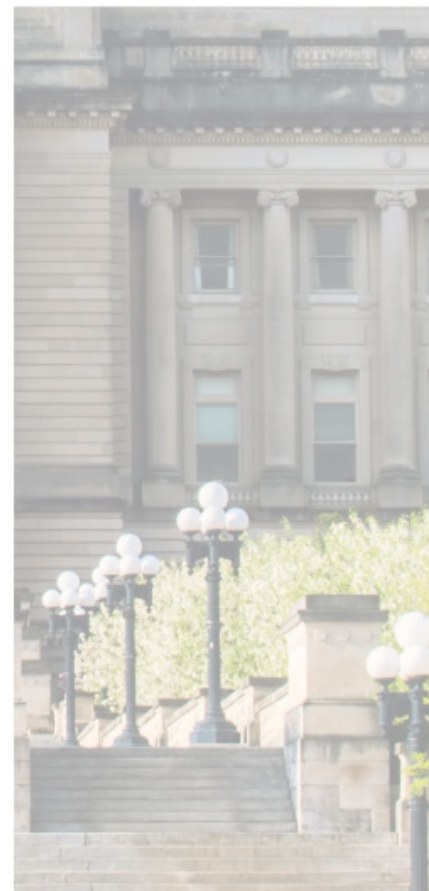


2019

LEGISLATIVE AGENDA



Kentucky Chamber



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 2019 Legislative Agenda builds upon the framework set by Four Pillars for Prosperity and outlines the business community's top legislative priorities for the 2019 session of the Kentucky General Assembly. These priorities will help chart a path toward a more competitive Kentucky.

PILLAR I: A Healthy and 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.

PILLAR II: Effective and Efficient State Government

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

PILLAR III: 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.

PILLAR IV: Quality Jobs

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.

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 & WORKFORCE

Chair: Michael Rodenberg, Murakami Manufacturing, Campbellsville

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, Lexington

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.

HEALTH CARE

Chair: Sherri Craig, KentuckyOne Health, Louisville

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.

COMPETITIVENESS

Chair: Jason Keller, Charter Communications, Louisville

The 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 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.

SMALL BUSINESS

Chair: Nadina Dennie, Willow Ridge Plastics, Erlanger

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.



PILLAR I: A Healthy and Skilled Workforce

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.

Strengthening the Workforce (SB)

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 Chamber has created the Kentucky Chamber Workforce Center to expand employer involvement in the development of workforce programs and in assessing what works and what doesn't in efforts to improve the quality of the state's workforce. The Center, an outgrowth of the Chamber's 2015 "Kentucky's Workforce Challenges: The Employer's Perspective" report, will focus on five key areas:

- **Business Leadership** – serving as the voice of business in efforts to align education, workforce initiatives and economic development
- **Industry Collaboratives** – providing employers with a way to work together, define the skills they need and measure the results of workforce efforts
- **Network Development** – enhancing employer effectiveness through shared information and communications to ensure statewide consistency and collaboration in workforce programs and planning

- **Measuring Progress** – monitoring the performance of education and workforce providers using data that is designed to help improve programs and provide reliable results
- **Essential Skills** – working on public-private initiatives to help strengthen such essential skills in the workforce as punctuality, work ethic, and communication

The need to improve workers' essential skills is of particular importance to Kentucky employers. To address this critical problem, the Chamber supported 2018 legislation incorporating essential skills into the state's K-12 education system to improve students' development of characteristics that will enhance their prospects for success in both postsecondary education and the workplace. The Chamber will monitor the implementation of this legislation and provide resources and assistance to school districts as they create or expand essential skills programming.

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 continues to improve and has reached 89.8%.

The number of students who are ready for college and career continues to be an area of particular significance to the business community. The rate of students who are ready to move ahead in college and career was 68.5% in 2016 but declined to 65.1% in 2017. The Chamber will monitor efforts in this field to help strengthen and improve results.

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.

By the same token, a strong accountability system is critical to ensure 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 healthcare, 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 and Reward High-Quality Teaching

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

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 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.

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

Create Commission on Financial Empowerment

The Chamber supports legislation creating a Commission on Financial Empowerment, formalizing this financial empowerment initiative. The Commission would be a 501c3 established by the legislature and paid for through private donations.

Encourage Students to Take More Challenging Courses

At the high school level, recent regulatory changes to 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 edu-

cation 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.

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. The U.S. Centers for Disease Control and Prevention (CDC) reports Kentucky had the fifth-highest rate of drug overdose deaths in the country in 2016. 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 anticipated to curb opioid abuse. 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 corrections costs and ensure appropriate access to 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.

