

2015 **Legislative Agenda**

Building a stronger workforce through high quality education



*Creating a competitive
business climate in the
Commonwealth*

*Expanding Kentucky's role
as an energy leader*

Encouraging responsible government spending

*Improving the health and
wellness of Kentucky citizens*

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The Kentucky Chamber of Commerce

Fighting to improve the business climate and protect your bottom line

[Uniting Business. Advancing Kentucky.](#) From its beginnings more than 65 years ago, the Kentucky Chamber of Commerce has evolved into the premier business association in the state. The Chamber represents the interests of more than 90,000 employers across the Commonwealth. From family-owned shops to Fortune 500 companies in virtually every industry in the state, our business community shares a vested interest in enhancing Kentucky's ability to compete on a national and global scale. Strength in numbers continues to help the Chamber influence policymakers in areas such as business taxation and fiscal policy, environmental and safety issues and workers' compensation, health care and education.

Our mission is not always easy, but the Kentucky Chamber continues to provide leadership as a catalyst, consensus-builder and advocate to unite business and advance Kentucky.

Policy Councils

As part of its advocacy mission, the Kentucky Chamber has developed five public policy councils composed of business leaders from around the state, each of which is responsible for developing legislative positions and priorities for their respective policy areas.

Education and Workforce Council

Kentucky's economic viability is directly linked to the education and skills of its citizens. We believe education at all levels must be responsive to the needs of employers and all students – children and adults. With a focus on lifelong learning, the education and workforce council works to ensure that Kentucky's economy benefits from a prepared, productive and diverse workforce. The council develops policies to support and improve education at all levels.



Mike Owsley
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Priest & Owsley



Andrew Henderson
Lexington Clinic

Health and Wellness Council

Rising health care costs have become a significant fiscal threat to Kentucky's businesses. As such, the health and wellness council is focused on developing comprehensive, long-term solutions to help slow the ever-increasing costs of health care in Kentucky and to promote public policies that will help improve the overall health and well-being of Kentucky's citizens.

Kentucky Competitiveness Council

By promoting business recruitment, retention and expansion, the competitiveness council seeks to increase Kentucky's competitiveness, not only with our border states, but with competitors around the world. To achieve that goal, the council is actively engaged in policy initiatives aimed at modernizing the economy, creating jobs, supporting state income and expenditure practices that promote long-term economic growth in Kentucky and improving the quality of life for all citizens.



Kim Menke
Toyota Motor
Manufacturing of
Kentucky



Rusty Ashcraft
Alliance Coal

Energy and Environment Council

The energy and environmental council seeks to promote Kentucky as an energy leader and supports policies to achieve environmental protection without unnecessarily hindering economic development and business growth. Its members support legislative and administrative actions that are scientifically valid, technically feasible and economically rational.

Small Business & Entrepreneur Council

Because small businesses are often disproportionately affected by challenges facing the economy, the small business council focuses on ensuring the broad range of issues of particular importance to small business owners are adequately represented in the Chamber's policy development process.



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Building a stronger workforce through high quality **education**

Kentucky's business community is heavily invested in education. Whether the investments are as universal as taxes or as specific as tuition reimbursement for workers, employers across the Commonwealth are fueling Kentucky's quest for education with their financial resources. Many are adding their personal talents and energies to the effort, working at the community and state levels on initiatives to improve education and the resulting quality of the workforce. This commitment reflects employers' understanding that education is the cornerstone of progress for individuals, communities and the state as a whole.

Success? Failure? The answer lies in the quality of the education Kentuckians receive and how well equipped they are to put what they know to work. High expectations and accountability for performance are critical – in ensuring every child is ready for kindergarten, in accelerating student achievement in elementary, middle and high school, in steadily improving performance and outcomes at the postsecondary level and in increasing the knowledge and skills of under-educated adults.

Strengthening the workforce: preparation and training

Workforce training is critical – and it's big business in Kentucky. The challenge is ensuring it gets the job done for Kentuckians and the companies that employ them.

Kentucky's workforce training system is notably complex. The governing boards of the agencies that provide workforce training directly or manage funding for programs have dozens of members at the state level and more involved in community-level efforts. Programs receive state and federal funding in the tens of millions of dollars, and programs range from job-specific skill development to support for job seekers.

Given the critical importance of quality worker training programs to the state's economic prosperity, it is appropriate for employers – the demand side of the equation – to conduct an organized and deliberate review of the system and determine what improvements are needed.

The Fall 2014 reauthorization of the federal Workforce Investment Act, now known as the Workforce Innovation and Opportunity Act, offers a promising platform for state-level efforts to improve the responsiveness of workforce training programs to the needs of employers and job seekers.

To build a stronger workforce training system in Kentucky, a group of employer representatives convened by the Kentucky Chamber is conducting a review of policies and programs now in place. The group's report is to be finalized in early 2015.

Building on progress

Kentucky continues to make measurable progress in education, with the most recent state test scores showing improvement in overall student performance as well as such key indicators as the graduation rate.

Of particular significance is the continuing increase in the number of students who are ready for college and career. The college/career readiness rate jumped to 62.3 percent in 2014, up from 54.1 percent in 2013 and 47.2 percent in 2012.

Kentucky's more rigorous academic standards are key to continuing this progress. The learning guidelines, known as the Kentucky Core Academic Standards, are designed to ensure students are college and career ready when they graduate from high school. They mean harder work – for students and teachers alike – but they hold great promise for the preparation of a world-class workforce.

The Kentucky Chamber and its members continue their strong support for the standards and the efforts of the Kentucky Department of Education, the Council on Postsecondary Education and teachers across the state as they work to raise student achievement. The Chamber believes it is imperative Kentucky stay the course with the tougher standards and reject efforts to revert to less challenging requirements for student learning.

Invest in early childhood education

Economic research makes it clear that investments in quality early childhood programs return strong dividends – in higher education attainment which leads to higher paying jobs, reduced costs for health care, criminal justice, social services and welfare, and other personal and societal benefits. Kentucky must invest in early childhood education and make greater investments in enhanced child care programs for Kentucky’s developing youth. Ensuring a successful beginning for the state’s youngest citizens will require an innovative and collaborative approach to provide quality preschool to all 3- and 4-year-olds. Additionally, the Chamber supports efforts to fully fund all-day kindergarten equitably statewide.

Promote and reward high quality teaching

Quality teaching is the single most important factor in students’ academic success. To ensure every Kentucky student has a high-quality teacher every year, the Chamber supports the formal review of the effectiveness of teacher preparation programs and the delivery of meaningful professional development programs to better meet the needs of classroom teachers. Policymakers must professionalize the teacher compensation system to reward excellence and provide incentives to attract educators to areas that are underserved, either geographically or by subject matter. This will allow Kentucky to recruit and retain the best and brightest professionals.

The Kentucky Department of Education has developed a new Professional Growth and Effectiveness System to improve the teacher evaluation process. This is being implemented statewide in 2014-15 and offers great promise as a way to measure teacher effectiveness and to spur improvements in classroom teaching.

Require education accountability

The Chamber believes tenure should not be automatically awarded to teachers on the sole basis of time on the job but should be earned, based on an appropriate evaluation and subject to periodic reviews for renewal.

The Chamber further believes the current tribunal system in place to review appealed cases of misconduct and inadequate job performance of school employees is both complicated and inconsistent. Superintendents are reluctant to fire or suspend an insubordinate employee due to the cost, complexity of the

process and likelihood that their decision will be overturned by a tribunal. The Kentucky Chamber advocates for a clearer, more consistent process to ensure all students have a safe and productive classroom environment. Educators who do not meet the high standards required to serve all students should be removed from the education system.

Allow public charter schools

To ensure all students receive a quality education, the Chamber supports the passage of enabling legislation to allow the formation of public charter schools. Kentucky is one of only eight states that do not offer high quality public charter schools. Charter schools are independent schools designed to provide tuition-free public education choices to parents and students. Charters liberate teachers and administrators from red tape and allow more innovation in the classroom. In exchange for this flexibility, charter schools accept high accountability, knowing they can be closed if they fail to live up to their charter.

The Chamber believes all children deserve the opportunity to go to a school that challenges them and prepares them for the future. It is time to give parents the right to make choices about the best learning environment for their child. Although the “Districts of Innovation” legislation gives select schools greater flexibility, it does not provide educational choices for parents who are unsatisfied with their child’s school. The Kentucky Chamber advocates for charter school legislation that gets parents more involved, gives teachers the freedom to be even more innovative and gives students the structure they need to learn.

Postsecondary

Limit KEES awards to students who are ready

At the high school level, financial rewards – in particular the Kentucky Educational Excellence Scholarship – should be weighted to provide students with greater incentives to take more rigorous courses. Under current law, a student can score 15 on the ACT and still receive KEES funds. The Chamber supports raising this score to more accurately reflect the minimum score needed for admission to Kentucky’s postsecondary institutions.

Make higher education affordable

Making sure postsecondary education is affordable for Kentucky students should be a priority for the Commonwealth. The Chamber advocates simplification of the state’s financial assistance process and a shared responsibility approach to distrib-

ute costs among students, families, postsecondary institutions and the government. Further, on-time degree completion is a key strategy in managing limited state and student resources. Students should be given every opportunity and encouragement to complete their degrees on time.

