

State-County Functions Working Group (Transient Accommodations Tax)

(Established by Act 174, Session Laws of Hawai'i 2014)

State of Hawai'i

<http://auditor.hawaii.gov/task-forceworking-group/>

Minutes of Meeting

Date: November 4, 2015

Time: 10:00 a.m.

Place: State Capitol
415 S. Beretania Street
Conference Room 225
Honolulu, Hawai'i

Present: Simeon R. Acoba, Chair, Chief Justice Appointment
Sananda Baz, County of Maui Appointment
Mary Alice Evans, Governor Appointment
Steven Hunt, County of Kaua'i Appointment
George Kam, Senate Appointment
Neal Miyahira, Governor Appointment
Deanna Sako, County of Hawai'i Appointment
Ray Soon, City and County of Honolulu Appointment
Kerry Yoneshige, Governor Appointment

Jan K. Yamane, Acting State Auditor, Office of the Auditor
Jayna Oshiro, Analyst, Office of the Auditor
Pat Mukai, Secretary, Office of the Auditor

John Kirkpatrick, Belt Collins Hawaii LLC
Michael Lim, Belt Collins Hawaii LLC
Joseph M. Toy, Hospitality Advisors LLC
James Mak, Ph.D

Excused: Ed Case, House Appointment
Jesse Souki, Governor Appointment
Ronald Williams, Senate Appointment
Tina Yamaki, House Appointment

- I. Call to Order: Chair Acoba called the meeting to order at 10:03 a.m., at which time quorum was established. The agenda for this meeting was filed with the Office of the Lieutenant Governor, as required by Hawai'i Revised Statutes, Section 92-7 (b).
- II. Public Testimony
None
- III. Chair's Report
 - a. Announcements, introductions, and correspondence
None
 - b. Minutes of October 7, 2015 meeting

It was moved by Member Hunt, seconded by Member Baz, and unanimously carried to approve the minutes of the October 7, 2015 meeting.

Member Yoneshige arrived at 10:05 a.m.

IV. Consultant's Report

a. Revision of Recession Forecast (handout) – Discussion and approval if needed

Mr. Kirkpatrick referred to the revision of recession forecast handout, which contains two parts. The first part is a memo and the second part is the draft report. He explained that the memo itself has two parts—first is the revision of the recessionary models forecasts and second, the report as drafted right now, including some things for the WG's review.

Mr. Kirkpatrick explained that in reviewing the spreadsheets for the report, they found an error in the materials presented to the WG. The annual changes in the historical TAT tax base that were used to derive the recession forecast were computed using real dollars (constant dollars). They were then used to develop a forecast of future TAT revenues (in nominal or current dollars) for the 2015-2025 period. He presented what would happen with the tax base if the recession happened all over again. What they were originally looking at is, if this is what would happen if the recession happened all over again and somehow hotel and other lodging revenues were not able to rise with inflation. So, it was a double whammy for basis of forecasting. What they have done is to make available to the group both the kinds of numbers he was using before (double whammy numbers) and numbers based on setting out the recession forecast, changes in real value. What is now the nominal recession forecast is based on changes in nominal dollars.

Mr. Kirkpatrick referred to the table in the memo that shows the difference in historical values, referring to the two lines. There are examples of one of the differences between the two forecasts for gross TAT collections as forecasts or as simulations; they are not expecting this; it's a 'what if.' The memo also contains a couple of pages with Model C1s and D1s that run with both regular forecast and the two different recession forecasts.

He explained that what they have done with the report is to take the nominal recession forecast, not the one shown earlier, the less difficult one and run that for all the models. The model appendix shown in the draft report uses that. But it's up to the WG. If the WG wants to show that, that's fine, if the WG wants the version that was shown earlier, that can be done or they can do both, they just have to be labeled correctly.

Mr. Kirkpatrick asked the WG if they had any questions regarding the recession forecasts. Member Sako asked whether the growth forecast continues to grow in real dollars because the nominal one, when you get to 2024-2025 the revenue is projected to be even higher than the growth forecast. Mr. Kirkpatrick replied, no, it's all in nominal dollars and she's right. When looking at the growth scenario, it's a moderate growth scenario and what they saw in the recession forecast was a recession after there was a fairly fast pick up, if you look at page 2 of the memo. When you get to 2025, the growth forecast reaches \$678 million and that's nominal and by that point, the nominal recession forecast is actually higher for that year. He looked at it a couple of different ways, taking 2004-2014 versus using 2005-2015, it didn't really substantively change. So, the recession, which is hard, especially hard for lots of particular places, it wasn't that hard on the TAT collections.

