body — but the people as composing thirteen sovereignties." As evidence of this, Madison pointed to the fact that each state was ratifying the Constitution for itself, whereas, had it been a truly national endeavor, a binding ratification vote would have been taken among the American people as a whole.

- Those who crafted the Constitution, Madison included, had in fact considered a "national government…consisting of a supreme legislative, judiciary, and executive," but the plan had been rejected, and the word 'national' had been stricken from every resolution presented to the constitutional convention from that time forward. The founders, including Alexander Hamilton, repeatedly referred to the Constitution as a "compact" to which the states had "acceded" (agreed to join) and the new Union as a "confederacy" and a "confederate republic." The fact it was not to be a confederation along the same lines as had existed under the Articles did not diminish the fact that the new Union was still a form of confederation. As Hamilton stated during the constitutional convention: "Different confederacies have different powers, and exercise them in different ways…great latitude, therefore, must be given to the signification of the term."

Sovereignty and State Powers within the Union

- Those who reject doctrines such as nullification and secession often point to the "Supremacy Clause" in Article VI of the Constitution, where we read: "This Constitution, and the Laws of the United States which shall be made in Pursuance

thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary not withstanding." Nationalists frequently use this clause to argue that the federal government is supreme over the states in every way; however, this is an error, one that can be corrected readily enough by reading the clause again without wearing authoritarian goggles. The clause states that the Constitution and all laws made pursuant to it,are supreme, not the federal government itself or any law it passes at whim.

- The powers of the federal government are, as the Constitution itself clearly states, "delegated," not inherent. In ratifying the Constitution, the states agreed to give up the exercise of certain sovereign powers (such as the power to declare war) in favor of having those powers exercised by the Union on behalf of all the states. All other rights and powers were to be retained by the states (see Amendments 9 and 10). This arrangement made the federal government a sort of agent of the states, authorizing it to act on their behalf in certain ways, while, at the same time, making it possible for the states to manage their internal affairs as they saw fit, and to peacefully interact with one another and with the nations of the world. Alexander Hamilton remarked on this state of affairs as follows in Federalists 32 and 33 respectively:

  > "An entire consolidation of the States into one complete national sovereignty would imply an entire subordination of the parts; and whatever powers might remain in them would be altogether dependent on the general will. But as the plan of the convention aims only at a partial union or consolidation, the State governments would clearly retain all the rights of sovereignty which they before had, and which were not, by that act, *exclusively* delegated to the United States."
  >
  > "But it will not follow from this doctrine [the 'supremacy' provision of Article VI] that acts of the larger society which are *not pursuant* to its constitutional powers, but which are invasions of the residuary authorities of the smaller societies, will become the supreme law of the land. These will be merely acts of usurpation, and will deserve to be treated as such. Hence we perceive that the clause which declares the supremacy of the laws of the Unionâ€¦only declares a truth which flows immediately and necessarily from the institution of a federal government. It will not, I presume, have escaped observation that it *expressly* confines this supremacy to laws made *pursuant to the Constitution*. . ."

These concepts were echoed by Thomas Jefferson and James Madison in the Kentucky and Virginia Resolutions of 1798:

> Kentucky Resolution: "*The several States composing the United States of America, are not united on the principle of unlimited submission to their General Government* but that, by a compact under the style and title of a Constitution for the United States. . . that to this compact each State acceded as a State. . . that the government created by this compact was not made the exclusive or final judge of the extent of the powers delegated to itself. . ."
>
> Virginia Resolution: "RESOLVED. . . That this Assembly most solemnly declares a warm attachment to the Union of the States. . . That this Assembly doth explicitly and peremptorily declare, that it views the powers of the federal government, as resulting from the compact to which the states are parties; as limited by the plain sense and intention of the instrument constituting that compact. . ."

A Constitutional Right to Resist

- It follows logically that if a government is empowered to do only certain things, and is forbidden from doing anything else, that any attempts made by that government to reach beyond the scope of its rightful powers are illegitimate. Laws enacted on that basis are, therefore, not laws at all, but are "acts of usurpation," as Alexander Hamilton phrased it. It also follows logically that if a state has rights and powers that are reserved for its exclusive use, it must also possess the natural right to defend those rights and powers. This is the underlying justification for nullification.

- States are required to yield to federal authority only in those instances where the Constitution clearly states that such-and-such falls within the federal realm, such as the power to declare war, make treaties, etc. In all other instances (save only if the Constitution specifically forbids them from doing something) they are free to act as they please.

- Nullification is entirely compatible with the existence of the Union because it finds its justification on the very foundation of the Union: the related principles of delegated authority and the separation of powers. It is not contradicted by the letter of the Constitution, in either an express or implied manner; however, federal usurpation is expressly prohibited by Amendments 9 and 10, and also by Article VI, which requires that all federal and state legislators, executives and judges pledge to uphold the Constitution (including its limited grants of power) by "oath or affirmation". It is absolutely authorized by the Constitution's "spirit," which rests in respect for the law and the separation of powers, and is perfectly consistent with every principle upon

which the Constitution was founded. The “great object” for which the Union was formed was, in the words of James Madison (see Federalist 14), to serve as:

What About the Courts?

- Some of you who read this article will inevitably ask: “What about the federal courts? Aren’t they supposed to determine the constitutionality of a law or a given action?” Over time, nationalists — thanks primarily to Chief Justice John Marshall’s decisions early in the country’s history — have been very successful at planting the idea in the American mindset that our federal courts are the final arbiters of any and all constitutional issues, but there is actually no constitutional justification for this notion. Indeed, it may surprise you to learn that, in Federalist 81, Alexander Hamilton remarked that there is “not a syllable in the plan under consideration [the Constitution] which directly empowers the national courts to construe the laws according to the spirit of the Constitution, or which gives them any greater latitude in this respect than may be claimed by the courts of every State. I admit, however, that the Constitution ought to be the standard of construction for the laws, and that wherever there is an evident opposition, the laws ought to give place to the Constitution.”

- The role of the federal courts and the final determination of constitutional issues in dispute is the Constitution’s greatest failing. Article III empowers the United States Supreme Court with legitimate authority over all “cases in law and equity arising under this Constitution,” and Article VI states that the Constitution is the “supreme Law of the Land, any Thing in the Constitution or Laws of any State to the Contrary not with-standing.” As a result, it follows that the Court should have authority to rule in situations where violations of some clear constitutional provision are alleged to have occurred. However, what if the question before the court is not how the Constitution applies to a given matter, but if the Constitution applies to it at all? Or what if a verdict of the court introduces some new doctrine, and thus somehow changes the fundamental relationship of the federal government to the states and individual Americans? Now the question has undergone a radical change. We are no longer considering an overt — or, as Hamilton once put it, “evident” — violation of a constitutional provision or prohibition. In this case, we are dealing with the question of what are the delegated powers of the federal government and what are the reserved powers of the states and the people, of whether the federal courts, by involving themselves in a given matter, are somehow changing the Constitution and the framework of our country by fiat. In other words, it turns the idea of delegated powers on its head by giving the federal government final authority in the matter of the scope of its own powers, thus giving it the ability to re-invent itself and evolve beyond its authorized scope.

- Also, consider how the steady politicization of the federal courts has affected our society at large, given the steady expansion of judicial power. This issue came to light in a particularly noteworthy way following the 2000 General Election. When the matter of recounting votes was thrown into the courts, suddenly the media was filled with stories of how "Judge so-and-so" votes, or who appointed him, and whether he was a Republican or Democrat; but, interestingly enough, what was not being discussed was the fact that we were openly admitting that our court systems have become politicized, and that Lady Justice was no longer blind but actually on the take. Thus, our sacred liberties under the law have slowly been supplanted by the advancement of political agendas operating in the halls of justice. Due to the efforts of the nationalists, we have lost the concept of federalism and the separation of powers. Anything and everything is now subject to being read into the federal Constitution, and politics reigns supreme.

- One must remember Thomas Jefferson's solution to the clash of federal versus state authority and constitutional ambiguities:

  > "But the Chief Justice [Federalist John Marshall] says, 'there must be an ultimate arbiter somewhere.' True, there must; but does that prove it is either party? The ultimate arbiter is the people of the Union, assembled by their deputies in convention, at the call of Congress, or of two thirds of the States. Let them decide to which they mean to give authority claimed by two of their organs. And it has been the peculiar wisdom and felicity of our constitution, to have provided this peaceable appeal, where that of other nations is at once to force."

CRIME

- The crime rate in Indiana is about 2% lower than the national average rate.
- Property crimes account for around 90.8% of the crime rate in Indiana which is 2% higher than the national rate. The remaining 9.1% are violent crimes and are about 27% lower than other states. The following graph shows how Indiana compared to the rest of the states.

Crime Rates (Per 100,000 people)

	Indiana	National Avg.
Crime Rates (2007)	3,675	3,731
Violent Crimes	339	467
Property Crimes	3,336	3,264

- Indiana's prison population is expected to be more than 30,000 in 22 state facilities by next year. The state's current two-year budget includes more than $1.3 billion for corrections.
- The Department of Corrections (DOC) has over 8,700 staff providing adult and juvenile services.
- Indiana has 155,300 adults under correctional supervision (prisons, jails, probation, and parole). The supervision rate (number of offenders per 100,000 people) is about 24% higher than the national rate.

Correctional Supervision (Per 100,000 people)

	Indiana	National Avg.
Population Rate (2004)	3,373	2,572

Incarceration Rate (Per 100,000 people)

- Indiana has a rate 3% higher than the national average of incarcerated adults per 100,000.

	Indiana	National Avg.
Incarceration Rate (2007)	459	447

Probationers (Per 100,000 people)

- Indiana has a rate 32% higher than than the national average number of probationers per 100,000 people.

	Indiana	National Avg.
Probationer Rate (2007)	2,727	1,863

Parolees (Per 100,000 people)

- Indiana has a rate 31% lower than than the national average number of parolees per 100,000 people.

	Indiana	National Avg.
Parolee Rate (2007)	221	319

Taxpayer Cost

- Taxpayers paid 9% lower than the other states per inmate in 2001.

	Indiana	National Avg.
Cost Per Inmate (2001)	$21,841	$24,052

SOLUTION

END THE DRUG WAR!

- *Indiana should:*
  1) press Congress to repeal the federal mandatory minimum sentences and the federal sentencing guidelines,

  2)direct the administration not to interfere with the implementation of state initiatives that allow for the medical use of marijuana,

  3) press Congress to shut down the Drug Enforcement Administration.

- Perhaps no area more clearly demonstrates the bad consequences of not following our federal framework than does drug prohibition. The long federal experiment in prohibition of marijuana, cocaine, heroin, and other drugs has given us crime and corruption combined with a manifest failure to stop the use of drugs or reduce their availability to children.

- In the 1920s, Congress experimented with the prohibition of alcohol. On February 20, 1933, a new Congress acknowledged the failure of alcohol prohibition and sent the Twenty-First Amendment to the states. Congress recognized that Prohibition had failed to stop drinking and had increased prison populations and violent crime. By the end of 1933, national Prohibition was history, though many states continued to outlaw or severely restrict the sale of liquor.

- Futile efforts to enforce prohibition have been pursued even more vigorously since the 1980s than they were in the 1920s. Total federal expenditures for the first 10 years of Prohibition amounted to $88 million—about $1 billion in 2008 dollars. Drug enforcement costs about $19 billion a year now in federal spending alone.

- Those billions have had some effect. Total drug arrests are now more than 1.5 million a year. Since 1989, more people have been incarcerated for drug offenses than for all violent crimes combined. There are now about 480,000 drug offenders in jails and prisons, and about 50 percent of the federal prison population consists of drug offenders.

- Yet, as was the case during Prohibition, all the arrests and incarcerations haven't stopped the use and abuse of drugs, or the drug trade, or the crime associated with black-market transactions. Cocaine and heroin supplies are up; the more our Customs agents interdict, the more smugglers import. And most tragic, *the crime rate has soared*.

- The manifest failure of drug prohibition explains why more and more political leaders have argued that drug prohibition actually causes more crime and other harms than it prevents. Senator Jim Webb (D-VA) has also been outspoken in his criticism of federal drug policies. In his 2008 book, *A Time to Fight,* Webb wrote: ''Drug addiction is not in and of itself a criminal act. It is a medical condition, indeed a disease, just as alcoholism is, and we don't lock people up for being alcoholics.''

- Congress should deal with drug prohibition the way it dealt with alcohol prohibition. The Twenty-First Amendment did not actually legalize the sale of alcohol; it simply repealed the federal prohibition and returned to the several states the authority to set alcohol policy. States took the opportunity to design diverse liquor policies that were in tune with the preferences of their citizens.

- The single most important law that Congress must repeal is the Controlled Substances Act of 1970. That law is probably the most far-reaching federal statute in American history, since it asserts federal jurisdiction over every drug offense in the United States, no matter how small or local in scope. Once that law is removed from the statute books, Congress should move to abolish the Drug Enforcement Administration and repeal all the other federal drug laws.

- There are a number of reasons why Congress should end the federal government's war on drugs:

    - First and foremost, the federal drug laws are constitutionally dubious. As previously noted, the federal government can exercise only the powers that have been delegated to it. The Tenth Amendment reserves all other powers to the states or to the people. However misguided the alcohol prohibitionists turned out to have been, they deserve credit for honoring our constitutional system by seeking a constitutional amendment that would explicitly authorize a national policy on the sale of alcohol. Congress never asked the American people

for additional constitutional powers to declare a war on drug consumers. That usurpation of power is something that few politicians or their court intellectuals wish to discuss.

- Second, drug prohibition creates high levels of crime. Addicts commit crimes to pay for a habit that would be easily affordable if it were legal. Police sources have estimated that as much as half the property crime in some major cities is committed by drug users. More dramatically, because drugs are illegal, participants in the drug trade cannot go to court to settle disputes, whether between buyer and seller or between rival sellers. When black-market contracts are breached, the result is often some form of violent sanction, which usually leads to retaliation and then open warfare in the streets.

- Third, drug prohibition channels more than $40 billion a year into a criminal underworld that is occupied by an assortment of criminals, corrupt politicians, and, yes, terrorists. Alcohol prohibition drove reputable companies into other industries or out of business altogether, which paved the way for mobsters to make millions in the black market. If drugs were legal, organized crime would stand to lose billions of dollars, and drugs would be sold by legitimate businesses in an open marketplace. Drug prohibition has created a criminal subculture in our inner cities. The immense profits to be had from a black-market business make drug dealing the most lucrative endeavor for many people, especially those who care least about getting on the wrong side of the law.

Respect State Initiatives

- The failures of drug prohibition are becoming obvious to more and more Americans. A particularly tragic consequence of the stepped-up war on drugs is the refusal to allow sick people to use marijuana as medicine.

- Prohibitionists insist that marijuana is not good medicine, or at least that there are legal alternatives to marijuana that are equally good. Those who believe that individuals should make their own decisions, not have their decisions made for them by Washington bureaucracies, would simply say that that's a decision for patients and their doctors to make. But in fact there is good medical evidence of the therapeutic value of marijuana— despite the difficulty of doing adequate research on an illegal drug. A National Institutes of Health panel concluded that smoking marijuana may help treat a number of conditions, including nausea and pain. It can be particularly effective in improving the appetite of AIDS and cancer patients.

- More than 70 percent of U.S. cancer specialists in one survey said they would prescribe marijuana if it were legal; nearly half said they had urged their patients to break the law to acquire the drug.

- Whatever the actual value of medical marijuana, the relevant fact for federal policymakers is that 12 states have authorized physicians licensed in those states to recommend the use of medical marijuana to seriously ill and terminally ill patients residing in the states, without being subjectto civil and criminal penalties.

- The Bush administration paid lip service to the importance of federalism, but its actions in Congress and at the state and local levels undermined that principle. Federal police agents and prosecutors continue to raid medical marijuana clubs—especially in California and Arizona.