Base funding on performance

Timely degree completion is one example of an area where Kentucky's postsecondary institutions should improve their performance. To provide meaningful incentives that encourage and reward excellence, a substantial portion of state funding for the institutions – including all additional funding beyond current appropriation levels – should be based on their ability, as objectively measured, to improve productivity: moving students to graduation in the most cost-effective manner. Incentive programs may not be sufficient to accomplish this goal; establishing a correlation between improving productivity and the institutions' base funding should be the standard.

Set universities free to excel

Public universities in the Commonwealth need greater operational flexibility to compete in an increasingly global marketplace. Flexibility that allows for entrepreneurial endeavors while requiring overall accountability would improve quality and better serve the institution, Commonwealth, employers

and students. As an example, most states allow public universities to issue their own revenue bonds to finance building projects that generate income sufficient to cover the debt service. To the extent that such an approach would not negatively impact the Commonwealth's state bond rating, the Chamber believes a similar approach should be implemented in Kentucky with structural safeguards and oversight that ensure projects are consistent with the state's vision for postsecondary education.

Adult Education

Strengthen the adult education system

While the state is making progress in improving education levels of younger Kentuckians, the educational attainment of older workers, those between 25 and 64, continues to present significant challenges. The Chamber supports initiatives designed to meet these challenges, such as the Kentucky Adult Education System's efforts to increase the number of people earning a GED and enrolling in postsecondary education programs and the Council on Postsecondary Education's Project Graduate encouraging adults with some college credits to complete their degrees. These and other efforts are essential to increasing the skills of Kentuckians already in the workforce.

Creating a **competitive** business climate in the Commonwealth

The Kentucky Chamber believes promoting long-term economic development and job growth should be a top consideration when state revenue policies are adopted. It is critical that Kentucky be successful in its efforts to promote business recruitment, business creation and business expansion. To that end, the Chamber advocates public policy innovations that serve to remove the Commonwealth's most glaring competitive disadvantages. We call on state leaders to eliminate unnecessary, government-imposed costs of doing business and to enact legislation that fosters business growth and innovation.

Ensure a competitive tax climate

Tax policies must be guided by a well researched, balanced approach that provides for necessary public investments and expenditures while avoiding policies that could serve as disincentives to private-sector employment and investment. During these tough economic times, Kentucky's lawmakers are to be commended for holding the line on new or increased taxes, which heightened the state's national profile and better positioned Kentucky and its employers for recovery. However, legislators have a number of opportunities to change our tax code in ways that will have an immediate impact on Kentucky's ability to attract and retain jobs.

Repeal or phase out the inventory tax

Property taxes on business inventory, abandoned by most states, serve as a disincentive to business growth because they tax the investment itself rather than the outcome or profit from that investment. Furthermore, some types of inventory are exempt by law or enjoy exemption because of location while other, similar inventory does not receive the same treatment.

Adopt a single sales factor apportionment formula

Although changes in 2005 and 2006 improved the competitiveness of Kentucky's business taxes, our combined state and local corporate income tax is still among the highest in the country. To become more competitive, Kentucky should join five of its neighboring states in adopting a single sales apportionment formula. Under Kentucky's current double-weighted sales factor apportionment formula, companies are penalized for creating jobs and making additional investments in the Commonwealth. By moving to a single sales factor formula, Kentucky will be viewed as a more attractive option for companies making significant capital investments and creating new jobs.

Revise the limited liability entity tax

To increase fairness, employers should have the ability to offset pass-through credits against taxes on income from other businesses and other years.

Additionally, more clarity is needed to determine what business expenses qualify as cost of goods sold in the LLET gross profits calculation to make it easier for small- and medium-sized businesses and tax preparers to comply.

Support local option flexibility

The Kentucky Chamber supports an amendment to the Kentucky Constitution that would allow cities and counties the choice, with voter approval, to enact a local sales tax with a sunset provision, dedicated for the funding of transformational local projects.

Entice business development and entrepreneurship

While not a substitute for comprehensive tax reform, the Chamber supports strategic investment in incentive programs designed to encourage the growth of high-wage jobs, long-term investment in strategically defined industry sectors and promotion of small businesses. Further, the Chamber supports the enhancement of entrepreneurial development incentives to encourage innovation and competition in the global marketplace.

To strengthen Kentucky's incentive program, lawmakers should act on initiatives to expand the Kentucky Investment Fund Act angel investor tax credit to individuals and the Kentucky Reinvestment Act to include technology and headquarters reinvestment projects. To ensure maximum effectiveness, accountability and continuity, the Chamber supports maintaining the public/private partnership board governance structure under which the Cabinet for Economic Development operates.

Comprehensive Tax Reform

In addition to these immediate changes, the Chamber urges the General Assembly to address the long-term need for comprehensive tax reform. As the Governor's Blue Ribbon Commission on Taxation considered options to improve the business tax climate in Kentucky, we urged consideration of tax changes that specifically improved Kentucky's competitive position. To that end, the Chamber produced a series of professional tax papers for the commission and legislators to consider. These detailed recommendations can be found at kychamber.com/tax. Overall, our members tell us the tax system is too complex and compliance is too costly, while numerous economic development experts say our code continues to create a competitive disadvantage because it punishes economic productivity. A shift from income-based taxes to consumption taxes can improve our competitive situation so long as these taxes are not levied on business-to-business services that would add another layer of costs to job creation. Since taxes significantly impact business decisions that lead to job creation and retention, the Chamber supports comprehensive tax reform in accordance with the following principles:

Support growth and competitiveness.

Kentucky's state and local tax system should support growth-oriented tax policies that improve the competitiveness of Kentucky businesses in the national and global marketplace.

Reduce the cost of capital. The tax code should encourage investment as it is the key to increased growth and productivity as well as higher wages for Kentuckians.

Simplify the tax code. The tax code should be simplified with the goal of reducing compliance costs for the private sector. Complex taxes impose costs on businesses that either reduce

the return on investment or are passed on to consumers and workers.

Promote fairness. Kentucky's tax system should promote fairness by creating a level playing field on which Kentucky businesses can compete. Double taxation, or pyramiding, should be prohibited, and tax expenditures should be carefully studied to determine effectiveness. Taxpayer rights should be enhanced and enforced to promote fundamental fairness in the application of tax laws.

Revenue through growth. Changes in the state tax code should be undertaken only to increase fairness and

competitiveness and not to simply generate additional state revenue. While tax changes cannot guarantee tax neutrality for every Kentucky business, the goal should be to ensure a competitive tax code that grows existing business and attracts new businesses to Kentucky.

Continue to focus on spending. To keep taxes competitive, it is critical to examine expenditures and align them with economic realities. Reforming the tax code must be coupled with a continued commitment by the legislature to reform and prioritize government spending.

Grow Kentucky's exports

As 95% of today's market opportunities are located outside the United States, Kentucky must recognize and capitalize on its export advantage in international trade. Its geographic location in the United States, its status as the operational headquarters for an international logistics provider (UPS) and its trained and growing transportation workforce positions Kentucky to be a leader in the export of Made-in-America products. In fact, Kentucky exported more than \$25.2 billion of goods in 2013, ranking 18th among the 50 states in total exports.

The Chamber has partnered with the Kentucky World Trade Center and encourages and supports all efforts by state leaders to provide export training and promote the benefits of global trade to our business community. The Chamber supports free trade agreements that open markets to Kentucky companies and urges state policies that encourage worldwide

exports of Kentucky products to the world. Exporting products from Kentucky will retain and create jobs, grow our businesses and strengthen our state's bottom line.

Protect intellectual property

When manufacturers use stolen intellectual property (IP) to cut their business costs, they gain an unfair competitive advantage that results in reduced revenues and job growth for responsible Kentucky and U.S. manufacturers. IP theft is a particularly serious problem in emerging export markets with a weak rule of law that encourages illegal and unethical business practices. The Chamber encourages federal and state policymakers to enact policies that will improve business competitiveness by promoting and defending robust intellectual property rules globally, while strengthening enforcement efforts in the United States and abroad.

Develop pro-business energy strategies

Kentucky is well known for its abundant coal resources, and the state's low energy costs are among our most compelling competitive advantages when recruiting new businesses. Low utility rates attract jobs and investment to the Commonwealth and help offset our less competitive business elements.

In 2007, Kentucky took a bold step by providing incentives to develop new energy sources that use our resources in a clean and efficient manner. To sustain, stabilize and improve our favorable energy climate, the Chamber encourages policymakers to continue to maximize opportunities for long-term growth and development while preserving Kentucky's low energy costs through continued support of Kentucky's coal and natural gas industries and ensuring sensible environmental regulations.

Expand gaming to support equine industry

Kentucky's equine industry is world renowned, with an impact of more than \$4 billion to Kentucky's economy and more than 80,000-100,000 full-time equivalent jobs. Kentucky is struggling, however, to retain its status as the "Horse Capital of the World" due to its inability to compete with other racing states that use alternative gaming revenues to increase purses and breeding incentives. Because of their pro-gaming, equine-friendly policies, states like Pennsylvania, Louisiana, Indiana and West Virginia have been successful in attracting Kentucky horse owners and breeders and industry-related jobs.

