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Insights

Take Five: 5 Things You Need to Know About Indiana Government - August 2022

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By: Amy M. Levander, Amy E. Schwarz, and Bianca Mizimakoski

1. Senate Enrolled Act 1

Indiana lawmakers became the first in the nation to pass new legislation restricting access to abortion since the **U.S. Supreme Court's ruling in June** that overturned the 1973 landmark Roe v. Wade decision. Governor Holcomb signed the act into law shortly after the Senate adjourned on Friday, August 5.

Senate Enrolled Act 1 passed the House with a vote of 62-38, and the Senate voted 28-19 to concur with the House amendments to the bill. SEA 1 bans abortion at all stages of pregnancy, with exceptions for:

- Rape or incest regardless of age up to 10-weeks post-fertilization
- A mother's health when reasonable medical judgement dictates that performing the abortion is necessary to prevent any serious health risk, permanent impairment, or death
- When the fetus is diagnosed with a lethal fatal anomaly

SEA 1 specifies that abortion statutes do not apply to in vitro fertilization. The bill creates the Prosecutorial Oversight Task Force to study instances where prosecutors make a "blanket refusal" to enforce certain laws.

The bill requires:

- Both medical and surgical abortion procedures to be performed in hospital or outpatient surgery centers owned by hospitals
- The revocation of a physician's license for specified violations
- The Statewide Maternal Mortality Review Committee (SMMRC) to study how changes in abortion laws affect maternal mortality in Indiana and extends the SMMRC to June 30, 2027.

In the final negotiations of the bill, requirements for a notarized affidavit in a pregnant woman's permanent medical record and provisions allowing the state attorney general to prosecute crimes if the local prosecutors decline were removed.

Governor Holcomb released the following statement on the passage of the new law:

"Following the overturning of Roe, I stated clearly that I would be willing to support legislation that made progress in protecting life. In my view, SEA 1 accomplishes this goal following its passage in both chambers of the Indiana General Assembly with a solid majority of support. These actions followed long days of hearings filled with sobering and personal testimony from citizens and elected representatives on this emotional and complex topic. Ultimately, those voices shaped and informed the final contents of the legislation and its carefully negotiated exceptions to address some of the unthinkable circumstances a woman or unborn child might face."

2. Senate Enrolled Act 2

Also during special session, the legislature passed **Senate Enrolled Act 2** by a vote of 93-7 in the House and 37-9 in the Senate. SEA 2 provides for $200 direct payments to Hoosiers to help offset the increased costs for goods and services due to high inflation rates. Governor Eric Holcomb, who originally called for the special session to address inflationary concerns, had initially suggested payments in the amount of $225 to each taxpayer, but the lower payment amount will allow for more Hoosiers to benefit from the program- namely those individuals with low incomes or whose sole income stems from Social Security and disability payments. The direct payment program will spend down approximately $1 billion of the state's current $6.1 billion in cash reserves.

SEA 2 also allocates nearly $75 million in new dollars to a number of programs designed to address a wide array of issues brought on by the new abortion provisions contained in SEA 1. The bill creates the Hoosier Families First Fund to provide funding for new and existing programs designed to improve the health of pregnant and postpartum women, support pregnancy planning, provide funding for low-income families with young children, and to support foster and adoptive families, among other items. $10 million is also allocated for a statewide expansion of the Nurse Family Partnership Program, which seeks to address the risks of poverty, preterm births, and other poor maternal and child health outcomes.

