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OFFICE OF THE GOVERNOR

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MAR 25 REC'D 2011
@ 4:45pm
J. BURGIN

# VETO MESSAGE FROM THE GOVERNOR OF THE COMMONWEALTH OF KENTUCKY REGARDING HOUSE BILL 1 OF THE 2011 FIRST EXTRAORDINARY SESSION

House Bill 1 of the 2011 First Extraordinary Session of the Kentucky General Assembly ("11 SS HB 1/EN") enacted certain amendments to the Executive Branch Budget [2010 (1st Extra. Sess.) Ky. Acts Ch. 1], the Transportation Cabinet Budget [2010 (1st Extra. Sess.) Ky. Acts, Ch. 3], the Judicial Branch Budget [2010 Ky. Acts, Ch. 154] and the Legislative Branch Budget [2010 Ky. Acts, Ch. 156]. Section 1 of 11 SS HB 1/EN states that only changes in that bill marked with bold, italics, and underlined or bracketed and struck through represent amendments to the branch budget bills enacted in the 2010 First Extraordinary Session.

## 1. Operating Budgets – General Fund Appropriations Reductions

*I, Steven L. Beshear, Governor of the Commonwealth of Kentucky, pursuant to the authority granted under Section 88 of the Kentucky State Constitution, do hereby veto the following parts:*

Page 2, line 9, in its entirety.
Page 2, line 15, in its entirety.
Page 2, line 17, in its entirety.
Page 2, line 20, in its entirety.
Page 2, line 23, in its entirety.
Page 2, line 27, in its entirety.

Page 3, line 3, in its entirety.
Page 3, line 5, in its entirety.

Page 5, line 2, in its entirety.
Page 5, line 5, in its entirety.

Page 5, line 26, in its entirety.

Page 6, line 2, in its entirety.
Page 6, line 18, in its entirety.
Page 6, line 20, in its entirety.
Page 6, line 23, in its entirety.
Page 6, line 26, in its entirety.

Page 7, line 2, in its entirety.

Page 14, line 2, in its entirety.
Page 14, line 16, in its entirety.
Page 14, line 18, in its entirety.
Page 14, line 21, in its entirety.
Page 14, line 23, in its entirety.

Page 15, line 2, in its entirety.
Page 15, line 5, in its entirety.

Page 16, line 4, in its entirety.
Page 16, line 7, in its entirety.
Page 16, line 10, in its entirety.

Page 18, line 3, in its entirety.
Page 18, line 6, in its entirety.
Page 18, line 9, in its entirety.
Page 18, line 12, in its entirety.
Page 18, line 15, in its entirety.
Page 18, line 18, in its entirety.
Page 18, line 21, in its entirety.
Page 18, line 24, in its entirety.

Page 19, line 5, in its entirety.
Page 19, line 8, in its entirety.

Page 20, line 6, in its entirety.
Page 20, line 8, in its entirety.

Page 26, line 19, in its entirety.
Page 26, line 21, in its entirety.

Page 27, line 1, Veto only that portion under the 2011-12 heading.

Page 30, line 10, in its entirety.

Page 31, line 14, Veto only that portion under the 2011-12 heading.

Page 31, line 18, Veto only that portion under the 2011-12 heading.

Page 31, line 23, in its entirety.
Page 31, line 25, in its entirety.

Page 32, line 26, in its entirety.

Page 33, line 2, in its entirety.
Page 33, line 5, in its entirety.
Page 33, line 7, in its entirety.
Page 33, line 17, in its entirety.
Page 33, line 20, in its entirety.
Page 33, line 25, in its entirety.

Page 34, line 14, in its entirety.
Page 34, line 17, in its entirety.

Page 35, line 4, in its entirety.
Page 35, line 7, in its entirety.

Page 48, line 11, in its entirety.
Page 48, line 14, in its entirety.
Page 48, line, 19, in its entirety.
Page 48, line, 22, in its entirety.

