

# THE QUIET CRISIS: THE KERNAN-SHEPARD REPORT AND INDIANA'S NEED TO ELIMINATE TOWNSHIP GOVERNMENT

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## INTRODUCTION

“President Harry Truman kept sign on his desk. It said, ‘The buck stops here.’ When it comes to local government in Indiana, few of us know where the buck stops.”<sup>1</sup> In 2007, Governor Mitch Daniels asked then-Chief Justice Shepard and former Governor Joe Kernan to chair a bi-partisan, blue ribbon commission<sup>2</sup> on local government reform.<sup>3</sup> In December of 2007, the Indiana Commission on Local Government Reform (the Commission) delivered its report, colloquially known as the “Kernan-Shepard Report” (KSR), containing twenty-seven specific recommendations to improve the way Hoosiers govern themselves at the local level.<sup>4</sup>

It has been more than five years since the report was delivered and very little reform has taken place. The recommendations from *KSR* shrink from the public debate more and more each year.<sup>5</sup> Meanwhile, the “complex layers of government [that] are often difficult to understand, monitor and hold accountable” continue to be the law of the land.<sup>6</sup>

This Note addresses one specific recommendation from the report—the transfer of the duties of township government to their respective county. This Note confirms the Commission’s findings and addresses the objections of opponents. Part I outlines the general background and duties of township government. Part II discusses *KSR* and the Commission’s methods, findings and reasoning. Part III explores which groups, organizations, and outlets have supported *KSR* recommendations. Part IV briefly describes legislative attempts at township reform. Part V examines the recent transition from township assessments to countywide assessments as an indicator of what full township

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1. IND. COMM. ON LOCAL GOV’T REFORM, STREAMLINING LOCAL GOV’T: WE’VE GOT TO STOP GOVERNING LIKE THIS 3 (2007) [hereinafter COMMISSION REPORT].

2. A blue-ribbon commission is defined as being “selected for quality, reputation, or authority.” WEBSTER’S NINTH NEW COLLEGIATE DICTIONARY 163 (1983).

3. COMMISSION REPORT, *supra* note 1, at 42-45.

4. *Id.*

5. *See, e.g.*, Scott Smith, *The Problem With Poor Relief: Trustee System Dogged by Efficiency Questions*, KOKOMO TRIB., Sept. 1, 2013, available at <http://www.kokomotribune.com/local/x86514363/The-problem-with-poor-relief>.

6. COMMISSION REPORT, *supra* note 1, at 3.

consolidation might look like. Part VI identifies the opponents of reform and discusses their positions and arguments. Finally, Part VII offers a proposal to provide political cover to achieve reform. No matter how this reform is accomplished, this Note concludes that Indiana's township government structure is antiquated, inefficient, unaccountable, and defenders of this structure advance flawed arguments for its retention. The Indiana General Assembly should pass legislation transferring the duties of township trustees and advisory boards to county governments.

### I. BACKGROUND ON TOWNSHIP GOVERNMENT

Indiana has 1008 township governments.<sup>7</sup> The Indiana Code outlines the responsibilities of the executive of township government—the township trustee.<sup>8</sup> These duties include poor relief, fire protection (in some areas), emergency management services (EMS) in some areas, and cemetery maintenance.<sup>9</sup> In addition to the 1008 township trustees in the state, most townships have a three-member legislative body, the township board.<sup>10</sup> *KSR* notes “[t]he cumulative effect is that Indiana has three complete levels of general-purpose government (counties, townships, and municipalities), one more layer than in most of the rest of the country. No other state has a universal layer of township government.”<sup>11</sup>

### II. THE KERNAN-SHEPARD REPORT

*KSR* represents six months<sup>12</sup> of work from a dedicated commission consisting of some tremendous Hoosier leaders and thinkers.<sup>13</sup> Governor Mitch Daniels' charge to the commission was one sentence long: “The purpose of the Blue-Ribbon Commission on Local Government Reform . . . is to develop recommendations to reform and restructure local government in Indiana in order to increase the efficiency and effectiveness of its operations and reduce its costs

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7. *Indiana Townships*, IND. TOWNSHIP ASSOC., <http://www.indianatownshipassoc.org/index.php/about-us-topmenu-38/ita-news/1-latest/14-townships-in-indiana> (last visited Sept. 19, 2014) (listing each Indiana township).

8. IND. CODE § 36-6-4-3 (2011).

9. *Id.*

10. *Id.* § 36-6-6.

11. COMMISSION REPORT, *supra* note 1, at 25.

12. *Id.* at 2.

13. *Id.* at 5 (listing the members of the commission as Sue Ann Gilroy (former Sec. of State), Adam Herbert (former Ind. Univ. president), Louis Mahern (former State Senator and current Marion Cnty Library Bd. Chairman), Ian Rolland (retired Lincoln Nat'l Corp. Chairman and CEO), John Stafford (former Allen Cnty/Ft. Wayne gov't official and current IPFW staff member)); Gov. Mitchell Daniels, Jr., State of the State Address (Jan. 15, 2008) (transcript available at <http://www.in.gov/governorhistory/mitchdaniels/files/2008stateofstate.pdf>) (noting “[a]t my request, seven leading Hoosiers with no axes to grind, no interests at heart except the public interest, recently completed a true act of citizenship”).

to Hoosier taxpayers.”<sup>14</sup>

The Commission report summarized its research methodology: “We reviewed previous proposals from both government and non-government sources. We relied on existing research, of which there is plenty. We also were blessed with extensive citizen input. Finally, we learned from people on the front lines of local government, and experts who study local government.”<sup>15</sup> Further, the report indicates twelve “guiding principles,” which live at the heart of the recommendations it would make.<sup>16</sup> Among those principles are simplicity, transparency, cost savings, and flexibility.<sup>17</sup> Seeking long-term, common-sense solutions to provide “more equitable distribution of services and responsibility for funding them” were also encompassed in the Commission’s guiding principles.<sup>18</sup>

In December 2007, the Commission reported its findings.<sup>19</sup> The report noted “[f]or most of a century, studies and proposals have suggested how we might streamline local government. Some piecemeal measures have been implemented. But most have not. So despite lots of hard work and good thinking, the complexity of local government has actually grown, compounding over time.”<sup>20</sup> Through its review of the current state of local government in Indiana, the commission found “[w]ith more than 3200 independent local governments, our complex system of boundaries, officeholders and taxing authorities makes it increasingly difficult for citizens to affect local government services or the taxes that pay for them.”<sup>21</sup>

To remedy the alarming findings, the commission made twenty-seven specific recommendations to improve the way local government in Indiana functions.<sup>22</sup> The ninth recommendation reads: “[t]ransfer the responsibility for administering the duties of township government for assessment, poor relief, fire protection, emergency medical services (EMS), cemeteries and any other remaining responsibilities to the county executive. Establish a countywide poor relief levy.”<sup>23</sup> In support of this recommendation, the commission argues:

[T]ownships are often too small, in terms of land area and population, to provide cost-effective public services. This problem only becomes more pronounced with increasing administrative, staffing, training and equipment requirements, particularly for fire protection. Broad variations in resources among so many local governments create

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14. COMMISSION REPORT, *supra* note 1, at 42.

15. *Id.* at 7.

16. *Id.* at 11.

17. *Id.*

18. *Id.*

19. *Id.* at 1.

20. *Id.* at 3.

21. *Id.*

22. *Id.* at 13-15.

23. *Id.* at 24.

inequities in basic services and taxes, such as fire protection, emergency medical services and poor relief. . . . We believe that Indiana counties are large enough to allow economies of scale in services, but not so large that they preclude sufficient access and responsiveness for citizens.<sup>24</sup>

As this Note discusses, part of this recommendation has been implemented by the elimination of most of Indiana's township assessors.<sup>25</sup> The rest of this important recommendation remains largely unimplemented.<sup>26</sup> The reasons for this legislative inaction will also be discussed at length.<sup>27</sup>

### III. SUPPORT FOR REFORM

The Commission's recommendations found an early champion in the bully pulpit. Governor Daniels wasted no time urging the Indiana General Assembly to consider and implement these reforms:

[KSR] charts the path to better local government and keeping property taxes down over the long haul. Indiana owes [Commission co-chairs] Joe Kernan, Randy Shepard, and their colleagues a heartfelt expression of thanks. And, in the wake of property tax reduction, we owe them bold action on the excellent recommendations they have given us.<sup>28</sup>

While Daniels did not get the bold action he asked the general assembly for, he found allies in some business groups, media outlets, and political pundits.<sup>29</sup>

Two of the biggest sources of reform support came from the Indiana and Indianapolis chambers of commerce and boards of REALTORS®.<sup>30</sup> Other groups, such as the League of Women Voters, have completed further studies

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24. *Id.* at 25.

25. *See infra* Part V.

26. Smith, *supra* note 5.

27. *See infra* Parts IV, VI.

28. Daniels, *supra* note 13.

29. *See, e.g.*, Interview with Mark Lawrance, Senior Vice President/Foundation and Operations, Ind. Chamber of Commerce, in Indianapolis, Ind. (Oct. 22, 2013) [hereinafter Lawrance Interview] (audio recording on file with author); Editorial, *Townships Out of Touch*, INDIANAPOLIS STAR, Nov. 25, 2009, at A12; Abdul Hakim-Shabazz, *Strange Bedfellows*, IND. BARRISTER (Mar. 9, 2010, 5:38 PM), [http://www.indianabarrister.com/archives/2010/03/strange\\_bedfellows-2.html](http://www.indianabarrister.com/archives/2010/03/strange_bedfellows-2.html).

30. Lawrance Interview, *supra* note 29; *Legislative Agenda*, GREATER INDIANAPOLIS CHAMBER OF COMMERCE, [http://data.axmag.com/data/201401/20140109/U105280\\_F258202/FLASH/index.html](http://data.axmag.com/data/201401/20140109/U105280_F258202/FLASH/index.html) (last visited Nov. 27, 2013); *Senate Bill No. 240*, IND. ASSOC. OF REALTORS®, <http://indianarealtors.com/Uploads/SB0240.1.pdf> (last visited Nov. 27, 2013) (stamping SB 240, which would have consolidated township government, with "SUPPORT" and a message urging IAR members to ask their legislators to vote for the bill); Interview with Chris Pryor, Member & Industry Advocacy Director, Metro. Indianapolis Bd. of Realtors, in Indianapolis, Ind. (Sept. 30, 2013) [hereinafter Pryor Interview] (audio recording on file with author).

urging more attention and reform<sup>31</sup> and others have supported more specific reforms.<sup>32</sup> Mark Lawrance, Senior Vice President with the Indiana Chamber of Commerce (Indiana Chamber), explains why this issue is important to the business community:

Taking a look at their duties and what has happened over the years—they used to be responsible for education, they used to be responsible for roads, . . . for property tax assessing—and over the years, those [duties] have winnowed down to where [they are] really only doing a few tasks that we believe could be done more effectively and efficiently at the county level.<sup>33</sup>

Lawrance also notes that if most states can get by without townships, perhaps Indiana should ask “how much government can we really afford?”<sup>34</sup>

In a policy report issued two years prior to *KSR*, The Greater Indianapolis Chamber of Commerce (Indy Chamber) estimated consolidation of township services would save \$5.6 million annually.<sup>35</sup> The Indy Chamber has maintained its support of reform efforts and local government consolidation remains on its 2014 legislative agenda.<sup>36</sup>

In addition to these chambers, the Indiana Association of REALTORS® (IAR)<sup>37</sup> and some of its largest local boards,<sup>38</sup> including the Metropolitan Indianapolis Board of REALTORS® (MIBOR), have been staunch supporters of township reform.<sup>39</sup> IAR put its lobbying weight and grassroots advocacy behind

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31. See, e.g., JEAN ANDRES, TIPPECANOE CNTY. TOWNSHIP GOV'T STUDY COMM. REPORT (2010), available at [http://leaguelafayette.org/files/localgovrpt\\_and\\_appendix.pdf](http://leaguelafayette.org/files/localgovrpt_and_appendix.pdf); DEANNA H. DURRETT, TOWNSHIP GOVERNANCE IN MONTGOMERY CNTY IND. (2008), available at <http://www.lwvmontco.org/LWVTrusteeReport.pdf>.

32. Tony Cook, *Business Tax Cut Paid for by the State*, INDIANAPOLIS STAR, Feb. 12, 2014, at A1 (quoting president of Firefighters Local 416 union in support of merging the remaining township fire departments in Marion County into the Indianapolis Fire Department because it is more efficient and effective).

