

2020



Kentucky Chamber

# LEGISLATIVE PRIORITIES

CREATING A COMPETITIVE COMMONWEALTH

# INTRODUCTION

Unprecedented change and significant challenges have framed the last two decades for Kentucky and the United States. The foundations of competitiveness for people and places are being reshaped as economic growth remains uneven – strong for some but leaving others looking for a clearer path to future prosperity. We must engage more Kentuckians to push together toward common goals in education, economic development, health care, workforce quality, infrastructure improvements and other key areas.

In early 2019, the Kentucky Chamber published an update of its 4 Pillars 4 Prosperity report suggesting greater emphasis on issues that influence the state's economy and on the actions that will lead to success. The updated report, as did the original, 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 2020 Legislative Agenda builds upon the framework set by 4 Pillars 4 Prosperity and outlines the business community's top legislative priorities for the upcoming session of the Kentucky General Assembly. These priorities will help chart a path toward a more competitive Kentucky.



## PILLAR I: A Healthy, Educated and Skilled Workforce

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



## PILLAR II: Quality, Knowledge-Based Jobs

We must enhance Kentucky's competitive business environment and implement economic development initiatives that recognize the potential of Kentucky's distinct regions and industry sectors while encouraging knowledge-based entrepreneurship and innovation.



## PILLAR III: 21st Century Infrastructure

We must create and maintain a modern infrastructure to capitalize on the state's strategic Advantages, including low-cost energy and central location.



## PILLAR IV: Effective and Efficient Government

We must create and sustain an effective and efficient system of state and local governments that are financially stable, that invest in education to improve prospects for the future, and which together create a competitive environment for economic growth.

# 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 around one goal: to create a healthy, vibrant Kentucky economy. Ensuring that business has a voice in the legislative process, we work 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 six public policy councils, composed of business leaders from around the state, which are responsible for developing legislative positions and priorities for their respective policy areas.

## EDUCATION & WORKFORCE

Chair: Michael Rodenberg, Murakami Manufacturing

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.

## ENERGY & ENVIRONMENT

Chair: Blaine Early, Stites & Harbison

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.

## COMPETITIVENESS

Chair: Jason Keller, Charter Communications

The competitiveness council focuses on all facets of state 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 competitiveness, not only with our border states, but with competitors around the world. It 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.

## HEALTH CARE

Chair: Donovan Blackburn, Pikeville Medical Center

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.

## INFRASTRUCTURE

Chairs: Hood Harris, AT&T KY, and Candace McGraw, CVG Airport

Infrastructure is a critical piece of Kentucky's economy supporting numerous manufacturing, logistics, service, and retail businesses. From moving people to moving goods, investment in infrastructure is key to further economic growth. The council is responsible for the formation of the Chamber's legislative and federal agenda as it relates to infrastructure and will focus on all types of infrastructure including transportation, utility, and broadband.

## SMALL BUSINESS

Chair: Kaelyn Query, Lexington Event Company

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 Kentucky Chamber's policy development process. Look for the Small Business symbol (SB) throughout this document to find out which policies the council believes will have the most impact on small business.



# PILLARI: A Healthy, Educated and Skilled Workforce

Education and workforce development are key areas of investment for Kentucky's business community. Employers across the state – whether through their taxes, specific on-the-job skills training, tuition reimbursement for workers, or personal involvement – are putting their energy and financial resources to work for an educated population and skilled workforce.

Kentucky employers know that education is the cornerstone of progress for Kentucky, its communities and its citizens. The quality of the Commonwealth's education system and how well it equips individuals to advance in their communities, homes and on the job will determine the state's success. 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.

## **Support the Business-Education Roundtable Recommendations**

The Kentucky Business-Education Roundtable, comprising private- and public-sector representatives, is developing an ambitious agenda to improve the state's performance in elevating the educational attainment of its citizens and in building and sustaining a high-quality workforce. The Roundtable's recommendations address goals ranging from investing in early childhood education to reinventing high school to ensuring every adult obtains a marketable degree or credential to engaging employers in talent development efforts. The Kentucky Chamber supports the work and proposals of the Roundtable to achieve these goals.

## **Strengthening the Workforce (SB)**

Effective workforce training and service programs are critical, but too many employers continue to struggle in their efforts to find people with the right skills for the jobs they have available.

Too many job seekers can also be frustrated 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's Workforce Center is entering its third year of work to expand employer involvement in the development of workforce programs and assess progress and challenges in efforts to improve workforce. Through the Talent Pipeline Management initiative, the Workforce Center is bringing together collaboratives of employers in different sectors to define shared needs and identify gaps in worker training programs. This work, and the experience of employers across the state, is raising greater awareness of the continuing need to improve workers' essential skills – sometimes called personal management skills – such as showing up on time, working well with others, communicating effectively and taking responsibility for one's actions. The Chamber is monitoring the implementation of 2018 legislation it supported to incorporate essential skills into the state's K-12 education system. The business community supports efforts to increase the emphasis placed on addressing this skills gap.

