



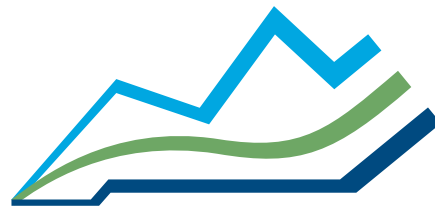
Kentucky Chamber

Uniting Business. Advancing Kentucky.



2016 Legislative Agenda

Key steps toward Four Pillars For Prosperity



Kentucky Chamber

Uniting Business. Advancing Kentucky.

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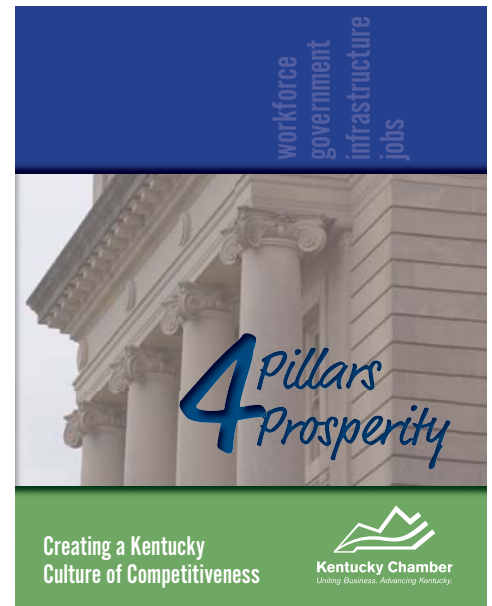
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Introduction

Kentucky and the United States have experienced unprecedented change and significant economic challenges over the past 15 years. Transformational forces such as globalization and urbanization, fueled by technological advancements, have reshaped the foundations of competitiveness for places and people. The Great Recession reset our view of success, and the subsequent recovery has been uneven, leaving citizens and communities with no clear path to future prosperity. If we want better, and the members of the Kentucky Chamber of Commerce do, we have to engage more Kentuckians to push together toward common goals.

In the summer of 2015, the Kentucky Chamber published *Four Pillars for Prosperity* which suggested a new emphasis on issues that influence the state's economy and on the actions that will chart a path toward success. The report details the state's current and recent economic performance; the workforce, technological and economic trends affecting Kentucky; and the perspective of business leaders on issues that most affect their ability to succeed.

The Kentucky Chamber's 2016 Legislative Agenda builds upon the framework set by *Four Pillars for Prosperity* and outlines the business community's top legislative priorities for the 2016 session of the Kentucky General Assembly. These priorities will help chart a path toward a more competitive Kentucky.



Public Policy Councils

As the state's premier business advocate, the Kentucky Chamber of Commerce is a recognized and respected voice at the state Capitol. With thousands of members representing every major industry sector, the Chamber's diverse business policy initiatives converge upon one goal: a healthy, vibrant Kentucky economy. Ensuring that business has a voice in the legislative process, we are working with local business leaders to identify critical trends, at the table as regulations are drafted and in the halls of the Capitol as bills are debated. 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

With a focus on lifelong learning, the education and workforce council works to ensure that Kentucky's economy is fueled by a prepared, productive and diverse workforce. The council develops policies to support and improve education at all levels.

Council Chair: *Brent Cooper, President, C-Forward, Inc., Covington*

Energy and Environment Council

The energy and environment 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.

Council Chair: *Jack Bender, Partner, Dinsmore & Shohl, Lexington*

Health and Wellness Council

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.

Council Chair: *Dr. Andrew Henderson, President & CEO, Lexington Clinic, Lexington*

Kentucky Competitiveness Council

The Kentucky competitiveness council focuses on all facets of government spending including proposed government efficiencies in the structure of government, public pension and personnel costs, public employee collective bargaining and other issues. This council also seeks to promote business recruitment, retention and expansion and to increase Kentucky's competitiveness, not only with our border states, but with competitors around the world. The council is actively engaged in policy initiatives aimed at modernizing the economy, creating jobs and supporting state income and expenditure practices that promote long-term economic growth in Kentucky.