The Chamber strongly encourages the General Assembly to authorize alternative gaming options to provide a much-needed boost to the state's equine industry as well as to recoup the hundreds of millions of tax dollars being lost annually to casino gaming in neighboring states. The Chamber also supports programs and initiatives to protect and enhance the future growth of the equine industry, including innovative tax approaches, purse increases, increased funding for breeder incentive programs and other assistance to allow our signature equine industry to remain competitive.

Protect Kentucky's distilling industry

Kentucky's legendary distilling industry has a significant impact on the state's economy, producing 95% of the world's bourbon and contributing \$3 billion in gross state product while generating \$166 million a year in tax revenue. The Chamber strongly supports initiatives to protect and grow the iconic industry. For Kentucky to maintain its dominance in the distilling industry and attract new distilleries, the General Assembly must update the tourism and hospitality statutes written before the Kentucky Bourbon Trail® was created to take advantage of the booming bourbon tourism industry.

Enhance workforce flexibility for employers

State policymakers must support employers as they invest in the Commonwealth's workforce. To enhance workforce flexibility, the Kentucky Chamber opposes state and local wage mandates, safety regulations and additional standards that exceed federal requirements. When state or local governments enact regulations and mandates beyond what are necessary to provide proven, uniform protections, the added cost of doing business decreases Kentucky's overall competitiveness, particularly with our border and peer states. State government should closely scrutinize regulations already on the books to ensure effectiveness and provide consistent enforcement so businesses can operate in a predictable climate.

Monitor unemployment insurance legislation

The General Assembly's 2010 passage of unemployment insurance reform and 2012 legislation to ensure the system does not default on the federal loans were positive developments for Kentucky's business community. The legislation updates the state's unemployment insurance system, revives the depleted unemployment insurance trust fund, prevents further borrowing from the federal government and keeps Kentucky competitive with other states. The Chamber supports continued efforts to monitor the implementation of the legislation and future revisions to ensure the integrity of the system.

Enact right-to-work legislation

The Chamber strongly supports legislation to prohibit requiring any worker to join a union as a condition of employment. We believe union membership should be a matter of personal choice, and the freedom not to affiliate with a labor union is no less deserving of protection than the freedom to affiliate. States with right-to-work laws report faster per capita income growth, faster growth in manufacturing and non-agricultural jobs, greater capital expenditures, lower unemployment and fewer work stoppages. As Kentucky struggles to recruit new businesses and to retain existing and expanding businesses, Kentucky's failure to enact right-to-work legislation has allowed the Commonwealth to cede competitive ground to other states. In fact, Kentucky is the only southern state not to have enacted right-to-work legislation, and, with Indiana and Michigan's new right-to-work laws, stands as a conspicuous outlier in this much needed area of reform.

Oppose the Employee Free Choice Act

Over the past four years, the Chamber has successfully opposed the Employee Free Choice Act (EFCA) in Congress. EFCA would radically restructure 60 years of carefully crafted labor law balances that have served both unions and employers well. EFCA consists of three main provisions, each of which is unacceptable to business: elimination of the secret ballot and a move toward the card check process, government-imposed arbitration, and unreasonable, one-sided penalty expansion directed

at employers. As public and congressional support for EFCA has diminished, the National Labor Relations Board and U.S. Department of Labor have been attempting to impose EFCA through regulation. Over the past few years, these agencies have issued proposed rules that will make it easier for unions to organize, including mandated labor postings, reducing the length of union election campaigns and expanding reporting and disclosure requirements for employers. The Chamber will continue to voice its strong opposition to EFCA, any efforts to impose EFCA through administrative actions and other proposals that upend decades of settled labor law at the expense of both employees and employers.

Support paycheck protection

Although requiring employers to deduct taxes from an employee's pay is a common and accepted practice, forcing businesses to administer payroll deductions to support the political activities of unions without compensation is a significant and unjustified intrusion into the administrative affairs of a company. The Chamber supports legislation that repeals the employer mandate to withhold union dues from an employee's salary.

Revise Kentucky's prevailing wage laws

As pressing budget issues persist, it is time lawmakers get serious about examining Kentucky's prevailing wage law. While total repeal of the state prevailing wage law has long been and remains a goal advocated by the Chamber, we support a series of steps that would make Kentucky's economic and infrastructure development more competitive in the near term:

- Kentucky's prevailing wage laws must be made more representative of local wages by utilizing more effective methods of data collection than the current hearings process.
- The definition of localities should be replaced with one that would reduce the number of unrelated counties grouped together.
- If no changes are made to make the wage determination process more representative of local wages, then federal prevailing wages should be adopted wherever they exist.
- Kentucky should reinstate a prevailing wage exemption on education projects. By once again allowing an exemption for these projects, greater investments can be made in technology and improved facilities and in the classroom.

Workers' Compensation: Improve system & revise subrogation laws

The Chamber believes Kentucky's workers' compensation system should be fair to the employee and employer and designed to return the employee to work as soon as medically appropriate. To that end, the Chamber supports legislation and policies that ensure a balanced and equitable system of handling claims for workers who are injured while working, require

objective medical findings, protect the exclusive remedy doctrine and minimize litigation. Moreover, the Chamber supports legislative and regulatory efforts to control rising medical and prescription drug costs and eradicate prescription drug abuse related to workers' compensation claims.

Kentucky must enact workers' compensation subrogation legislation that protects Kentucky employers from being penalized for the negligent acts of third parties who injure their employees, allows Kentucky businesses to remain competitive with businesses from other states and brings Kentucky workers' compensation subrogation laws in line with every other state in the country.

Revise Kentucky's statute of limitations laws

Kentucky should review and revise the statute of limitations laws to ensure they do not place an inordinate burden on employers or create an uneven playing field to encourage frivolous litigation, are consistent with surrounding states and allow Kentucky to remain competitive in attracting and retaining businesses. Specifically, the Chamber supports reducing the statute of limitations for wrongful termination or discrimination arising out of the employment relationship to two years and reducing the statute of limitations for written contracts to five years.

Stop expansion of public employee collective bargaining

The Chamber is firmly opposed to any local or statewide expansion of public employee collective bargaining. The expansion of public employee collective bargaining can lead to inefficient administration of public duties, increased costs to taxpayers and an increased likelihood of interruptions of essential government services to the detriment of all Kentuckians.

Develop and maintain infrastructure

Kentucky must realize our global competitors are building infrastructure at an impressive rate. To take full advantage of Kentucky's favorable geographic location and improve the ability of Kentucky companies to compete, we must place a greater emphasis on building and maintaining our state's infrastructure. Our focus must include energy, water, sewer, broadband and transportation systems.

Release the pressure on foreclosure crisis through non-judicial foreclosure

Currently, Kentucky allows mortgage foreclosures exclusively through a judicial process, which proves time consuming and costly to the lender, the borrower and the local community. In addition, a judicial process often results in vacant and abandoned buildings for an extended period of time, which burdens citizens and communities with such problems as declining value for surrounding properties, resulting in decreasing tax

revenues and increased criminal activities in and around vacant properties. More than 30 states offer some form of non-judicial foreclosure, which allows lenders and borrowers to voluntarily resolve the foreclosure process through private transactions, as specified by statute. The Kentucky Chamber supports the state allowing this “Deed of Trust” method which will expedite the foreclosure process to get homes rehabilitated and back on the market as soon as possible.

Expand wireless and broadband infrastructure

In a 21st century global economy, development of our telecommunications infrastructure is as essential as roads, bridges and rail were in the last century. To support competitive widespread access to wireless and broadband services, Kentucky needs to update its laws and regulations to reflect the demands of our communications-based economy. Neighboring states like Indiana and Tennessee, in addition to most states across the southeast, have already taken these steps. Kentucky should modernize its telecommunications laws and eliminate unnecessary and outdated retail-based regulatory burdens that serve only to stifle investment in the technology infrastructure upon which the jobs of the future will depend.

Construct and maintain transportation investments

A dependable transportation network is necessary for the safe and efficient movement of individuals and freight statewide. It is a key factor in business location because good transportation infrastructure provides companies a means to move goods and provide services in a cost-effective manner. Kentucky’s road fund is currently at a crossroads. With more fuel efficient vehicles on the road, the gas taxes used to support critical infrastructure improvements are falling short of projections needed to improve Kentucky’s crippling highway infra-

structure. Under current Kentucky law, a portion of the gas tax is calculated at 9% of the average wholesale price (AWP). It can only increase by 10% in any 12-month period. As the price of gas has risen, the rate has increased the full 10% every year since 2004. This revenue is shared with cities and counties, allowing them the flexibility to make the best decisions for their communities. To that end, the Chamber supports raising the statutory “floor” of the gas tax and ensuring the rate may only decrease by 10% in any 12-month period – the same limitation as an increase – to improve Kentucky’s infrastructure, especially in areas of economic need.

Promote an equitable civil justice system

The increasing cost of civil litigation, whether through legal fees, higher liability insurance premiums, defensive business practices or simply reduced investment opportunities, is a significant burden for Kentucky’s employers. These costs are not only hurting businesses and their employees but also consumers as they are passed on in the form of higher prices and fewer choices. Kentucky must turn back the clock on expansion of employer civil liability.