Chair Acoba wanted to clarify that all the models that follow in the report are all nominal dollars. Mr. Kirkpatrick replied in the current version, yes for both growth and recession simulations. Member Baz said his recommendation would be to use the nominal dollars for the recession forecasts; it was the original intent for the consultants to provide that. He feels it's appropriate for evaluation to present in the report the nominal dollar amounts. Member Baz made a motion to have the recommendation to use nominal dollars; it was seconded by Member Miyahira.

Chair Acoba stated when the Legislature sees nominal, they will ask what does 'nominal' mean and then we get into 'nominal' and 'real' dollars. Even if we are not going to do it for the other models, which we are not recommending, maybe it's a good idea to do both for the model we are recommending so the Legislature, at least, has the information.

Member Baz said that's one of the reasons why he stated they should go with nominal dollars because the growth model is nominal dollars, we want to be talking about the same type of dollars versus if they have nominal dollars in the growth, then real dollars in the recessionary model. Then we're not talking about the same apples to apples. So, he thinks it's more appropriate to have the nominal dollars in the recessionary model so they are talking the same type of dollars. Nominal dollars versus real dollars will be confusing anyway but it will be less confusing if they are consistent with everything to be presented in nominal dollars.

Chair Acoba said he has no objection to that and agrees with giving the Legislature complete information but he thinks the question will arise, what's the difference between nominal and real dollars. It would be helpful just to have that data. Even if the WG says, it's recommended that the nominal model is their preferred model. Member Baz said nominal isn't the model. Maybe there should be an explanation in the report of the difference between nominal dollars versus real dollars. They can put the definition in there for the readers to understand, this is what nominal dollars mean and this is why we chose nominal dollars.

Member Yoneshige agrees it needs to be in there because when he read it, he got mixed up on the nominal and the real and what is the most appropriate basis to do the calculations. Nominal seems to be the most appropriate, which is why we should put it into the report. Member Hunt stated the WG is in a discussion of a motion right now, but thinks the consultant would like to talk.

Dr. Mak stated the statute says to come up with a formula to allocate TAT revenues that you collect. The TAT revenues you collect are nominal dollars. Therefore, you distribute those nominal dollars that you collect so everything is in nominal dollars. No one has ever seen an inflation adjusted dollar, that's for analysis purposes. None of us in this room has an inflation-adjusted dollar. The statute is clear, you collect nominal dollars and you distribute the nominal dollars, it's that simple.

Member Miyahira stated just as a practical matter, everything presented to the Legislature from the Council on Revenues projections through their budget are all in nominal dollars.

Mr. Kirkpatrick stated in their presentations for today, he emphasized the real versus nominal difference and it was absolutely crucial in saying this is what they thought was correct and what does the WG want to do. In the draft report, they can discuss this side step with all of this discussion and if they want to include the real forecast, they can discuss that as a stress test developed under the following assumptions and without saying these are the real dollars versus nominal dollars. For today's purposes, this real

versus nominal difference has been emphasized so as to emphasize the difference between what was presented the last time. For the draft report purposes, headings and so forth can be different and if we are going to include some version of the real recession forecast, that should be the extreme stress test and it can be explained how it was developed. You don't emphasize real versus nominal. There are some wording differences that can cover this up.

Member Yoneshige expressed his concern that we don't delve too much into discussion on real versus nominal; the budget, economic forecasts are all in nominal dollars. So, the readers of the report will focus in on the allocation model and the work that was done in agreements reached on the allocation model so there's no distraction; make the discussion simple on real versus nominal.

Chair Acoba suggested a footnote on real versus nominal because the economists do use both. They measure different things and the legislators are smart. If they see nominal, they will ask why nominal, why not real, and what would the forecast be if they use real. He feels, they went through the process, they did consider it, and they can just limit it to the model that's represented. When we go to the Legislature, we need to stop there and he doesn't want to come up with information on an ad-hoc basis.

Member Baz stated they will probably be more confused if you give them real dollar information and everything else that they deal with is in nominal dollars and we give them something that's not. Chair Acoba asked about a footnote. Member Baz said that's why just a description of why they are using nominal dollars versus real dollars and this is what nominal dollars mean. Chair Acoba said that is why they need to give the legislators a lot of credit, they ask really pressing questions. Member Sako stated the main thing is that we are consistent; that was the problem before, one in nominal and one in real. To show the recession forecast in real, we would have to have the growth in real too. The whole thing is for consistency, to be able to compare with each other. She agrees they should use nominal but just saying if they are going to footnote or do anything, they want to compare apples and apples; not apples and oranges.