Council Chair: *Kim Menke, Manager-Community/Govt. Relations, Toyota Motor Mfg., Georgetown*

Small Business Council

Because small businesses are often disproportionately affected by challenges facing the economy, the small business committee focuses on ensuring the broad range of issues of particular importance to small business owners are adequately represented in the Kentucky Chamber's policy development process. Look for the Small Business symbol throughout this



document to find out which policies the council believes will have the most impact on small business.

Council Chair: *Sara Smith, President, Smith Management Group, Lexington*

2016 Legislative Agenda Summary

Workforce: A Healthy, Skilled Workforce



GOAL: To create a globally competitive talent development system that produces a healthy and skilled workforce, benchmarked against the best education and workforce preparation systems in the world.

- Higher Standards – Stay the Course
- Allow Charter Schools
- Invest in Early Childhood Education
- Use Performance Based Funding in Postsecondary Education
- Make Public Places Smoke Free
- Increase Workforce Through Expungement

Government: Sustainable State Government



GOAL: To create and sustain a state government that is financially stable and creates a competitive environment for economic growth.

- Pass Responsible Budget
- Reform Pension System and Pay the Bill
- Modernize Justice Code
- Control Medicaid Costs
- Repeal Prevailing Wage

Infrastructure: 21st Century Infrastructure



GOAL: To create and maintain a modern infrastructure to capitalize on the state's strategic advantages and to advance its energy agenda.

- Pass P3 (Public-Private Partnerships)
- Make Transportation Investments
- Expand Wireless/Broadband

Jobs: Aggressive Job Creation



GOAL: To create and implement a customized economic development program that recognizes the potential of Kentucky's distinct regions and industry sectors and encourages and rewards entrepreneurship and innovation.

- Enact Comprehensive Tax Reform
- Allow Local Option Investments
- Pass Right to Work
- Pass Liability Reform
- Keep Kentucky's Low-Cost Energy



A Healthy, Skilled Workforce

GOAL: To create a globally competitive talent development system that produces a healthy and skilled workforce, benchmarked against the best education and workforce preparation systems in the world.

Kentucky's business community is heavily invested in education and workforce development. Whether the investments are as universal as taxes, as general as tuition reimbursement for workers or as specific as on-the-job skills training, employers are fueling Kentucky's quest for an educated population and skilled workforce 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 schools and enhance workers' skills. This commitment reflects employers' understanding that education is the cornerstone of progress for individuals, communities and the state as a whole.

Whether Kentuckians and their state succeed or fail will be determined by the quality of the state's education system and how well it equips individuals to apply what they know to advance personally, in support of their communities and in the workplace. High expectations and accountability for performance are critical at all levels of the system – 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, in increasing the knowledge and skills of under-educated adults and in developing a high-quality workforce.

SB Strengthening the workforce

Effective workforce training and service programs are critical to ensuring a successful future for countless businesses across Kentucky, the people they employ and the state as a whole. But in Kentucky, as across the nation, many employers struggle to find people with the right skills for the jobs they have available. Job seekers, meanwhile, encounter frustrations as they try to find the right job to match their skills and abilities at the compensation level they expect. Kentucky's workforce training system is notably complex with multiple layers and differing agency responsibilities. Programs receive state and federal funding in the hundreds of millions of dollars, and programs range from job-specific skill development to support for job seekers.

The Kentucky Chamber conducted a year-long review of the state's workforce system, culminating in the release of a report, "Kentucky's Workforce Challenges: The Employer's Perspective," in July 2015. This "look under the hood" identified key challenges facing the system and made a series of recommendations – for both state programs and employer groups – to address those challenges. The Chamber's advocacy for improvements will include work with both the legislative and executive branches in the months ahead.

Building on progress

The Kentucky Chamber and its members continue their strong support for the state's academic standards, viewing them as key to the progress our students are making in achievement. The state's most recent ACT scores show continued increases in the percentage of students reaching college readiness benchmarks set by the Council on Postsecondary Education, although achievement gaps persist among subgroups. Kentucky's graduation rate of 86.1% was ranked tenth highest in the nation in a 2015 report from the Alliance for Excellent Education and was well above the national rate of 81.4%.

