SUMMARY OF RECOMMENDATIONS MADE BY TAX REVIEW COMMISSIONS

Recommendation	1983-85	1988-90	1995-97	2001-03	2005-07	2010-13	*Implementation and Comments*
Overall Tax Recommendations							
1. Maintain General Fund composite progressivity	X						Various targeted low-income tax credits have, over time, attempted to mitigate the regressivity of the general excise tax. However, the issue requires further analysis.
2. Eliminate or sunset tax exemptions and credits	X				X		Some tax credits have been enacted with sunset dates and have sunsetted or been repealed. In some cases, the sunset or repealed credit was replaced with an alternative. These credits have included the Individual Development Account Contribution Tax Credit (§235-5.6, HRS; allowed to sunset December 31, 2004), the Energy Conservation Credit (§235-12, HRS; allowed to sunset June 30, 2003), which was partially replaced by the Renewable Energy Technologies Credit (Act 70, SLH 2003), and the Residential Construction and Remodeling Tax Credit (§235-110.45, HRS; allowed to sunset June 30, 2003). **Act 88, SLH 2006:** Increased and modified the motion picture, digital media, and film production income tax credit (film credit). Effective for qualified production costs incurred on or after July 1, 2006, and before January 1, 2016. On January 1, 2016, Act 88 is repealed, and section 235-17, HRS, will be reenacted in the form in which it read before Act 88. **Act 105, SLH 2011:** Suspended temporarily the exemptions for certain persons and certain amounts of gross income or proceeds from GET and Use Tax and requires the payment of both taxes at 4%. Effective July 1, 2011, and sunsets on June 30, 2013. **Act 89, SLH 2013:** Extends the repeal date of Act 88, SLH 2006 (film credit) to January 1, 2019. Adds reporting requirements by the Film Office, Department of Business Economic Development & Tourism (DBEDT) to the Legislature. **Act 270, SLH 2013:** Reintroduces tax credit for research activities, but conforms to section 41 and section 280C of the Internal Revenue Code. Adds reporting requirements by DBEDT to the Legislature. Applies to taxable years 2013 to 2019. **Act 120, SLH 2015**: Creates a teamporary, nonrefundable income tax credit for the costs incurred in converting a qualified cesspool to a septic system or to an aerobic treatment unit system, or for the cost of connecting a cesspool to a sewer system. Applies to tax years 2016, and is repealed on December 31, 2020.

Recommendation	1983-85	1988-90	1995-97	2001-03	2005-07	2010-13	Implementation and Comments
							For additional information on the history of tax credits, see the *Tax Credits Claimed by Hawaii Residents* report published annually by the Department [tax.hawaii.gov].
3. Minimize all tax exemptions and credits		X	X	X	X		The number of exemptions and credits, in general, have expanded. **Act 105, SLH 2011:** Suspended temporarily the exemptions for certain persons and certain amounts of gross income or proceeds from GET and Use Tax and requires the payment of both taxes at 4%.
4. Establish General Fund Stabilization Fund	X	X	X	X			**Act 304, SLH 1999:** Established the Emergency and Budget Reserve Fund.
5. Maximize tax "exporting"	X						Hawaii taxes, including the income tax, GET, TAT, and conveyance tax, are all exported to some extent. For more information, see 2002-2005 TRC Report, Appendix D, *Study on the Progressive or Regressive Nature of Hawaii's Taxes* .
6. Provide direct expenditure assistance, not narrowly targeted tax preferences	X				X		Narrowly targeted tax preferences have increased. One consideration may be that such preferences are not expenditures subject to the general fund expenditure ceiling established under Article VII, Section 9, of the Hawaii State Constitution.
7. Lower the overall level of state taxes		X	X		X	X	**Act 157, SLH 1998:** Lowered individual income tax rates as well as the tax rates for trusts and estates, increased the number of tax brackets from 8 to 9, and expanded the tax brackets. **Act 110, SLH 2006:** Increased the standard deduction to 40% of the 2006 federal standard deduction and expanded the tax brackets by 20%. **Act 60, SLH 2009:** Added three new brackets and rates, 9%, 10%, and 11% for the high income taxpayers for taxable years 2009 to 2015. Act 60 also increased the standard deduction and personal exemption by 10% for taxable years 2011 and 2012. **Act 97, SLH 2011:** (1) eliminated the deduction for state taxes paid for taxpayers with income above income above specified thresholds, (2) placed temporary limitations on claims for itemized tax deductions by the lesser of the limitation provided in section 68 of the IRC or the limitation as specified under Act 97, and (3) delayed the standard deduction and personal exemption increases approved under Act 60, SLH 2009, by two years while also making those increases permanent.

