

**LEGISLATIVE COMMUNICATIONS**

In the spring/summer, watch for three key components of the Chamber’s ongoing legislative communications effort:

**Interim Update**

The *Interim Update*, issued monthly, includes the latest legislative, regulatory and judicial developments at the state and federal levels.

**2019 Legislative Vote Analysis**

Want to know if your legislator voted for pro-economy, pro-jobs legislation? The answers will be revealed in the *2019 Legislative Vote Analysis*, which will be published in June.

**2019 Return on Investment**

In this annual fiscal assessment, learn what the Chamber’s lobbying efforts at the Statehouse mean to your pocket.

**RESOURCES**

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**CHAMBER SCORES MANY VICTORIES FOR MEMBERS; LEGISLATORS FAIL COMPLETELY ON ONE FRONT**

By Kevin Brinegar, president and CEO



As you read this 2019 *Final Legislative Report*, you will find a myriad of substantive victories recorded by the Indiana Chamber’s advocacy team in every key issue area but one. Despite continued public and private pressure, legislators again ignored common sense smoking reforms despite evidence of a crisis (more on that later).

In the truly satisfying category, We saw multi-year efforts make it across the finish line with the transferability of the Venture Capital Investment Tax Credit, more high-speed broadband access for rural areas, pre-K expansion to all 92 counties and a hate crimes sentencing statute.

Workforce development was also appropriately top of mind. Among the notable achievements: Doubling the state’s investment in the Next Level Jobs training grants for employers to retrain their employees and expanding the Employer Aid Readiness Network (EARN) Indiana program to high school students in addition to college. EARN Indiana provides financial assistance to employers who provide paid internships for qualified Hoosier students.

On the tax front, the “double income tax” is eliminated for Indiana companies that sell services to out-of-state customers, and the business personal property tax exemption threshold is now twice as much – at \$40,000 in machinery and equipment. Meanwhile, more companies can take advantage of the Hoosier Business Investment Tax Credit. Previously, the credit was only in effect when purchasing new manufacturing equipment.

An ongoing long-term push for the Chamber centers on water resources, which matter to every Hoosier – and for some companies is integral to the very nature of the business. The Water Infrastructure Assistance Fund and program – with \$20 million appropriated annually – will promote sustainability of water resources and attempt to keep costs as low as possible.

As with every legislative session, the Chamber team was also forced to play defense against anti-business, anti-jobs legislation. Some of the policies we helped defeat: legalizing medicinal marijuana, raising the state minimum wage to \$15, multiple health care mandates on small employers and a worker’s compensation increase.

We celebrate all of these legislative victories and the many more outlined in this report because they will further the goals of our *Indiana Vision 2025* plan and enhance Indiana’s position as the best state in the Midwest to do business and one of the very best in the entire country.

**While State’s Smoking and Vaping Crisis Grows, Legislators Do Nothing**

But we also need to loudly cry foul for what didn’t happen. We believed a positive outcome on the tobacco/nicotine front was possible – based on talks before session – but it ended up being only another smokescreen. No raising the legal smoking age to 21 or increasing the cigarette tax. Still what may have been the most maddening development was the lack of true commitment to address the state’s vaping epidemic at our middle and high schools, which is only going to get worse until something is done. I encourage you to read the details of how this played out in the health care write-up.

Looking ahead to 2020, we will be back even more focused and forceful on the need for smoking reforms – both for the health of Indiana’s young people and residents, and to assist businesses with high health care costs, absenteeism and lost productivity. We will be challenging Gov. Holcomb and legislative leaders to do the right thing on smoking and vaping; the failure to act can’t continue.

- EDUCATION AND WORKFORCE: Teachers and Talent Get Top Billing . . . 2
- ECONOMIC DEVELOPMENT, INNOVATION AND TECHNOLOGY:  
Significant Progress for Indiana’s Ability to Attract the Best . . . . . 3
- TAXATION: Few Headlines, Yet Much Tax Policy Success. . . . . 4
- ENERGY, ENVIRONMENT AND INFRASTRUCTURE: Very Successful  
But With Weird Twists and Turns . . . . . 5
- LABOR AND CIVIL JUSTICE: Key Wage Assignment Fix, UI Changes;  
Worker’s Comp Increase Thwarted and More. . . . . 6
- HEALTH CARE: Legislators Snuff Out Smoking Reforms Yet Again;  
Good Outcomes on Opioids, Marijuana . . . . . 7
- LOCAL GOVERNMENT: Built in Resistance to Township Reform;  
Good Bill Reigns in Municipalities . . . . . 8
- SCORECARD . . . . . 12

# TEACHERS AND TALENT GET TOP BILLING

By Jason Bearce, vice president of education and workforce development

With strong backing from the Indiana Chamber, state lawmakers doubled down on proposals aimed at better retaining Indiana's classroom teachers, skilling up Hoosier workers and promoting closer alignment between the state's education and employment sectors.

## Teachers Are Head of the Class ... on Education Priorities

On the teacher front, the state boosted school funding by \$539 million over the biennium (a 2.5% annual increase) and saved school districts \$70 million per year by paying down teachers' retirement fund obligations. Lawmakers also created new grant programs that provide increased mentoring support (HB 1009) for new teachers and "career ladders" (HB 1008) that tie compensation to teachers' level of responsibility and proven effectiveness in the classroom. In contrast to traditional teacher pay scales that are based almost entirely on years of experience, the career ladder concept is intended to keep Indiana's best teachers in the classroom longer by providing alternative paths – beyond becoming administrators – for educators to earn more.

While observers acknowledged that these investments will not fundamentally change teacher salaries in Indiana, most seemed to accept that the Governor and General Assembly did as much as they could for teachers during a session when it was widely accepted that the top budget priority was addressing a shortfall at the Indiana Department of Child Services that totaled several hundred million dollars over the biennium.

It's also worth noting that despite allocating hundreds of millions in new state dollars to K-12 education over the past decade, average teacher salaries have stagnated in Indiana and Hoosier teachers often earn significantly less than their peers in other states. This trend reflects the strong role local school leaders have in determining how state funding is spent – whether that's paying their teachers more, hiring more administrators or using it for other non-classroom expenditures.

In response, the General Assembly passed HB 1003 in an effort to increase public transparency around the degree to which state dollars are being spent on education versus operational expenses. House Bill 1003 establishes a target of no more than 15% of the revenue deposited in a school district's education fund being transferred to its operations fund. School corporations that exceed that 15% threshold may be required to explain why they were unable to meet the target, and state financial experts may make recommendations to drive more dollars to the classroom.

## Indiana's Got Talent ... Just Not Nearly Enough

Teachers are unquestionably a key factor in developing Indiana's next generation of talent, but lawmakers didn't stop there with their efforts this session. The General Assembly passed proposals impacting both ends of the state's talent pipeline. This includes increasing statewide access to

pre-kindergarten programs (HB 1628), expanding state-supported internship opportunities for high school and college students (HB 1629) and doubling state funding for Indiana's Next Level Jobs grants (HB 1002) that pay for individuals to earn tuition-free certificates in high-demand job sectors and reimburse employers for training and retaining their workers.

Often called the Governor's workforce measure, HB 1002 contained a number of provisions in its original form – most of which were focused on strengthening career-technical education opportunities for high school students. However, as the session progressed HB 1002 became a common home for even more proposals that didn't make it through the process as standalone bills, including HB 1404 (School Accountability) and SB 420 (Industry Collaboration Organizations).



House Bill 1404 called for the State Board of Education to make changes to the state's K-12 accountability system, which assigns A through F letter grades to help parents and community members gauge the performance of their local schools. For high schools, the current system assigns letter grades based primarily on student test scores and graduation rates. Specifically, the measure proposed including additional "postsecondary outcome" measures, including student enrollment in postsecondary education, completion of industry-recognized credentials and military service. With the Chamber's backing, the goal was to transition away from an over-reliance on standardized state assessments – which often are not valued by either employers or colleges – toward more meaningful measures that offer a better indication of whether Indiana students are on track for success after high school.

