

PA Chamber

of Business and Industry

2023 – 24

End of Session Report



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A Message from PA Chamber President and CEO Luke Bernstein



The PA Chamber is leading an important mission to make Pennsylvania the most competitive state in the nation. This is an ambitious goal, following a high-stakes election where Pennsylvania was in the national spotlight.

With our strategic location near major East Coast markets and waterways, robust infrastructure, diverse industries, and educated workforce, Pennsylvania is prime for growth and investment. But when competing with other states for jobs and economic opportunities, we have lost out often enough to know there is much work to be done.

That is why the PA Chamber has been laser-focused on enacting policy reforms that will improve our business-friendliness and make Pennsylvania a destination for investment and job creation. During the 2023-24 state legislative session, our efforts included improving the tax climate, enacting permitting reform to provide employers with greater clarity and less red tape, lower costs, and focusing on workforce.

The good news we are pleased to share in this End of Session Report is that, through our member-driven advocacy and productive collaboration with state lawmakers and the governor's office, the PA Chamber has led efforts to make progress on several of the business community's long-sought reforms. Key achievements this session include the improved treatment of Net Operating Losses (NOLs), the rollout of the new SPEED program to accelerate approval and development of shovel-ready projects, the enactment of state budgets that did not raise new tax burdens on employers or individual taxpayers; and more. While this report is a recap of those efforts, it's not a comprehensive overview of everything we've accomplished this past session.

The 2025-26 state legislative session will feature the same partisan makeup in both the House and Senate as the previous session. We will continue to focus on business tax policy, ensuring permitting reforms achieve intended goals, and strengthening our workforce. We are also pushing for smart investments in and reforms to advance modern and sustainable transportation infrastructure, forward-thinking energy policies, legislation to promote more balanced legal and labor climates. We are also working with our allies at the U.S. Chamber to ensure the expansion of pro-growth tax policies contained in the federal Tax Cuts and Jobs Act before they expire in 2025.

Whatever the priority, our approach will remain the same: working with lawmakers, on both sides of the political aisle, to advance policies that drive long-term economic growth for Pennsylvania.

With Pennsylvania's natural advantages and the talent and grit of our residents, there is truly no limit to our potential. With nearly 10,000 members of all sizes, the PA Chamber is proud to be the frontline advocate for employers in the Commonwealth. Please consider joining us in our mission to create a more economically competitive, business-friendly Pennsylvania! Visit our website at www.pachamber.org or contact a representative from our membership team today.

Luke Bernstein

Legislative Agenda



TAXES

An improved tax structure that creates a competitive advantage for your business, including a continued reduction of the Corporate Net Income Tax rate



WORKFORCE DEVELOPMENT AND CAREER READINESS

Working with policymakers to address the existing jobs skills gap and ensure that Pennsylvania is developing and harnessing the talent, skills and capacities of its citizens



TRANSPORTATION AND INFRASTRUCTURE

Instituting greater efficiencies for the construction, maintenance and delivery of reliable transportation, utility systems and other critical infrastructure



ENERGY AND ENVIRONMENTAL

Using science-based data to develop and implement thoughtful environmental laws and regulations that encourage economic competitiveness



LABOR

Changing labor relations and employment policies to address abuses and facilitate a fair work environment, including improvements to the unemployment compensation and workers' compensation systems



CIVIL JUSTICE

Implementing reforms that create a fair, balanced and common-sense legal system that prevents lawsuit abuse while protecting the right of legitimate plaintiffs to seek justice



EDUCATION

Ensuring an educated workforce by establishing clear accountability and providing opportunity to receive the necessary skills and education — from early childhood through post-secondary and including career-focused learning — that prepares them for gainful employment



HEALTH CARE

The enactment of policies that encourage competition in the provision of healthcare while also empowering you with flexibility to offer your workers high quality, affordable health care



RESPONSIBLE STATE SPENDING

The enactment of fiscally responsible, on-time budgets without new or higher taxes that hurt your bottom line