Chair Acoba asked if that could be accepted as an amendment to the motion. Member Baz said he honestly thinks they will be more confused if they give them nominal and real in all of these different scenarios. If you are going to give them real in one scenario, you need to give them real in all scenarios. Member Sako said she agrees with Member Yoneshige and they need to explain why they decided to go with nominal. She's not sure what the footnote is, if we looked at real, what it would have been; if we start using real, we need to be consistent in using real.

Member Yoneshige said if they use a footnote, they have statements from Dr. Mak's comments on the intent of the law and the other part of the footnote is to explain that the budget is in nominal and the projections which the budget is based on are also nominal and that is why they selected nominal. Then it answers the question why they are using nominal because that is the basis of everything else. Chair Acoba asked if they can have a definition of real dollars. Member Yoneshige said yes and explain why nominal was selected.

Mr. Kirkpatrick asked if the WG wants current or constant dollars versus nominal or real. Nominal or real gets them into trouble. Member Sako stated that Member Miyahira made it sound like they are used to nominal dollars; they are familiar with that term. Member Miyahira said 'non-deflated dollars' is the term they use. Mr. Kirkpatrick said constant dollars will take you back to a particular year. Chair Acoba asked if it is nominal or real. Mr. Kirkpatrick said the words nominal or real sounds a lot more powerful and real is a lot

more powerful versus current or constant. When it comes to dollars, the two pairs are equivalent. Chair Acoba asked if current would be more understandable or more descriptive. Mr. Kirkpatrick replied, current is descriptive and constant dollars does not have that charge that real has. He normally talks about current versus constant.

Member Baz stated he amends the motion to say that they will include in the report a current dollar figure for all of the models. The motion was seconded by Member Miyahira. Chair Acoba said that way they will be consistent. Chair Acoba asked what about the footnote. Member Baz said they can describe what current dollars is and Member Yoneshige made a good suggestion realizing Dr. Mak's and Member Miyahira's comments about everything else that the Legislature receives is in current dollars so it's consistent. Chair Acoba asked if the motion is to amend all models to delete the word 'nominal' and substitute the word 'current' and to add a footnote to indicate the WG is using the term 'current' because that is the approach used under the statute and in whatever official reports there are. The footnote will also contain a definition of constant dollars. The motion was unanimously carried.

- b. Partial Draft Report (handout) – Discussion
(Handout includes materials developed by Auditor as well as materials drafted by Consultant)

Mr. Kirkpatrick referred to the last page of the memo that addresses the draft report. He stated that there are some sections in the report that the WG needs to review.

Chair Acoba asked to review the draft report page by page. Member Soon asked if this is the only opportunity to comment or will the WG have another opportunity to submit comments. Chair Acoba answered this is basically it because this is to meet our deadlines. Member Sako asked for typos and non-substantive items, what shall we do? Chair Acoba said typos and non-substantive changes can be submitted to both Auditor's Office and Belt Collins. Mr. Kirkpatrick said they will do revisions along with the Auditor's Office, reviewing and double-checking all the way.

Executive Summary

Pages ES-1, ES-2, and ES-3 of the Summary.

Member Hunt referred to page ES-2, middle paragraph, regarding distribution, second to the last sentence, where it says, "the working group made no recommendation concerning that distribution." He stated this is amongst the counties and they did have a motion, a vote to maintain the current distribution between the counties. That was one of the discussions in the first few meetings the group had. He said Member Soon made that motion and Member Evans recalls that discussion. Chair Acoba suggested how about saying, "The working group did not recommend a change in the distribution." Member Hunt said he's good with that.

Member Yoneshige referred to the third bullet, talking about the distribution of the 55/45, the basis of that was the Belt Collins study that came out, item #7, percentage of gross expenditures, "primary government activities only" that came out with a 54/46 and then, from there, for ease of rounding, they came up with the 45/55 and his thought is to have some reference as to where the 45/55 came from. Just a note saying that this 55/45 was based on the Belt Collins study so that when people read this, they don't wonder how they came up with this; that there is basis behind this split. Member Sako said she likes that idea because she's worried that people may read only the Executive Summary.

