

TAX REVIEW COMMISSION

**MINUTES FOR THE THIRD MEETING OF THE
TAX REVIEW COMMISSION
HELD AT 830 PUNCHBOWL STREET
DEPARTMENT OF LABOR & INDUSTRIAL RELATIONS ROOM 310-313
IN THE CITY AND COUNTY OF HONOLULU
STATE OF HAWAII, ON MONDAY, AUGUST 15, 2016 AT 1:00 PM**

The Commissioners of the Tax Review Commission (TRC) met at the Department of Labor & Industrial Relations Conference Rooms in the City and County of Honolulu, State of Hawaii, on Monday, August 15, 2016.

Members Present: John Knox, Chair
Colleen Takamura, Vice-Chair
Raymond Blouin
William Pieper II
Nalani Kaina
Vaughn Cook

Member Absent: Dawn Lippert

Staff: Donald Rousslang, Ted Shiraishi, and Noe Kaawa

Others: Randall Nishiyama, Department of the Attorney General
Ben Park, Senate WAM
Peter Fritz

CALL TO ORDER:

Chair Knox called the meeting to order at 1:00 pm.

APPROVAL OF MINUTES FROM PREVIOUS MEETING:

Chair Knox said the first order of business on the agenda was the approval of the minutes from the July 18, 2016 meeting and asked if there was any motion to amend or approve the minutes.

Commissioner Kaina said she was concerned about what was the level of detail required by the Sunshine Law regarding the minutes' that read like a transcript.

Mr. Nishiyama said it is not required by the Sunshine Law that the minutes be taken in as detailed form as it was.

Commissioner Kaina asked if the TRC could receive the minutes in advance to make edits so minutes would be less verbose.

Mr. Shiraishi said Ms. Kaawa did the minutes based on the recording and should not make decisions of what's relevant or not to its content. Therefore, the minutes will be sent out sooner to the TRC members for review.

Chair Knox asked for a motion to approve the minutes of the last TRC meeting. Commissioner Takamura moved the motion to approve the minutes of July 18, 2018, and Commissioner Cook seconded the motion. The motion carried unanimously.

COMMUNICATION AND PUBLIC COMMENTS TO THE COMMISSION:

Chair Knox asked if the TRC had any written communications or any public comment. He asked the audience who wish to comment to confine to three minutes.

Mr. Fritz said he wanted to address a couple of points. First, on the website, there is no address to write the TRC. He asked, if you want to write a letter, who do you write to, the Director? He had written to the Director because he didn't think it was appropriate to fax, but the TRC may want to clear it up.

Second, there are a number of problems for people with disabilities. He referred to his report on the different problems with accessibility. Not having all tags or other problems, which mean the website doesn't comply with Section 508 from the Rehabilitation Act or 1194 of the Code of Regulations, Federal Regulations Part 34, he believed. What it means is that for somebody who has a disability can't use all the documents and so there were a number of other issues. Many of the issues were published before, such as that table, it is not tagged which means that somebody that has a visual disability cannot read or navigate through the document. These are standards that apply to the state under 1990 law, and so that's a particular issue. Those need to be corrected along with the fact that Figures 1, 2 and 3 were totally unreadable by somebody with certain disability.

There were certain things Mr. Fritz would like the TRC to explore. First, why does he pay GET on his hearing aids when under most sales tax states he wouldn't or somebody needs to pay GET on an electric wheelchair, and it's just something that the equity of which this machine doesn't make a whole lot of sense to him. There have been laws to exempt those types of things and so when we've talked about exempting medical services, we didn't. There are limited exemptions for prosthetic devices and a few other devices, but hearing aids should not be considered a prosthetic device.

He would also like to see the TRC at least examine, use leveraging the information collected by other state agencies in terms of assisting in collections. He understands that under the Tax Modernization System that the Department has setup the system that used to be external, the tax clearances so that the Department of Commerce and Consumer Affairs (DCCA) and the Department would have certain information about people who may be reporting income but not filing a tax return or at least had a Professional or Vocational license (PVL). The state has a lot of information and work together on a lot of things but they don't. He thinks leveraging this information and providing for more coordination between state agencies would help. Now,

DOTAX would say "oh no, we have confidentiality requirements" but that's true, but there are certain ways that's been done in other sections.