## **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 recent ACT scores show continued increases until 2016-17, but have declined each of the last two years in the percentage of students reaching college readiness benchmarks set by the Council on Postsecondary Education, with achievement gaps persisting among subgroups. Kentucky's graduation rate continues to improve and has reached 90.8%.

The number of students who are ready for college and career continues to be an area of particular significance to the business community. The state's accountability system must place appropriate emphasis on activities that are proven to prepare students to truly be transition ready. By the same token, a strong accountability system is critical to ensuring continued improvement in school and student performance. The Chamber supports an accountability system that is easily understood by parents, community advocates and business leaders, and that narrows achievement gaps among groups of students to ensure the success of all.

## **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 also require an innovative and collaborative approach to provide quality preschool to all 3- and 4-year-olds. The Chamber also supports efforts to fund all-day kindergarten equitably statewide fully.

Kentucky's youngest children are learning wherever they are, whether at home, in a child care program, or in a preschool. Ensuring high-quality learning environments for all Kentucky children is vital for their personal development and in strengthening our current and future workforce. A significant number of Kentuckians live in areas that lack access to licensed, quality child-care options, and many of the available options are expensive. The Kentucky Chamber of Commerce will continue to lead conversations and promote efforts relating to increasing the accessibility to high-quality childcare.

## **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. Greater emphasis also should be placed on non-traditional routes to certification to expand the pool of potential teachers. These steps will allow Kentucky to recruit and retain the best and brightest professionals.

## **Require Educator 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 be subject to periodic

reviews for renewal. Educators who do not meet the high standards required to serve all students should be removed from the education system.

The Chamber also believes it is vital that superintendents, as the CEOs of their districts, have greater authority in the selection of school principals.

## **Empower Teachers and Schools**

Kids across Kentucky face daily obstacles that can prevent their success in the classroom. The business community recognizes that a myriad of issues, from food insecurity to children being placed in foster care, can result in instability in a child's life that can only be addressed through the school environment. To address this, the Chamber supports policies and programs that allow schools to better meet the individual challenges students may face to help ensure their success in school and beyond. An education system that includes well-funded schools, the utilization of public charter schools, and incentives to use proven models that result in student success should be pursued to address challenges that students face.

With more children entering the foster care system, the state must make helpful information regarding the needs of those children more widely available to the education system to empower teachers and schools to better meet the children's educational needs.

## **Literacy and Numeracy**

The Chamber supports early literacy and numeracy programs that are shown to help students achieve competency in these areas before entering 4<sup>th</sup> grade. The General Assembly should seek to make support systems and approaches that work available to all Kentucky schools.

## **Encourage Students to Take More Challenging Courses**

At the high school level, recent regulatory changes that give greater weight for dual credit, advanced placement (AP), International Baccalaureate (IB) and Cambridge International Classes are positive developments. The Chamber encourages additional steps be taken to incentivize students to take rigorous and challenging courses.

## **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.

## **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.

## **Strengthen Adult Education System (SB)**

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. Consideration also should be given to supporting programs where high schools work with adults to help them return to school to obtain a diploma. The goal should be to give adults workable and effective options to improve their education attainment and skills development.

## **Promote Wellness and Prevention (SB)**

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.

## **Intensify Drug Abuse Control Efforts (SB)**

The Chamber is concerned about the state's rising drug abuse problem and its negative effect on Kentucky's workforce and health care costs. According to the Kentucky Chamber's 2019 Report, "Opioid Abuse in Kentucky: The Business Community's Perspective," in 2017, more than 1,500 Kentuckians died from drug overdoses and the number of deaths had been increasing by a rate of 11.5% per year. In 2017, Kentucky's drug overdose death was the 4<sup>th</sup> highest among the 50 states. While Kentucky's number of drug overdoses dropped to 1,300 in 2018, more work must be done.

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. Limits on opioid prescriptions enacted in 2017 are also helping to curb opioid abuse. We encourage a thoughtful approach that will not back away from efforts to punish bad actors but will prevent added

corrections costs and increase state support for substance abuse treatment. 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.

Additionally, the Kentucky Chamber supports efforts to remove barriers for employment for people coming out of addiction, treatment, and incarceration. As employers know, the key to reducing recidivism is meaningful work.