Member Evans said she thought it might be more appropriate to include it in chapter 3, page 3-13, which gives more detail on the model. She knows there is a concern that people may not read beyond the first three pages but that kind of supports the information and is more appropriate. Member Sako said she's fine with that. Chair Acoba asked if they should say, "see page 3-13?" Member Yoneshige said that works. Chair Acoba asked to footnote it; everyone agreed.

Chair Acoba commented that the Executive Summary was very well-written.

Chapter 1

Chair Acoba referred to page 1-1, three lines from the bottom, to add (s) to employee.

Referring to page 1-7, footnote 18, Chair Acoba asked, does it reflect the circumstances at the time? Member Baz and Member Evans said it has been corrected for FY2016. Member Baz said when they had the discussion, it wasn't accessible at that time but they fixed it. He's not sure how to correct that because it is accessible. Chair Acoba suggested, "Since then this legislative correction has been made because there was no appropriation for FY2015." Mr. Kirkpatrick said, or, they can say, \$3 million for FY2015 was not accessible because there was no appropriation. Member Sako said she likes the version, "since then it's been corrected" Member Baz said, "and has since been corrected...." It should say, "\$3 million was not accessible because there was no appropriation and has since been corrected."

Chapter 2

Member Baz referred to page 2-2, first paragraph, last sentence, "The net effect of the cap, however, was to prevent the counties from sharing the additional TAT revenues collected after the TAT rate was raised to 9.25 percent in 2010." It is after the rate was raised to 9.25 percent but it was more importantly, with the increase in tourism. Page 3-11 also references that same increase in tourism. Just to be consistent. Page 2-2 can match 3-11 to say, "Increase revenue due to growth in tourism." Mr. Kirkpatrick said, "Additional revenues due to growth in tourism."

Chair Acoba referred to page 2-5, footnote 11, See id., p. 301, and asked if it refers to the Tax Review Commission Report. Mr. Kirkpatrick said yes.

ASA Yamane commented, the WG had asked about the summary statement at the end of the last paragraph having to do with, "the exhibit highlights how important the visitor industry is for Maui and Kaua'i counties," the WG had asked at the last meeting for a source of that summary statement and it came from comments that were made by Member Soon and Chair Acoba. There was a discussion at the June 3, 2015 meeting, which is documented in the minutes, and she doesn't know if there is a question regarding that statement on page 2-7. ASA Yamane referred back to the minutes and read the statements regarding the last sentence.

Member Sako referred to page 2-9 and all other exhibits and suggested when using decimal points, it should also be used in the totals, to be consistent so the decimals line up.

ASA Yamane stated on page 2-12, she referred back to the minutes and the three questions were never addressed. Questions 1 and 2 were discussed at the May 6, 2015 meeting, and referring back to the minutes, no formal decisions were made. Mr. Kirkpatrick stated, on page 2-12, ASA Yamane made a very clear point for the minutes, footnote 17, actually makes an inference slightly beyond that.

Chair Acoba referred to page 2-14 and said this is the exhibit that they derived the 55/45 is a rough approximation of the indices in page 2-12. On page 2-16, he wanted to suggest an addition to the second full paragraph, this leaves this issue up in the air because it leaves the consultant saying in effect, we really didn't do anything on this issue or at least they found, they really didn't do anything on this issue. But he thinks they did because they went through the Comprehensive Annual Financial Reports (CAFR). So if they can add a sentence that says something like, "However, the working group's work did result in a range of indicia from which may be derived a judgment-based evaluation of duties and responsibilities between the State and counties." He's looking at Exhibit 2-12 and asked if it is CAFR information and Mr. Kirkpatrick said it is all CAFR based. Member Evans says she agrees with adding that sentence because it is part of the WG's charge. Chair Acoba stated we have to say that we evaluated.

Member Miyahira stated when looking at Chapter 2, it doesn't come to a clear conclusion how the WG opted on 55/45 and he thinks something needs to be added on page 2-17 that wraps it up saying how we got to where we did because when you look at this, it mentions all the different allocations and talks about all different kinds of things but it doesn't lead to a conclusion. Member Baz said yes, that is true and having a statement to say, "We chose the primary government activities, gross expenditures item as referenced in Exhibit 2-12, item 7, so that we could correlate the distribution of TAT to the provision of services for the State and counties as directed by the Legislature."