As he looks through this table for studies, this is a list of some of Hawaii tax laws. All of 14 but of all the reviews on topics that were done, he didn't see anything that talked about franchise tax or insurance premium tax. For conversation to touch upon all these different laws that were a part of it and in order to look at the comprehensive nature that this TRC is suppose to take, the whole purpose is total comprehensive. They can't take it all, no TRC has but he thinks it's worthwhile to consider it all.

Chair Knox thanked Mr. Fritz for bringing up administrative issues and would see what the TRC could do about it. He asked if anyone else in the audience wants to speak.

Chair Knox said, based on the advice of Mr. Nishiyama, he would like to mention for the record that a member of the public has communicated with several TRC members, including himself, and that some of his comments should be shared with the entire TRC. Mr. James Wong, a former developer who is in his 90's, possibly found it awkward to come before the TRC, but had sent Chair Knox an email that morning summarizing what he had said in person to the Chair in their meetings. Mr. Wong believes that tax laws put in place in territorial times reflected the influence of large land owners. He hoped that the TRC could incorporate three specific recommendations: (1) taxing real estate investment trusts, (2) increase the hotel room tax, and (3) increase the import tax to big outlet chains. He also recommended that the additional revenue be allocated 25% to the general fund, 25% to the counties and 50% be used for tax credits to Hawaii taxpayers.

Chair Knox asked Mr. Nishiyama to give the TRC guidance about under circumstances under which it would be appropriate for TRC members to report to the Commission when somebody initiates conversations about tax subjects.

Mr. Nishiyama said he thinks it's entirely appropriate for the members of the TRC to go out into the community and solicit comments. When the members of the TRC receive comments, they should use discretion to report back to the TRC. If it was just a friendly conversation, then that's fine, but if there were any points regarding things covered by the TRC, members should bring it back to the TRC for consideration.

Chair Knox said presumably members would have to tell people that such public communication is part of the TRC ground rules.

Mr. Nishiyama said yes.

Mr. Fritz said he had an observation. He said after the FBI opined on Mrs. Clinton, there was a case in the Federal DC Circuit that held an agency is responsible for all the emails sent through their private servers. So if someone did a document request, they can't say they're not in control of that particular document. So if anytime you received an email or other correspondence, not talking about conversations like what Mr. Nishiyama was talking about, but talking about written communication and it came to you personally, you should really send it to DOTAX in case there's an information request.

Mr. Nishiyama said yes and concurs. Given Mr. Fritz's suggestion that DOTAX set up an email address for the TRC in which the TRC could receive testimony directly. He thought that was a great suggestion and thinks DOTAX should do that.

Chair Knox said he would forward Mr. Wong's email.

MISSION OF THE TAX REVIEW COMMISSION-DISCUSSION AND ACTION:

Chair Knox said agenda item four is a prelude to the TRCs action to item five and with the TRCs indulgence would like to communicate that carefully.

He said the reason for this agenda item is to request discussion of what is likely going to be a certain distinction between our legislative mandate, which is very broad, and what the TRC may be on track to actually do, which is very much in line with recent TRCs and involved more specific targeted studies. There are two reasons he asked for this discussion: (1) to provide a context for the decisions in the next agenda item, and (2) to decide, maybe now or maybe later, whether the TRC would like to make any recommendations for change.

The State Constitution calls on the TRC to “submit to the legislature an evaluation of the State’s tax structure, recommend revenue and tax policy, and then dissolve.” The Minutes of the Constitutional Convention of September 6, 1978, include a statement from the Chair on Taxation and Finance, Peter Lewis, who said the proposed Tax Review Commission would “mandate a periodic review of Hawaii's tax laws *from an overall policy viewpoint*,” because “the Legislature has not had the time to address *tax policy*, as opposed to the day-to-day work in bringing conformance to federal tax laws.” And the implementing statute, HRS 232E-3, says the TRC’s duties are to “conduct a *systematic review* of the State’s tax structure, using such standards as equity and efficiency.” [The emphasis was added by Chair Knox.] So the original mission was a very comprehensive review or systemic review of all tax policy.