Recommendation	1983-85	1988-90	1995-97	2001-03	2005-07	2010-13	Implementation and Comments
	Commissions						
General Excise and Use Tax Recommendations							
1. Maintain the GET structure	X				X		Structure has been maintained except for marginal changes.
2. Do not use exemptions to achieve vertical equity		X					Vertical equity has not been a major consideration in enacting legislation affecting the GET.
3. Limit exemptions to those needed for horizontal equity		X		X			Horizontal equity has not been a major consideration in enacting legislation affecting the GET.
4. Eliminate or limit exemptions intended to effect social policy such as the following:							
(a) $2,000 exemption for blind, deaf, or totally disabled persons			X				Not adopted. The exemption was expanded by **Act 110, SLH 2002**, to also include general, limited, and limited liability partnerships all of whose partners are blind, deaf, or totally disabled.
(b) Exemption for Hansen's disease patients			X				Not adopted.
(c) Limiting the 0.5% rate for blind, deaf, or totally disabled persons to the first $30,000 of gross receipts.		X	X				Not adopted.
5. Do not exempt health care services, food, apparel, or shelter from the GET and instead pursue those goals, if desirable, through low-income income tax credits or the appropriation and expenditure process					X		**Act 211, SLH 2007:** Amended the Low Income Refundable Tax Credit provided by §235-55.85, HRS, by (1) replacing it with the Refundable Food/Excise Tax Credit; (2) using Federal adjusted gross income (AGI) rather than Hawaii AGI to Federal AGI; (3) increasing the credit amount per qualified exemption; and (4) increasing the income thresholds that a Hawaii resident can earn in order to claim the credit. The credit amount is on sliding scale based on Federal AGI.
6. Eliminate pyramiding on multiple lease transactions		X					**Act 353, SLH 1997:** A sublease deduction is allowed sublessors of real property pursuant to a written lease to effect a reduction in (not a total elimination of) the pyramiding effect of the GET on the amount of lease rent paid to the master lessor on the property, or portion of the property, that is being subleased.

Recommendation	1983-85	1988-90	1995-97	2001-03	2005-07	2010-13	Implementation and Comments
7. Eliminate pyramiding on inter-company transactions		X		X			All of the following Acts were enacted after the publication of the 1988-1990 TRC report and prior to the publication of the 2001-2003 TRC report. While the legislation reduced the pyramiding of the GET on business-to-business transactions, it did not eliminate all pyramiding at the 4% rate, such that the 2001-2003 TRC recommended codifying the principle that the 4% rate on consumption be applied only once; this recommendation was not adopted. **Act 71, SLH 1999:** Phased-in pyramiding relief to extend wholesale treatment to certain transactions in which the goods, services, amusements, etc., that are identifiable elements of what is resold (i.e., it relaxed the strict no-consumption rule). Qualifying transactions include certain service-to-service, service-to-goods, service-to-contracting, service-to-transient accommodations, goods-to-service, and goods-to-transient accommodations transactions. **Act 173, SLH 1999:** Allows sales of pre-packaged condiments to eating and drinking retailers to be taxed as a wholesale rather than a retail transaction. **Act 27, SLH 2000:** Taxes sales of prepaid calling cards as sales of tangible personal property, such that sales to licensed sellers for resale are taxed as wholesale transactions. **Act 198, SLH 2000:** Expanded Act 71, SLH 1999, to afford phased-in wholesale treatment to amusement-to-service, amusement-to-goods, and amusement-to-transient accommodations transactions. This Act also afforded phased-in wholesale treatment under the public service company (PSC) tax to certain transportation services provided to contractors (see also Act 9, 3rd SpS 2001, below) and to certain sales of telecommunications services by a public utility to an interstate telecommunications provider for resale. **Act 271, SLH 2000:** Extends wholesale tax treatment to sales by a printer to a publisher of magazines or other printed material containing advertisements when the publisher is contracted by the advertisers to distribute a minimum number of magazines, etc., regardless of whether there is a charge to the persons who actually receive the magazines, etc. (e.g., free tourist magazines).

Recommendation	Commissions						Implementation and Comments
	1983-85	1988-90	1995-97	2001-03	2005-07	2010-13	
							Act 9, 3rd SpS 2001: Subjects certain transportation service providers to the GET instead of the PSC tax. Specifies that transportation service providers are service businesses, thus allowing transportation service providers to qualify for the phased-in wholesale rate on transactions other than transportation service-to-contracting transactions.
8. Eliminate or limit gross receipts splitting			X				Not adopted.
9. Subject imported services to the use tax		X	X				**Act 70, SLH 1999:** Subjects imported services to the use tax.
							Act 198, SLH 2000: Subjects imported contracting to the use tax.
10. Exempt residential rental income		X					Not adopted.
11. Eliminate blanket exemptions in favor of specific exemptions		X					**Act 286, SLH 1991:** Subjects insurance companies to the GET on gross income from the rental of real property and to the TAT on gross rental income from the furnishing of transient accommodations.
							Act 106, SLH 1992: Subjects financial institutions to the GET on non-financial services income such as gross income from the rental of real property, parking lot fees, safe deposit fees, tax preparation, payroll services, data processing fees, and seminar fees.
							Act 116, SLH 1994: Subjects employee benefit plans to the GET on gross income from the rental of real property.
12. Eliminate or limit specific exemptions or special rates for:							
(a) Scientific contracts with the United States			X				Not adopted.
(b) Petroleum products refined in Hawaii			X				Not adopted.
(c) Loading, transporting, and unloading agricultural products			X				Not adopted.
(d) Sugarcane producers			X				Not adopted.
(e) Reimbursements to federal cost-plus contractors and sales of tangible personal property to the federal government			X				Not adopted.
(f) Certain real property rental income received by labor organizations			X				Not adopted.