## **Enact Statewide Smoke-Free Law**

According to the CDC, Kentucky has the second-highest rate of adult smokers in the United States (24.6% of Kentucky adults smoke compared to 14% nationally). Smoking-attributable health expenditures are estimated at more than \$1.92 billion annually in Kentucky, including nearly \$590 million in Medicaid, while smoking-attributable economic productivity loss is estimated at more than \$2.79 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.

A total of 36 communities in Kentucky (covering 36.1 percent of Kentucky's population), 27 states, plus the District of Columbia, Puerto Rico and the U.S. Virgin Islands, and more than 1,000 communities have passed comprehensive smoke-free laws that have proven to reduce exposure to secondhand smoke and smoking rates, improve health, and lower health care costs without negatively affecting business.

Because youth e-cigarette use has doubled in recent years, comprehensive smoke-free laws should include e-cigarettes. Nationwide more than one in nine high schoolers use e-cigarettes on a near-daily basis. Nearly one in four 12<sup>th</sup> graders and one in 10 eighth graders used e-cigarettes within the past 30 days in 2019. In Kentucky, more than one in four 12<sup>th</sup> graders and one in seven eighth graders used e-cigarettes within the previous 30 days in 2018. About one in 20 adults nationwide used e-cigarettes in 2017.

Until a statewide law is passed, the Chamber continues to encourage local governments and school districts to adopt their own smoke-free policies.

## **Promote Statewide Tobacco-Free Schools**

Prior to passage of the 2019 Tobacco-Free Schools legislation, 42% of Kentucky school districts had voluntarily gone tobacco-free. Following the enactment of the new law, 90% are tobacco-free. The Kentucky Chamber will continue to monitor the progress being created by the passage of the 2019 legislation.

## **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 arbitrary and unjustified intrusion into the rights of employers.

## **Increase the Cigarette Tax**

Regular surveys of business leaders show that health care is the No. 1 cost driver for businesses. Higher tobacco taxes also save money by reducing tobacco-related health care costs, including

Medicaid expenses.

The Chamber applauds the efforts by the General Assembly in 2018 to increase the cigarette tax by .50 cents, the largest increase in Kentucky history. Now at a \$1.10 per pack, Kentucky's cigarette tax ranks 36th lowest among the states and still well below the national average of \$1.81 per pack.

To continue to improve the overall public health of Kentucky's citizens, the General Assembly should consider additional increases to Kentucky's excise tax on cigarettes.

Further, the General Assembly should establish an excise tax on electronic cigarettes on par with traditional cigarettes. The use of electronic cigarettes, commonly referred to as vaping, among youth has skyrocketed. Kentucky youth vaping doubled between 2016 and 2018. A tax should be established to combat this trend and to reduce use among pregnant women.



## PILLAR II: Quality, Knowledge-Based Jobs

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 realistically assess its weaknesses and take swift action to address them.

### Create a Competitive Tax Climate (SB)

The Chamber supports efforts to make needed changes to the tax code and has provided several constructive ideas with the assistance of tax experts within the Chamber. If Kentucky is going to truly compete, our tax code must be improved. 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-based taxes can improve our competitive situation as 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 commends the General Assembly for passing tax reform over the past two years, which has lowered the rate and broadened the base to some services. The reforms also included adopting a single sales factor apportionment formula and establishing a state tax credit for the inventory tax. The Chamber supports further 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.
- **Net new revenue:** Kentucky cannot simply cut or reform its way out of current funding challenges and should improve Kentucky's competitiveness while producing net new revenue to support education, workforce development, and many other needs.
- **Reduce the cost of capital:** The tax code should encourage investment as it is the key to increased growth and productivity and 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 (SB)**

To attract and retain more businesses and jobs in Kentucky, it is vitally important 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 the state 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. **(SB)**

**Revenue through Growth.** Changes in the state tax code should be undertaken to increase fairness and competitiveness, not just 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 businesses 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.

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.

## **Revise the Limited Liability Entity Tax (SB)**

To increase fairness, employers should have the ability to offset pass-through credits against taxes on income from other businesses and other years. In addition, more clarity is needed to determine what business expenses qualify as cost of goods sold (COGS) in the limited liability entity tax (LLET) gross profits calculation to make it easier for businesses and tax preparers to comply. To simplify compliance and increase fairness, the Chamber urges the General Assembly to align Kentucky's COGS definition with that of the COGS definition for federal tax purposes.

## **Support Local Tax Revenue Flexibility**

The Kentucky Chamber supports giving local authorities the flexibility to increase local tax revenue while ensuring the local tax code does not negatively impact businesses. We encourage the discussion of this and other local tax issues to be included in the broader dialogue centered around tax reform and competitiveness.

