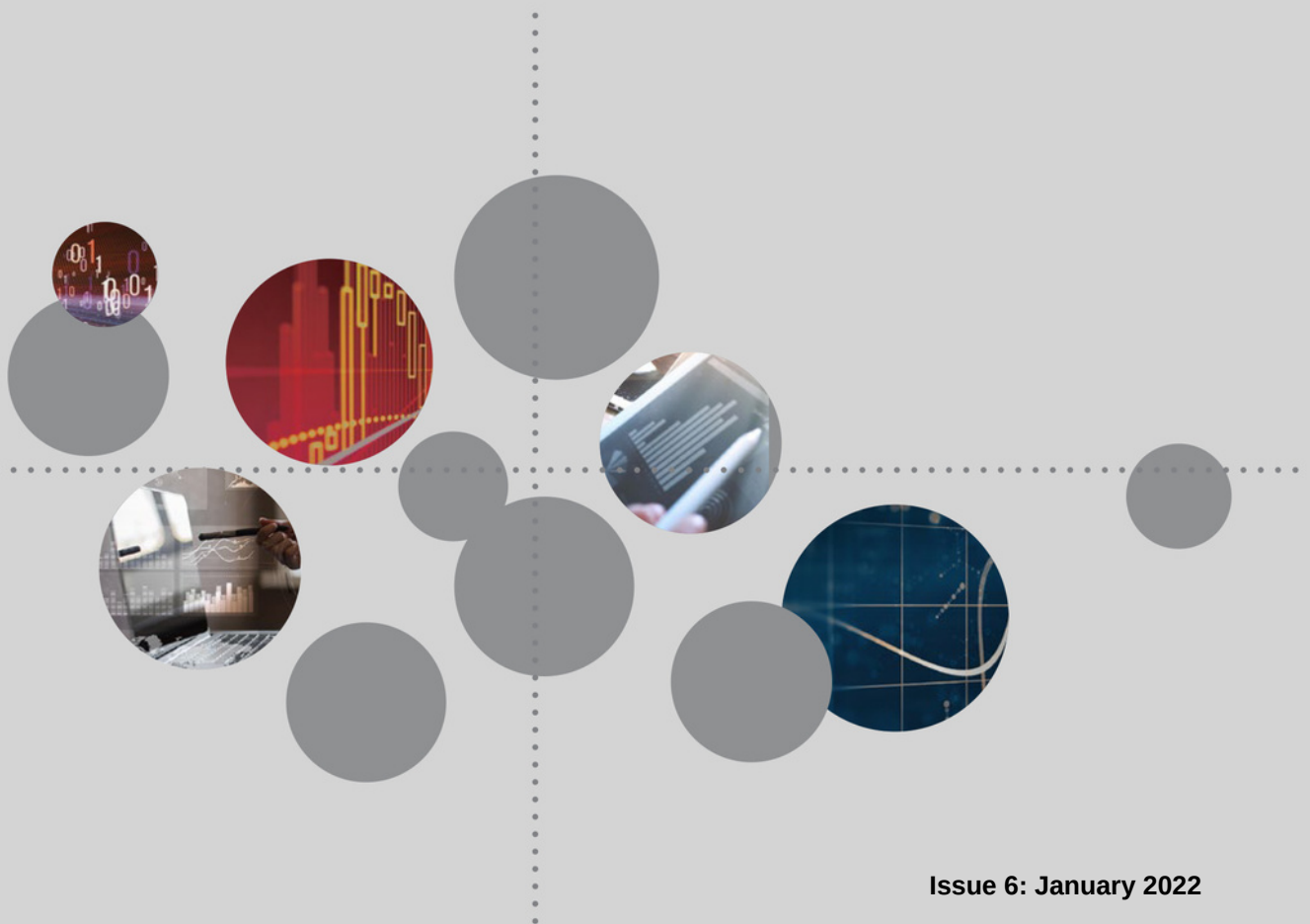


Policy Tracker

The Institute

Turning Information into Insight

THE INSTITUTE FOR PUBLIC POLICY & ECONOMIC DEVELOPMENT



Issue 6: January 2022



STATE LEGISLATIVE BRIEFING

A curated briefing of state legislative proposals and recent legislative actions

STATE BRIEFINGS

- Minimum Wage
- Small Business Aid
- Probation Reform
- Broadband Development
- Concealed Carry
- Turnpike Toll Collection