33. Lawrance Interview, *supra* note 29.

34. *Id.*

35. Phillip L. Bayt & David P. Lewis, *Invest in Indianapolis: A Common Vision for Government Efficiency and Investment in Our Community* 11 (2005), available at <https://resources.oncourse.iu.edu/access/content/group/24a3ad89-4a70-4e4a-0087-26cb583ea139/Website%20Research%20Page%20Materials/Research/Invest-in-Indy.pdf>.

36. *Legislative Agenda*, *supra* note 30.

37. *Senate Bill No. 240*, *supra* note 30 (stamping SB 240, which would have consolidated township government, with “SUPPORT” and a message urging IAR members to ask their legislators to vote for the bill).

38. The Fort Wayne area board of REALTORS® is also a supporter. *Local Government Reform*, UPSTATE ALLIANCE OF REALTORS®, <http://upstarindiana.com/government-affairs/laws-to-know/local-government/local-government-reform/> (last visited Nov. 27, 2013).

39. Pryor Interview, *supra* note 30.

the reform efforts shortly after Daniels' charge to the general assembly.<sup>40</sup> IAR stressed the importance of reform, especially due to limited property tax revenue.<sup>41</sup> In a 2007 letter to the editor, IAR CEO Karl Berron said "[l]ocal government must be willing to accept reasonable reforms of their current antiquated structure. Until they do, voters should not tolerate their call for new sources of revenue."<sup>42</sup>

MIBOR's Member and Industry Advocacy Director, Chris Pryor, says the reason MIBOR joined the reform supporters came down to efficiency and modernization.<sup>43</sup> Pryor notes that townships were established around the same time Indiana became a state and with the purpose of accommodating the way Hoosiers were traveling in the nineteenth century, primarily by walking or by horse.<sup>44</sup> This, he says, has resulted in over 1000 township governments providing duplicative services.<sup>45</sup> MIBOR questions the efficacy of dedicating the resources to do the same job over and over again.<sup>46</sup> Pryor explains that the cost of inefficient government is ultimately passed on to homeowners, the clients of MIBOR's members, through property taxes.<sup>47</sup>

In 2009, MIBOR, working with the Indiana Chamber, pulled the 2008 finance reports<sup>48</sup> townships are required to file with the Indiana Department of Local Government Finance (DLGF).<sup>49</sup> They looked at fund balances and the cost, per township, to deliver one dollar in direct service.<sup>50</sup> The results varied wildly, but were overwhelmingly unimpressive. Each county's report had statistics on each township that filed their mandatory reports on time, which, equally as troublesome, excluded quite a few townships.<sup>51</sup> The two most telling statistics from each township's analysis were the "Operating Balance as [percentage] of Expenditures" and the "Admin Expense per [dollar] of Direct Service."<sup>52</sup> The Operating Balance statistics included figures like 794%, meaning that the

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40. *Senate Bill No. 240*, *supra* note 30.

41. *Id.*

42. Letter from Karl Berron, CEO, Ind. Assoc. of REALTORS®, to editor (Sept. 27, 2007) (on file with author).

43. Pryor Interview, *supra* note 30.

44. *Id.*

45. *Id.*

46. *Id.*

47. *Id.*

48. These reports include "Cash & Investments Combined Statement," "Disbursements by Vendor," and Form TA-7.

49. Lawrance Interview, *supra* note 29.

50. *See, e.g.*, Study by Metro. Indianapolis Bd. of Realtors, Countywide Township Financial Comparison—2008, County: Cass (2009) (on file with author).

51. Eric Bradner, *Two Sides of the Same Story: Indiana's Traditional Township System has Critics and Defenders*, EVANSVILLE COURIER & PRESS, Nov. 15, 2009, at A1, available at <http://www.courierpress.com/news/local-news/two-sides-of-the-same-story> (noting that less than half of Indiana townships filed their reports on time in 2009).

52. *See infra* Appendix A.

township government, Boone County's Sugar Creek Township, had a balance at the end of the year that could fund, at its current level, the township's expenditures for nearly eight years without taking another dime in taxes.<sup>53</sup> Meanwhile, two schools in the same county had revenue shortages that required a voter referendum on tax hikes to fund the schools.<sup>54</sup>

The "Admin Expense per [dollar] of Direct Service" figure included townships with modest \$0.17 in administration costs for each dollar in services delivered to constituents.<sup>55</sup> However, many townships ranged between \$20 and \$34 per dollar in direct service.<sup>56</sup> In fact, of the 232 townships studied that actually filed a report, twenty had a ratio of more than \$10 in administration costs for each dollar in direct service.<sup>57</sup> To put that in perspective, the National Center for Charitable Statistics notes the federal government, for participation in a federal combined charity campaign, required charities to not exceed \$0.25 in administrative costs for each dollar that goes to the charity's stated cause.<sup>58</sup> Only seven townships came in under that benchmark.<sup>59</sup>

In addition to these business and community groups, many media outlets used their editorial pages to support the reform efforts. The *Indianapolis Star* conducted a similar study of township financial reports, finding that:

Indiana's townships, designated to assist with poor relief, are sitting on \$215 million in surplus funds. Where did those extra dollars originate? Primarily from property taxpayers. [It is] outrageous, but [it is] also not new. An *Indianapolis Star* investigation in February [2009] found that townships were hoarding about \$200 million. Nine months later, with Hoosiers suffering through one of the worst recessions in decades, Indiana's 1,008 township governments continue to sit atop a mountain of cash.<sup>60</sup>

Similar to the MIBOR study, the *Indianapolis Star* report noted the operations were "woefully inefficient."<sup>61</sup> Citing a study by another Indiana newspaper, the editorial gave examples of two Vanderburgh County townships that had expenses of \$87,000 and \$786,000 while only providing \$509 and \$725 in poor relief,

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53. STUDY BY METRO. INDIANAPOLIS BD. OF REALTORS, COUNTYWIDE TOWNSHIP FINANCIAL COMPARISON—2008, COUNTY: BOONE (2009) (on file with author).

54. *Metro Area Election Results*, INDIANAPOLIS STAR, Nov. 3, 2010, at B5.

55. STUDY BY METRO. INDIANAPOLIS BD. OF REALTORS, COUNTYWIDE TOWNSHIP FINANCIAL COMPARISON—2008, COUNTY: HENDRICKS (2009) (on file with author).

56. See *infra* Appendix A.

57. *Id.*

58. *Nonprofit Fundraising and Administrative Costs*, NAT'L CENTER FOR CHARITABLE STATISTICS, <http://nccsdataweb.urban.org/knowledgebase/index.php?category=40> (last visited Oct. 9, 2013).

59. See *infra* Appendix A.

60. Editorial, *Townships Out of Touch*, *supra* note 29.

61. *Id.*

respectively.<sup>62</sup> The editorial continued, “[t]hose statistics are especially startling when considering that township trustees actually point to their poor relief duties as a primary reason why township governments should continue to exist.”<sup>63</sup>

This type of editorial was not uncommon from the influential *Indianapolis Star* editorial page. In 2011, an editorial ran claiming that “state auditors found that [sixty-one percent] of townships served fewer than [twenty-five] needy families in 2009.”<sup>64</sup> It again noted “[h]undreds of townships have built up cash balances that are at least two times their annual budget, but many of them continue to collect more property tax revenue than they need.”<sup>65</sup> Their point: “with [property] tax caps now in place, dollars that county and city governments could use for essential services are instead diverted to township savings accounts. . . . The days of padding township bank accounts must end, as should the townships themselves.”<sup>66</sup> The *Star*’s editorial cartoonist illustrated the problem in the cartoon shown here:<sup>67</sup>

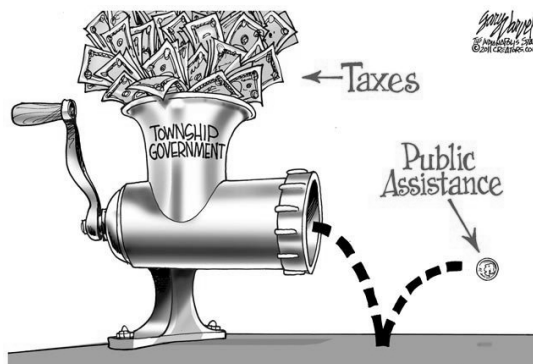


Figure 1 Gary Varvel editorial cartoon published in the *Indianapolis Star* (2011). Copyright permission obtained.

In addition to the *Indianapolis Star*, newspapers across the state have written editorials in support of reform and attacked townships when waste and inefficiency come to light.<sup>68</sup>

62. *Id.* (citing an *Evansville Courier & Press* investigation).

63. *Id.*

64. Editorial, *Indiana’s Townships: Wasted Dollars, Broken Trust*, *INDIANAPOLIS STAR*, Jan. 19, 2011, at A10.

65. *Id.*

66. *Id.*

67. Gary Varvel, editorial cartoon depicting inefficient delivery of public assistance at the township level, *INDIANAPOLIS STAR*, Jan. 19, 2011, at A10.

68. See, e.g., Doug Ross, *Calumet Twp. Is Poster Child for Reform*, *NORTHWEST IND. TIMES* (Jan. 13, 2013), [http://www.nwitimes.com/news/opinion/editorial/editorial-calumet-twp-is-poster-child-for-reform/article\\_44a2d62d-ab1a-5156-8797-13519e95844e.html](http://www.nwitimes.com/news/opinion/editorial/editorial-calumet-twp-is-poster-child-for-reform/article_44a2d62d-ab1a-5156-8797-13519e95844e.html); Editorial, *Township Reform*, *EVANSVILLE COURIER & PRESS* (Dec. 19, 2010), <http://www.courierpress.com/news/2010/dec/19/township-reform-the-issue-case-for-downsizing-of/>; Editorial, *An Outdated System of Local*



Support for reform also came from elected officials, both Democrat and Republican,<sup>69</sup> as well as Hoosier political commentators.<sup>70</sup> More importantly, polling and referendum results demonstrated Hoosier voters were generally warm to the concept.<sup>71</sup> One poll conducted in September of 2008 covering thirteen central Indiana townships found that 66.5% of likely voters supported eliminating township officials and consolidating the duties to the county level.<sup>72</sup> A different group<sup>73</sup>, using a different polling firm, conducted a statewide poll of likely voters in July of the same year; that poll showed 55.6% of voters supported the transfer of duties.<sup>74</sup>

While multiple polls showing majority support for an issue can be good indicators, the best test is often conducted at the ballot box. Ballot questions, allowing voters to decide if the duties of township assessors should be consolidated to the county level, were held throughout the state during the 2008 General Election.<sup>75</sup> Voters in twenty-nine of the forty-three townships holding

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*Government*, TERRE HAUTE TRIB. STAR (Jan. 5, 2008), <http://www.tribstar.com/editorials/x1155728391/TRIBUNE-STAR-EDITORIAL-An-outdated-system-of-local-government/print>.

69. See, e.g., Brendan O'Shaughnessy, *Peterson, Ballard to Push Ballot Measure*, INDIANAPOLIS STAR, Oct. 30, 2008, at B6 (covering event where Republican Indianapolis Mayor Greg Ballard and Democratic former Indianapolis Mayor Bart Peterson join together to support elimination of township assessors); *Indy Mayor Unveils Unigov2.0 Plan*, INSIDE IND. BUS. WITH GERRY DICK (Jan. 28, 2009, 8:21 AM), <http://www.insideindianabusiness.com/newsitem.asp?ID=33672> (discussing support from Republican Indianapolis Mayor Greg Ballard on localized reform push); Michael W. Hoskins, *Q&A: Delaney on Township Government Reform*, IND. LAW. (Jan. 8, 2010), <http://www.theindianalawyer.com/q-a-delaney-on-township-government-reform/PARAMS/article/22046> (discussing support of Democrat Representative Ed Delaney).

70. See, e.g., Hakim-Shabazz, *supra* note 29; Abdul Hakim-Shabazz, *Still Waiting*, IND. BARRISTER (Jan. 1, 2009, 2:41 PM), [http://www.indianabarrister.com/archives/2009/01/still\\_waiting.html](http://www.indianabarrister.com/archives/2009/01/still_waiting.html).