Page 49, line 1, in its entirety.
Page 49, line 3, in its entirety.
Page 49, line 6, in its entirety.
Page 49, line 9, in its entirety.
Page 49, line 18, in its entirety.
Page 49, line 21, in its entirety.

Page 50, line 3, in its entirety.
Page 50, line 6, in its entirety.
Page 50, line 11, in its entirety.
Page 50, line 14, in its entirety.
Page 50, line 17, in its entirety.
Page 50, line 20, in its entirety.
Page 50, line 23, in its entirety.
Page 50, line 26, in its entirety.

Page 52, line 17, in its entirety.
Page 52, line 20, in its entirety.

Page 55, line 20, in its entirety.

Page 55, line 23, in its entirety.

Page 56, line 13, in its entirety.
Page 56, line 17, in its entirety.
Page 56, line 22, in its entirety.
Page 56, line 25, in its entirety.

Page 57, line 4, in its entirety.
Page 57, line 8, in its entirety.

Page 58, line 2, in its entirety.
Page 58, line 5, in its entirety.
Page 58, line 22, in its entirety.
Page 58, line 25, in its entirety.

Page 59, line 24, in its entirety.
Page 59, line 27, in its entirety.

Page 60, line 11, in its entirety.
Page 60, line 12, in its entirety.

Page 61, line 9, in its entirety.
Page 61, line 13, in its entirety.
Page 61, line 18, in its entirety.
Page 61, line 22, in its entirety.

Page 62, line 10, in its entirety.
Page 62, line 12, in its entirety.
Page 62, line 21, in its entirety.
Page 62, line 22, in its entirety.

Page 63, line 1, in its entirety.
Page 63, line 4, in its entirety.
Page 63, line 10, in its entirety.
Page 63, line 12, in its entirety.

Page 64, line 4, in its entirety.
Page 64, line 7, in its entirety.
Page 64, line 26, in its entirety.

Page 65, line 1, in its entirety.
Page 65, line 8, in its entirety.
Page 65, line 12, in its entirety.
Page 65, line 17, in its entirety.
Page 65, line 20, in its entirety.

Page 66, line 18, in its entirety.
Page 66, line 21, in its entirety.

Page 67, line 1, in its entirety.
Page 67, line 4, in its entirety.

Page 76, line 2, in its entirety.
Page 76, line 5, in its entirety.

Page 78, line 7, in its entirety.
Page 78, line 10, in its entirety.

Page 79, line 14, in its entirety.
Page 79, line 16, in its entirety.
Page 79, line 19, in its entirety.
Page 79, line 22, in its entirety.
Page 79, line 25, in its entirety.

Page 80, line 1, in its entirety.
Page 80, line 5, in its entirety.
Page 80, line 8, in its entirety.

Page 81, line 18, in its entirety.
Page 81, line 21, in its entirety.

Page 82, line 14, in its entirety.
Page 82, line 17, in its entirety.

Page 83, line 23, in its entirety.
Page 83, line 26, in its entirety.

Page 84, line 6, in its entirety.
Page 84, line 10, in its entirety.

Page 85, line 5, in its entirety.
Page 85, line 8, in its entirety.

Page 86, line 24, in its entirety.
Page 86, line 27, in its entirety.

Page 89, line 16, in its entirety.
Page 89, line 19, in its entirety.

Page 92, line 12, in its entirety.

Page 93, line 4, in its entirety.

Page 93, line 7, in its entirety.
Page 93, line 10, in its entirety.
Page 93, line 13, in its entirety.
Page 93, line 22, in its entirety.
Page 93, line 26, in its entirety.

Page 94, line 9, in its entirety.
Page 94, line 12, in its entirety.
Page 94, line 15, in its entirety.
Page 94, line 18, in its entirety.

Page 95, line 10, in its entirety.
Page 95, line 13, in its entirety.
Page 95, line 18, in its entirety.
Page 95, line 20, in its entirety.