Kentucky continues to make measurable progress in education, with 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 rate of students who are ready to move ahead in college and career grew to 62.5% in 2014, up from 47.2% in 2012.

Kentucky's rigorous 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 Chamber believes it is imperative Kentucky

stay the course with these 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 leading 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.

The Chamber also supports efforts to fully fund all-day kindergarten equitably statewide.

Promote & 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.

Require education accountability

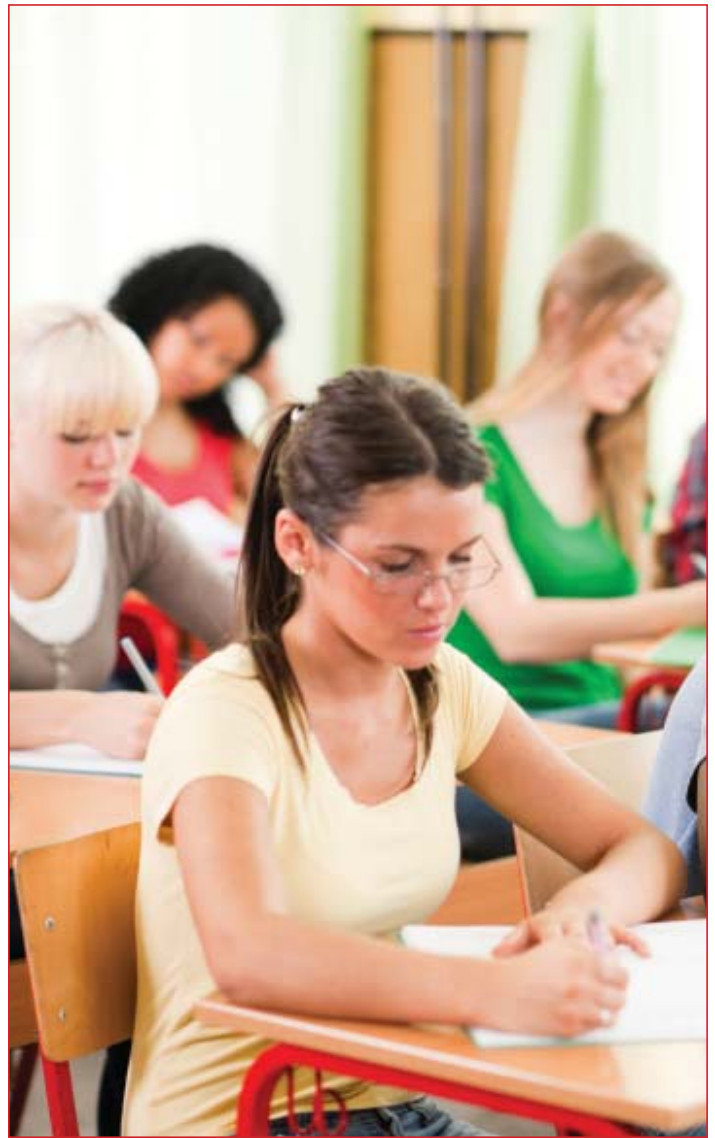
The Chamber believes tenure should not be automatically awarded to teachers on the sole basis of time on the job, but should be earned based on an appropriate evaluation and subject to periodic reviews

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 seven 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.



Limit KEES 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. The Chamber supports raising standards to more accurately reflect minimum scores 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 distribute 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 institution-based 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.

SB Strengthen 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. With numbers not where they need to be, these and other efforts are essential to increasing the skills of Kentuckians already in the workforce.

SB Promote wellness and prevention

Strengthening the health of Kentucky's workforce is critical to our economic success. Kentucky has one of the nation's unhealthiest populations with consistent rankings at or near the top of the list in smoking rates, obesity levels and other indicators of poor health. 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 helping people live longer, healthier lives and keep health care costs down. The Chamber encourages employers to implement wellness-based programs that encourage prevention and prompt workers to improve their healthy habits.

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 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.