Several Minimum Wage Proposals under Consideration, Governor Calls for Action

Since 2006, Pennsylvania's minimum wage has stood at \$7.25 per hour, lower than each of the neighboring states, and while half of all states have increases set to take effect in 2022. On January 31, the minimum wage for state employees rose to \$15 per hour. The Governor has also advocated for increasing the minimum wage overall to affect all workers. Two bills in the general assembly, SB 12 and HB 345, would increase the minimum wage in the Commonwealth to \$12 per hour with a gradual increase to \$15 per hour. These proposals would also eliminate the tipped minimum wage, and allow municipalities to set their own minimum wages higher than the statewide rate. Several similar bills with slight variations have also been introduced by lawmakers.

Another proposal, HB 1646, was introduced in June 2021, and would put the question of a \$15 minimum wage to voters in a nonbinding ballot question. Two Republican State Senators also introduced SB 672, which would increase the minimum wage to \$10 per hour with increases tied to inflation. None of these bills have yet to advance from committee.

Proposals Would Provide Support to Small Businesses

A two-pronged proposal in the State Senate would provide new supports to small businesses still recovering from pandemic-related disruptions. Two bills, from Senator Ryan Aument (R-Lancaster), would create a \$500 million interest-free loan program and provide for another \$500 in new tax credits. The aid would be available to small businesses that were shut down as nonessential in 2020. In a recent hearing, industry representatives stated that the COVID-19 Hospitality Industry Recovery Program was helpful but further aid is needed.

State Senate Advances Probation Reforms

In December, the State Senate passed SB 913 with bipartisan support. The bill was introduced by Senators Lisa Baker, Camera Bartolotta, and Anthony Williams. It would provide a new mechanism for early release from probation and offer incentives for participation in education, employment, vocational, and drug treatment programs, with the goal of reducing recidivism, ending cycles of incarceration and probation, and reduce correctional costs. Additional bills passed allow probation meetings to be held remotely and clarifies scheduling of probation and parole meetings. The three bills will now be considered in the House, where a previous version of the bill was not passed.

New Bill Establishes Broadband Development Authority

With a significant infusion in infrastructure funds set to come from the federal government, the General Assembly passed and Governor Wolf signed legislation creating the Pennsylvania Broadband Development Authority. The authority will be tasked with identifying funding sources and coordinating work to deliver broadband to unserved and underserved Pennsylvanians, while minimizing duplication of effort and maximizing the use of existing infrastructure. This legislation was passed with unanimous support from lawmakers in both chambers.



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Governor Vetoes Concealed Carry Bill

In December, Governor Wolf vetoed legislation that would have removed the need to obtain a license in order to carry a concealed firearm. Under existing laws, Pennsylvanians must obtain a license that allows law enforcement to conduct a background check. The bill, which would not change who can legally own a gun, was supported by Republican leaders in the General Assembly. They proposed the bill as a guarantee of constitutional rights that would not impact law enforcement's ability to crack down on illegal guns. Democratic Party leaders opposed it, citing the need for additional safety measures to reduce gun deaths, such as safe storage legislation, extreme risk protection orders, enhanced reporting requirements for lost or stolen guns, and closure of potential loopholes in the background check system.