Page 96, line 10, in its entirety.
Page 96, line 26, in its entirety.

Page 97, line 8, in its entirety.
Page 97, line 10, in its entirety.
Page 97, line 16, in its entirety.
Page 97, line 19, in its entirety.

Page 108, line 25, in its entirety.
Page 108, line 27, in its entirety.

Page 109, line 6, in its entirety.
Page 109, line 8, in its entirety.
Page 109, line 15, in its entirety.
Page 109, line 18, in its entirety.
Page 109, line 24, in its entirety.
Page 109, line 26, in its entirety.

Page 110, line 2, in its entirety.
Page 110, line 5, in its entirety.

Page 111, line 1, in its entirety.
Page 111, line 5, in its entirety.
Page 111, line 8, in its entirety.
Page 111, line 13, in its entirety.
Page 111, line 15, in its entirety.

Page 112, line 15, in its entirety.
Page 112, line 18, in its entirety.
Page 112, line 21, in its entirety.

Page 112, line 23, in its entirety.

Page 113, line 1, in its entirety.
Page 113, line 3, in its entirety.
Page 113, line 11, in its entirety.
Page 113, line 13, in its entirety.
Page 113, line 27, in its entirety.

Page 114, line 3, in its entirety.
Page 114, line 6, in its entirety.
Page 114, line 9, in its entirety.
Page 114, line 20, in its entirety.
Page 114, line 23, in its entirety.
Page 114, line 26, in its entirety.

Page 115, line 2, in its entirety.
Page 115, line 6, in its entirety.

Page 127, line 11, in its entirety.
Page 127, line 16, Veto only that portion under the 2011-12 heading.

Page 132, line 27, in its entirety.

Page 133, line 3, in its entirety.

Page 134, line 22, in its entirety.
Page 134, line 27, in its entirety.

Page 135, line 22, in its entirety.
Page 135, line 25, in its entirety.

Page 137, line 20, in its entirety.
Page 137, line 23, in its entirety.

Page 138, line 6, in its entirety.
Page 138, line 9, in its entirety.
Page 138, line 26, in its entirety.

Page 139, line 1, in its entirety.

Page 140, line 11, in its entirety.
Page 140, line 13, in its entirety.
Page 140, line 25, in its entirety.
Page 140, line 27, in its entirety.

Page 141, line 7, in its entirety.

Page 141, line 9, in its entirety.

*I am vetoing adjustments to each of these appropriations as reflected by the bold, italics and underlined or bracketed and struck through materials in these aforementioned lines, so as to restore each of these provisions as they originally appear in the 2010-2012 branch budget bills. I am vetoing this part because the $57 million in General Fund across-the-board appropriation reductions to public safety, human services, and the many other parts of Kentucky's state government included in House Bill 1 are not necessary to balance the Medicaid budget. State government has endured eight instances of budget and spending reductions since fiscal year 2008, with significantly more reductions already included in next fiscal year's budget. Adding another set of across-the-board budget cuts, particularly to these areas of the budget which have endured the highest percentage budget reductions, many in the range of 20 to 35 percent, would impose an unnecessary reduction in services and programs. Our state police, our prosecutors, our social workers and many others should not have to pay for a shortfall in the Medicaid budget, unless absolutely necessary.*

*Due to the combined effect of adjustments in 11 SS HB 1/EN and my vetoes, in certain instances the figures that appear as totals and subtotals are no longer accurate summations of the appropriations in those budget units. Pursuant to KRS 48.313, totals and subtotals are provided for convenience only and do not constitute an appropriation. To the extent that a total conflicts with the individual appropriations of which it consists, the individual appropriations control.*

## 2. Education General Fund Appropriation Reductions

*I, Steven L. Beshear, Governor of the Commonwealth of Kentucky, pursuant to the authority granted under Section 88 of the Kentucky State Constitution, do hereby veto the following part:*

Page 48, lines 4 through 7, in their entirety.

Page 100, lines 14 through 17, in their entirety.