Recommendation	1983-85	1988-90	1995-97	2001-03	2005-07	2010-13	Implementation and Comments
(g) Sales of locally produced agricultural, meat, or fish products to common carriers in interstate or foreign commerce for consumption out-of-State.			X				**Act 135, SLH 2003**, amended this provision to remove the limitation to locally produced products. The Hawaii Supreme Court ruled this provision unconstitutional in 1994 (*In Re the Tax Appeal of Hawaiian Flour Mills, Inc.* , 76 Haw. 1). The Department issued Tax Information Release No. 93-4 on November 10, 1993, after the Tax Appeal Court determined that the provision was unconstitutional, such that an exemption under this provision could not be claimed although an exemption for fresh food products shipped out of State continued to apply. **Act 160, SLH 2013**: Eliminates the GET exemption for liquor, tobacco, and food sold to common carriers., beginning with tax year 2014.
(h) Air pollution control facilities			X				Not adopted.
(i) Solid waste processors (waste-to-energy)			X				Not adopted.
13. Eliminate or minimize all GET exemptions			X		X		**Act 105, SLH 2011:** Suspended temporarily the exemptions for certain persons and certain amounts of gross income or proceeds from GET and Use Tax and requires the payment of both taxes at 4%. Also see Overall Tax Recommendation No. 2.
14. Automatically sunset the following "new industry" development exemptions:			X				The 1995-1997 TRC specifically mentioned the 3 tax exemptions listed to the left. Some recent exemptions have automatic sunset dates. These include: (1) exemption for call centers (Act 195, SLH 2000), which will automatically sunset on June 30, 2010; (2) exemption for public Internet data centers (Act 221, SLH 2001), which sunset on December 31, 2005; and (3) sales of net operating losses by a qualified high technology business (Act 221, SLH 2001), which sunset on December 31, 2005.
(a) Motion picture industry			X				This exemption sunset on July 1, 1976. Act 135, SLH 2003, deleted the obsolete provision.
(b) Retail sales of alcohol fuel			X				**Act 289, SLH 2000:** Amended §237-27.1, HRS, to repeal this exemption on December 31, 2006. (NOTE: The original legislation, Act 274, SLH 1980, would have sunset this exemption on July 1, 1985. Act 179, SLH 1981, extended the sunset date to June 30, 1992. Act 42, SLH 1988 repealed the sunset date.)
(c) Stock exchange			X				Not adopted. A stock exchange has not been established to date.

Recommendation	1983-85	1988-90	1995-97	2001-03	2005-07	2010-13	Implementation and Comments
15. Clarify exemptions for nonprofit organizations for better compliance:							Nonprofit organizations are not automatically tax-exempt and must apply for tax-exempt status. Not all nonprofit organizations, including a number of categories that qualify for income tax exemption, are eligible for exemption from the GET. If granted an exemption, not all of an organization's income may be exempt; only income that qualifies under §237-23(b), HRS, is exempt.
(a) Require GET licenses for nonprofit organizations			X	X	X		**Act 155, SLH 2010:** Denied GET tax preference to taxpayers who fail to file their GET annual return and reconciliation later than twelfth month following the prescribed due date of the return. Also created a trust fund for the GET due on each business transaction; held an officer, member, manager, or other responsible person liable for the GET due, including any penalty and/or interest. Effective July 1, 2010, applied to gross income or gross proceeds received on or after July 1, 2010. **Act 219, SLH 2012**: Provides for 90 days notice before GET benefits may be denied under §237-9.3, HRS for a "nonprofit organization". Act 219 also provides an exemption from personal liability under HRS §237-41.5 for any officer, member, manager, or other person having control or supervision over gross proceeds of a "nonprofit organization". Act 219 basically defined "nonprofit organization" as an entity who received tax exempt status under certain specified paragraphs of IRC §501(c). **Act 52, SLH 2013**: Amends HRS §§237-9.3(e) and 237-41.5(b), to define "nonprofit organization" as "a corporate entity, association, or other duly chartered entity that is registered with the State and is exempt from the application of [HRS Chapter 237] pursuant to section 237-23(a)(3), (4), (5), (6), or (7)." HRS §237-23 expressly states the types of entities which are exempt from GET. Act 52 amends the definition of "nonprofit organization" to be consistent with HRS §237-23 by
(b) Require nonprofit organizations to file GET returns if they have more than $30,000 of gross receipts			X	X			
16. Extend tax-exemption to skilled nursing facilities and for-profit hospitals, infirmaries, and sanitaria				X			Not adopted.
17. Eliminate the exemption for nonprofit organizations <u>OR</u> establish a maximum exemption amount					X		The 2005-2007 TRC noted that the elimination of this exemption (§237-23, HRS) would not affect the exemption for donations or gifts pursuant to §237-24(4), HRS.

Commissions: 1983-85, 1988-90, 1995-97, 2001-03, 2005-07, 2010-13

Recommendation	1983-85	1988-90	1995-97	2001-03	2005-07	2010-13	Implementation and Comments
							Act 155, SLH 2010: Denied GET tax preference to taxpayers who fail to file their GET annual return and reconciliation later than twelfth month following the prescribed due date of the return.
18. Exempt inter-affiliate business transactions from the GET	X						**Act 175, SLH 1988:** Exempted certain transactions between related entities, including common paymasters. Subsequently amended by Act 178, SLH 1997, Act 165, SLH 1999, and Act 221, SLH 2001.
							Act 214, SLH 1998: Exempts certain employee cost reimbursements received by a management company from related entities providing interstate or foreign common carrier telecommunications services.
19. Clarify the intermediary services provision and expand it to include a wholesale services concept			X				Administrative rules clarifying the application of the services rendered for or to an intermediary wholesale rate provision were adopted, effective January 22, 1999.
							Act 71, SLH 1999: Phased-in pyramiding relief to extend wholesale treatment to certain transactions in which the goods, services, amusements, etc., are identifiable elements of what is resold (i.e., it relaxed the strict no-consumption rule). Qualifying transactions include certain service-to-service, service-to-goods, service-to-contracting, service-to-transient accommodations, goods-to-service, and goods-to-transient accommodations transactions.
							Act 198, SLH 2000: Expanded Act 71, SLH 1999, to afford phased-in wholesale treatment to amusement-to-service, amusement-to-goods, and amusement-to-transient accommodations transactions. This Act also afforded phased-in wholesale treatment under the PSC tax to certain transportation services provided to contractors (see also Act 9, 3rd SpS 2001, which subjects certain transportation services to the GET instead of the PSC tax) and to certain sales of telecommunications services by a public utility to an interstate telecommunications provider for resale.
20. Price paid by the purchaser for a good or service should be the measure of gross receipts	X						**Act 340, SLH 1986:** Enacted a division of income provision (i.e., income splitting) for tourism-related services (§237-18(f), HRS). The definition of "tourism-related services" was later expanded by Act 287, SLH 1991.
21. Exempt from the GET goods and services shipped out of Hawaii	X	X	X				**Act 239, SLH 1987:** Exempts sales of tangible personal property shipped out of Hawaii.