Chair Acoba stated the 60/40 was a rough approximation from the investigative group's evaluation of the CAFRs based on relationship to the industry. Then we had input from the consultant who said, net expenditures, they had a more refined analysis, 46/54 and we rounded it off to 55/45. Member Miyahira said also, the rationale and how we got there because we need to have some kind of concluding statement; we have all this work that we did and we ended up here. Even trying to pick out the 55/45, it's not clear how they got that. Chair Acoba said all those figures are tourism-based but it is derived from CAFR; it's a judgment they made based on looking at all of these. Member Hunt said it also incorporates the obligations the State currently has.

Member Yoneshige said they pretty much had a consensus over the 60/40 but when Belt Collins came out with their table, it's a third-party that looked at the CAFR expenditures independently and came up with a split within the range of the 60/40. It confirmed the third-party deriving those numbers; it's an independent, third-party review that looked at the situation and that is why when Member Soon made the pitch, he thought it was a good idea because it's a third-party view looking at the situation on how the split can be.

Mr. Kirkpatrick would like to suggest, he thinks they have reached an agreement and has heard correctly, he will try to write another paragraph. Member Soon said it needs to be sent to all members.

Member Sako asked if the WG is meeting next Thursday, November 12, 2015; we still need to finalize the Purpose Statement Investigative Group findings and asked if it's enough time to vote.

Chair Acoba asked Mr. Kirkpatrick if he could write the paragraph while the WG continues its meeting. Member Baz suggested that the consultant write it up and present it to the WG as the WG takes the final vote.

Member Baz stated the conclusion could be at the end of the discussion on page 2-15 and maybe the title of page 2-16, Alternative Bases For Allocations be changed to Public Comment on Alternatives because this isn't the WG's alternatives for allocations; this is

the public providing testimonies and their comments. Chair Acoba suggested using, Public Testimony. There was a testimony from the City and County Lifeguard Division and that should be included. He also suggested one paragraph for the three people is enough and maybe include their testimonies as appendices is fine but in terms of the amount of space they take up with respect to the rest of the report, he thinks it's excessive; we should keep the emphasis on the report.

Member Baz stated he thinks it will be a challenge putting all three testimonies into one paragraph because there are three separate topics. Member Sako said maybe, somehow shortening it is the main concern but trying to decide whether to include them as appendices is also a concern.

Chapter 3

Chair Acoba referred to page 3-2, item number 1, "Allocate the first \$83 million" Is it \$83 million or \$82 million? Member Baz said in reading different parts of the report, it is \$82 million. Member Sako said she thinks it's from the investigative group. Member Evans said she thinks it's a mistake, she may have misstated that it's \$83 million. She would appreciate if this was corrected in the final report. It was agreed to change it to \$82 million. Member Sako indicated there are a couple of places where it needs to be changed. Mr. Kirkpatrick said he will make the changes.

Chair Acoba referred to page 3-3, the recession forecast stays the same using the nominal approach. Member Baz said current dollars. Referring to footnote 2, third line, it should say, "its surveys."

Member Baz referred to page 3-4, NOTE, reflect current dollars, not constant dollars.

Chair Acoba referred to page 3-7, second paragraph indicates the 60/40 ratio. Member Baz said that's correct because it's not taking out the Turtle Bay, Special Land Development Fund, etc.

Chair Acoba referred to page 3-9 and has questions on nos. 7 and 8. Did those models indicate any existing appropriations to be taken out of the State's share; it seems to be saying something else. Mr. Kirkpatrick said when they got to no. 8, the discussion was explicit about the idea that existing appropriations would be part of the 10 percent when they got to the variance of the recommended model; it's also in no. 7 as well. Member Soon said in no. 7, it's allocated to the 60 percent. Member Baz said yes, from his recollection, the allocations models investigative group discussion, no. 7, the Three-Stage Model, that the existing set-asides comes from the State's 60 percent.

Member Evans stated she's a little uncomfortable with using the term, "Recommended by Allocations Models Investigative Group." Even though it has quotes around it, she's was wondering if they could use the word, 'presented' or 'reported' by the Allocation Models Investigative Group. Member Baz said it wasn't voted to say, this is the model we are choosing because they wanted to leave that open to the WG. Mr. Kirkpatrick replied, when Member Soon presented it to the WG, he said it was recommended for discussion. Member Evans said it's going to be confusing; using the word, 'recommended' has a charge to it. Member Baz suggested deleting the word 'recommended' and put the quotes around "Three-Stage Model" because the rest of it is historical intent model. Member Sako said no. 8 should be, "Three-Stage Model Variant" and no. 7 should be, "Three-Stage Model" by Allocation Models Investigative Group. Mr. Kirkpatrick said "Three-Stage" is his version, it doesn't need quotes; it can say, Three-Stage Model Presented by Allocation Models Investigative Group. Member Sako also suggested

changing all of the \$83 million to \$82 million that was discussed about earlier to make it consistent.