Passed by House lawmakers with support from employers and many local educators, HB 1404 met strong resistance in the Senate due to concerns about data tracking and whether schools have any responsibility for how their students fare after graduation. As a strong advocate for outcomes-based accountability, the Chamber maintained that high schools play a critical role in ensuring students are prepared for post-graduation success and the state should use relevant data to drive the results that matter most.

In the end, the language passed in HB 1002 took a different path to the same goal: creating a 15-member school accountability panel charged with recommending new indicators for high school accountability to the General Assembly by October 30 of this year. Co-chaired by two members of the State Board of Education, the panel also includes representatives from the business community, including a designee from the Indiana Chamber.

Separately, SB 420 took a similarly winding path through the Legislature. The bill was intended to incentivize employers to work collaboratively to increase career-technical education and work-based learning opportunities for students. However, after passing the Senate with broad support, the bill stalled in the House before ultimately ending up in HB 1002 in modified form. The Chamber saw HB 1404 and SB 420 as potentially complementary measures that could promote closer alignment between the state's education and workforce sectors. As such, the Chamber worked closely with lawmakers to resurrect the key provisions from both bills in the HB 1002 conference committee report that ultimately passed both houses and was signed by the Governor.

## Call for Greater Alignment ... Not Rearranging Deck Chairs

The need for closer alignment at all levels was a recurring theme throughout the session: between different branches of state government, between K-12 and higher education, and between educators and employers. Lingering concerns and frustration on this issue resulted in the passage of bills that added legislators to the Governor's Workforce Cabinet (also in HB 1002), created an interim study committee to review Indiana's existing governance structures for education policymaking (SB 546) and moved up the appointment date for the state's secretary of education – historically known as the superintendent of public instruction – from 2025 to 2021 (HB 1005).

Long championed by the Chamber, Indiana's change from an elected to an appointed K-12 schools chief began with legislation passed by the General Assembly in 2017. State Superintendent Jennifer McCormick's announcement in late 2018 that she would not seek re-election cleared the way for Indiana to join the 38 other

Continued on page 8

# SIGNIFICANT PROGRESS FOR INDIANA'S ABILITY TO ATTRACT THE BEST

By Adam Berry, vice president, economic development and technology

Indiana Chamber priorities in economic development and technology received a boost during the 2019 legislative session. In particular, progress was made in the areas of talent, place, capital and innovation.

## Talent: Hate Crimes Bill Bolsters Hoosier Hospitality

Senate Bill 198 makes Indiana a state that has a hate crimes statute. It makes Indiana more attractive to talented individuals – of all races, religions, ethnicities and lifestyles – who employers want to recruit and a lot less welcoming to those of a criminal nature. This bill authorizes trial court judges to increase sentences of individuals whose crimes were motivated by bias toward the victim's creed, color, disability, national origin, race, religion, sexual orientation or other "characteristic, trait, belief, practice, association or attribute," including sex and gender identity.

In what might be considered the most controversial bill of this year's session, SB 198 was not the "original" bias crimes measure. The Chamber and key members testified in support of SB 12, a comprehensive bias crimes bill, during a February hearing before the Senate Public Policy Committee, which passed the proposal 9-1, with Sen. Phil Boots (R-Crawfordsville) voting no. The full Senate, however, did not show SB 12 the same love, ultimately passing watered-down legislation that the Chamber deemed unacceptable and likely unconstitutional.

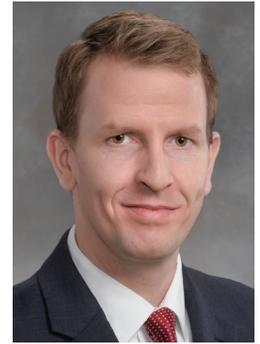
Fortunately, Speaker Brian Bosma and House Republicans had a "secret plan" to get Indiana off the list of five states without a hate crimes law. In a skillful move, House leadership amended SB 198 on second reading to include the crucial hate crimes language and the bill was passed the next day by a vote of 57-39. The Senate then elected to concur on the measure, sending it to the Governor's desk.

Upon being signed into law, legal and judicial experts began weighing in and affirming that the broad protections in the bill, in addition to the referred list of categories, translates to coverage for ALL Hoosiers. Former Indiana Supreme Court Justice Frank Sullivan, Jr., a Democrat appointed to the bench in 1993 by Gov. Evan Bayh, said:

"The language of the bill is clear that acts of bias that are specifically referred to are not exclusive: Gender and gender identity, as well as age, citizenship, marital status, etc. are authorized to be used as an aggravating circumstance in determining a sentence every bit as much as race or religion or sexual identity. Just because a characteristic or trait is not specifically listed does not prevent it from being used to impose a harsher sentence. That was the conclusion reached by the



Chamber President Kevin Brinegar (r) advocated before the Senate for a hate crimes law, saying it was the right thing to do and would help businesses with talent recruitment.



Indiana Supreme Court in its unanimous *Witmer v. State* decision, a case in which I participated while a justice on the court.

"...To be clear: If a person thinks that under this law, he or she can commit a crime with bias due to a victim's gender or gender identity without risk of a harsher sentence, that person is wrong."

The Chamber thanks the entire business community for rallying behind the bias crimes initiative with special thanks going to Doug Boles (Indianapolis Motor Speedway), Chris Cerone (Zimmer Biomet), Dan Emerson (Indianapolis Colts), Larry Gigerich (Ginovus), Gretchen Gutman (Cook Group), John McDonald (Clear Object), Jim Morris, (Pacers Sports & Entertainment), Michael O'Conner (Lilly), and John Thompson (Thompson Distribution, First Electric Supply Co.) for being among the many Chamber members who testified in committee and/or contacted legislators directly.

## Place: Broadband Expansion to Bring Rural Indiana Online

Senate Bill 460 also makes Indiana a better place to live, work, and start a business by facilitating the expansion of broadband into unserved, rural areas. The Chamber strongly supported this legislation because high-speed broadband is critical to long-term economic development.

Representative Ed Soliday (R-Valparaiso) became the champion of SB 460 and ensured that the bill's final version had support from all of the key stakeholders; namely telecommunications companies and Indiana Electric Cooperatives.

Broadband expansion received a big boost late last year when Governor Holcomb announced that \$100 million of the \$1 billion received from the renegotiated toll road lease would be set aside for the effort. Senate Bill 460 codifies the framework for how the grant dollars will be distributed later this year.

Special thanks goes to Pete Nemeth (Comcast), as well as Matt Long and Bill Soards (AT&T Indiana) for helping get this crucial legislation across the finish line.

## Capital: Persistence Pays Off

Long overdue economic development priorities also will become law and make Indiana more attractive for investment and businesses looking to relocate. Provisions within SB 563, the Governor's economic development bill, and HB 1405, legislation exempting new data centers from sales tax, are products of the Chamber's technology and economic development policy committees, chaired by John McDonald and Larry Gigerich, respectively.

Of critical importance to the Chamber was making the Venture Capital Investment (VCI) tax credit transferable, i.e. sellable. The Chamber has advocated for VCI assignability for several years, but it was repeatedly blocked. In this budget session, the Chamber took full advantage of each committee hearing to highlight the importance of VCI assignability for attracting out-of-state capital.

VCI assignability is in the final version of SB 563, but early stage companies and entrepreneurs will have to wait another year to experience its payoff. That's because in April, the Senate removed an \$8 million appropriation to the 21 Fund (21st Century Research and Technology Fund) and to get it back, the Governor's office agreed to a one-year delay to VCI assignability. This bargain indicates VCI assignability will result in more investment activity in the very near future.