- If it is inappropriate for governors and mayors to entangle themselves in foreign policy—and it is—it is also inappropriate for federal officials to entangle themselves in state and local politics. In the 110th Congress, Reps. Barney Frank (D-MA), Dana Rohrabacher (R-CA), and Ron Paul (R-TX) jointly proposed the States' Rights to Medical Marijuana Act, which would have prohibited federal interference with any state that chose to enact a medical marijuana policy. The 111th Congress should enact a similar bill without delay.

INDIANA STATE/LOCAL TAXES

Indiana's State/Local Tax Burden is Below National Average

- Estimated at 9.4% of income, Indiana's state/local tax burden percentage ranks 28th highest, below the national average of 9.7%. Hoosiers pay $3,502 per capita in state and local taxes.

Indiana
State-Local Tax Burden Compared to U.S. Average
1977-2008

	State						U.S. Average	
Year	Rate	Rank (1 is highest)	Per Capita Taxes Paid to Own State	Per Capita Taxes Paid to Other States	Total State and Local Per Capita Taxes Paid	Per Capita Income	Rate	Per Capita Income
1977	9.4%	37	$437	$257	$694	$7,373	10.3%	$7,787
1978	9.1%	40	$464	$278	$742	$8,131	10.2%	$8,590
1979	8.8%	41	$508	$284	$792	$9,003	9.7%	$9,510
1980	8.3%	42	$506	$295	$800	$9,638	9.5%	$10,431
1981	8.3%	40	$560	$317	$877	$10,526	9.3%	$11,532
1982	8.4%	40	$608	$335	$943	$11,188	9.3%	$12,485
1983	8.5%	41	$627	$343	$970	$11,451	9.4%	$13,011
1984	9.2%	30	$776	$383	$1,159	$12,555	9.7%	$14,161
1985	9.2%	31	$827	$427	$1,254	$13,558	9.7%	$15,349
1986	9.1%	34	$860	$443	$1,303	$14,259	9.7%	$16,233
1987	9.2%	36	$913	$468	$1,381	$15,017	9.9%	$17,095
1988	9.4%	32	$1,018	$499	$1,517	$16,063	9.8%	$18,243
1989	9.4%	34	$1,108	$515	$1,623	$17,273	9.8%	$19,562
1990	9.3%	35	$1,129	$550	$1,679	$18,014	9.9%	$20,465
1991	9.4%	31	$1,191	$557	$1,748	$18,621	9.9%	$21,101
1992	9.6%	31	$1,264	$589	$1,854	$19,392	10.1%	$21,789
1993	9.4%	37	$1,292	$620	$1,912	$20,320	10.2%	$22,636
1994	9.5%	35	$1,392	$645	$2,037	$21,332	10.2%	$23,408
1995	9.4%	37	$1,451	$668	$2,120	$22,490	10.2%	$24,587
1996	9.3%	35	$1,488	$679	$2,167	$23,275	10.0%	$25,730
1997	9.6%	27	$1,656	$716	$2,372	$24,690	9.8%	$27,335
1998	9.0%	37	$1,630	$735	$2,366	$26,248	9.7%	$29,103
1999	8.9%	36	$1,716	$739	$2,455	$27,599	9.6%	$30,798
2000	8.9%	36	$1,787	$767	$2,554	$28,862	9.5%	$32,707
2001	8.8%	36	$1,832	$768	$2,600	$29,508	9.5%	$33,725
2002	8.8%	37	$1,817	$771	$2,588	$29,324	9.5%	$33,172
2003	9.1%	32	$1,957	$808	$2,765	$30,227	9.7%	$33,644
2004	9.1%	37	$1,998	$883	$2,882	$31,622	9.8%	$35,576
2005	9.2%	33	$2,090	$958	$3,048	$33,234	9.8%	$38,206
2006	9.4%	33	$2,206	$1,082	$3,288	$34,825	9.9%	$40,643
2007	9.5%	27	$2,328	$1,131	$3,459	$36,295	9.9%	$42,817
2008	9.4%	28	$2,348	$1,154	$3,502	$37,279	9.7%	$44,254

Source: Tax Foundation calculations based on data from the Bureau of Economic Analysis, the Census Bureau, the Council on State Taxation, the Travel Industry Association, Department of Energy, and others.

Indiana's 2010 Business Tax Climate Ranks 12th in Nation

- Indiana ranks 12th in the Tax Foundation's State Business Tax Climate Index. The Index compares the states in five areas of taxation that impact business: corporate taxes; individual income taxes; sales taxes; unemployment insurance taxes; and taxes on property, including residential and commercial property. The ranks of neighboring states were as follows: Michigan (17th), Illinois (30th), Kentucky (20th), and Ohio (47th).

State Business Tax Climate Index, 2006 - 2010

	FY 2010 State Business Tax Climate Index		FY 2009 State Business Tax Climate Index		Change from 2009 to 2010		FY 2008 State Business Tax Climate Index		FY 2007 State Business Tax Climate Index		FY 2006 State Business Tax Climate Index	
State	Score	Rank	Score	Rank	Score	Rank	Score	Rank	Score	Rank	Score	Rank
US	5.00		5.00				5.00		5.00		5.00	
Alabama	5.19	19	5.30	20	-0.11	1	5.08	23	5.16	22	5.60	16
Alaska	7.38	3	7.32	4	0.06	1	7.13	3	6.99	4	7.29	3
Arizona	5.01	28	5.25	24	-0.23	-4	5.01	25	4.95	29	5.13	29
Arkansas	4.61	40	4.87	35	-0.25	-5	4.65	37	4.72	36	4.87	35
California	3.89	48	4.00	49	-0.11	1	3.93	49	3.92	48	4.64	42
Colorado	5.63	13	5.89	13	-0.26	0	5.89	10	5.90	11	5.70	13
Connecticut	4.72	38	4.81	37	-0.09	-1	4.60	38	4.69	39	4.66	41
Delaware	5.98	8	6.01	10	-0.02	2	6.09	9	6.11	8	6.10	9
Florida	6.62	5	6.92	5	-0.30	0	6.67	5	6.79	5	6.85	5
Georgia	5.01	29	5.16	27	-0.15	-2	4.95	28	5.18	21	5.52	20
Hawaii	5.05	24	5.27	22	-0.22	-2	5.27	18	5.34	16	5.28	24
Idaho	5.21	18	5.10	29	0.11	11	5.09	21	5.05	26	5.08	30
Illinois	5.01	30	5.26	23	-0.26	-7	5.04	24	4.92	31	5.22	26
Indiana	5.67	12	5.88	14	-0.20	2	5.65	13	5.72	12	5.86	12
Iowa	4.23	46	4.35	44	-0.12	-2	4.16	46	4.36	45	4.62	44
Kansas	4.93	32	5.07	31	-0.14	-1	4.87	31	4.77	35	4.99	33
Kentucky	5.18	20	4.95	34	0.23	14	4.98	27	4.96	28	4.75	38
Louisiana	4.74	35	4.98	33	-0.24	-2	4.75	34	4.79	33	5.05	32
Maine	4.83	34	4.69	40	0.14	6	4.72	35	4.72	37	4.64	43
Maryland	4.26	45	4.31	45	-0.06	0	4.14	47	5.08	24	5.23	25
Massachusetts	4.73	36	4.99	32	-0.26	-4	4.80	33	4.79	34	4.87	36
Michigan	5.35	17	5.30	21	0.05	4	5.32	17	5.14	23	5.20	28
Minnesota	4.44	43	4.61	41	-0.18	-2	4.40	42	4.39	43	4.71	39
Mississippi	5.16	21	5.32	19	-0.16	-2	5.09	22	5.21	19	5.57	19
Missouri	5.37	16	5.57	16	-0.20	0	5.35	16	5.37	15	5.68	14
Montana	6.32	6	6.27	6	0.05	0	6.35	6	6.42	6	6.16	8
Nebraska	4.88	33	4.55	42	0.32	9	4.55	40	4.55	41	4.59	45
Nevada	7.05	4	7.37	3	-0.31	-1	7.07	4	7.07	3	7.07	4
New Hampshire	6.25	7	6.21	7	0.05	0	6.29	7	6.32	7	6.45	6
New Jersey	3.60	50	3.90	50	-0.30	0	3.71	50	3.68	50	3.63	48
New Mexico	5.06	23	5.17	26	-0.11	3	4.93	29	5.05	25	5.30	23
New York	3.66	49	4.13	47	-0.47	-2	4.19	45	4.29	46	3.60	49
North Carolina	4.66	39	4.74	39	-0.08	0	4.52	41	4.52	42	4.70	40
North Dakota	5.04	25	5.08	30	-0.04	5	4.86	32	4.87	32	5.06	31
Ohio	4.04	47	4.12	48	-0.08	1	3.95	48	3.95	47	3.82	47
Oklahoma	4.97	31	5.40	18	-0.43	-13	5.18	19	5.20	20	5.41	21
Oregon	5.59	14	6.04	8	-0.44	-6	6.12	8	6.06	9	6.02	10
Pennsylvania	5.03	27	5.14	28	-0.10	1	4.92	30	4.95	30	5.31	22
Rhode Island	4.33	44	4.18	46	0.15	2	4.20	44	3.80	49	3.47	50
South Carolina	5.03	26	5.21	25	-0.17	-1	5.01	26	4.98	27	5.21	27
South Dakota	7.42	1	7.50	2	-0.08	1	7.21	2	7.18	2	7.56	2
Tennessee	5.10	22	5.42	17	-0.32	-5	5.16	20	5.27	17	5.58	18
Texas	5.70	11	6.02	9	-0.32	-2	5.79	11	5.99	10	6.41	7
Utah	5.80	10	5.94	11	-0.14	1	5.71	12	5.23	18	5.67	15
Vermont	4.56	41	4.52	43	0.03	2	4.34	43	4.37	44	4.57	46

Virginia	5.53	15	5.70	15	-0.17	0	5.51	15	5.51	14	5.58	17
Washington	5.81	9	5.94	12	-0.13	3	5.65	14	5.67	13	5.93	11
West Virginia	4.73	37	4.86	36	-0.13	-1	4.66	36	4.71	38	4.93	34
Wisconsin	4.54	42	4.76	38	-0.22	-4	4.56	39	4.57	40	4.77	37
Wyoming	7.38	2	7.50	1	-0.12	-1	7.24	1	7.46	1	7.64	1
District of Columbia	4.72		4.53		0.20		4.53		4.49		4.06	

Note: The higher the score, the more favorable a state's tax system is for business. All scores are for fiscal years.

Source: Tax Foundation

Indiana's Individual Income Tax System

Indiana's personal income tax system consists of a flat 3.4% rate on federal adjusted gross income (AGI). That rate ranks 41st highest among states levying an individual income tax. Indiana's 2008 state-level individual income tax collections were $760 per person, which ranked 33rd highest nationally.

Indiana's Corporate Income Tax System

Indiana's corporate tax structure consists of a flat rate of 8.5% on all corporate income. Among states levying corporate income taxes, Indiana's top rate ranks 11th highest nationally. In 2008, state-level corporate tax collections (excluding local taxes) were $143 per capita, ranking the state 22nd highest among states that tax corporate income.

State Corporate Income Tax Rates, As of February 1st, 2010

State	Rates (a)	Brackets
Ala.	6.5% >	$0
Alaska	1% >	$0
	2% >	$10K
	3% >	$20K
	4% >	$30K
	5% >	$40K
	6% >	$50K
	7% >	$60K
	8% >	$70K
	9% >	$80K
	9.4% >	$90K
Ariz.	6.968% >	$0
Ark.	1% >	$0
	2% >	$3K
	3% >	$6K
	5% >	$11K
	6% >	$25K
	6.5% >	$100K
Calif.	8.84% >	$0
Colo.	4.63% >	$0
Conn.	7.5% >	$0
Del.	8.7% >	$0
Fla.	5.5% >	$0
Ga.	6% >	$0
Hawaii	4.4% >	$0
	5.4% >	$25K
	6.4% >	$100K
Idaho	7.6% >	$0
Ill.	7.3% >	$0
Ind.	8.5% >	$0
Iowa	6% >	$0
	8% >	$25K
	10% >	$100K
	12% >	$250K
Kans.	4% >	$0
	7.05% >	$50K
Ky.	4% >	$0
	5% >	$50K
	6% >	$100K
La.	4% >	$0
	5% >	$25K
	6% >	$50K

	7% >	$100K
	8% >	$200K
Maine	3.5% >	$0
	7.93% >	$25K
	8.33% >	$75K
	8.93% >	$250K
Md.	8.25% >	$0
Mass.	8.8% >	$0
Mich. (b)	4.95% >	$0
Minn.	9.8% >	$0
Miss.	3% >	$0
	4% >	$5K
	5% >	$10K
Mo.	6.25% >	$0
Mont.	6.75% >	$0
Nebr.	5.58% >	$0
	7.81% >	$100K
Nev.	None	
N.H.	8.5% >	$0
N.J. (c)	9% >	$100K
N.M.	4.8% >	$0
	6.4% >	$500K
	7.6% >	$1M
N.Y.	7.1% >	$0
N.C.	6.9% >	$0
N.D.	2.1% >	$0
	5.3% >	$25K
	6.4% >	$50K
Ohio (d)	0.26% >	$0
Okla.	6% >	$0
Ore. (e)	6.6% >	$0
	7.9% >	$250K
Pa.	9.99% >	$0
R.I.	9% >	$0
S.C.	5% >	$0
S.D.	None	
Tenn.	6.5% >	$0
Tex.	None	
Utah	5% >	$0

Vt.	6% >	$0
	7% >	$10K
	8.5% >	$25K
Va.	6% >	$0
Wash.	None	
W.Va.	8.5% >	$0
Wis.	7.9% >	$0
Wyo.	None	
D.C.	9.975% >	$0

(a) In addition to regular income taxes, many states impose other taxes on corporations such as gross receipts taxes and franchise taxes. Some states also impose an alternative minimum tax.

(b) There is an additional surcharge equal to the lesser of 21.99% of tax liability or $6,000,000 and an .8% gross reciepts tax.

(c) Businesses with entire net income greater than $100K pay 9% on all taxable income, companies with entire net income greater than $50K and less than or equal to $100K pay 7.5% on all taxable income, and companies with entire net income less than or equal to $50K pay 6.5% on all taxable income.

(d) A tax on gross receipts, the commercial activity tax (CAT), was phased in from 2005 to 2009 while the corporate franchise tax (CFT, Ohio's corporate net income tax) was phased out. Beginning April 1, 2009, the CAT rate was fully phased in at 0.26%. For tax year 2009, companies owe 20% of CFT liability. For tax year 2010 and thereafter, the CFT is fully phased out.

(e) The top income tax rate (7.9% on income over $250,000) applies to tax years beginning on or after January 1, 2009, and before January 1, 2011.

Source: Tax Foundation; state tax forms and instructions

Indiana Sales and Excise Taxes

Indiana levies a 7% general sales or use tax on consumers, which exceeds the national median of 5.85%. In 2007 combined state and local general and selective sales tax collections were $1,241 per person, which ranks 33rd highest nationally. Indiana's gasoline tax stands at 34.1 cents per gallon, which ranks 16th highest nationally. Additionally, the state's general sales tax is applied to gasoline purchases. Indiana's cigarette tax stands at 99.5 cents per pack of twenty, which ranks 28th highest nationally. The sales tax was adopted in 1933, the gasoline tax in 1923 and the cigarette tax in 1947.