Lawmakers Turn Attention to Turnpike Toll Collection

At the onset of the COVID-19 pandemic in 2020, the Pennsylvania Turnpike Commission transitioned to exclusive electronic tolling, through E-ZPass and Toll by Plate technologies. Turnpike Commission reports have since showed a high rate of "leakage," or tolls unpaid due to factors like equipment deficiencies, unreadable license plates, and inability to locate out-of-state drivers. This leakage reportedly exceeded \$100 million in 2020. State Senator Marty Flynn has announced his intention to introduce several proposals to be considered by the Transportation Committee, including a companion bill to HB1922, introduced by Representative Mike Carroll. This legislation would seek to boost enforcement by reducing the thresholds in the number of violations or total unpaid tolls needed to trigger a registration suspension and increase the statute of limitations for unpaid tolls. Senator Flynn has also proposed requiring the Turnpike Commission to report toll collection data to the General Assembly, reinstating a limited amount of staffed lanes at tolls to allow for cash payments, and directing the Commission to accept toll payments by mobile apps such as Venmo and Cash App.





FEDERAL LEGISLATIVE BRIEFING

A curated briefing of federal legislative proposals and recent legislative actions

FEDERAL BRIEFINGS

- Build Back Better
- Economic Competitiveness
- Appropriations

Congress Yet to Act on Social Spending

The Build Back Better package, a companion to the infrastructure spending bill passed in 2021, has yet to be passed by Congress. This social spending bill was initially proposed at \$3.5 trillion and contains a number of President Biden's legislative priorities, including funding for climate action, universal pre-K, affordable housing, extending child tax credits, free community college, and expansions to public healthcare. The social spending bill would be advanced through reconciliation, likely without bipartisan support. Passage is not assured, however, due to remaining opposition from two Democratic Senators - Joe Manchin and Kyrsten Sinema. Areas of contention have included the total price tag, inclusion of means tests for social assistance, and the cap on the state and local tax (SALT) deduction in place since 2017. Although the version of the bill under consideration in late 2021 is no longer considered viable, it is possible Congress will revisit this spending package in a modified form.

Economic Competitiveness to be Considered

A complex set of measures is being taken up to address trade and economic competitiveness. In particular, lawmakers are expected to address alleged unfair trade practices by China and invest in domestic semiconductor manufacturing. A Senate bill was passed with bipartisan support last June, but there are signs of opposition in the House. Additional trade policy provisions in the House version of the bill may also pose a barrier to final passage in the Senate.

Congress Must Address Spending to Avert Shutdown and Jumpstart Infrastructure Projects

In September and December 2021, Congress passed continuing resolutions in order to avert a government shutdown and authorize spending at current levels. The most recent spending agreement expires on February 18, 2022. Before that time, Congress must either pass another short-term stopgap or an omnibus appropriations bill covering the remainder of the fiscal year (ending September 30).

Failure to pass a full appropriations bill will also affect spending authorized by last year's \$1.2 trillion infrastructure law, passed by Congress and signed by the President. A complete spending bill must be approved by congress to formally appropriate these funds. Under continuing resolutions, spending is capped at existing levels, giving states and federal agencies less flexibility to hire staff and expend resources to transportation projects and other infrastructure provided for in the infrastructure bill.

ENERGY



Reducing Greenhouse Gas Emissions from Electricity Generation

Reducing and managing greenhouse gas emissions is critical in addressing the threats posed by global climate change. Human activities are the primary drivers of increasing greenhouse gases in the atmosphere, and the largest human source of greenhouse gases in the United States is the use of fossil fuels for electricity, heat, and transportation. Transportation accounts for 29 percent of greenhouse gas emissions in the U.S. as of 2019, while electricity accounts for 25 percent. Industry comprises another 23 percent, and the remainder is attributed to commercial, residential, and agricultural activities.[1]

While public policy has been considered to deal with many of these contributors to climate change, electricity generation is particularly consequential both due to its large share of greenhouse gas emissions and the economic importance of energy sector jobs in Pennsylvania. Fossil fuel electricity generation includes coal, natural gas, and petroleum power plants. Over 60 percent of electricity nationwide is currently produced from fossil fuel sources. Of these, coal combustion has the most disproportionate impact on CO₂ emissions.[2]

In Pennsylvania, fossil fuel energy industries, which include the extraction of coal, oil, and natural gas, fossil fuel electric power generation, and certain support industries, together employ over 18,000 workers, including over 300 in Lackawanna & Luzerne Counties. Statewide, jobs in these industries have average annual wages per worker of over \$100,000 per year, 68 percent higher than the average wage of all jobs. [3]