TECHNOLOGY AND INNOVATION

Fostering innovation and technological advancements by aligning public policy with employers' needs and the jobs of the 21st century



COMMUNITY AND ECONOMIC DEVELOPMENT

Addressing Pennsylvania's population loss by leading the development of a long-term economic strategy for the Commonwealth's growth and investment

Tax Reform

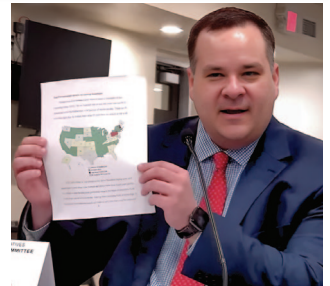
Improving the Treatment of Operating Losses (Act 56 of 2024)

Working with our legislative allies in the state House and Senate, the PA Chamber led efforts to enact Net Operating Loss tax reform as part of the FY 2024-25 state budget — a major victory that makes Pennsylvania more competitive and encourages businesses to locate, invest, and hire in the Commonwealth.

NOL carryforward lets businesses take losses they incurred during a taxable year and “carry them forward” into future tax years, where they can be deducted from future profits to reduce an employer’s overall tax liability. This enables companies to continue reinvesting in their business and people. It is especially important for start-up firms, which often face losses in their early years.

Prior to passage of this year’s budget, Pennsylvania was tied for last place among all 50 states for its punitive treatment of NOLs. With only a 40 percent deduction allowance (half of the federal rate), Pennsylvania had effectively imposed a special tax on startups that is nonexistent in 48 other states. Now, Pennsylvania is on a path to increase its deduction allowance to the standard 80 percent.

- **Bank Shares Tax Goodwill Deduction (Act 56 of 2024)** — Clarifies that any goodwill filed by banks with the Federal Deposit Insurance Corporation (FDIC) is excluded from the bank shares tax calculation, resolving an issue where the Department of Revenue had denied certain goodwill deductions.
- **Board of Finance and Revenue Appeals (Act 123 of 2024)** — Allows the Board of Finance and Revenue (BF&R) to consider late-filed tax appeals from the Department of Revenue if the taxpayer shows good cause; and establishes a settlement process at the BF&R as an alternative to the formal and lengthy court appeals process.
- **Continued phasedown of the Corporate Net Income Tax rate** — The PA Chamber helped ensure the continued phase-down of the Commonwealth’s Corporate Net Income Tax (CNI), with the CNI rate having dropped a full percentage point in 2023 and further reducing by a half percentage point annually until it reaches 4.99 percent in 2031.



Defeated Combined Reporting: The PA Chamber also successfully led efforts to oppose legislation that would have switched Pennsylvania from a separate reporting state to a mandatory unitary combined reporting state with respect to corporate tax filing. The legislation would have given nearly unlimited powers to the Department of Revenue to target specific taxpayers without objective standards, adopted an unfavorable method for treating NOLs, and attempted to include foreign income (which almost every other combined reporting state has repealed).

Stopped Small Business Tax Increase — The PA Chamber led efforts to speak out and rally support against House Bill 1773, which would raise taxes by nearly 300 percent on almost 180,000 small businesses, which collectively employ more than 2.2 million people, by increasing the Personal Income Tax from 3.07 percent to 12 percent.

Responsible State Spending

The PA Chamber advocates for fiscally responsible, on-time state budgets without new or higher taxes that hurt taxpayers’ bottom line. The 2024-25 state spending plan meets these principles and puts money aside to prepare for future economic uncertainty and pay down debt. This year’s budget also makes a historic deposit into Pennsylvania’s Rainy-Day fund, bringing the total balance to over \$7 billion.

