INDIANA LEGISLATIVE WRAP-UP

The Indiana General Assembly concluded the 2016 legislative session and adjourned *sine die* on Thursday, March 10. The adjournment occurred earlier than the statutory deadline of March 14. Overall, 223 bills ended up passing both houses this session. A bit of legislative analysis reveals the following numbers related to legislation this session:

* Senate bills filed: 411
* House bills filed: 430
* Senate bills that passed the Senate: 152
* House bills that passed the House: 116
* Senate bills that passed both chambers: 118
* House bills that passed both chambers: 105
* Total bills to pass this session: 223
* Bill passage rate: 27% of introduced bills passed

To view a list of bills filed and passed this year, [please click here](http://iga.in.gov/legislative/2016/bills/). Bills in blue font signify a live bill that passed, those in gray are ones considered dead. To view all House and Senate Resolutions, [please click here](http://iga.in.gov/legislative/2016/resolutions/).

**New Lieutenant Governor**

In a rare move mid-session, Lieutenant Governor Sue Ellspermann submitted her resignation letter to Governor Pence effective Wednesday, March 2 at 5:00 pm. Ellspermann resigned to seek the now vacant presidency of Ivy Tech Community College. Ivy Tech is the state's largest public post-secondary institution and the nation's largest singly accredited statewide community college system serving nearly 200,000 students annually.

In the resignation letter, Ellspermann outlined her many accomplishments during the past three years. Ellspermann noted there are many challenges that remain, but none more important than increasing the post-secondary credentials of Hoosiers to fill the skilled workforce needs of Indiana employers and improving the opportunities of prosperity for families.

Governor Pence nominated Eric Holcomb to succeed Ellspermann. Holcomb is a longtime Republican political operative, a former top aide to U.S. Sen. Dan Coats and former Gov. Mitch Daniels, and a past Indiana Republican Party chairman. He was in the midst of a primary battle to replace Coats when Gov. Pence tapped him to become lieutenant governor.

The rarely utilized [Article 5 of the Indiana Constitution](https://iga.in.gov/legislative/laws/const/" \l "document-article-5) controls the lieutenant governor nomination and confirmation process. Article 5, Section 10(b) of the Indiana Constitution reads, “Whenever there is a vacancy in the office of Lieutenant Governor, the Governor shall nominate a Lieutenant Governor who shall take office upon confirmation by a majority vote in each house of the General Assembly and hold office for the unexpired term of the previous Lieutenant Governor.”

Holcomb was sworn in on March 3 as Indiana’s 51st Lieutenant Governor.

**Religious Freedom**

As a result of last year’s intense religious freedom debate placing Indiana in the crosshairs of the national debate, all eyes were on Governor Pence and House and Senate Republicans as to how they would respond to calls to expand civil rights protections to the LGBT community. Multiple bills were introduced on both sides of the aisle, but it became clear any language that might move would do so in the Senate.

[Senate Bill 66](http://iga.in.gov/legislative/2016/bills/senate/66), authored by Sen. Mike Young (R-Indianapolis), repealed last year's Religious Freedom Restoration Act and replaced it with new protections for defined fundamental rights, including religious freedom, freedom of speech, freedom to assemble and the right to bear arms. Sen. Young introduced SB 66 in the Senate Judiciary Committee; however, Chairman Brent Steele (R-Bedford) announced there would be no vote taken and no testimony on the bill.

The Senate Rules Committee held a hearing on two bills: [Senate Bill 344](http://iga.in.gov/legislative/2016/bills/senate/344) and [Senate Bill 100](http://iga.in.gov/legislative/2016/bills/senate/100).

It was decided that SB 344 would be the vehicle for any legislation on the issue. SB 344 passed the Senate Rules Committee and proceeded to the Senate floor for Second Reading amendment and discussion. However, following a Senate Republican caucus meeting, it was announced SB 344 would not be called down by its author, Sen. Travis Holdman (R-Markle), effectively killing SB 344.

Advocates on both sides of SB 344 were not pleased with the bill. Religious conservatives had objected to any extension of civil rights to the LGBT community, saying it would protect someone’s sexuality above another person’s religious beliefs. LGBT advocates had called for unequivocal civil rights protections for gay and transgender Hoosiers, protesting carve-outs for religious groups.

Ultimately, religious conservatives claimed victory as the debate on SB 344 came to a halt this year. This issue is not going away at the Indiana General Assembly and will be debated for sessions to come.