State Policy Opportunities for Action

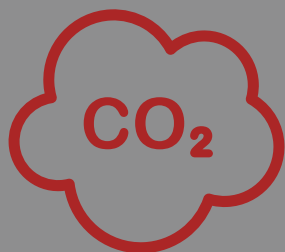
Pennsylvania may be set to join RGGI, the Regional Greenhouse Gas Initiative. RGGI is a cooperative effort of 11 northeastern states to curb emissions from electricity production. It is a “cap and trade” style program that sets a regional CO₂ emissions cap. For regulated fossil fuel power plants (those with a capacity of 25 megawatts or greater), CO₂ allowances must be purchased through a quarterly auction process. As a result, the market sets the price for regulated power generators per ton of CO₂ emitted – most recently \$13 per ton.[4]

Governor Wolf has advocated for Pennsylvania to join RGGI, while some lawmakers in the State House and Senate have argued that RGGI will result in job losses without resulting in a significant cut in emissions at the national level. While Governor Wolf has thus far used executive authority and the Department of Environmental Protection’s rulemaking process to join the agreement, a majority of lawmakers have signaled disapproval of the regulation. They may attempt to block Pennsylvania’s entry into RGGI through legal challenges or overriding the Governor’s veto.[5]

Under RGGI, states are able to reinvest the proceeds from the quarterly auctions in programs to improve energy efficiency and expand renewable energy. Further study is necessary to understand the scope of potential job losses in fossil fuel electricity generation and connected industries, and the degree to which these job losses could be counteracted by job creation in renewable energy industries.

RGGI IMPACTS

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ENERGY

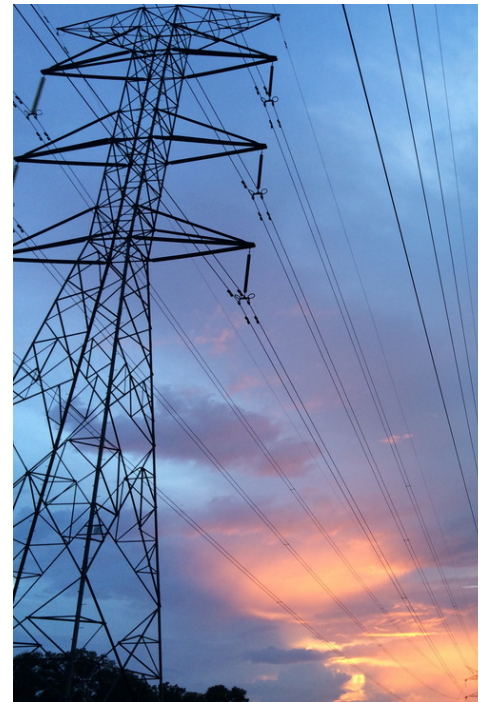


Reducing Greenhouse Gas Emissions (cont.)

Federal Policy Opportunities for Action

Federal regulations and/or incentives can be used to influence the share of electricity generated from certain fuel sources. The federal government could continue to prioritize the phasing-out of coal in favor of less carbon-intensive fuels. Natural gas and petroleum could serve as transitional sources of energy while exploring long-term capacity to generate electricity from non-emitting sources like nuclear energy or renewable energy sources such as hydroelectricity, biomass, wind, and solar.

To the extent that global climate change is necessitating a long-term reduction in the use of fossil fuels, there must be transitional programs at the federal level to ensure that displaced workers have access to renewable energy jobs and/or other upskilling and retraining opportunities. Federal programs such as the POWER grant, which provides workforce development assistance for communities impacted by declines in the coal economy, can serve as models for larger nationwide efforts to mitigate the economic effects of longer-term declines in other fuel sources.



LONG TERM SHIFTS IN ENERGY SOURCES

To the extent that global climate change is necessitating a long-term reduction in the use of fossil fuels, there must be transitional programs at the federal level to ensure that displaced workers have access to renewable energy jobs.