According to the Institute for Legal Reform, in 2012 Kentucky ranked 38th out of all the states for our legal liability climate. To stem the costly tide of an increasingly and unnecessarily litigious environment, the Chamber supports reasonable limitations on civil liability and a constitutional change that would allow the General Assembly to enact caps on awards for non-economic damages. Additionally, Kentucky businesses should be permitted to challenge state statutes or appeal the actions of a state agency by filing suit in the circuit court in the county where the business is located. These needed reforms will have a stabilizing influence on our tort system, making the state far more attractive to employers and potential employers alike.

Improving the **health & wellness** of Kentucky citizens

A growing sense of crisis continues in the business community about unsustainable increases in health care costs, particularly for small businesses. Over the past decade, employers have been forced to consider such undesirable cost-containment strategies as reducing employee benefits, shifting more costs to employees, dropping coverage altogether or raising the price of their products to consumers to recoup their health insurance costs. The Kentucky Chamber encourages state and federal lawmakers to focus on policies that improve the health of our citizens through cost-effective, evidence-based care along with wellness programs and other prevention measures.

Monitor impact of the ACA

The Patient Protection and Affordable Care Act (ACA), passed four years ago, represents a wholesale change to our nation's health care system. The Chamber is concerned that employers and employees may face significant premium increases and that businesses with more than 50 employees who have been providing voluntary health insurance will now be faced with mandated coverage, new structures on benefit design and increased taxes or penalties. The effect on employers will not be fully realized until the employer mandate goes into effect in 2015-2016. Kentucky officials and policymakers are acting to develop and implement changes in our state's health care programs and systems to comply with the law. The Chamber is monitoring these regulations and has provided input to federal and state agencies as well as the National Association of Insurance Commissioners. The Chamber will continue to look for opportunities to ensure that employers in Kentucky can provide affordable, accessible health care to their employees and not be burdened by overreaching regulations and penalties under the federal law.

Monitor Kentucky-based health insurance exchange

In January 2014, the ACA required that each state establish a "Health Benefit Exchange" for individuals and "Small Business Health Options Programs" (or SHOP) Exchanges for small employer groups, both aimed at creating a robust health insurance marketplace. Individuals and small businesses can now shop for qualified health plans online, allowing them to compare coverage, provider networks and cost.

The Governor established the Kentucky Health Benefit Exchange (Kynect) by executive order in July 2012, but questions remain among some lawmakers concerning funding and oversight. Under the ACA, each state based exchange must be self-sustaining beginning January 1, 2015. The law authorizes exchanges to generate funding to sustain their operations, including the assessment of fees on participating health insurance issuers. Gov. Steve Beshear has declared that no General

Fund dollars will be used to operate Kynect. As of April 2014, more than 82,000 Kentuckians had purchased private health insurance through Kynect. Despite the Chamber's serious concerns about the ACA's impact on business, we do not believe the Commonwealth should cede power to Washington, but chart its own course in health care reform through continued implementation of a Kentucky-based health exchange. State policymakers must understand that supporting a state-based exchange is not an endorsement of the law itself.

Monitor Medicaid expansion

Governor Beshear announced last year that Kentucky would expand Medicaid eligibility (as permitted by the Affordable Care Act) to persons with annual incomes up to 138% of the federal poverty level (\$27,310 for a family of three) beginning in January 2014. The federal government will pay 100% of the state's additional cost for the expansion from 2014 to 2016. However, the state is required to begin paying part of the costs beginning in 2017.

In May 2013, the Kentucky Cabinet for Health and Family Services estimated 164,000 additional Kentuckians would be eligible under the Medicaid expansion in FY 2014 and that number would grow to more than 209,000 by 2017 and beyond. This estimate, now shown to be significantly too low, included an additional 17,000 to 20,000 Kentuckians who were already eligible but not enrolled in Medicaid under the existing eligibility rules (under which the state pays 30% of total benefit costs) who are expected to sign up due to the new requirement that individuals obtain health coverage or pay a penalty. The total additional cost to the Commonwealth was estimated at \$13 million in General Funds beginning in FY 2014 and increasing to \$187 million by 2021.

The cabinet's analysis concluded that the health and economic benefits of expansion would offset the additional state costs due to an infusion of \$15.6 billion in new federal dollars in Kentucky's economy that would create an estimated 17,000 new jobs. The analysis also concluded that Kentucky employers could face up to \$48 million in annual fines for failing to provide in-

insurance if Medicaid was not expanded as many existing employees would become eligible.

However, these cost estimates are based on the assumption that Medicaid enrollment would increase by 164,000 in FY 2014, growing to 209,000 by 2017 and sustaining that level in subsequent years. In fact, enrollment data as of April 21, 2014, indicate that 330,615 additional Kentuckians had already qualified for Medicaid through Kentucky's health insurance exchange — a number that is almost twice the estimated amount for FY 14 and 50% more than estimated for 2017. This actual enrollment experience suggests that Kentucky will face a much higher cost than originally estimated, especially in 2017 when the state will be required to pay 5% of the costs of those newly eligible under expansion.

Promote wellness and prevention

Collectively, Kentucky has one of the nation's unhealthiest populations. The Commonwealth consistently ranks at or near the top of the list in smoking rates, obesity levels and a host of other poor health indicators. In addition to being a quality-of-life issue, the state's health status has a significant impact on the business community, increasing employers' health care costs and hindering their ability to hire a healthy and productive workforce. Nationally Americans use preventative services at about half the recommended rate. Preventing disease before it starts is critical to help people live longer, healthier lives and keep health care costs down. The Chamber encourages employers to implement wellness based programs that encourage prevention and that will prompt workers to improve their healthy habits.

Poor health is also a drain on the state's resources through increased use of health services by Medicaid recipients and state employees. To improve the health of Kentuckians and to promote an under-used cost control measure, the Chamber supports legislation to provide tax and other incentives for the creation of wellness programs enabling businesses to educate and encourage their employees to engage in healthy lifestyles and obtain preventive care. The Chamber is encouraged that the ACA broadens wellness initiatives by providing grants to certain small employers and increasing incentive limits and encourages the full funding of this provision. The Chamber supports government programs and policies that help provide education and assistance for companies, organizations and individuals to promote health and wellness throughout Kentucky. These efforts should focus on encouraging a level of personal responsibility for one's health as well as organizational health promotion policies and environments. A balanced approach that educates children in schools and parents in workplaces about practicing healthy lifestyles to avoid the long-term consequences of childhood obesity is necessary. Being overweight as a child can often lead to health problems that were once confined to adults, such as high blood pressure, high cholesterol and the onset of diabetes.

Intensify efforts to control drug abuse

The Chamber is concerned about the state's rising drug abuse problem and its negative effect on Kentucky's workforce and health care costs. The Chamber commends the Kentucky General Assembly for taking important steps to close pill mills and end illegal prescribing practices that have exacerbated the illegal drug problems in Kentucky. As lawmakers consider options to implement these important changes, we encourage a thoughtful approach that will not back away from efforts to punish, but will prevent added costs and ensure appropriate access to medical care. Continuing policies to develop workable statewide and interstate compacts as well as the adoption of nationally recognized pain management guidelines will help limit drug abuse that has a negative impact on employers and employees.

While recognizing the severity of methamphetamine abuse in Kentucky, the Chamber opposes the scheduling of pseudoephedrine, an ingredient often found in common cold medications and a main ingredient in the illegal production of meth. The Chamber commends the General Assembly for thoughtfully addressing this issue in 2012 and encourages the further development of Kentucky's "Meth Check" system to prohibit those who have been convicted of meth-related crimes from purchasing any products that contain ephedrine and/or pseudoephedrine. By establishing guidelines to increase information sharing among Kentucky law enforcement officials and prosecutors, Kentucky can continue to address this important issue without unintentionally adding costs to employers and citizens.

The Chamber also supports legislation to address the rising heroin epidemic in Kentucky. The U.S. Centers for Disease Control and Prevention reports deaths from heroin overdose have doubled from 2010-2012. An alarming number of Kentucky businesses are affected by heroin addiction.

Enact statewide smoke-free law

According to the U.S. Centers for Disease Control and Prevention, Kentucky is second in the nation in the number of adult smokers, with 29% of the population. The situation is not improving with our youth — Kentucky is first in the nation in smoking prevalence among both middle and high school students. Smoking-attributable health expenditures are estimated at more than \$1.5 billion annually in Kentucky, and smoking-attributable economic productivity loss is estimated at more than \$2.3 billion each year in the state.

The business community believes Kentucky should build on recent legislative advances, such as the funding of a smoking cessation program under Medicaid, to improve the state's public policies with regard to smoking. The Chamber supports enacting a comprehensive statewide smoking law that prohibits smoking in indoor workplaces and public places, including restaurants, bars and hotels. While the Chamber is not typically supportive of policies that focus on a particular business or

industry disproportionately, the body of evidence on smoking and its negative impact on public health and the economy is too significant to ignore. A recent survey of Chamber members shows that 90% are in favor of a statewide law prohibiting smoking in public places. Already, at least 23 Kentucky communities (covering more than 3% of Kentucky's population) and 24 states have passed comprehensive smoking laws, which have proven to curb smoking rates and lower health care costs without negatively impacting business.