**Road Funding**

During 2015, a number of issues arose across Indiana which increased the awareness for road and infrastructure funding. Coming into this session, the question was not if road funding mechanisms would be implemented, but how that would be accomplished.

From the outset, it was clear the House and Senate had very different proposals. Governor Pence was on board with the Senate plan.

[House Enrolled Act 1001](http://iga.in.gov/legislative/2016/bills/house/1001) called for off-setting tax hikes, tax cuts and tax shifting over several years to raise $1 billion for the Department of Transportation. The bill would raise the fuel tax 4 cents a gallon to 22 cents, the first fuel tax hike since 2002, and divert 4 cents of the sales tax on fuel from the general fund to roads and bridges. The bill also would hike the cigarette tax by $1 per pack, which would replace about $300 million a year in the general fund from the lost fuel sales taxes. Local road funding also would get a boost by assessing a registration fee on electric car owners of $100 a year and allowing cities to charge a "wheel tax" of up to $40 on registrations.

As a deal sweetener to tax-averse Republicans, the House added a personal income tax cut. Beginning in 2019 the rate would drop from 3.23 percent to 3.06 percent in 2026, a reduction of $367.3 million in revenue over that span. HB 1001 passed the House 61-36.

[Senate Bill 333](http://iga.in.gov/legislative/2016/bills/senate/333), authored by Sen. Carlin Yoder (R-Middlebury), was backed by Gov. Mike Pence and did not raise taxes. SB 333 would use $241 million in state surplus funds, $240 million through borrowing and $450 million in legislative appropriations to raise more than $1 billion over the next four years. SB 333 did not proceed through the end of session.

Also in the road funding mix was [Senate Enrolled Act 67](http://iga.in.gov/legislative/2016/bills/senate/67), another bill supported by Gov. Pence. SB 67, authored by Sen. Brandt Hershman (R-Buck Creek), would use excess income tax revenues to provide an immediate distribution of approximately $430 million for local governments. Localities would be required to use at least 75 percent of the funding on local road and bridge needs or put into a rainy day fund, while the remaining 25 percent could be used at the local government’s discretion.

In the end, the thought of increasing taxes in an election year most likely resulted in the death of the House plan. What passed this year was a package of proposals that is more limited in scope and is expected to provide roughly $800 million in new money, $230 million of which will go towards state highways and bridges over the next two years while offering about twice that much for local roads.

Local governments received a big win under the final plan, receiving about $580 million for improvements to roads and byways in cities, towns and counties across the state. But much of the money for local roads comes from local income tax collections held in state reserve accounts that many view as money that does not rightfully belong to the state.

Lawmakers agreed to take up a possible tax hike during next year's session while granting local governments authority this year to impose or increase their own vehicle registration taxes to pay for improvements.

**Regional Cities**

Caught up in the road funding debate was the Indiana Regional Cities initiative. Governor Pence first proposed the Regional Cities program last session. Last year lawmakers earmarked $84 million of tax amnesty money for the program. Originally only two regions were to be picked with each being awarded $42 million. However, in December Governor Mike Pence chose three winners (Evansville, Fort Wayne, South Bend) and because of the success of the tax amnesty program Pence asked lawmakers for another $42 million so each region got the full amount.

The additional $42 million for the third region became the debate in [Senate Bill 302](http://iga.in.gov/legislative/2016/bills/senate/302). Speaker Bosma and House leadership pushed back on the additional $42 million which became quite the controversy as session continued on. SB 302 was killed in the House, although the language was amended into other bills in order to keep the measure alive for conference committee.

The road funding bill, House Enrolled Act 1001, ended up with the additional $42 million sought by Gov. Pence. Despite initial opposition from House Republicans, Pence’s request for an additional $42 million in funding for his Regional Cities economic development efforts was approved.

**Education**

In January, the first two bills to pass this session and be signed by the governor dealt with education issues. Governor Pence signed into law the first two bills to pass both chambers this session in response to issues encountered during the statewide ISTEP test. The first, [Senate Enrolled Act (SEA) 200](http://iga.in.gov/legislative/2016/bills/senate/200), authored by Sen. Dennis Kruse (R – Auburn), Sen. Luke Kenley (R – Noblesville), and Sen. Ryan Mishler (R – Bremen), holds schools harmless for their A-F accountability grade for the 2014-2015 year to accommodate the transition to more rigorous academic standards. The second, [House Enrolled Act (HEA) 1003](http://iga.in.gov/legislative/2016/bills/house/1003), authored by Rep. Robert Behning (R – Indianapolis), ensures that teacher bonuses and evaluations are not negatively impacted by the transition to a new test this year.