1. Sources of Greenhouse Gas Emissions. United States Environmental Protection Agency.
2. Ibid.
3. Chmura Economics, accessed via JobsEQ. Q2 2021.
4. Elements of RGGI. The Regional Greenhouse Gas Initiative
5. Rachel McDevitt "Top stories of 2021: The fight over RGGI" State Impact Pennsylvania. December 27 2021.

INFRASTRUCTURE



POTENTIAL TO FUND INFRASTRUCTURE PROJECTS

The Commonwealth could qualify for up to \$220 billion in low interest loans over the next 10 years.

The National Infrastructure Bank

The infrastructure spending bill passed by Congress and signed by President Biden last year provides over \$1 trillion in critical funding for infrastructure projects. Additional mechanisms could be useful in further strengthening Pennsylvania's infrastructure .

Draft bill HR 3339 proposes to create a national infrastructure bank. Infrastructure banks provide loans to states and communities using traditional lending techniques or exempt and taxable revenue bonds to improve all types of infrastructure.

Many states have their own infrastructure banks to build and maintain roads, bridges, water systems, ports and harbors, and other infrastructure. One of the oldest is the California Infrastructure Bank (IBANK). That bank was also established as an economic development bank to support small businesses. It has had over \$43 billion in financing activity since its inception and now includes climate enhancements in its funding.

The national infrastructure bank proposed in HR 3339 has the potential to fund both repair and maintenance of existing infrastructure and new infrastructure across the U.S. According to The American Society of Civil Engineers (ASCE), \$6.1 trillion is needed to repair existing infrastructure. These costs do not cover high-speed rail, mass transit, the electric grid, or broadband.

Based on PA's population, the Commonwealth could qualify for up to \$220 billion in low-interest loans over the next 10 years. The Institute used that amount to build an economic impact model to determine how much the investment could fuel the state's economy. If the full \$220 billion were invested over 10 years, 2.22 million jobs could be supported and over \$420 billion in output could be realized. That includes over \$146 billion in labor income. This could create over \$13 billion in state and local tax revenue and \$30 billion in federal taxes during the same period. This economic impact is an added bonus to the modernization and innovation that repairs and new infrastructure could bring.

The proposed National Infrastructure Bank would also support mass transit; high-speed rail; drinking, wastewater, and storm water issues; and broadband - in addition to road and bridge maintenance, repair, and construction.

The legislation proposes capitalization over 10 years. U.S. Treasury bondholders could invest up to \$500 billion that would buy preferred stock in the bank. The preferred stock would pay an additional two percent. No federal appropriations would be used to fund the bank.

HR3339 has four co-sponsors as of September 2021, along with endorsements from a number of state and local governments.

Early this summer, both the PA Senate and House introduced resolutions supporting the National Infrastructure Bank. They joined a number of states, cities, and public sector associations supporting or introducing legislation to support the Bank.

HEALTH CARE



Patient Care & Interoperability

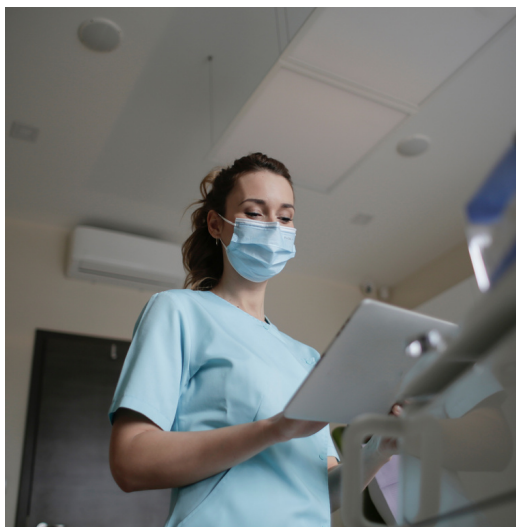
Interoperability is a critical aspect of comprehensive patient care. Having access to and understanding a patient's medical history, outcomes and the social determinants of health impacting their day-to-day life leads to more efficient patient care.