That was what the first Hawai‘i TRCs did. But in practice, the Legislature twice said it did not have time to sort through all TRC recommendations, twice asking the public in 1998 and 2000 to approve Constitutional amendments to have less frequent TRCs, which the public twice denied. Last meeting Chair Knox provided a summary of previous TRCs that showed a trend away from comprehensive overviews to selective studies, such as what this TRC is considering now.

For this meeting, he prepared a summary of various tax review bodies from other states since 2010. Some of these states have indeed done comprehensive reviews. The groups that did so tended to have memberships comprised heavily of economists, tax policy experts, and varying numbers of ex-officio or voting government stakeholders from the legislature and/or tax departments. Their work was informed less by in-depth quantitative economic studies, more by a shower of white papers from state analysts and academics.

The review of other states since 2010 indicates what he would consider another general model, what he would call a task force focused on particular tax issues, usually given that focus by the Legislature or Governor. He is not sure the memberships for these groups differed all that much, but my initial scans of their reports gave me the impression they had more in-depth quantitative analyses on these particular topics from academics and government staff.

He can't be sure without deeper study than he could do, but he thought the Hawai'i TRC as it now functions is somewhat unusual. We are a group of mostly laymen, with no ex-officio or voting participation from key legislators or from present or former tax and budget administrators. As evidenced by the types of requests from the Legislature and the Governor, and maybe because the group meets every 5 years instead of once in a generation, the expectation seems to be that the TRCs function is to decide on selective studies by consultants rather than attempting to meet the original mission, very broad mission based on the TRCs own abilities and the TRCs intensive study and presentations at every meeting.

He had thought a lot about this. It's open for discussion, but I think one reasonable compromise on the next agenda item is for us to adopt something like the task force model, to choose studies that hang together and focus on some theme, some significant part of the spectrum and inform the Legislature in a mid-term report at the end of this year that that's what the TRC was going to do. Beyond that, might we also make any recommendations, or do any small side studies, regarding the Constitutional and legislative mission of the TRC versus what happens now in practice.

Commissioner Blouin said if Chair Knox was suggesting from his last phrase that the TRC indulge in more policy and tax structure. Is that what Chair Knox was recommending?

Chair Knox apologized and asked Commissioner Blouin to repeat the question.

Commissioner Blouin asked if Chair Knox was suggesting spending more time with the original mission, which perhaps was more in line with looking at tax policies and tax structures?

Chair Knox said he thought it was probably realistic for the TRC to recommend studies that hang together on sort of what other states often called task force system, which is to say they pick or had picked for them a particular general topic such as equity and tax simplification, broad topics that were multifaceted. He thought that was probably a realistic approach and that was open for discussion. Another option was to commission a small consultant study recommending TRC reform, based on comparison of the TRC's legal mission to what has actually happened in practice or the TRC could study and report themselves without hiring a consultant. Chair Knox noted that agenda item five involved the question of whether the Commission might want to take on some topics themselves, without paying for studies. A final option was for the TRC simply to mention the issue in its mid-term report to the 2017 Legislature, so that the Legislature would understand the reasons for the TRC committing to studies that perhaps did not fully fulfill its constitutional or statutory mission.

Commissioner Blouin tried to rephrase his question. From what Chair Knox said, he believed that the original intent of the TRC was to look more into tax policies and tax structures, and that the TRC has evolved to a Commission that identifies specific studies and perhaps not much more. Commissioner Blouin asked the question for the sake of the discussion if Chair Knox was asking whether or not this TRC would be interested in bringing back the original intent of the TRC, which was to look into more tax policies and tax structures in addition to perhaps some focus studies and some items which obviously the TRC would support because of the last couple of meetings when the TRC identified interests in very specific topics.

Chair Knox said he personally isn't sure if that was realistic for the TRC but it is something the TRC could decide and discuss. He noted that the Hawaii tax commissions that did more comprehensive reviews were the very first ones. They had, he couldn't tell what their budget was but the outcome of that budget included contract executive directors, several contract staff, it included quite a long list not so much of these big studies like what's been done recently but rather a lot more academic consultant studies. For these original tax commissions, it was a very different model and very different membership, frankly. That's why he thought what was more realistic for this TRC was to go ahead with a consultant studies but try to partially meet the mission by taking a task force approach to focus on broad topics, even if not a totally comprehensive review.