In addition to the ISTEP hold harmless legislation, lawmakers passed legislation, HEA 1395, to create a panel aimed at replacing ISTEP in favor of a shorter and cheaper alternative. House Education Chairman Robert Behning (R-Indianapolis) and Senate counterpart Dennis Kruse (R-Auburn) decided on a committee of educators, with three seats reserved for a parent, a business leader and a State Board of Education member.

**Alcohol Matters**

Retiring House Public Policy Chairman Tom Dermody (R-LaPorte) had a bevy of issues to address this year, including another attempt at legalizing Sunday sales of carryout alcohol in Indiana. Once again, Indiana will not allow Sunday sales of carryout alcohol at grocery, liquor and convenience stores due to the failure of [House Bill 1399](http://iga.in.gov/legislative/2016/bills/house/1399). However, just about every alcohol matter this session was combined into [House Enrolled Act 1386](http://iga.in.gov/legislative/2016/bills/house/1386) during the second half of session.

HEA 1386 contains provisions to include adding new alcohol permits for a few local communities. The provision will allow the Indiana Alcohol and Tobacco Commission (ATC) to issue new permits, specifically three-way licenses that allow restaurants to serve beer, wine and liquor by the glass, for growing communities in Whitestown, Lebanon, Zionsville, Westfield, Carmel and Fishers.

The bill also allows artisan distilleries to sell its products (vodka, rum, gin, etc.) for carry out on Sundays. Customers will be limited to six 750-milliliter bottles per transaction. Many of these distilleries are marketed as tourist attractions, and owners say Sunday sales are necessary to complete a visitor’s experience. The measure means Hoosiers could purchase beer, wine and liquor for carry out on Sundays, but only from a microbrewery, a farm winery or an artisan distillery. Wineries were granted permission to sell on Sundays in 1971 and breweries in 2010.

HEA 1386 also changed the law to allow the sale of decorative alcohol bottles commemorating the 100th anniversary of the Indianapolis 500.

One of the provisions in HEA 1386 which garnered most of the attention is language to allow the Department of Natural Resources to obtain state park alcohol permits. A proposed beachfront development at Indiana Dunes State Park includes plans to utilize an existing Dunes pavilion to benefit the community as a banquet and entertainment venue. A change in law was necessary for the DNR to allow the operator to sell alcohol at the venue.

**Healthy Indiana Plan**

[Senate Enrolled Act 165](http://iga.in.gov/legislative/2016/bills/senate/165), authored by Sen. Pat Miller (R-Indianapolis), codifies HIP 2.0, the state’s health care program. HIP 2.0 went into effect last February. It uses money from the federal Affordable Care Act to provide health insurance to low-income Hoosiers. It’s early in the second year of a three year demonstration, approved by the federal government.

Supporters of the legislation maintained the program needed to be codified in order to protect it from future threats of changes or an outright closure of the program.

**Medical Malpractice**

Indiana Senate Republicans included in their session agenda changes to address the state’s medical malpractice laws. Indiana is one of few states that impose a cap on what can be recovered by a medical malpractice plaintiff. Senate Republicans made it a priority to increase the cap because they feared it would ultimately be ruled unconstitutional. Illinois’ Supreme Court struck down a similar law in 2010, and caps have also been ruled unconstitutional in at least five other states.

Trial lawyers continue to advocate increasing the caps or even removing them altogether. Legislation last year failed. This year, retiring Sen. Brent Steele (R-Bedford) introduced [Senate Bill 152](http://iga.in.gov/legislative/2016/bills/senate/152) in an effort to find a compromise between the doctors, hospitals and trial lawyers. However, SB 152 did not make it out of the Senate Judiciary Committee due to a lack of consensus.

In the second half of session, [Senate Enrolled Act 28](http://iga.in.gov/legislative/2016/bills/senate/28) which originally was a bill dealing with the maximum height of certain fences, was stripped of its introduced language and became the vehicle for medical malpractice reform. The newly amended SEA 28 would increase the current $1.25 million limit to $1.65 million next year and then to $1.8 million in 2019. This is the first increase in the compensation cap in nearly 18 years.