Increase number of health care professionals

Many areas of Kentucky are underserved by health care professionals, contributing to poor access and higher medical costs for Kentucky's citizens. More than two-thirds of Kentucky's 120 counties have been officially designated as health professional shortage areas for primary care by the Health Resources and Services Administration. In addition, Kentucky lacks sufficient numbers of physician specialists, nurses, physician's assistants, pharmacists, dentists, mental health professionals and allied health personnel. This lack of skilled professionals contributes to fewer regular check-ups, poorer health and higher costs to the medical system over the long term. Kentucky's aging population makes this a particularly critical issue.

To help reverse this disturbing trend, the Chamber supports a comprehensive state strategy to increase the number of health care professionals trained in Kentucky as well as innovative approaches to encourage them to practice here. This strategy should ensure that postsecondary education institutions, which provide medical training, are adequately funded and held accountable for increasing enrollment. These institutions should be encouraged to explore the development of economic incentives as well as expanded tuition assistance and loan repayment programs that include a requirement to practice in Kentucky for a set period of time.

Additional incentives should be available for underserved counties and regions based on the particular need of each area. As is the case for higher education, lack of affordable training should not deter talented students from entering the health care field. With the implementation of the ACA and the expansion of Medicaid eligibility, the need for health care professionals will be even greater. The Chamber encourages state officials to use provisions contained in the law aimed at increasing workforce supply and training programs.

Improve Kentucky's medical liability climate

The rising costs associated with medical malpractice liability are taking a significant financial toll on the health care industry, resulting in increased costs for consumers and a continued inability to attract and retain sufficient numbers of physicians in all regions of the Commonwealth. The high price of liability insurance and the lack of reasonable tort limitations in Kentucky have contributed to the shortage of medical professionals. To curb this trend, the Chamber supports allowing

voters to consider a constitutional amendment that would permit the legislature to consider comprehensive tort reform. State and federal lawmakers should pass reasonable limits on damages and require alternative dispute resolution to help reduce escalating malpractice insurance premiums and the resulting burden passed on to consumers in the form of higher prices, fewer health care providers and fewer choices. Since 2000, numerous states have passed ballot initiatives to amend their constitutions, and 16 states have passed a cap on non-economic damages.

The Chamber also supports the establishment of a medical review panel process that would provide an independent, expert review of proposed claims against health care providers. Medical review panels have been successful in other states, including Indiana, to provide another layer of accountability for providers by providing expert findings that are admissible in court. Legitimate claims against providers are validated while meritless claims are quickly exposed before clogging the court system.

Promote informed health care consumerism

Consumers need access to information about the cost of health care and the quality of services provided to make informed and cost conscious choices when selecting a health care provider. The General Assembly made great strides in 2008 by passing the Chamber-led transparency initiative, which required the Cabinet for Health and Family Services to make permanent the reporting to consumers of health care costs, quality indicators and results.

Without this effort, such information is almost entirely absent from today's health care marketplace, preventing Kentuckians from making informed choices when they purchase health care services. The Chamber encourages the Cabinet to make this comprehensive information easily available to consumers, which may serve to contain increases in health care spending by government, businesses and individuals. Only when consumers know the price and value of health care services will they be empowered to make the best possible choices for themselves and their families.

Expand mandate-free health insurance

Because health care mandates and unnecessary regulations can add to the already high cost that consumers and employers pay for health insurance, the Chamber opposes any mandated coverage requirements that exceed the current federal requirements. With the cost of health insurance already creating a competitive disadvantage for many small businesses, extending these mandate-free policies will allow more employers to provide health benefits to their employees.

Promote competition in the health insurance market

Attracting more insurers to Kentucky is a practical and realistic means of controlling escalating costs and providing greater

access to health insurance. The Chamber calls on state government to enhance competition in the health insurance market through further deregulation of the insurance industry or any other reasonable means.

Oppose Any Willing Provider

The Kentucky Chamber opposes Any Willing Provider provisions and supports the right of health insurance companies to negotiate exclusive contracts with health care service and product providers that offer discounted costs to consumers.

Promote eHealth policies

A number of preventable medical errors and duplication of services could be reduced significantly with the implementation of policies that encourage the use of secure electronic medical records that can be accessed by all of an individual's health care providers. This, along with electronic prescribing, can reduce duplication, improve delivery of services and save lives. The Chamber supports the Kentucky Health Information Exchange (KHIE), the electronic information system that supports statewide exchange of health information among health care providers and organizations. KHIE has led to improvements in quality of care, reduction of medical errors and a more efficient use of health care dollars.

Improve access, coverage, and promoting the right care setting choice for seniors

With the significant aging of the population, it is increasingly important for policymakers to adopt strategies to meet the medical needs of these individuals. The Chamber supports initiatives that provide greater incentives for individuals and/or employers to purchase long-term care insurance policies. These policies should include riders for home health, assisted living, and other community-based options. The aging population will likely require health care services from every level and setting of care, from non-medical aide to skilled home health to skilled nursing facility, and each should be accessible while delivering quality care.

Additionally, the Chamber encourages policymakers to concentrate elder care resources on case management to ensure people's needs are matched with the most appropriate care. The Chamber encourages legislators to review the Deloitte study commissioned by the Cabinet for Health and Family Services, The Commonwealth of Kentucky Health Care Workforce Capacity Study, and work toward solutions on both personnel and service line solutions.

Modernizing Medicaid

Kentucky's Medicaid program now covers more than 1 million people and has an annual budget of \$8.6 billion. Though the escalating trend in spending has decreased since the implementation of Medicaid managed care, the rising cost of Medicaid is pulling funds away from education, further compounding the problem because, as research shows, better education is linked to better health. The key challenge is finding a way to slow unsustainable Medicaid spending increases without inflicting harm on Medicaid recipients and health care providers. The Kentucky Chamber supported the statewide expansion of a statewide Medicaid managed care. Though the implementation has not been seamless, studies suggest that Medicaid managed care contracts are saving the state money over the traditional fee-for-service model, and the program is projected to save \$375M through 2014. In addition to continuing to monitor the implementation and oversight of the managed care approach, we recommend some additional concepts to make the Medicaid program more closely resemble a private insurance model.

Wellness Activities: A best practice identified by the National Governor's Association Center for Best Practices is for states to incorporate more wellness activities into Medicaid programs. The Kentucky Chamber supports offering financial incentives to Medicaid recipients who maintain healthy behaviors.

Program Review: The Chamber encourages a top-to-bottom, data-driven review of the Medicaid program conducted by a nationally recognized consulting firm with expertise on Medicaid. The review should focus on an evaluation of the scope of services covered by Medicaid compared with other states as well as outcomes for Medicaid patients.

Program Administration: The Chamber believes additional areas that should be explored for possible savings include:

1. Improving the "error rate" – reducing overpayments to providers and ensuring the correct determination of recipient eligibility.
2. Ensuring that child support orders require non-custodial parents with access to health insurance to provide coverage for their children (as permitted by Kentucky law).
3. Increasing the use of generic drugs by Medicaid recipients.
4. Revisiting the use of significant co-pays for recipients at higher income levels.
5. Ensuring the managed care contracted companies honor the timely payment rules and pay providers for the correct services in a timely manner.
6. Encouraging and promoting personal responsibility and quality and cost conscious decision making to ensure Medicaid recipients choose the correct level of care.

Encouraging **responsible** government spending

Kentucky's poor financial footing continues to be a cause for concern. Kentucky, like most states, suffered from the downturn in the international economy with lower tax receipts and increased demand for public services. Barron's magazine, in a State of the States report, ranked Kentucky 47th in overall financial health, a sobering reminder that our unsustainable spending practices must be addressed. Barron's noted the Commonwealth's significantly high unfunded pension liability as well as its general debt to GDP ratio as the main causes of Kentucky's fiscal problems.

Continue to fix the “Leaky Bucket”

In 2014, the Kentucky Chamber issued its “Leaky Bucket: Five Years Later” report, a follow-up to its 2011 “Building a Stronger Bucket” and 2009’s “Leaky Bucket.” The reports highlight the fact that Kentucky’s budget priorities have shifted away from investments in education toward providing more money for jails, public employee health benefits and Medicaid, which accounted for more than half of all growth in the budget from Fiscal Year 2000 to FY 2010.