## **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 (SB)**

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

The Chamber also supports allowing sports wagering in Kentucky, as permitted by the 2018 U.S. Supreme Court decision. Any legislation to approve sports wagering in the Commonwealth must protect existing signature industries and racing facilities.

## **Oppose Discriminatory Legislation in the Name of Religious Freedom**

Kentucky's business community is focused on succeeding in today's competitive marketplace—locally, regionally, and globally. To flourish, Kentucky companies must develop and retain a diverse, inclusive, and skilled workforce. With such goals in mind, the Kentucky Chamber works tirelessly for pro-growth policies that will attract and retain employers and talent for our state.

We know other states have passed, or are considering passing, controversial legislation in the name of religious freedom that will negatively impact their economic activity, both short- and long-term.

We oppose and discourage any discriminatory legislation that would hinder any individual's or organization's desire to do business in or with the Commonwealth. The Chamber's mission is to foster a positive environment that enables business growth in Kentucky, and we believe such legislation to be bad for business.

## **Focus Development on Targeted Sectors (SB)**

***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 \$8.6 billion in economic output and more than 20,000 jobs while topping \$1 billion in payroll and generating millions a year in state and local tax revenue. The Chamber strongly supports initiatives to protect and grow this signature industry. For Kentucky to maintain its dominance in the industry and attract new distilleries and new visitors from around the world, the General Assembly must update its archaic alcohol tax and tourism and hospitality statutes to take advantage of this thriving homegrown industry. Kentucky is the only place in the world that levies an ad valorem property tax every year on aging barrels in warehouses. This is a discriminatory tax and the chamber strongly supports making the state's Barrel Tax Credit fully refundable, which continues the 2014 policy commitment the General Assembly made when it allowed distilleries to receive state tax credit if the funds were reinvested into distilleries. The chamber also supports parity for our distilleries with other alcohol producers and the ability to sell, ship and market their product in a 21st Century marketplace. Kentucky's bourbon industry recognizes that with its unique product comes responsibility. Therefore, the Chamber supports continuing responsibility efforts geared toward underage drinking and DUI offenders, including fully funding of the state's expanded ignition interlock program. In addition, the industry is supported by small business retailers that provide specialized product knowledge and ample selection of craft spirits and wines to consumers. **(SB)**

**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 to 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 such as 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 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. According to the Energy Information Administration, Kentucky's average industrial electric power costs ranked 6th lowest in the nation in 2018 while the average retail price for all sectors was 8th lowest in the country. 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. Consideration should be given to exempting energy costs for manufacturers from any local option sales tax adopted by voters. **(SB)**

**Health Care.** Many areas of Kentucky are underserved by health care professionals, contributing to poor access and higher medical costs for residents. 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 more than 251,000 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.

**Tourism.** Kentucky's tourism industry is a major economic driver that benefits Kentuckians in every part of the state. Expenditures by 71.6 million visitors in 2018 contributed more than \$11 billion to the economy, spurred the creation of more than 94,000 jobs with \$2.9 billion in wages, and generated \$787 million in local and state tax revenue.

The Kentucky Chamber recognizes the importance of our tourism industry to Kentucky's overall economy as well as the competition it faces from other states. To sustain and grow tourism's benefits for Kentuckians, the Chamber supports investment in critical infrastructure such as state parks, the adoption of policies and programs that allow our attractions and hotels to flourish, and adequate marketing funding for local destinations and the state as a whole to be competitive in attracting visitors.

## **Grow Kentucky's Exports (SB)**

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 a record \$31.8 billion of goods in 2018, an increase of 2.9% over 2017 and a 14.9% gain since 2015.

Kentucky ranked 17<sup>th</sup> among the 50 states in exports in 2018, despite having the 26<sup>th</sup> largest population. The Chamber has partnered with the Kentucky World Trade Center and encourages and supports 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**

### **Oppose Increased Mandates on Employers (SB)**

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 is 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 Workers' Compensation System (SB)**

The Chamber commends the 2018 General Assembly for modernizing the workers' compensation system for the first time in two decades. The Chamber will continue to monitor the implementation of the legislation to ensure the system remains balanced and equitable.

## **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 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 2019 Institute for Legal Reform report, Kentucky ranks 40<sup>th</sup> among 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 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. In order for the legislature to mandate a maximum amount of non-compensatory damages to be awarded in professional liability cases, an amendment to the Kentucky Constitution is required to allow for a cap on these types of damages. The Kentucky Chamber supports allowing Kentucky voters to decide on whether such a cap is necessary through a constitutional amendment. 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.

## **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 protecting 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, 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 buildings remaining vacant and abandoned for an extended period of time, burdening citizens and communities with declining values for surrounding properties that result in decreased 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.