Recommendation	Commissions 1983-85	1988-90	1995-97	2001-03	2005-07	2010-13	Implementation and Comments
							Act 70, SLH 1999: Exempts exported services and contracting.
22. Subject public service companies to the GET and eliminate the PSC tax	X						**Act 9, 3rd SpS 2001:** Subjects certain transportation service providers to the GET instead of the PSC tax. Specifies that transportation service providers are service businesses.
23. Consider a sales tax or a value added tax to replace the GET	X						Not adopted. For more information, see 2005-2007 TRC Report, Appendix C, *Hawaii's General Excise Tax: Should the Base Be Changed?*
24. Rewrite the GET law to achieve clarity and transparency				X	X		Not adopted.
25. Remain involved in discussions on the Streamlined Sales Tax Project, but do not make a formal commitment at this time.					X		Various legislative proposals on this topic since 2007.
26. The 3-year statute of limitations on assessment of the GET should start from the filing of the last periodic GET return (Form G-45)					X		Not adopted.
Income Tax Recommendations							
1. Maintain existing corporate tax burden		X					Not adopted.
2. Eliminate the corporate income tax and study eliminating the individual income tax.					X		Not adopted.
3. Provide income tax credits to offset the regressive effects of the GET on food and drugs		X	X			X	At the time the report of the 1988-1990 TRC was issued, sales of food purchased with USDA Food Coupons (i.e., food stamps) and USDA WIC Food Vouchers were exempt from the GET, as were sales of prescription drugs and prosthetic devices and most medical services provided by tax-exempt organizations. A food tax credit had previously been enacted (Act 239, SLH 1987).
							Act 321, SLH 1989: Enacted a new medical services excise tax credit. The 4% medical services excise tax credit part of this credit was repealed by Act 23, SpS 1995, and the remaining nursing facilities excise credit portion sunset on June 30, 1997.

Recommendation	Commissions						Implementation and Comments
	1983-85	1988-90	1995-97	2001-03	2005-07	2010-13	
							Act 187, SLH 1990: Repealed the existing excise tax credit and combined it with an expanded version of the existing food credit to create the food/excise tax credit. The excise tax portion of the credit was repealed by Act 134, SLH 1995. The food credit was repealed by Act 157, SLH 1998. **Act 157, SLH 1998:** Enacted the low-income refundable income tax credit. **Act 211, SLH 2007:** Amended the Low Income Refundable Tax Credit by (1) eliminating the name of the Low Income Refundable Tax Credit and changed the name to the Refundable Food/Excise Tax Credit; (2) adjusting the Hawaii adjusted gross income (AGI) to Federal AGI and increasing the credit amount per qualified exemption and the AGI that a Hawaii resident can earn in order to claim the credit. The credit amount is on sliding scale based on Federal AGI. **Act 223, SLH 2015:** Increased the Refundable Food/Excise Tax Credit. Repealed credit for individual taxpayers with Federal AGI of $30,000 or above. For all other filers, the income thresholds is at $50,000. Repealed residency requirement. Applies to taxable years beginning after 12/31/2015.
4. Adjust the general excise tax credit for inflation		X	X				Not adopted. **Act 187, SLH 1990**, repealed the existing excise tax credit and combined it with an expanded version of the existing food credit to create the food/excise tax credit. The excise tax portion of the credit was repealed by **Act 134, SLH 1995**. **Act 157, SLH 1998:** Enacted the low-income refundable income tax credit. **Act 211, SLH 2007:** Replaced the low-income refundable income tax credit with food/excise tax credit which increases the income threshold and the credit amount. **Act 223, SLH 2015:** Increased the Refundable Food/Excise Tax Credit.
5. Add back capital gains, dividends, interest, retirement contributions, unemployment and workers compensation payments, public assistance benefits and individual housing account payments to the adjusted gross income base used to determine eligibility for low-income tax credits.		X					**Act 211, SLH 2007:** Replaced the low-income refundable income tax credit with food/excise tax credit and replaced the Hawaii AGI with Federal AGI, which includes retirement income not taxed by the State.