Enact Statewide Smoke-Free Law

According to the CDC, Kentucky has the second-highest rate of adult smokers in the United States (24.5% of Kentucky adults smoke compared to 13.9% nationally). Smoking-attributable health expenditures are estimated at more than \$1.92 billion annually in Kentucky, including more than \$590 million in Medicaid, while smoking-attributable economic productivity loss is estimated at more than \$2.7 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 35 communities in Kentucky (covering 34.7% of the Commonwealth's population), 25 states, plus the District of Columbia, Puerto Rico and the U.S. Virgin Islands, and 976 communities have passed comprehensive smoking laws that have proven to curb smoking rates and lower health care costs without negatively affecting business. Until a statewide law is passed, the Chamber encourages local governments and school districts to adopt their own smoke-free policies.

Enact a Statewide Tobacco-Free Schools Law

Kentucky high school youth tobacco use rates (26%) are 62% higher than the national average (19.5%). About three out of four teen smokers end up smoking into adulthood, even if they intended to quit after a few years. Each year in Kentucky, 2,900 additional youth become daily smokers. Youth face immediate health consequences of tobacco use, including reduced lung function, increased number and severity of respiratory infections, decreased physical fitness, increased resting heart rate, depression, more school absences, and poor cognitive performance.

If we are to strengthen both educational outcomes and health for tomorrow's workforce, we must prevent our youth from becoming addicted to tobacco. While federal law prohibits smoking inside schools that receive federal funding, 42% of Kentucky public school districts, covering 57% of the state's public-school students, have adopted 100% tobacco-free policies that prohibit tobacco use both inside board-owned buildings, as well as outdoors on school grounds, in school vehicles or other school property, and at off-campus school events such as field trips.

Appropriately enforced, these policies help reduce peer pressure to use tobacco during school hours and at after-school events, eliminate any aura of official school approval of tobacco use, and create an environment where tobacco use is not the norm. A statewide law would extend these benefits to all Kentucky public school students, faculty, staff and visitors. We can prevent nearly one in three Kentucky students from smoking by adopting 100% tobacco-free school policies and appropriately enforcing them.

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 \$1.69 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.



PILLAR II: Effective and Efficient State Government

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. “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).

In recent budgets, spending on corrections has increased significantly—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 lower than 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 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 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, the 2016-18 budget provided an additional \$1.1 billion in new funding over the biennium for Kentucky's pension systems. The recently enacted 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. The most significant action taken in recent years was the passage of major pension reform legislation in 2018, which included the following provisions:

- Placed new teachers in a hybrid 401K-style plan similar to the 2013 reforms for state and local employees
- Imposed a minimum retirement age of 57 for teachers
- Limited the use of accumulated sick leave to boost retirement benefits
- Retained the COLA for current retired teachers, but not for new teachers
- Removed the 4% guaranteed return for state and local workers in the hybrid plan
- Replaced percent of payroll with level dollar amortization method for the required employer contribution beginning in July 2020

The Kentucky Chamber commends the General Assembly for the 2018 pension reforms, which will pay down our unfunded pension liabilities faster than taking no additional action. However, as this publication was being printed, the legislation was the subject of litigation before the Kentucky Supreme Court. The Chamber will monitor this litigation and will advocate for additional pension changes if necessary.

Moving forward the Chamber believes:

- Benefits provided to public employees should mirror the private sector to the extent possible
- 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

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. Total state debt in Kentucky measures \$3,115 for each of the state's 4.4 million people, placing Kentucky 28th 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.

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.

Protect Kentucky's Ethics Laws

In response to a judge's ruling issued in the summer of 2017 overturning Kentucky's quarter-century ban on gifts and contributions to legislators from lobbyists, the Kentucky Chamber has joined with the Kentucky Legislative Ethics Commission to appeal the ruling and will fight to maintain the state's current ethics system. As this publication was being printed, the 6th Circuit Federal Court of appeals was reviewing the case. In addition to filing an amicus brief in the court case, the Chamber will advocate for passage of a strong ethics law that preserves the integrity and ethics boundaries of our legislative process.

Kentucky's current ethics laws were enacted after an FBI investigation in the early 1990s, known as BOPTROT, that led to the indictment of several legislators for allegedly accepting bribes in exchange for influencing legislation.

Kentucky has strong ethics laws that have guided us in the years since BOPTROT, kept our political system relatively clean and discouraged a "pay to play" mentality. The Chamber feels it would be a disservice to the citizens of the Commonwealth to roll these reforms back.

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 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 healthcare 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 healthcare 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 (\$27,310 for a family of three) beginning in January 2014. 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. Currently, there are more than 500,000 Kentuckians enrolled in Medicaid under the expansion.

The state's annual General Fund cost for the Medicaid program has increased approximately \$500 million since the expansion began in 2014. In an effort to address these growing costs, the Governor has 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. 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 in order for Medicaid recipients to continue to receive benefits.

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 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 that should be explored for possible savings include:

- Improving the "error rate" – reducing overpayments to providers and ensuring the correct determi-

nation 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 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.