71. Poll commissioned by Metro. Indianapolis Bd. of Realtors, Q.14, (Sept. 2008) (unpublished, poll conducted by SGS, Inc. with a sample size of 759 registered voters and a margin of error of +/- 3.69%) (on file with author) [hereinafter MIBOR Sept. Poll]; Poll commissioned by MySmartGov.org, Q.37, July 28, 2008 (unpublished poll conducted by On Message, Inc. with a sample size of 600 likely voters) (on file with author) [hereinafter MySmartGov.Org Poll]; Brendan O'Shaughnessy, *More Gov't Streamlining Seen: Officials: Results of Assessors' Vote to "Set the Stage" for More Cuts*, INDIANAPOLIS STAR, Nov. 6, 2008, at B1.

72. MIBOR Sept. Poll, *supra* note 71.

73. MySmartGov.org was a pro-reform coalition of individuals and groups concerned with redundant and inefficient local government. See, e.g., *Kevin Brinegar Commentary on MySmartGov.org*, YOUTUBE (Oct. 13, 2008), <https://www.youtube.com/watch?v=1VgDZA0iCoY>; *We've Got to Stop Governing Like This*, YOUTUBE (Oct. 9, 2008), <https://www.youtube.com/watch?v=rJGSFpvfj3U>.

74. MySmartGov.Org Poll, *supra* note 71.

75. The legislation calling for these referenda, the referenda itself, and the resulting consolidation are all discussed in greater length in Part V.

referenda approved the consolidation.<sup>76</sup> In Marion County, the voters in all eight townships where consolidation was on the ballot voted to approve the move, with a county-wide total of sixty-four percent voting “yes.”<sup>77</sup> The transition and effect of these consolidations are discussed in more detail in Part V, but the combination of polling and referenda results demonstrates the support voters have shown for township reform efforts.

#### IV. LEGISLATIVE HISTORY

In the legislative sessions following *KSR*'s release, several bills were introduced to implement the township consolidation recommendations.<sup>78</sup> However, with the exception of House Enrolled Act 1001 in 2008,<sup>79</sup> which set the stage for the consolidation of township assessing duties and the township assessor referenda in November 2008,<sup>80</sup> advocates of reform had no success in passing meaningful reform legislation.<sup>81</sup> Proponents of reform point to one primary reason for this lack of progress: politics.<sup>82</sup> Mark Lawrance from the Indiana Chamber noted that despite well-reasoned arguments from reform proponents, the vote often becomes a situation in which a legislators are uncomfortable turning their backs on their friends and political allies who serve in township government in their districts.<sup>83</sup> Further, many legislators, Lawrance notes, are former

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76. O'Shaughnessy, *supra* note 71.

77. Cathy Kightlinger, *Eight Local Township Assessors Lose Job*, INDIANAPOLIS STAR, Nov. 5, 2008, at B4. It is worth noting the accuracy of the central Indiana poll that showed 66.5% of likely voters in thirteen townships supported the reform; the Marion County townships make up eight of the thirteen polled and the 64% result was within the poll's margin of error.

78. *See, e.g.*, H.B. 1341, 116th Gen. Assemb., 1st Reg. Sess. (Ind. 2009) (bill which would have eliminated Marion County townships); H.B. 1406, 116th Gen. Assemb., 1st Reg. Sess. (Ind. 2009) (bill which would have eliminated townships outside of Marion County); H.B. 1181, 116th Gen. Assemb., 2nd Reg. Sess. (Ind. 2010) (bill which would have provided for additional requirements on townships carrying a fund balance at the end of a fiscal year); H.B. 1249, 116th Gen. Assemb., 2nd Reg. Sess. (Ind. 2010) (bill which would have eliminated township government); H.B. 1376, 117th Gen. Assemb., 1st Reg. Sess. (Ind. 2011) (bill which would have transferred duties of township boards to the county fiscal body); H.B. 1469, 117th Gen. Assemb., 1st Reg. Sess. (Ind. 2011) (bill which would have made the county fiscal body the fiscal and legislative body for township government).

79. H.E.A. 1001, 115th Gen. Assemb. 2nd Reg. Sess. (Ind. 2008) (containing Section 693 which required the transfer of assessing duties for townships with less than 15,000 parcels or where the trustee served as the assessor to be transferred to the county assessor on July 1, 2008, the remaining townships would vote on the consolidation during the 2008 General Election).

80. *See infra* Part V.

81. *See* Smith, *supra* note 5.

82. Lawrance Interview, *supra* note 29. Here “politics” does not mean the usual partisan politics, but rather local political influences such as grassroots support, fundraising and general political support from township officials in the legislator's home district.

83. *Id.*

township elected officials, and they do not want to vote against the system of government that helped get them elected.<sup>84</sup> MIBOR's Chris Pryor echoed this sentiment: "ultimately, [the lack of reform is] the result of the local government being entrenched in the political system."<sup>85</sup> Pryor says he gets the feeling that legislators are "afraid of the backlash of eliminating those folks . . . that are most closely involved with elections at the primary level and are really engrained in the process."<sup>86</sup>

Whether the reform frustrations are a result of these fears and political ties, or, as Michael Hicks, Director of Ball State University's Center for Business Research, put it—"legislative fatigue"—it does not change the fact that the debate has shrunk so much in recent years that it is almost non-existent.<sup>87</sup>

#### V. CASE STUDY: H.E.A. 1001 AND TOWNSHIP ASSESSING DUTIES

In 2008, H.E.A. 1001 transferred the duties of the vast majority of township assessors to their local county assessors, leaving voters in the remaining forty-three townships to decide how their properties should be assessed.<sup>88</sup> This resulted in a highly relevant campaign between reform proponents and opponents, primarily in central Indiana where fifteen townships were holding the referendum.<sup>89</sup> The campaigns aligned much as the broader reform debate did: the Indy Chamber, along with the Indiana Chamber, and MIBOR campaigned aggressively for the passage of the consolidation while representatives of township government fought to retain their posts and structure of government.<sup>90</sup> Because of these parallels, the consolidation of this township function, and, more importantly, its effect, represents a good case study for larger township reform. The proponents made similar arguments to those advanced in the general reform debate in addition to more specific property assessment talking points.<sup>91</sup> For example, MIBOR, with its focus on the real estate market, was very concerned with inequities from township to township.<sup>92</sup> This was illustrated by a map

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84. *Id.*

85. Pryor Interview, *supra* note 30.

86. *Id.*

87. Smith, *supra* note 5.

88. H.E.A. 1001, 115th Gen. Assemb., 2nd Reg. Sess. (Ind. 2008) (containing Section 693 which required the transfer of assessing duties for townships with less than 15,000 parcels or where the trustee served as the assessor to be transferred to the county assessor on July 1, 2008, the remaining townships would vote on the consolidation during the 2008 General Election).

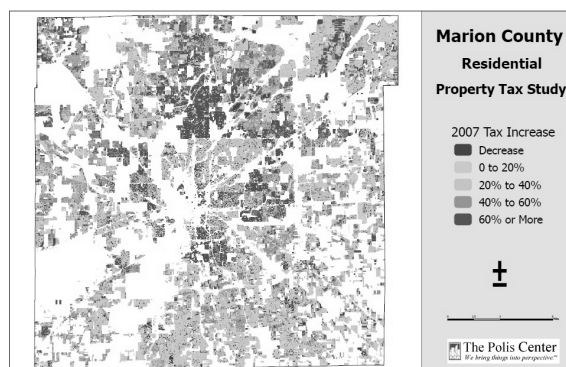
89. O'Shaughnessy, *supra* note 71.

90. Campaign Flyer, Citizens to Save Our Assessor, Vote "NO" November 4th on Referendum #1 (on file with author) (specifically challenging MIBOR and the Indy Chamber for their positions); E-mail from Joline Ohmart, Washington Township Assessor, to lengthy mail list of campaign allies (Aug. 8, 2008, 6:00 PM) (on file with author) (detailing efforts made for campaign and outlining the next steps of the reform opponents' campaign).

91. *Compare supra* Part III, *with infra* Part V.

92. Pryor Interview, *supra* note 30.

created by the Polis Center that displayed the level of increase in property taxes on each individual residential property.<sup>93</sup>



The map is color coded, and each color indicates a different level of increase from the previous year's property tax amount.<sup>94</sup> No other lines or boundaries, other than the county's outer-bounds, are displayed, yet the townships' political boundaries can be seen just by their impact on residential taxpayers.<sup>95</sup> A low-resolution image can be seen in this Note, but the full-resolution pdf makes the point much more effectively.<sup>96</sup> One problem is that ultimately each resident's property tax rate is calculated using a county-wide total assessed value (AV), so if one township assessor is assessing properties in a way that undervalues properties (to keep local voters happy), the result is that property taxpayers in other townships see their tax rate creep up to make up for the lower aggregate AV.<sup>97</sup>

The reform proponents ultimately won all fifteen referenda in central Indiana and won nearly seventy percent (twenty-nine of forty-three townships approved consolidation) statewide.<sup>98</sup> Thus, the duties of 994 township assessors were transitioned to their respective county assessor within a six-month period.<sup>99</sup> This

93. Indiana University-Purdue University Indianapolis: The Polis Center, Marion County Residential Property Tax Study (2008) (unpublished map) (on file with author). Copyright permission has been obtained from the owner.

94. *Id.*

95. *Id.*

96. *Id.*

97. *Citizens Guide to Property Tax*, STATE OF IND. DEP'T OF LOCAL GOV'T FIN., <http://www.in.gov/dlcf/2516.htm> (last visited Dec. 4, 2013).

98. O'Shaughnessy, *supra* note 71.

99. Nine-hundred sixty-five townships had less than 15,000 parcels and were transitioned on July 1, 2008 as a result of H.E.A. 1001; the additional twenty-nine townships that passed the referendum transitioned on January 1, 2009. H.E.A. 1001, 115th Gen. Assemb., 2nd Reg. Sess. (Ind. 2008) (containing Section 693 which required the transfer of assessing duties for townships with less than 15,000 parcels or where the trustee served as the assessor to be transferred to the county assessor on July 1, 2008, the remaining townships would vote on the consolidation during

provides a good case study for what the consolidation of the remaining township duties would look like.

So, who was right? Did the consolidation of assessing duties result in the benefits promised by proponents or with the cost-overruns and disconnect predicted by the opponents? As with most government policies, the effect is never the panacea promised or the apocalypse anticipated. However, the results, thus far, seem to be that some benefits have been reaped in cost savings and uniformity while no major disconnects with citizens or bureaucratic nightmares have developed.<sup>100</sup>

“We came out a lot leaner than township government and are even leaner than that [now],” reports Marion County Assessor Joseph O’Connor,<sup>101</sup> who is no stranger to township assessor offices having worked in two of them before joining the county and subsequently being elected to the office.<sup>102</sup> O’Connor estimated before consolidation, the township and county assessors’ offices combined had over 150 employees.<sup>103</sup> That number initially dropped to 119 or 120 after consolidation and now is closer to 100, he says.<sup>104</sup> The initial drop was a result of discovering that “[the county assessor’s office] can be more efficient and hire better people and do a better job with less people” after consolidation. The rest has been primarily through attrition and budget restraints.<sup>105</sup> Referring to different policies and procedures from township to township, O’Connor said the most difficult thing about the consolidation was “getting everyone to sing from the same song sheet.”<sup>106</sup> However, he reports that through bringing employees together and extensive training, the trend has been improving toward uniformity.<sup>107</sup>

Cutting to the chase, O’Connor explains, “I think [the assessment process] is more fair [after consolidation], overall. In general, I think assessments are better and more accurate.”<sup>108</sup> He does note that a more accurate assessment does not always make the property owner happy (if they were previously under-assessed), but the goal is to get all properties assessed at their fair market value and remedy the unjustifiably erroneous assessments done under the township structure.<sup>109</sup>

As far as the fiscal impact, O’Connor says that despite contractual/overhead

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the 2008 General Election).

100. Interview with Joseph O’Connor, County Assessor, Marion County, in Indianapolis, Ind. (Oct. 14, 2013) [hereinafter O’Connor Interview] (audio recording on file with author).

101. *Id.*

102. *County Assessor Biography*, CITY OF INDIANAPOLIS AND MARION COUNTY, <http://www.indy.gov/eGov/County/Assessor/Marion/Pages/CountyAssessorBiography.aspx> (last visited Dec. 2, 2013).