Page 101, lines 11 through 14, in their entirety.

Page 101, lines 23 through 26, in their entirety.

Page 102, lines 9 through 12, in their entirety.

Page 102, lines 26 through 27, in their entirety.

Page 103, lines 1 through 2, in their entirety.

Page 103, lines 12 through 15, in their entirety.

Page 104, lines 13 through 16, in their entirety.

Page 105, lines 6 through 9, in their entirety.

Page 105, lines 18 through 21, in their entirety.

Page 108, lines 10 through 13, in their entirety.

*I am vetoing this part because the $44 million in fiscal year 2011-2012 General Fund appropriation reductions to elementary and secondary education and postsecondary education included in House Bill 1 are not necessary to balance the Medicaid budget. Investments in Kentucky's schoolchildren and college and university students are critical to the Commonwealth's future. Without this veto, House Bill 1 would mandate the first cut to the SEEK formula funding since I became Governor. This is the program that provides state financing to Kentucky's 174 local school districts and it has been protected throughout the past eight budget and spending reductions. Similarly, our student financial aid programs for Kentucky's postsecondary education students have been spared from most of the past budget cuts. The risk of another budget cut to our K-12 schools and our higher education institutions is eliminated because of this veto.*

## 3. Medicaid Benefits Budget Surplus

*I, Steven L. Beshear, Governor of the Commonwealth of Kentucky, pursuant to the authority granted under Section 88 of the Kentucky State Constitution, do hereby veto the following part:*

Page 71, lines 13 through 19, in their entirety.

*I am vetoing this part because the existing provision in the enacted budget is not binding and provides the Cabinet for Health and Family Services the opportunity to recommend actions if surplus funds are available.*

## 4. Medicaid Savings Utilization

*I, Steven L. Beshear, Governor of the Commonwealth of Kentucky, pursuant to the authority granted under Section 88 of the Kentucky State Constitution, do hereby veto the following part:*

Page 75, lines 6 through 10, in their entirety.

*I am vetoing this part because this language removes flexibility in managing the Medicaid program.*

## 5. Medicaid Face-to-Face Interviews

*I, Steven L. Beshear, Governor of the Commonwealth of Kentucky, pursuant to the authority granted under Section 88 of the Kentucky State Constitution, do hereby veto the following part:*

Page 75, lines 11 through 18, in their entirety.

*I am vetoing this part because it removes flexibility in managing the Medicaid program and the Kentucky Children's Health Insurance Program (KCHIP). Improving the health of Kentucky's children has been and continues to be a priority of my administration. In an effort to improve children's health, Kentucky was one of 48 states along with the District of Columbia that eliminated this requirement which creates an administrative barrier to enrollment of children into the program. In addition, this action would violate the maintenance of effort provisions of the Affordable Care Act related to Medicaid eligibility and could jeopardize federal funding for the Medicaid program.*

## 6. General Fund Expenditure Reductions

*I, Steven L. Beshear, Governor of the Commonwealth of Kentucky, pursuant to the authority granted under Section 88 of the Kentucky State Constitution, do hereby veto the following part:*

Page 115, lines 10 through 27, in their entirety.
Page 116, line 1, in its entirety.
Page 116, line 2, the word "section."

*I am vetoing this part because the 2010-2012 biennial budget enacted by the 2010 Extraordinary Session of the General Assembly has already assumed General Fund spending reductions of $168,900,000 in fiscal year 2011-2012. Repeating that requirement and imposing further restrictions on how they are to be achieved is unnecessary. Reductions of that level require maximum flexibility and management capabilities.*

## 7. General Fund Debt Restructuring

*I, Steven L. Beshear, Governor of the Commonwealth of Kentucky, pursuant to the authority granted under Section 88 of the Kentucky State Constitution, do hereby veto the following part:*

Page 116, lines 7 through 15, in their entirety.