## **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 that 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 its impact on jobs and low-income groups and the ability of business to operate profitably within the confines of any legal framework. Those standards should also provide businesses with the maximum flexibility to implement sustainable practices they deem appropriate for their unique situations.

State government, utilities, and businesses should work hand-in-hand to maintain a process to balance ratepayers' desires for competitive rates through the least-cost option with incentives for energy production innovations, clean coal technologies, and energy efficiency. Within the context of greenhouse gas emissions and their role in climate change, the Kentucky Chamber supports objective research and analysis that provide government and business alike with the information and tools to make reasoned decisions on policy and investment.

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.

Many federal laws and regulations currently being amended or adopted will impact Kentucky businesses, and the Chamber is closely monitoring the following:

- EPA regulation of carbon dioxide from new and existing electric generating units. The Chamber supports implementation of the Affordable Clean Energy Rule.
- EPA revisions to National Ambient Air Quality Standards for sulfur dioxide, ozone, particulate matter, and nitrogen oxides 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. The Chamber supports legislation to change the review cycle for criteria pollutants, including ozone, from a 5-year review to a 10-year review and supports efforts by the EPA to better understand the role other factors such as background levels of ozone and economic impacts play in meeting the standard.
- The Chamber supports the Energy and Environment Cabinet's recent request for approval of its

State Implementation Plan (SIP) regarding the 2015 Ozone National Ambient Air Quality Standard.

- The Chamber supports the prompt adoption of state legislation and regulations to implement the America's Water Infrastructure Act of 2018.
- The Chamber supports repeal of the Clean Water Rule and changes to the Waters of the U.S. (WOTUS) definition. The Chamber believes that when considering whether a feature should be deemed a water of the U.S., attention should be given to (1) the ability to determine a meaningful "designated use" as defined by statute and (2) reasonable ability to determine applicable water quality criteria to support that use. Related, ephemeral streams defined as being dry most of the year and having flowing water only during and for short durations after precipitation should be excluded from the definition. Further, consideration should be given to how the WOTUS definition affects implementation of permitting authority.

The Chamber supports the development of stream, wetland, and conservation mitigation banks for the purpose of compensating for unavoidable resource losses in advance of permitted development actions. The Chamber encourages federal and state regulators to develop a predictable, consistent statewide watershed-based Service Area Policy for Mitigation Banks and in-lieu fee projects to expedite permitting of projects. The Chamber supports policies that sufficiently protect the surface areas of mitigation sites and use the best available technology to allow for the retrieval of minerals, such as oil and gas. The chamber encourages state and federal regulators to work together to develop a consistent policy to allow mitigation projects, which have severed mineral rights, to proceed as long as the surface aquatic resources can be protected with appropriate legal constraints. These policies are critical to expedite the process of approving critical infrastructure and economic development projects.

The Chamber supports rigorous rulemaking processes whereby stakeholders such as the business community are involved 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.

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 discussion as to whether or not the ESA should be modified to allow the delegation of this program to an appropriate state agency that has exhibited the resources and expertise.

## **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. The Chamber applauds actions taken by the federal government to engage in cooperative federalism.

## **Strive for Energy Independence and a Pro-Energy Economic Policy**

The Kentucky Chamber is encouraged by the General Assembly's 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 that are proactive in promoting conservation, efficiency, and alternative energy. 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 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. Certain past federal policies and changing energy demands have crippled the coal economy in the eastern and western Kentucky coalfields, which has had a negative impact on the entire state. Since the summer of 2011, Kentucky has witnessed the loss of approximately 12,300 of its coal mining jobs. For every one direct coal mining job lost, three other indirect jobs are also lost, which brings the total job losses to about 37,000. In 2018, Kentucky produced approximately 40 million tons of coal, a slight decline from the previous year. 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 baseload power generation.
- Careful legal review of the rules that regulate carbon dioxide emissions from coal plants and elimination or revision of the rules to ensure new coal plants can be built without relying on technology that isn't commercially viable (carbon capture and sequestration) and that existing plants aren't forced to retire prematurely.
- Support rulemaking and legislation that encourages efficient regulation and beneficial use of coal combustion residuals (CCR) by aligning state criteria to federal criteria, providing clear authority to the state to oversee and be the primary enforcement authority for the federal CCR disposal and beneficial use standards.