103. O’Connor Interview, *supra* note 100.

104. *Id.*

105. *Id.*

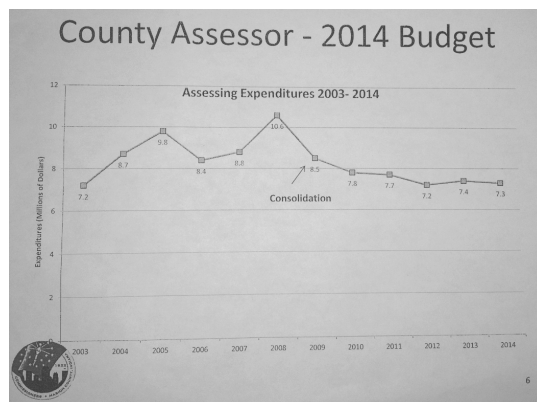
106. *Id.*

107. *Id.*

108. *Id.*

109. *Id.*

costs rising significantly each year, the office's ability to operate leaner and more efficiently (while having more qualified and professional staff) has led to proposed 2014 budget that is \$1.4 million less than it was ten years ago in 2004.<sup>110</sup> He shared the graph shown here to demonstrate the office's budget over recent years:<sup>111</sup>



O'Connor says they are now "spending less money to do better."<sup>112</sup>

When asked directly if he thought the predictions made by reform proponents materialized through consolidation, O'Connor responded "[y]es, for the most part. There was hyperbole on both sides, but I think the public is better off with one county assessor rather than nine [township assessors]."<sup>113</sup> He acknowledged that no system will result in perfection, but the "potential to do better" is in the consolidated structure we now have.<sup>114</sup>

Larry Mitchell is the Senior Managing Partner at Valbridge Property Advisors/Mitchell Appraisers, a firm that does commercial appraisals in Indiana as well as Michigan, Ohio, Kentucky and Illinois.<sup>115</sup> More than fifty percent of their business is doing appraisals for tax appeals on Indiana properties.<sup>116</sup> Mitchell says he interacts with assessors regularly both on an operational level (to understand their methodology) and in a quasi-litigation situation where assessors

110. *Id.* (giving example of computer software contract increasing from \$400,000 to \$600,000 to \$900,000 in a matter of years).

111. MARION CNTY ASSESSOR, CNTY ASSESSOR—2014 BUDGET-HCT2 (2013) (graph detailing the budget for the assessor's office for last ten years).

112. O'Connor Interview, *supra* note 100.

113. *Id.*

114. *Id.*

115. Interview with Larry Mitchell, Senior Managing Partner, Valbridge Property Advisors/Mitchell Appraisers, in Indianapolis, Ind. (Oct. 22, 2013) [hereinafter Mitchell Interview] (audio recording on file with author).

116. *Id.*

are on the other side of the table from his clients.<sup>117</sup> “Before consolidation there [were] wide swings . . . due to the fact I think the assessment community for a long time has been understaffed and undermanned. And not only in the quantity of people in it, but the quality of the people,”<sup>118</sup> Mitchell recalls. He explained that when he refers to the “quality” of the staff, he means the qualifications of the people doing the job were inadequate in order to properly assess the wide variety of property types in each township.<sup>119</sup> He said they would often end up relying on a standardized mass appraisal computer system, which was “extremely inefficient in the fact that once they assessed something and set it up, they rarely ever changed it or went back to look at it because they [did not] have the time, or the manpower or the resources to do it.”<sup>120</sup>

Mitchell noted one improvement from consolidation was that the new structure allowed for more specialization by staff in assessors’ offices.<sup>121</sup> He explains:

By putting a single county assessor [on top] and then [having] a staff level underneath them, you can have one person that is responsible for all the apartments in their county, or all the retail buildings in their county. They have been given the opportunity to get more specialized in individual segments of the commercial market, similar to how real appraisers do.<sup>122</sup>

This is in contrast with the traditional township structure where in each township, the understaffed and under-qualified township assessor would be tasked with assessing every type of property within their geographic township boundaries.<sup>123</sup>

Mitchell, too, acknowledges the consolidation is not a perfect situation, citing some grudges held by former township assessors now working in the county and some “fiefdoms” that have popped up in different offices, but that overall it has been a major improvement and a big step forward in producing more efficient and accurate assessment for Hoosier property owners.<sup>124</sup>

In 2010, Governor Mitch Daniels rightfully recognized the logical nexus between the assessment consolidation and the remaining reform:

You reduced the number of cooks in the assessment kitchen by about one thousand. Having as many as [twenty-two] different assessors setting property values in a single county was a formula for unfairness, waste and, all too often, corruption. Moving assessment to a single, accountable county official was a matter of simple common sense. The

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117. *Id.*

118. *Id.*

119. *Id.*

120. *Id.*

121. *Id.*

122. *Id.*

123. *Id.*

124. *Id.*

exact same principle applies to poor relief and fire protection, still handled as they were in 1848.<sup>125</sup>

In short, reform proponents believe the experience of the township assessor consolidation has enhanced the credibility of their argument.<sup>126</sup>

## VI. DISCUSSION: ARGUMENTS FROM REFORM OPPONENTS

As with any important debate, there is always more than one side. On the issue of township reform, opposition to the previously mentioned proponents has come from a number of sources, but, most understandably and most powerfully, from the Indiana Township Association (ITA).<sup>127</sup> This section will outline the opponents' chief arguments in opposition to *KSR*'s proposed consolidation of township government as outlined through media accounts, studies, and documents provided by the ITA.<sup>128</sup>

### A. "Township Government Is 'Closest to the People'"

It is a good political buzz phrase, "closest to the people;" it conjures thoughts of good, responsive government as discussed by our framers and it alludes to a way to protect from corruption and tyranny.<sup>129</sup> Township supporters argue that being so close to the people provides for better service and more face-to-face interaction with citizens.<sup>130</sup> One document provided by the ITA summarizes this contention:

Elected officials in smaller governments are able to manage budgets and operations more directly than in larger governments. Part of the reason is that they are closer to the voters. Residents can actually reach their elected officials on the telephone or even in person, as opposed to dealing with a staff member whose career does not depend on attracting voters in the next election. Indeed, this greater distance between voters

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125. Daniels, *supra* note 13.

126. *See supra* Part V.

127. Because *KSR* proposed twenty-seven different reforms affecting many different groups, some groups affected by other proposals have banded together to oppose *KSR* aggregately. For example, *KSR* proposed eliminating the three-person county board of commissioners and replacing it with a single county executive; the Indiana Association of County Commissioners has therefore voiced opposition. Arthur Foulkes, *State Has Too Many Elected Officials, Officials Say*, TERRE HAUTE TRIB. STAR (Feb. 20, 2009), available at [http://m.tribstar.com/news/local\\_news/state-has-too-many-elected-officials-official-says/article\\_dfe2b053-4e46-5aa9-8ddc-e5f5185cb1e5.html?mode=jqm](http://m.tribstar.com/news/local_news/state-has-too-many-elected-officials-official-says/article_dfe2b053-4e46-5aa9-8ddc-e5f5185cb1e5.html?mode=jqm), archived at <http://perma.cc/SX7W-ANFB>.

128. Again, thanks to ITA's Executive Director Debbie Driskell for going above and beyond to provide multiple documents, studies and resources to help achieve a fair and accurate portrayal of ITA's position and arguments on township consolidation.

129. *See, e.g.*, THE FEDERALIST NO. 52 (Alexander Hamilton).

130. Wendell Cox, Gov't Consolidation in Ind.: Separating Rhetoric From Reality 12-13 (2009).



and elected officials and the loss of more direct management makes larger governments more susceptible to interest groups influence. Few interest groups lobby for less spending.<sup>131</sup>

The logic in the previous passage is flawed for two reasons. First, there are any number of interest groups who lobby for less spending, including, and especially, the interest groups previously mentioned who are advocating for the elimination of township government.<sup>132</sup> The fear that transferring the duties to the county will create an unfettered buffet of local government pork for lobbying groups is meritless and without support.<sup>133</sup>

Second, while the virtue of accountable government cannot be denied, Mr. Cox's application of this rationale to Indiana townships is misplaced. Cox implies that the proximity to voters brings with it familiarity with voters.<sup>134</sup> He infers the township trustee does the job better because he or she is dependent on the voters re-electing him or her.<sup>135</sup> If this is true, certainly the voters would be expected to know the name of their elected township leaders. However, the central Indiana poll asked voters "[w]hat is the name of your township assessor?" and found that to not be the case at all.<sup>136</sup> In fact, over the thirteen townships polled, the average was that more than ninety-three percent of voters could *not* name their township assessor.<sup>137</sup>

TOWNSHIP	KNOWS NAME
Center (Marion)	2%
Clay (Hamilton)	5%
Fall Creek (Hamilton)	3%
Franklin (Marion)	17%
Lawrence (Marion)	6%
Noblesville (Hamilton)	12%
Perry (Marion)	2%
Pike (Marion)	2%

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131. Wendell Cox, *Bigger Government Saves Money? Time to Look at the Reality* (unpublished opinion editorial provided to author by ITA) (on file with author).

132. See, e.g., Pryor Interview, *supra* note 30; see also *About AFP*, AMERICANS FOR PROSPERITY, <http://americansforprosperity.org/indiana/about/> (last visited Jan. 14, 2014) (explaining Americans for Prosperity is a grassroots movement of over 2.3 million activists who advocate and promote limited government, lower taxes, and more freedom).

133. Cities and counties already have much larger budgets and more discretionary spending authority than townships yet the ITA has still not offered examples to support this claim. *Transparency: Local Gov't*, STATE OF IND. TRANSPARENCY PORTAL, <http://www.in.gov/itp/2341.htm>, archived at <http://perma.cc/43JK-W4A7> (last visited Oct. 6, 2014).

134. Cox, *supra* note 131.

135. *Id.*

136. MIBOR Sept. Poll, *supra* note 71, at Q.6.

137. *Id.*

Pleasant (Johnson)	7%
Warren (Marion)	4%
Washington (Marion)	8%
Wayne (Marion)	2%
White River (Johnson)	12%

For comparison, the same poll found that 99.5% of the same voters knew of Mitch Daniels.<sup>138</sup> Again for comparison, a follow up poll done a month later in three of those townships, less than two percent of voters said they had never heard of Greg Ballard (mayor of Indianapolis at the time) and less than one percent said that of Bart Peterson (most recent previous mayor of Indianapolis at the time).<sup>139</sup>

It is unclear how an elected official can be held accountable at the ballot box when only such a small fraction of the voters know that official's name. One possible explanation is noted by Indiana's current Secretary of State (then-state senator) Connie Lawson: sixty-four percent of township board members run unopposed and only thirty-five percent of those who cast a vote make it down that far on their ballot to actually vote for those offices.<sup>140</sup> In addition, an *Evansville Courier Press* article pointed to voter apathy to explain instances of nepotism, waste, and theft by township officials who were "skat[ing] by without much attention."<sup>141</sup>

The potential for an elected official elected at such a local level to engage with the local citizens in a way that a state or county official might not be able to is surely there; we see this demonstrated by mayors and town council members.<sup>142</sup>

The evidence here, however, does not bear that out for townships, as shown by voters who are overwhelmingly unaware of who represents them, the lack of challengers which indicates complacency, and an extremely low percentage of voters who care enough about the office to vote in that race.<sup>143</sup>

#### B. "Consolidation Will Not Save Any Money"

Supporters of reform argue that consolidating township government will

138. *Id.* at Q.7-13.

139. Poll commissioned by Metro. Indianapolis Bd. of Realtors, Q.8-11, Oct. 2008 (unpublished voter poll conducted by SGS, Inc.) (on file with author) [hereinafter MIBOR Oct. Poll].

140. Niki Kelly, *Township Remake Goes on to House*, JOURNAL GAZETTE (Feb. 25, 2009), <http://www.journalgazette.net/apps/pbcs.dll/article?AID=/20090225/LOCAL/302259987/1002/LOCAL>.