Energy and Infrastructure

The Streamlining Permits for Economic Expansion and Development (SPEED) Program

The PA Chamber played a leading role in the development of the Streamlining Permits for Economic Expansion and Development (SPEED) Program. Through SPEED, applicants for several critical DEP permits (including air, land disturbance, and water permits) are now eligible to use approved qualified contractors to conduct initial reviews of their permit applications to expedite the process. This groundbreaking legislation was enacted as part of the FY 2024-2025 Budget and is part of our ongoing advocacy for permitting reform, to ensure our state government is capable of moving at the speed of business.

The legislation also directs the DEP to establish a transparent permit tracking system and includes \$400 million for the PA Strategic Investments to Enhance Sites (PA SITES) program, to fund site development and infrastructure to create shovel-ready sites.

- Uses \$80.5 million of the current surplus to make a one-time investment in multimodal infrastructure projects through PennDOT; and implements a \$200 user fee for electric vehicles that will scale up over time to ensure these contributions go toward road and bridge infrastructure maintenance.

This year’s budget also included a continued increase in Motor License Fund money used to support infrastructure improvements.

Carbon Dioxide Geologic Sequestration Primacy (Act 87 of 2024) — This legislation focused on several key issues critical to establishing the legal and regulatory framework for potential carbon dioxide capture, utilization, and sequestration (CCUS) in Pennsylvania. Act 87 directs the Commonwealth to apply for primary enforcement authority from the U.S. Environmental Protection Agency (EPA) for carbon dioxide underground injection wells (referred to as Class VI wells) and ensures that Pennsylvania does not adopt standards that are more stringent than those required by the EPA.



General Business

Stopped the Business Transaction Fees Bill — House Bill 636 aimed to add any “advertising, displaying, or offering a price for goods or services that does not include all mandatory fees or charges other than taxes imposed by a government entity” to the list of unfair methods of competition under the *Unfair Trade Practices and Consumer Protection Law*.

The PA Chamber spoke out against the broad, challenging nature of this legislation and the difficulty in enforcing it — from the guidelines of what constitutes “mandatory fees,” to the fact that no other state had adopted similar conflicting standards to the ones being proposed in the bill, which would have come into conflict with the Federal Trade Commission’s regulatory fee structure.

While the bill passed the House, it stalled in the Senate.

Organized Retail Crime (Act 42 of 2023) — Combats increased theft and organized retail crime by establishing an office of Organized Retail Crime Theft in the Attorney General’s office and lowering the monetary thresholds for felony organized retail thefts.



Healthcare

Stopped the Nurse Ratios Bill — The PA Chamber successfully prevented the passage of House Bill 106, which would have established strict government-mandated nurse-to-patient staffing ratios in Pennsylvania hospitals. This bill could have resulted in hospital or emergency room closures, exacerbating access to care concerns and increased costs for payers at a time when hospitals are already desperately trying to address a nationwide shortage in the health care workforce.

Stopped an Insurance Mandate Expansion — After the Insurance Department issued a request for comments regarding the department’s consideration of updating the Commonwealth’s essential health benefits benchmark, the PA Chamber submitted comments opposing the expansion of mandated benefits, unless sufficient evidence and data exists demonstrating that the benefits of the mandate clearly outweigh its costs. We also called into question the department’s authority for expanding mandatory benefits absent an act of the General Assembly. Ultimately, the department did not move forward with its proposal.



Legal Liability

Defeated Anti-Trust Expansion — House Bill 2012 aimed to create a harmful Pennsylvania anti-trust statute that would have significantly expanded anti-trust and required healthcare pre-merger notifications to be filed with the Attorney General’s Office.

Importantly, the bill would have provided the Office of Attorney General with sweeping powers, while subjecting employers to severe criminal penalties and costly civil liability based upon broad, undefined standards. In its opposition, the PA Chamber argued that the legislation would harm consumers and businesses of all sizes by:

- Mandating treble damages.
- Creating private causes of action in our trial courts across the Commonwealth, allowing both direct and indirect purchasers to sue and pass costs down to consumers.
- Adding uncertainty to employers and increasing the risk of costly frivolous suits.