The Chamber also supports initiatives that provide greater incentives for individuals and/or employers to purchase long-term care insurance policies. As the population ages, individuals will likely require health care services from every level and setting of care, from non-medical aid to skilled home health to a 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.

SB Intensify drug abuse control efforts

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, end illegal prescribing practices and address the heroin epidemic 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 bad actors 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.



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 (29% of the population). 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 Chamber supports enacting a comprehensive statewide smoking law that prohibits smoking in indoor workplaces and public places, including restaurants, bars and hotels; 33% of Kentucky's population and 28 states and the District of Columbia passed comprehensive smoking laws that have proven to curb smoking rates and lower health care costs without negatively affecting business.

Repealing protected class for smokers

A study by Ohio State University shows it costs employers approximately \$6,000 more a year to employ a smoker versus a non-smoker. In 1994, Kentucky enacted a law that made smokers a protected class. This law forbids employers from turning away a job applicant just because he/she smokes. The Chamber believes this is an intrusion into the rights of employers. Making hiring decisions and holding smoking to the same standards of discrimination as race, gender, religion and ethnicity seems arbitrary and without justification.



A Sustainable State Government

GOAL: To create and sustain a state government that is financially stable and creates a competitive environment for economic growth.

Continue to fix the “Leaky Bucket”

The state has made progress in curtailing spending growth in some areas, but efforts must continue to ensure Kentucky makes the right investments of tax dollars to build a stronger future.

The Kentucky Chamber issued its “Leaky Bucket: Five Years Later” report in 2014, following up 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 2012-2016 budgets and noted a significant reduction in the growth of spending on corrections, Medicaid and public employee health insurance and an increase in spending on non-SEEK education items (such as preschool and textbooks). Spending on postsecondary institutions continued to decline.

The Kentucky Chamber continues to monitor state spending and offers the following suggestions to 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 on spending tax dollars. 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 upcoming 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 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 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 2014 financial statements for KTRS (released in December 2014) indicated the system had a funding level of 53.6% as of June 30, 2014, with \$14.01 billion in unfunded liabilities. 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, with only 68% of the required employer contribution made in 2014. 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 at one point 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 were 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 2016 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 actuarially required contribution to the pension system in future legislative sessions.

Conduct performance audit of KRS

The Chamber has called upon the Auditor of Public Accounts to conduct a comprehensive performance audit of KRS, engaging independent consultants with expertise in pension management and addressing several key questions, including:

- how the system’s investment performance compares to other state pension funds and the reasons for any underperformance.
- how the investment fees paid by KRS compare to those in other states and whether those fees are reasonable.
- how the administrative costs of KRS compares to similar state retirement systems;
- the accuracy of the assumptions made by the system’s actuary about current liabilities and the amount of the actuarially required contribution compare to actual experience (including the accuracy of assumptions about: the rate of return on investments; salary increases for public employees;

the cost of health insurance; the rate at which employees are retiring; and other factors).

The Auditor has said such an audit would require additional funds beyond his agency’s budget and has requested the needed funds. The decision now rests with legislative leaders about pursuing and funding such an audit. We strongly urge the legislature to fund this independent review by the state Auditor rather than continuing to rely solely on information provided by the system itself.

Disclose pension funding

A key finding of the Public Pension Task Force review of the Kentucky Employees Retirement System in 2012 was that repeated underfunding by the General Assembly was a major reason Kentucky’s system became 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 statutory changes requiring that 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 being funded.

The proposal also would address another problematic finding of the Public Pension Task Force: 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 KRS and KTRS are made by the same actuary.) The creation of a Consulting Actuarial Group would help to remedy this problem by providing independent expertise to inform pension funding decisions. This group, similar to the existing 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 Actuarial

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.

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.

Continue justice code modernization

Kentucky made important progress with the enactment of corrections reform legislation in 2011 and juvenile justice code reforms in 2014 to protect public safety while establishing a system to control spiraling corrections costs. The Chamber will continue to monitor this important work moving forward. We also encourage the General Assembly to continue reviewing the Kentucky Penal Code with the goal of creating more alternatives to incarceration for low-level, non-violent crimes and focus on jail time for more serious offenses.