141. Bradner, *supra* note 51.

142. Dan McFeely & Jeff Zogg, *Teacher, Politician Touched Many Lives*, INDIANAPOLIS STAR, Apr. 26, 2003, at A1.

143. *See supra* Part VI.A.

create a more efficient and cost effective way to deliver the same services.<sup>144</sup> They also pointed to excessive cash balances maintained by townships and to administrative cost ratios that go well beyond the parameters of good stewardship.<sup>145</sup> The ITA, however, claims consolidation will not create any cost savings for taxpayers and defends the administrative ratios by pointing to problems with the calculations. The Association also notes that township services demand quick response to requests for aid, resulting in higher costs.<sup>146</sup> The ITA addresses the large cash balances by explaining that townships often save up for large purchases, by claiming that the reports use balances right after tax revenue is received, and by pointing to a state regulation that ties their hands a bit.<sup>147</sup>

*1. General Cost Savings.*—A 2009 report prepared for ITA argues that “[i]t is likely that [KSR’s] recommendation to consolidate township governments into county governments will cost taxpayers *more* and make local government in Indiana *less* efficient.”<sup>148</sup> To back this claim, the report points to a number of causes, beginning with “operational barriers.”<sup>149</sup> “There are costs to harmonizing the service levels and employee compensation packages. Employees and their unions can be expected to receive remuneration packages that reflect the most expensive pre-consolidation packages, in both wages and benefits,” the report notes.<sup>150</sup> It continues by pointing to varying levels of service each pre-consolidation jurisdiction is receiving, “[i]t can be expected that service levels will be harmonized at the highest level, essentially forcing residents of a jurisdiction with lower service levels to finance and receive higher service levels.”<sup>151</sup> The report next points to political resistance to reducing the number of employees after consolidation, which, it claims, would be required to achieve any material savings.<sup>152</sup> It also points out that transitional costs would be incurred and could possibly be considerable.<sup>153</sup> In support of this, the report points to consolidation in Toronto where the transition costs went “far above projections” to as much as \$275 million.<sup>154</sup>

Other cited barriers include reduced accountability and the incentives to spend more that, according to the report, “government consolidation tends to create.”<sup>155</sup> Under this argument, the report claims “[d]emocracy is diluted and governments become remote from their electorates. . . . In smaller municipalities, elected officials are likely to be known personally by a larger number of

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144. *See supra* Part III.

145. *See id.*

146. *See infra* Part VI.B.1-2.

147. *See infra* Part VI.B.3.

148. Cox, *supra* note 131, at 3.

149. *Id.* at 11.

150. *Id.*

151. *Id.* at 12.

152. *Id.*

153. *Id.*

154. *Id.*

155. *Id.*

voters.”<sup>156</sup> Finally, the report states that consolidation creates economies of scale for lobbying groups pushing for more spending, and then concludes that consolidated government, being more efficient for special interests, is therefore less accountable because the influence of a voter pales in comparison to that of a special interest lobbyist.<sup>157</sup>

In analyzing these claims, it is important to look at the report’s cited sources. The report first notes “there are few reports that comprehensively compare the financial performance of governments *after* consolidation.”<sup>158</sup> The report then mentions studies of consolidation in Jacksonville during the 1980s, in Nashville during the 1960s, Nova Scotia during the 1990s, and the study this report gives seems to give the most weight, Toronto’s municipal consolidation in the late 1990s.<sup>159</sup>

Another assumption this report makes in the early stages is its definition of efficiency.<sup>160</sup> When introducing the term, it correctly notes that “[g]overnment efficiency is measured by relative spending. *All things being equal*, a government service is more efficient if it requires less money to perform its functions per unit of service.”<sup>161</sup> However, as the report continues and points to consolidation of a foreign city, more populous than Chicago, as a predictor of the effects reform will have on Indiana townships, some of which have a population well below 400 people, the control of “all things being equal” is not given much weight in the reasoning.<sup>162</sup>

The report comes to this comparison (Toronto being comparable to Indiana townships) based on the simplification that all forms of government consolidation are the application of a “bigger is better” attitude.<sup>163</sup> *KSR*, on the other hand, was conducted over months by receiving “extensive citizen input,” reviewing previous Indiana studies, and by reaching out to “the front lines of local government, and experts who study [it].”<sup>164</sup> While reduction in cost was one goal of the Commission, *KSR* also points to effectiveness and “making local government easier to understand with straighter lines of responsibility and accountability.”<sup>165</sup>

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156. *Id.*

157. *Id.* at 13.

158. *Id.* at 9 (emphasis in original).

159. *Id.* at 10 (noting that the Toronto consolidation had strong business support, but struggled with harmonizing wages and service levels which led to higher costs after consolidation).

160. *Id.* at 7.

161. *Id.* (emphasis added).

162. Compare Lauren Strapagiel, *North America’s Largest Cities: Toronto Overtakes Chicago*, HUFFINGTON POST CANADA (Mar. 5, 2013), [http://www.huffingtonpost.ca/2013/03/05/largest-cities-north-america-toronto-chicago\\_n\\_2815578.html](http://www.huffingtonpost.ca/2013/03/05/largest-cities-north-america-toronto-chicago_n_2815578.html), with *Annual Population Estimates for Indiana’s Minor Civil Divisions by County*, STATS INDIANA, [http://www.stats.indiana.edu/population/sub\\_cnty\\_estimates/2012/e2012\\_townships.asp](http://www.stats.indiana.edu/population/sub_cnty_estimates/2012/e2012_townships.asp) (last visited Jan. 20, 2014).

163. Cox, *supra* note 131, at 2.

164. COMMISSION REPORT, *supra* note 1, at 7.

165. *Id.* at 4, 10-12 (listing the Commission’s guiding principles).

These goals serve the larger purpose of strengthening the public faith.<sup>166</sup> In its recommendation to consolidate townships, the Commission noted its findings that Indiana townships were often “too small, in terms of land area and population, to provide cost-effective public services,” and that “[b]road variations in resources among so many local governments create inequalities in basic services and taxes.”<sup>167</sup> Contradicting Toronto’s experience, the Commission concluded that “Indiana counties are large enough to allow economies of scale in services, but not so large that they preclude sufficient access and responsiveness for citizens.”<sup>168</sup> Though previous Indiana studies have not been as cautious, *KSR* avoided making any specific cost saving predictions.<sup>169</sup> As previously noted, the Commission’s goals were not singularly aimed at the savings, but rather a more understandable, accountable, and efficient way to deliver the same services to Hoosiers.<sup>170</sup>

The concerns raised by the ITA’s report are not without basis, however. Marion County Assessor Joseph O’Connor seemingly agreed with the concerns about harmonizing labor agreements.<sup>171</sup> He said that one of the more difficult parts of transitioning from township assessing to countywide assessing was getting “everyone to sing from the same song sheet.”<sup>172</sup> However, O’Connor continued that with good planning and training, the office has overcome these difficulties and is operating for \$1 million less than they were ten years ago and are delivering more equitable government services to Hoosier citizens.<sup>173</sup> It seems the music metaphors both the ITA report and Assessor O’Connor use may be apt; the harmonization may be difficult and take practice, but it has the potential to be music to the taxpayer’s ears as demonstrated in Marion County or could end up forcing the constituency to cover theirs like in Toronto.<sup>174</sup>

The ITA report claims that in order for consolidation to reap any cost savings it will have to come largely through personnel cuts, a task the report predicts will be prevented by political resistance.<sup>175</sup> Again, Assessor O’Connor’s experience sheds some light on the report’s concerns when he explains that before consolidation, the county and township assessing offices combined to have more

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166. *Id.*

167. *Id.* at 25.

168. *Id.*

169. *See, e.g.,* Bayt & Lewis, *supra* note 35 (predicting \$35 Million in savings for the Indianapolis Works proposal to consolidate townships and fire services in Marion County); INDIANA CHAMBER, IND. PROJECT FOR EFFICIENT LOCAL GOV’T: THE NEXT GENERATION OF THE ‘99 COMPETE STUDY 19 (2004), *available at* <https://resources.oncourse.iu.edu/access/content/group/24a3ad89-4a70-4e4a-0087-26cb583ea139/Website%20Research%20Page%20Materials/Research/Next%20Generation%20of%20COMPETE%2004.pdf> (predicting a \$11.65 million savings statewide by consolidating Indiana’s assessing duties from the townships to the state).

170. COMMISSION REPORT, *supra* note 1, at 10-12.

171. O’Connor Interview, *supra* note 100.

172. *Id.*

173. *Id.*

174. *Compare id., with* Cox, *supra* note 131, at 10-11.

175. Cox, *supra* note 131, at 12.

than 150 employees but now hover at about 100 employees.<sup>176</sup> There may have been political resistance to this, but the numbers tell the story: a staff reduction of one-third and a budget proposal more than \$1 million less than it was ten years ago.<sup>177</sup>

The concern that government consolidation will create incentives for greater spending, based on the premise that special interests will have a heyday with a larger, out-of-touch local government is less grounded in reality than the previous concerns. Hoosiers have not been shy about pushing back against what they consider wasteful spending and over-taxation.<sup>178</sup> In the midst of a property tax crisis, voters across the state sent a message by voting fifteen incumbent mayors out of office on what one article's author called "Bloody Tuesday."<sup>179</sup> While overwhelmingly underfunded, Greg Ballard unseated two-term incumbent Bart Peterson, who had attempted to increase income taxes in Indianapolis while property taxes were spiking.<sup>180</sup> State senator, and Ballard supporter, Brent Waltz explained, "[p]roperty taxes [are not] the third rail of politics. [It is] the only rail."<sup>181</sup> Hoosier voters were not done.

A couple years later, Hoosiers voted to put permanent caps on property tax rates into the Indiana Constitution.<sup>182</sup> This demonstrates that Indiana voters will not sit idly by and tolerate inefficient and wasteful government, no matter how prevalent special interest groups may become. The statewide nature of these examples contradicts the notion that the larger the political jurisdiction, the less influence Hoosier voters will have. In fact, it is during this era of unrest that the previously noted polling figures showed that central Indiana voters had no idea who their township officials were but had a near-unanimous understanding of who their mayor and governor were.<sup>183</sup> They are who the voters decided to hold accountable.

2. *Administrative Cost Ratios.*—Township supporters also argue the studies showing extremely high administrative costs for each dollar in direct service<sup>184</sup> are misleading.<sup>185</sup> "Federal and state programs, along with other service

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176. O'Connor Interview, *supra* note 100.

177. *Id.*

178. Brian A. Howey, *Upset City: Ballard's Shock Wave: 15 Incumbent Mayors Fall Across the State, Sending Defiant Message to Statehouse*, HOWEY POLITICAL REPORT, Nov. 7, 2007, <http://www.in.gov/library/files/HPR1414.pdf.pdf>.

179. *Id.*; see also Brian A. Howey, *Hoosiers Are Changing*, HOWEY POLITICAL REPORT (Nov. 7, 2007), <http://www.in.gov/library/files/HPR1414.pdf.pdf>.

180. Howey, *supra* note 179.

181. *Id.*

182. *Indiana Voters OK Property Tax Amendment*, INDIANAPOLIS BUS. J (Nov. 2, 2010), <http://www.ibj.com/indiana-voters-ok-property-tax-cap-amendment/PARAMS/article/23227>.

183. Compare MIBOR Sept. Poll, *supra* note 71, at Q.6-13, with MIBOR Oct. Poll, *supra* note 139, at Q.8-11.

184. See *infra* Appendix A; Editorial, *Townships Out of Touch*, *supra* note 29, at A12 (citing an *Evansville Courier & Press* investigation).

185. IND. TOWNSHIP ASSOC., THE TRUTH ABOUT TOWNSHIP ASSISTANCE ADMINISTRATIVE

providers, assign everything from case management services to pencils and paper to a particular program cost. All program costs at the township level must be reported in the ‘administration’ category which drives our ratio of administrative dollars versus direct dollars up,” a flyer distributed by ITA claims.<sup>186</sup> It notes that township assistance requires a seventy-two hour turn around which, in turn, requires administrative time.<sup>187</sup> Finally, the flyer points to an unspecified township, which was originally reported as having a \$0.50 on the dollar ratio, but then by making the tweaks in calculating the ratio in a more equitable manner, the ratio becomes \$0.27 on the dollar.<sup>188</sup> It also notes that if applying the Salvation Army’s model, the ratio would be a cost of \$0.08 for each dollar in aid distributed.<sup>189</sup>

No one would doubt that including pencils and paper from the office as a direct service expense rather than an administrative cost would make the ratio at the end of the new calculation seem more reasonable. However, there can surely be much debate about whether they truly *are* a direct service to the taxpayer. The ITA example uses a township that started with a \$0.50:\$1 ratio which, while not a terribly inspiring figure, is toward the more efficient end of the range of ratios from the studied townships.<sup>190</sup> So, even assuming the reduction of the ratio by forty-six percent is consistent, other townships that do not start with a lower ratio would still be quite rotund. For example, Hancock County’s Jackson Township begins with an administrative cost of \$22.03 per one dollar in direct service that might be reduced to a still alarming ratio of nearly twelve dollars for each dollar in direct service.<sup>191</sup> In Hendricks County, the same reduction to one township’s ratio takes it from \$34.18 per one dollar to \$18.46 per one dollar in direct service.<sup>192</sup> While applying a constant rate of reduction based on ITA’s example is surely an oversimplification, it does illustrate a larger point: moving a few things from one column to another cannot justify this sort of inefficiency when it comes to Hoosier tax dollars.