While the legislation passed the House, it stalled in the state Senate.



PA Chamber in the Courts

The PA Chamber’s advocacy on behalf of employers extends beyond the legislature and executive branch...we are engaged at the judicial level as well. We coordinate and participate in the filing of amicus briefs to provide additional information, expertise, and insights that will help encourage pro-business court decisions. Below is a summary of those briefs over the 2023-24 session. Each of these cases remains pending decisions as of the publishing of this report, with the exception of *Ursinus College v. Prevailing Wage Appeals Board*.

Royal Canin, Inc v. Wullschleger — Urges the Supreme Court to hold that federal jurisdiction is established upon a defendant’s proper removal of a case to federal court, and is not divested through a plaintiff’s subsequent amendment of their complaint. Federal court is typically a fairer forum for defendants, and plaintiffs’ attorneys have resorted to gamesmanship to force defendants into state courts.

New Jersey Conservation Foundation, et al. v. FERC — After the U.S. Court of Appeals for the District of Columbia Circuit vacated FERC approval of a \$950 million Transco/Williams pipeline project, the PA Chamber submitted an amicus brief in support of Transco’s application for a rehearing that highlights the serious consequences the court’s decision could have for Pennsylvania’s energy infrastructure, economy, as well as security implications.

PA Chamber in the Courts

Chilutti v. Uber — Urges the PA Pennsylvania Supreme Court to hold that orders compelling arbitration are not immediately appealable, and to reject a heightened consent requirement for arbitration agreements established by a Superior Court ruling. The Chamber previously joined three briefs in this case. A new standard for arbitration clauses could force businesses to tailor their websites to accommodate the preferences of PA Superior Court judges.

Cicero v. PUC and Aqua Pennsylvania Wastewater Inc. and East Whiteland Twp. — After the Commonwealth Court reversed the Public Utility Commission's (PUC) approval of the sale of East Whiteland Township's wastewater system to Aqua, the PA Chamber argued to the PA Supreme Court that the Commonwealth Court abused its discretion, exceeded its scope of review and erred in reversing the PUC's order.

Freilich v. SEPTA — The PA Chamber joined a coalition amicus brief urging the PA Supreme Court to affirm the constitutionality of Pennsylvania's statutory cap on governmental tort liability, which also applies to private businesses that provide governmental services. Overturning this precedent could lead to disastrous financial outcomes for local governments, as seen in Westfall Township, which was forced to raise taxes and file for bankruptcy after a large lawsuit.

Halpern v. Ricoh — The PA Chamber joined a coalition amicus brief urging the PA Supreme Court to reject a sweeping and unprecedented rule that displaces expressed and implied warranties with an unending warranty period, based on a buyer's belief about how long a product should perform without issue and which only begins to run once an issue arises. Such a ruling would effectively end any limitation period on warranties in Pennsylvania and would impose indefinite liability on any seller whose product ends up in Pennsylvania.

Kowall v. US Steel — We filed amicus support for a petition for allowance of appeal in the PA Supreme Court seeking review of a decision of the PA Superior Court adopting a broad interpretation of Pennsylvania's environmental regulatory statute, the Hazardous Sites Cleanup Act (HSCA). We argued the HSCA does not authorize cost recovery suits by private plaintiffs when no costs have been incurred, and the equitable relief language in HSCA's citizen suit provision does not empower private plaintiffs to force speculative testing. If the Superior Court ruling is not reversed, it could subject countless businesses to similar class action claims brought by the plaintiffs' bar.

Shirley v. PA LRB — The PA Chamber has filed multiple amicus briefs in support of the PA Legislative Reference Bureau (PA LRB) and the PA Senate's position that the Regional Greenhouse Gas Initiative (RGGI) regulation is a tax that requires legislative approval. The Commonwealth Court ultimately agreed, opining that this kind of fundamental change in Pennsylvania's economy should only come through legislation enacted by the General Assembly. We have refiled on appeal to the PA Supreme Court, urging them to affirm the Commonwealth Court's decision.

