

# **INTERIM JOINT COMMITTEE ON APPROPRIATIONS AND REVENUE**

## **Minutes of the 3rd Meeting of the 2022 Interim**

**August 17, 2022**

### **Call to Order and Roll Call**

The 3rd meeting of the Interim Joint Committee on Appropriations and Revenue was held on Wednesday, August 17, 2022, at 1:00 PM, in Room 149 of the Capitol Annex. Senator Christian McDaniel, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Christian McDaniel, Co-Chair; Representative Jason Petrie, Co-Chair; Senators Danny Carroll, Donald Douglas, David P. Givens, Morgan McGarvey, Stephen Meredith, Michael J. Nemes, and Stephen West; Representatives Lynn Bechler, Danny Bentley, John Blanton, Randy Bridges, Myron Dossett, Joseph M. Fischer, Ken Fleming, Kelly Flood, Chris Fugate, Al Gentry, David Hale, Mark Hart, Angie Hatton, Bobby McCool, Jason Nemes, Melinda Gibbons Prunty, Josie Raymond, Brandon Reed, Steve Riley, James Tipton, and Lisa Willner.

Guests: John Hicks, State Budget Director, Office of State Budget Director (OSBD); Dr. Kevin Gardner, Executive Vice President, Research and Innovation University of Louisville; Dr. Sharon Kerrick, Assistant Vice President, Digital Transformation Center University of Louisville; Dr. Andrew Wright, Assistant Professor and Chair, Information Systems, Analytics, and Operations Department, University of Louisville; Rick Halbleib, President, Global Watchmen Associates; Michael Shaffer, Executive Vice President of Strategic Partnerships and Economic Development, Georgia Cyber Center; and Jennifer Hays, Committee Staff Administrator, Appropriations & Revenue Committee.

LRC Staff: Jennifer Hays, Hope Rowlett, Katy Jenkins, Sarah Watts, Hunter Branham, and Lexi Bensberg.

### **Approval of Minutes**

A motion was made by Senator Nemes, seconded by Senator Douglas, to approve the minutes of the July 6, 2022, meeting. The motion carried by voice vote.

### **Fiscal Year 2022 Close Out**

John T. Hicks, State Budget Director, discussed the condition of the state revenue, general fund, and road fund at the close of the 2022 fiscal year. Director Hicks announced

that the general fund revenue totaled \$14.7 billion, which was larger than the official estimate.

The general fund revenue growth rate of FY22 was 14.6 percent, continuing the trend from FY21, with both years having a combined growth rate of 27 percent. Revenues from individual income tax were the highest since 1991, growing 17.6 percent, and two-thirds of the FY22 revenue surplus is attributed to individual income tax receipts. Revenues from sales tax were up 11 percent, which is higher than the growth of 4.1 percent 15-year average.

Each quarter of FY22 produced high revenue growth, which resulted in a \$1.03 billion general fund surplus.

FY22 road fund revenues were 0.3 percent less than the official estimate, totaling \$1.67 billion and increasing 2 percent over FY21. Motor Vehicle Usage Tax set a record of \$629.1 million and Motor Fuels Tax grew by 3.5 percent. There was a \$70.3 million road fund surplus, which will be going to the highways-state construction account.

In response to a question from Representative Nemes, Director Hicks testified that the rest of the nation is seeing similar increases in revenue regardless of recent laws that have been passed altering the percentage of income taxes. This can be attributed to a low unemployment rate and record levels of corporate profit.

In response to a question from Representative Tipton, Director Hicks testified that the General Assembly capped the amount of lottery receipts that would go into the general fund, and that the numbers presented do not act as evidence of the health of the lottery. Director Hicks also testified that increasing inflation is impacting the revenue from sales tax.

In response to a comment from Representative Blanton, Director Hicks testified that the total employment rate in Kentucky is equal to what it was prepandemic.

### **University of Louisville Cybersecurity Program**

Dr. Kevin Gardner, Executive Vice President for Research and Innovation, University of Louisville; Dr. Sharon Kerrick, Assistant Vice President, Digital Transformation Center University of Louisville; Dr. Andrew Wright, Assistant Professor and Chair, Information Systems, Analytics, and Operations Department, University of Louisville; Rick Halbleib, President, Global Watchmen Associates; and Michael Shaffer, Executive Vice President of Strategic Partnerships and Economic Development, Georgia Cyber Center testified on the necessity of the proposed Kentucky Cybersecurity Center (KentuckyCYBER) and advocated for its funding.

Dr. Gardner testified that KentuckyCYBER will bring together public and private partners to fill a critical gap in the state's infrastructure. The institution will be built on a 30-acre plot of undeveloped land, and will house Sensitive Compartmented Information Facilities (SCIFs), cyber-ranges, students, professionals, and organizations.

The University of Louisville is qualified to host KentuckyCYBER because it is the only Carnegie Research, Community-Engaged Institution in Kentucky that is nationally recognized as a Center of Academic Excellence in Cybersecurity by the Department of Homeland Security and the National Security Agency.