Similarly, HB 1405 is sure to spur previously unseen economic development in a variety of ways. Indiana is not considered by data

Continued on page 9

# FEW HEADLINES, YET MUCH TAX POLICY SUCCESS

By Bill Waltz, vice president of taxation and public finance

While most of the discussion this session was not about tax issues, there were plenty of things for those focused on tax and public finance to be pleased about. There was a very positive tax policy change impacting service companies located in Indiana that do a lot of out-of-state business. There was a significant adjustment to the business personal property tax exemption for small businesses that own only a small amount of property.

An important bill was passed to govern how sales tax is collected on internet retail transactions. Seriously flawed legislation attempting to undo previous progress on the “big box” assessment issue was defeated. And after a series of productive discussions with the Indiana Department of Revenue (DOR), some troubling provisions were removed from its agency bill.

These items drew little attention but were nonetheless significant and helped comprise a successful session on the tax front. Of course, there were many other tax related and public finance matters associated with other, often more publicized legislation, and several of those are covered in other parts of this report.

## Market Based Sourcing – SB 563

One element of the Governor’s economic development bill, SB 563, made a significant change to tax policy regarding how Indiana apportions income derived from the sale of a service – what is taxable in Indiana. The provisions switch Indiana from what is known as the cost of performance (COP) method to the market-based sourcing (MBS) method.

The COP method taxes a company based on where the cost of performing that service is incurred. Under COP, a company that produced the service outside of Indiana and sold it to an Indiana customer is not taxed here. But a company that produced the service in Indiana and sold it to a customer outside of Indiana paid tax on that income. Meanwhile, under MBS, a company’s income is apportioned based on where their customer is located, not where the cost of producing the service is incurred. So, a company will only pay tax on income generated by sales of the service to Indiana customers; those companies that are located outside of Indiana will have to pay tax on the income they generate from sales of a service to Indiana customers. The COP method actually penalized Indiana-based companies that do business outside Indiana by making them pay in Indiana, under the COP method, and again on that same income to states that apply MBS.

By switching to MBS, Indiana eliminates this potential double taxation of Indiana companies and now requires out-of-state companies to pay tax when their customers are in Indiana. Many states have made this switch in recent years. It is more sensible from an economic development standpoint and simply fairer. Besides helping Indiana companies directly and collecting revenue from companies outside Indiana, the switch also removes the disincentive for a service-based company to locate in Indiana. Previously, out-of-state companies were effectively discouraged from locating in Indiana because they would have been taxed on all their income once they moved here (instead of it being apportioned based on where their customers are located).

The Chamber worked closely with the administration in

contemplating the scope and effect of this switch of apportionment methods. And again, it constitutes a very positive change in Indiana’s tax policy. Special thanks go to Justin McAdam, policy director and general counsel, Office of Management and Budget, for taking the lead on this effort and shepherding it through.



## Business Personal Property Tax Exemption – SB 233

In 2015, the Chamber advocated strongly and successfully for a “de minimus” exemption for small business taxpayers that had been required to pay the business personal property tax on a nominal volume of property. These businesses were burdened with significant costs in preparing returns even though they would only owe a very small amount in taxes. The threshold for triggering who qualifies for this “de minimus” exemption was set at \$20,000, based on the purchase price of the property.

If you paid less than \$20,000 for all the tangible property/equipment for your business, you were exempt and did not have to prepare a return or pay any tax. This was a great step in alleviating small businesses from the compliance cost of preparing a return when those costs exceeded the tax owed. The only problem was there turned out to be a lot of people on the cusp of that \$20,000 threshold who were still paying as much to their accountant as they were in tax. There came a recognition that the threshold could and should be raised in order to better accomplish the original objective of the initial legislation.

Senate Bill 233, authored by Sen. Aaron Freeman (R-Indianapolis), provided the answer. The Chamber promoted the measure, which now doubles the exemption, raising the threshold to \$40,000. This is a meaningful adjustment – one that eliminates some 27,000 returns and brings thousands more small businesses under the exemption, saving them each hundreds of dollars in compliance costs. And since the average tax liability of these

newly qualifying businesses was only about \$145, the legislation causes no substantial loss in local tax revenue.

## Marketplace Facilitators – SB 322 and HB 1352 (Passed in HB 1001)

Last year the U.S. Supreme Court issued a long-anticipated decision reversing a 1996 decision that prevented states from requiring online retailers to collect the state’s sales tax. The 2018 Wayfair decision cleared the way for states to pass laws that placed the obligation on remote sellers to collect sales tax when they sell their wares online. Indiana already had such a law in place, but like all the state’s that were set up to place the obligation on the sellers to collect it, revenue officials realized that in order to achieve a reasonable level of compliance, they needed to place the collection obligation on the Amazons, Etsys and Wayfairs of the internet, aka the “marketplace facilitators” whose platforms actually bring the buyers and sellers together.

It is via these platforms that the transactions actually occur. It only makes practical sense to have the sales tax collected at the point of



Before the session began, Bill Waltz (r) met with the Chamber’s Tax Committee, which helps determine the organization’s policies and positions on fiscal matters.

Continued on page 10

# VERY SUCCESSFUL BUT WITH WEIRD TWISTS AND TURNS

By Greg Ellis, vice president of energy and environmental policy

The business community had quite a few wins with good legislation coming to fruition and some bad legislation halted. It was clear that most members of the General Assembly read the Indiana Chamber's legislative agenda and contemplated our members' wants and needs. I would like to thank them for their consideration. Let's look at the highlights of successes and tackle the unusual things that happened during this long session.

## Infrastructure Galore: Water, Roads and Utilities

Once again, Sen. Ed Charbonneau (R-Valparaiso) along with Rep. Ed Soliday (R-Valparaiso) took on water resource issues. The results are consistent with the goals of Chamber's agenda and the Indiana Vision 2025 plan, and support has continued from the last two legislative sessions. In addition to water, there were other infrastructure bills that were important to Chamber members.

Senate Bill 4 (Water and Wastewater Utilities and Runoff), authored by Sen. Charbonneau, deals with storm water, wastewater and drinking water. It establishes a Storm Water Management Task Force to study issues related to storm water management systems. The bill provides that the Indiana Finance Authority (IFA) shall coordinate the executive branch activities related to the state's water programs. It requires the IFA to divide Indiana into study areas and to hold annual meetings with the officers and employees of the water and wastewater utilities located in each study area. The bill also requires every water utility to perform an audit of its water distribution system to determine the causes of the water utility's "lost water". The Chamber supported this and the measure received unanimous support in both the Senate and House.

House Bill 1406 (Water Infrastructure Assistance Fund and Program), authored by Rep. Soliday, built upon the foundation of SEA 416 from 2017, which created the Infrastructure Assistance Fund. The bill provides that money from certain sources in the Water Infrastructure Assistance Fund is continuously appropriated for the purposes of the law concerning the Water Infrastructure Assistance Program. This year \$20 million was allocated to the fund. The bill requires the IFA to establish a project prioritization system and project priority list for the purposes of awarding loans, grants and other financial assistance from the Water Infrastructure Assistance Fund. It also requires the IFA to set aside a certain percentage of the money appropriated to the fund designated for small utilities. While the \$20 million allocation sounds like a large sum of money, this fell short of the estimates that were in the Chamber's 2014 water study. It is definitely a step in the right direction, but we still have some work to do.

Senate Bill 517 (Utility Relocation for Road Projects), authored by Sen. Randy Head (R-Logansport), was another bill that dealt with infrastructure issues. The measure provided that if, not later than 90 days after receiving an order from the Indiana Department of Transportation (INDOT) to relocate utility facilities that will interfere with a planned construction project involving the state highway system, a utility has not taken steps to relocate the facilities to the satisfaction of INDOT, INDOT may relocate or cause the relocation of the utility's facilities. The bill provided that if INDOT prevailed in a court action to relocate the facilities, the court shall order the utility to reimburse INDOT court costs and attorney's fees and pay to INDOT a civil penalty of not less than \$20,000. The bill also provided the same authority to the county executive.