Schmidt v. Schmidt — In a unique case where a workers' compensation attorney sued his own law firm to force workers' compensation reimbursement for CBD products, the PA Chamber filed an amicus brief urging the PA Supreme Court to overturn a Commonwealth Court decision agreeing with the self-suing attorney. Because the PA Supreme Court expanded its inquiry beyond CBD products to any type of over-the-counter item, this case could have significant ramifications. We argued the Commonwealth Court erred in concluding that CBD oil and other non-prescription supplements are medicines and supplies for which employers are liable under the Pennsylvania Workers' Compensation Act.

Syngenta v. Nemeth — Pennsylvania has an obscure statutory provision that treats registration to do business by an out-of-state corporation as consent to jurisdiction in Pennsylvania's state courts. In a narrow 5-4 decision, the U.S. Supreme Court found that the consent by registration scheme did not violate the Due Process Clause of the Fourteenth Amendment. However, in a concurring opinion, Justice Alito strongly suggested that the statute violates the dormant Commerce Clause. This has opened a floodgate of out-of-state cases into Pennsylvania courts. In an effort to end litigation tourism, the PA Chamber joined amicus briefs in support of Syngenta's petition to the PA Supreme Court, and prior to the PA Superior Court, to review Pennsylvania's consent by registration statute for violating the dormant Commerce Clause.

Tranter v. UPS — The PA Chamber joined an amicus brief urging the PA Supreme Court to apply doctrine of *forum non conveniens* in personal injury tort actions where plaintiffs choose a forum far from the site of the tort that is burdensome on parties and witnesses. We argue that the Superior Court of PA misapplied the doctrine of *forum non conveniens* when it reversed the trial court's order transferring the underlying actions from Philadelphia Court to the county in which the incident giving rise to the claims occurred (Westmoreland), even though Philadelphia shares no connections to a single party, witness or claim in the case.

Ursinus College v. Prevailing Wage Appeals Board — The PA Chamber coordinated a coalition of leading industry associations in submitting amicus briefs to both the Commonwealth Court and Supreme Court, arguing that the Prevailing Wage Act applies exclusively to "public works" projects in which a government entity has a close relationship to a project, either as a contracting party or funder. In the Ursinus case, where the municipal authority in question had no active involvement beyond facilitating the project's financing, the brief argued that applying prevailing wage requirements would constitute an unjustified expansion of the law's scope, contrary to established legal precedent. This decision could have significantly increased all projects funded through municipal authorities. Thankfully, however, the PA Supreme Court agreed with our arguments to overturn the decision.

Higher Education

Grow PA Scholarship Grant Program (Act 89 of 2024) — Offers grants of up to \$5,000 per year for in-state students who attend college in Pennsylvania, pursue a degree in a high-demand industry, and agree to live and work in that industry in Pennsylvania after graduation. Grant recipients would be required to live and work in Pennsylvania for at least 12 months for each year they accept the grant. Failure to meet this requirement would result in the grants being converted to a loan that must be repaid.

New State Board of Higher Education: The PA Chamber was instrumental in securing two business appointees to the new State Board of Higher Education, which brings together leaders from higher education, the business community, labor, students, legislators, and members of the Shapiro Administration to craft a strategic plan for higher education, coordinate between higher education institutions and sectors, make higher education more accessible and affordable for students, and ensure our Commonwealth's higher education institutions are training students with the skills and credentials needed to fill critical workforce shortages and power our economy for generations to come.



Workforce

The 2024-25 state budget included substantial investments in workforce development and Career and Technical Education, including:

- An increase to the the allocation for the Educational Improvement Tax Credit by \$70 million, from \$470 million to \$540 million.
- An increase in the Commonwealth's investment in career and technical education by 21 percent, along with legislation that makes it easier for qualified individuals to become a career and technical educator (further details below)
- An expansion of the Pennsylvania Housing Affordability and Rehabilitation Enhancement (PHARE) fund to support the availability of workforce housing in Pennsylvania.