Chair Knox said in the options that were sent out, there were things like equity or regressivity, which is a very large thing, perhaps combined with the additional revenue sources. There was the whole set of exemptions and credits that could hang together and make them hang together as a big broad topic.

Commissioner Blouin said from his point of view, if there were anything in addition to items from the straw poll to focus on would be tax structure. He was most interested in the GET and TAT, to learn its history, how it was structured, has it changed, and whether or not it provides adequate revenue today and would it into the future.

Commissioner Takamura said the studies that were done shed some light on tax policies or within the tax structure that may need to be changed. If one study or several small studies were done, the TRC would have met their mission because those studies should recommend to the legislature a need for change or changes within the tax structure and tax policies.

Commissioner Pieper acknowledged the last TRC in the development of the living model that could forecast estimate revenue and expenditures into the future that could be used to make legislative decisions. As far as new initiatives to spur growth or a variety of different things, he thought the TRC should be mindful of building upon that and incorporate that into the TRC's mission going forward. Also addressing what Commissioner Blouin said of taking a broader view of what's going on but getting deep into those initiatives from last meeting. He felt if the TRC could do that, his hunch is if the TRC has the resources to leverage the work that has already been done but able to continue to address some of the issues that came up.

Commissioner Cook said the broad nature of the TRC's mandate is something past TRCs struggled with. How broad, how much tax types could be studied given the limited time and resources. Reading some of the more recent studies, there have been attempts to review part of the tax system. The focus was on being mindful of resources, limitations and parts of the tax system that had an overall big impact like GET, TAT and income tax. He doesn't view those as inconsistent with the TRC mission and felt previous TRCs read their mandates into the practicalities and made decisions on what they could focus on. He said he would be comfortable using that approach keeping in mind the TRCs broad mandate is to look at the overall structure. So rather than getting into the narrow like taskforce type mentality, the TRC should keep a broad view of how the parts work together in the overall structure. The TRC has a good start with the issues of all the principles like neutrality and fairness. He was trying to think in that way as the TRC looks at issues and how they work together with the overall tax system. In the past, the

TRC had made recommendations that were pretty big as far as changing the structure like getting rid of corporate income tax to more on the GET and restructuring some of the big taxes.

Commissioner Kaina said she wanted to be a part of a TRC where the reports would be utilized by the legislature. She felt that was important and she hears the point about why the TRC was originally created and how that should be part of the TRC's mission. She thought it could be part of the TRC's mission even if the TRC was responding to the resolutions that came from the legislature.

The one report she asked to be done when the TRC was first commissioned was how many recommendations has the legislature actually adopted were from the TRCs. To her, it was about the effectiveness that came out of the TRC. If the TRC was too broad and doesn't provide enough specific information for them to make policy decisions, then the TRC has gone too far away from being effective. It would be critical for the TRC to respond to what they have been asked to do because the legislature knew what they wanted and don't have the time to do that research during the legislative session. She felt that the legislature was asking the TRC to assist with that aspect.

Commissioner Takamura said she agreed with Commissioner Kaina and felt that if the TRC doesn't make recommendations, the legislature would not go out to do studies to figure it out, that's the TRCs job.

Commissioner Blouin said the TRCs on the right track since its last meeting. The things that were discussed and identified as important items to each member, and it were apparent what the internal road map would be. Talk about efficiencies, the writings on the wall and the minutes were very clear. Here were the top items from the straw poll the TRC was interested in.

TOPICS FOR CONSULTANT STUDIES-DISCUSSION AND ACTION:

Chair Knox continued to the next agenda item, Topics for Consultant Studies-discussion and action. He said from the last meeting, the TRC gave him approval to discuss with DoTAX, the idea of a planning consultant. DoTAX assured Chair Knox he could put the planning consultant idea aside because they had sufficient time to assist with the planning of studies. However, DoTAX raised concerns about what the TRC's focus would be and encouraged determination of consultant studies soon. Mr. Shiraishi and Dr. Rousslang helped start writing the first draft of the handout of Potential Study Topics and together with the Chair we also tried to make it responsive to Commissioner Kaina's suggestion for the TRC to connect the studies to the legislative resolutions. He said he had further discussions with legislative leadership and that there was a feeling that SCR 58 was being covered by their request to DBEDT to study some of the tax credits and exemptions. Their greatest interest was in equity, and several legislators would be interested if the TRC studied additional revenue concerns because the pressure is on the legislature to come up with additional revenue sources.