Mr. Halbleib testified that cybersecurity is the largest national crisis, as it has the potential to collapse power grids. America is unprepared for a cyber-attack, with over 700,000 cybersecurity job vacancies because of an untrained workforce. According to the cybersecurity company PurpleSec, the education industry is ranked last in cybersecurity preparedness.

Mr. Halbleib testified that the K-12 system is not preparing students to fill the job vacancies in this sector, and that there are national programs that need to be implemented to supplement students' education. This lack of preparedness calls for the development of KentuckyCYBER, like the Georgia Cyber Center, to combine the talents of academia, industry, and government that will address this crisis.

Dr. Shaffer testified remotely from Augusta, Georgia. The Georgia Cyber Center was announced in January of 2017 and by January of 2019 the center had opened its second building. The total investment in the Center was \$122 million, with \$106 million from the state of Georgia for the project and \$16 million from the city of Augusta for the parking structure. The Center was built on 16 acres of land previously acquired by Augusta University.

The mission of the Georgia Cyber Center was to combine the talent of government, academia, and private industry to provide affordable cybersecurity training, develop the state's cybersecurity workforce, solve complex cybersecurity challenges, and offer advice to policy-makers to create an advantage in the cyberspace industry.

The total state allocation for the center for FY23 is \$5.45 million. Estimated earned revenue for the center for FY23 is \$12.98 million, which consists of lease revenue, cyber range, training, and events. The center's building is a self-sustaining model, with minimized appropriated operational budget allocations.

To keep the Center up to date technologically, an advisor was brought in to develop a 20-year refresh plan for facilities and a 10-year refresh plan for information technology and audio/visual equipment. These plans require saving \$2.5 million annually over the Center's operational budget.

In response to a question from Senator McDaniel, Dr. Shaffer testified that Army Cyber moved to Georgia in 2021. Army Cyber has a presence in the Georgia Cyber Center, and the Center interacts with the NSA and the Army Cyber Center of Excellence. Dr. Gardner added that the University of Louisville has had discussions with Fort Knox to create similar interactions if KentuckyCYBER is built.

Dr. Kerrick testified that the University of Louisville was awarded \$8.3 million to create a six-month cybersecurity workforce certificate program from the National Security Agency (NSA). The University of Louisville leads a consortium of schools that have cyber security experts.

Dr. Wright testified that the curriculum for the six-month program was created at the request of the National Centers for Excellence in Cybersecurity, requesting an industry specification. Healthcare was chosen for the University of Louisville's specification, because it is a large contributor to the regional economy. There was also a request for the development of 'cutting-edge' modules, covering topics such as cognitive computing and data mining, which are not typical in undergraduate/graduate cyber security training.

The University of Louisville has experience in developing other cybersecurity training programs as well, having developed military, law enforcement, and teacher trainings. Dr. Kerrick mentioned the curriculum for the six-month program is embedded with Google, IBM, and Microsoft certificates to ensure students can reskill their knowledge if they choose a career path outside of cybersecurity.

Dr. Gardner testified that the initial request for FY23 is \$1 million, which will provide funding for personnel, training development, and cyber-range hardware and software. The FY24 request is \$10.7 million, which will provide funding for more personnel, more training, a P-12 pipeline, architecture and construction management, and site infrastructure improvements.

Senator McDaniel clarified that there needs to be further explanation of how KentuckyCYBER will fit into the national infrastructure.

In response to a question from Senator Carroll, Dr. Gardner testified that he is not sure how the development of KentuckyCYBER will increase the rates of cyber insurance for the institution.

In response to a question from Representative Tipton, Dr. Kerrick testified that there has been collaboration between the University of Louisville and the Kentucky Council on Postsecondary Education, and that collaboration has allowed them to work with Kentucky State University. Dr. Gardner added that he assumed, if funded, this would be a mandated program outside the performance-based funding formula.

In response to Senator Givens, Dr. Wright testified that the need to fill this sector of the workforce is at every level of education. Dr. Kerrick continued that it is critical that constituents have a basic level of cybersecurity awareness, and that the free training program the University of Louisville is developing can help develop that awareness. Dr. Gardner added that the more detailed proposal has an explanation of how to implement this training into K-12 programs and beyond.

In response to a question from Senator Nemes, Dr. Shaffer explained that the difference in the leasing rates for the Georgia Cyber Center between sectors was based primarily on negotiation and that the federal government's presence attracts industry partners and Dr. Kerrick testified how important it was to collaborate with other postsecondary institutions to share the knowledge within KentuckyCYBER across the state.

Senator McDaniel stated that solving this issue is a necessity, because practically everything is connected to the internet in Kentucky.

### **Continued Review of Revenue Provisions within 22RS HB 8**

Jennifer Hays, Committee Staff Administrator, Appropriations & Revenue Committee, Legislative Research Commission, testified on the revenue provisions within 22RS HB 8, continuing the conversation from the committee meeting on June 2, 2022.