*I am vetoing this part because the 2010-2012 enacted budget counted on General Fund debt restructuring in fiscal year 2011-2012 of $130,000,000, and this provision changes that amount. The impact of the change would cause about $67 million in General Fund across-the-board appropriation reductions to the enacted budgets of state government agencies and programs. The enacted budget in fiscal year 2011-2012 already includes*

*an additional 6 percent reduction to most state government services in addition to $168,900,000 in unspecified spending reductions still to be implemented. This amendment to the existing budget imposes an inordinate fiscal burden on education, public safety and human services, the areas that will bear the brunt of the impact of this provision.*

## 8. Road Fund Debt Restructuring

*I, Steven L. Beshear, Governor of the Commonwealth of Kentucky, pursuant to the authority granted under Section 88 of the Kentucky State Constitution, do hereby veto the following part:*

Page 116, lines 16 through 22, in their entirety.

*I am vetoing this part because the Finance and Administration Cabinet and the Transportation Cabinet intend to fully carry out the intent of this provision under the Executive branch's debt management responsibilities. The enacted budget for fiscal year 2011-2012 assumed that $52,000,000 in Road Fund debt would be restructured. The planned implementation prior to this Act was to only restructure the amount necessary to live within Road Fund debt service appropriation. With the appropriation changes in this Act none of the fiscal year 2010-2011 Road Fund debt restructuring will be necessary, which will save over $11 million in the future. Continued debt management analysis in fiscal year 2011-2012 will determine the amount of restructuring needed to live within next fiscal year's appropriations.*

## 9. Debt Service

*I, Steven L. Beshear, Governor of the Commonwealth of Kentucky, pursuant to the authority granted under Section 88 of the Kentucky State Constitution, do hereby veto the following part:*

Page 116, line 27, in its entirety.
Page 117, lines 1 through 2, in their entirety.

*I am vetoing this part because KRS 48.720 and Part III, Section 9 of the 2010-2012 enacted budget already require that unexpended General Fund debt service shall lapse to the General Fund Surplus Account. One of the traditional uses of unexpended debt service has been to pay for unbudgeted spending needs such as calling out the National Guard, forest fire suppression, and a higher prisoner population than budgeted.*

## 10. Reporting Requirements

*I, Steven L. Beshear, Governor of the Commonwealth of Kentucky, pursuant to the authority granted under Section 88 of the Kentucky State Constitution, do hereby veto the following parts:*

Page 117, lines 3 through 9, in their entirety.

*I am vetoing this part because it is duplicative of the existing reporting requirements in the 2010-2012 Executive Branch Budget Bill.*

## 11. General Fund Budget Reduction Provision

*I, Steven L. Beshear, Governor of the Commonwealth of Kentucky, pursuant to the authority granted under Section 88 of the Kentucky State Constitution, do hereby veto the following part:*

Page 117, lines 10 through 12, in their entirety.

*I am vetoing this part because the Executive branch needs the maximum flexibility to contend with revenue shortfalls should they occur.*

## 12. Medicaid Managed Care Savings

*I, Steven L. Beshear, Governor of the Commonwealth of Kentucky, pursuant to the authority granted under Section 88 of the Kentucky State Constitution, do hereby veto the following part:*

Page 117, lines 13 through 25, in their entirety.

*I am vetoing this part because the Executive Branch has the ability to determine budgetary savings from managed care initiatives and other efficiency measures with existing resources, making it unnecessary to expend additional unbudgeted funds for the suggested analysis.*

## 13. Medicaid Managed Care Analysis Reporting

*I, Steven L. Beshear, Governor of the Commonwealth of Kentucky, pursuant to the authority granted under Section 88 of the Kentucky State Constitution, do hereby veto the following part:*

Page 117, lines 26 through 27, in their entirety.
Page 118, lines 1 through 11, in their entirety.