Commissioner Blouin said he referred the TRC to the minutes from the last meeting with the straw poll results and using it to tackle item 5 by saying what portion of their funding should be used in each basket. The top of his list was additional revenue sources. However, that was not first on the poll list. He was hopeful that the funds the TRC has would be used to somehow

recommend additional revenue sources taking the higher scoring items and allocate funding towards consultant studies in those areas. As Commissioner Kaina mentioned, the TRC was looking to be a commission that the legislators can appreciate for its recommendations and needed to make a difference. He also wanted to address the issue of ADA compliance with DoTAX and potentially asking other TRCs if they had similar issues, and perhaps allocate a small portion of funds to promote a state effort to correct those concerns raised. That would make the TRC innovators and crusaders that made a difference.

Commissioner Kaina said one of the background questions the TRC needs to ask DoTAX was what were the cost and timeframe of studies were so the TRC can determine how much they could do.

Chair Knox asked Dr. Rousslang if he could address the TRC since he had experience with the consultant contracts from the last TRC. He said if the TRC tried to divide the budget to study them all, odds would be that the TRC would get limited responses or results would be very light. The TRC had choices to be made.

Commissioner Takamura said the individual study of the Overall System Equity, Dr. Rousslang did a study for the 2005-2007 TRC, could that study be done by DoTAX.

Dr. Rousslang said DoTAX did not have the resources to do that.

Commissioner Takamura asked about how much time and what the estimated cost would be to update or do that study again.

Dr. Rousslang said he did the Appendix D study for the 2005-2007 TRC. He said updating the study would take him just as much time as doing a new one, because he knew the method. He said he assumed the TRC would hire an academic familiar with Hawaii tax laws. He said it took him a few months to do his study, but he was not sure how much an academic would charge.

Commissioner Takamura said it was mentioned that DoTAX could do some of the work. How much could DoTAX contribute?

Dr. Rousslang said he did several studies for the 2005-2007 TRC and he did one study for the 2010-2013 TRC, but can't do any now.

Commissioner Takamura asked if there was anyone in DoTAX that could help with updating studies.

Dr. Rousslang said he didn't know if there was anyone in DoTAX that could provide the studies that he had done.

Chair Knox said he understood that DoTAX would have very limited ability to do studies to support the TRC.

Dr. Rousslang said that before the 2005-2007 TRC, no one in DoTAX had done any studies for the TRC.

Mr. Shiraishi said it would be difficult with two of six positions in the TRP Office filled with Dr. Rousslang as Acting TRP Officer.

Commissioner Takamura said with the amount of studies may have to be limited since none could be done by DoTAX and all would have to be farmed out. Therefore the TRCs choices would have to be well thought out since funds are limited for a lot of work.

Commissioner Cook said from the study dated November 20, 2006, was there a way to use some of the information, not to get the study duplicated, but more for understanding and directional purposes like how much of the tax was born by which groups of people. Could there be a way to look at that study and determine if that information is relatively applicable although it was done ten years ago and not much has changed or it's significantly changed. Could the data still be relative to the tax burden and who bears it, residents or non-residents?

Commissioner Blouin said he thinks Commissioner Cook was asking for an executive review by DoTAX and he was thinking along the same lines on what might be inexpensive and with emphasis the TRC identified was GET exemptions. From an administrative point of view in addition to a review of that specific study to identify what may still be logical and applicable to current day. Would there be a way to get staff to identify and compile a list of GET exemptions, when they were approved by the legislature and statistics on types of exemptions taken and how much revenue is not coming in as a result. That way the TRC could look at those kinds of things and apply their own collective thoughts in hope of recommending the continuation or removal of exemptions.

Dr. Rousslang said the members were talking about two different topics. First was the study of who bears the burden of Hawaii taxes. He said the tax breaks and tax brackets haven't changed much for the individual income tax, although he said inflation has reduced the value of the personal exemption and standard deduction. He said the estimates from new studies for the percentage exported for the GET or the individual income tax would probably be within the margins of error of the estimates in the old studies. But he said the burdens for the income classes, such as those with income of \$25,000 and below, weren't so good anymore. Things like data on how much was spent on housing or food for those income classes would all be outdated.