Differences in systems utilized by hospitals and other health providers and differences in federal and state laws, however, impede a clinician's ability to access and utilize that data in determining a diagnosis and course of treatment for their patient.

The future interoperability between Medicare and Medicaid systems will be extremely significant in addressing the unmet needs of dual-eligible populations. Historically, data has shown that dual-eligible patients incur both the highest cost and possess the greatest utilization. Transparency between both systems, from a care management perspective, would be mutually- beneficial and cost-effective if the efforts were combined.

LACK OF INTEROPERABILITY IS A CHALLENGE

Differences in systems and laws impede a clinician's ability to access and utilize that data in determining a diagnosis and course of treatment for their patient.



State Policy Opportunities for Action

As it relates to the 21st Century Cures Act, there is a disconnect between federal and state privacy laws specific to substance abuse disorders. Although 42 CFR permits sharing of health records containing information about drug and alcohol abuse under certain circumstances – and updates implemented in January 2022 require clinicians to attest that they have not knowingly or willfully limited or restricted interoperability[1] – Pennsylvania's laws are more restrictive. They only permit disclosure to another provider for purposes of treatment – and only with the patient's consent. Furthermore, a 2020 stakeholder assessment of the Commonwealth's substance abuse disorder confidentiality regulations addresses interoperability and electronic record-sharing. Stakeholders largely concluded that aligning state and federal policies would better facilitate coordinated service provision and collaboration.[2]

There is lack of interoperability in the Neonatal Abstinence Syndrome (NAS) arena as well. No nationwide reporting system exists, and a 2021 report from the Association of State and Territorial Health Officials (ASTHO), which addresses standardized NAS surveillance, identifies lack of interoperability as a significant challenge in many states. At least one local health system where many babies are delivered does not flow information from the Neonatal Intensive Care Unit to KeyHIE, possibly because KeyHIE is closely related to another local health care system. The local dynamics of competition in healthcare work represents a significant disservice to patients and a significant burden to primary care providers. State legislators can work to create rules regulating the governance and legal ownership of individual regional exchanges within the statewide network, which would incentivize broader provider participation. For example, policy in Arizona allows the connection of patients to community health professionals who provide education and program referrals.[3]

HEALTH CARE



Patient Care & Interoperability (cont.)

Federal Policy Opportunities for Action

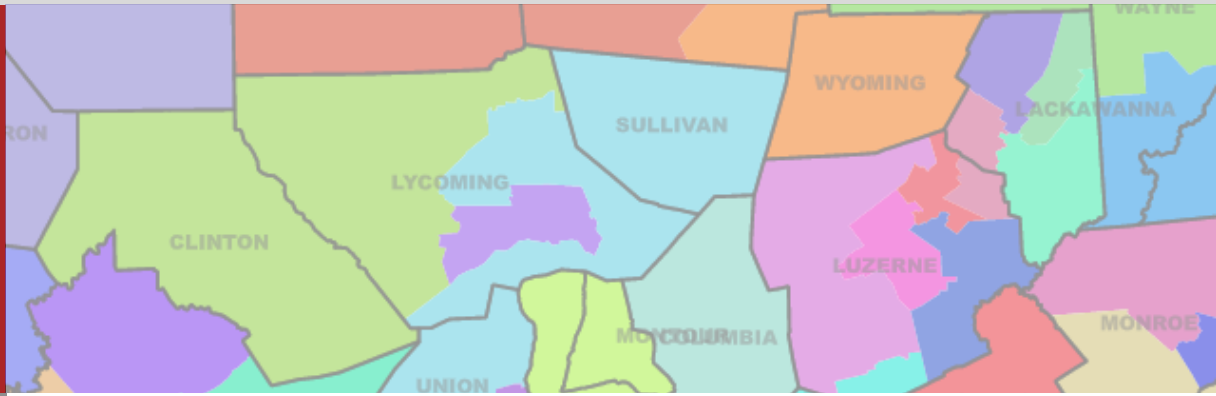
The Centers for Medicare & Medicaid Services' Interoperability and Patient Access rule was finalized in May 2020. It requires associated organizations and entities to offer patient-access information systems, to standardize available information, and to exchange certain data between payers. The following practices could be helpful in improving patient care:

- The web-based tool that is used to house the data should integrate fully with standard Health Information Exchange (HIE) language using industry standard APIs. This ability to connect with other HIEs allows for real time exchange of data which will in turn, improve patient care, and reduce duplicate testing.
- The integration be bi-directional so that the payer and the patient have access and historical claim information should remain a part of the patient record.
- Allow for multiple methods of exchange so that there is connectivity to multiple EHRs.
- No penalties for providers should be enforced because of the vendor or state level of interoperability.
- Real-time data recall to all State level and Federal Registries should be prioritized. State Prescription Drug Monitoring Program should be the highest priority. Pennsylvania hosts a database that is free to tap into using the functional electronic health records that can receive the data, though the Commonwealth is currently transitioning to a new vendor.[5] A similar model should be taken into consideration and be accessible to all those who are retrieving data through the exchange.
- Access should also include data on the patient's social determinants of health and PDMP data which will also enhance patient care. This should be consistent under both the 21st Century Cures and CMS 9115 P rule.



1. ECFR :: 42 CFR part 414 -- payment for part B medical and ... Electronic Code of Federal Regulations. (n.d.)
2. DDAP Sud Confidentiality Report - ddap.pa.gov. (n.d.)
3. Association of State and Territorial Health Officials. (2021, September). Strengthening Health Agencies' NAS surveillance through...
4. Centers for Medicare & Medicaid Services. (2021, December 9). Policies and technology for interoperability and burden reduction. CMS.
5. Prescription Drug Monitoring Program. Department of Health. (n.d.)

LEGISLATIVE REDISTRICTING



Legislative Redistricting Update

Federal Redistricting

Based on the results of the 2020 Census, Pennsylvania will have one fewer seat in the U.S. House of Representatives. The General Assembly, controlled by the Republican Party, submitted a proposed map that it passed largely along party lines. Governor Wolf, a Democrat, vetoed that map, resulting in a deadlock. The dispute initially was taken up in Commonwealth Court. In late January, the Supreme Court of Pennsylvania stepped in to take up the case, with the Commonwealth Court judge serving as special master. The Commonwealth Court judge, a Republican, has been ordered by the Supreme Court, where Democrats have a majority, to make recommendations, with the Supreme Court hearing objections and making a final decision.

The timeline for selecting a map may impact this spring's primary election calendar. Signature-gathering to appear on the primary ballot is scheduled to begin on February 15, but this may be delayed. Other aspects of election administration could also be impacted if a map is not finalized quickly. Some county officials have advocated for delaying the primary election from May 17th until sometime in June.

State Redistricting

In addition to the federal redistricting process, the Commonwealth's 50 State Senate and 203 State House districts are also being redrawn. Unlike the federal redistricting, state legislative redistricting is conducted by the Legislative Reapportionment Commission, which includes both parties' leaders from both chambers of the General Assembly and a non-partisan chair. Preliminary plans were adopted in December and made available for public objections in January, with finalization of the maps pending.

Some Republican leaders have been critical of this year's redistricting process, particularly the State House map, and argue that the chair of the LRC holds too much power. A bill has been proposed by Representative Seth Grove that would put to voters a ballot question to change the makeup of the Legislative Reapportionment Commission. This Citizens Legislative Reapportionment Commission would include eleven members, with eight non-partisan citizens, two members selected by the counties, and a former Commonwealth Court judge selected by sitting Commonwealth Court judges.

PA SUPREME COURT TO WEIGH IN ON FEDERAL REDISTRICTING

The General Assembly submitted a proposed map that it passed largely along party lines. Governor Wolf vetoed that map, resulting in a deadlock.



COVID-19

OMICRON WAVE APPEARS PAST PEAK

The Omicron wave peaked in early January at around 190,000 cases per week.

SEVERE ILLNESS MORE LIKELY AMONG UNVACCINATED

Hospitalization incidence among those not fully vaccinated is 104 per 100,00, compared to 44 per 100,000 among those fully vaccinated.