3. *Excessive Township Cash Balances.*—An ITA flyer, which discussed the reports that townships maintained extremely high cash surpluses,<sup>193</sup> noted that

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COSTS [hereinafter TOWNSHIP ASSISTANCE ADMINISTRATIVE COSTS] (on file with author).

186. *Id.*

187. *Id.*

188. *Id.*

189. *Id.*

190. *See infra* Appendix A.

191. METRO. INDIANAPOLIS BD. OF REALTORS, COUNTYWIDE TOWNSHIP FINANCIAL COMPARISON—2008, COUNTY: HANCOCK (2009) (on file with author). Note that the ITA flyer does not show exactly how their model works, so these calculations are based on the assumption that the percentage of the reduction remains constant from township to township. This is unlikely; however, it is used simply as an illustration that some of these townships put up numbers that cannot be justified by misleading calculations.

192. METRO. INDIANAPOLIS BD. OF REALTORS, COUNTYWIDE TOWNSHIP FINANCIAL COMPARISON—2008, COUNTY: HENDRICKS (2009) (on file with author).

193. *See infra* Appendix A; Editorial, *Indiana’s Townships*, *supra* note 64, at A10.

many townships are simply saving up for a large capital purchase, such as a large fire apparatus or to build a needed fire station, and that saving in this manner actually saves taxpayers money in the long run.<sup>194</sup> The ITA also argues that these figures appear bloated because the reporting days are right after the township receives its tax draws, making the comparison to an individual's bank balance, which looks the largest right after payday.<sup>195</sup> Finally, the ITA asserts that if townships were to lower their tax levy and spend down their cash balance, once that balance reached a lower level, the township would have "no guarantee" it could then get that tax levy back up to where it needed to be in the following years.<sup>196</sup> On this point, the ITA states it would support reasonable caps on operating balances if they would be permitted to raise their tax levy as needed after lowering it to draw down the cash balance.<sup>197</sup>

Capital purchases may explain some of these large cash balances, however, it is hard to believe that is the case for all of these large balances. For example, Allen County's Adams Township maintained a cash balance that was 130% of the previous year's expenditures, but also had a capital outlay account for its fire services that paid out more than \$52,000 in the same year.<sup>198</sup> Within the same county, another township maintained a cash balance of 140% of the previous year's expenditures, but was apparently utilizing a capital outlay account to the tune of nearly \$44,000.<sup>199</sup> While individual examples do not prove that there are no townships that are saving as the ITA suggests, they do show that the ITA's explanation does not explain all of the large balances occurring around the state.

With regard to the balances being large because the report timing is right after the tax draws are deposited, this may be an explanation for cash balances near 100% of the year's expenditures, but it cannot account for the townships that have balances more than seven times what they spend in a year. For example, Boone County's Sugar Creek Township's balance was nearly 800% of its annual expenditures.<sup>200</sup> Within the same county, two more townships had balances north of 400% and a total of six townships with balances of more than 200% of their expenditures.<sup>201</sup> Bartholomew County had one township with a balance of 465% and another with 338% of their respective expenditures.<sup>202</sup> Morgan County had

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194. IND. TOWNSHIP ASSOC., THE TRUTH ABOUT TOWNSHIP'S CASH BALANCES [hereinafter TOWNSHIP'S CASH BALANCES] (on file with author).

195. *Id.*

196. *Id.*

197. *Id.*

198. METRO. INDIANAPOLIS BD. OF REALTORS, COUNTYWIDE TOWNSHIP FINANCIAL COMPARISON—2008, COUNTY: ALLEN (2009) (on file with author).

199. METRO. INDIANAPOLIS BD. OF REALTORS, COUNTYWIDE TOWNSHIP FINANCIAL COMPARISON—2008, COUNTY: HENDRICKS (2009) (on file with author).

200. METRO. INDIANAPOLIS BD. OF REALTORS, COUNTYWIDE TOWNSHIP FINANCIAL COMPARISON—2008, COUNTY: BOONE (2009) (on file with author).

201. *Id.*

202. METRO. INDIANAPOLIS BD. OF REALTORS, COUNTYWIDE TOWNSHIP FINANCIAL COMPARISON—2008, COUNTY: BARTHOLOMEW (2009) (on file with author).



one township with a balance of 839% and two more with balances of more than 600% of their expenditures.<sup>203</sup> These are not the only examples, and they are not an illusion created by timing.<sup>204</sup>

ITA's concern about returning their tax levy to an appropriate level after draining its cash balances is fair and its proposed compromise of capping operating balances if a taxing district could later raise its tax levy back to its previous level would be a welcome piece of legislation.<sup>205</sup> However, the absence of such legislation is not enough to justify these obscene balances. If townships were as financially accountable as claimed, allowing the balances to creep to these levels should never have happened in the first place. Truly accountable leaders would, at least when the reports came out about these balances, look for ways to reduce these balances in a responsible way rather than spending them on lobbying efforts to prevent reform.<sup>206</sup>

C. *"Counties Are Ill-equipped for These Responsibilities"*

Townships serve important purposes, such as emergency poor relief and, in some cases, fire service, among other duties.<sup>207</sup> "Townships provide case management services, food pantries, homeless shelters, payee programs, soup kitchens, budget counseling and the list goes on. Further, trustees must respond to all requests for assistance using investigative techniques within [seventy-two] hours," an ITA flyer notes.<sup>208</sup> An *Indianapolis Star* guest editorial provided by ITA executive director Debbie Driskell states, "[r]elagating township assistance program to a state or county program would likely ensure that "emergency assistance" becomes just another welfare entitlement program."<sup>209</sup> Other township supporters caution that the transition of township assessing duties to the counties may have been easy, but that is only because county assessors already existed and taking on additional assessing duties would be a much easier task than a county assuming the remaining township responsibilities.<sup>210</sup> With that in mind, one trustee said, "[i]f it ever comes to that and they eliminate trustees, they

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203. METRO. INDIANAPOLIS BD. OF REALTORS, COUNTYWIDE TOWNSHIP FINANCIAL COMPARISON—2008, COUNTY: MORGAN (2009) (on file with author).

204. *See infra* Appendix A.

205. TOWNSHIP'S CASH BALANCES, *supra* note 194.

206. Star News Service, *Township Trustees Asked to Fund Lobbying Effort*, INDIANAPOLIS STAR (Oct. 12, 2008), <http://archive.indystar.com/article/20081012/NEWS05/810120387/Township-trustees-asked-fund-lobbying-effort>; Editorial, *Your Money Defends Their Jobs*, INDIANAPOLIS STAR, Mar. 4, 2009, at A8.

207. IND. CODE § 36-6-4-3 (2011).

208. TOWNSHIP ASSISTANCE ADMINISTRATIVE COST, *supra* note 185.

209. Deborah R. Driskell, *Township Government Provides Vital Services at Reasonable Costs*, INDIANAPOLIS STAR, Dec. 5, 2010, at B7.

210. Bradner, *supra* note 51.

better have a good game plan.”<sup>211</sup> On that point, it seems most would agree.<sup>212</sup>

However, as Mark Lawrance pointed out, in addition to property assessing, townships were once responsible for education and roads.<sup>213</sup> Over time, these duties were re-assigned to other branches of government without apocalyptic results.<sup>214</sup> Lawrance also recalls numerous anecdotes of testimony which stressed how much the trustees care about their jobs and their constituents, to which he adds, “no doubt most of them do.”<sup>215</sup> Referring to the passion<sup>216</sup> many trustees have, Lawrance praises that “they are running for office for a reason.”<sup>217</sup> However, Lawrance notes, reform proponents are not pushing for change because of the people or the services, just the structure of its delivery.<sup>218</sup>

There is no reason that current township trustees and officials could not be a part of a new consolidated delivery of these services from the county level. Many township assessor employees transitioned to the county assessor offices and provided their expertise and knowledge under a new, more efficient roof.<sup>219</sup> These skilled and passionate township employees could continue to deliver their services to the constituents they currently serve while the taxpayers benefit from the county’s ability to bring uniformity to local government, find cost savings in computer systems, insurance and other overhead costs and manage the townships’ budgets in conjunction with the broader budget priorities of the entire county.<sup>220</sup>

Even without bringing former township employees into the fold of the county, the task would not be insurmountable. Many townships do not actually distribute much emergency assistance at all; “[m]ost of the time, [it is] less than \$10,000 [per year],” according to one news account.<sup>221</sup> Duties and responsibilities of local governments have shifted and evolved, even in the case of townships, over time.<sup>222</sup> Township proponents offer nothing beyond puffery to back their claims that the level of government that already handles taxation, roads and highways, police protection, the operation of jails and courts, document recording, health inspections, and many other varied duties cannot handle the

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211. *Id.*

212. *See, e.g.*, O’Connor Interview, *supra* note 100 (noting that their office planned for the transition for more than a year in advance).

213. Lawrance Interview, *supra* note 29.

214. *Id.*

215. *Id.*

216. However, while many good trustees serve honorably, there are still others who engage in nepotism, embezzlement, or forgery. Bradner, *supra* note 51. These problems have to do with the individual elected official and the solution is found at the ballot box, not in reform, and therefore, are not relevant criticisms of the township government structure beyond the lack of voter accountability discussed in this Note.

217. Lawrance Interview, *supra* note 29.

218. *Id.*

219. Mitchell Interview, *supra* note 115; O’Connor Interview, *supra* note 100.

220. *See, e.g.*, O’Connor Interview, *supra* note 100.

221. Bradner, *supra* note 51.

222. Lawrance Interview, *supra* note 29.

additional responsibility that many townships handle with part-time employees.<sup>223</sup>

*D. Reality: All Politics is Local [Government]*<sup>224</sup>

The real hang up to this reform, it seems, is not a policy argument as much as it is the burden of change and political allegiances.<sup>225</sup> As Marjorie Hershey, a political science professor at Indiana University, puts it: “[it is] not that people can sit down and say ‘[Here is] an ideal structure.’ Some people are advantaged by the current structure and some are disadvantaged by it. [It is] very hard to persuade those in office that it needs to be changed.”<sup>226</sup> Chris Pryor seems to agree, “ultimately, [the lack of reform is] the result of the local government being entrenched in the political system.”<sup>227</sup> Similarly, Mark Lawrance remarked,

the problem is, and the difficulty and frustration, with getting changes made at the statehouse has come from the fact that you can have people presenting well-reasoned arguments about how we [do not really need townships] anymore . . . yet many of the legislators . . . [do not] want to turn around and vote against their friends or supporters back home.<sup>228</sup>

Mitch Daniels, the governor who charged the Commission to analyze local government in the first place, added “[t]hose who would resist are active, and those who would benefit wish you well but [do not] feel the need to do anything much about it.”<sup>229</sup>

These comments should come as no surprise; Former Governor Joseph Kernan and then-Chief Justice Randall Shepard predicted just that in their cover letter to Indiana citizens that accompanied *KSR*.<sup>230</sup> They wrote, “[t]he transformation we propose will be disruptive, even painful, in the short run. Many who have vested interests in the status quo will resist these changes with great vigor.”<sup>231</sup> However, they continue, “[w]e say the status quo in local government is simply not good enough.”<sup>232</sup>

223. IND. CODE § 36-2 (2011); Driskell, *supra* note 209, at B7.

224. The phrase “all politics is local” was coined by former speaker of the U.S. House of Representatives, Tip O’Neill, and is used to summarize the principle that elected officials must appeal to the interests of those who elect them. THOMAS P. O’NEILL, *ALL POLITICS IS LOCAL: AND OTHER RULES OF THE GAME* xi-xiii (1994).

225. Bradner, *supra* note 51.

226. *Id.*

227. Pryor Interview, *supra* note 30.

228. Lawrance Interview, *supra* note 29.

229. *Indiana’s Long Fight for Less Government Has Politician’s Protecting Own*, IBJ.COM (Oct. 30, 2013), <http://www.ibj.com/indianas-long-fight-for-less-government-has-politicians-protecting-own/PARAMS/article/44339> [hereinafter *Indiana’s Long Fight*].