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.

Maintain Transportation Investments

Kentucky's transportation network of roads, airports, riverports, and railroads connect Kentucky businesses to the national and international marketplace by providing multiple safe, cost-effective ways to move goods and deliver services. Kentuckians depend on the state's transportation network every day for safe, reliable access to education and employment. The Chamber's recent 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 in costs from driving on roads in need of repair. In addition, with \$2 billion in needed repairs, Kentucky ranks 19th nationally in the number of deficient bridges. The Kentucky Chamber strongly supports legislation at the state and federal levels that provides consistent long-term funding for maintenance and improvements of transportation infrastructure. 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.

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, has been remarkable. 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 47th in the nation to 37th, a significant jump that is due to the substantial investment of private risk capital by Kentucky's communications providers. This progress comes in spite of the fact that 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 either tax incentives to expand and upgrade networks, broadband buildout grants to aid the private sector in deploying service to unserved areas, or both.

The Chamber supports legislation that would put Kentucky on an even footing with our surrounding states

in terms of broadband deployment incentives for wired and wireless networks across the Commonwealth, while also opposing policies at the state and federal levels that would impede or hamper investment in digital infrastructure.

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 6th lowest in the nation in 2017 while the average retail price for all sectors was 10th 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.

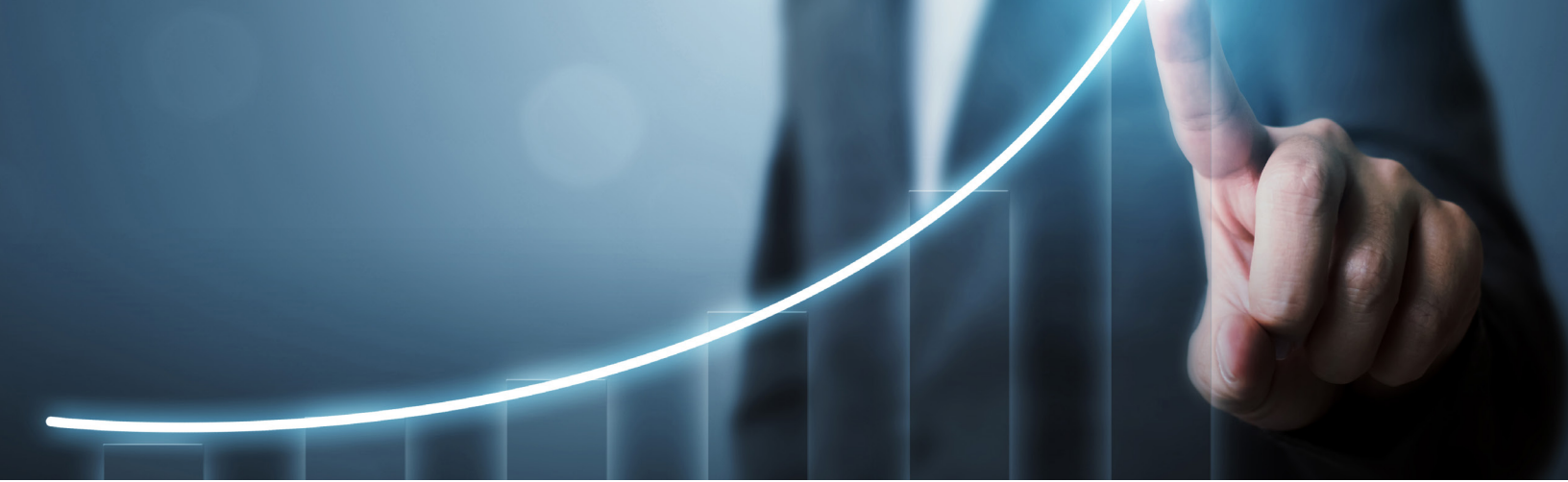
Finally, in addition to providing ongoing, strategic investment in the Commonwealth's energy infrastructure, policymakers must ensure the costs to support and maintain this infrastructure are allocated fairly among all users of the system. How customers use this infrastructure is changing as the adoption 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 re-examined 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 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 providers throughout the state to ensure water needs are met.



PILLAR IV: Quality 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)

Several studies have noted the need to reform Kentucky's tax code, but there has been a vacuum of leadership willing to work to enact significant reforms. 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 2018 General Assembly for passing comprehensive tax reform which 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.
- **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. 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 Mandatory Unitary Combined Return

The Chamber supports the elimination of Mandatory Unitary Combined Return (MUCR) filing requirement to the tax reform package enacted during the 2018 session. The MUCR is a cause for major concern among taxpayers and will likely have consequences not intended or expected.