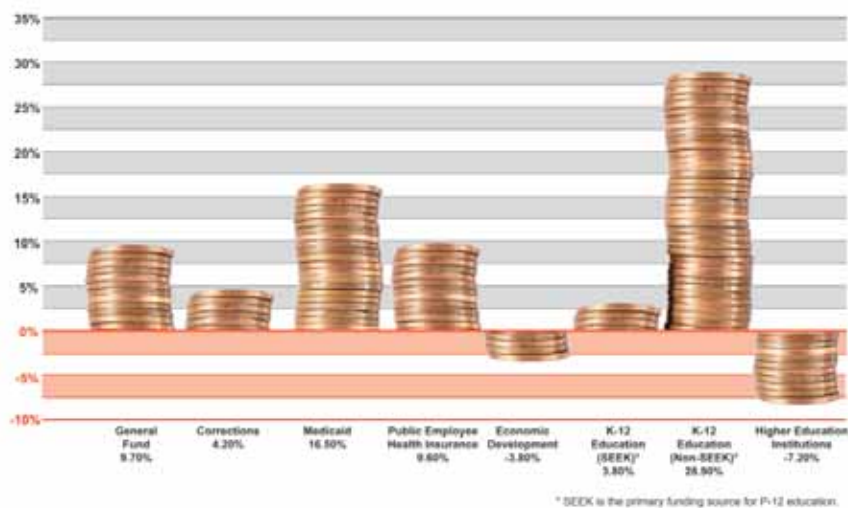
“The Leaky Bucket: Five Years Later” analyzed the current enacted budget (FY 2012-16) and noted significant improvement:

- The total General Fund grew 9.7%.
- Corrections spending, which had been growing 50% faster than the General Fund, grew only 4.2% in the past two budgets — less than half the rate of General Fund spending.
- Medicaid spending grew 16.5%. While still outpacing General Fund spending growth, the rate has slowed significantly since 2000 to 2012, when it grew three times faster than General Fund spending.
- Public employee health insurance, the fastest growing area of spending, had been growing about four times faster than total General Fund spending. It is now growing at 9.6% — less than the rate of growth for the General Fund.
- General Fund spending on the SEEK program, which funds K-12 education, has increased only 3.8% since 2012, but spending on non-SEEK items (such as textbooks and preschool) has grown 28.9% in the period due to additional appropriations in the FY 2014-2016 budget.
- Postsecondary institutions have experienced a 7.2% reduction in spending since 2012.

The Kentucky Chamber offers the following suggestions to

Growth in General Fund Expenditures

Selected State Programs FY 2012-16



ensure our policymakers do what most Kentucky families and business leaders have done over the past few years – establish spending priorities, make tough decisions and fix the leaks that take funds away from the priority of improving education. Actions to address unsustainable spending must occur before the discussion of additional revenue opportunities should begin.

Adhere to state spending principles

If Kentucky is to keep its financial house in order, it must establish a set of disciplined guidelines that will set our state on a road to prosperity. We encourage Kentucky’s lawmakers, if at all possible, to adopt the following guidelines for state spending:

1. Limit spending to 6% of the state economy.
2. Limit borrowing costs to 6% of the state General Fund budget.
3. Eliminate the structural deficit by adopting a five-year plan to spend only recurring revenues for recurring obligations.

4. Prioritize spending on areas that invest in the future, such as education and economic development.
5. Eliminate the practice of appropriating all anticipated revenue and ensure the state's "rainy day fund" has adequate resources to cover the state's emergency needs.

Prioritize government spending

Kentucky has made significant progress in starting to plug the leaks in the state budget originally identified in the 2009 "Leaky Bucket." Since that time, major legislation has been enacted to address spending in corrections and unfunded pension liabilities, and significant administrative changes have taken place to rein in spending on Medicaid and public employee health insurance.

Yet serious problems remain with funding the Kentucky Teachers' Retirement System and the expansion of Kentucky's Medicaid program in the next budget. Policymakers must stay the course and continue the progress they have made to date on state spending. The alternative is to return to a trend in which Kentucky is paying even more to treat health conditions and incarcerate those who break the law instead of investing more in education. Increased education attainment is the true path out of the cycle of poor health and poverty that has plagued Kentucky and its economy for generations.

Consideration of new or increased taxes or fees should occur only after exhausting all reasonable opportunities to reduce spending and increase efficiency. Streamlining services, consolidating departments, eliminating ineffective programs, initiating responsible personnel compensation and benefit policies and other efforts to maximize the performance of public funds are examples of such fiscally responsible public operations.

The Kentucky Chamber believes achieving a fiscally responsible state budget that promotes economic development will require a significant review of government spending and operations. To this end, we support a research-based top-to-bottom review of government expenditures and programs to improve efficiencies within state government, much like a private-sector company would pursue. Programs that contribute to unsustainable growth in General Fund obligations should not be permitted to unduly consume tax dollars that could otherwise be invested in the public priorities of education and economic development.

Sustainable public employee benefits

The Kentucky General Assembly made significant changes in the 2013 session to address the nearly \$40 billion in unfunded liabilities in the state's pension system and created a hybrid pension plan for new employees that is more reflective of the private sector. The reforms did not address any of the management or investment practices of any of Kentucky's public employee pension systems. Major

ENACT ENABLING LEGISLATION FOR PUBLIC-PRIVATE PARTNERSHIPS

Kentucky is once again at a competitive disadvantage when it comes to other states because we lack enabling legislation allowing the use of public-private partnerships (P3s) for transportation projects and encouraging the use of P3s for education, construction, water and sewer lines and even the management of state parks. The use of P3s in other states has led to significant cost savings for taxpayers, as well as improved expertise and efficiency on state projects. The Chamber encourages lawmakers to pass comprehensive P3 enabling legislation in the 2015 session that:

- encourages the creation of public-private partnerships for a wide range of infrastructure projects at all levels of state and local governments
- allows the use of public-private partnerships for transportation infrastructure



Download the Chamber's report on public-private partnerships at kychamber.com/p3.

work remains before policymakers and taxpayers can rest assured the problem is addressed.

In addition, the Kentucky Teachers' Retirement System was not included in the 2013 reforms that applied to retirement systems covering state and local employees, and it also has significant unfunded liabilities. The 2013 financial statements for KTRS (released in December 2013) indicated the system had approximately 75,000 active and 47,000 retired members and a funding level of 51.9% as of June 30, 2013, with \$13.85 billion in unfunded liabilities.²¹ A key reason for this underfunding is the fact that actual employer contributions to KTRS in recent years have been significantly less than the full amount required to meet the system's financial obligations. Simply put, KTRS will eventually run out of money and be unable to pay benefits promised to teachers unless the state starts to make the full employer contribution to the system.

As the General Assembly works to meet the obligations made to public employees, it will become clear that additional changes to health benefits will be needed. With the Commonwealth of Kentucky providing health insurance to more than 266,000 state employees, teachers, retirees and their dependents, spending on health insurance was growing four times faster than overall spending—faster than any other major item in the budget. In the period from 2012 to 2016, spending increases on health insurance have been reduced to 9.6% — a rate that is less than the growth of overall state spending. The Kentucky Chamber commends the General Assembly for the reforms made to decrease spending on public employee health costs and will continue to

focus on reducing health care costs in the 2015 session.

We will also be monitoring the Kentucky Retirement System's implementation of the 2013 pension reforms and will work to ensure the General Assembly meets its actuarial required contribution to the pension system in future legislative sessions.

Full disclosure of pension funding

A key finding of the Public Pension Task Force review of the Kentucky Employees Retirement System in 2012, which was the repeated underfunding by the Kentucky General Assembly was a major reason Kentucky's system is one of the worst-funded in the country. Kentucky's budget process (from proposal to final passage) fails to indicate whether employer contributions for retirement are adequate to meet the systems' liabilities.

The budget does not set forth the total amount that actuaries have determined is needed to adequately fund Kentucky's pension systems (known as the actuarially required contribution or ARC), nor does the budget clearly account for all funds being provided to the systems. As a result, it is not clear to the public, or even policymakers in some cases, the total amount of the employer contribution in the state budget and whether that amount is sufficient to ensure the retirement systems have adequate revenues to pay pension benefits and to pay down any outstanding unfunded liability.

Critical changes are needed in Kentucky's budget process to ensure public disclosure of funding levels of the state's pension systems. The Chamber proposes changes to the state law requiring the budget the Governor submits to the General Assembly:

- Clearly sets forth the total amount of employer contributions (the ARC) that actuaries have determined is necessary to fully fund the retirement systems
- Specifies the source of the funds for employer contributions for the budget biennium (state General Funds, federal funds, agency funds, etc.)
- Clearly states the adequacy of funding being provided as a percent of the ARC (100% of the ARC, 85%, etc.)

As the budget moves through the General Assembly, an actuarial analysis of the retirement contribution should be required before the budget can be considered on the floor of either chamber. This analysis would determine whether funds provided in the budget for the retirement systems are adequate and certify the percentage of the ARC that is being funded.

The proposal also would address another problematic finding of the Public Pension Task Force. It found that some assumptions made by the actuary for the retirement system were determined to be incorrect. (And it is worth noting that the assumptions for both KERS and KTRS are made by the same actuary.) The creation of a Consensus Actuarial Group would help to remedy this problem by serving as an independent reviewer of actuarial assumptions. This group, similar to the Consensus Forecasting Group that estimates state revenues, would conduct an annual review of Kentucky's pension systems

to determine:

- Whether the enacted employer contribution to the systems is adequate based on actual experience
- The accuracy of assumptions made by actuaries for the retirement systems on which the contribution rate is based; this includes assumptions such as the rate of return on investments, the rate at which employees are retiring, health insurance costs, the average compensation and pay raises of state employees (on which the amount of pension benefits are based), etc.
- The financial impact on the system of actuarial assumptions not being met

To ensure transparency, the Consensus Actuary Group would annually report its findings to the Public Pension Oversight Board created by the 2013 pension reform legislation.

Maintain sustainable debt levels

The future of Kentucky's finances depends in large measure on its ability to manage debt in a way that is disciplined and effective. Borrowing for long-term capital projects of broadly recognized economic and social value is an appropriate use of public debt. However, debt must be limited to a level that is sustainable and does not adversely impact the overall credit rating of the state.