Ms. Hays testified that the Department of Revenue, with assistance from the State Budget Director, will review the individual income tax rate reduction conditions and report the findings by September 5, 2022. As FY22 has closed, there are two years of rate reduction conditions to evaluate. Both LRC and Executive Branch employees have reviewed the conditions and believe that reduction conditions have been met for FY22. FY21 will impact tax year 2023 and FY22 may impact tax year 2024. The impact on tax year 2024 is pending, because the language of HB 8 requires the General Assembly to act before the second year of tax rate reductions occur.

The Internal Revenue Code was updated. The reference date was updated to the code in effect on December 1, 2021, and that applies to taxable years beginning on or after January 1, 2022.

The decontamination tax credit was created in RS22 HB 8, which began January 1, 2022. This credit applies to any taxpayer making a qualifying expenditure at a decontamination property. A decontamination property is the same property that qualifies for the environmental remediation tax credit that was established in 2010. Language in this tax credit clarifies that you cannot take both credits. The decontamination tax credit is refundable and has limitations based upon \$30 million per qualifying decontamination

property. Once the credit is approved, it is taken over a four-year period and it cannot exceed 25 percent of the total approved tax credit within a taxable year.

There has also been a change in the tax credit threshold for historic properties. The maximum income tax credit for certified rehabilitations allowed on an owner-occupied residential property was increased to \$120,000 from the previous \$60,000. The threshold for other property was increased to \$10 million. Because this is a tax credit that can be transferred, there was language added to reflect the change that financial institutions now pay the income tax instead of the bank franchise tax.

There are 35 new services that become taxable on January 1, 2024. These services include marketing, website hosting, cosmetic surgery, testing, and security system monitoring services. Kentucky has a sale-for-resale certificate that allows businesses to purchase items for resale without them being taxed.

Under the definition in 22RS HB 8, taxable cosmetic surgeries will not include those that are determined to be medically necessary related to facial reconstruction or bodily defects. Under 22RS HB 8, taxable testing services excludes medical, educational, or veterinary testing services. Under 22RS HB 8, taxable parking services excludes parking at educational institutions.

The definition of extended warranty services has been expanded to include items of real property, which are now taxable as of January 1, 2023.

The tax exemption for admissions to historical sites has been eliminated as of January 1, 2023.

A tax exemption was created for prescription and over the counter drugs for any person engaged in the business of farming, if those drugs are being used to treat livestock that already have agricultural tax exemptions.

The current exemption for residential utilities was limited, so that it is only applicable to a taxpayer's place of domicile.

The car rental and ride sharing tax will be begin January 1, 2023, and its revenues will be deposited into the general fund. It will be imposed upon every person for the privilege of providing a motor vehicle for sharing or for rent. It will be 6 percent of the gross receipts derived from peer-to-peer car sharing, rental cars, transportation network companies, taxi services, and limousine services.

The electric vehicle power excise tax will begin on January 1, 2024, and its revenues will be deposited into the road fund. This power must be distributed by an electric vehicle power dealer, not personal refueling at a constituent's own home. The initial base rate is

\$0.03 per kilowatt hour, with a surtax base rate of \$0.03 per kilowatt hour if the charging station is located on state property. This rate will be adjusted annually, beginning January 1, 2025, based on the National Highway Construction Cost Index 2.0. This annual adjustment cannot increase or decrease more than 5 percent, and it cannot decrease below the base rate. There is a current staff study, conducted by Hope Rowlett, on other states and the federal government's similar taxes.

The electric vehicle ownership fee will begin on January 1, 2024, and its revenues will be split 50/50 between the general and road funds. It is imposed for the privilege of owning an electric vehicle. This tax is in addition to the motor vehicle usage tax. It will be \$120 for electric vehicles and \$60 for electric motorcycles or hybrids, and it is to be paid at the same time as annual registration. This tax will be indexed at the same time and in the same manner as the electric vehicle power tax.

There is also a provision for tax amnesty within 22RS HB 8. It is a 60-day period, between 10/1/2022 and 11/29/2022. The Finance Cabinet is to procure services to conduct the program. The taxpayers must file all delinquent state returns, pay all state tax dues and 50 percent of the interests, and must pay all federal tax, penalties, fees, and interest referred to the Department for collection. If a bid for procurement is not secured, the Department of Revenue shall implement the tax amnesty program during a similar 60-day period during 2023.

There are two local taxes added or changed within 22RS HB 8. The first being the Transient Room tax, to take effect January 1, 2023. This adjusts the statutory references to the taxpayer and taxable base so they are conformed to the sales and use tax statutory references. Customers paying sales tax on a room, would also pay the state and local transient room tax. Similarly, the Local Car Rental and Ride Sharing License Fee was expanded to include the same taxpayers as the state tax.

Responding to a comment from Senator Nemes, Ms. Hays testified that the wording of the electric vehicle ownership fee followed statutory language.

Responding to a question from Representative Nemes, Ms. Hays clarified that cosmetic surgeries that are medically necessary will not be taxable.

With no further business before the committee, the meeting was adjourned at 2:30 p.m.