State Sales, Gasoline, Cigarette, and Alcohol Taxes

As of February 1, 2010

	Sales Tax (a)	Gas Tax Per Gallon (k, l)	Cigarette Tax Per 20-Pack	Spirits Tax (Per Gallon)	Table Wine Tax (Per Gallon)	Beer Tax (Per Gallon)
Alabama	4%	20.9¢	$0.425	$18.78 (n)	$1.70	$1.05 (u)
Alaska	none	8.0¢	$2.00	$12.80	$2.50	$1.07
Arizona	5.6% (b)	19.0¢	$2.00	$3.00	$0.84	$0.16
Arkansas	6%	21.8¢	$1.15	$2.58	$0.77	$0.21
California	8.25% (w)	46.6¢	$0.87	$3.30	$0.20	$0.20
Colorado	2.9%	22.0¢	$0.84	$2.28	$0.28	$0.08
Connecticut	6%	41.9¢	$3.00	$4.50	$0.60	$0.20
Delaware	none (c)	23.0¢	$1.60	$5.46	$0.97	$0.16
Florida	6%	34.5¢	$1.339	$6.50	$2.25	$0.48
Georgia	4%	12.4¢	$0.37	$3.79	$1.51	$1.01 (v)
Hawaii	4% (d)	44.4¢	$2.80 (m)	$5.98	$1.38	$0.93
Idaho	6%	25.0¢	$0.57	$10.96 (n)	$0.45	$0.15
Illinois	6.25%	39.0¢	$0.98	$8.55	$1.39	$0.231
Indiana	7%	34.1¢	$0.995	$2.68	$0.47	$0.115
Iowa	6%	22.0¢	$1.36	$12.47 (n)	$1.75	$0.19
Kansas	5.3%	25.0¢	$0.79	$2.50	$0.30	$0.18
Kentucky	6% (e)	22.5¢	$0.60	$6.46 (o)	$0.50 (o)	$0.08 (o)
Louisiana	4%	20.0¢	$0.36	$2.50	$0.11	$0.32
Maine	5%	31.0¢	$2.00	$5.21 (n)	$0.60	$0.35
Maryland	6%	23.5¢	$2.00	$1.50	$0.40	$0.09
Massachusetts	6.25%	23.5¢	$2.51	$4.05	$0.55	$0.11
Michigan	6%	35.0¢	$2.00	$10.91 (n)	$0.51	$0.20
Minnesota	6.875%	27.2¢	$1.504	$5.03	$0.30	$0.15
Mississippi	7%	18.8¢	$0.68	$6.75 (n)	$0.427	$0.427
Missouri	4.225%	17.3¢	$0.17	$2.00	$0.42	$0.06
Montana	none	27.8¢	$1.70	$8.62 (n)	$1.06	$0.14
Nebraska	5.5%	27.7¢	$0.64	$3.75	$0.95	$0.31
Nevada	6.85%	33.1¢	$0.80	$3.60	$0.70	$0.16
New Hampshire	none	19.6¢	$1.78	(q)	(p)	$0.30
New Jersey	7%	14.5¢	$2.70	$5.50	$0.875	$0.12
New Mexico	5.5% (g)	18.8¢	$0.91	$6.06	$1.70	$0.41
New York	4%	44.6¢	$2.75	$6.44	$0.30	$0.14
N. Carolina	5.75%	30.2¢	$0.45	$13.39 (n)	$2.34	$0.9971

N. Dakota	5%	23.0¢	$0.44	$2.50	$0.50	$0.16
Ohio	5.5% (h)	28.0¢	$1.25	$9.04 (n)	$0.32	$0.18
Oklahoma	4.5%	17.0¢	$1.03	$5.56	$0.72	$0.40
Oregon	none	25.0¢	$1.18	$24.63 (n)	$0.67	$0.0839
Pennsylvania	6%	32.3¢	$1.60	$6.54 (n)	(p)	$0.08
Rhode Island	7%	33.0¢	$3.46	$3.75	$0.60	$0.11
S. Carolina	6%	16.8¢	$0.07	$5.42 (t)	$1.08	$0.77
S. Dakota	4%	24.0¢	$1.53	$3.93 (s)	$0.93 (s)	$0.27
Tennessee	7%	21.4¢	$0.62	$4.40	$1.21	$0.14 (r)
Texas	6.25% (i)	20.0¢	$1.41	$2.40	$0.204	$0.20
Utah	5.95% (w)	24.5¢	$0.695	$11.41 (n)	(p)	$0.41
Vermont	6%	24.5¢	$2.24	$0.68 (n)	$0.55	$0.265
Virginia	5% (w)	19.5¢	$0.30	$20.13 (n)	$1.51	$0.2565
Washington	6.5% (j)	37.5¢	$2.025	$26.45 (n)	$0.87	$0.26
West Virginia	6%	32.2¢	$0.55	$1.85 (n)	$1.00	$0.18
Wisconsin	5%	32.9¢	$2.52	$3.25	$0.25	$0.06
Wyoming	4%	14.0¢	$0.60	(q)	(p)	$0.019
D.C.	6%	23.5¢	$2.50	$1.50	$0.30	$0.09

SOLUTION

TAXPAYER BILL OF RIGHTS

- The **Taxpayer Bill of Rights** (abbreviated **TABOR**) is a concept advocated by conservative and free market libertarian groups, primarily in the United States, as a way of limiting the growth of government. It requires that increases in overall tax revenue be tied to inflation and population increases unless larger increases are approved by referendum

The Colorado example

- The most well-known example of TABOR legislation is in the state of Colorado. In 1992, the voters of the state amended Article X of the Colorado Constitution to the effect that any tax increase resulting in the increase of governmental revenues at a rate faster than the combined rate of population increase and inflation as measured by either the cost of living index at the state level, or growth in property values at the local level, would be subjected to a popular vote in a referendum. This applies to any cities and counties in Colorado as well as the state itself. Additionally, any "natural growth" in revenues that exceeded this rate was to be either earmarked for educational improvements or rebated to the taxpayers once an adequate reserve ("rainy day") fund was established. This has led to a decrease in actual tax revenue (relative to population and inflation).

INDIANA STATE BUDGET

Indiana State Budget Summary, FY 2000-2011
(millions of dollars, updated through December 2009 revenue forecast and reserve statement)

	Actual 2000	Actual 2001	Actual 2002	Actual 2003	Actual 2004	Actual 2005	Actual 2006	Actual 2007	Actual 2008	Actual 2009	Budget 2010	Budget 2011	Avg. Ann. Change 2000-09	Avg. Ann. Change 2009-11
Start of Year Balances	1,991	1,638	910	534	720	533	750	1,089	1,286	1,413	1,420	538		
Revenues														
Sales Tax	3,651	3,687	3,761	4,172	4,721	4,960	5,226	5,379	5,686	6,153	5,932	6,169	6.0%	0.1%
Individual Income Tax	3,753	3,780	3,541	3,644	3,808	4,213	4,322	4,616	4,838	4,314	3,776	4,121	1.6%	-2.3%
Corporate Income Tax	985	855	709	729	645	825	925	987	910	839	547	733	-1.8%	-6.5%
Gaming	-	-	-	431	602	585	590	625	583	621	688	714		7.2%
All Other	810	801	784	1,072	1,143	905	1,370	1,096	1,187	1,125	1,245	1,189	3.7%	2.8%
Total	9,200	9,123	8,796	10,049	10,918	11,489	12,434	12,703	13,203	13,052	12,188	12,925	4.0%	-0.5%
Appropriations														
K-12 Education	3,905	4,182	4,185	4,380	4,247	4,512	4,582	4,647	4,830	6,169	7,579	7,669	5.2%	11.5%
Higher Education	1,331	1,390	1,411	1,440	1,474	1,528	1,544	1,588	1,654	1,744	1,725	1,755	3.0%	0.3%
Medicaid	1,042	1,144	1,171	1,249	1,266	1,383	1,455	1,525	1,587	1,664	1,821	1,874	5.3%	6.1%
Property Tax Relief	1,057	1,154	1,180	1,157	2,097	2,143	2,153	2,189	2,308	1,699	90	-	5.4%	-100.0%
Health & Social Services	757	774	858	855	767	768	836	860	943	1,237	1,354	1,354	5.6%	4.6%
Public Safety	621	623	678	681	695	697	718	718	721	801	781	796	2.9%	-0.3%
All Other	1,005	923	824	1,136	763	719	787	831	943	1,122	981	1,029	1.2%	-4.2%
Total	9,718	10,190	10,307	10,898	11,310	11,750	12,075	12,359	12,986	14,436	14,331	14,476	4.5%	0.1%
Current Year Surplus/Deficit	(518)	(1,067)	(1,511)	(850)	(392)	(262)	359	345	217	(1,384)	(2,143)	(1,551)		
ARRA Medicaid										405	549	289		
ARRA Fiscal Stabilization										587	129	85		
ARRA Total										992	678	374		
Transfers from (to) Other Funds	30	236	617	376	138	257	12	70	19	73	6	7		
Reversions	134	103	145	323	63	222	125	119	133	357	578	305		
Payment Delays (Reversals)	-	-	374	337	3	-	(156)	(337)	(241)	(31)	-	-		
Total Adjustments	165	339	1,135	1,036	204	479	(20)	(148)	(89)	399	584	312		
End of Year Balances														
General Fund	833	19	0	137	0	119	411	537	593	55	146	(327)		
Tuition Reserve	265	265	265	305	291	291	317	317	400	942	-	-		
Medicaid Reserve	-	100	-	-	-	24	34	88	58	58	24	-		
Rainy Day Fund	540	526	269	279	242	317	328	344	363	365	369	-		
Total	1,638	910	534	720	533	750	1,089	1,286	1,413	1,420	538	(327)		
Total Balances % of Revenue	17.8%	10.0%	6.1%	7.2%	4.9%	6.5%	8.8%	10.1%	10.7%	10.9%	4.4%	-2.5%		
Payment Delay Liability	-	-	372	711	712	726	622	286	31	-	-	-		

Negative end-of-year balances in fiscal 2011 are as shown in the Budget Agencies' December 15, 2009 statement of reserve balances.
Prepared by Larry DeBoer, Department of Agricultural Economics, Purdue University and Purdue Cooperative Extension Service, January 2010.

FEDERAL FUNDING

- Indiana ranks at or near the bottom among states in terms of bringing federal funds back from Washington

Federal Tax Burdens and Expenditures: Indiana is a Beneficiary State

- Compared to the average state, Indiana taxpayers receive about the same federal funding per dollar of federal taxes paid (see chart below). For every dollar of federal tax collected in 2005, Indiana citizens received approximately $1.05 in federal spending. This ranks the state 30th highest nationally and represents a significant rise from 1995 when Indiana received $0.84 in federal spending per dollar of taxes and ranked at 42nd nationally. Neighboring states and the amount of federal spending they received per dollar of federal taxes paid were: Michigan ($0.92), Illinois ($0.75), Kentucky ($1.51), and Ohio ($1.05).

Indiana
Federal Taxes Paid vs. Federal Spending Received*
1981-Present

	Total Dollars ($millions)		Dollars Per Capita				Federal Spending Received Per Dollar of Tax Paid	State Rank (1 is highest)
Year	Federal Taxes Paid to Washington, D.C.	Federal Spending Received	Federal Taxes Paid to Washington, D.C.	State Rank (1 is highest)	Federal Spending Received	State Rank (1 is highest)		
1981	$13,027	$10,223	$2,376	31	$1,864	49	$0.81	46
1982	$12,981	$11,072	$2,373	32	$2,024	47	$0.84	43
1983	$12,345	$12,085	$2,263	31	$2,215	48	$0.83	43
1984	$13,433	$13,037	$2,462	29	$2,389	45	$0.89	38
1985	$14,558	$14,375	$2,667	28	$2,633	44	$0.92	36
1986	$14,933	$14,374	$2,737	31	$2,635	47	$0.89	38
1987	$16,451	$14,691	$3,009	31	$2,687	47	$0.91	39
1988	$17,385	$14,807	$3,168	31	$2,699	49	$0.90	40
1989	$19,019	$16,069	$3,448	30	$2,913	49	$0.90	41
1990	$19,799	$17,031	$3,568	30	$3,069	50	$0.88	40
1991	$20,504	$19,046	$3,660	31	$3,400	49	$0.88	40
1992	$21,336	$20,179	$3,770	28	$3,565	50	$0.83	41
1993	$23,018	$22,351	$4,022	27	$3,906	47	$0.87	40
1994	$25,469	$22,044	$4,406	26	$3,814	50	$0.82	41
1995	$27,077	$23,028	$4,639	25	$3,945	49	$0.84	42
1996	$28,591	$24,250	$4,852	28	$4,115	46	$0.89	40
1997	$30,723	$25,398	$5,170	30	$4,274	44	$0.92	38
1998	$33,170	$26,157	$5,539	29	$4,368	45	$0.93	35
1999	$34,297	$27,013	$5,684	29	$4,477	45	$0.94	35
2000	$36,418	$28,743	$5,989	31	$4,727	44	$0.99	34
2001	$35,531	$32,198	$5,808	31	$5,263	43	$1.02	34
2002	$33,508	$34,200	$5,451	31	$5,563	45	$0.98	34
2003	$32,330	$35,525	$5,229	30	$5,746	46	$0.95	36
2004	$33,537	$37,918	$5,396	31	$6,101	44	$0.98	32
2005	$38,081	$42,347	$6,088	32	$6,770	35	$1.05	30

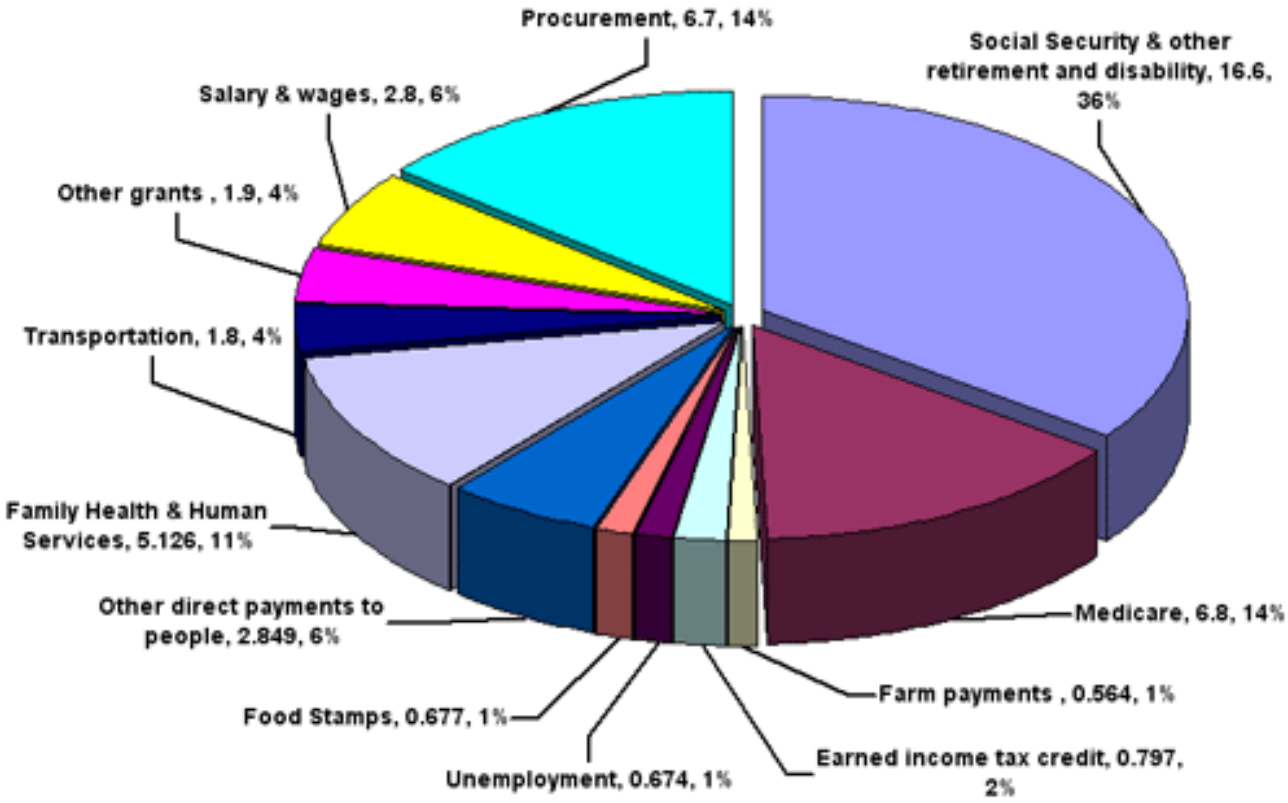
* During fiscal years in which the federal government runs deficits some spending is financed through borrowing. This creates implicit tax liabilities for states that must be repaid eventually. To incorporate these implicit tax liabilities into the analysis, the following adjustment was made to state tax burdens: First, the total federal tax burden is increased by the size of the federal deficit. Next, this total burden is allocated among states based on each state's proportion of the actual federal tax burden. Finally, adjusted spending-per-dollar-of-tax ratios are calculated by dividing actual expenditures by the adjusted tax figure, effectively making figures deficit neutral.