Recommendation	1983-85	1988-90	1995-97	2001-03	2005-07	2010-13	Implementation and Comments
	Commissions						
6. Expand the individual income tax brackets	X	X	X	X	X		**Act 239, SLH 1987:** Reduced the top individual income tax rate from 11% to 10%, reduced the number of tax brackets from 12 to 8, and phased in an expansion of the new tax brackets through 1988. **Act 321, SLH 1989:** Reduced the lowest individual income tax rate from 2.25% to 2% and expanded the tax brackets beginning in 1989. **Act 157, SLH 1998:** Increased the number of individual income tax brackets from 8 to 9; phased in over a 4-year period beginning in 1999 a reduction of the individual income tax rates such that the rates in 2002 were 1.40% to 8.25%; and expanded the tax brackets. **Act 110, SLH 2006:** Expanded the tax brackets by approximately 20% beginning in 2007. **Act 60, SLH 2009:** Added three new brackets and rates, 9%, 10%, and 11% for the high income taxpayers for taxable years 2009 to 2015.
7. Increase the standard deduction	X	X	X	X	X	X	**Act 321, SLH 1989:** Increased the standard deduction to the following: single - $1,500; married filing joint return and qualifying widow(er) with dependent child - $4,000; married filing a separate return - $950; and head of household - $1,650. **Act 110, SLH 2006:** Increased the standard deduction to the following: single and married filing a separate return - $2,000; married filing joint return and qualifying widow(er) with dependent child - $4,000; and head of household - $2,920. **Act 60, SLH 2009:** Increased the standard deduction and personal exemption by 10%. Standard deduction: single and married filing a separate return - $2,200; married filing joint return and qualifying widow(er) with dependent child - $4,400; and head of household - $3,212. Personal exemption: $1,144. Applied to taxable years 2011 to 2015. **Act 097, SLH 2011:** Delayed by two years the increase in standard deduction and personal exemption approved under Act 60, SLH 2009, while also made permanent the increases. Applied to tax years beginning after 12/31/10.
8. Provide double the standard deduction to taxpayers over age 65	X						Not adopted.

Recommendation	Commissions						Implementation and Comments
	1983-85	1988-90	1995-97	2001-03	2005-07	2010-13	
9. Reduce top individual income tax rates		X					**Act 239, SLH 1987:** Reduced the top individual income tax rate from 11% to 10%; reduced the number of tax brackets from 12 to 8; and phased in an expansion of the tax brackets through 1988. **Act 157, SLH 1998:** Increased the number of individual income tax brackets from 8 to 9; phased in over a 4-year period, beginning in 1999, a reduction of the individual income tax rates such that the rates in 2002 were 1.40% to 8.25%; and expanded the tax brackets. **Act 60, SLH 2009:** Temporarily added three income tax brackets that increased the tax on individuals with high net taxable incomes from a maximum of 8.25% to 11%. Applied to taxable years beginning after 12/30/08, set to sunset on 12/31/15.
10. Increase the personal exemption			X	X	X	X	**Act 78, SLH 1985:** Increased the personal exemption to $1,040. **Act 60, SLH 2009:** Increased the personal exemption by 10% to $1,144. Applied to taxable years beginning after 12/31/10, and set to sunset on 12/31/15. **Act 97, SLH 2011:** Delayed by two years the increase in personal exemption approved under Act 60, SLH 2009, while also made permanent the increases. Applied to tax years beginning after 12/31/10.
11. Index the individual income tax standard deduction, personal exemption and tax brackets for inflation					X		Not adopted.
12. Change the maximum net capital gains tax rate			X				Not adopted.
13. Exempt additional types of pension income			X				Not adopted.
14. Phase in taxation of all pension income			X	X			Not adopted. See Recommendation 15 below for the 2005-2007 TRC's recommendation.
15. Conform to the federal tax treatment of retirement income, excluding an annual base amount (e.g., $50,000)					X		Not adopted.

Recommendation	1983-85	1988-90	1995-97	2001-03	2005-07	2010-13	Implementation and Comments
	Commissions						
16. Revise the taxation of nonresidents to prorate the standard deduction and personal exemption			X				**Act 281, SLH 1997:** This Act did not directly prorate the standard deduction and personal exemption amounts claimed by nonresident individual taxpayers. However, it changed the method by which the tax liability of nonresidents was computed to one in which the taxpayers' worldwide income was used to compute the nonresident taxpayers' total tax liability and the total tax liability prorated (note that the standard deduction and the personal exemption amounts were therefore deducted from worldwide income in the same manner as Hawaii residents). This was the California model mentioned in the 1995-1997 TRC's report. This proved hugely unpopular, with letters coming in from many quarters including from U.S. Senators and Representatives on behalf of their constituents in the military. **Act 253, SLH 1999:** Repealed Act 281, SLH 1997, and provided for the apportionment of the standard deduction and personal exemption.
17. Adopt withholding rules for all nonresident taxpayers involved in pass-through entities such as partnerships, S-corporations, and limited liability companies					X		Not adopted.
18. Eliminate military exception for non-recognition of gain from principal residence			X				**Act 113, SLH 1998:** Conformed Hawaii law to §121, Internal Revenue Code (IRC), to exclude the gain on the sale of a residence. This repealed the former deferral of gain provision that included the exception for military personnel.
19. Limit like-kind exchange tax deferrals to situations where the replacement property is in Hawaii		X	X				Not adopted.
20. Require an exchange facilitator or intermediary of a like-kind exchange to withhold and remit the tax on any shortfall of the amount exchanged at the same rate as sales of real property by nonresidents					X		Not adopted.
21. Limit involuntary conversion tax deferrals to situations where the replacement property is in Hawaii			X				Not adopted.