SB Monitor Affordable Care Act

The Patient Protection and Affordable Care Act (ACA) represents a wholesale change to our nation's health care system. The Chamber is concerned that employers and employees are facing significant premium increases and businesses with more than 50 employees who have been providing voluntary health insurance are now faced with mandated coverage, new structures on

benefit design and increased taxes or penalties. Businesses with fewer than 50 employees that voluntarily provide health insurance as a benefit are also experiencing changes in benefits and costs. 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.

SB Monitor progress of KYNECT

Beginning 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 are able to shop for qualified health plans online, allowing them to compare coverage, provider networks and cost.

The Kentucky Health Benefit Exchange (Kynect) was created by executive order in July 2012 and once implemented became a model of how an exchange should operate. But questions remain among some lawmakers concerning funding and oversight. Under the ACA, each state-based exchange was to become self-sustaining beginning January 1, 2015. The law authorizes exchanges to generate funding to sustain their operations, including by assessing fees on participating health insurance issuers. Kentucky is funding Kynect through a 1% assessment fee on all insurance policies and currently no General Fund dollars are being used. If Kentucky were to dismantle Kynect and move to a federal exchange, the assessment fee on all premiums would rise to 3.5%. 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 the Kentucky-based health exchange. State policymakers must understand that supporting a state-based exchange is not an endorsement of the law itself.

SB Monitor Medicaid expansion

Kentucky expanded Medicaid eligibility by executive order 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 through 2016. However, the state is required to begin paying part of the costs beginning in 2017, which is part of the upcoming budget cycle.

Original projections of the number of Kentuckians who would be eligible for Medicaid under the expansion have proven to be substantially low. Originally, 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. Currently there are approximately 400,000 enrolled in Medicaid under the expansion. The total additional cost to the Commonwealth was originally estimated at \$13 million in General Funds beginning in FY 2014 due to Kentuckians joining who were already eligible but not enrolled under the existing eligibility rules (of which the state pays 30%) 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 insurance if Medicaid was not expanded as many existing employees would become eligible.

However, these cost estimates are based on the significantly low assumptions originally projected. The 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.

Modernize Medicaid

Kentucky's Medicaid program now covers more than 1.1 million people and an annual budget of over \$9 billion in FY 2015. 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 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 has saved \$1.3 billion in total funds since its implementation. 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.

Revise 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.

Stop expansion of collective bargaining

The Chamber is firmly opposed to any local or state-wide 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.



21st Century Infrastructure

GOAL: To create and maintain a modern infrastructure to capitalize on the state's strategic advantages and to advance its energy agenda.

SB Develop & 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.

Enact P3-enabling legislation

Kentucky is surrounded by states that have specific legislation authorizing the use of public-private partnerships (P3s) for transportation projects and laws that encourage and promote the use of P3s for education, construction, water and sewer lines and even the management of state parks. Appropriately structured, public-private partnerships offer significant cost savings for taxpayers as well as improved expertise and efficiency on state and local projects.

The Chamber encourages lawmakers to pass comprehensive P3 enabling legislation in the 2016 session

that creates a consistent framework that authorizes and encourages the creation of public-private partnerships for a wide range of infrastructure projects at all levels of state and local government and authorizes the use of P3s for transportation infrastructure.

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. The Kentucky Chamber strongly supports legislation to ensure adequate and consistent long-term funding for transportation infrastructure at both the state and federal levels.

Expand wireless & 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. The Chamber supports efforts to remove barriers to

widespread broadband and wireless investments in the Commonwealth and oppose policies at the state and federal levels that would impede or hamper investment in digital infrastructure.

SB Ensure affordable energy resources

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. These projects create new sources of tax revenue and jobs and enhance access to competitive energy supplies.

