

LEGISLATIVE OVERSIGHT & INVESTIGATIONS COMMITTEE

Minutes of the 1st Meeting of the 2021 Interim

June 10, 2021

Call to Order and Roll Call

The Legislative Oversight & Investigations Committee met on Thursday, June 10, 2021, at 1:00 PM, in Room 131 of the Capitol Annex. Senator Danny Carroll, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Danny Carroll, Co-Chair; Representative Jason Nemes, Co-Chair; Senators Karen Berg, Jason Howell, Michael J. Nemes, Wil Schroder, Brandon J. Storm, Reginald Thomas, and Max Wise; Representatives Lynn Bechler, Ken Fleming, Angie Hatton, Joni L. Jenkins, Steve Riley, and Scott Sharp.

Guests: Holly M. Johnson, Secretary, Finance and Administration Cabinet; Libby A. Carlin, Executive Director, Office of Policy and Audit; John Ard, Fleet Operations Leader, Finance and Administration Cabinet; Teresa Lajara, Executive Director, Office of Legislative and Intergovernmental Affairs, Finance and Administration Cabinet; Major Bruce Button, Kentucky State Police; Jim Carpenter, Director, Public Protection Cabinet; Steve Minter, Manager, Kentucky Department of Agriculture; and Jason Glass, Director, Kentucky Department of Agriculture.

LRC Staff: Gerald W. Hoppmann, Committee Staff Administrator; Committee Analysts William Spears, Jeremy Skinner, Greg Daly, Chris Hall, Catherine Moran, and Jacob Blevins; and Ashley Taylor, Committee Assistant.

Senator Carroll commented on the committee's new name and expanded investigative function. He introduced Co-Chair Jason Nemes, Vice-Chair Lynn Bechler, and Vice-Chair Jason Howell. He also recognized Legislative Oversight's new analyst and committee assistant and generally commented on members and staff learning new skills and expanding abilities over the next several months.

Minutes for November 13, 2020

Upon motion by Senator Nemes and second by Representative Nemes, the minutes for the November 13, 2020, meeting were approved without objection.

Staff Report: *State-Owned Vehicles*

Legislative Oversight staff members William Spears and Jeremy Skinner presented a summary of the draft report, which included six major finding areas and ten recommendations. The presentation stressed the importance of the Finance and Administration Cabinet (FAC) to properly manage and measure the cost effectiveness of the central fleet in order to determine whether independent fleets are justified.

The draft report and presentation slides are available on the Legislative Oversight and Investigations Committee webpage.

Senator Carroll opened by stating it appears that over the years there has been an overall lack of organization with respect to maintaining fleets, tracking records, and complying with statutes and regulations.

Senator Nemes asked about the relative cost of agencies' going through the Finance and Administration Cabinet versus owning or leasing their own vehicles. Mr. Spears stated that the costs were set by the division based on the types of vehicles and mileage driven, but he deferred to the Secretary of FAC for more details. Senator Nemes expressed concern that by going through FAC, agencies may actually spend more money through agency billings than purchasing or leasing their own vehicles. However, if run properly, going through FAC would be less expensive.

In response to a question from Representative Fleming, Mr. Spears confirmed that at the time of staff's analysis, FAC had not collected statutorily required reports from the independent fleets. However, he also stated that officials indicated they intend to do so in the future. He added that FAC could not provide a reason that reports have not been collected. Representative Fleming stated that administering a central fleet is a simple management of assets and contracts and should not be that difficult to oversee.

In response to a question from Representative Nemes, Mr. Spears said that the Kentucky State Police is the only independent fleet that is not required to submit a justification to FAC. However, the Public Protection Cabinet, Kentucky Department of Agriculture, Energy and Environment Cabinet, FAC's Department for Facilities and Support Services, and Office of the Attorney General are required to do so.

In response to a question from Representative Bechler, Mr. Spears said that regulation requires vehicles in the central fleet to be less than three-quarter ton and that he was not aware whether agency requests for specific types of vehicles required justification.