Moody's Investors Service reported in 2013 that Kentucky was in the top 10 states (8th) with state debt measured as a share of personal income. Kentucky also ranked 7th in the country in net tax-supported debt as a percent of the gross state domestic product and 15th in the total amount of net tax-supported debt. In 2012, both Moody's Investor Service and Fitch Ratings downgraded Kentucky's bond ratings, due in part to pension liabilities and use of nonrecurring revenue to balance the state budget.

In recent years, Kentucky has turned increasingly to issuing bonds to sustain the growth in government spending. Total state and local debt in Kentucky measures more than \$7,770 for each of the state's 4.2 million people. This is more than \$400 above the national average and places Kentucky 14th in government debt per capita. The Chamber believes the level of state debt should be closely monitored. Projects that have a related revenue stream or can create budgetary savings should receive priority consideration, and every project considered for financing should have a defined, supportable plan for repaying the debt service.

Monitor the implementation of Kentucky's juvenile justice code modernization

Kentucky made important progress with the enactment of juvenile justice code reforms in 2014 to protect public safety while establishing a system to control spiraling corrections costs. The Kentucky Chamber, a strong supporter of the 2011 corrections reform legislation, supported the work of the 2013 Task Force on the Unified Juvenile Code that will help youth offenders redirect their lives while ensuring public safety and a more efficient use of state resources. The Chamber will continue to monitor this important work moving forward.

Expanding Kentucky's role as an **energy** leader

The Kentucky Chamber of Commerce believes economic growth, energy independence and environmental protection are compatible and complementary goals. We recognize that legitimate uses of the environment should be protected and business activities may affect environmental quality. To achieve rational regulatory objectives, the Chamber encourages legislative and administrative actions that satisfy the following criteria: scientific validity, technical feasibility and economic rationality.

The need for government action should be established on the basis of objective information on which meaningful consensus can be achieved. Such information should demonstrate that any proposed action would cost-effectively result in the avoidance of environmental harms or the creation of environmental benefits.

To achieve the true objective of environmental regulation, government must consider technical feasibility in setting standards. In addition, government should be a conduit for information on available control technologies for businesses but not control the supply/demand of the marketplace.

Government action and requirements for compliance should reflect a proper balance of the benefits provided by a standard and the cost to society of achieving it. In setting standards, an agency should consider their impact on jobs and low income groups and the ability of business to operate profitably within the confines of any legal framework. Also, state government, utilities and businesses should work hand-in-hand to maintain a process to balance the ratepayers' desires for competitive rates through the least-cost option with incentives for energy production innovations, clean coal technologies and energy efficiency.

Strive for energy independence and a pro-energy economic policy

The Kentucky Chamber is encouraged by the General Assembly's recent efforts to foster Kentucky's energy independence. The Chamber recognizes energy conservation and efficiency as high-priority energy strategies. The Chamber also strongly supports incentives for businesses that go above and beyond existing environmental standards and for those who are pro-active in promoting conservation and efficiency. State government should join with business to find creative solutions to help reduce the up-front costs associated with implementing conservation and efficiency measures.

Encourage cooperative federalism

Cooperative federalism is when national, state and local governments interact in a cooperative manner to solve common problems and ensure decisions and policies that are best for a

state or local government are made at the appropriate level rather than a national one. The Kentucky Chamber fully supports the application of cooperative federalism principles with respect to the appropriate utilization and recognition of state and local primacy rights in the energy and environmental fields.

The Chamber fully supports the Kentucky General Assembly and Energy and Environmental Cabinet in identifying more strategic and better planned statutory/regulatory actions by the state. We fully support working with local governments to address issues and avoid imposing duplicate and conflicting requirements – or needless regulations that would not yield meaningful improvements to environmental quality while increasing burdens on the regulated community. Improved application of cooperative federalism principles can result in timely and consistent enforcement of existing regulations and assure that Kentucky's policymakers hold the key decision-making role in matters affecting our state.

Support the future of Kentucky's coal industry

Kentuckians have long benefited from low-cost utility rates thanks to the proximity of Kentucky's abundant coal resources in our Central Appalachian and Illinois Basin Coal fields. Recently, federal policies and changing energy demands have crippled the coal economy in the eastern and western Kentucky coal fields which has had a negative impact on the entire state. Since 2012, eastern Kentucky has lost nearly 7,000 direct coal mining jobs. For every one direct coal mining job lost, three other indirect jobs are also lost, which brings the total of job losses to more than 20,000. In the last year, Kentucky coal production finished at 91,407,310 tons, the lowest amount of production since 1965.

To help support the future of Kentucky's coal industry, the Chamber supports:

- the immediate processing of nearly 40 surface mining permits held up by the U.S. Environmental Protection Agency (EPA); these coal mining permits represent the potential to produce more than 125 million tons of coal over the life of the operations and the generation of

- more than 3,500 jobs directly or indirectly.
- policies that will help Kentucky position itself as the leading exporter of coal to international markets.
- research opportunities that will find alternative uses for coal beyond base load power generation.

Support pro-energy infrastructure investments

Kentucky must recognize that to retain and attract new industries it must have access to energy resources that are competitive with other geographic areas of the country. The Kentucky Chamber supports the construction of new and the modernization of existing energy infrastructure. Investment in energy infrastructure is critical for continued access to growing domestic supplies of natural gas, natural gas liquids, refined products and crude oil. These infrastructure projects create new sources of tax revenue, jobs and enhanced access to competitive energy supplies.

The Chamber supports the development of an incentive package to encourage the manufacturing of renewable energy products in the state. In addition, the Commonwealth of Kentucky currently has a moratorium on the development of nuclear power plants. Lifting this moratorium would help bring cost-effective and environmentally friendly energy solutions to Kentucky while having a positive economic impact. With new pollution control technologies and other innovations, more energy development is possible while protecting Kentucky's environment.

Encourage a sensible regulatory approach

The Kentucky Chamber supports efforts by the Kentucky Energy and Environment Cabinet to ensure existing environmental laws and regulations are applied and enforced in a consistent, non-discriminatory manner at both public and private facilities. In addition, the Chamber urges the Cabinet to aggressively assert its authority as primary administrator of delegated environmental programs in cases where the EPA attempts to overstep its oversight role or demand action inconsistent with past state regulatory actions or determinations.

Currently, the EPA is issuing an unprecedented number of federal mandates that will have significant impact on the businesses and residents of Kentucky due, among other things, to the impact of those mandates on utility rates as a result of the cost of compliance and loss of existing coal-fired power supplies. Those attempts at regulation by the EPA with questionable legal authority include but are not limited to:

- greenhouse gas regulations under the Clean Air Act, including first-time monitoring requirements, proposed New Source Performance Standards for electric generating units that will prohibit the permitting of new coal-fired units and regulation of greenhouse gas emissions from existing power plants.
- revisions to National Ambient Air Quality Standards for sulfur dioxide, ozone, particulate matter and nitrogen oxides (regardless of whether the updates are currently required based on the schedule established by the Clean Air

Act), as well as revisions to the implementation of the standards that could drastically increase the number of non-attainment areas and increase the difficulty of planning for attainment of the new standards.

- regulation of Coal Combustion Residuals under a federal program as a hazardous waste.
- first-time regulation of Hazardous Air Pollutants from coal-fired power plants through imposition of Maximum Achievable Control Technology requirements under the Mercury and Air Toxics Standards program.
- changes by the EPA in water regulations and interpretations of existing rules without close examination of all costs and benefits; EPA should insure any new water regulations (such as the proposed Waters of the United States), or changed interpretations of water quality requirements, are flexible, efficient and recognize the role of the states in addressing their own water quality issues.
- continued abuse of agency authority by the EPA as the agency moves to implement new requirements by regulating through guidance without following the rulemaking process.

The "shale revolution" is moving the United States closer to energy independence than we've ever been. Oil and gas is a vital industry to Kentucky's economy. Kentucky's current regulatory requirements for oil and gas strike the proper balance between the responsible development of our state's resources and environmental protection. Kentucky should strive to maintain a favorable climate for investment in its oil and gas sector.

The EPA's actions are resulting in overly stringent requirements that will significantly impact businesses, the economy and regulatory agencies in the Commonwealth. It is imperative the General Assembly and administrative offices of Kentucky, including the Energy and Environment Cabinet, continue to weigh in on the federal rulemaking processes and use their influence to impact the outcome of these regulatory programs.

Allegations of the use of "sue and settle" tactics whereby environmental activist groups and organizations reportedly collaborate with the EPA to file suit over regulatory issues and then enter into court approved settlements to take certain actions without engaging in customary rulemaking procedures is a concern to the business community and should be monitored. The General Assembly and agency representatives should continue to be vigilant to avoid similar efforts in the Commonwealth as such activities undermine confidence in the rulemaking process.

Support cost-effective renewable and alternative strategies

The Kentucky Chamber supports the development of cost-effective renewable and alternative energy sources and the promotion of energy efficiency to foster energy independence and economic growth. The Chamber does not oppose the concept of federal climate change legislation in principle, but points out the

importance of properly addressing regional differences in current energy supplies. The Chamber will continue to evaluate the merits of any carbon-management legislation on a case-by-case basis. However, we continue to recognize the vital importance of Kentucky's coal resources and the impact those resources have on the economy of the Commonwealth and the U.S. as a whole.