The original proposal imposed incremental increases every four years until 2031 to keep up with inflation, but it saw backlash from medical associations that said doctors would not be able to absorb the costs because their malpractice insurance premiums would also rise.

**Retirements and Elections**

In recent years the Indiana General Assembly has experienced an increase in lawmaker retirements. 2016 is no different with sixteen lawmakers announcing they will not run for re-election in 2016. Current Congressmen Marlin Stutzman and Todd Young are seeking the seat of retiring U. S. Senator Dan Coats. With Stutzman and Young giving up their current seats in Congress, a number of state lawmakers are running to succeed them in the third (Stutzman) and ninth (Young) congressional districts. However, not all of those that are running for Congress will have to give up their current Statehouse seat if they are not up for re-election in 2016.

Running for the 3rd Congressional District

* Sen. Jim Banks (R-Columbia City)
* Sen. Liz Brown (R-Fort Wayne)

Neither Banks nor Brown is up for re-election in 2016, so either one can return to their State Senate seat if unsuccessful.

Running for the 9th Congressional District

* Sen. Erin Houchin (R-Salem)
* Sen. Brent Waltz (R-Greenwood)

Waltz is up for re-election in 2016 and is giving up his State Senate seat. Houchin is not up for re-election in 2016 and can return to her State Senate seat.

Also in the 9th Congressional race is current Attorney General Greg Zoeller. State Senator Randy Head (R-Logansport), among other candidates, is running for the open Attorney General’s office. Head can return to his Senate seat if unsuccessful.

Also among those either retiring or seeking a new office include:

* Sen. Jim Arnold (D-LaPorte)
* Sen. John Broden (D-South Bend)
* Sen. Pat Miller (R-Indianapolis)
* Sen. Earline Rogers (D-Gary)
* Sen. Scott Schneider (R-Indianapolis)
* Sen. Brent Steele (R-Bedford)
* Sen. Carlin Yoder (R-Middlebury)
* Rep. Tom Dermody (R-LaPorte)
* Rep. Tim Harman (R-Bourbon)
* Rep. Donna Harris (D-East Chicago)
* Rep. Eric Koch (R-Bedford), running for Sen. Brent Steele’s seat.
* Rep. David Niezgodski (D-South Bend), running for Sen. John Broden’s seat.
* Rep. John Price (R-Greenwood)
* Rep. Rhonda Rhoads (R-Corydon)
* Rep. Randy Truitt (R-Lafayette)

**Indiana’s Primary to be held May 3, 2016.**

**IDOI Bill**

[HEA 1136](http://iga.in.gov/static-documents/2/0/1/5/20151c51/HB1136.06.ENRS.pdf), the IDOI omnibus bill, authored by Rep. Matt Lehman (R) and co-authored by House Insurance Chairman Martin Carbaugh (R – Ft. Wayne), does, in pertinent part, the following:

-Amends the application of the annual audited financial report law to domestic insurers.

-Provides for suspension of a nonresident insurance producer license and a nonresident public adjuster license if the home state license is not effective in good standing.

-Amends the application of the annual audited financial report law to domestic insurers.

-Specifies certain requirements for a domestic insurer that is part of an insurance holding company system, including requirements related to financial disclosures and activities.

-Defines and specifies requirements for supervision of an internationally active insurance group, including determination of a supervising regulatory official.

-Specifies certain felony penalties for violations of the insurance holding company system law.

-Defines "small employer" for purposes of health insurance plans that are not grandfathered under federal law.

-Allows the commissioner, in insurer supervision proceedings, to pursue insurance proceeds for certain acts or omissions of officers and directors of the supervised insurer.

The bill passed out of the House and Senate and is now under consideration by the Governor.

**Lawsuit Lending**

After a handful of years, the Indiana General assembly finally passed a bill regulating the consumer legal finance industry. [HEA 1127](http://iga.in.gov/static-documents/1/5/4/3/15434a51/HB1127.05.ENRS.pdf), authored by Rep. Matt Lehman (R-Berne), subjects consumer legal finance companies to regulation by the Department of Financial Institutions. In pertinent part, the companies must comply with certain aspects of the UCC including a 36% annual cap on interest rates. The bill passed out of the House and Senate and is now under consideration by the Governor.