The bill also contains the following provisions:

1. Allocates a guaranteed $400 million to the Pension Stabilization Fund, with a total potential allocation of $1 billion in 2023 if reserves are over $5 billion at that time;

2. Caps the gasoline use tax at $0.295 per gallon over the next year, but allows for a lower tax rate if prices fall;

3. Eliminates the sales tax on diapers;

4. Increases the adoption tax credit;

5. Requires the Office of Medicaid Policy and Planning (OMPP) to research and compile total Medicaid reimbursement for inpatient hospital services and outpatient hospital and clinical services for Indiana and bordering states for certain prenatal, pregnancy, postnatal, and pediatric wellness services, and requires OMPP to issue a report to the legislature by December 1, 2022;

6. Provides that the postpartum period determined by the Office of the Secretary of Family and Social Services during which Medicaid coverage is available to a woman must not be less than 12 months beginning on the last day of pregnancy (current law sets a period of 60 days from the last day of pregnancy);

7. Adds donated breast milk to the list of supplies and services provided by Medicaid and the Healthy Indiana Plan.

A proposal to eliminate the sales tax on utilities for a six-month period was not included in the final version of the legislation.

3. Final Report of the Governor's Public Health Commission

The Governor's Public Health Commission has released its final report containing recommendations that ensure every Hoosier can access essential public health services regardless of where they live or work. The **15-member** Commission was established by an **executive order** in 2021 to examine the strengths and weaknesses of Indiana's public health system. The final **128 page report** submitted to Governor Holcomb is the culmination of a 10-month evaluation focused on six key workstreams: governance, services and infrastructure, workforce, funding, data and analytics, emergency preparedness, and child and adolescent health.

Key recommendations include:

- Providing additional state support to ensure local health departments can provide foundational public health services
- Providing stable, recurring, and accessible funding;
- Enhancing workforce recruitment, training, and retention efforts;
- Enhancing data analytics resources for local health departments;
- Improving emergency preparedness and fillings gaps in EMS workforce; and
- Increasing the number of school nurses to improve access to school-based health services.

Ultimately, the Commission urged state legislators to invest $250 million in Indiana's public health system, which would allow Indiana's current $55 per capita spending to match the national average of $91 per capita. The recommendations in this report would be considered by the legislature during the upcoming 2023 budget session.

4. Opioid Settlement Updates

Indiana received its first payment as part of the $26 billion national settlement with opioid manufacturers Johnson & Johnson, AmerisourceBergen, Cardinal Health and McKesson. Indiana's share of the settlement is approximately $507 million. Local governments could see their first payments this year. Because all cities, towns, and counties in the state have agreed to participate in the settlement, the state will receive accelerated payments. Local governments must spend 70% of the funds on opioid use prevention, treatment, or recovery services. The unrestricted 30% of settlement funds are intended to be applied toward past opioid litigation expenses, such as attorney fees.

Indiana will receive the first five years of payments from Johnson and Johnson's 11-year settlement this year. The state will also receive two years' worth of payments this year for the 18-year settlement with distributors. Teva Pharmaceuticals and Allergan have announced agreements to settle that will be finalized later this year. The settlement principle is $9 billion. This figure reflects the total amount of the settlement, including states that have already settled, meaning only remaining funds are left to be allocated to remaining states. There is

currently no estimate on when Indiana will receive funds from the Purdue Pharma, who filed for bankruptcy in 2019. The case could be appealed to the U.S. Supreme Court or return to bankruptcy court.

Click **here** to view opioid settlement distribution totals for participating subdivisions.

5. Federal Update on the Inflation Reduction Act 2022

Over the weekend, with Senators on the verge of leaving Washington D.C. for the August recess, the Inflation Reduction Act of 2022 passed 51-50 along party lines, with Vice President Kamala Harris casting the tie-breaking vote. After scores of amendments, the Senate approved the legislation which includes $740 billion to address health care costs and create investments in programs to combat climate change while increasing taxes on large corporations. The Act also provides incentives for increased building of clean manufacturing facilities and rebates on electric vehicles. The US House of Representatives is scheduled to make a brief return to Washington D.C. late this week from their August recess and are anticipated to vote on the bill on Friday, August 12.

Please find detailed summaries below of the bill as it left the Senate on Sunday:

One pager and section summaries:

- **Inflation Reduction Act - One Page Summary**
- **Tax Summary**
- **Prescription Drugs Summary**
- **Energy Security and Climate Change Investments Summary**
- **Summary from the Committee on Agriculture, Nutrition, and Forestry**
- **Summary from the Committee on Environment and Public Works**

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