## **Support Kentucky's Oil and Gas Industry**

Kentucky's oil and gas industry has supported the nation's pursuit of energy independence for more than a century, resulting in continued low energy costs for consumers. Thousands of Kentuckians are either salaried employees or proprietors in oil and gas and its support industries. Historically, the industry has contributed more than \$1 billion in total impact to Kentucky's economy. The Chamber supports careful review and consideration of regulations that could burden producers with

unnecessary and costly compliance requirements. The Chamber recommends:

- Careful monitoring of regulations of methane from the oil and gas industry through updates to the new source performance standards for new and modified sources and development of rules for existing facilities
- Support for the industry's efforts to postpone the implementation of Quad O and Quad Oa regulations aimed at reducing methane emissions unearthed from oil and gas wells. The Chamber encourages a cooperative effort between the EPA and industry stakeholders to develop sensible, low-cost solutions for low-pressure wells found in Kentucky. Regulations that are developed should be beneficial to both the environment and small-scale operators in Kentucky.

### **Promote Sensible State/Local Regulations (SB)**

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 appeal 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 (SB)**

Current administrative enforcement procedures allow little flexibility or discretion on the part of inspectors. Generally, any and all excursions 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 NOVs by state agencies.

### **Maintain Permitting Efficiencies (SB)**

It is important the Energy and Environment Cabinet maintain the level of service to the business community as 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 Cabinet should continue to look at cost-control measures and efficiencies that can be used to reduce any shortfall in revenue and create efficiencies throughout the program. Additionally, as the Cabinet evaluates funding of its programs, fair distribution of general funds across all the program

areas and divisions should be a priority. All citizens benefit from the Cabinet's role in environmental protection, yet some program areas rely almost exclusively on funding by the regulated community. For example, the Division for Air Quality relies on Title V emission fees for the majority of its funding and the dollar/ton fee continues to increase each year.

The Chamber supports methods that will allow an expedited permitting process when warranted. For permits that are especially complicated due to the nature of the pollutant being discharged or emitted, the Chamber encourages the Cabinet to use alternative permit compliance methods and requirements or establish a variance already allowed by statute to avoid unnecessary delays while still being protective of environmental quality.



## PILLAR III: 21st Century Infrastructure

### Develop and Maintain Infrastructure (SB)

Kentucky must realize our global competitors are building infrastructure at an impressive rate. To take full advantage of Kentucky's favorable geographic location—we are within 600 miles of 65% of the nation's population—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. The Chamber released The Citizens Guide to Kentucky Infrastructure in 2017 to highlight the various infrastructure needs of the Commonwealth.

### Increase Transportation Investments

Kentucky's transportation network of roads, airports, riverports, railroads, and transit systems connect Kentucky businesses to the national and international marketplace by providing multiple safe, cost-effective ways to move goods, connect to employees, and deliver services. Kentuckians depend on the state's transportation network every day for safe, reliable access to education, health care, and employment. The Chamber's infrastructure report noted that 8% of all Kentucky roads are in poor condition (including 16% of major urban roads) and motorists incur an average of \$331 per year in costs from driving on roads in need of repair. In addition, with \$1.9 billion in needed repairs, Kentucky ranked 27th nationally in the number of structurally deficient bridges in 2018.

Kentuckians choose the state's transportation network every day for reliable access to education and employment. The largest three public transportation providers in the state connect employees to employers each year with over 11 million trips—more than half of all traveled—for work alone. Transit systems must maintain passenger stations and stops, maintenance facilities, parking lots, administrative buildings, and dedicated roadways.

With a shortage of state funding, public transit has long relied on using toll credits to access federal funds. If a substitute for toll credits, which will expire by the end of calendar year 2019, is not found, tens of millions of dollars in federal transit funds will be placed in jeopardy. This will significantly limit the ability of transit systems across the Commonwealth to maintain and improve upon their important role in workforce and economic development.

The Kentucky Chamber strongly supports legislation at the state and federal levels that provides new and sustainable funding that supports the maintenance and improvements needed on our transportation system today and allows the building of a system that supports our state in the 21<sup>st</sup> century. We support efforts to ensure that funds are available to match federal transit funds to fill the

void being left by the expiration of toll credits.

We also encourage the administration to take advantage of the state's Public-Private Partnership (P3) legislation to encourage private investment in the construction and maintenance of our infrastructure.

The Kentucky Chamber urges the General Assembly to create a multi-modal transportation fund to address the infrastructure needs of the railroad, aviation, riverport, and public transit industries. Continued investments in all modes make Kentucky more competitive and attractive for development with safe and reliable avenues of logistical infrastructure critical for economic growth.

## **Expand Wireless and Broadband Infrastructure**

In a 21st century global economy, our telecommunications infrastructure is crucial. The progress we have seen in Kentucky in recent years, in terms of accessibility to and adoption of broadband internet, is noteworthy. In fact, from 2013 to 2015, more than 800,000 Kentuckians gained access to broadband. Seventy percent of those new connections were in rural Kentucky.