Source: Tax Foundation Special Report No. 158, "Federal Tax Burdens and Spending by State," and U.S. Census Bureau's Consolidated Federal Funds Report for 2005.

Indiana's federal funds

- Federal expenditures in 2007 (last year tallied) to Indiana were $47,254,172,000 (according to the Consolidated Federal Funds Report for Fiscal Year 2007 by the U.S. Census Bureau). Of this, $16.6 billion were Social Security and other retirement and disability payments. Medicare payments totaled $6.8 billion. There was another $5.5 billion in direct payments to people including: $564 million in farm payments, $726 million in excess earned income tax credits, $797 million in unemployment compensation and $677 million in food stamp payments.

- More than $5 billion of the $8.8 billion in grants to Indiana are for family Health and Human Services assistance. Other large grant programs include: $1.8 billion in transportation and highway funding, $616 million in education funding, $343 million in Housing and Urban Development grants, and $451 million in Department of Agriculture grants.



- Indiana's economy has been traditionally less dependent on federal government expenditures than the nation as a whole. In 2007, Indiana was 2.1 percent of the nation's population and received 1.8 percent of federal government expenditures, and

only 1.1 percent of federal wages and salaries. Of the $2.8 billion in federal wages and salaries in the state, the majority go to the Postal Service ($1.2 billion) and the military ($604 million).

- Indiana's percentage of retirement, disability and other direct payments to people match its percentage of the nation's population. The state receives 1.8 percent of the nation's grants. States with larger welfare and urban infrastructure payments tend to have grant percentage payments larger than their population percentage.

- Indiana receives 1.5 percent of federal procurement dollars. On a per capita basis, the state has significantly more procurement than Michigan, Illinois or Ohio, and less than Kentucky. The correlations of procurement to population are: Michigan 0.54, Illinois 0.48, Ohio 0.54, Indiana 0.71 and Kentucky 0.79.

- Indiana does well compared to its neighbors on military procurement. Of Indiana's $5.4 billion in federal procurement expenditures, $4.6 billion are from the military. That is higher than the neighboring states except Ohio, which had $6 billion and Kentucky, which had $5.3 billion in military contracts.

SOLUTION

- Some conservatives might say that we should attempt to bring in as much federal funding as possible, for that money was initially taken from Hoosiers by the federal government.

- However, libertarians must remember that federal funding often becomes a source of power for the government – a source of power that allows the federal government to move beyond the 17 enumerated powers of Congress as written in the Constitution.

- *By minimizing reliance on federal funding, Indiana can maximize its freedom from federal imposition*.

- The formation of America's minimum federal drinking age is a clear example of how the federal government encroaches upon state's rights through the use of federal funding. The policy began to gain momentum in the early 1980s, when the increasingly influential Mothers Against Drunk Driving added the federal minimum drinking age to its legislative agenda. By 1984, it had won over a majority of the Congress.

- President Reagan initially opposed the law on federalism grounds but eventually was persuaded by his transportation secretary at the time, now-Sen. Elizabeth Dole.

- *Over the next three years every state had to choose between adopting the standard or forgoing federal highway funding*; most complied. A few held out until the deadline, including Vermont, which fought the law all the way to the U.S. Supreme Court (and lost).

- Regardless of the merits of a federal minimum drinking age, it is clear that the bill passed in large part because the federal government leveraged their highway funding in order to make states comply with the bill.

- Relying on the federal government for an endless stream of deficit-funded handouts is unsustainable.Budgetary restraint is difficult in the statehouse. But it's crucial to restoring fiscal sanity to our nation's aching economy. In the end, learning to work comfortably with less is always preferable to counting on nearly certain funding that someday will inevitably fail to arrive.

- Another example: In Washington, temporary funding is rarely temporary, and planned spending cuts, especially to health care, frequently fail to materialize. That means that on the rare occasions in which federal funding actually runs out—or looks ready to run out—calamity is sure to ensue. The 2009 stimulus package, for example, included an additional $87 billion for Medicaid, intended to fund the short-term expansion of the program above and beyond its usual enrollment. The funding was set to run out at the end of 2010. But along the way, states got used to the boost. By May of this year, the National Conference of State Legislatures was pleading with the federal government not to shut off the funding faucet.

- And for a while, it looked as if the drip-drip-drip of federal stimulus would not end as originally called for. Congress took up an extenders bill that included an additional $24 billion in Medicaid funding—enough to keep states going until at least June of 2011. In Massachusetts, the bill's passage was assumed: Governor Deval Patrick's told fellow legislators that the funding was a "near certainty."

- Because the bill would have contributed to the federal deficit, Senate legislators increasingly antsy about the effect of the swelling deficit on the nation's fiscal future have so far refused to give the extenders bill a pass. A handful of Democratic governors flew into Washington late Tuesday night to press for the funding, but most indications are that it's dead.

- Now even those states that drafted spending plans accounting for the cutoff are facing serious budget crunches. Massachusetts will have to cut $608 million from its spending plans, while California is expected to come up nearly $2 billion short. Scott Pattison, executive director of National Association of State Budget Officers, declared that, because of the cutbacks, states face "fiscal peril."

- No doubt the lack of funding puts states in a tough fiscal position. But relying on perpetual extensions of temporary funding has its dangers too.

SCHOOL CHOICE

- Education spending is the single most serious burden on state and local budgets. And since runaway education spending is a major cause of Indiana's state and local budget problems, it's the best place to look for serious savings as the current fiscal crisis continues to unfold.

SCHOOL CHOICE SOLUTION

- "School choice" refers to various programs that allow parents to choose the public or private school where their child will attend. Parents receive either a tax credit or scholarship representing part or all of the per-student expenditure made in local government schools. Parents could use these funds to select a public or private school of their choice instead of the government-assigned school.

- Public charter schools also provide choices for parents. This innovative public school model provides for non-profit organizations to create their own public schools. Charter schools are public schools, funded by public dollars, and any child is eligible to attend.

Is school choice constitutional?

- Yes. In 2002, the U.S. Supreme Court upheld the constitutionality of the landmark Cleveland voucher program. When an individual uses public funds to make a private choice - in this case when a parent uses a voucher to make an individual decision to send his or her child to a private school (including religious schools) - it is constitutional.

What is a "voucher"?

- A "voucher" is an often-used term to describe a school choice program that allows parents to use part or all of the funds to be spent in the public schools to pay to transfer their child to another public school or to pay private school tuition.

How does a scholarship tax credit for school choice differ?

- Most existing school choice tax credit programs provide state tax credits to individuals or corporations who make donations to non-profit, charitable scholarship programs that help families pay for private school tuition or transfer tuition at another public school. These programs target lower-income families in areas most in need of quality education options.

School Choice/Voucher Program Performance

- Objective studies of voucher programs have shown statistically significant gains in test scores by students who receive vouchers.
    - **Milwaukee**
      According to studies by researchers at Harvard and Princeton Universities, students who receive vouchers do better in reading and math. Harvard's study found that students achieve a six percentile point increase in reading and an 11 percentile point increase in math after four years in the voucher program. Princeton's study found that students achieve an eight percentile point gain in math after four years.
      A 2004 study by Jay Greene found that students using vouchers graduated at a higher rate than those students in public schools. In the graduating class of 2003, Milwaukee students using vouchers to attend private high schools had a graduation rate of 64%, while in 37 Milwaukee public high schools the rate was 36%.
    - **Cleveland**
      A study by Harvard University researchers of two voucher schools found that students experienced a seven percentile point increase in reading and 15 percentile point increase in math.

    - **Florida**
      A 2003 study of the McKay Scholarship Program, which provides vouchers for any student with special needs, found that parents are extremely satisfied with their child's school. It also found a reduction in class sizes from 25.1 students per class to 12.8 and a significant decrease of behavioral problems in voucher schools.

    - **New York**
      A Harvard University study, first released in 2002 and reaffirmed in 2003, found that African-American children who received privately funded vouchers scored, on average, 6.1, 4.2, and 8.4 National Percentile Rank (NPR) points higher than their peers in public schools on the combined reading and math portions of the Iowa Test of Basic Skills.

Do school choice programs drain resources from public schools?

- No. While a portion of the per-pupil public funding follows a child to a private or public school of choice, experience has shown that most programs result in lower per-pupil public cost for children in the choice programs than their public school counterparts. Further, the traditional public schools find that they have more money per student to spend.

According to the National Center for Education Statistics, the average private school tuition, including the most elite academies, is $4,689. At the same time, the average per-pupil spending in public schools is $8,830. For every child in public school that receives a voucher worth 60% of the average public school cost, or $5,298, the state saves $3,532. If 100,000 children get a voucher tomorrow, states would save $353,200,000 in the first year.

Does school choice make public schools better?

- Yes. If all schools compete for students, public schooling will improve. In practice, it is becoming clear that this is exactly what is happening:
    - **Florida**
      A 2003 study by Jay Greene and Marcus Winters concluded that "Florida's low-performing public schools are improving in direct proportion to the challenge they face from voucher competition. These improvements are real, not the result of test gaming [or] demographic shifts." This study reconfirms an earlier 2001 study by Dr. Greene, which found that "failing [public] schools that faced the prospect of vouchers made improvements that were nearly twice as large as gains displayed by other schools in the state."

      Another study by Carol Innerst found that in response to the threat of vouchers, low-performing public schools extended the school year, hired more reading specialists, implemented one-on-one tutoring programs and developed reading programs that focus on phonics.

    - **Milwaukee**
      Noted Harvard researcher Caroline Hoxby has shown that, "At public elementary schools where many students could receive vouchers, performance improved faster than at public schools where relatively few students could get vouchers." In fact, public schools most exposed to competition increased math scores 7.1 percentile points between 1999 and 2002. A study by School Choice Wisconsin also highlights the improvements in Milwaukee's public schools. They found that between 1991 and 2003 the dropout rate declined 6%; real spending per-pupil increased by $3,048; test scores increased in all grades tested; and dollars followed students, with individual schools directly controlling 95% of their operating budget. In addition, the number of public schools on the list of Wisconsin Schools Identified for Improvement decreased from 55 to 43 between 2003 and 2004.

SCHOOL CHOICE IN INDIANA

- *Indiana currently has no statewide private school choice legislation, but there is some school choice available*. These choices are limited in the number of families served, but they are good starting points to provide more programs:

  Scholarship Tax Credit Program
  The Indiana Scholarship Tax Credit Program passed as part of the state budget package in June of 2009, creating a 2.5 million dollar program which leverages private donations to provide families with educational choice scholarships. Charitable contributions to Scholarship Granting Organizations (SGOs) will be eligible for a 50% credit against state tax liability. These funds will be distributed in the form of scholarships for lower income families to attend the school of their choice.

  Charter Schools
  Indiana currently offers 50 public charter schools throughout the state. Any child can attend a charter school free of tuition. Charter schools have no admission requirements and families do not need to live in a particular district to attend. Charter schools operate under less stringent requirements than traditional public schools.

  Indianapolis Public Schools Magnet Program
  The Indianapolis Public Schools Corporation (IPS) has acknowledged traditional schools do not always meet all the needs for all students. IPS established several magnet schools around the city. These schools concentrate on one particular subject to allow students to study subjects at which they excel or in which they need help. For elementary schools, some of the subjects include performing arts, math, and science. For high schools, subjects include humanities and visual arts, business and financial studies, and international studies.

The High Cost of Failing to Reform Public Education in Indiana

- One study by the Friedman Institute for School Choice finds that one year's worth of high school dropouts cost Indiana taxpayers $62.5 million per year in lost tax revenue and higher Medicaid and incarceration costs, or about $3,000 per dropout per year. Indiana districts with higher private school enrollment have lower public school dropout rates, due to the positive incentives provided by competition. *A school choice program in that increased private school enrollment by 5 percentage points would reduce public school dropouts by 2,000 to 4,000 students, saving taxpayers between $6 million and $12 million every year.*

CURRENT PROGRAMS

School Scholarship Tax Credit Program
Enacted 2009

Indiana provides a tax credit against state tax liability equal to 50 percent of a contribution to scholarship granting organizations (SGOs) for school scholarships granted to low income students. The tax credit is extended to both individuals and corporations. There is no limit on the dollar amount of the tax credit that can be claimed, although the total amount of tax credits awarded statewide is limited to $2.5 million.

PROGRAM DETAILS:

Scholarship or Voucher Value:	Each SGO determines the amount of the scholarship it distributes.
Student or School Participation:	No information on participation levels is available yet.
Student Eligibility:	Eligibility is limited to students who have legal settlement in Indiana, are between five and 22 years of age, have been or are currently enrolled in a participating school, and live in a household with an annual income of not more than 200% of the amount required to qualify for the federal free or reduced price lunch program; and either 1) Were enrolled in a public school in the previous year, 2) Are enrolled in kindergarten, 3) Received a scholarship in the previous school year from a nonprofit organization that qualifies for certification as an SGO, or 4) Received a scholarship in the previous school year under this program.
Legal Status of Program:	No legal challenges have been filed against this program.
Regulations on the Program:	SGOs must be IRS 501(c)(3) charitable organizations who contribute at least 90% of their annual receipts under the tax credit to scholarships. All SGOs must conduct an annual financial audit, demonstrate financial viability to the Department of Revenue, and make financial information available for public review. Participating

> schools must be accredited by a state, national, or regional accreditation agency. They must also administer a national norm-referenced standardized test and/or the ISTEP+. [Note]: As this is a new program, additional guidelines for SGOs and taxpayers are being developed by the Department of Revenue. The Indiana Department of Education is the primary policy maker within the program.

Key findings of this study include:

- The program shows savings in the first year even with the state's current five year rolling enrollment adjustment provision (which protects school districts with declining enrollments). At an average scholarship of $1,500 and below the state would realize between $300,000 and $4.7 million worth of savings in the first year. In the second year, scholarships worth $4,000 and below would show savings worth up to $8.8 million. From the third year on, even if demand from public school families is low, we estimate that the program will result in savings regardless of scholarship size and demand.

- Without Indiana's declining enrollment adjustment provision (also known as the deghoster), the savings to the state increase substantially. The deghoster uses a five year average of student counts to create a current year enrollment for funding purposes, which often includes funding for students that aren't there. However, when public schools base funding on accurate and up-to-date counts, the fiscal benefit of the proposed choice program spikes dramatically - savings in the first year would range between $5.3 and $29.5 million based on scholarship value. In fact, the state would save money in all years and at all average scholarship sizes.

- Regardless of demand, the tax credit scholarship program will result in savings to the state. Depending on the level of demand and average scholarship size, savings in the fifth year of the program are estimated to range from $6.4 million to $17.6 million even if you include the rolling five year enrollment adjustment. Even in the worst case scenario – low demand and little capacity – the program will result in savings to the state of 1.6 million in the third year.