230. COMMISSION REPORT, *supra* note 1, at 2.

231. *Id.*

232. *Id.*

## VII. PROPOSAL

Policy compromises on township reform have been tried and have had no meaningful success.<sup>233</sup> The most logical compromise offered was one that would transfer the duties of the township boards to the county fiscal body (the county council) but leave the township trustee position intact.<sup>234</sup> This would have allowed counties to provide the financial oversight and prioritization that the current system lacks while allowing the township trustee to still serve their constituents.<sup>235</sup> The bill did not even receive a vote in committee.<sup>236</sup>

Political horse-trading should not be necessary to pass meaningful reform of an antiquated form of government, but as this Note concludes, the problem is a political one. Therefore, the solution must be a political one.

A debate over the repeal of the state business personal property tax (BPPT)<sup>237</sup>, or business equipment tax, is currently raging in the Indiana General Assembly.<sup>238</sup> The proposal has been met with considerable resistance from a statewide group of local government officials concerned that the repeal would mean local governments could lose \$7 million,<sup>239</sup> \$54.4 million,<sup>240</sup> or \$687 million,<sup>241</sup> depending on the specifics of the plan. Governor Mike Pence, however, is so supportive of it that he held a press conference announcing the state might replace the revenue lost by repealing the BPPT on businesses with less than \$25,000 in equipment.<sup>242</sup> This proposal would then leave repealing the remaining BPPT tax (on business with more than \$25,000 in equipment) up to each individual county.<sup>243</sup> As the 2014 legislative session came to a close, Indiana Speaker of the House, Brian Bosma, indicated the Indiana House and Senate came to a deal where the decision would be left almost entirely to local governments to decide and implement.<sup>244</sup>

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233. *See supra* Part IV.

234. H.B. 1376, 117th Gen. Assemb., 1st Reg. Sess. (Ind. 2011).

235. *Id.*

236. *Id.*

237. The BPPT is a tax assessed on all equipment/tangible assets used in the production of income or held as an investment. *Personal Property*, DEPT. OF LOCAL GOV'T FINANCE, <http://www.in.gov/dlgf/7576.htm> (last visited Feb. 26, 2014).

238. Cook, *supra* note 32.

239. Dan Carden, *Business Tax Cut Advances in Statehouse*, NORTHWEST INDIANA TIMES (Mar. 3, 2014), [http://www.nwitimes.com/news/local/govt-and-politics/business-tax-cut-advances-at-statehouse/article\\_dd6e4f27-77f5-52b0-8ea6-c3a6195fa491.html](http://www.nwitimes.com/news/local/govt-and-politics/business-tax-cut-advances-at-statehouse/article_dd6e4f27-77f5-52b0-8ea6-c3a6195fa491.html).

240. Cook, *supra* note 32.

241. LARRY DEBOER & JOHN STAFFORD, THE PERSONAL PROPERTY TAX IN INDIANA: ITS REDUCTION OR ELIMINATION IS NO SIMPLE TASK 12 (2014), available at [http://www.indianafiscal.org/resources/Documents/REPORT\\_The%20Personal%20Property%20Tax%20in%20Indiana\\_Indiana%20Fiscal%20Policy%20Institute\\_020614.pdf](http://www.indianafiscal.org/resources/Documents/REPORT_The%20Personal%20Property%20Tax%20in%20Indiana_Indiana%20Fiscal%20Policy%20Institute_020614.pdf).

242. Cook, *supra* note 32.

243. *Id.*

244. Brandon Smith, *Legislators Reach Compromise on Business Property Tax*, IND. PUBLIC

Matthew Greller, executive director and CEO of the Indiana Association of Cities and Towns (IACT), expressed his belief that the issue should be approached holistically by looking at the financial impact the repeal would have, particularly on local governments.<sup>245</sup> He indicated he has the sense that repeal, in some form, is inevitable, but expressed concern with the county-by-county approach this deal will create and stressed that any dollar lost needs to be replaced.<sup>246</sup> This echoes their campaign battle cry, “Replace, Don’t Erase.”<sup>247</sup> It is unlikely that this is the last of the debate as legislators will likely reexamine the issue, the local impact, and modifications in upcoming legislative sessions.<sup>248</sup>

The combination of the strong political desire from the Governor’s office, General Assembly and the powerful political pushback from local officials demanding replacement revenue with additional local options creates a unique opportunity to reintroduce the concept of township government reform. As previously noted, the last known study of the statewide cash balances of township officials exceeded \$215 million.<sup>249</sup> In many of these townships, the cash reserves are wildly excessive for the needs of their respective townships.<sup>250</sup> Transferring the township duties and financial control to the county level could provide county governments with the ability to use these unused tax dollars in a way that serves the same local constituents whose tax dollars built these reserves in the first place.<sup>251</sup> This initial cash infusion could help the initial revenue losses and transition costs, creating what Speaker Bosma refers to as a “soft landing” for the BPPT repeal.<sup>252</sup> Then, as the township reform and the repeal of the BPPT take effect, the long run cost savings and efficiencies that township reform is expected to produce could help offset the lost tax revenue the BPPT repeal would create.<sup>253</sup>

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MEDIA (Mar. 12, 2014), <http://indianapublicmedia.org/news/legislators-reach-compromise-business-property-tax-64246/>.

245. Interview by Abdul Hakim-Shabazz with Matthew Greller, Exec. Dir. and CEO, Ind. Assoc. of Cities and Towns, in Indianapolis, Ind. (Feb. 25, 2014) [hereinafter Hakim-Shabazz Interview], *available at* <https://soundcloud.com/indypolitics/matt-greller-indiana>.

246. *Id.*

247. *Replace Don’t Erase*, IND. ASSOC. OF CITIES AND TOWNS (Feb. 26, 2014), <http://www.citiesandtowns.org/ppt>.

248. Barb Berggoetz & Tony Cook, *Compromises Near on Indiana Biz Tax Cut, Pre-Kindergarten*, INDIANAPOLIS STAR (Mar. 11, 2014), <http://www.indystar.com/story/news/politics/2014/03/11/compromises-near-on-indiana-biz-tax-cut-pre-school/6292769/>.

249. Editorial, *Townships Out of Touch*, *supra* note 29, at A12.

250. *See infra* Appendix A.

251. It would be important not to rededicate all of the surplus money to offsetting a tax cut, but in situations where the township expenditures are a fraction of the cash balance (instead of the other way around), the county council would have the option to prioritize the county’s needs beyond the silo of traditional township responsibilities. While \$215 is estimated to be the surplus figure, the repeal of the BPPT is estimated at about a quarter of that. Cook, *supra* note 32, at A1.

252. Ind. House Speaker Brian Bosma, Press Conference (Feb. 20, 2014) (audio recording *available at* <https://soundcloud.com/indypolitics/house-speaker-brian-bosma>).

253. *See supra* Part III.

Including township reform in this debate would help accomplish the expressed intent of the legislators and local officials. The Governor and General Assembly get the tax repeal they seek which, they believe, will create a more business-friendly climate and lead to more Hoosier jobs.<sup>254</sup> Officials at the municipal and county level get an infusion of cash from the excess township balances, more local flexibility and control, and an opportunity to continue to find more cost savings in the delivery of government services.<sup>255</sup> It would also reduce the burden on the state to fund any “replacement revenue.”<sup>256</sup>

Township reform alone would not be the complete answer. There would still be issues to address, but, if combined with other proposals as a package/toolkit, the approach may be a viable option.<sup>257</sup> Other potential legislation that could be part of a toolkit of options for local governments could be addressing inaccurate distribution of local option income taxes, providing locals the authority to treat the Motor Vehicle Highway account and Local Road and Street account as interchangeable, and uncoupling the local option income tax from property tax requirements.<sup>258</sup> These are all proposals requested by IACT as a way to enhance local flexibility and efficiency.<sup>259</sup>

Repealing the BPPT would be a significant win for Governor Pence, the Indiana General Assembly and the business community.<sup>260</sup> It would enhance the business friendliness of Indiana and hopefully help attract jobs.<sup>261</sup> This repeal seems to be inevitable in one form or another, as such municipal and county officials are seeking replacement revenue and budget flexibility.<sup>262</sup> If packaged well, township reform may seem more palatable to these local officials than it has in the past. The sense of inevitability of repeal, any resistance to state-funded replacement revenue, and the concern with a county-by-county solution may be what is necessary to move IACT and county officials to stop their opposition to township consolidation. Splintering off these groups of traditional opponents would leave a smaller group of opponents left on the other side of the debate and put those who wish to repeal the BPPT without harming local governments in alignment with reform proponents.

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254. Cook, *supra* note 32.

255. *See supra* Part III.

256. Cook, *supra* note 32.

257. One particular issue that would need to be addressed would be that the cash infusion and cost savings of township consolidation would be delivered directly to the counties, not the municipalities who would also be seeing losses in revenue from the BPPT repeal. Municipalities would likely benefit from a larger share of the countywide tax levy if counties needed less, but a more direct compromise might need to be addressed in legislation.

258. 2014 Legislative Session, IND. ASSOC. OF CITIES AND TOWNS, <http://www.citiesandtowns.org/Legislation-Policy/2014-Legislative-Session> (last visited Feb. 26, 2014).

259. *Id.*

260. Cook, *supra* note 32.

261. DEBOER & STAFFORD, *supra* note 241, at 9-12.

262. Hakim-Shabazz Interview, *supra* note 245.

## CONCLUSION

Political packaging is not the only way township reform can be achieved. A renewed debate with an emboldened push can still make reform a reality, but it will not be easy. Grassroots support for such a policy-heavy, structural reform movement is not easy to come by, making a political firestorm with voters demanding the type of change we saw in 2007 unlikely.<sup>263</sup> For this reason, *KSR* dubbed Indiana's stagnant structure of local government "the quiet crisis."<sup>264</sup> It will take continued support from the business community, editorial pages, political blogs, and most importantly, it will take political courage from the Indiana General Assembly and the governor's office.<sup>265</sup> Former Governor Kernan and then-Chief Justice Shepard outline Indiana's choices: "Indiana can either embolden itself, designing new arrangements for its future prosperity, or continue to trudge along under a system of government erected 150 years ago."<sup>266</sup>

Indiana has a reputation for being adverse to change.<sup>267</sup> However, in the last decade, Indiana has accepted a number of major changes and proved that it can be done.<sup>268</sup> She must do it again. Indiana's township government structure is antiquated, inefficient, unaccountable, and defenders of this structure advance flawed arguments for its retention. The Indiana General Assembly should pass legislation transferring the duties of township trustees and advisory boards to county governments.

Simply put, "[w]e've got to stop governing like this."<sup>269</sup>

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263. Lawrance Interview, *supra* note 29 (noting the difficulty of getting voter engagement on the issue); *Indiana's Long Fight*, *supra* note 229.

264. COMMISSION REPORT, *supra* note 1, at 4.

265. Morton Marcus, *Opinion; Too Many Governments Plague Indiana*, IND. ECON. DIGEST (Sept. 1, 2008), <http://www.indianaeconomicdigest.net/print.asp?ArticleID=42959&SectionID=31&SubSectionID=83>.

266. COMMISSION REPORT, *supra* note 1, at 2.

267. See, e.g., Stephanie Wang, *Why We're Still Talking About Race*, INDIANAPOLIS STAR (Mar. 7, 2014), available at <http://www.indystar.com/story/news/2014/03/07/why-were-still-talking-about-race-in-indiana/6191765/> (quoting historian James H. Madison as saying "'The Indiana Way' . . . is that we are slow to change.").

268. Daniel C. Vock, *Indiana Highway Building Ramps Up as Daniels' Term Winds Down*, STATELINE (July 19, 2012), available at <http://www.pewstates.org/projects/stateline/headlines/indiana-highway-building-ramps-up-as-daniels-term-winds-down-85899399309> (referencing major changes in Indiana such as daylight savings time, property tax caps, increasing taxes to build Lucas Oil Stadium, becoming a "right to work" state, and leasing Indiana toll roads).