The Chamber supported the timely construction and/or repair of roads in Indiana. However, we had concerns that this bill had a very strong potential to interrupt key utility service and drive up costs that would be passed along to the ratepayers and asked to work with Sen. Head on the issues. The bill passed out of the Senate but Sen.

Head pulled the bill during the House Utilities Committee hearing, indicating that he thought it needed more work during the summer months. This one will likely be back next year in an updated version.

Senate Bill 471 (Offenses Involving Critical Infrastructure) was authored by Sen. Eric Koch (R-Bedford). This bill provides that a person who, not having a contractual interest in the property, knowingly or intentionally enters the real property of a critical infrastructure facility without the permission of the owner or an authorized person commits the offense of critical infrastructure facility trespass. It also provides that a person who recklessly, knowingly or intentionally damages or defaces property of a critical infrastructure facility commits the offense of critical infrastructure facility mischief. The Chamber supported this bill as good public policy. It added protections not just for utilities but also industry and businesses – like pharmaceutical companies and manufacturers – that use chemicals in their processes. It will help ensure reliable services and reduce costly shutdowns for all involved.

Senate Bill 472 (Utility Matters) was another bill authored by Sen. Koch. The original version dealt with small or distressed water utilities. It provided that an order affecting rates of service may be entered by the Indiana Utility Regulatory Commission (IURC) without a formal public hearing in the case of any public or municipally owned utility that serves less than 5,000 customers. It also changed the term "distressed utility" to "offered utility" for purposes of provisions regarding acquisition of water or wastewater utilities.

The Chamber supported the bill because it amended existing law and added clarification to issues that have recently been litigated. The clarifications should reduce litigation costs of water/wastewater utilities going forward that would otherwise have been rolled into utility rates as an increase. It also promotes efficiencies in the process and economies of scale in water infrastructure consistent with findings in the Chamber's 2014 water study and the drivers of the Indiana Vision 2025 plan and our long-term position on water resources. It passed out of the Senate by an overwhelming majority.

Now this is where it gets weird. An amendment was introduced in the House Utilities Committee by Rep. Soliday, with no public testimony being allowed, that would have placed a moratorium on the decommissioning of current electricity generation, new generation projects and purchase power agreements. We opposed the amendment as bad public policy that would have likely led to increased costs for all (utilities and ratepayers) and were working the issue hard in the Statehouse hallways. Other groups (not all traditional Chamber allies) including the Indiana Energy Association, the Indiana Industrial Energy Consumers, Indiana Manufacturers Association, Hoosier Environmental Council, Sierra Club and the Citizens Action Coalition also opposed the bill.

Another unlikely ally on energy issues, Rep. Matt Pierce (D-Bloomington), introduced an amendment on the House floor that stripped this language out of the bill. We also got some help from Rep. Ryan Hatfield (D-Evansville) in convincing the House members that it was a bad idea. The amendment passed by a 53-38 vote with many of the Republican majority voting with the Democrats. In the end, the original bill (minus the moratorium language) passed. However, the moratorium wasn't dead yet. There was still some lobbying going on to attempt to get this moratorium language into another bill.

Kevin Brinegar and I were visited by former U.S. EPA Administrator Scott Pruitt to discuss this issue. He shared his thoughts



Continued on page 11

# KEY WAGE ASSIGNMENT FIX AND UNEMPLOYMENT INSURANCE CHANGES

By Mike Ripley, vice president of health care policy and employment law

At the Chamber's request, Sen. Phil Boots (R-Crawfordsville) carried SB 99, which allowed for a wage assignment for the rental of uniforms. The U.S. Southern District Court determined that while the Indiana code permits deductions for the "purchase" of uniforms, the statute does not list clothing "rental" as one of the permissible purposes of a wage deduction. Michael Padgett, attorney with Lewis Jackson, represented the business before the court and testified on behalf of the Chamber in the Senate hearing. Negotiating with the labor unions early on over some protections garnered Senate Democrat votes on the bill.

In the House, testimony was brought forward that some employers had relied upon a memo by the Indiana Department of Labor (DOL) that included the rental of uniforms as a permissible wage assignment. An attempt to make the legislation retroactive in the House was unsuccessful, but the bill passed the House unanimously. Senator Boots waited two weeks before filing a dissent motion and drafted a conference committee report that legalized any deductions for the rental of uniforms or job-related clothing prior to the effective date of the legislation. At first, labor interests were not thrilled but eventually recognized that businesses had relied on the DOL memo.

The Chamber thanks the Indiana Manufacturers Association (IMA) for its persistence and assistance with us on the retroactive portion of the bill. Additionally, the measure added the purchase of tools as a permissible wage assignment, that wage deductions could not exceed an employer's cost and codified no deductions are permitted on personal protective device equipment per federal rules. The conference committee report unanimously passed both houses.

Late last summer, the Indiana Department of Workforce Development (DWD) discussed with the Chamber a potential increase in unemployment insurance (UI) taxes to build up the trust fund balance, but no proposal details were provided at that time. Representative Dan Leonard (R-Huntington) believed that the balance was sufficient and no further analysis was pursued. During session, DWD was more persuasive and Rep. Leonard began to have a change of heart. DWD calculated that the state's balance will be around \$1 billion by the end of 2020, based upon current forecasts, and will never get much higher than \$1.1 or \$1.2 billion.

In late March, DWD proposed that all employers remain in Schedule E through 2025 but adjusting their rates within the schedule based upon their experience. The Chamber was on alert when we learned the details, which would have caused employers who had done the best job at working on getting their experience rates lower (i.e., laid off the fewest people) to receive some of the highest percentage UI rate increases! Thankfully, the Chamber's concerted efforts kept the idea from moving forward.

The UI changes this session were as follows: changes to confidentiality provisions, changes to how notices are sent to claimants and employees, increasing the DWD spending cap from \$5 million to \$10 million on the Penalty and Interest Fund, changes to the notification of individual overpayment to four years from the discovery of the overpayment instead of four years from the overpayment, plus increases to the time DWD has to commence civil action in cases of overpayment to 10 years.

## New Workplace Safety Penalties; Worker's Comp Increase Thwarted

Representative Carbaugh authored HB 1341 that increased penalties for a workplace accident that caused the death of an

employee. This was in response to the 2018 tragic death of a Fort Wayne Plastics employee who was crushed by a press when numerous safety violations occurred. The Chamber worked to get the bill as narrowly defined as possible.

The final version that passed both houses unanimously stated that an employer who knowingly violates any standard, rule or order, where any such violation can reasonably be determined to have contributed to an employee fatality, shall be assessed a civil penalty of not less than \$9,472 for each violation and may be assessed a civil penalty of up to \$132,598 for each violation. Indiana OSHA reported one workplace fatality in 2017 in which the employer received a knowing citation. In 2018, there were two fatalities with a knowing citation.

On the worker's comp front, Rep. Matt Lehman's (R-Berne) HB 1182 clarifies that an employee who leaves work to serve as a volunteer firefighter is considered an employee of the firefighting unit for purposes of worker's comp while in the performance of his duties. It further increased the burial expenses of a covered employee who dies from an injury by an accident arising out of the employee's employment from \$7,500 to \$10,000. (This was also tied to Rep. Carbaugh's HB 1341 mentioned above.)

Moreover, it was expected that this bill would be the vehicle to increase worker's comp benefits, but nothing materialized. The 2% increase in worker's comp in SB 358 never received a hearing in the House. The Chamber opposed this increase without a corresponding employer benefit. The Chamber anticipates summer discussions about a worker's comp benefit increase tied to putting ambulatory surgical centers under the same 200% of Medicare reimbursement rate as hospitals.