In response to a question from Representative Sharp, Mr. Spears said that staff were not aware of the reason for the steep increase in the cost of vehicle purchases between 2018 and 2020. The statewide accounting system does not provide an explanation, but he recommended asking FAC representatives.

In response to a question from Senator Carroll about the vehicle purchasing process, Mr. Spears explained that vehicles are acquired through regularly updated master agreements that are negotiated with vehicle dealerships. Master agreements include price lists for specific vehicles and options and are created based on competitive negotiation with different dealerships. Multiple agreements covering different types of vehicles exist. Staff did not find evaluations in the contract files, but the price lists are updated if an agency requests a vehicle not already on them.

Agency Response

Secretary Johnson provided a brief overview of FAC's overall responsibilities and tasks. She stated the cabinet generally agrees with the staff report's findings and recommendations, but that the majority of findings relate to historical practices that began in prior administrations that carried forward into the current administration. She also stated that the number of fleet management staff had declined in recent years, placing additional responsibility on those who are left. However, she said that FAC is committed to addressing the concerns reflected in the report and to implementing improvements.

Secretary Johnson described steps FAC has taken that are not included in the report. She said FAC has identified all statutorily required reports in order to ensure they are submitted in a timely manner moving forward. The fleet division submitted the alternative-fuel vehicles report for the first time in 2020 and will address each reporting element in the future, including a life cycle cost comparison methodology.

FAC is conducting an internal audit of the fleet division, expected to be completed this summer that will identify opportunities for improvement. Management of centralized fleet operations was recently transferred to a newly established fleet operations leader, John Ard. His main focus will be on improved standards for services and work processes, planning and projecting future fleet needs, updating and clarifying regulations, and better tracking of fleet management and agency expenditures. Secretary Johnson stated that the cabinet will be happy to provide an update to the committee in 2022.

Mr. Ard said that he would address the findings of the Legislative Oversight staff report, as well as the internal audit.

In response to Senator Carroll's initial question, Secretary Johnson offered to find an explanation for the excess expenditures in FY 2019 and FY 2020 and will provide that information to the committee.

Senator Carroll also asked why statutes and regulations have not been followed in past years. Secretary Johnson stated she does not want to address the actions or inactions of predecessors at FAC. She also stated that with her background in administration and fleet management, she is committed to improvement going forward and the use of analytics.

In response to Senator Carroll's questions related to remote work and GPS costs, Secretary Johnson stated that the increase in remote work has to factor into any future analysis. She also stated she would need to get back to the committee regarding the cost benefit of GPS, but that the benefit more than likely outweighs the cost, especially related to insurance.

In response to questions from Representative Fleming, Secretary Johnson said all resources should be considered for conducting a cost benefit analysis related to fleet operations. Budget staff in the cabinet are also reviewing current data and rate structures, and are working on identifying additional cost data for analysis. She stated they are also receiving initial data from the internal audit and will consider that information as well.

Representative Fleming requested a copy of the internal audit report after its completion. Secretary Johnson agreed to provide a copy to the committee.

In response to a question from Representative Fleming about the minority, woman-owned, and disabled business program, Secretary Johnson said that FAC ensures that applicants meet the criteria, but she would have to get back with a breakdown of the numbers and comparison with other states. She said she would also put the committee in touch with the program's executive director.

In response to questions from Representative Bechler, Secretary Johnson said that sometimes the use of a vehicle, such as driving in rough terrain, can dictate the type of vehicle requested by an agency. She agreed to provide additional information on guidelines for vehicle requests and assignments. She described the statutory requirement for alternative-fuel vehicles and said she would provide additional details on that definition outside of hybrid and fuel cell vehicles.

Secretary Johnson listed the agencies that are permitted to request nonofficial plates and said that one reason for requesting nonofficial plates relates to undercover operations or fraud investigations. She said she would check on the relative costs of official and nonofficial plates.