COVID-19 Update: Record Cases & the Omicron Variant

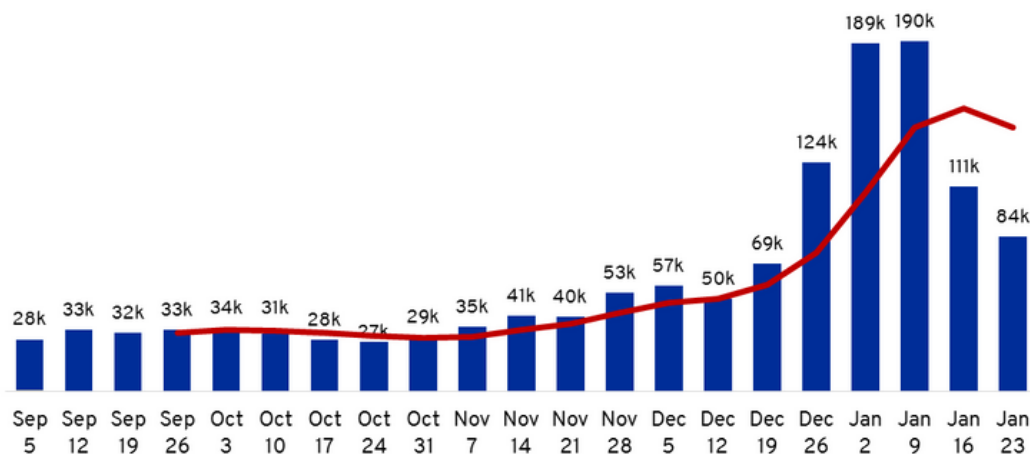
Statewide, COVID-19 cases reached the highest levels of the pandemic so far. The Omicron wave peaked in early January at around 190,000 cases per week in Pennsylvania. Total cases increased by 577 percent between the week of September 5th and the week of January 9th.

Hospitalizations also rose substantially. The peak number of hospitalizations in January was 287 percent higher than those early September.

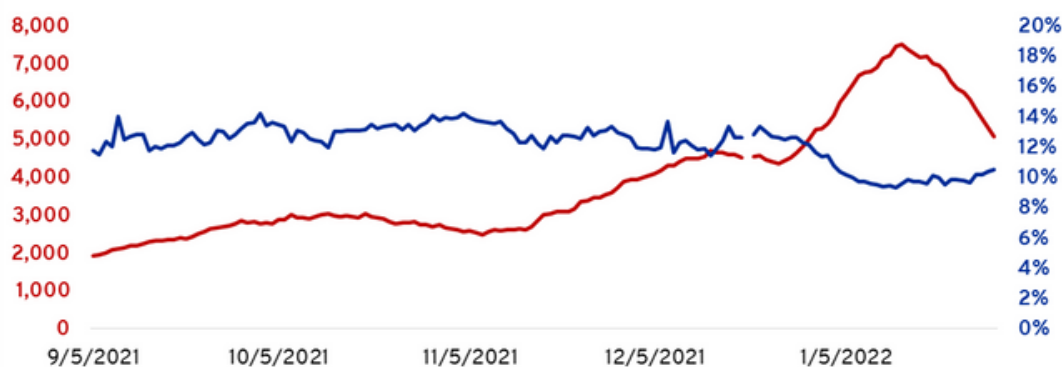
The smaller relative increase in hospitalizations is likely a result of mass vaccinations and potentially reduced severity of the Omicron variant. The share of hospitalized patients on ventilators is now lower than it was in previous waves of the pandemic.

Recent PA Department of Health data indicates that the likelihood of hospitalization is more than twice the likelihood for those who are not fully vaccinated - 104 per 100,000 compared to 44 per 100,00 among those fully vaccinated.

Statewide COVID-19 Trends
New Weekly Cases & 4 Week Moving Average



Statewide COVID-19 Trends
Hospitalized COVID Patients & Percent of Hospitalized Patients on Ventilators



Data Source: Pennsylvania Department of Health

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