## Déjà vu for Asbestos Trust Reform

One of the Chamber's top priorities in 2019 was to pass meaningful asbestos transparency legislation that would allow a jury to receive certain disclosures regarding asbestos trust claims; this would allow the jury to make more informed decisions in these cases. For the past three years, the Chamber has run into the same brick wall that is the Senate Judiciary Committee, where the bill gets assigned. That committee is stacked to the serious disadvantage of any tort reform. We know that the three Democrats oppose the bill and Republican Sens. Aaron Freeman (Indianapolis) and Eric Koch (Bedford) have previously sided with trial attorneys on the issue. Still, with a new change in Senate leadership and two new Republican members in Sens. Mike Bohacek (Michigan City) and Linda Rogers (Granger), there was hope for greater success this year.

As expected, HB 1181, authored by Rep. Matt Lehman (R-Berne), passed the House 59-39 and then was assigned to the Senate Judiciary Committee chaired by Randy Head (R-Logansport). A large business coalition worked on the bill and sought out committee members again about this issue. Senator Rogers sided with the proponents but Sen. Bohacek told the Chamber that he was opposed to the bill, thus giving opponents a 6-5 tally and as a result Sen. Head chose not to hear the bill. While the issue will be brought back again next year, until the committee makeup is altered, any change in outcome is unlikely.



# LEGISLATORS IGNORE FACTS AND SNUFF OUT SMOKING REFORMS YET AGAIN

By Mike Ripley, vice president of health care policy and employment law

Despite this being a budget year, legislators could not be convinced to raise the cigarette tax. Nor could they be swayed to increase the legal age to 21 on tobacco products, contrary to the pre-session remarks by legislative leaders.

Not to mention, more than 60% of Hoosiers favor a cigarette tax increase and raising the legal smoking age to 21.

This marks the third consecutive session that legislators have completely failed to take any action to significantly reduce Indiana's high smoking rate.

Nearly 22% of Hoosier adults smoke, ranking Indiana 44th worst among the 50 states. That high smoking rate leads to a variety of expensive illnesses and premature deaths. It costs our businesses \$6.2 billion a year in increased health care expenditures and lost productivity.

Legislators couldn't even come to an agreement for a tax on vaping products – many of which contain nicotine. It's become a real crisis among young people in our middle and high schools. For most of the session, this effort (HB 1444) looked like the one bright spot, but it came to a screeching halt at the very end of session. The Chamber, along with the Alliance for a Healthier Indiana, had to oppose the final conference committee report version because it had been neutered to where there was no significant impact on vaping. It was a 5% retail excise tax on e-liquids but not the devices. That's a far cry from the 20% retail excise tax on e-cigarette products that cleared the Senate Appropriations Committee 12-1.

If we had supported a 5% tax, it would not curb the youth vaping epidemic, and it would be a number of years before we could get another increase. I want to thank the following for their hard work despite the outcome: Julie Halbig and Laura McCaffrey of the Indiana Hospital Association, Bryan Hannon of the American Cancer Society, Tori Castor of IU Health, Anne Murphy of Community Health Network and Grant Achenbach of the Indiana State Medical Association.

We acknowledge the complexities – do you equitably tax e-cigarettes on par with tobacco products, at retail, wholesale or on the nicotine itself – but legislators essentially punting on this issue by agreeing on a worthless policy is worse than doing nothing. And it's an insult to the parade of educators and administrators who testified in the hearings about how bad the vaping situation has gotten in such a short period of time in Hoosier schools. There needs to be sufficient tax on Juul pods, which is what is driving teenage e-cigarette usage and accounts for the majority of e-cigarette-related sales. Maybe next session legislators will think more about the health of our youth instead of listening to the lobbying efforts from Juul and convenience stores.

## Pharmacy Benefit Managers, Opioids, Marijuana and More

The pharmacy community pushed hard this session to pass legislation that would have regulated pharmacy benefit managers (PBMs). Representative Martin Carbaugh (R-Fort Wayne) authored HB 1180 that we felt over regulated PBMs. But as it came out of the House, the bill was a study committee on PBMs and something we could support. However, the version that Sen. Travis Holdman (R-Markle) sponsored and passed in the Senate was over regulation on steroids. The Chamber stayed out of the detailed discussions to allow the pharmacy side and the PBM side to work out their differences.

In conference committee, we were asked to flex our Chamber muscle and be the lead on how PBMs are used by employers (to help control prescription drug costs). In the end, Rep. Carbaugh put the study language on PBMs, along with a provision that PBMs had to publish the maximum allowable cost list every seven days,

instead of the current longer time frame of once every 30 or 60 days, into HB 1588.

With a month left in the session, the Chamber and its subsidiary, the Wellness Council of Indiana, learned that the Employee Substance Abuse Treatment Program guidelines passed in legislation last year inadvertently prohibited about 80% of employers and employees from fully participating. That's because it included a requirement to not have an employer assistance program (EAP). That meant companies with EAPs would not be able to receive the important civil immunity protection for a negligent hiring. The Chamber approached the author of the 2018 legislation, Rep. Steve Davisson (R-Salem), and asked him to include a provision in one of his bills that eliminated the requirement of not having an EAP.

Representative Davisson readily agreed to put that language in HB 1246 (Pharmacy Matters). However, later on in the session he made an attempt to put PBM language that the Chamber opposed in that same bill. We told Rep. Davisson if that happened, we would work to kill the bill despite our desire to open up the substance abuse guidelines program to more employers. Thanks to Rep. Cindy Kirchhofer (R-Beech Grove) and a significant fiscal impact to the state, that PBM language failed to be included in the final conference committee report. Kudos are deserved for Rep. Davisson, too, who could have been upset with our move to kill that language yet kept his promise and passed the fix. Now any employer who fully participates in the outlined actions in the guidelines and implements a standardized system will be eligible for the legal protection.

House Bill 1344 (Nurse Licensure Compact), authored by Rep. Ed Clere (R-New Albany) is an important policy for the southern part of the state and Chamber member Hosparus Health. It allows for nurses to practice in Indiana and Kentucky, thereby addressing a workforce shortage in nursing among facility providers in the Louisville corridor. Chamber Health Care Policy Committee member Amelia McClure from Hosparus Health worked hard to help make this happen.

Senate Bill 176 (Prescriptions), authored by Sen. Ron Grooms (R-Jeffersonville) requires providers to prescribe controlled substances electronically beginning January 1, 2021.

Senate Bill 575 (Hospitals), authored by Sen. Ed Charbonneau (R-Valparaiso), changes hospital licensure from the current one year to two years beginning May 1, 2020. It also included interim study language on hospital licensure, current structure, types of hospitals and classifications and subclassifications through the hospital's license.

Senate Bill 162 (Chronic Pain Management), authored by Sen. Mark Messmer (R-Jasper), requires state employee health plans, Medicaid, policies of accident and sickness insurance, and health maintenance organization contracts to provide coverage for medically necessary chronic pain management. The bill defines chronic pain management as evidence-based health care products and services prescribed by a physician to relieve pain that has lasted for at least three months. The term includes prescription drugs, physical therapy, occupational therapy and chiropractic care.

And finally, one issue that received a lot of attention during the interim leading up to session was the legalization of medicinal marijuana. A dozen or more similar bills were filed but none of them gained even a hearing. Legislative leaders and the Governor have expressed no desire in going down that road. And the Chamber has and will continue to advocate against medical marijuana, as well as recreational, as long as it is deemed illegal by the federal government.

# BUILT IN RESISTANCE TO TOWNSHIP REFORM; GOOD BILL REIGNS IN MUNICIPALITIES

By Bill Waltz, vice president of taxation and public finance, and Greg Ellis, vice president of energy and environmental policy

Late last year a series of articles ran in newspapers across the state drawing renewed attention to the antiquated status of township government. But like volumes of prior evidence, the “need for reform” message continues to go unheeded by those in the Statehouse. Why?