In response to a question from Senator Carroll on the uniformity of policies across cabinets, Secretary Johnson stated the fleet and driver's guides, which are incorporated by reference into existing regulation, could provide better guidance related to the use of fleet. Senator Carroll said that he and other legislators were open to statutory changes if needed.

In response to questions from Representative Nemes, Secretary Johnson said that FAC has no concerns of any significance with the staff report but would get back to the committee if any concerns are identified. She said that some statutory changes might be beneficial, but FAC should be able to meet the existing reporting requirements with current

staffing levels. She reiterated that FAC would get back to the committee with an explanation of the increase in central fleet cost increases since 2018.

In response to questions from Senator Carroll, Secretary Johnson said she had no analysis of the effect of COVID-19 on fleet costs and inventories, but there are indications that some vehicle usage has gone up because individuals drove separately rather than riding together. However, the number of in-person meetings was lower, and an analysis will probably show that overall utilization went down temporarily.

In response to questions from Senator Thomas, Secretary Johnson said that the committee staff's report stated that there were no statutorily required fleet reports issued during the 4 years prior to FAC's November 2020 report, and FAC has not found any. She agreed that vehicle purchase costs doubled during the last year of the previous administration.

In response to questions from Senator Carroll, Secretary Johnson said that there were many issues related to fleet, but that FAC needs a clear vision on where it should be in a year regarding customer service, sound information, and cost effectiveness in managing fleet operations. She also stated that it might be a good idea to run a pilot with a small number of fully electric vehicles. She stated there is no current policy requiring the purchase of vehicles made in America or in Kentucky and no provision for that exists in procurement law. She also stated that market reciprocity with other countries and states is a consideration.

In response to questions from Senator Berg, Secretary Johnson explained that other state agencies pay FAC to lease vehicles and to service vehicles. Agencies also pay additional fees for excess miles driven. She agreed that if receipts and expenditures are out of balance, it might indicate unnecessary spending or setting rates too low. However, the timing of revenues and expenditures does not always match up by fiscal year, but might balance out eventually as a result of the timing of carryovers, for example. She also stated that all revenues and expenditures are public funds from different sources, such as general funds, fees, and federal funds.

In response to questions from Senator Carroll, Secretary Johnson said that the decision on when to replace a vehicle is based on budget, need, vehicle age, mileage, and repair or accident history. She indicated an interest in having a strong matrix to make decisions on when a vehicle needs to be replaced. When an agency leases a vehicle from FAC, at the end of the lease, the agency receives a replacement vehicle. FAC surpluses many vehicles, but some are repurposed, primarily in state parks.

In response to a question from Representative Bechler, Mr. Spears stated there was no record of cost effectiveness reports and fleet justifications identified during the review, since at least 2007.

Representative Nemes commented on the noncompliance of the Office of the Attorney General as one of five agencies identified over the past few years.

Representative Fleming said that each new administration is responsible for correcting any deficiencies it inherits and proposed that agencies look forward and not back at what previous administrations have done.

Senator Carroll concurred that it is important to look forward and that the committee will continue to monitor FAC's progress on state vehicles.

Senator Nemes suggested that the previous administration reduced the number of underutilized state vehicles, which caused FAC to purchase additional vehicles, but the overall number of vehicles might have gone down.

Representative Bechler moved, seconded by Representative Nemes, that the committee adopt the report, *State-Owned Vehicles*. The motion carried on a roll-call vote.

Senator Carroll welcomed the committee's newest members. He also discussed changes to the committee's statutes, as well as the need to develop processes, policies, and procedures that will allow the committee to meet the intent of the new law. This preparation will also support the committee's new roles related to legislative oversight. Concurrently, staff will work on previously assigned studies, make reports, and receive additional training.

Senator Thomas proposed that everyone testifying before the committee do so under oath. Senator Carroll agreed.

The meeting was adjourned at 2:41 p.m.