Recommendation	1983-85	1988-90	1995-97	2001-03	2005-07	2010-13	Implementation and Comments
	Commissions						
22. Eliminate National Guard and Reserve exclusion, political contribution deduction, individual housing account deduction, and child passenger safety restraint credit				X			**Act 197, SLH 2004:** Increased the adjustment to income deduction for those serving in the Hawaii National Guard or in the reserves. **Act 59, SLH 2009:** Repealed the deduction from taxable income for amounts given as political contributions effective January 1, 2011.
23. Conform to federal requirements for an automatic extension of time to file a tax returns			X				The 1995-1997 TRC recommended in its discussion "that the 90% requirement to receive an automatic extension be eliminated". Section 18-235-98, HAR, was amended effective October 6, 2007, to grant an automatic six-month extension. "Property estimated tax liability" (safe harbor) will be presumed if the tax still owing after the due date prescibed by the statute for the filing of a return (determined without regard to any extension) is 10% or less of the total tax shwon as due on the return.
24. Conform to federal filing deadlines			X				Not adopted.
25. Simplify the filing of income tax returns	X						Form N-13EZ was introduced for the 2003 tax year. A short short-form that was roughly equivalent to the federal Form 1040EZ, it was for use by certain Hawaii residents with no dependents and was available for tax years 2003 and 2004. Form N-13EZ was discontinued for the 1995 tax year due to the introduction of the Form N-11 for individuals who were Hawaii residents for the entire year and who filed a federal income tax return using the same filing status as the Hawaii return
26. Replace the medical services excise tax credit with one included under itemized medical deduction		X					Not adopted. This credit was repealed by Act 134, SLH 1995.
27. Increase the conformity of the State income tax with the federal income tax	X	X		X			Not adopted.
28. Narrow the gap between taxable income and actual economic income by including portions of pension income and part of social security benefits of high-income taxpayers	X						Not adopted.
29. Conform to federal treatment of capital gains		X					**Act 102, SLH 1988:** Added §235-55.6(f), HRS, implementing a maximum tax rate of 7.25% on net capital gain income.

Recommendation	1983-85	1988-90	1995-97	2001-03	2005-07	2010-13	Implementation and Comments
	Commissions						
30. Adopt a Hawaii Alternative Minimum Tax	X						Not adopted.
31. Do not allow special "check-offs" similar to the Hawaii Election Campaign Fund	X						Additional check-offs have been added. Unlike the Hawaii Election Campaign Fund check-off, however, the new check-offs reduce the individual taxpayer's overpayment of tax, thereby reducing the refund the taxpayer would have been entitled to. The new check-offs are: (1) $2 check-off for the Hawaii School-Level Minor Repairs and Maintenance Special Fund, Act 311, SLH 2001; (2) $2 check-off for the State Library Special Fund, Act 193, SLH 2003; and (3) $5 check-off for the Hawaii Children's Trust Fund, Domestic Violence Prevention Special Fund, and Spouse and Child Abuse Special Account, Act 228, SLH 2004.
32. Adjust corporate income tax brackets to increase progressivity	X						**Act 239, SLH 1987:** Expanded the number of corporate tax brackets from 2 brackets (5.85% and 6.435%) to 3 brackets (4.4%, 5.4%, and 6.4%), and added an alternative tax rate for capital gain income (3.08% prior to April 1, 1987, and 4% after March 31, 1987). **Act 10, SLH 1988:** Amended the corporate tax treatment of capital gain income.
33. Partially "de-couple" from the federal accelerated depreciation rules (ACRS) such that ACRS applies to personal property but not to real property	X						Not adopted.
34. Subject sales of real property by nonresident sellers to withholding							**Act 213, SLH 1990:** Requires purchasers of real property to withhold 9% of the amount realized from nonresident sellers. **Act 279, SLH 1991:** Reduced the amount to be withheld from 9% to the current 5% rate.
35. Increase the withholding rate on sales of real property by nonresident sellers and impose penalties on withholding agents for noncompliance					X		Not adopted.
36. Overhaul the business incentives tax credit process							
(a) Overhaul and update the capital goods excise tax credit			X				Not adopted.

Recommendation	*Commissions* 1983-85	1988-90	1995-97	2001-03	2005-07	2010-13	Implementation and Comments
(b) Conduct a cost-benefit study prior to enacting or revising a tax credit program				X			Not adopted.
(c) Require periodic evaluations of all tax incentive programs				X	X		**Act 206, SLH 2007:** §235-20.5; §235-110.9 (1) Required a qualified high technology business (QHTB) that accepts an investment for which the High Technology Business Investment Tax Credit (HTBITC) may be claimed to complete and file an information survey with the Department before June 30 of each calendar year; (2) Required any QHTB receiving an investment for which a credit may be claimed to waive confidentiality and to allow the Department to disclose that the QHTB is a beneficiary of the HTBITC; (3) Required the Department to prepare a report to the Legislature summarizing the data obtained from the survey by September 1 of each year; and (4) Required the Department to study the effectiveness and impact of the HTBITC and reported to the Legislature by December 1 of each year.
(d) Require beneficiaries of tax incentive programs to file truth and disclosure reports separately and apart from tax returns and make all aspects of the subsidies public				X	X		**Act 88, SLH 2006:** §235-17 Refundable motion picture production income tax credit - Created prequalification standards and oversight by the Department of Business, Economic Development, & Tourism and the Hawaii Film Office. Each taxpayer must apply through the Hawaii Film Office and have the credits certified. A taxpayer claiming this credit must attach the certification with the taxpayer's tax return.
(e) Embed tax incentives in strategic plans to leverage scarce State resources				X			Not adopted.
(f) Encourage public participation in and comment on tax incentive use to foster public accountability				X			Incorporated, to some extent, into administrative practices.
(g) Require sunset provisions to ensure that targeted benefits were realized before extending an incentive.				X	X		Sunset provisions have been incorporated into some tax incentives, such as the motion picture, research, and high technology business investment tax credits.
37. Gain control of the qualified high technology business investment tax credit tax incentive and curb potential abuses by changing it from a tax credit to a program of grants administered by a State agency <u>OR</u>:					X		

