

Insights

Take Five: 5 Things You Need to Know About Indiana Government

April 29, 2021

By: Amy M. Levander and Amy E. Schwarz

1. State Passes Biennial Budget

After a legislative session unlike any other, the Indiana General Assembly adjourned for a prolonged recess on Thursday, April 22 after passing the state budget. With the April revenue forecast indicating that the state will receive \$2 billion more in tax revenue over the biennium than originally expected, there were a lot of “wins” on both sides of the aisle in this budget. In fact, it was reported that the \$37.4 billion budget received more “yes” votes than any other budget in the last century, with only two House GOP members and three Senate Democrats voting “no”.

Below are the key provisions from **HEA 1001**:

- Appropriates \$1.9 billion in new dollars for K-12 education over the biennium compared to the current fiscal year. In all, the budget dedicates more than \$16 billion to K-12 education over the next two years.
- Expands the income eligibility level for the state's school choice program to 300% of the federal poverty level.
- Sets aside \$37.5M per year for Teacher Appreciation Grants to be given to teachers rated effective or highly effective. Also recommends a minimum starting salary for all teachers at \$40,000.
- Maintains funding to the On My Way Pre-K pilot program at current levels.
- Fully funds the Medicaid Forecast.
- Invests \$500M of federal stimulus dollars to the Regional Economic Acceleration and Development Initiative (READI) to support community economic expansion efforts.
- Directs \$60M of federal stimulus dollars to the Hoosier Hospitality Small Business Restart Grant Program.

- Appropriates \$250M of federal stimulus dollars to broadband expansion, \$160M for water infrastructure grants, and \$60M for the Next Level Trails program.
- Creates a \$10M grant program to ensure all law enforcement agencies can purchase body cameras and appropriates \$70M to the Indiana Law Enforcement Academy to enhance public safety training.
- Imposes a bifurcated tax structure on electronic cigarette and vaping products.

2. Changes in Executive Branch Authority

While Governor Holcomb has generally received high marks over the last year for his handling of the coronavirus pandemic, some lawmakers - especially his fellow Republicans - objected to some of the more drastic measures that were imposed by executive order and expressed frustration that the legislature had no opportunity to provide input on policies that included business closures, mask mandates, and the distribution of federal stimulus dollars. Not surprisingly, the General Assembly enacted a number of measures to give themselves a more prominent role during future emergencies or to otherwise restrict the authority of the executive branch. **HEA 1123** allows legislative leaders to call the General Assembly into an emergency session for not more than 40 days if the Governor has declared a state of emergency that has a statewide impact. The legislature would only be allowed to consider and enact legislation related to the emergency. The bill passed both the House and the Senate largely on party line votes before being vetoed by Governor Holcomb, and the veto was overridden by the legislature on April 15. In response, this week Governor Holcomb filed a lawsuit questioning the constitutionality of giving the General Assembly the ability to call itself into a special session, and therefore usurping a power given by the Indiana Constitution exclusively to the Governor. The General Assembly also passed **SEA 263**, which prohibits the state or local government units from restricting the right to worship in-person during an emergency. At the local level, SEA 5 allows an order issued by a local health department to be less stringent than a statewide executive order to the extent permitted by the state order, but a more stringent policy must first be approved by the city or county council.

3. Liability Legislation

Protecting businesses and other entities from frivolous lawsuits related to the pandemic was a priority for GOP leaders this session, and legislation was "fast-tracked" through the process so that it could be signed into law as soon as possible. **SEA 1** provides civil tort immunity for COVID-19 related claims for individuals, businesses, governmental units and agencies, and other entities. It does not provide protection for "gross negligence or willful or wanton misconduct" on the part of the entity. The purpose of the bill was to encourage businesses and other organizations to reopen without the fear of lawsuits from individuals that might become ill from either working in or visiting the establishment. Lawmakers also enacted **HEA 1002**, which provides nursing homes and other health care providers with additional protections for acts or omissions performed in response to the COVID-19 pandemic, unless those actions or omissions rose the level of gross negligence, willful or wanton misconduct, or intentional misrepresentation. Critics of both bills questioned whether the language was so broad that it would provide

protections for entities, especially nursing homes, for claims that had nothing to do with the coronavirus pandemic, but advocates feel that the language is clear enough give direction to the courts.

4. FSSA Announces Expansion of Postpartum Medicaid Care

During the April Medicaid Forecast, Indiana Medicaid Director Allison Taylor announced that the state will be expanding coverage for low-income mothers for up to a full year postpartum, an increase over the current policy of 60 days. Due to a provision in the American Rescue Plan recently passed by Congress and signed by President Joe Biden, states can opt to expand coverage for postpartum mothers without filing a state plan amendment, reducing the administrative burden to the state. The provision also provides a federal match to assist states with expansion, which is expected to cost Indiana \$4.2 million in FY2022 and \$3.9 million in FY 2023. This expansion furthers Governor Holcomb's goal of being "Best in the Midwest" by 2024 for reducing infant mortality and has been praised by legislators in both parties as well as health advocates.

5. Redistricting Preview

Even though lawmakers left town last week, their work for the year isn't quite finished. Legislators will return to Indianapolis sometime late this summer or early fall to adopt new congressional and legislative maps, which is required every ten years after the new census is conducted. The COVID-19 pandemic hampered the ability of the U.S. Census Bureau to collect the population information that is necessary to redraw the district maps. The Bureau does not expect to deliver the finalized population information to the states until August or September, which means the legislature will need to reconvene after the figures are received to adopt the new maps. The legislature passed **HEA 1372** last week, which sets the new date for *Sine Die* as November 15th for this legislative session only. That allowed lawmakers to simply recess last week and then reconvene later this year without the need for a special session to be called. Leadership has said that, even though any issue could be considered by the General Assembly at any time throughout the summer, they only intend to address redistricting unless extraordinary circumstances were to arise.