Investment in energy infrastructure is critical for continued access to growing domestic supplies of natural gas, natural gas liquids, refined products and crude oil. Specifically, the Chamber encourages the construction of natural gas, natural gas liquids and oil infrastructure to more efficiently extract, process, transport and utilize our resources. Further, the Chamber supports consideration by utilities of all electricity sources when planning for future needs of customers, but nuclear energy is currently not part of the consideration. State law prevents construction of nuclear power plants until there is a means of disposal of high-level nuclear waste approved by the U.S. government. An approved facility has not been identified by the U.S. government, so nuclear power plants in the U.S. store spent fuel on-site. Kentucky's current prohibition on storage in effect prohibits nuclear power as an option. The Chamber strongly encourages the federal government to identify an approved repository for high-level nuclear waste disposal but also accepts on-site storage of spent fuel as a temporary solution to inaction by the federal government.

Support cost-effective energy strategies

The Kentucky Chamber supports the development of cost-effective strategies that promote energy efficien-

cy and alternative resources to foster energy independence and economic growth. The Chamber supports efforts to promote manufacturing of energy efficiency and alternative energy products. However, we continue to recognize the vital importance of Kentucky's fossil resources including coal and natural gas 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. Such mandates and policies serve to drive up costs and stifle innovation which places the 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 and mandates for specific energy sources. Policies that spur technological innovation would continue to protect the economy of the Commonwealth while securing our nation's economic and energy future.

Control 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.



Aggressive Job Creation

GOAL: To create and implement a customized economic development program that recognizes the potential of Kentucky's distinct regions and industry sectors and encourages and rewards entrepreneurship and innovation.

To achieve substantial employment growth and significantly increase the per-capita income of Kentucky, we must aggressively pursue pro-growth policies with regard to Kentucky's tax code as well as the labor, legal and regulatory climate. Kentucky must capitalize on its advantages but also honestly assess weaknesses and take swift action to address them.

SB Create a competitive tax climate

Numerous studies have noted the need to 'reform' Kentucky's tax code. While there are numerous ideas floating about, there has been a vacuum of leadership willing to take on a significant reform proposal. The Chamber supports efforts to make needed reforms to the tax code and has provided several constructive ideas with the assistance of tax experts within the Chamber. These can be found at kychamber.com/tax. If Kentucky is going to truly compete, our tax code must be reformed. Business leaders tell us the tax system is too complex and compliance is too costly. 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.

Enforce tax code transparency

To attract and retain more businesses and jobs in Kentucky, it's vitally important that the public and business community have confidence that our tax code will be consistently and fairly enforced. Kentucky's tax code should be administered in a transparent and equitable way to benefit the taxpayers of Kentucky. The Chamber supports legislation which promotes much-needed transparency, efficiency and equity in the administration of our state's tax code.

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 only to generate more tax revenue. While tax changes cannot guarantee tax neutrality for every Kentucky business, the goal must be to ensure a competitive tax code that grows existing business and attracts new businesses to Kentucky.

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.

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. Kentucky's lawmakers are to

be commended for holding the line on new or increased taxes during the Great Recession, 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, long abandoned by nearly every other state, serve as a serious 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 formula

Though Kentucky made progress in 2005, 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

limited liability entity tax (LLET) gross profits calculation to make it easier for small- and medium-sized businesses and tax preparers to comply. The Chamber urges the General Assembly to clarify the cost of goods sold calculation for tax purposes in line with the federal definition to stop inconsistent enforcement against businesses.

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.

Support aggressive economic development


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.

Enact expanded gaming


To better compete with surrounding states and enhance economic development, the Chamber strongly urges the General Assembly to support a constitutional Amendment to allow citizens to vote on expanded gaming. Allowing additional gaming would create jobs, enhance tourism and would help recoup hundreds of

millions of tax dollars lost annually to casino gaming in neighboring states.

Focus development on targeted sectors

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. 

Equine industry. Kentucky's equine industry is world renowned, with an impact of more than \$4 billion on 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. States like Pennsylvania, Louisiana, Indiana and West Virginia have been successful in attracting Kentucky horse owners and breeders and industry-related jobs. The Chamber 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.

Energy. 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. We must protect our energy rates from overbearing federal regulations, fuel mandates and tax policy changes that will raise rates and neutralize Kentucky's competitive energy prices. Consider- 

ation should be given to exempting energy costs for manufacturers from any local option sales tax adopted by voters.