Allowing Additional Highly Qualified Individuals to Earn CTE Certificates (Act 55 of 2024) — Updates and improves Pennsylvania's CTC certification process by helping individuals more easily earn Career and Technical Instructional Certificates. This is necessary because Pennsylvania employers report difficulty finding individuals to fill in-demand trade positions, and lessening barriers to licensing for instructors can benefit individuals and employers as the Commonwealth works to solve this problem.

Childcare Credits: Per the 2024-25 state budget agreement, creates a tax credit for employer contributions to employees' 529 tuition savings accounts; and employer contributions toward employees' child care costs,

Community Service Alternative to Driver's License Suspension (Act 138 of 2024) — Allows magisterial district judges to determine that if someone is financially unable to bear the costs of fines and fees associated with their traffic offense, they could assign community service as a payment alternative to an indefinite license suspension. License suspensions can severely impact employment, complicating commutes and often preventing job-related tasks that require a valid license. By offering an alternative to suspensions, this proposal allows individuals to continue working, ensure economic stability, and deter further strains on Pennsylvania's workforce.



Workers' Compensation

Direct Deposit of Workers' Compensation Wage Benefits (Act 126 of 2024) — This legislation allows claimants or payors of workers' compensation wage benefits to require transactions to occur via direct deposit. The act modernizes the Workers' Compensation Act by establishing a regulatory framework to govern payment of benefits by direct deposit, including allowing employers to more easily transition away from the use of paper checks, which are more vulnerable to delays, loss, or misplacement.

Held Off Significant Workers' Comp Cost Increases — The PA Chamber successfully prevented passage of House Bill 930, which would resulted in significantly higher workers' compensation costs on employers by disrupting a benefit structure that has existed for over 100 years and already provides for annual benefit increases for particular injuries.

Helped Improve First Responder PTSI Bill (Act 121 of 2024) — The PA Chamber successfully advocated for a number of improvements and safeguards to Act 121 of 2024 to provide benefits to first responders suffering from Post-Traumatic Stress Injuries, including targeting eligibility requirements, requiring that diagnoses be made by a qualified professional, and helping to control costs on municipalities.



Advocacy Return on Investment

Our advocacy efforts continue to result in major returns for Pennsylvania's business community, leading to \$33 billion in total savings and \$5,056 per employee in Pennsylvania. Our efforts are strengthened by the support of our nearly 10,000 members, representing companies of all sizes across all industry sectors. To add your voice to the Statewide Voice of Business, or learn more about our various levels of membership, visit our website or contact a dedicated member of our team.

Severance tax stopped every year since 2015:	\$9 billion
Personal Income Tax increase stopped:	\$6.7 billion
Small business tax hike prevented:	\$6.2 billion
Minimum wage hike defeated:	\$5 billion
Health care: nurse ratios legislation stopped:	\$2 billion
Corporate Net Income tax rate reduced:	\$2.74 billion
Amicus work in support of stopping RGGI:	\$781 million
Combined reporting stopped:	\$461 million
EITC/Opportunity Scholarship Tax Credits increased:	\$225 million
Small business PPP loans exempted from state/local taxes:	\$100 million
Sales and use tax exemption for data centers:	\$55 million
Like-kind exchange provision enacted in tax code:	\$28 million
Overtime rule repealed:	\$22.9 million
Expense deduction limit increased:	\$22 million
Unemployment compensation tax increase stopped:	\$585,000
Total definable return:	\$33.011 billion
Number of workers in PA:	6.528 million
Return per Pennsylvania employee:	\$5,056

** Certain major policy accomplishments, such as permitting reform, bring substantial benefits that are challenging to quantify reliably at this stage. These reforms will streamline processes, expedite project timelines, and enhance overall business competitiveness beyond measurable dollar amounts.*