	Commissions						
Recommendation	**1983-85**	**1988-90**	**1995-97**	**2001-03**	**2005-07**	**2010-13**	***Implementation and Comments***
(a) Require that the reporting of data be mandatory and expand the types of required data to include sales, employment data on compensation, status, and whether the job was full-time, part-time, or seasonal					X		**Act 206, SLH 2007:** §235-20.5; §235-110.9 (1) Required a qualified high technology business (QHTB) that accepts an investment for which the High Technology Business Investment Tax Credit (HTBITC) may be claimed to complete and file an information survey with the Department before June 30 of each calendar year; (2) Required any QHTB receiving an investment for which a credit may be claimed to waive confidentiality and to allow the Department to disclose that the QHTB is a beneficiary of the HTBITC; (3) Required the Department to prepare a report to the Legislature summarizing the data obtained from the survey by September 1 of each year; and (4) Required the Department to study the effectiveness and impact of the HTBITC and reported to the Legislature by December 1 of each year.
(b) Collect the data by NAICS code and make the data periodically available to the public, but not less than annually					X		
(c) Require a tax confidentiality waiver so that pertinent data can be released to the public					X		
(d) Conduct an independent evaluation of the credit prior to enacting any extension of the credit					X		Not adopted.
38. Allow an extension for certification for the high technology credit					X		See **Act 206, SLH 2007** above.
39. Require beneficiaries of tax credits to file truth in disclosure reports in addition to income tax returns					X		
Miscellaneous Recommendations							
1. Ensure that the following special funds are self-supporting							
(a) Highways	X	X					Self-supporting.
(b) Airport	X						Self-supporting.
(c) Harbors	X						Self-supporting.
(d) Parking	X						Self-supporting.
(e) Unemployment Compensation	X						Self-supporting.
(f) Disability Compensation	X						Self-supporting.
(g) Airport	X						Self-supporting.

Recommendation	1983-85	1988-90	1995-97	2001-03	2005-07	2010-13	Implementation and Comments
	Commissions						
2. Establish a TAT without earmarking the resulting revenue	X						**Act 340, SLH 1986:** Enacted a TAT without earmarking. However, subsequent amendments earmarked revenues as follows: **Act 185, SLH 1990:** Earmarked 95% of the TAT collected for the counties. **Act 7, SpS 1993:** Earmarked a portion of the TAT collected for the Convention Center Capital and Operating Special Fund (currently the Convention Center Enterprise Special Fund). **Act 156, SLH 1998:** Earmarked a portion of the TAT collected for the Tourism Special Fund. **Act 210, SLH 2002:** Earmarked a portion of the TAT collected for the State Parks Special Fund, Hawaii Statewide Trail and Access Program (currently the Special Land and Development Fund established for the Hawaii statewide trail and access program), and TAT Trust Fund. **Act 60, SLH 2009:** For the period beginning July 1, 2009 to June 30, 2010, the tax increases by 1%, from 7.25% to 8.25%. For the period beginning July 1, 2010 to June 30, 2015, the tax increases another 1% to 9.25%. Act 61 was repealed on June 30, 2015, and the TAT rate was to be reenacted at 7.25% for the period beginning July 1, 2015, and thereafter. The 1% increases was deposited into the general fund, except for FY 2011, 12.5% of the 2% increase was deposited into tourism special fund. **Act 161, SLH 2013:** Made permanent TAT rate of 9.25%. Specified amounts to be distributed to the counties and other special funds from the TAT.
3. Transfer TAT taxing authority to the counties		X					Not adopted.
4. Reconcile the TAT base with the visitor lodging expenditure estimates using data published by the Department of Business, Economic Development and Tourism (DBEDT) and the Hawaii Visitors Bureau		X					Not adopted.
5. Conform to the federal estate tax repeal provisions except the repeal of the state death tax credit				X			Not adopted.
6. Continue the PSC tax and share receipts with the counties		X					**Act 64, SLH 2001:** Effectuated an agreement entered into by the State of Hawaii, the City & County of Honolulu, the County of Maui, the County of Kauai, the County of Hawaii, and a number of public service companies to share PSC tax revenues with counties that establish by ordinances an exemption from real property tax for public service companies.