269. COMMISSION REPORT, *supra* note 1, at 1.

## APPENDIX A

Township Financial Report Summaries  
Completed in 2009 using 2008 reports

<b>County</b>	<b>Township</b>	<b>Operating Balance as a % of Expenditure</b>	<b>Cost to Provide \$1 in Direct Service</b>
Allen	Adams	130%	\$0.81
Allen	Aboite	19%	\$13.20
Allen	Cedar Creek		
Allen	Eel River		
Allen	Jackson	61%	\$2.40
Allen	Jefferson	88%	\$0.37
Allen	Lafayette		
Allen	Lake	159%	\$1.25
Allen	Madison	60%	\$17.47
Allen	Marion	124%	\$0.79
Allen	Maumee		
Allen	Milan	140%	\$1.65
Allen	Monroe	123%	\$0.93
Allen	Perry	26%	\$4.62
Allen	Pleasant	106%	\$1.73
Allen	Scipio		
Allen	Springfield	39%	\$2.32
Allen	St. Joseph	95%	\$7.34
Allen	Washington	95%	\$0.93
Allen	Wayne	10%	\$5.22
Bartholemew	Clay	86%	\$0.45
Bartholemew	Clifty	338%	\$0.72
Bartholemew	Columbus	-1%	\$1.43
Bartholemew	Flatrock	53%	\$0.49
Bartholemew	Hawcreek	25%	\$1.27
Bartholemew	Jackson	33%	\$10.60
Bartholemew	Rockcreek	43%	\$0.90
Bartholemew	Sandcreek	465%	\$0.55
Bartholemew	German		



Bartholemew	Harrison		
Bartholemew	Ohio		
Bartholemew	Wayne		
Boone	Eagle	471%	\$5.05
Boone	Sugar Creek	794%	\$2.05
Boone	Washington	503%	\$1.17
Boone	Center	110%	\$0.32
Boone	Clinton	177%	\$1.48
Boone	Harrison	218%	\$1.52
Boone	Jackson	299%	\$1.34
Boone	Jefferson	306%	\$0.75
Boone	Marion	67%	\$0.96
Boone	Perry	46%	\$0.14
Boone	Union	27%	\$3.41
Boone	Worth	11%	\$0.52
Brown	Hamblen	106%	\$0.78
Brown	Jackson	2%	\$0.83
Brown	Washington	101%	\$0.80
Brown	Van Buren		
Cass	Adams		
Cass	Bethlehem		
Cass	Boone	406%	\$1.32
Cass	Clay		
Cass	Clinton		
Cass	Deer Creek		
Cass	Eel	122%	\$3.29
Cass	Harrison		
Cass	Jackson	133%	\$5.29
Cass	Jefferson		
Cass	Miami		
Cass	Noble	362%	\$0.29
Cass	Tipton		
Cass	Washington	203%	\$0.55
Clark	Bethlehem		
Clark	Carr		
Clark	Charlestown	66%	\$1.05
Clark	Jeffersonville	157%	\$0.98

Clark	Monroe		
Clark	Oregon	88%	\$18.42
Clark	Owen		
Clark	Silver Creek	381%	\$50.12
Clark	Union	80%	\$106.02
Clark	Utica	43%	\$2.72
Clark	Washington		
Clark	Wood		
Clay	Brazil		
Clay	Cass	1685%	\$2.70
Clay	Dick Johnson		
Clay	Harrison		
Clay	Jackson	61%	\$6.56
Clay	Lewis	47%	\$1.84
Clay	Perry	62%	\$2.11
Clay	Posey	180%	\$0.92
Clay	Sugar Ridge		
Clay	Van Buren	135%	\$0.66
Clay	Washington	153%	\$0.99
Delaware	Center	3%	\$1.32
Delaware	Delaware	28%	\$6.69
Delaware	Hamilton	9%	\$2.00
Delaware	Liberty	40%	\$11.49
Delaware	Monroe	-5%	\$16.06
Delaware	Mt. Pleasant	61%	\$2.21
Delaware	Perry	169%	\$2.69
Delaware	Salem	49%	\$10.28
Delaware	Union	173%	\$1.45
Delaware	Harrison		
Delaware	Niles		
Delaware	Washington		
Floyd	Franklin	97%	\$0.74
Floyd	Georgetown	156%	\$5.08
Floyd	Greenville		
Floyd	Lafayette		
Floyd	New Albany		
Hamilton	Wayne	-42%	\$0.69

Hamilton	Adams	155%	\$0.64
Hamilton	Clay	75%	\$1.81
Hamilton	Delaware	12%	\$8.44
Hamilton	Jackson	17%	\$0.59
Hamilton	Noblesville	41%	\$1.03
Hamilton	Washington	111%	\$1.82
Hamilton	White River	77%	\$3.97
Hancock	Buck Creek		
Hancock	Vernon	73%	\$2.07
Hancock	Blue River	204%	\$2.50
Hancock	Brown	170%	\$0.74
Hancock	Green	222%	\$1.37
Hancock	Jackson	72%	\$22.03
Hancock	Sugar Creek	22%	\$0.62
Hancock	Center	133%	\$0.62
Hancock	Brandywine		
Hendricks	Brown	104%	\$34.18
Hendricks	Center	115%	\$0.88
Hendricks	Eel River	69%	\$1.95
Hendricks	Franklin	134%	\$0.17
Hendricks	Lincoln	108%	\$4.96
Hendricks	Union	142%	\$0.95
Hendricks	Clay	88%	\$0.13
Hendricks	Marion	53%	\$0.78
Hendricks	Middle	4%	\$1.62
Hendricks	Washington	39%	\$1.25
Hendricks	Liberty	242%	\$0.25
Hendricks	Guilford		
Johnson	Blue River	53%	\$0.80
Johnson	Clark	65%	\$1.60
Johnson	Franklin	208%	\$1.25
Johnson	Hensley	94%	\$30.09
Johnson	Needham	38%	\$2.17
Johnson	Nineveh	140%	\$3.38
Johnson	Union	705%	\$0.81
Johnson	White River	37%	\$5.37
Johnson	Pleasant		

Lake	Calumet	5%	\$5.80
Lake	Cedar Creek	4%	\$3.05
Lake	Center	475%	\$0.64
Lake	Eagle Creek		
Lake	Hanover	16%	\$3.20
Lake	Hobart	33%	\$4.32
Lake	North	10%	\$9.29
Lake	Ross	194%	\$21.10
Lake	St. John		\$0.98
Lake	Winfield		\$0.59
Lake	West Lake		
LaPorte	Cass		
LaPorte	Center	-9%	\$12.28
LaPorte	Clinton		
LaPorte	Coolspring	11%	\$17.62
LaPorte	Dewey		
LaPorte	Galena	150%	\$0.33
LaPorte	Hanna		
LaPorte	Hudson		
LaPorte	Johnson		
LaPorte	Kankakee	-7%	\$3.77
LaPorte	Lincoln	62%	\$4.65
LaPorte	Michigan		
LaPorte	New Durham	114%	\$0.30
LaPorte	Noble		
LaPorte	Pleasant		
LaPorte	Prairie		
LaPorte	Scipio		
LaPorte	Springfield	5%	\$3.72
LaPorte	Union	7%	\$0.81
LaPorte	Washington	28%	\$4.46
LaPorte	Wills	59%	\$0.59
Madison	Adams	57%	\$0.73
Madison	Anderson	29%	\$3.54
Madison	Boone	315%	\$0.68
Madison	Duck Creek	260%	\$1.30
Madison	Fall Creek	3%	\$1.98

Madison	Green	0%	\$0.47
Madison	Lafayette	28%	\$0.93
Madison	Monroe	169%	\$0.39
Madison	Pipe Creek	40%	\$1.50
Madison	Richland	102%	\$1.32
Madison	Stony Creek	65%	\$0.52
Madison	Van Buren	22%	\$1.73
Madison	Jackson		
Madison	Union	35%	\$1.87
Marion	Franklin	18%	\$1.86
Marion	Lawrence	19%	\$1.36
Marion	Perry	17%	\$0.25
Marion	Pike	11%	\$0.31
Marion	Warren	0%	\$12.49
Marion	Center	62%	\$4.61
Marion	Washington	201%	\$9.44
Marion	Decatur	23%	\$0.32
Marion	Wayne	26%	\$1.23
Monroe	Bean Blossom		
Monroe	Benton	39%	\$7.60
Monroe	Bloomington	10%	\$2.49
Monroe	Clear Creek	47%	\$5.92
Monroe	Indian Creek	94%	\$1.23
Monroe	Perry		
Monroe	Polk	275%	\$0.93
Monroe	Richland	60%	\$0.53
Monroe	Salt Creek	82%	\$1.84
Monroe	Van Buren	26%	\$1.19
Monroe	Washington	292%	\$0.31
Morgan	Green	144%	\$0.58
Morgan	Jackson	28%	\$2.29
Morgan	Ray	258%	\$1.52
Morgan	Baker	603%	\$2.54
Morgan	Madison	4%	\$2.85
Morgan	Brown	136%	\$0.67
Morgan	Gregg	217%	\$0.85
Morgan	Harrison	609%	\$6.99

Morgan	Jefferson	105%	\$0.30
Morgan	Monroe	839%	\$9.17
Morgan	Washington	42%	\$0.34
Morgan	Adams		
Morgan	Ashland		
Morgan	Clay		
Owen	Clay	186%	\$0.73
Owen	Franklin	127%	\$0.73
Owen	Harrison	54%	\$2.29
Owen	Jackson	160%	\$4.24
Owen	Jefferson	203%	\$0.53
Owen	Jennings	113%	\$1.11
Owen	Lafayette	181%	\$1.12
Owen	Marion	20%	\$0.32
Owen	Montgomery		
Owen	Morgan	20%	\$1.38
Owen	Taylor	370%	\$0.92
Owen	Washington	360%	\$5.59
Owen	Wayne	376%	\$0.96
Saint Joseph	Centre	1%	\$1.21
Saint Joseph	Clay	50%	\$0.30
Saint Joseph	German	17%	\$10.44
Saint Joseph	Greene	12%	\$4.21
Saint Joseph	Harris	20%	\$0.28
Saint Joseph	Liberty	151%	\$0.93
Saint Joseph	Lincoln	12%	\$1.72
Saint Joseph	Madison	24%	\$10.28
Saint Joseph	Olive	70%	\$0.51
Saint Joseph	Penn	16%	\$2.34
Saint Joseph	Portage	34%	\$2.10
Saint Joseph	Union	84%	\$3.56
Saint Joseph	Warren	50%	\$0.67
Shelby	Addison	122%	\$0.80
Shelby	Hanover	70%	\$3.62
Shelby	Hendricks	15%	\$2.75
Shelby	Jackson	61%	\$2.33
Shelby	Liberty	91%	\$3.18

Shelby	Marion	51%	\$2.24
Shelby	Moral	-6%	\$8.42
Shelby	Noble	79%	\$6.22
Shelby	Shelby	114%	\$0.58
Shelby	Sugar Creek	24%	\$1.43
Shelby	Union	133%	\$4.17
Shelby	Van Buren	237%	\$0.39
Shelby	Washington	19%	\$1.69
Tippecanoe	Fairfield	33%	\$7.20
Tippecanoe	Jackson	173%	\$1.78
Tippecanoe	Lauramie		
Tippecanoe	Perry	29%	\$2.43
Tippecanoe	Randolph	23%	\$2.52
Tippecanoe	Sheffield	385%	\$0.90
Tippecanoe	Shelby	41%	\$7.15
Tippecanoe	Tippecanoe	-9%	\$3.56
Tippecanoe	Union	17%	\$13.32
Tippecanoe	Wabash	36%	\$5.50
Tippecanoe	Washington	119%	\$2.03
Tippecanoe	Wayne	67%	\$4.75
Tippecanoe	Wea	19%	\$9.95
Vanderburgh	Armstrong	148%	\$0.16
Vanderburgh	Center	140%	\$1.41
Vanderburgh	German	3%	\$0.50
Vanderburgh	Knight	77%	\$0.95
Vanderburgh	Perry	140%	\$1.41
Vanderburgh	Pigeon	42%	\$2.15
Vanderburgh	Scott	19%	\$0.71
Vanderburgh	Union	57%	\$0.70
Vigo	Fayette	37%	\$2.52
Vigo	Linton	23%	\$1.92
Vigo	Nevins	136%	\$2.10
Vigo	Sugar Creek	158%	\$3.91
Vigo	Harrison	288%	\$1.79
Vigo	Last Creek	106%	\$29.44
Vigo	Otter Creek	29%	\$4.90
Vigo	Honey Creek	482%	\$4.06

Vigo	Pierson	46%	\$2.10
Vigo	Prairieton	356%	\$5.65
Vigo	Riley	139%	\$5.85
Vigo	Prairie Creek	68%	\$0.00

*If a listed township has no data, it means that township had not filed their 2008 reports with DLGF when they were requested in 2009. All studies on file with author.*