- Based on the experiences of other states, we predict all $5 million tax credits will be claimed in the first year of the program. If this is the case, SGOs would receive a total of $10 million in donations and distribute at least $9.5 million as scholarships. Depending on the average size of the scholarships, this will make scholarships available to anywhere from 1,900 to 19,000 students.

- Demand for the program rises dramatically as the value of the scholarship increases. If scholarships of $500 are offered, we predict between 1,382 and 3,799 public school

students will seek scholarships. In contrast, if scholarships of $5,000 are offered demand will range from 13,815 to 37,992 public school students.

- Assuming there is a moderate level of demand from public school families, savings in the fifth year of the program are estimated to range from $6.4 million to $17.6 million depending on the average scholarship dollar amount.
- The maximum savings to the state are estimated to be found when average scholarship amounts fall between $1,250 and $1,750, in which case savings could reach $24 million in the fifth year of the program if demand for scholarships from public school families is high.
- Cost savings decline sharply if average scholarship amounts drop below $1,000 because demand for the program from public school families will be low.
- The program is estimated to produce cost savings at any scholarship amount between $500 and $5,000. This suggests that SGOs have substantial flexibility in deciding the average scholarship amount that should be distributed. Scholarship granting organizations could choose to distribute scholarships of larger dollar amounts, which would induce the greatest amount of demand from Indiana's low-income students, without overdue concern that the program would lead to additional costs to the state.

SOLUTION: MODEL SCHOOL CHOICE LEGISLATION

A) Any eligible student may apply to attend any participating school in the Parental Choice Scholarship Program.

B) Eligible students may attend a participating school until their graduation from high school or their 21st birthday, whichever comes first.

C) Any eligible student will qualify for an annual scholarship in an amount equal to the lesser of:

1) the participating school's annual cost per pupil, including both operational and capital facility costs; or

2) the dollar amount the resident school district would have received to serve and educate the eligible student from state and local sources had the student enrolled there.

D) The scholarship is the entitlement of the eligible student under the supervision of the student's parent and not that of any school.

E) A participating school may not refund, rebate or share a student's scholarship with a parent or the student in any manner. A student's scholarship may only be used for educational purposes.

F) Participating schools that have more eligible students applying than spaces available shall fill the available spaces by a random selection process, except that participating schools may give preference to siblings of enrolled students and previously enrolled scholarship students under this subchapter.

G) If a student is denied admission to a participating school because it has too few available spaces, the eligible student may transfer his scholarship to a participating school that has spaces available.

H) Eligible students shall be counted in the enrollment figures for their resident school district for the purposes of calculating state aid to the resident school district. The funds needed for a scholarship shall be subtracted from the state school aid payable to the student's resident school district. Any aid the school district would have received for the student in excess of the funds needed for a scholarship will be kept by the state.

I) The department shall adopt rules consistent with this act regarding:

1) the eligibility and participation of non-public schools, including timelines that will maximize student and public and non-public school participation;

2) the calculation and distribution of scholarships to eligible students; and

3) the application and approval procedures for scholarships for eligible students and participating schools.

HEALTH CARE

EFFECT OF "OBAMACARE" ON INDIANA

Table 1

State of Indiana
Family and Social Services Administration
Patient Protection and Affordable Care Act and House Reconciliation Bill
State Budget Fiscal Impact – SFY 2011 through SFY 2020

Item	Estimate
Medicaid Assistance Expansion to 138%	$1,330.3 million
Impact of Reduced FMAP on HIP Eligibles	482.5 million
Spend-down and SSI Eligible	575.8 million
Pharmacy Rebate Loss	298.0 million
Physician Fee Schedule Increase to 80% Medicare	831.8 million
Foster Children – Expansion to Age 26	14.8 million
Administrative Expenses	302.5 million
CHIP Program – Enhanced FMAP	(195.2) million
Breast and Cervical Cancer Program	(14.2) million
Pregnant Women > 138% FPL	(46.8) million
Total	$3,579.4 million

Current Medicaid and CHIP Enrollment – Projected SFY 2010 Average Monthly Enrollment

- Medicaid 930,000
- CHIP 79,000
- Healthy Indiana Plan 56,000
- Total 1,065,000

Estimated Medicaid Enrollment under Patient Protection and Affordable Care Act

- Increase in Medicaid enrollment reflecting 138% FPL limit would be:
  - 413,000 Adults: This reflects 237,000 Parents and Childless Adults that are uninsured and 176,000 that are currently insured through employer or other insurance.
  - 109,000 Children: This reflects 37,000 Children that are currently uninsured and 72,000 with insurance coverage.
- Increase Medicaid enrollment for the SSI eligible that are not currently eligible for Indiana Medicaid program by approximately 23,100 lives
- The Reconciliation Bill would maintain the CHIP program while receiving enhanced funding for October 2015 through September 2019
- Move 50,000 Healthy Indiana Plan enrollees to Medicaid (included in 413,000 additional Adults identified above)
- Total Medicaid enrollment would increase to 1,554,100

Percentage increase in Medicaid in relation to the total number of Hoosiers

- Calendar Year 2008 Indiana Census Estimate 6,377,000
- Increase would be approximately 7.7% more Hoosiers on Medicaid
- Increase from 16.7% to 24.4% or nearly 1 in 4 Hoosiers

a. Medicaid Assistance Expansion to 138% FPL

The fiscal impact associated the Parent and Adult expansion to 138% includes both currently insured and uninsured individuals below the 138% FPL amount and children not currently covered under Medicaid, who are also below the 138% FPL. The 138% FPL reflects the 133% FPL indicated in the Act with the additional 5% allowance.

Note, in prior analysis, the estimated fiscal impact reflected an offsetting savings associated with the current costs of the Healthy Indiana Plan. Under the scenario presented in this letter, the fiscal impact assumes that the Healthy Indiana Plan (HIP) will be terminated on December 31, 2012. Therefore, there are no savings associated with the termination of HIP.

The Bill reflects the following Federal Medical Assistance Percentages (FMAP) for the expansion populations.

- 100% FMAP in CY 2014, 2015, and 2016
- 95% FMAP in CY 2017
- 94% FMAP in CY 2018
- 93% FMAP in CY 2019
- 90% FMAP in CY 2020+

We have also illustrated the additional impact of the reduced FMAP on HIP eligibles. Although Indiana is not an early expansion state, CMS has informally indicated that the standard FMAP will apply to the first 36,500 expansion enrollees.

b. Spend-down and SSI Eligible Populations

Currently, the State of Indiana performs the disability eligibility determination. In addition to the disability determination, Indiana provides eligibility on a spend-down basis. It is anticipated that Indiana would need to modify the eligibility provision for the disabled population and convert to SSI eligibility standards. Milliman has estimated an additional 23,100 lives would be enrolled in the program with this expansion. Additionally, approximately 75% of individuals currently classified as spend-down would convert to full Medicaid eligibility due to the increase to 138% FPL standard. The expenditures associated with the modification reflect an offset due to savings associated with the current spend-down eligible above 138% FPL.

c. Pharmacy Rebate Modifications

The Senate bill includes increasing the brand name and generic rebates. The bill indicates that the impact will be accrued 100% to the Federal government. The State of Indiana has estimated that this could reduce the State's rebates by up to 25% beginning on January 1, 2010. With the implementation timing of the pharmacy consolidation program, it is anticipated that the rebate loss would be limited to 25% of the projected pharmacy rebates. This would include a loss on both fee-for-service enrollees and managed care enrollees. The revised fiscal impact of $298.0 million is below our prior analysis of $400 million due to the modification of the assumption related to HIP and other assumption modifications. The previous analysis included loss of rebates on the HIP program, as well. However, the updated analysis assumed termination of the HIP program as of January 1, 2013. This has reduced the fiscal associated with the pharmacy rebate loss.

d. Increase Physician Fee Schedule to 80% of Medicare Physician Fee Schedule

The current Indiana Medicaid fee schedule reimburses at approximately 60% to 65% of the Medicare fee schedule. It would be anticipated that OMPP would need to increase the physician fee schedule to assure access to physician care. I would anticipate that the minimum increase for physicians would be to 80% of the current Medicare fee schedule. The House Reconciliation Bill includes 100% Federal funding to increase primary care physician reimbursement to 100% of Medicare for a limited set of primary and preventive care services. However, the 100% Federal funding is only available for 2013 and 2014. No additional funding is available for other physician specialists or the full set of physician services.

The increased cost would be an additional $350 to $400 million per year for the current Medicaid program and expansion populations. The increased cost would be estimated at $2.4 billion (State and Federal) or $0.8 billion (State only) for the period beginning on January 1, 2014.

As a point of further discussion with regard to access, physicians will be concerned with reimbursement due to the scheduled 21% reduction to the Medicare physician fee schedule beginning on June 1, 2010. With the significant reduction in the Medicare physician fee schedule, an increase in the Medicaid fee schedule will become even more important to assure access to care.

e. Foster Children Expansion to Age 26

Indiana currently provides Medicaid eligibility coverage to Foster Children to age 21. The Health Care Reform bill with House Reconciliation includes mandatory coverage for Foster Children to age 26 beginning on January 1, 2014. The annual cost has been estimated at $6.5 million per year (State and Federal) or $2.3 million per year (State only).

f. Administrative Expenditures

In addition to the expenditures associated with providing medical services, the State of Indiana will incur additional administrative expenditures. The expenditures for the initial modifications to the current administrative systems, as well as establishment of an Exchange, are estimated to be $80 million (State and Federal) or $40 million (State only). On-going costs for the coverage of the additional 500,000 enrollees are estimated to be $75 million per year (State and Federal) or $37.5 million per year (State only). The on-going costs were developed assuming $150 per recipient per year or approximately 3.75% of total expected medical expenditures. Based on my experience with Medicaid programs, the state Medicaid administrative costs range from 3.5% to 6.0% of the total medical costs. The administrative expenses would be anticipated to be incurred in 2012 and 2013 for the initial administrative expenditures and in 2014 forward for the on-going expenditures.

g. CHIP Program Enhanced FMAP

Under the Health Care Reform bill with House Reconciliation, the CHIP program is required to continue to 2019. However, the legislation provides additional Federal matching rate of 23% beginning on October 1, 2015 and ending September 30, 2019. The additional 23% FMAP will increase the total FMAP for the CHIP program to approximately 99.57%. The enhanced FMAP will decrease expenditures for Indiana and increase expenditures for the Federal share.

h. Breast and Cervical Cancer Program

The State of Indiana currently provides eligibility under the Breast and Cervical Cancer program. The total annual expenditures under the program are approximately $7.0 million (State and Federal) or $1.7 million (State only). It is not anticipated that this program will be required to be continued with the expansion requirements below 138% FPL and insurance reforms for individuals above 138% FPL. Therefore, we have estimated that this program may be terminated beginning on January 1, 2014; although, some of these individuals will become eligible under the new Medicaid eligibility requirements.

i. Pregnant Women above 138% FPL

The State of Indiana currently provides eligibility for pregnant women up to 200% FPL. As with the Breast and Cervical Cancer Program, it would be anticipated that the pregnant women between 138% FPL and 200% FPL will have access to care through the insurance exchange. We have estimated that 9.5% of the current expenditures for the pregnant women population will no longer be incurred by the Indiana Medicaid program. We have estimated the annual savings to be approximately $18.5 million (State and Federal) per year or $6.2 million (State only) per year beginning on January 1, 2014.

PROPERTY TAXES

Indiana Property Taxes: Comparatively High

- Indiana is one of the 37 states that collect property taxes at both the state and local levels. As in most states, local governments collect far more. Indiana's localities collected $1,337.60 per capita in property taxes in fiscal year 2006, the latest year for which the Census Bureau has published state-by-state data. At the state level, Indiana collected $1.21 per person during FY 2006, making its combined state/local property taxes $1,338.80, which ranks 14th highest nationally.

Background on the property tax

- A tax on property is the primary source of revenue for local governments in Indiana. It is a tax on the assessed value of property. The tax rate multiplied by the assessed value owned by a taxpayer is what the taxpayer owes to the government; the tax rate multiplied by the total assessed value of the government is the total tax levy. The state also collects a very small part of the property tax, at a rate of one cent per $100 assessed value. The property tax is administered on the state level by the Indiana Department of Local Government Finance, and on the local level by the county and township assessors, the county auditor and the county treasurer.

SOLUTION

- The **Indiana Property Tax Cap Amendment** will appear on the November 2, 2010 ballot in the state of Indiana as a legislatively-referred constitutional amendment. The measure, if enacted by a simple majority of Indiana voters, will add property tax caps to the Indiana Constitution. Senators Patricia L. Miller, Luke Kenley and Brandt Hershman introduced the measure.

- The Indiana House of Representatives approved the measure on January 11, 2010. The Indiana State Senate approved the measure on January 19, 2010 on at 35-15 vote. (The Indiana Constitution is one of the most difficult in the country to amend, requiring that a proposed amendment be approved by two successive sessions of the Indiana State Legislature with an intervening election. The tax cap amendment was first passed through the 2008 session of the legislature.)

Indiana Property Tax Cap Amendment Constitutional Changes

- The constitutional changes that would occur to Section of Article 10 would read as follows:

  Section 1. (a) Subject to this section, the General Assembly shall provide, by law, for a uniform and equal rate of property assessment and taxation and shall prescribe regulations to secure a just valuation for taxation of all property, both real and personal. (b) A provision of this section permitting the General Assembly to exempt property from taxation also permits the General Assembly to exercise its legislative power to enact property tax deductions and credits for the property. The General Assembly may impose reasonable filing requirements for an exemption, deduction, or credit. (c) The General Assembly may exempt from property taxation any property in any of the following classes:

  (1) Property being used for municipal, educational, literary, scientific, religious, or charitable purposes.

  (2) Tangible personal property other than property being held as an investment.

  (3) Intangible personal property.

  (4) Tangible property, including curtilage, used as a principal place of residence by an:

  (A) owner of the property;

  (B) individual who is buying the tangible property under a contract; or

  (C) individual who has a beneficial interest in the owner of the tangible property.

  (d) The General Assembly may exempt any motor vehicles, mobile homes (not otherwise exempt under this section), airplanes, boats, trailers, or similar property, provided that an excise tax in lieu of the property tax is substituted therefore.

  (e) This subsection applies to property taxes first due and payable in 2012 and thereafter. The following definitions apply to subsection

  (f) This subsection applies to property taxes first due and payable in 2012 and thereafter. The General Assembly shall, by law, limit a taxpayer's property tax liability as follows:

(1) "Other residential property" means tangible property (other than tangible property described in subsection (c)(4)) that is used for residential purposes.

(2) "Agricultural land" means land devoted to agricultural use.

(3) "Other real property" means real property that is not tangible property described in subsection (c)

(4), is not other residential property, and is not agricultural land.

(f) This subsection applies to property taxes first due and payable in 2012 and thereafter. The General Assembly shall, by law, limit a taxpayer's property tax liability as follows:

(1) A taxpayer's property tax liability on tangible property described in subsection (c)(4) may not exceed one percent (1%) of the gross assessed value of the property that is the basis for the determination of property taxes.

(2) A taxpayer's property tax liability on other residential property may not exceed two percent (2%) of the gross assessed value of the property that is the basis for the determination of property taxes.

(3) A taxpayer's property tax liability on agricultural land may not exceed two percent (2%) of the gross assessed value of the land that is the basis for the determination of property taxes.

(4) A taxpayer's property tax liability on other real property may not exceed three percent (3%) of the gross assessed value of the property that is the basis for the determination of property taxes.

(5) A taxpayer's property tax liability on personal property (other than personal property that is tangible property described in subsection (c)(4) or personal property that is other residential property) within a particular taxing district may not exceed three percent (3%) of the gross assessed value of the taxpayer's personal property that is the basis for the determination of property taxes within the taxing district.

(g) This subsection applies to property taxes first due and payable in 2012 and thereafter. Property taxes imposed after being approved by the voters in a referendum shall not be considered for purposes of calculating the limits to property tax liability under subsection (f).