The Kentucky Chamber believes a comprehensive national energy policy should focus on investing in energy production innovations including biomass, natural gas and coal technologies and avoid arbitrary mandates and punitive policies that would serve to drive up costs and stifle innovation and place citizens and businesses of Kentucky at a distinct economic disadvantage with neighboring states. The Chamber strongly believes cleaner air should be accomplished through the use of efficiencies at our power plants and grid system as opposed to mandated equipment which makes power plants less efficient. Climate change policies that allow technology to spur energy innovation would continue to protect the economy of the Commonwealth while securing our nation's economic and energy future.

Promote sensible state & local regulations

In considering standards for the protection of human health and the environment, federal agencies undertake an exhaustive process of reviewing available data to set standards at an appropriate level. The Chamber opposes the adoption of more stringent state and local programs that would adversely affect Kentucky's ability to remain competitive in the global economy. When state and local governments engage in significant revisions of environmental regulations, we strongly encourage the use of a stakeholder process for development of these programs. Any resulting regulatory framework must be based on sound science and be both economically rational and technically feasible to achieve the laudable objective of a cleaner environment. Uniformity among federal, state and local programs helps save businesses valuable resources in compliance procedures. The Chamber opposes local government authority to enforce federal and state environmental requirements. To the extent that regulatory programs already exist at the local level, it is incumbent upon the local agency to administer a meaningful appeals process to provide adequate consideration of disputed issues prior to civil court action.

The Chamber supports stability in regard to the makeup of Kentucky's Public Service Commission. This non-partisan group, appointed by the Governor and confirmed by the Senate, has helped establish Kentucky's low-cost utility rates for many years. The Chamber opposes any effort to politicize the membership of this commission, which will create instability and a potential increase in rates.

Reform notice of violation procedures

Current administrative enforcement procedures allow little flexibility or discretion on the part of inspectors. Generally, any and all violations of existing regulations and requirements result in the immediate issuance of a "notice of violation." With the exception of immediate threats to health, safety or the environment,

inspectors should have an alternative to issuing an NOV for non-compliance and the authority to waive fines for first-time offenders. There is currently no end date for punitive administrative action stemming from an NOV. The Chamber urges the General Assembly to place reasonable time limits on punitive action following the issuance of NOVs by state agencies.

Maintain air permitting efficiencies

The Chamber recently supported the Cabinet's position on the need for an increase in the Title V Permit Emission Fee so the needs of the Title V permit holders can continue to be met in a prompt and efficient manner.

As the program moves forward, it is important the Division of Air Quality maintain the level of service to the business community as air permit approvals are often a key component in implementing expansions of existing businesses and in obtaining new industrial development.

However, just as our members have to do, the Division and the Cabinet should continue to look at cost control measures and efficiencies that can be used to reduce the anticipated shortfall and create efficiencies throughout the program. Considering emission trends, the Chamber believes the Cabinet should explore with stakeholders additional funding mechanisms for the Title V Program in such areas as permit and permit renewal application fees. Potential for double counting of emission fees should be avoided.

Maintain water permitting efficiencies

It is equally important the Division of Water maintain the level of service to the business community to ensure that water permit application backlogs are reduced and do not create problems with approvals, which are often a key component in implementing expansions of existing businesses and in obtaining new industrial development. The Chamber supports methods that will allow an expedited water permitting process when warranted.

Controlling the Asian Carp population

Kentucky is blessed with an abundance of lakes, rivers and streams that help attract business and tourists from around the world. Some of Kentucky's major shipping waterways, including the Cumberland River (Lake Barkley), Tennessee River (Kentucky Lake), Ohio River and Green River have seen an alarming rise of Asian Carp which is having a negative impact on tourism and could adversely affect the ease of navigation on our inland waterways. The Chamber fully supports initiatives to help control the movement of this invasive species, including the development of processing plants, expanded exports and increased marketing of the fish as a viable food product domestically.

Small business priorities

Support policies that retain and expand jobs

The Kentucky Chamber supports legislative proposals that will help small businesses and the private sector retain their existing workforce and expand jobs in the state. These include measures to help control health care costs, controlling and reducing workers' compensation costs, creating a clear definition of an independent contractor, easing the regulatory requirements on small businesses and maintaining Kentucky's low utility costs.

Clearly define the Cost of Goods Sold

Adopted in 2005, Kentucky's limited liability entity tax (LLET) applies to all entities that offer limited liability to its owners (e.g. corporations, S corporations, limited partnerships, limited liability corporations, etc.). Most high-volume, low-margin businesses, such as contractors and manufacturers, benefit from the gross profits calculation. A business's gross profits are calculated by deducting cost of goods sold (i.e. business expenses) from gross receipts. Cost of goods sold (COGS) usually includes the cost of materials and labor used to create a good. It does not apply to service businesses.

Kentucky's statute begins its definition of COGS with a reference to the federal tax code, but also includes limitations not included in the federal language. It's the interpretation of these limitations, along with inconsistent enforcement, that is creating confusion for business owners and tax preparers. The Kentucky Chamber supports revising the definition of COGS to make it clear, transparent and more in line with the federal language.

Enact drug-free workplaces

In recent years, Kentucky has made great strides to control prescription drug abuse in the state; however, drugs remain a major concern in the workplace and hamper employers' efforts to find qualified workers for available jobs. The Kentucky Chamber fully supports the passage of comprehensive drug-free workplaces legislation that would create a voluntary program for employers to expand drug testing and encourage safer workplaces across Kentucky.

Improve workforce preparedness

Finding and retaining a qualified workforce is critical to a business's success no matter the size. The Kentucky Chamber fully supports expanded workforce development opportunities that will help improve Kentuckians' "soft skills" (showing up to work on time, interview skills, etc.) and reduce the amount of "retraining" that is needed of Kentucky's workforce when arriving on the job site.

Encourage sustainable public employee and Medicaid benefits

The Kentucky General Assembly made significant changes in the 2013 session to address the nearly \$40 billion in unfunded pension liabilities and create a hybrid pension plan for new hires. It is imperative the state and local governments continue to modernize their pension systems and control health care costs of public employees. It is important that Kentucky meets its actuarial required contribution (ARC) on an annual basis for both the Kentucky Retirement System and Kentucky Teachers Retirement System. Additionally, with thousands of new Kentuckians being added to the state's Medicaid roles, it is imperative policymakers prepare for the potential cost impact of these additional participants on the state budget.

Tax and entitlement reform

The Chamber urges Congress to address the serious fiscal challenges that continue to exacerbate the annual budget deficit and growing national debt. To protect the long-term fiscal health of the United States, it is imperative Congress pass tax and entitlement reforms that will fix the structural imbalance and begin to pay down the national debt. Permanent pro-growth tax reforms that will broaden the tax base and lower rates will give businesses the certainty needed to compete globally. Along with tax reforms that will grow the economy and revenue, responsible reforms to America's entitlement programs (many of which are presently unsustainable) are needed to ensure we do not continue to bury our citizens and children in more and more debt.

Immigration reform

The Chamber supports comprehensive immigration reform that creates: 1) a workable temporary worker program for high-skilled and lesser-skilled workers as well as the agriculture industry; 2) a federal employment verification system that is reasonable and workable for employers; 3) a legal status for the estimated 11 million undocumented people here, allowing them to emerge from the shadows, creating a stable workforce; and 4) improving enforcement to protect our borders while facilitating the flow of trade and travel.

Energy and environmental policy

The Chamber supports the development and expansion of American energy resources to improve energy security and create jobs in the United States. Reliable and affordable energy are essential to running a business and fueling economic growth and competitiveness. We support investments that will allow Kentucky to maintain its role as an energy leader and create further export opportunities for our coal and natural gas industries. We support policies that allow Kentucky regulators to make the decision that is best for the Commonwealth instead of outside interest groups and regulators.

Health care

The Chamber supports strategies and solutions to encourage health care reform that lowers cost, improves quality, expands access to health care and protects American jobs and the em-

ployers who create them. As we work through implementation and effects of the Affordable Care Act, we will advocate for needed changes to portions of the law that make health care less affordable, limit access or make employers less competitive.

International trade

The Chamber supports policies to open trade with promising markets abroad and to remove barriers that shut U.S. exports out of foreign markets. Promoting international trade for companies in Kentucky and other states will generate economic growth and job creation here.

Intellectual property (IP) protection is among a handful of issues that will determine America's competitiveness in the 21st century. The Chamber supports the ability to create, innovate, and generate the best artistic, technological and knowledge-based IP, which is essential to global economic growth and the advancement of human progress.

Reliable and secure infrastructure

The Chamber supports efforts to improve the quality of America's infrastructure, including transportation, energy and waterways. Transportation and energy infrastructure directly impact our ability to compete in the global economy.

Legal reform

Frivolous lawsuits are a drain on our economy and undermine true justice for legitimate victims. The threat of frivolous lawsuits stifles growth, investment and competition and is bad for business. The Chamber supports comprehensive tort reform to end lawsuit abuse and ensure that businesses receive the fair and equitable justice system they deserve.

Labor relations

Employers are being bombarded with new regulations and enforcement tactics from the various federal departments that cover the workplace. The Chamber is focused on advancing employer concerns and interests in a wide array of policy debates and supports pushing back on NLRB actions that would enhance unions' ability to organize.



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