Health care. Many areas of Kentucky are underserved by health care professionals, contributing to poor access and higher medical costs for Kentucky's citizens. 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. Addressing this situation can help increase employment and simultaneously contribute to a healthier Kentucky. To help address this need, 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.

Manufacturing sector. Kentucky's central location, historically low energy rates, navigable waterways and relatively low cost of doing business have made the Commonwealth home to a number of manufacturers. With over 238,000 Kentuckians employed in the business of manufacturing goods in Kentucky, it is imperative that Kentucky's economic development strategies work to maintain these critical advantages to protect and grow manufacturing jobs.

SB 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 our companies and urges state policies that encourage worldwide exports of Kentucky products. Exporting products will retain and create jobs, grow our businesses and strengthen our state's bottom line.

LABOR CLIMATE Enact right-to-work legislation

The Chamber strongly supports legislation to prohibit requiring any worker to join a union as a condition of employment. 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.

SB 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.

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.

Improve workers' compensation system

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. Employers should be incentivized, rather than punished, to provide accommodations that allow the employee to return to work when light duty accommodations can be made. 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' comp subrogation laws in line with every other state.

LEGAL CLIMATE

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 most recent Institute for Legal Reform report, in 2015 Kentucky ranked 39th among the states for our legal liability climate, a lower ranking than in previous years. 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.

Improve 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 consti-



tutions, 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.

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. Protecting IP in the form of patents is critical to protect innovation, but it is also necessary to deter

frivolous patent claims by so-called patent trolls who use the court system as their personal ATM, extorting businesses with dubious claims of patent infringement. The Chamber strongly supports efforts to inhibit patent trolls while balancing the need to protect patents.

Revise 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.

Allow 'Deed of Trust' method

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.

Support felony expungement legislation

To help address Kentucky’s qualified workforce shortage, the Chamber supports legislation to provide work opportunities for individuals who are currently limited by a single past mistake. Legislation to allow individuals charged with a single, non-violent Class D Felony to have their record expunged, would respon-

sibly reduce some obstacles that currently limit businesses’ access to over 94,000 Kentuckians who could be eligible for expungement. Expungement of felony convictions, once certain conditions are met, enables former offenders to be more productive citizens, pay taxes and meet family obligations as it helps them obtain and maintain employment.

The Chamber supports this limited expungement if the legislation includes safeguards to ensure employers are protected by a significant waiting period to ensure the individual has no further criminal activity and has paid or served their debt fully. Additionally, the legislation should require notification to any identified victims, and indemnification language that protects employers from legal exposure.



ENERGY LEGISLATION

Encourage a sensible regulatory approach

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.

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 federal agencies attempt to overstep their oversight role or demand action inconsistent with past state regulatory actions or determinations.

Currently, federal agencies including the Environmental Protection Agency (EPA) and Office of Surface Mining Reclamation and Enforcement (OSMRE) are 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 federal agency, in some cases with questionable legal authority, include but are not limited to:

- EPA regulation of carbon dioxide from new and existing electric generating units; standards for new coal-fired power plants require use of carbon capture and sequestration technology that is not yet commercially viable; carbon dioxide limits for existing units cannot be met by the current fleet of power plants in Kentucky;
- EPA 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;
- EPA 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;
- EPA changes in water regulations and interpretations of existing rules without close examination of all costs and benefits; EPA should ensure any new water regulations (such as the 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;
- EPA proposed selenium recommended criterion which is lower than Kentucky's proposed standard for water column in flowing water bodies, and the importance of maintaining the precedence of fish tissue data over water column concentrations where available;
- Extension of the President's Climate Action Plan to further regulate volatile organic compounds (VOCs) and methane from the oil and gas industry through updates to the new source performance standards for new and modified sources; steps to regulate emissions downstream from wells in the natural gas transmission system; and guidelines for states addressing emissions in certain ozone non-attainment areas;
- OSMRE Stream Protection Rule that provides duplication of water quality regulation and excessive new data collection and analysis requirements; and
- 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 Chamber supports postponement of rules where legal challenges are present until the courts complete their review of the case and any appeals. Recent Supreme Court actions on the mercury and air toxics rule which included remanding the case to a lower court for further review exemplify the challenges a regulated industry faces when forced to comply with a rule before the legal scrutiny is complete. Costly regulations such as those impacting electric utilities require significant investment that cannot be refunded to the ratepayers when a rule is vacated.