(h) As used in this subsection, "eligible county" means only a county for which the General Assembly determines in 2008 that limits to property tax liability as described in subsection (f) are expected to reduce in 2010 the aggregate property tax revenue that

would otherwise be collected by all units of local government and school corporations in the county by at least twenty percent (20%). The General Assembly may, by law, provide that property taxes imposed in an eligible county to pay debt service or make lease payments for bonds or leases issued or entered into before July 1, 2008, shall not be considered for purposes of calculating the limits to property tax liability under subsection (f). Such a law may not apply after December 31, 2019.

Current text

The section currently reads:

(a) The General Assembly shall provide, by law, for a uniform and equal rate of property assessment and taxation and shall prescribe regulations to secure a just valuation for taxation of all property, both real and personal. The General Assembly may exempt from property taxation any property in any of the following classes:

(1) Property being used for municipal, educational, literary, scientific, religious or charitable purposes;

(2) Tangible personal property other than property being held for sale in the ordinary course of a trade or business, property being held, used or consumed in connection with the production of income, or property being held as an investment;

(3) Intangible personal property.

(b) The General Assembly may exempt any motor vehicles, mobile homes, airplanes, boats, trailers or similar property, provided that an excise tax in lieu of the property tax is substituted therefore.

EMINENT DOMAIN

- **Eminent domain** is the power of the state to seize a citizen's private property, expropriate property, or seize a citizen's rights in property with due monetary compensation, but without the owner's consent.

- The property is taken either for government use or by delegation to third parties who will devote it to public or civic use or, in some cases, economic development. The most common uses of property taken by eminent domain are for public utilities, highways, and railroads, however it may also be taken for reasons of public safety. Some jurisdictions require that the government body offer to purchase the property before resorting to the use of eminent domain.

- The term "condemnation" is used to describe the formal act of the exercise of the power of eminent domain to transfer title to the property from its private owner to the government. This use of the word should not be confused with its sense of a declaration that property is uninhabitable due to defects. The latter usually does not deprive the owners of the title to the property condemned but requires them to rectify the offending situation or have the government do it for the owner at the latter's expense.

- In most cases the only thing that remains to be decided when a condemnation action is filed is the amount of just compensation, although in some cases the right to take may be challenged by the property owner on the grounds that the attempted taking is not for a public use, or has not been authorized by the legislature, or because the condemnor has not followed the proper procedure required by law.

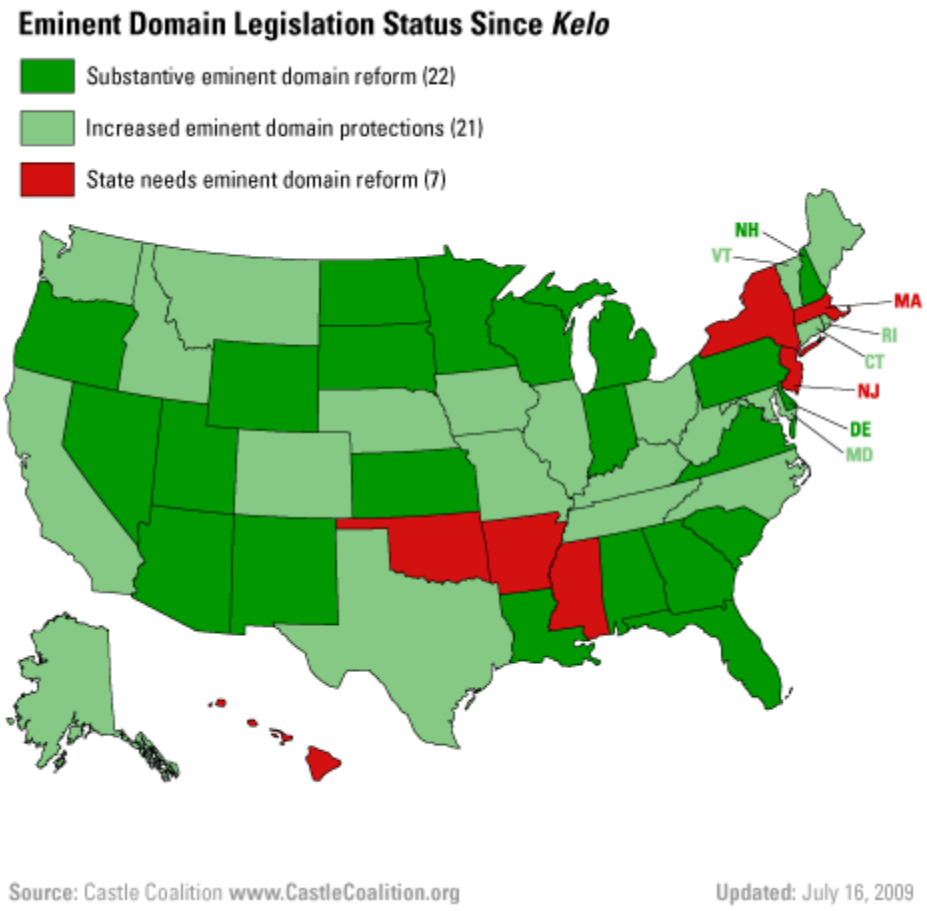
- The use of eminent domain was limited by the Takings Clause in the Fifth Amendment to the U.S. Constitution in 1791, which reads, "...nor shall private property be taken for public use, without just compensation".

- The U.S. Supreme Court *has consistently deferred to the right of states to make their own determinations of public use*. However, until the 14th Amendment was ratified in 1868, the limitations on eminent domain specified in the Fifth Amendment applied only

to the federal government and not to the states. That view ended in 1896 when in the Chicago B. & Q. Railroad v. Chicago case the court held that the eminent domain provisions of the Fifth Amendment were incorporated in the Due Process Clause of the Fourteenth Amendment and thus were now binding on the states. This was in-tune with the beginning of what is known as the "selective incorporation" doctrine.

- The Supreme Court's decision in *Kelo v. City of New London*, 545 U.S. 469 (2005) affirmed the authority of New London, Connecticut, to take non-blighted private property by eminent domain, and then transfer it for a dollar a year to a private developer solely for the purpose of increasing municipal revenues. This 5-4 decision received heavy press coverage and inspired a public outcry that eminent domain powers were too broad. As a reaction to Kelo, several states enacted or are considering enacting state legislation that would further define and restrict the state's power of eminent domain.

- In *Kelo v. City of New London*, the U.S. Supreme Court held that anyone’s home or business can be taken if the government thinks someone else can make more money with the land. The floodgates to eminent domain abuse have busted open. However, there is a silver lining. The court said, “Nothing in our opinion precludes any State from placing further restrictions on its exercise of the takings power.” Heeding public outcry in the wake of *Kelo*, legislators at every level of government are taking a closer look at eminent domain laws.



Indiana Eminent Domain Action

- In an effort to make sure that Indiana's citizens would not have to fear the same kind of eminent domain abuse perpetrated in New London, Connecticut, the Indiana General Assembly acted quickly to create a state commission to study the use of eminent domain and ways of eliminating abuse. When all was said and done, the Legislature adopted House Bill 1010 (2006), which provides meaningful protection against abuse. Thanks to these concerted efforts, Indiana's reforms now provide lawmakers nationwide an example of the kind of common sense reform that can and should happen throughout the country.

- House Bill 1010, which sailed through both legislative houses with overwhelming support, redefines public use and provides objective criteria for the acquisition of property in most situations. These steps are vitally important, because most abuses of eminent domain are enabled by standards for public use and blight that leave local

governments ample room to craft their own definitions, which many courts have been hesitant to overrule. By clearly stating when eminent domain may and may not be used, the Indiana General Assembly has given the state's property owners a significant measure of security against the unholy alliance of tax-hungry municipalities and land-hungry developers.

SOLUTION

- While House Bill 1010 goes a long way toward preventing eminent domain abuse, there is still some room for improvement.

- Importantly, the legislature allowed an exception for certified technology parks, meaning that there are still ways for the state legally to take private property for another private party's benefit. This is a loophole that should be closed.

- It is important to remember that statutory protections are not as permanent as constitutional ones. If Indiana is serious about forever guarding the fundamental rights of its citizens, the General Assembly should introduce a *constitutional amendment* to restrict any future legislature from changing the protections in this bill.

ENVIRONMENT/CONSERVATION

- On June 10, 2010, Governor Mitch Daniels announced a major land conservation initiative. The new project, which includes two separate habitat areas, is the largest ever undertaken by the Department of Natural Resources. Daniels will announce the second part of the project, located in southeastern Indiana, on Friday.

- The state will begin to acquire 43,000 acres located in the flood plain of the Wabash River and Sugar Creek in west central Indiana from willing sellers that will benefit wildlife, public recreation and the environment. The area, which follows 94 river miles along the Wabash River, stretches across four counties from Shades State Park to Fairbanks Landing Fish & Wildlife Area south of Terre Haute. The Wabash site is larger than the combined size of the Morgan-Monroe State Forest and Brown County State Park and will increase DNR-owned riparian wetland areas by more than 64 percent.

- "Our goal is to make this a landmark era for conservation of natural beauty in our state and make Indiana a national leader in wetlands and wildlife protection," the governor said. "Coupled with Goose Pond, our experts believe that the new 94-mile continuous Wabash River habitat will become one of the major Eastern U.S. waterfowl destinations and a tourist destination along with it."

- The state will use $21.5 million from the Lifetime License Trust Fund, a state trust fund dedicated to conservation purposes, and $10 million from the U.S. Fish & Wildlife Service to begin the acquisitions. This investment will leverage millions of dollars in additional private and federal funding for both the protection and restoration of the corridor.

- The State's investment in the Wabash River watershed could potentially be matched with federal Pittman- Robertson money (3:1 match). These matching funds would increase dramatically the State's investment for land acquisition and restoration in the Wabash River watershed, and complimented with The Nature Conservancy's recent Wetland Reserve Enhancement Program with NRCS and potential future new USDA projects such as the Conservation Reserve Enhancement Program along with 2-stage ditch work, additional floodplain restorations and investments through the USDA's

Mississippi River Basin Initiative and North American Wetland Conservation Act (NAWCA) grants..

- Nick Heinzelman, director of land acquisition for the state Department of Natural Resources, said that money would not be enough to buy all of the land but would go a long way. *None of the land, he said, would be taken forcibly by eminent domain.* "This will all come from voluntary sellers. Some will want to sell now; others may wait," Heinzelman said. "Any land that comes up for sale, we'll be there to buy it right away."

Fiduciary Trusts

- Fiduciary trusts are an institutional structure that can ensure long-run protection for nonmarketable resources while improving the fiscal management of the lands.

- A fiduciary trust is a legal construct based on hundreds of years of British and U.S. common law. A trust consists of four components:
  A *trustor*, the person or entity who creates the trust;
  The *trustee*, the person or people managing the trust;
  The *beneficiary*, the person or people for whom the trust is managed; and
  The *trust instrument*, the legal document that dictates how the trustor wants the trustee to manage the trust.

- Trusts are significantly different from the bureaucracies that now manage federal lands. Trust law imposes strong obligations on trustees to preserve the productive capacity of trust resources, produce benefits for the trust beneficiaries, and fully disclose the costs and benefits of their actions.

Conversion of Public Lands into Trusts

- Congress should create two types of trusts: one to manage the market resources and the other to manage the nonmarket resources of the public lands. The mission of the market trusts will be to *maximize the revenue from public land management while preserving the productive capacity of the land*. The mission of the nonmarket trusts would be to *maximize the preservation and, as appropriate, restoration of natural ecosystems and cultural resources*. The nonmarket trusts would be a primary method of protecting endangered species, as they could use their funds to give private landowners and public land managers incentives to protect fish and wildlife habitat.

- To implement the trusts, government could merge or divide different ecoregions and create a pair of market and nonmarket trusts for each ecoregion. Revenues collected by the market trusts would be divided among the market and nonmarket trusts.

- To govern and monitor the trusts, government could create a ‘‘friends of the trust’’ association for each ecoregion and allow anyone to join any friends association for a nominal fee of, say, $25 to $30 a year. Members of the friends associations would elect the boards of trustees that oversee the trusts. The trustees, in turn, would hire trust superintendents, approve budgets and user fees, and regulate uses. The friends associations would also monitor the trusts and could vote to recommend to Congress that a particular trust be disbanded and the lands returned to a bureaucracy like one of today’s Interior agencies. With more than 1,000 forests, parks, refuges, and BLM districts, Congress need not choose between adopting or rejecting this program as a whole. Instead, Congress can test the trust idea on selected administrative units. Tests can compare methods of governance, funding mechanisms, alternative geographic sizes, and other aspects of the trust concept.

LOBBYING

Lobbyists and the Legislature

- Companies, organizations and even government groups spent more than $25.6 million lobbying Indiana's lawmakers in this year's legislative session.

- And that number, said Indiana Lobby Registration Commission director Sarah Nagy, likely will grow as late and amended lobbying reports dribble in.

- By the time all the expenses -- including tickets to professional sports games and meals at Downtown restaurants -- are tallied, it likely will exceed the $26 million that lobbyists spent in 2008 and again in 2009, Nagy said.

- The sum covers the lobbying reporting period from May 1, 2009, through April 30, 2010, and includes last summer's special session, when lawmakers passed a new budget, and the legislative session that ran from January through March.

Where did the money go?

- The vast majority was spent on salaries for the 629 men and women registered to lobby the legislature. When their pay, plus the fees lobbyists paid to register, are subtracted, that means more than $886,000 was spent on other lobbying -- including trinkets such as mugs and calendars handed out, receptions and tickets.

- Only a small fraction of that is itemized on the reports. Lobbyists report by name only those legislators for whom the spending exceeded $100 -- and only if the event was one to which not every member of the General Assembly was invited.

SOLUTION

- Not all lobbyists are “political parasites.” A great many lobbyists provide an invaluable source of information on thousands of facets of the American economy. In other words, lobbyists, as experts in their respective fields, provide invaluable economic, social, and

bureaucratic information to legislators – information that legislators cannot be expected to know or evaluate given their limited knowledge.

- Some lobbyists also speak for the hundreds of agencies of the federal government, not to mention state and local government. At least half the time, expense, and effort of lobbyists is spent attempting to stop or make less intrusive new laws that result in more regulation and suppression of initiative and investment. Lobbyists spend as much time fighting the growth of the federal leviathan as they do seeking favors from it.

- *If there is a lobbyist problem, the answer is to drastically cut the size and power of government at all levels. With fewer bureaucrats to influence and with less tax money to transfer, the so-called problem with lobbyists will solve itself.*

GUN LAWS

INDIANA HANDGUN LAWS

- Indiana is a "shall issue" state, meaning that the licensing authority (in this state, the Superintendent of the Indiana State police) "shall issue" a permit to carry a handgun to a "proper person".

    - **Permit Information and Requirements:**
      Must provide fingerprints, fill out one page application that includes personal information such as height, weight, race, hair and eye color, and reason for carrying (the two options for reason for carrying are personal protection and target shooting)

      NICS check:
      Yes; an Indiana permit does not exempt anyone from the NICS check

      Cost:
      4-year personal protection license: $40; renewal $30Lifetime personal protection: $125; for a person who holds a 4-year license and renews into a lifetime license, $100

      Required Documents:
      None

      Informing Law Enforcement of Carry: Not required

      Automobile carry:
      Only with a permit

      Places off-limits when carrying:
      1. In or On School Property.
      2. On a school bus
      3. In or on property that is being used by a school for a school function
      4. Private School(IC 20*9.1*1*3) & (IC 35*41*1*24.7)
      5. Head Start (IC 35*41*1*24.7)
      6. Preschool (IC 35-41-1-24.7)
      7. IC 35*47*9*1Allows the carry of firearms by persons permitted to possess and who are transporting a person to or from school or a school function.
      8. On an aircraft
      9. Controlled access areas of an airport

10. During annual State Fair 80 IAC 4-4-4 (Must lock in vehicle)
11. Shipping port 130 IAC 4-1-8 (Controlled by Indiana Port Commission)
12. A riverboat Casino

Open Carry:
Prohibited unless one possesses a recognized permit.

