

# LEGISLATIVELY SPEAKING

## Hits, Misses and Looking Ahead to 2017



### Education

When the disastrous ISTEP test implementation in 2015 was revealed, it dwarfed most other education policies on the table. Though a few bills were able to make it through, it was primarily a year of treading water.

**HITS:** Scholarships for prospective top-of-their-class teachers. A second application period for voucher students, ensuring that the money truly follows the student if they change schools during the year. Teachers and schools will not be negatively impacted by the 2014-2015 ISTEP test results, but all-important accountability remains in place and a summer panel – with hopefully the Indiana Chamber at the table – will determine a more suitable testing future for our state’s students.

**MISSES:** Not fully recognizing that ISTEP needed a rebranding effort more than the state starting from scratch again. Expanding state-sponsored preschool beyond the select pilot counties when the need has been demonstrated.

**OUTLOOK:** “The current form of ISTEP as we know it will sunset July 1, 2017. There will be a statewide assessment moving forward but the type, name and format will be determined by the 23-person panel created by the 2016 legislation,” explains Caryl Auslander, Indiana Chamber vice president of education and workforce development. “The federal Every Student Succeeds Act states that there must be a statewide high-stakes assessment but allows for more local flexibility. All these issues will be discussed by the panel with a recommendation provided by the end of 2016.

“We are pleased that Senate Pro Tem David Long has stated publicly that he hopes that additional expansion to the pre-K program will happen in 2017. The real question will be how revenues and our state budget will look then. We are pushing for statewide expansion, but any sort of growth in the program would be a win for Hoosier children,” she notes.



House Education Chairman Bob Behning and Indiana Chamber lobbyist Caryl Auslander discuss where bills stand in the final days of the 2016 session.

### Infrastructure

The number one legislative priority in 2016 for the Indiana Chamber and its business members was enhanced funding for roads and transportation infrastructure.

**HIT:** Short-term funding totaling \$1.1 billion. Local governments will see about a \$600 million two-year infusion of funds while able to exercise new authority to raise wheel taxes or registration fees. The bulk of these new funds, \$430 million, will be local option income tax (LOIT) reserve account funds that locals already had coming to them. The state will see about \$328 million in supplemental funds over the same period drawn from state reserves and Major Moves 2020 monies.

**MISS:** Mechanisms for longer-term funding. Legislators’ election-year aversion to the tax increases necessary for a sustained roads program and a threatened veto from Gov. Pence to such a move sealed the fate for anything farther reaching and more forward thinking.

**OUTLOOK:** “We expect that long-term funding methods will be somewhat easier to address in a non-election year during the budget-writing session. And the commitment legislators made to do just that makes the ultimate outcome look very positive. All four legislative caucuses and the Governor’s office were engaged in 2016 and pledged to continue working toward solutions. That’s an excellent sign moving forward,” concludes Indiana Chamber President Kevin Brinegar.

## Economic Development and Labor

The Regional Cities program expansion was a positive step, but unfortunately the two biggest wasted opportunities were also in this area.

**HIT:** Additional funding (\$42 million) for a third Regional Cities award due to the success of the tax amnesty program. As it stands, the South Bend, Fort Wayne and Evansville regional proposals will be funded and the potential exists for the program to expand further in the 2017 budget-writing session.

**MISSSES:** Failing to pass civil rights legislation for the LGBT community doesn't put Indiana in the strong position it could have been, or arguably needs to be. Indiana must be seen as a welcoming place for all in order to retain and recruit top talent, new business investment and tourism. Despite bipartisan support, implementing a work share program barely even got out of the starting gate. Work share would benefit employees, employers and communities during an economic downturn.

**OUTLOOK:** "It is unclear how the LGBT civil rights issue will be addressed going forward, except that several cities and towns will be passing local civil rights ordinances in the near term in the absence of a statewide solution," Brinegar offers. "While this proved a bridge too far for legislators to cross in this election year, all of our state leaders ultimately must find a way to work together to craft a solution."

The optimism for work share is far less at this point. "It's hard to say what it will take to get the administration on board with work share. Partnering with the Indiana Department of Workforce Development (DWD) on a study clearly didn't do it," laments Mike Ripley, Indiana Chamber vice president of health care and employment law. "Failing a change of tone by DWD, we are fighting an uphill battle on an issue that seems like a no-brainer to the Chamber and many legislators in both parties."



The Indiana Chamber's Mike Ripley (left) talks policy in the Statehouse halls.



## Bills Removing Uncertainty

Too often ambiguity exists or not addressing a potential problem is left for the next time, but this year three successful proactive policies made current law more clear and hopefully effective.

**HITS:** Reform of the practice known as **lawsuit lending**, including setting interest rate caps.

Lawsuit lending is where a third party finance company loans money to a plaintiff in anticipation of a favorable settlement in a lawsuit. The finance companies justify a high interest rate because if the plaintiff does not win the suit, there is no requirement to repay the amount financed/loaned.

Raising the total caps for **medical malpractice** claims from \$1.25 million to \$1.65 million. An increase to a \$1.8 million cap occurs after December 31, 2018.

More appropriate **property tax assessments** of large retail facilities – aka "big box" stores – that will save the overall business community hundreds of millions of dollars due to not having to make up the difference for those undertaxed.

**OUTLOOK:** "The Chamber has always maintained that lawsuit lending has an adverse impact upon the settlement/litigation process. Now, more plaintiffs will be encouraged to settle and that will decrease court time and expenses for everyone involved," Ripley affirms.

"Hospitals and trial lawyers have been concerned that since Indiana had not raised the medical malpractice caps in more than 17 years, it was possible that the courts could rule that our system was unconstitutional. Meanwhile, the Chamber didn't want to do anything too extreme that might harm the system," he describes. "The new cap increases hit that necessary sweet spot and should be enough to alleviate unconstitutional concerns while at the same time not jeopardize the stability of the medical malpractice system."

The "big box" fix – the second one in as many years – may or may not be the last one we see in the short term, explains Bill Waltz, the Indiana Chamber's vice president of taxation and public finance.

"Ultimately, this issue will not be settled until an appeal or two go before the Tax Court and it is forced to look at purported comparable sales to determine whether that sold property is in the same market segment as the property under appeal.

"It will not be until this plays out that the concept of 'market segmentation,' as laid out in the new law, will have real meaning and definition in practical terms.

"At that point, the issue could come back to life, because somebody – either the assessor or the taxpayer – will not be happy," he surmises. "But just maybe, if the new market segmentation approach works as desired, neither party will be so aggrieved that they will feel the Legislature needs to take up the issue again. Let's hope it works out that way."