Recommendation	Commissions 1983-85	1988-90	1995-97	2001-03	2005-07	2010-13	Implementation and Comments
7. Establish a mechanism to tax commercial airlines	X						Not adopted. Federal law preempts state taxes on gross receipts of airlines. See *Aloha Airlines, Inc. v. Director of Taxation* (464 U.S. 7).
8. Impose fuel and liquor taxes on an *ad valorem* basis rather than on a per unit basis	X						Not adopted.
9 Consolidate fuel tax at the state level		X					Not adopted.
10. Retain liquor and tobacco taxation at the state level		X					Has not been changed.
11. Liquor and tobacco tax collections should cover government costs resulting from the use of these products		X					Indeterminate. Settlement funds received pursuant to the 1998 Tobacco Master Settlement Agreement in part mitigate government tobacco-related costs.
12. Subject firms taxed under the insurance premiums tax to the GET for rentals and other business receipts.	X						**Act 286, SLH 1991:** Subjects to the GET and TAT the gross rental income received by taxpayers subject to the insurance premiums tax.
13. Subject insurance commissions to the 4% GET rate rather than the 0.15% rate, and concurrently review the insurance premiums tax rates			X				Not adopted.
14. Franchise tax:							
(a) Eliminate the in-lieu taxes on financial institutions and insurance companies and integrate the taxation of these types of taxpayers into the regular tax system after a careful evaluation of such a change	X						Not adopted.
(b) Eliminate the federal income tax deduction from the franchise tax		X					**Act 106, SLH 1992:** Eliminated the deduction for federal income taxes.
(c) Set the franchise tax rate equal to the corporate income tax rate		X					Not adopted.
(d) Conform the franchise tax law to the corporate income tax rules for the allocation and apportionment of income		X					Not adopted.

Recommendation	1983-85	1988-90	1995-97	2001-03	2005-07	2010-13	Implementation and Comments
	Commissions						
15. Allow taxpayers to make a deposit against future tax liability to stop continued accrual of interest					X		Not adopted.
16. Adopt §7430, IRC, to require the Tax Appeal Court to award court fees for actual costs where the position of the Department is found to be "not substantially justified," subject to court approval					X		Not adopted.
17. Establish an Appeals Office modeled after the Appeals Office of the Internal Revenue Service					X		**Act 166, SLH 2009:** Provided the Department with the authority to establish expedited appeals and dispute resolution program. The Director, or designee, shall serve as an independent appeals officer and shall be authorized to compromise, settle, or otherwise resolve any dispute on any basis, including hazards and costs of litigation, considering equally the position of the taxpayer and the department on an impartial basis. In February 2016, the Department launched the pilot phase of the Administrative Appeals and Dispute Resolution Program (AADR). AADR is a streamlined method to quickly and fairly resolve tax disputes involving audit assessments without litigation. The Admistrative Appeals Office is an independent body within DOTAX headed by the Admistrative Appeals Officer who reports directly to the Director of Taxation. For more information, see Tax Announcement No. 2016-03.
18. Repeal the part of §232-7, HRS, that states that hearings before the Board of Review are public hearings					X		**Act 166, SLH 2009:** Modified §232-7(b) be inserting "A taxpayer's identity and final documents submitted in support or opposition of an appeal shall be public information; provided that an individual taxpayer is authorized to redact all but the last four digits of the taxpayer's social security number from any accompanying tax return".
19. Establish a state lottery	X						Not adopted.
20. Use unrestricted State grants only when necessary to equalize the fiscal capacity of the counties		X					Not adopted.

Recommendation	1983-85	1988-90	1995-97	2001-03	2005-07	2010-13	Implementation and Comments
21. Counties should make better use of their existing revenue authority (property taxes, user fees and charges, and development fees and extractions)		X					Indeterminate.
22. In addition to its statistical studies of the individual and corporate income tax, the Department should conduct annual statistical analyses of GET data.	X						Statistics regarding the GET are released, but an analysis is not being conducted due to insufficient resources.
23. The Department should compile detailed information on the GET to better identify the source and nature of the gross receipts		X					The Department is in the process of Tax Modernization.
24. Give the Department resources to: (1) monitor business incentive tax credits; (2) conduct out-of-state audits; and (23) improve its collection and enforcement efforts.				X	X	X	In the past, budget cuts, reduction in force, and furlough have decreased the Department's ability to monitor business tax incentive tax credits. Out-of-state audits are being conducted, but are limited by staffing and funding constraints.
25. Support DOTAX's plan to modernize its computer system.						X	Additional funding providing by the Legislature for Tax System Modernization.
26. Provide adequate resources to the Tax Research and Planning Office for updating or improving economic forecasting and modeling capabilities for: (a) tax incentives (exemptions and credits); (b) auditing activities; (c) nonprofit organizations; (d) conformity with federal tax laws; (e) equity concerns; (f) bracket creep; (g) administrative costs; and (h) State corporate tax revenue trend analysis				X	X		Resources are still insufficient. One economist position was transferred from DBEDT in 1997, but one statistician position was abolished. Due to budget cuts and reduction in force, the Tax Research and Planning Office is left without any research statistician. In 2009, one (1) permanent research statistician position was eliminated to meet the mandatory reduction in force in FY 2010, and thereafter. In 2010, two (2) permanent and one (1) temporary research statistician positions were eliminated as vacancy reductions in FY 2011, and thereafter

Recommendation	Commissions 1983-85	1988-90	1995-97	2001-03	2005-07	2010-13	Implementation and Comments
27. Provide adequate resources to the Tax Research and Planning Office to analyze specific tax credits such as the following: (a) ethanol investment tax credit; (b) high technology business investment tax credit; and (c) energy conservation tax credit				X	X		Resources are still insufficient. One economist position was transferred from DBEDT in 1997, but one statistician position was abolished. In 2009, 1 permanent research statistician position was eliminated. In 2010, 2 permanent and 1 temporary research statistician positions were eliminated. Note that ethanol investment tax credit was amended by Act 140, SLH 2004, and renamed the ethanol facility tax credit, and that the energy conservation tax credit sunset on June 30, 2003, and was replaced with the renewable energy technologies income tax credit.
28. Consider the needs of the entire Department, not just revenue-producing positions, for adequate funding as a good investment for the State					X		Not adopted.

Updated as of July 18, 2016 (tls)