Localities with Varying Laws:
East Chicago and Gary have assault weapons bans and Indianapolis prohibits the possession of weapons in city parks. Also, the city of Speedway has an old ordinance banning concealed carry (hasn't been enforced since the state CCW law was enacted).

Notes:
1. Indiana recognizes handgun carry permits from every state and foreign country, but only as long as the person holding the permit is not a resident of Indiana.
2. Anyone not residing in Indiana but has a place of business in Indiana is eligible to receive a license; the requirements are the same as they are for those who do reside in Indiana.
3. When carrying within the state of Indiana on an out of state permit, the permittee must carry in accordance with the terms of the permit; for instance, if the permit says "concealed handgun permit," then it must be concealed. If it simply says license to carry handgun, it can then be carried either openly or concealed.

- The right to keep and bear arms (RKBA) is also long established as an individual right by the Indiana Constitution and decisions of Indiana's appellate courts. Even the federal courts, in the landmark Emerson case, have concluded that the right to bear arms is an individual right.

- If an applicant is denied a new or renewal permit, the Administrative Adjudication Act guarantees the right to a hearing before an Administrative Law Judge at ISP headquarters in Indianapolis. In case of an adverse decision, judicial review is available.

- A license to carry will be issued to individuals age 18 or older who meet a number of legal requirements. Grounds for disqualification include a conviction for a felony or for misdemeanor domestic battery. A license can also be denied if the applicant has been arrested for a violent crime and "a court has found probable cause to believe that the

person committed the offense charged". Documented substance abuse is a disqualifier, as is documented evidence of any given person's "propensity for violent or emotionally unstable conduct."

- Application for a license must be made to the local police department, or absent that to the county police department. Four-year and lifetime permits are issued for Indiana residents. Out-of-state residents may only be issued four-year permits.

- It is illegal to carry a concealed weapon, even sporting arms, on school property or on a school bus, on an airplane or in the controlled section of an airport, on a riverboat gambling cruise, or at the Indiana State Fair. Lawful gun owners may have guns in their vehicles on school property provided the driver is only transporting someone to, or from, a school event.

- Indiana honors CCW licenses issued by every state (Illinois and Wisconsin do not issue CCW licenses), generally including non-resident licenses. However, Indiana residents, or non-residents with a "regular place of business" in Indiana, must obtain an Indiana license.

- Firearms dealers or private individuals may not sell any firearm to someone less than 18 years old, or less than 23 years old if the buyer was "adjudicated a delinquent child for an act that would be a felony if committed by an adult", or to a person who is mentally incompetent or is a drug or alcohol abuser. Possession of automatic weapons by individuals or dealers who have obtained the appropriate federal license is permitted.

- Short barreled shotguns (barrels under 18", OAL less than 26" length), are absolutely prohibited. It appears that all other NFA (National Firearms Act, q.v.) regulated weapons and devices are legal in Indiana.

- Indiana law stands mute vis-à-vis long gun carry. There are some Department of Natural Resources rules, but these only apply on DNR property. Generally speaking, possession

of long guns is legal whether the gun is either on one's person or in one's vehicle, loaded or not.

SOLUTION

Over the course of a few days in the summer of 2001, gun-toting men burst into an English court and freed two defendants; a shooting outside a London nightclub left five women and three men wounded; and two men were machine-gunned to death in a residential neighborhood of north London. And on New Year's Day this year a 19-year-old girl walking on a main street in east London was shot in the head by a thief who wanted her mobile phone. London police are now looking to New York City police for advice.

None of this was supposed to happen in the country whose stringent gun laws and 1997 ban on handguns have been hailed as the "gold standard" of gun control. For the better part of a century, British governments have pursued a strategy for domestic safety that a 1992 *Economist* article characterized as requiring "a restraint on personal liberty that seems, in most civilised countries, essential to the happiness of others," a policy the magazine found at odds with "America's Vigilante Values." The safety of English people has been staked on the thesis that fewer private guns means less crime. The government believes that any weapons in the hands of men and women, however law-abiding, pose a danger, and that disarming them lessens the chance that criminals will get or use weapons.

In reality, the English approach has not re-duced violent crime. Instead it has left law-abiding citizens at the mercy of criminals who are confident that their victims have neither the means nor the legal right to resist them. Imitating this model would be a public safety disaster for the United States.

The illusion that the English government had protected its citizens by disarming them seemed credible because few realized the country had an astonishingly low level of armed crime even before guns were restricted. A government study for the years 1890-92, for example, found only three handgun homicides, an average of one a year, in a population of 30 million. In 1904 there were only four armed robberies in London, then the largest city in the world. A hundred years and many gun laws later, the BBC reported that England's firearms restrictions "seem to have had little impact in the criminal underworld." Guns are virtually outlawed, and, as the old slogan predicted, only outlaws have guns. Worse, they are increasingly ready to use them.

Nearly five centuries of growing civility ended in 1954. Violent crime has been climbing ever since. Last December, London's *Evening Standard* reported that armed crime, with banned handguns the weapon of choice, was "rocketing." In the two years following the 1997 handgun ban, the use of handguns in crime rose by 40 percent, and the upward trend has continued. From April to November 2001, the number of people robbed at gunpoint in London rose 53 percent.

TORT REFORM

PROBLEM

American industry has become victims of an unrestrained tort system. The Pacific Research Institute estimates that the cost of that system in 2006 exceeded $865 billion—less than 15 percent of which was paid to injured claimants. To put the number in perspective, the budget that year for Iraq and Afghanistan was roughly $500 billion—about 58 percent of tort costs. For a family of four, the annual ‘‘tort tax’’ was $9,827— mostly reflected in higher prices. In a global marketplace, that means noncompetitive products, lower profits, fewer jobs, and reduced wealth.

When costs explode, proposals for reform are never far behind. As a result, we have been deluged by congressional schemes to ban lawsuits against gun makers and fast-food distributors, cap medical malpractice awards, and otherwise enlist the federal government in the tort reform battle. But no matter how worthwhile a goal may be, if there is no constitutional authority to pursue it, the federal government must step aside and leave the matter to the states or to private citizens.

Nowhere in the Constitution, however, is there a federal power to set rules that control lawsuits by in-state plaintiffs against in-state doctors for in-state malpractice. The substantive rules of tort law are not commerce and they are not the business of Congress. On those occasions when a state attempts to expand its sovereignty beyond its borders, federal procedural reforms— about which more in a moment—can curb any abuses.

A majority of states have capped damages, and virtually all states have considered various other reforms. Mississippi is a case in point. Because of ‘‘jackpot justice,’’ doctors fled, insurance companies pulled out, and fewer companies opted to maintain in-state facilities. The result: new laws that capped pain-and-suffering, medical malpractice, and punitive damages. That’s an example of tort reform compatible with federalism.

SOLUTION

State-Based Tort Reform

- With that in mind, here are six remedies that the states can implement without federal involvement. The first three are directed at punitive damage awards; the final three apply to tort reform more broadly.
    - First, take the dollar decision away from the jury. For instance, the jury might be instructed to vote yes or no on an award of punitive damages. Then a judge would set the amount in accordance with preset guidelines.

- Second, limit punitive damages to cases involving actual malice, intentional wrongdoing, or gross negligence. Whatever the heightened standard, the idea is that accidental injuries arising out of ordinary, garden-variety negligence are unlikely to respond to deterrence for which punitive damages are designed.

- Third, states could implement procedural guarantees like those available under criminal law. Punitive awards serve the same purposes as criminal penalties, but defendants are not accorded the protections applicable in a criminal case. Among those protections is a higher burden of proof than the usual civil standard, which is preponderance of the evidence. Also, there is no double jeopardy protection in civil cases. Current rules allow punitive damage awards for the same conduct in multiple lawsuits. And there is no protection against coerced self-incrimination, which criminal defendants can avoid by pleading the Fifth Amendment. In civil cases, compulsory discovery can be self-incriminating.

- Fourth, states should dispense with joint and several liability. That's the ''deep pockets'' rule that permits plaintiffs to collect all of a damage award from any one of multiple defendants, even if the paying defendant was responsible for only a small fraction of the harm. The better rule is to apportion damages in accordance with the defendants' degree of culpability.

- Fifth, government should pay attorneys' fees when a government unit is the losing party in a civil lawsuit. In the criminal sphere, defendants are already entitled to court-appointed counsel if necessary; they are also protected by the requirement for proof beyond reasonable doubt and by the Fifth and Sixth Amendments to the Constitution. No corresponding safeguards against abusive public-sector litigation exist in civil cases. By limiting the rule to cases involving government plaintiffs, access to the courts is preserved for less affluent, private plaintiffs seeking remedies for legitimate grievances. But defendants in government suits will be able to resist baseless cases that are brought by the state solely to ratchet up the pressure for a large financial settlement.

- Sixth, contingency fee contracts between private lawyers and government entities should be prohibited. When private lawyers subcontract their services to the government, they bear the same responsibility as government lawyers. They are public servants beholden to all citizens, including the defendant, and their overriding objective is to seek justice. Imagine a state attorney's receiving a contingency fee for each indictment, or a state trooper's receiving a bonus for each speeding ticket. The potential for corruption is enormous.

Voter ID Laws

- "Voter I.D. Law" is Public Law 109-2005, effective July 1, 2005, and is codified throughout several sections of Title 3 "Elections" and Title 9 "Motor Vehicles" of the Indiana Code.

FACTS AND PROCEDURAL HISTORY

- In 2005, the Indiana General Assembly passed a law requiring "citizens voting in person on election day or casting a ballot in person at the office of the circuit court clerk prior to election day to present photo identification issued by the government."
- The Voter I.D. Law applies to voting in both primary and general elections. Ind. Code §§ 3-10-1-7.2 and 3-11-8-25.1. It does not apply, however, to voters casting absentee ballots by mail or those who happen to reside at a state licensed care facility where a precinct polling place is located. I.C. §§ 3-10-1-7.2(e), 3-11-8-25.1(e), and 3-11-10-1.2.
- To be an acceptable identification card, it must have been issued by the State of Indiana or the United States of America and must contain an expiration date which has not expired as of the time when the voter casts her ballot, or if it has, it did so after the most recent general election. I.C. § 3-5-2-40.5. The Voter ID Law additionally made free identification cards available to individuals who do not have a valid Indiana driver's license and who will be at least eighteen at the next election. I.C. § 9-24-16-10.
- If a voter fails to present acceptable proof of identification, the voter can cast a provisional ballot and execute a challenged voter affidavit. I.C. §§ 3-11-8-25.1 and 3-10-1-7.2. If the voter wishes her provisional ballot to be counted she must appear before the circuit court clerk or the county election board before noon ten days following the election. I.C. §§ 3-11.7-5-1 and 3-11.7-5-2.5. Upon appearing, the voter can either (1) provide proof of identification and execute an affidavit that she was the person who cast the provisional ballot on election day; or (2) file an affidavit attesting to her religious objection to being photographed or averring that she is indigent and cannot obtain proof of identification without payment of a fee. I.C. § 3-11.7-5-2.5. Once a voter has taken one of these two steps, the county election board shall count the voter's ballot as long as no other challenge to the provisional ballot exists.
- On July 29, 2008, the League filed an amended complaint seeking a declaration that the Voter ID Law violates Article 2, Section 2 ((a) A citizen of the United States who is at least eighteen (18) years of age and who has been a resident of a precinct thirty (30) days immediately preceding an election may vote in that precinct at the election. (b) A citizen may not be disenfranchised under subsection (a), if the citizen is entitled to vote in a precinct under subsection (c) or federal law. (c) The General Assembly may provide that a citizen who ceases to be a resident of a precinct before an election may vote in a precinct where the citizen previously resided if, on the date of the election, the citizen's name appears on the registration rolls for the precinct) and Article 1, Section 23 ("The

General Assembly shall not grant to any citizen, or class of citizens, privileges or immunities, which, upon the same terms, shall not equally belong to all citizens.") of the Indiana Constitution.

- Specifically, the League contended in Count I that the Voter ID Law imposed a "new substantive qualification on the right to vote, not authorized by the Indiana Constitution." The League acknowledged that, pursuant to 140 Indiana Administrative Code §7-4-3, Indiana offers free identification to qualified voters who are able to establish their residence and identity by way of an original or certified copy of their birth certificate, certificate of naturalization, United States veterans photo identification, United States military photo identification, or a United States passport. However, the League alleged that "Indiana counties charge between $3 to $12 for a birth certificate, and in some other States the cost is much higher. The total fees for a U.S. passport are approximately $100."
- Further, the League alleged that in Marion County alone in the 2007 municipal election, 32 persons who submitted provisional ballots never produced a qualified form of identification and therefore their votes were not counted, despite the fact that "[m]ost of those voters had voted for several years at the same location." Additionally, the League alleged that in St. Joseph County, 12 nuns were not permitted "to cast a regular or provisional ballot" because they did not have the required form of identification. In Count II, the League contended that the Voter I.D. Law conferred a privilege upon voters voting by mail-in absentee ballot because those voters did not have to comply with the identification requirements.
- On December 17, 2008, the trial court dismissed the League‟s lawsuit, concluding that the Voter ID Law was a procedural regulation, not a new qualification for voting, and that any "classes" that were created by the Law were not arbitrary or unreasonable, but "reasonably relate to self-evident inherent characteristics that distinguish the different classes . . . which were treated similarly." In dismissing the action, the trial ruled on the merits of the case, essentially entering a final judgment by its conclusion that the Voter I.D. Law did not violate Indiana Constitution Article 1, Section 23, or Article 2, Section 2.

- League of Women Voters of Indiana, Inc. and League of Women Voters of Indianapolis, Inc. (collectively the League), appealed the trial court's dismissal of their Amended Complaint for Declaratory Judgment seeking a judicial declaration that Indiana's Voter I.D. Law violates the Indiana Constitution.
- The League raised three issues on appeal:
  (1) Whether the trial court erred when it concluded that the Voter I.D. Law does not violate Indiana Constitution Article 2, Section 2;
  (2) Whether the trial court erred when it concluded that the Voter I.D. Law did not violate Indiana Constitution Article 1, Section 23; and
  (3) Whether the Voter I.D. Law is a reasonable, uniform, and impartial regulation of voters.

Article 2, Section 2: Qualification or Procedural Regulation?