The only logical conclusion is that many members of the General Assembly came from a local political system that includes township officials. I’d suggest that whether they really believe that township government is the most efficient and effective means of providing services isn’t really the question. It is about their natural reluctance to turn against political constituents and a system that they were and remain part of. This built-in resistance manifested itself last year when House majority members locked arms with township officials and other self-interested parties to kill legislation that called for the merger of ridiculously small townships.

This year another eminently reasonable proposal aimed at structural progress met the same resistance and likewise went down in defeat. House Bill 1650 would have eliminated township boards in almost a thousand townships; that’s nearly 3,000 elected officials statewide who do little but look over the shoulder of their elected township trustee – a task already performed by the county council in regard to every other county office holder. Meaningful reform was again stymied by the those who are more interested in protecting township turf and maintaining the status quo than exploring logical means for more efficient government.

Lamenting aside, a little progress was made in improving how townships operate. House Bill 1177 did pass and will now require townships to develop a capital improvement plan before they can simply overtax constituents year after year in order to save up

money for some unspecified future expenditure.

The Chamber will continue to strive for better and more efficient government at all levels, regardless of the entrenched opposition to these objectives.

We sincerely thank Rep. Cindy Ziemke (R-Batesville), author of both HB 1650 and HB 1177, for her efforts not only this year but in recent years of keeping this important issue front and center – regardless of the tough climate at the Statehouse.

Another type of local government reform was spearheaded by Sen. Phil Boots (R-Crawfordsville). The successful legislation dealt with municipalities and not townships.

Senate Bill 535 repeals the general authority of a municipality to regulate conduct or property within four miles outside of its municipal boundaries. (The new law doesn’t void an ordinance or resolution adopted before January 1, 2019, or prevent the validity of such an ordinance or resolution from being challenged in a legal proceeding.)

Additionally, it provides that a municipality may only exercise eminent domain within the municipality unless a statute expressly provides otherwise. It also repeals the general authority of a municipality to regulate watercourses located within 10 miles outside the municipal boundaries. We supported this bill along with the Indiana Farm Bureau, the Indiana Manufacturers Association, the Indiana Association of Counties and others. This is a win for the business community because it should eliminate overlap in regulation by neighboring communities and provide regulatory certainty. It also is important that citizens and business owners have a voice (vote) for those that regulate them.

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## Bearce

Continued from page 2

states that currently appoint their K-12 school chiefs. This change is also consistent with how Indiana already selects the heads of related state agencies: The state’s workforce development commissioner is appointed directly by the Governor and the higher education commissioner is selected by a board appointed by the Governor.

Given the increasing linkages between Indiana’s K-12, higher education and workforce development systems in producing the talent needed to compete and thrive, the Chamber welcomes these moves to align and streamline state government to better respond to the needs of employers and to ensure a better return on investment for taxpayers.

## Where We Are and Where We Need to Be

At the end of the day, it really is all about talent. That certainly seems to be the consensus among Indiana employers – 80% of whom said in the Chamber’s most recent annual workforce survey that filling workforce needs is either their top concern or among their biggest challenges. For the first time in the 11-year history of that survey, more than half of Indiana employers reported leaving

positions open in the last year due to a lack of qualified applicants.

With more than 85,000 unfilled jobs today and at least one million more job vacancies projected over the next decade, there is a growing concern about whether Indiana is building the talent pipeline it needs to be competitive. What’s clear is that traditional talent pipeline sources and approaches are no longer producing a sufficient supply of qualified job seekers, and Hoosiers who lack the necessary skills have become increasingly disillusioned as they find themselves falling further behind.

This anxiety is bound to become even more apparent as international competition continues to increase, and automation and artificial intelligence eliminate more low-skill jobs and place an increased premium on individuals with higher-level skills and credentials. Looking ahead, the extent to which Indiana is successful in developing and deploying the talent required by a 21st century global economy may well be the deciding factor for the future of our state.

That message – one which has and will continue to be championed by the Chamber – clearly has reached the Indiana Statehouse.

## Berry

Continued from page 3

center site selectors because other states (including Ohio and Iowa) offer incentives for developers. House Bill 1405 changes that in a big way by exempting data center equipment and most electricity used at the facility from the state's 7% sales tax. The new law also allows local units of government to exempt machinery and equipment from business personal property taxes.

Getting here, however, took several tries. A similar bill was introduced during the 2018 session but did not receive a hearing. This year, however, the Chamber pointed to a specific project in Northwest Indiana that could see \$160 million in new investment as a result of HB 1405.

The data center is planned as a \$40 million, 105,000-square-foot project at the site of the former State Line power plant in Hammond. Tom Dakich, the project's lead developer and a Merrillville native, told the Chamber in 2018 that tax incentives like those in HB 1405 would help the project realize its full potential: a \$200 million campus with 400,000 square feet of lake-cooled data storage.

The Senate and House overwhelmingly supported the final legislation, which also provides similar tax incentives to encourage other data centers to locate elsewhere in the state.

### Innovation: Engineering a Framework for Sports Betting and Car Sharing

House Bill 1015 changes the gambling landscape in Indiana in multiple ways, but the Chamber's priority was legalizing sports betting at state casinos, racinos and off-track betting parlors in light of the 2018 U.S. Supreme Court decision that permits the activity contingent upon state authorization.

The Chamber prioritized the initiative after a careful assessment of the opportunity costs should the General Assembly forego legalizing sports betting in Indiana and thus, potentially losing revenue and casino patrons to neighboring states.

The measure took a winding road to the Governor's desk, mostly due to provisions of the bill not related to sports wagering – namely, allowing for the relocation of two riverboat casinos in Gary, one inland within Gary and one to Terre Haute, and moving the date for racinos to have table games with live dealers to the beginning of next year. Sports wagering never received much contention, but it remained at risk as it was unclear if the factions fighting over the other parts of the bill would be able to settle their differences.

Another new form of commerce blessed by the General Assembly: peer-to-peer car sharing. Ultimately, HB 1362 was passed unanimously by both houses but only after a session full of ironing out insurance, liability, licensing, titling and taxing concerns.

Peer-to-peer car sharing means that an individual can make his or her car available to someone else looking to rent a car. This practice has impacted car rentals as it did other industries, including taxi driving and providing short-term accommodations. Indiana imposes a 4% excise tax on car rentals and at least two counties impose additional taxes. House Bill 1362 is an attempt to level the playing field for traditional rental car companies to remain competitive with industry newcomers that enable car sharing via online platforms like Turo and Getaround.

This measure represents the latest example of the General Assembly's accommodation of the rising sharing economy but likely will not be the last. Regardless, the Chamber joins the breadth of stakeholders who feel lawmakers got this one right.

**4 Drivers**  
**37 Goals**  
**1 Mission**

**MISSION:**  
**"Indiana will be a global leader in innovation and economic opportunity where enterprises and citizens prosper."**

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A PLAN FOR HOOSIER PROSPERITY  
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## Waltz

Continued from page 4

sale (just like you do at brick-and-mortar stores), when you click to pay. Otherwise, DOR would have faced the daunting and no doubt largely unsuccessful task of trying to collect from thousands of independent remote sellers.

Provisions placing the collection obligation on the market facilitators were originally passed in SB 322 and HB 1352, but were ultimately included in the budget bill, HB 1001. And that is a fitting place for them since it is expected that this more efficient means for newly authorized collections will produce around \$100 million next year, a number that will certainly continue to grow as internet sales continue to take over the retail market.

The Chamber supported this very practical legislation but recognized that it needed to be carefully crafted to be fair to all the affected parties and avoid inadvertently encompassing online entities that aren't really engaged in a retail transactions. DOR was very accommodating in refining the language to accomplish these goals, with special acknowledgement to policy director Chris Russell.