*I am vetoing this part because this provision is duplicative and unnecessary. Pursuant to a reporting requirement in the enacted budget, the Department for Medicaid Services is already required to submit detailed quarterly budget analysis reports to the Interim Joint Committee on Appropriations and Revenue regarding costs and trends in the Medicaid Program.*

## 14. Additional Appropriations to Medicaid from Education Appropriation Reductions

*I, Steven L. Beshear, Governor of the Commonwealth of Kentucky, pursuant to the authority granted under Section 88 of the Kentucky State Constitution, do hereby veto the following part:*

Page 118, lines 12 through 15, in their entirety.

*I am vetoing this part because I am separately vetoing the unnecessary fiscal year 2011-2012 appropriation reductions to the SEEK program and postsecondary education, which makes this provision inoperative.*

## 15. Restoration of Education Funding

*I, Steven L. Beshear, Governor of the Commonwealth of Kentucky, pursuant to the authority granted under Section 88 of the Kentucky State Constitution, do hereby veto the following part:*

Page 118, lines 16 through 23, in their entirety.

*I am vetoing this part because I am separately vetoing the unnecessary fiscal year 2011-2012 appropriation reductions to the SEEK program and postsecondary education, which makes this provision inoperative.*

## 16. Accounting and Auditing Services

*I, Steven L. Beshear, Governor of the Commonwealth of Kentucky, pursuant to the authority granted under Section 88 of the Kentucky State Constitution, do hereby veto the following part:*

Page 118, lines 24 through 26, in their entirety.

*I am vetoing this part because this language is not necessary for the Legislative Research Commission to enter into a contract.*

## 17. Furlough provisions

*I, Steven L. Beshear, Governor of the Commonwealth of Kentucky, pursuant to the authority granted under Section 88 of the Kentucky State Constitution, do hereby veto the following parts:*

Page 119, lines 3 through 27, in their entirety.
Page 120, lines 1 through 27, in their entirety.
Page 121, lines 1 through 26, in their entirety.

*I am vetoing this part because it unnecessarily restricts the flexibility that the Executive branch needs to effectively manage revenue shortfalls and balance the budget. In order to avoid the layoffs that have plagued so many other states, I sought, and the General Assembly granted, the ability to furlough state employees for a limited number of days. With the judicious use of furloughs in conjunction with reductions in non-merit staff, personal service contracts, and other management efficiencies, we have been able to avoid mass layoffs. Elimination of this important fiscal management tool that many states and businesses have used to balance their budgets during this recession would unduly hinder the Executive branch in its obligations to balance the budget of the Commonwealth. If over the coming year our receipts grow enough that we can be sure that our budget will remain balanced, reducing the number of furlough days will be among the first things that we will consider.*

## 18. Federal Patient Protection and Affordable Care Act Receipts

*I, Steven L. Beshear, Governor of the Commonwealth of Kentucky, pursuant to the authority granted under Section 88 of the Kentucky State Constitution, do hereby veto the following part:*

Page 121, line 27, in its entirety.

Page 122, lines 1 through 7, in their entirety.

*I am vetoing this part because this language is not necessary, as the receipts are already being reported to the Interim Joint Committee on Appropriations and Revenue and have been deposited into a separate fund and will be utilized in accordance with the Early Retiree Reinsurance Program which requires plan sponsors to use reimbursements under the program to lower their health benefit premiums or costs, to lower costs for plan participants, or any combination of the two.*

## 19. Legislative Compensation during Veto Period

*I, Steven L. Beshear, Governor of the Commonwealth of Kentucky, pursuant to the authority granted under Section 88 of the Kentucky State Constitution, do hereby veto the following parts:*

Page 139, lines 21 through 27, in their entirety.
Page 140, lines 1 through 8, in their entirety.

*I am vetoing this part because it appears that Section 42 of the Kentucky Constitution prohibits the legislature from altering its compensation during any session at which the change in compensation was enacted. The same result can be accomplished by members of the General Assembly voluntarily reimbursing the Commonwealth for any compensation they may receive after March 24, 2011.*

This the 25th day of March, 2011

Steven L. Beshear, Governor