Referring to page 3-9, last sentence, should minima be changed to minimal? It was agreed to leave as is.

Referring to page 3-10, last paragraph, first sentence, "s" should be added to incorporate. Should read "This appendix incorporates...."

Referring to page 3-11, Mr. Kirkpatrick stated he would stress this is the point where he was trying to understand what was in everyone's heads. Member Evans stated, the first paragraph, (3) support for the visitor industry is a good verb but (1) and (2) are not parallel. She's concerned about (2) caps on allocations, if you took that sentence in isolation, it would appear that they have reached a consensus for caps as opposed to not recommending in contrast to (3), support for the visitor industry. She suggested "removal of caps." Chair Acoba said in terms of logic of the order, should support for visitor industry be (1); key principles for allocation be (3); and (2) removal of caps on allocations. He also suggested adding, (1) key principles for allocation "between the State and counties." Member Baz said he agrees with that, it sets the priorities of the WG's discussions. Chair Acoba said just a matter of style, referring to the third paragraph, "could be hard to align with..." should be changed to, "could be difficult to align with..."

Chair Acoba referred to page 3-12, Model Recommended by the Working Group to the Legislature, should it be Model 4 instead of Model 3. Mr. Kirkpatrick said it was Model C1 which is Model 4.

Member Sako referred to page 3-13, is where they wanted to add the percentage that it was based on the Belt Collins report. Chair Acoba referred to Exhibit 3-3 and asked if it's in nominal, several members said, current. Member Baz referred back to Member Sako's point, the second bullet, add a brief sentence saying the 55/45 split is based on the provision of public services as refined. Member Soon suggested adding a footnote and Member Baz agreed.

Member Soon asked a question in regards to Act 174, if they recommended in the legislation not to have a reference to EUTF (Employer-Union Trust Fund), he doesn't know what legal standard that it has. They have discussed it but never voted and he does see it back in the bill and it was suggested by Member Case. He doesn't know if he understands the EUTF tied to TAT well enough as other colleagues from the other counties do, it was never voted on to include that in the bill. Member Baz said he was looking at the discussion from the October 7, 2015, minutes and it was discussed again, and whether it's included or not, it doesn't have a relevance to the distribution; it's the end use of the money that may have a difference of it but the actual distribution doesn't affect it. The reason why the Legislature included it is because they wanted to make sure the counties were paying their required EUTF annual required contribution (ARC) and so, if they weren't paying their ARC, they are basically saying, they will keep the TAT money to pay the ARC. It will come out of the counties pocket one way or the other. It's something the counties have to pay. He can see if the State whines and the counties don't pay it, then they will say, they will not give you this money and it's really up to the Legislature. Member Sako stated there really is no relevance to TAT at all and Member Baz said she's right but the only correlation is that this is money the State gives the counties.

Member Miyahira wanted to clarify that this is a fail-safe to make sure payments are made. The State has a similar provision. What they are doing is saying, if you don't pay, it's your choice and they will withhold it. On the State side, they have a GET offset so if

the State doesn't pay, they will offset the GE taxes to do this. The only money the State collects that goes to the county is the TAT. Member Sako said she thinks the State made a voluntary payment.

ASA Yamane stated for clarification, the Auditor's Office will work with Belt Collins on the language. She stated that the EUTF is Act 268, SLH 2013. There are other places where Act 174, is referred to and other acts where they put those measures into place. You will see the different references to the acts. Member Evans wondered if we need to even include it. She asked Member Soon if he thought it's the downstream of the allocations. He said no, he doesn't have a problem with what's there and including it. In fact he's glad because they did discuss it but they didn't vote and so he saw it in the bill and he asks, why is it still in the bill if they didn't vote. Chair Acoba said it's an acknowledgement that it exists.