The enactment of MUCR makes Kentucky an outlier in the southeast region of the country and puts the Commonwealth at a competitive disadvantage when competing to attract new business from both international and domestic-based companies. Five of the seven states that border Kentucky – Tennessee, Indiana, Ohio, Missouri and Virginia – do not have a MUCR requirement in their laws. Most other southern states – including Georgia, North Carolina, Florida, South Carolina, and Alabama – do not have a MUCR requirement in their law. Beyond that, the new mandate also violates the principles of bilateral tax treaties and will hurt Kentucky's international competitiveness.

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. 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 Option Flexibility

The Kentucky Chamber supports giving local authorities the flexibility to enact a local sales tax dedicated to funding local projects or in order to repeal or reduce other local taxes that 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 allowed 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 \$8.5 billion in economic output while generating \$190 million 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 tourism, tax and hospitality statutes to take advantage of this thriving homegrown industry. This includes allowing our distilleries to have parity with other alcohol producers and the ability to sell and market their product in a 21st Century marketplace. Kentucky's Bourbon industry recognizes that with our unique product comes responsibility, therefore we support continuing responsibility efforts geared towards underage drinking and DUI offenders. 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. The Chamber opposes changing the current retail quota license system to allow the sale of wine in grocery stores because it would have a negative impact on our signature industry and damage consumers' product access, education and choice. (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 strug-

gling, 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 2017 while the average retail price for all sectors was 10th 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 healthcare 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 healthcare 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. Visitors are attracted to Kentucky to experience our bourbon distilleries, rich history, horse farms, race tracks and numerous sporting and outdoor attractions. The tourism and travel industry contributed more than \$15 billion to Kentucky's economy in 2017, and the reach of the industry is statewide. The 2017 tourism industry generated \$1.5 billion in tax revenues--\$1.3 billion to the state and more than \$200 million locally. Visitors spending money in Kentucky have spurred the creation of more than 195,000 jobs as of 2017 generating more than \$3.3 billion in wages. The Kentucky Chamber recognizes the importance of our tourism industry and supports the investment in critical infrastructure such as state parks as well as the adoption of policies and programs that allow our attractions to flourish.

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 \$30.9 billion of goods in 2017, an increase of 5.8% over 2016. Kentucky ranks 5th among the 50 states in per capita exports. 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 most recent Institute for Legal Reform report, Kentucky ranks 42nd 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 healthcare industry, resulting in increased costs for consumers and a continued inability to attract and retain sufficient numbers of physicians in all regions of the Commonwealth. The high price of liability insurance and the lack of reasonable tort limitations in Kentucky have contributed to the shortage of medical professionals. To curb this trend, the Chamber supports allowing voters to consider a constitutional amendment that would permit the legislature to consider comprehensive tort reform. State and federal lawmakers should pass reasonable limits on damages and require alternative dispute resolution to help reduce escalating malpractice insurance premiums and the resulting burden passed on to consumers in the form of higher prices, fewer health care providers and fewer choices. Since 2000, numerous states have passed ballot initiatives to amend their constitutions, and 16 states have passed a cap on non-economic damages.

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, 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, 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 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. Also, 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.

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 repeal of the Clean Power Plan and supports changes to the regulation of CO₂ from new power plants to ensure that technologies that aren't commercially viable aren't required to meet the standard. The Chamber has recommended that future regulation of CO₂ from power plants be state-driven, unit-based, flexible, inside the fence and in consideration of economic impact.
- 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 being considered by Congress to change the review cycle for criteria pollutants including ozone from a 5-year review to a 10-year review. Further, the Chamber supports further review of the 2015 ground-level ozone standard and supports efforts by the EPA to better understand the three 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 2008 ozone Good Neighbor State Implementation Plan (SIP) submittal and encourages the EPA to approve the revision to the SIP and determine that Kentucky is not required to make further reductions;
- The Chamber supports the prompt adoption of state legislation and regulations to implement the 2016 Water Infrastructure Improvements Act, Section 2301 related to state coal combustion residuals programs; and
- Revisions to the Clean Water Rule and the Waters of the U.S. (WOTUS) definition. This rule is currently on hold by a federal judge. The EPA is working to repeal and replace the rule. 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 which 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 the 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 pro-active 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. Recently, 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 2017, Kentucky produced approximately 42 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 economic impact to Kentucky's economy. The Chamber supports careful review and consideration of regulations that will 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; and
- 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 appeals process to provide adequate consideration of disputed issues prior to civil court action. The Chamber supports stability in regard to the makeup of Kentucky's Public Service Commission. This non-partisan group, appointed by the Governor and confirmed by the Senate, has helped establish Kentucky's low-cost utility rates for many years. The Chamber opposes any effort to politicize the membership of this commission, which will create instability and a potential increase in rates.

Reform Notice of Violation Procedures (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 requirements or establish a variance already allowed by statute in order to avoid unnecessary delays while still being protective of environmental quality.