Based on the Federal Communications Commission 2018 Broadband Deployment Report, Kentucky has moved from 47<sup>th</sup> in the nation to 37<sup>th</sup>, a significant jump that is due to the substantial investment of private risk capital by Kentucky's communications providers. Just think of what could have been accomplished if Kentucky offered providers options for making investment in Kentucky cost-effective. Kentucky is the only state in the region that does not offer incentives for increased investment in broadband networks. In fact, all of Kentucky's surrounding states offer tax exemptions to expand and upgrade communication networks: Indiana, Ohio, Tennessee, West Virginia, Virginia, and Missouri each offer a sales tax exemption on certain communications equipment, which better positions those states for increased broadband investment.

Additionally, several surrounding states have implemented broadband buildout grant programs to aid the private sector in deploying service to unserved areas.

The Chamber supports legislation that would put Kentucky on an even footing with our surrounding states by implementing broadband deployment incentives for wired and wireless networks across the Commonwealth and opposes policies at the state and federal levels that would impede or hamper investment in digital infrastructure.

## **Support Rail Improvements**

The Chamber urges the General Assembly to maintain existing tax credits and exemptions that encourage investment and help Kentucky's railroads maintain a strong, reliable infrastructure.

The Chamber asks the General Assembly to restore the \$1.6 million for the Kentucky Rail Crossing Improvement Program (KRCI) to ensure safe and reliable grade crossings for the traveling public.

## **Ensure Affordable Energy Resources (SB)**

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. According to the Energy Information Administration, Kentucky's average industrial electric power costs ranked 6<sup>th</sup> lowest in the nation in 2018 while the average retail price for all sectors was 8<sup>th</sup> lowest in 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.

Finally, in addition to providing ongoing, strategic investment in the Commonwealth's energy infrastructure, policymakers must ensure the costs to support and maintain this infrastructure are allocated fairly among all users of the system. How customers use this infrastructure is changing as the adoption of distributed energy resources (DERs) – such as privately-owned solar generation – increases across the Commonwealth. Existing policies that, years ago, were originally adopted to incentivize the implementation of new technologies, such as distributed solar generation, should be reexamined to ensure all the costs to support and maintain reliable operation of the energy infrastructure are shared fairly.

## **Support Cost-Effective Energy Strategies**

The Kentucky Chamber supports the development of cost-effective strategies that promote energy efficiency and alternative resources to foster energy independence and economic growth. The Chamber supports efforts to promote manufacturing of energy-efficient 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.

## **Ensure Affordable Water and Wastewater Service**

The Kentucky Chamber supports appropriate efforts, including ongoing investment, to ensure efficient, equitable and sufficient water supplies and wastewater services for communities across the Commonwealth. The Chamber recognizes water and wastewater system upgrades are of particular concern due to the financial hardship that upgrading them can place on small systems and their customers. Where appropriate, the Chamber supports voluntary consolidation of water and wastewater systems to address such challenges in a more efficient, economical manner that meets the needs of Kentucky's communities. The Chamber supports using Fair Market Value as a tool to determine the value of water or wastewater systems. The Chamber also supports the consideration of public-private partnership solutions in the water and wastewater sectors, as appropriate. The Chamber supports appropriate interconnectivity agreements among municipalities and water and wastewater service providers throughout the state to ensure water and wastewater treatment needs are met.



### **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: Ten Years Later” report in 2019, following up its 2014 “The Leaky Bucket: Five Years Later, 2011 “Building a Stronger Bucket” and 2009’s original “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. “The Leaky Bucket: Ten Years Later” analyzed 2016-2020 budgets and noted a significant reduction in the growth of spending on public employee health insurance while spending on corrections, Medicaid and pensions continue to outpace overall General Fund Spending.

In recent budgets, spending on corrections has increased significantly—largely due to an increase in drug-related incarcerations—and spending on postsecondary institutions continues to decline. Postsecondary education is funded in the current budget at a level more than 14% lower than it was ten years ago. 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.

## **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:

- Limit spending to 6% of the state economy.
- Limit borrowing costs to 6% of the state General Fund budget.
- Eliminate the structural deficit by adopting a five-year plan to spend only recurring revenues for recurring obligations.
- Prioritize spending on areas that invest in the future, such as education and economic development.
- 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 some 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 spending on corrections is rising again (due to the opioid crisis), financing the expansion of Kentucky’s Medicaid program continues to be a challenge, and legislators are struggling to provide full funding for Kentucky’s pension systems. 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.