Chair Acoba asked for a motion to approve the draft report with the changes the WG agreed to and subject to Mr. Kirkpatrick giving the WG the paragraph for page 2-16. Mr. Kirkpatrick stated that all the changes discussed will be put into the report and highlighted and will get it back to the WG before the next meeting. He asked does the earlier material for the legislation from the WG, if it goes anywhere in the report. Member Evans said it's Chapter 4. ASA Yamane asked if the draft from the investigative group will be included as Chapter 4 and not the legislation from the Legislative Reference Bureau (LRB). Chair Acoba replied that LRB has to look at the draft. Member Baz said he sees what ASA Yamane is talking about and yes, that she's correct, and the WG is going to create a draft of what they want and LRB will make it into legal language to put into the chapter. ASA Yamane said typically what the Auditor's office does is to have LRB draft for us. LRB inputs the bill into their legislative database and then gives us a copy to put into the report. The preamble portion is what the investigative group must come up with.

Member Evans suggested the WG not vote today. Chair Acoba said the WG has to vote today, at least solidify the changes the WG has so far.

Member Baz made a motion to approve the draft report to the State Legislature, Chapters 1, 2, and 3 as discussed with amendments made today, allowing the staff and consultant to make non-substantive changes. It was seconded by Member Soon, and unanimously carried.

Mr. Kirkpatrick asked if the WG would like include Act 174 (SLH 2014) and the interim report as appendices to the final report. ASA Yamane said Act 174 but not the interim report. He said Appendix C is the slightly re-written version of Dr. Mak's report. The counties, State, visitor industry reports will be provided by the Auditor's Office which basically comes from materials that were submitted for review from the minutes. The additional expenditures analysis is something the WG already has and discussed in a handout at the last meeting. The allocation models investigative group's report which is now Appendix H is all straight out from the minutes except for the fact that we want to change the \$83 million to \$82 million. He requested the Word version; ASA Yamane said it's from Member Soon.

Chair Acoba called for a ten minute recess at 11:30 a.m.

The meeting was reconvened at 11:38 a.m.

Mr. Kirkpatrick referred to page 2-16, the sentence that says, "The consultant team's preliminary finding was that no single analysis provides a definitive account of the public service expenditures of the State and Counties." They can change the language of that

slightly to say, "The consultant team did not recommend a single analysis as presenting a definitive account of the public service expenditures." And then, to continue on to say, "The working group had considered a range of allocation models and initially found a 60/40 division between the State and counties to approximate the division of their expenditures for public service duties and responsibilities. After review of the consultant's analysis, and Exhibit 2-12, the WG judged that a 55/45 division corresponded better to the expenditures of the State and counties." Chair Acoba asked Mr. Kirkpatrick if he wanted to make a specific reference to any indices the WG came up with. Mr. Kirkpatrick said it was a discussion from several of them in the net revenue analysis.

Mr. Kirkpatrick stated he thinks different members of the WG like different divisions better from one or the other and that someone sooner or later will have to explain. He doesn't want to tie this to one particular analysis of these set of analysis because then someone else can come up and say, "this may be true for your island but not for mine" or some version of that. He's worried about tying their judgment to one particular analysis of the CAFR data.

Chair Acoba stated the 55/45 was a rounding off. Mr. Kirkpatrick said if you want to say, you put a rounding term in there, you can. Member Baz stated using the word, "judged" is the best because it was the group's decision that they made. Chair Acoba said what he wrote was, "the working group's work resulted in a range of indicia from which they derived a judgment-based evaluation of duties and responsibilities between the State and counties." Member Soon said that would be fine. Mr. Kirkpatrick said that's better.

V. Findings and Purpose Statement Investigative Group – Discuss report (handout)

Member Soon asked if there will enough time to discuss the Findings and Purpose Statement Investigative Group. Member Evans stated the investigative group members are Chair Acoba, Member Evans, Member Case, and Member Soon. Member Case offered to do the first cut of their report. He is out-of-town through November 16th. Member Case then sent the report to the other members of the investigative group for their review. Member Evans stated that there was quite a bit of back-and-forth on the language and Member Case agreed to a number of revisions; therefore, the draft changed over the course of the two weeks. They were able to come up with a draft that they would like to recommend, at least the purpose and findings section of the proposed legislation to the full WG. Member Soon indicated there was one issue that he didn't agree with.

Member Soon summarized, there were seven findings and a number of very specific conclusions.