- The League concedes that its first claim relies upon a determination of whether the Voter ID Law is a procedural regulation or, as it contends, a substantive voting qualification. It contends that our legislature is prohibited from adding voter qualifications to those which exists in Indiana Constitution Article 2, Section 2.
- However, if the Voter I.D. Law is not a qualification, but rather a regulation of otherwise qualified voters, then it does not violate Article 2, Section 2.
  Pursuant to Article I, section 4, clause 1 of the Federal Constitution, States hold the power to regulate the time, place, and manner of federal elections, which power is matched by state control over the elections for state offices. *Clingman v. Beaver*, 544 U.S. 581, 586, 125 S. Ct. 2029, 2035 (2005). In *Indiana Democratic Party v. Rokita*, 458 F. Supp. 2d 775, 784 (S.D. Ind. 2006), the district court held that the Voter I.D. Law "is a constitutionally-valid, reasonable time place, and manner restriction on voting and on voters." Additionally, the district court concluded that the plaintiff‟s had failed to demonstrate that the Voter I.D. Law violated Indiana Constitution Article 2, Section 2. However, upon grant of a writ of certiorari, the Supreme Court did not enunciate such a direct proclamation. Justice Stevens, with Chief Justice Roberts and Justice Kennedy concurring, and Justices Scalia, Thomas, and Alito concurring by way of separate opinion, summarized that "we cannot conclude that the statute imposes „excessively burdensome requirements‟ on any class of voters." *Crawford*, 128 S. Ct. at 1623 (2008) "The application of the statute to the vast majority of Indiana voters is amply justified by the valid interest in protecting „the integrity and reliability of the electoral process.‟" *Crawford*, 128 S. Ct.. Moreover, the *Crawford* Court did not make any ruling whatsoever regarding the Voter I.D. Law and the Indiana Constitution.
- Decisions of a federal district court may be persuasive, but they are not binding authority on state courts. *Plaza Group Properties, LLC v. Spencer County Plan Com'n*, 877 N.E.2d 877 (Ind. Ct. App. 2007) More directly on point, interpretation of the Indiana Constitution is an "independent judicial act in which federal cases play only a persuasive role." *Priest v. State*, 270 Ind. 449, 453, 386 N.E.2d 686, 689 (1979).
- In *Morris v. Powell*, 125 Ind. 281, 25 N.E. 221 (1890), the validity of a statute which required, among other things, that voters who had been absent from Indiana for a period of six months or more on business of the State or of the United States produce a certificate from the county auditor stating that his name had continuously been on the tax rolls of the county during his absence from Indiana. *Id*. at 286, 25 N.E. at 223. Our supreme court noted that, because of the manner in which tax rolls were kept, this requirement added a property ownership qualification for some voters who would otherwise meet the qualifications to vote according to Article 2.5 *Id*. at 287, 25 N.E. at 223. Acknowledging that the statute added a qualification for certain voters beyond those contained in our constitution, our supreme court held:

  > The qualifications included in Article 2 at the time were that the person "be a male citizen of the United States . . . be twenty-one years of age, and have resided in

> [Indiana] six months, and in the township sixty days, and in the precinct thirty days, and he must be duly registered . . . ." *Id*. at 285, 25 N.E. at 222.

The Legislature has no such power. That when the people by the adoption of the Constitution have fixed and defined in the Constitution itself what qualifications a voter shall possess to entitle him to vote, the Legislature can not add an additional qualification is too plain and well recognized for argument, or to need the citation of authorities. The principle is elementary that when the Constitution defines the qualification of voters, that qualification can not be added to or changed by legislative enactment. 287-88, 25 N.E. at 223.

- So, is a requirement to display a government issued photo identification a *qualification for voting* that has been added by our legislature? The requirement to display a photo identification by nature seems to be of a different genus than property ownership, age, gender, citizenship, and residency. However, when compared to a system of registration the photo identification requirement is a qualification if we are to follow the precedent in *Morris*. The *Morris* court directly stated when addressing another aspect of the statute being considered, "[i]t matters not whether this provision of the law be termed a registration of voters or a provision requiring certain proof of the class of voters named to entitle them to vote." *Id*. at 295, 25 N.E. at 226. Registration and photo identification serve a similar purpose: the prevention of voter fraud. And the impact upon otherwise qualified voters who do not have a photo identification would be the same as those who are unable or do not make the effort to register: they are not permitted to vote.
- That being said, since *Morris*, our supreme court has changed course in its interpretation of whether voter registration is a qualification which requires constitutional provision or merely regulation of otherwise qualified voters. First, in *Simmons v. Byrd*, 192 Ind. 274, 136 N.E. 14 (Ind. 1922), our supreme court explained:

  > Being charged by the Constitution with the duty to "provide for the registration of all persons entitled to vote," and to enact such law governing registration and the holding of elections "that all elections shall be free and equal," the Legislature has power to determine what regulations shall be complied with by a qualified voter in order that his ballot may be counted, so long as what it requires is not grossly unreasonable that compliance therewith is practically impossible.

  This passage alone may lead to the deduction that our supreme court still viewed the General Assembly‟s authority "to determine what regulations shall be complied with" as nothing more than a progression of the enforcement of the registration qualification articulated in the Constitution. However, the *Simmons* court went on to explain by way of example:

  Requiring voters to appear at the polling booth between certain hours on election day and to cast their ballots in person involves inconvenience, and some voters find themselves unable to attend at the time fixed. But that fact does not make a statute unconstitutional which provides when the polls shall open and close, and permits none to vote except those who cast their ballots in person during the hours when they are

open. The use of polling hours as a conceptual aid, and our supreme court's acknowledgement that such polling hours may lead to the disenfranchisement of some voters, leads us to believe that our supreme court was abandoning its rationale in *Morris* that a regulation by our legislature that results in the disenfranchisement of voters is a qualification which must be brought to bear by constitutional provision.

- Our supreme court again addressed the constitutionality of voter registration in *Blue v. State ex rel. Brown*, 206 Ind. 98, 188 N.E. 583 (1934), *overruled on other* 14 *grounds by Harrell v. Sullivan*, 220 Ind. 108, 40 N.E.2d 115 (1942), *reh'g denied*, over forty years after its opinion in *Morris*. Blue and others brought an action which challenged, in part, the constitutionality of the voter registration law in place at that time. They contended, *inter alia*, that a certain class of voters, fully qualified to vote pursuant to Article 2, Section 2 of the Indiana Constitution, would be prohibited from voting due to inability to register to vote caused by sickness or travel, or that some who actually registered would possibly be disenfranchised by way of error or mistake on the part of registration officials. The *Blue* court concluded that these possibilities did not cause the registration statute to run afoul of the right to vote noting that the simple fact that some voters would be disenfranchised by circumstance was not the fault of the law. *Id*. at 105-106, 188 N.E. at 586. In doing so, the *Blue* court quoted with approval a legal encyclopedia of the time for the following proposition:

> It is a general rule that *in the absence of constitutional inhibition*, *the legislature may adopt registration laws if they merely regulate in a reasonable and uniform manner how the privilege of voting shall be exercised.* It is true that the Constitution by prescribing the qualifications of those who may vote confers upon persons coming within the class so created a right to vote which can not be abridged by the legislature, and, therefore, the theory upon which registration laws may be supported is that they do not impair or abridge the elector's privilege but merely regulate its exercise by requiring evidence of the right. ***The fact that a constitutionally qualified voter may be prevented from voting through failure to comply with the law does not necessarily invalidate it*****,** provided he be afforded a reasonable opportunity to register before the election.

Our supreme court stated that it was "firmly convinced" that the above statement of law "is correct."

- Because of the similarities in voter registration programs and the Voter I.D. Law, we find no reason why the similar conclusion would not apply here. As such, **we conclude that the Voter I.D. Law is not a qualification, but is rather a regulation of the time, place, or manner in which otherwise qualified voters must cast their votes. Therefore, if the**

Voter I.D. Law is to run afoul of our constitution, it is not for the reason that it imposes a qualification upon our electorate in the absence of constitutional provision.

- As an additional argument claiming that the Voter ID Law violates Article 2, Section 2, the plain-tiffs assert that the law is not uniformly applicable to all voters. We augment this argument to also con-sider both the requirements uniformity and reasonableness. The plaintiffs contend that the Voter ID Law is not universally applicable to all voters because it does not apply to voters who mail in an absentee ballot or those who live in a state licensed care facility housing the voter's polling place. They argue that, to obtain the required Indiana photograph identification card, "a would-be voter must present the original or certified copy of her birth certificate, a certificate of naturalization, a U.S. Veteran's photo identification, a U.S. military photo identification, or a U.S. passport," many of which involve significant fees and/or hardship to obtain. Appellants' Br. at 22–23. The plaintiffs assert that these requirements make the Voter ID Law "burdensome, exclusionary and dis-qualifying as to some voters," particularly non-drivers and college students.
- As to uniformity, we acknowledge that the Voter ID Law creates exceptions to its general re-quirement for government-issued photo identification as to mail-in absentee voters and for voters living in state licensed care facilities which house the voter's polling place. These exceptions, however, do not undermine the uniformity of the photo identification requirement for in-person voting. They apply only with respect to special alternative voting accommodations in which the photo identification requirement would be impracticable, unnecessary, or of doubtful utility. Such special exceptions no more create a fat-al lack of uniformity in the Voter ID Law than do the statutory provisions authorizing mail-in absentee voting, early voting, and other accommodations that allow voting apart from in-person voting at regular polling places on election day invalidate Indiana's general election scheme for non-uniformity. They represent specific legislative regulations associated with additional accommodations extended by the legislature to provide alternatives for voters for whom in-person voting on election day would be difficult or impossible.
- The plaintiffs contend that the Voter ID Law violates the Equal Privileges and Immunities Clause of the Indiana Constitution: "The General Assembly shall not grant to any citizen, or class of citizens, pri-vileges or immunities, which, upon the same terms, shall not equally belong to all citizens." Ind. Const. art. 1, § 23.11 The plaintiffs' complaint alleges two examples of unequal treatment claimed as violations of Section 23: (1) requiring photo identification of in-person but not mail-in absentee voters, and (2) ex-empting from the photo identification requirement voters residing in state licensed care facilities at which a precinct polling place is located.12

- In Collins v. Day, 644 N.E.2d 72 (Ind. 1994), this Court engaged in a comprehensive review of the history and purposes animating the adoption of Section 23 as part of Indiana's 1851 Constitution and of the subsequent case law, particularly our early decisions that were contemporaneous with its adoption and which were "accorded strong and superseding precedential value." *Id.* at 77. Synthesizing history, text, and subsequent case law, we adopted a superseding analytical formulation that, when statutes grant un-equal privileges or immunities to differing persons or classes of persons, the Equal Privileges and Immunities Clause imposes two requirements: "First, the disparate treatment accorded by the legislation must be reasonably related to inherent characteristics [that] distinguish the unequally treated classes. Second, the preferential treatment must be uniformly applicable and equally available to all persons similarly si-tuated." *Id.* at 80. In addition, "in determining whether a statute complies with or violates Section 23, courts must exercise substantial deference to legislative discretion." *Id.*
- The plaintiffs do not propose any method by which a photo identification requirement could be effectively utilized to verify the identity of a mail-in absentee voter. Legislation is not constitutionally deficient for failing to impose an unenforceable, useless requirement. We find that not requiring photo identification for mail-in absentee voters is reasonably re-lated to the inherent distinctions between such voters and those voting in person. We decline to find that the Voter ID Law's failure to require photo identification of mail-in absentee voters violates the Indiana Equal Privileges and Immunities Clause.

VOTER FRAUD FACTS

- In 2008, Lake County elections officials acknowledged they found problems and had to reject a large portion of the 5,000 registration forms turned in recently by the Association of Community Organizations for Reform Now, or ACORN, an activist group that conducted registration drives across the county this summer.
- Elections Board Director Sally LaSota and Ruthann Hoagland, a county elections board technologist overseeing voter registration, said that it appeared some ACORN vote canvassers pulled names and addresses from telephone books and forged their signatures.
- Curley said one registration form was filled out in the name and address of Jimmy John's, a Crown Point fast-food outlet. Another registration, dated in August, is in the name of a Gary man who died Nov. 16, 2007, according to his death certificate.
- This year alone ACORN has registered 1,315,037 voters.
- Although the organization prides itself for its registration efforts, it also has a long history of scandal. In the state of Missouri in 1986, 12 ACORN members were convicted

of voter fraud. But that case was not an isolated incident in the state. In December 2004, in St. Louis, six volunteers pleaded guilty of dozens of election law violations for filling out registration cards with names of dead people and other bogus information. Authorities launched an earlier investigation after noticing that among the new voters was longtime St. Louis alderman Albert "Red" Villa, who died in 1990. The volunteers worked for "Operation Big Vote" — a branch of ACORN — in St. Louis.

- On February 10, 2005, Nonaresa Montgomery, a paid worker who ran Operation Big Vote during the run-up to the 2001 mayoral primary, was found guilty of vote fraud. Montgomery hired about 30 workers to do fraudulent voter-registration canvassing. Instead of knocking on doors, the volunteers sat at a St. Louis fast food restaurant and wrote out names and information from an outdated voter list. About 1,500 fraudulent voter registration cards were turned in.
- In October 2006, St. Louis election officials discovered at least 1,492 "potentially fraudulent" voter registration cards. They were all turned in by ACORN volunteers.
- In November 2006, 20,000 to 35,000 questionable voter registration forms were turned in by ACORN officials in Missouri. Most all of these were from St. Louis and Kansas City areas, where ACORN purportedly sought to help empower the "disenfranchised" minorities living there. But the ACORN workers weren't just told to register new voters. The workers admitted on camera that they were coached to tell registrants to vote for Democrat Claire McCaskill.
- In 2007, in Kansas City, Missouri, four ACORN employees were indicted for fraud. In April of this year eight ACORN employees in St. Louis city and county pleaded guilty to federal election fraud for submitting bogus voter registrations.
- Over a dozen states are investigating the organization already. Here is a complete list of the ongoing investigations:

  North Carolina — State Board of Elections officials have found at least 100 voter registration forms with the same names over and over again. The forms were turned in by ACORN. Officials sent about 30 applications to the state Board of Elections for possible fraud investigation.

  Ohio — The *New York Post* reported that a Cleveland man said he was given cash and cigarettes by aggressive ACORN activists in exchange for registering an astonishing 72 times. The complaints have sparked an investigation by election officials into the organization, whose political wing has supported Barack Obama. Witnesses have already been subpoenaed to testify against the organization.

  Nevada — Authorities raided the headquarters of the Association of Community Organizations for Reform Now on Tuesday October 7, 2008, after a month-long investigation. The fraudulent voter registrations included the Dallas Cowboys starting line-up.

Indiana — More than 2,000 voter registration forms filed in northern Indiana's Lake County filled out by ACORN employees turned out to be bogus. Officials also stopped processing a stack of about 5,000 applications delivered just before the October 6 registration deadline after the first 2,100 turned out to be phony.

Connecticut — Officials are looking into a complaint alleging ACORN submitted fraudulent voter registration cards in Bridgeport. In one instance, an official said a card was filled out for a 7-year-old girl, whose age was listed as 27. 8,000 cards were submitted in Bridgeport.

Missouri — The Kansas City election board is reporting 100 duplicate applications and 280 with fake information. Acorn officials agreed that at least 4% of their registrations were bogus. Governor Matt Blunt condemned the attempts by ACORN to commit voter fraud.

Pennsylvania — Officials are investigating suspicious or incomplete registration forms submitted by ACORN. 252,595 voter registrations were submitted in Philadelphia. Remarkably, 57,435 were rejected — most of them submitted by ACORN.

Wisconsin — In Milwaukee ACORN improperly used felons as registration workers. Additionally, its workers are among 49 cases of bad registrations sent to authorities for possible charges, as first reported by the *Journal Sentinel*.

Florida — The Pinellas County Elections supervisor says his office has received around 35 voter registrations that appear to be bogus. There is also a question of 30,000 felons who are registered illegally to vote. Their connections with ACORN are not yet clear.

Texas — Of the 30,000 registration cards ACORN turned in, Harris County tax assessor Paul Bettencourt says just more than 20,000 are valid. And just look at some of the places ACORN was finding those voters. A church just next door is the address for around 150 people. More than 250 people claim a homeless outreach center as their home address. Some listed a county mental health facility as their home and one person even wrote down the Harris County jail at the sheriff's office.

Michigan — ACORN in Detroit is being investigated after several municipal clerks reported fraudulent and duplicate voter registration applications coming through. The clerk interviewed said the fraud appears to be widespread.

New Mexico – The Bernalillo County clerk has notified prosecutors that some 1,100 fraudulent voter registration cards were turned in by ACORN.

LAKE COUNTY VOTER FRAUD

- Approximately 1,000 registration cards in the Lake County clerk's office were deemed suspicious after they were filed in the weeks leading up to the 2008 general election.
- Many of the registration cards were submitted with addresses in the county that do not exist, while others bore the names of people who did not live at the addresses listed on the cards.
- All of those cards were filed as a result of a registration drive sponsored by the Service Employees International Union (SEIU).