### Big Box Assessment – SB 623

An issue that has persisted for several years and remains unresolved is how is how to fairly assess the “big box” retail stores for property tax purposes. County officials complain that these properties are taking advantage of our system because it allows vacant stores to be used as comparable sales in appraisals to assess the value of a newly built, occupied big box store. The problem is how they want to remedy the disputes.

Their answers would ignore accepted appraisal principles and dictate an assessment method that would take the assessments to the opposite end of the spectrum. This would result in an assessment that unfairly reflects the value, establishing an exaggerated assessment that is tied to aspects of the business that are unique to the business that operates the property, as opposed to the value of the real estate itself. Property tax assessments must be based on the value of the building and land, not the value of the business operating in the building.

The Chamber acknowledges that there is a need to assure that assessments are not based on the sale price of properties that are not truly comparable from an appraisal standpoint. But we are equally concerned about maintaining a system that treats all types of properties equitably. Finding the right methodology to assure a proper middle ground on this issue has been elusive thus far. Legislation was passed in 2015, then deemed unworkable and repealed in 2016. The replacement legislation has not yet been properly tested in the context of appeals challenged on the basis that the comparable sales do not meet the “market segmentation” test.

This year, SB 623 was designed to negate market segmentation and essentially replace it with what was first passed in 2015 and then repealed (for good reason) in 2016. In other words, it would have taken us full circle, back to where we were four years ago. The Chamber opposed this legislation because (a) it was seriously flawed and (b) any fix to the fix is premature, until the legal/appeal system has had an opportunity to interpret the market segmentation legislation. Our viewpoints went largely ignored by the Senate, where the bill passed easily, but our concerns were recognized later by the fact that it did not receive a hearing in the House. A big thank you goes to Sen. Brian Buchanan (R-Lebanon) and Rep. Todd Huston (R-Fishers) for listening and understanding our apprehension. Though this bill died an appropriate death, the underlying issues remain and, at some point, have to be dealt with.

### DOR Initiatives – SB 565 (and one provision in HB 1001)

As introduced, SB 565 contained the DOR's wish list of statutory changes sought to help it better conduct its administrative functions – a good and admirable goal. The only problem is that the bill included a couple of troubling pieces. One had to do with

recordkeeping requirements – the effect of which unnecessarily restricted a taxpayer's rights in submitting evidence when attempting to make their case in the context of a tax protest.

Another provision would have unnecessarily limited the return of interest to a taxpayer who overpays and retains a refund. To the department's great credit, it spent a good deal of time and effort to work through these issues with representatives of the Chamber. Our representative and DOR officials had very divergent opinions on these issues. And it took a few lengthy meetings and lots of communication, but we found resolutions. The recordkeeping provision was changed to essentially incorporate federal standards and case law. The interest provision was deleted.

The Chamber appreciates DOR's willingness to work through those disagreements and believes that the thorough discussions led us all to a better understanding of our respective concerns. Once the contentious points were resolved, the bill ended up with what the Chamber sees as mostly innocuous provisions.

AN IMPORTANT NOTE: The above-referenced discussions with DOR also involved consideration of language concerning the research expense credit that was introduced by the department and later included in the budget bill (HB 1001). That language will require taxpayers who claim a state research credit, but not a federal research credit, to disclose and explain that fact on their state return. The department is seeking to learn more about these circumstances, but the language led to a broader discussion as to what degree of scrutiny need be applied to a state credit review when the taxpayer did, rather than did not, claim a federal credit.

If the Internal Revenue Service approves the federal credit, shouldn't the department accept that as controlling? A healthy understanding was reached between DOR and the business community that will be documented in an information bulletin to be issued by the department this interim. The Chamber is very optimistic that this bulletin will provide important and beneficial clarification to the standards to be applied by DOR in future research credit reviews.

Special thanks go to the entire DOR team (Ross Teare, legislative director, for being the critical liaison, and all department personnel who participated) for their cooperative nature; the Chamber Tax Committee work group: Donna Niesen of Katz Sapper, Mark Richards of Ice Miller and Randy Kaltenmark of Barnes & Thornburg for their time and expertise; and to Andrew Berger of the Indiana Manufacturers Association for his steadfast allegiance and assistance in forwarding our shared positions on these matters.

### RV Sales – SB 131

For several years, recreational vehicle (RV) dealerships in Indiana have been on the decline, in part due to the complications that non-resident buyers face when they take their new RV home to license it in their home state. It has to do with sales tax. First, nobody wants to pay a 7% Indiana sales tax when their home state tax is only 6% or less. This situation is typically avoided if Indiana has reciprocal agreements with other states to only collect the amount of the resident's home state. But there are nine states that we have no reciprocal agreement with.

And there is another issue related to how a non-resident proves they paid the Indiana sales tax and gets a credit for that payment in their home state. The fiscal leaders have been trying to rectify this situation for several years through various means. This year, with SB 131, authored by Sen. Blake Doriot (R-Syracuse), they entertained a couple options. The bill passed the Senate and the House in different forms. Unfortunately, no final agreement was found acceptable to all involved and the bill died in conference committee, frustrating the proponents of a fix, including the Chamber, which has supported all efforts to find a reasonable manner for addressing the problem. We appreciate the dedication of Sen. Doriot and perhaps something can finally be figured out by next year.

## Ellis

Continued from page 5

on why he thought the moratorium was a good idea, but we weren't convinced. He also gave us some "compromise" language which the Chamber's Energy Policy Committee reviewed and did not support. There were even misleading national press releases indicating that the Chamber was considering a compromise. No moratorium language made it into legislation, which was a win for the Chamber and Hoosier ratepayers.

### Energy and Environmental Noteworthy Efforts

Senate Bill 137 (Ban on Sale or Use of Coal Tar Pavement Products), authored by Sen. David Niezgodski (D-South Bend), is a bill that we opposed because it would have banned the sale or use of coal tar pavement products. This was the same bill that was introduced last year and received a committee hearing but did not pass out of committee. This time, it died without getting a committee hearing. This issue may once again surface next year.

House Bill 1470 (Utility Transmission Improvements and Costs) was authored by Rep. Soliday and passed out of both the House and Senate. This bill amends the statute concerning transmission, distribution and storage system improvement charges (TDSIC) for electric and gas utilities. Specifically, it provides that a public utility's required TDSIC plan under the statute must cover a period of at least five years and not more than nine years. The bill requires a utility to update its TDSIC plan at least annually. It specifies that the IURC must approve the TDSIC plan before it can be implemented.

The Chamber supported this bill because the TDSIC plans have been heavily litigated before the IURC, the Indiana Court of Appeals and the Indiana Supreme Court. The bill fixes and clarifies issues with SEA 560-2013 as identified by the courts. The cleaner and streamlined procedure will decrease administrative and legal costs that are put into the utilities' rate base, which are ultimately paid by the ratepayers.

House Bill 1278 (Environmental Matters) was another bill that was a bit unusual. Authored by Rep. Dave Wolkins (R-Warsaw), it started out as the Indiana Department of Environmental Management (IDEM) bill that contained technical corrections to existing law – which the Chamber did not object to and thus supported. Subsequently, Sen. Mark Messmer (R-Jasper) introduced an amendment to the bill that would give IDEM the ability to set permit fees through the rulemaking process in front of the Environmental Rules Board (ERB). Currently, IDEM can only set air program fees by rule, and this would also include the land and water programs. The amendment set some safeguards that the ERB must follow. These safeguards were a result of IDEM working on concerns that the Chamber (and other organizations) brought forward due to the likely impact on its members.

In regard to the amendment, the Chamber would not normally support any fee increase but we supported this because IDEM's budgetary explanations, along with the likelihood of a decrease in staffing, which otherwise would slow down the permitting process significantly. The Chamber's Environmental Policy Committee also vetted the proposal and was supportive of the ability to address fees through the rulemaking process. The safeguards will also prevent

IDEM from using this process as a "cash cow". It was clear that time is money for the business community. There will still be input from the Chamber and its members through the rulemaking process.