1. The visitor industry is important to the welfare of the State;
2. Since 1987, it's been a major generator revenues funding State and counties' public services some related to visitor industry, some are indirect; some not even related;
3. It has evolved over time and it notes a number of different changes over time;
4. It meets the needs of its times, there are ongoing disagreements often between various stakeholders including State, counties, visitor industry, HTA and other recipients;
5. Disagreements have included continued TAT increases harmful to the industry and that some of this has to be addressed, it reflects respective roles of State and counties in providing services, whether funding should be directed out of allocations to special fund and the counties and whether there is sufficient consistency and predictability in TAT revenue allocations so that recipients can fulfill their responsibilities;

6. The State created this working group;
7. The working group is made up of the group present;
8. The working group found and concluded:
 - a. The application of the TAT and the allocation of the revenues should be simplified and stabilized, so it has to be clear, consistent and predictable over time.
 - b. HTA, as the critical state agency in maintaining and strengthening the visitor industry should be provided a priority distribution of the TAT at an assured minimum level for inflation and regardless of overall TAT collections with any additional State funding HTA made out of state general funds by separate appropriations.
 - c. The allocations to HTA through the tourism special fund should not be diverted by the Legislature to other special funds or needs.
 - d. After the priority distribution of the TAT revenues to HTA, and as a further priority distribution, current allocations to the convention center enterprise special fund to natural resources protection subject to agreement between BLNR and HTA and to the Turtle Bay conservation easement special fund should be maintained at their current levels with any additional state funding of such efforts or any other efforts made out of state general funds by separate appropriations.
 - e. Based on the review of respective non-HTA state and county functions especially as related to the visitor industry, a fair allocation of remaining TAT revenues after priority distribution and further priority distributions to the convention center, natural resources fund, Turtle Bay conservation easement fund is 55 percent to the State and 45 percent to the counties.
 - f. There should be no fixed dollar amounts, caps, floors or similar restrictions on allocations to the State and counties of remaining revenues after priority distributions to HTA, and further priority distributions to the convention center, natural resources fund, and Turtle Bay conservation easement fund but both the State and counties allocations should increase or decrease proportionately with increasing or decreasing TAT revenues.
 - g. As to any further funding desired by the State and counties whether or not for visitor industry purposes, the jurisdiction authorizing the program should fund the program out of its own revenue sources including for visitor industry purposes, its remaining TAT revenue allocation.
 - h. The current allocation percentage between the counties of the overall county share of TAT revenues remains appropriate and does not require adjustment.
9. The working group report reflects a fair, balanced and reasonable compromise of competing needs for scarce resources and a sound policy base for the further administration of the TAT and its revenues; and as such, the Legislature incorporates the report in this Act by this reference.

Member Miyahira has a general concern that this is way too long and it has conclusions that he doesn't see in the report. He thinks you can take from the summary section whatever you may need because the report is the main thing. Member Soon said he likes purposes because it gives you intent. When you go back and look at legislation, you don't go back to the original reports,

you go back to the legislation. Member Miyahira said he would be fine if it was discussed in the report. Member Soon said it makes sense.

Member Kam said it's the right vehicle but we want to make sure that the content is in alignment with what's in our report. Member Baz stated the report from the permitted interaction group has been presented to the WG verbally and before the next meeting, if it can be transmitted to the members electronically. The WG cannot vote on it today anyway; so we can discuss it, vote on it in detail at the next meeting.

Chair Acoba asked ASA Yamane on the timetable for this report. She said it can be put on the agenda for the next meeting and handouts can be distributed for the next meeting.

Chair Acoba's only concern is that he didn't have a chance to read the investigate group's report. There may be slight changes and we will get it to the Auditor's Office by Friday.

Member Soon said they did go through a variety of iterations taking some things and adding some things and changing a few words here and there. He would like to express one major point, they discussed, and that is, one point he felt there was a commitment to the concept that TAT revenues should go to tourism expenditures only. They never voted on that. In the last draft the WG will receive, it doesn't even appear there because it was struck. He's just not sure that striking it respects the industry perspective. From the county's perspective, they would like the flexibility of spending the money. Member Baz said it's in the Visitor Industry Investigative Group's report that the tourism dollars have some correlation. The concern he has, from reading the report, is that the visitor industry is negatively impacted from the TAT and they have never discussed that.

Member Kam said from the tourist side, it's not an impact, they look at TAT as an investment for the State, they have to make sure it's at the top of the line and TAT funds go towards investing in the number one industry.

VI. Adjournment: With no further business to discuss, Chair Acoba adjourned the meeting at 12:02 p.m.

Reviewed and approved by:



Jan K. Yamane
Acting State Auditor

[✓] Approved as circulated.

TATWG/20151104