The Chamber supports rigorous rulemaking processes whereby stakeholders such as the business community are involved during the rulemaking process and have adequate time to review and comment on proposed rules. 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.

The U.S. Fish & Wildlife Service (USFWS) implements the Endangered Species Act (ESA) and is required to consider candidate species within a one-year timeframe. The Chamber recommends the ESA be modified to allow additional time to consider these candidate species rather than restricting the timeframe to one year. This will enable USFWS to prioritize its listing

process, create good science and manage its resources while protecting endangered and threatened species. In addition, the Chamber recommends the ESA be modified to allow the delegation of this program to an appropriate state agency that has exhibited the resources and expertise.

The U.S. Army Corp of Engineers (USACOE) will reissue nationwide permits during 2016. This program provides for streamlined permit actions that affects all industries in Kentucky. The Chamber will engage the USACOE in developing and ensuring the business community's interests are represented in these discussions.

Encourage cooperative federalism

Decisions and policies that are best for a state or local community are more likely to occur when national, state and local governments interact in a cooperative manner to solve common problems. 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 when implementing energy and environmental programs.

The Chamber fully supports the Kentucky General Assembly and Energy and Environment 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.

Strive for energy independence and a pro-energy economic policy

The Kentucky Chamber is encouraged by the Gener-

al 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.

Support the future of Ky.'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 the summer of 2011, Kentucky has witnessed the loss of roughly half of its 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 25,000. In 2014, Kentucky produced approximately 77.4 million tons of coal, the lowest amount of production since 1962. To help support the future of Kentucky's coal industry, the Chamber supports:

- efforts 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.
- postponement of the rules to regulate carbon dioxide emissions until a full review by the courts has been completed.
- rulemaking that supports the beneficial reuse of coal combustion residuals.

SB 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.

SB 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 noncompliance 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 NOV's by state agencies.

SB Maintain air permitting efficiencies

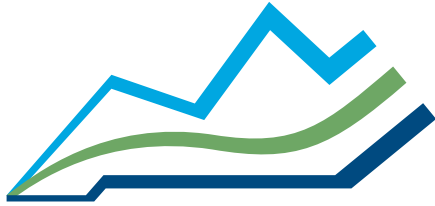
The Chamber recently supported the cabinet's position on the need for an increase in the Title V permit emission fee so the needs of the Title V permit holders can continue to be met in a prompt and efficient manner. As the program moves forward, it is important the Division of Air Quality maintain the 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.

SB 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.



MEMBERSHIP IS CRITICAL.

Thanks to Kentucky Chamber members, the Commonwealth's business community has achieved many legislative successes over the years. Because the Chamber represents a wide range of businesses, legislators listen when we speak on your behalf.

The Kentucky Chamber uses membership dollars to encourage:

- A healthy, skilled workforce
- A sustainable state government
- 21st century infrastructure
- Aggressive job creation

DEDICATED REPRESENTATION.

We represent you before the Kentucky General Assembly, government agencies and the courts to curb burdensome regulations, reduce taxes and create a profitable business environment.

OUTSTANDING RESOURCES AND TRAINING

Chamber seminars, events and publications keep you on top of all the complexities of legislation, regulations and business management.

INSIDE INFORMATION

Our members are the first to know and to understand through the well-researched facts and analyses in Chamber newsletters and e-updates and on our news site, kychamberbottomline.com.

CHAMBER POWER BUYS

Kentucky Chamber members have access to discounts on health insurance, search engine optimization, office supplies, wellness programs, shipping services and other programs vital to running a business.

If you are not a member, but would like to be, contact our membership department at 502-695-4700 or visit kychamber.com/join-now.



Kentucky Chamber

Uniting Business. Advancing Kentucky.

The Kentucky Chamber of Commerce provides leadership as a catalyst, consensus-builder and advocate to unite business and advance Kentucky.

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