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 (SB)**

With pension systems that are among the worst-funded in the country, the Kentucky Chamber has advocated for reforms in Kentucky's public pension systems for more than 12 years. The General Assembly has responded with a number of significant actions and increased funding in recent years. The 2008 General Assembly enacted reforms that increased the employee pension contribution, imposed a minimum retirement age, and placed other limits on benefits. In 2010, the legislature implemented the "shared responsibility" plan for teachers' health insurance, and in 2013, state and local workers were placed in a hybrid 401K-style plan, with a guaranteed 4% annual return, and cost of living adjustments for state and local retirees were suspended. These measures helped establish a foundation for continuing progress in pension reform.

In terms of funding, Kentucky is now putting more than \$1 billion per year more into its pension systems than it was five years ago. The 2018-20 budget continued this trend—providing full funding for the Kentucky Employee Retirement System and the full requested appropriation for the Kentucky Teachers' Retirement System. This increased funding, combined with more realistic assumptions adopted by Kentucky Retirement Systems, will help put the system on a path toward financial solvency.

Moving forward the Chamber believes:

- Benefits provided to public employees should mirror the private sector to the extent possible.
- Public employees should work longer before being able to retire (similar to the private sector).
- Retirement promises made to public employees for benefits already earned should be honored.
- Continued emphasis should be placed on reducing public employee health insurance costs.
- The full actuarial required contribution (ARC) should be made to Kentucky's pension systems, and assumptions on which the ARC is based should be periodically audited to ensure their accuracy.

## **Maintain Sensible 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. The Tax Foundation reports total state debt in Kentucky measures \$3,234 for each of the state's 4.4 million people, placing Kentucky 26<sup>th</sup> in state 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.

## **Incentivize Consolidation of Services**

The Kentucky Chamber supports efforts to incentivize localities such as cities, counties, special taxing districts and school boards to consolidate essential services such as 911 services, water and wastewater services, etc. to ensure taxpayer dollars are being spent wisely while helping relieve the financial burden of individual local governments.

## **Modernize Unemployment Insurance (SB)**

The Chamber supports reforms to Kentucky's unemployment insurance benefit structure to keep costs and benefits competitive with other states and increase workforce participation. Further, the Chamber supports efforts to provide those out of work with access to training and career counseling.

## **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 as part of Kentucky Smart on Crime, which focuses on reducing recidivism, making communities safer, increasing our workforce and saving taxpayer dollars. We 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.

The Chamber also supports reforms to Kentucky's bail system, transitioning the system to focus on the offense and offender and not on their financial means. In 2016, there were 64,123 non-violent, nonsexual defendants detained in Kentucky because they could not afford their bail. Meanwhile, 43 high-risk, violent or sexual offenders were released after posting a monetary bail. In 2017, local governments lost \$152 million because of Kentucky's current bail reform system.

## **Monitor Affordable Care Act (SB)**

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.

## **Encourage Medicaid Sustainability (SB)**

Kentucky expanded Medicaid eligibility by executive order to persons with annual incomes up to 138% of the federal poverty level (now \$29,435 for a family of three) beginning in January 2014—adding more than 450,000 people to the program. The federal government paid 100% of the state's additional cost for the expansion through 2016. However, the state was required to begin paying 5% of the costs beginning in 2017, rising in steps each year to 10% in 2020. As a result, the state's General Fund cost for Medicaid benefits has increased 25.6% (more than \$400 million) in the past five years (FY 2016-20) as compared to only 16.5% for the previous five-year period. Currently, there are more than 1,341,869 Kentuckians enrolled in Medicaid—30% of Kentucky's total population.

In an effort to address these growing costs, the governor submitted a waiver request to the federal Department of Health and Human Services to allow Kentucky to make a number of changes to the Medicaid program, including the imposition of monthly premiums and a community service requirement for selected populations. While the federal government has approved Kentucky's waiver request, it has yet to be implemented as the approval is being litigated in the federal courts. The Chamber applauds Governor Matt Bevin and his administration for tackling the challenges of Kentucky's Medicaid program. The Kentucky Chamber, since the publication of its initial "Leaky Bucket" report in 2009, has advocated that the Medicaid program be sustainable to protect critical state investments in education and other vital programs. We commend the innovative approach to make the system sustainable for Medicaid recipients to continue to receive benefits.

## **Wellness Activities**

A best practice identified by the National Governors 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 in 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 of the Medicaid program that should be explored for possible savings include:

- Improving the "error rate" – reducing overpayments to providers and ensuring the correct determination of recipient eligibility.
- 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).
- Increasing the use of generic drugs by Medicaid recipients.
- Revisiting the use of significant co-pays for recipients at higher income levels.
- Ensuring the managed care contract companies honor the timely and appropriate payment rules and pay providers for the correct services in a timely manner.
- Encouraging and promoting personal responsibility and quality and cost-conscious decision making to ensure Medicaid recipients choose the correct level of care.

## **Stop Expansion of 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.