Another amendment was introduced by Rep. Soliday in the conference committee process; it was part of the amendment stripped from Senate Bill 472 and establishes the 21st Century Energy Policy Development Task Force. The group is going to consider issues in creating a broad energy policy for Indiana. We supported the task force language in the amendment. The amended bill passed both the House and Senate via the conference committee process.

### Miscellaneous Matters: Alcohol, Administrative Law Judges

House Bill 1518 (Alcoholic Matters and Tobacco Certificates), authored by Rep. Ben Smaltz (R-Auburn), should have a positive impact on many businesses in Indiana. This bill is effectively a rewrite of a significant part of Indiana's alcohol code. The bill started out as an 82-page piece of legislation and was paired down to 60 pages as it passed out of both houses. It amends many provisions of the current alcohol code including changes to the escrow provisions, permit transfers, artisan distillers, entertainment complexes, special venues, allowing a manufacturer that has two types of production facilities in one building to serve alcohol from a single bar, plus more changes.

Some Chamber members initially had concerns about the escrow provisions and clerks being licensed. We worked with Sen. Ron Alting (R-Lafayette), who chaired the Senate Public Policy Committee, to get these concerns addressed. He noted that the bill has a significant impact on economic development and jobs. We agree but still more work is needed in this area. There was still no appetite for legislation that would make it possible for pharmacies, grocery stores and convenience stores to sell cold beer.

House Bill 1223 (Administrative Law Judges), authored by Rep. Greg Steuerwald (R-Avon), changes how appeals of agency actions will be handled beginning July 1, 2020. The bill establishes a pool of administrative law judges (ALJs) within the Office of Administrative Law Proceedings (OALP) as part of the State Personnel Department to hear certain administrative proceedings determining the legal rights, duties or privileges of a party after an opportunity for an evidentiary hearing.

Currently, most ALJs are housed within the agencies for which they hear appeals of agency actions. The Chamber was not supportive of the bill at the beginning of the legislative session because there were concerns over rights-of-appeal or administrative processes guided by complex federal and/or state law which requires specific knowledge or expertise. Representative Steuerwald met with us on multiple occasions to discuss and address these concerns. He drafted a list of some excepted agencies over whose administrative proceedings the ALJs from OALP do not preside. In the end, the Chamber supported the legislation and it passed both houses. Representative Steuerwald should be recognized for his willingness to address the concerns of Chamber members.

# LEGISLATIVE SCORECARD 2019

Bill #	Title/Description	Chamber Position	1st house				2nd House				Status
			1	2	3	4	5	6	7	8	

## CIVIL JUSTICE

HB 1181	Asbestos Litigation	S												Died
HB 1012	Product Liability Actions	S												Died
HB 1061	Attorney's Fees	S												Died
SB 26	Medical Malpractice Actions	O												Died

## ECONOMIC DEVELOPMENT

HB 1015	Various Gaming Matters	SIP/NIP												Signed
HB 1362	Peer-to-Peer Vehicle Sharing	S												Signed
HB 1405	Taxation of Data Centers	S												Signed
SB 460	Broadband Development	S												Signed
SB 554	Economic Development (Redevelopment of Military Property)	S												Signed
SB 563	Economic Development (VCI Credit Transferability)	S												Signed

## EDUCATION/WORKFORCE DEVELOPMENT

HB 1002	Career and Technical Education	S												Signed
HB 1003	School Corporation Expenditure Targets	S												Signed
HB 1005	State Superintendent of Public Instruction	S												Signed
HB 1008	Teacher Career Ladders	S												Signed
HB 1009	Teacher Residency Grant Pilot Program	S												Signed
HB 1404	School Accountability	S												Passed in 1002
HB 1628	Pre-K Expansion	S												Signed
HB 1629	Various Education Matters	S												Signed
HB 420	Workforce Development	S												Passed in 1002
HB 567	Education Matters	S												Signed

## ENERGY/ENVIRONMENT

HB 1278	Various Environmental Matters	S												Signed
HB 1406	Water Infrastructure Assistance Fund and Program	S												Signed
HB 1470	Utility Transmission Improvements and Costs	S												Signed
SB 4	Water and Wastewater Utilities and Runoff	S												Signed
SB 137	Ban on Sale or Use of Coal Tar Pavement Products	O												Died
SB 471	Offenses Involving Critical Infrastructure	S												Signed
SB 472	Utility Matters	S												Signed
SB 517	Utility Relocation for Road Projects	SIP/OIP												Died

## MISCELLANEOUS

HB 1233	Administrative Law Judges	S												Signed
HB 1518	Alcoholic Matters and Tobacco Certificates	S												Signed

## Status and Position Key

1 – First Reading	5 – Committee Referral	9 – Conference Committee	N – Neutral
2 – Committee Action	6 – Committee Action	10 – Action by Governor	O/S – Oppose/Support in Part
3 – Second Reading	7 – Second Reading	S – Chamber Supports	OIP – Oppose in Part
4 – Third Reading	8 – Third Reading	O – Chamber Opposes	SIP – Support in Part

# LEGISLATIVE SCORECARD 2019

Bill #	Title/Description	Chamber Position	1st house				2nd House				Status
			1	2	3	4	5	6	7	8	

## HEALTH CARE/INSURANCE

HB 1180	Pharmacy Benefit Managers	O												Died
HB 1307	Health Care Cost Sharing	O												Died
HB 1344	Nurse Licensure Compact	S												Signed
HB 1441	Emergency Care Reimbursement	O												Died
HB 1444	Taxation of E-Liquids	S Then O*												Died
HB 1565	Cigarette Taxes	S												Died
SB 108	Coverage for Pharmacist Care	N												Died
SB 146	Prescribing of Controlled Substance Electronically	S												Died
SB 162	Chronic Pain Management	N												Signed
SB 425	Minimum Age to Purchase Tobacco and E-Liquids	S												Died
Various	Medical Marijuana	O												Died
Various	Decriminalization of Marijuana	O												Died

## LABOR

HB 1062	Unemployment Compensation Matters	S												Signed
HB 1182	Worker's Compensation	S												Signed
HB 1608	Overtime Compensation for Certain Employees	O												Died
HB 1609	Work Sharing	S												Died
HB 1653	Essential Health Benefits	O												Died
SB 99	Wage Assignment for Clothing and Tools	S												Signed
SB 290	Prevailing Wage	O												Died
SB 348	Prohibiting Covenants Not to Compete	O												Died
SB 358	Worker's Compensation	O												Died
SB 629	Cause of Action for Employer Retaliation	O												Died
Various	Minimum Wage	O												Died

## LOCAL GOVERNMENT

HB 1177	Township Government Issues	S												Signed
HB 1427	Local Government Matters	SIP												Signed
HB 1650	Elimination of Township Boards	S												Died
SB 535	Extraterritorial Powers of Municipalities	S												Signed

## TAXATION/PUBLIC FINANCE

HB 1001	State Budget	S												Signed
SB 131	Sales Tax on Recreational Vehicles	S												Died
SB 233	Business Personal Property Tax Exemption	S												Signed
SB 322	Sales Tax Administration	S												Passed in 1001
SB 565	Various Tax Matters	S												Signed
SB 623	Property Tax Matters	O												Died

\*The Indiana Chamber was a staunch supporter of HB 1444 up until the very end of the process. The Chamber opposed the final conference committee version because it was completely inadequate and would have made getting a meaningful tax on vaping products virtually impossible in the coming years.

## Status and Position Key

1 – First Reading	5 – Committee Referral	9 – Conference Committee	N – Neutral
2 – Committee Action	6 – Committee Action	10 – Action by Governor	O/S – Oppose/Support in Part
3 – Second Reading	7 – Second Reading	S – Chamber Supports	OIP – Oppose in Part
4 – Third Reading	8 – Third Reading	O – Chamber Opposes	SIP – Support in Part