Dr. Rousslang said that DoTAX would begin to get data on GET exemptions in September, 2016. He said it would be best to get a full year of data, but there would be some information in the part-year data. He cautioned that sometimes the exemptions overlap, so if you remove one exemption, taxpayers may move to another one. For example, if we got rid of the scientific contracts exemption, there could be an increase in sales of tangible personal property to the federal government. He said the tax forms were designed to force the exemptions to add up, so taxpayers can't list all applicable exemptions that might apply to a particular part of their gross receipts – if the amount is shown under one exemption, it won't show up under another one

Commissioner Takamura asked if that was because the definitions of the exemptions were not clear or does it just fall into both categories.

Dr. Rousslang said it is because some items may fall in more than one category. He said eliminating an exemption could also cause a behavioral response by taxpayers. For example, if we took away the subcontractors deduction, the subcontractors would try to get classified as service providers to get the half percent wholesale rate of GET, or the general contractor could have the subcontractor bill the final customer directly to avoid duplication of tax. These are things you can't get just by looking at data on exemptions claimed.

Commissioner Cook said it sounds like the 2006 study on the progressive-regressive nature of Hawaii's taxes maybe reasonable for the TRC if they were looking at the percentage of taxes exported, to rely on or make a reasonable assumption that the numbers and relative percentages of exported taxes remain about the same.

Dr. Rousslang said for the GET, export shares might have changed from 2006, depending on what happened to things like the shares of tourism spending and purchases by the federal government relative to the size of the economy. He said for the share of property taxes exported would depend what happened to the share of ownership of residents and non-residents. But he said from the 1989 study to the 2006 study, the changes in export shares were within the margins of error of the estimates.

Chair Knox said although there were different agenda items laid out, the TRC would also discuss things they wanted to take on themselves perhaps with the benefits of presentations by DoTAX or other people. That would be agenda item five. Right now, the TRC was still discussing what they wanted to pay for. However, maybe the TRC could simultaneously think about both – what things were important to pay for and what things were important but could be done but could be accomplished by the TRC itself by looking at past studies and seeking more information.

Commissioner Blouin said on page 3, #1 relatively small study likely would allow several others, what did that mean.

Chair Knox said that meant is it alone would consume a small portion of the budget and could allow for several other studies to be done.

Commissioner Pieper asked how those packages were created.

Chair Knox said things that seemed to just hang together. He reiterated the feedback he got from legislators would kind of translate into package 1.

Commissioner Blouin said he wanted to fast forward to additional revenue sources, to get a creative study for someone to go out and research the top two or three additional tax sources that other states implemented, especially in New York, not to take anything away from the beverage industry but was now taxed in New York could be a good source of income for the state. He was interested to know what new tax initiatives other states had implemented and what were the ramifications from any industry that may have suffered as the result from a new tax or what the benefits were or both. It's obvious Hawaii was in deep financial crisis when it came to funding future expenditures and the TRC would be doing an injustice if they didn't look into additional revenue sources.

Commissioner Cook said that the TRC should be cautious in appearing to recommend taxes to be raised. He thought the TRCs role was looking at the tax structure, but saw a place for additional revenue sources. He wanted the TRC to be careful not to convey to the legislature to raise taxes.

Commissioner Blouin said he wanted to clarify that he didn't recommend raising taxes; he was recommending looking into a tax, an additional revenue source.

Commissioner Cook said he wanted to be cognizant to the legislature when making recommendations. It is not for the TRC to step into the legislature's purview of making decisions to actually increase the overall taxes or not. The TRC should be looking at structure. So when the TRC makes recommendations of new revenue sources, the TRC should make sure that its tempered, keeping it neutral and let the legislature make the political decisions on whether overall taxes were going up or down rather than the TRC telling them they have to cut spending or they have to raise taxes.

Commissioner Pieper said driving revenue means raising taxes whether it's a new source or not, and it's good to be mindful of that, but let us be clear if we need, revenue and there's creative ways to do it, it's equitable and it makes sense, the TRC shouldn't be shy about it.

Chair Knox asked Dr. Rousslang to connect the dots between the discussion and the experience with the PFM Group in terms of what they studied and what had been the legislature's response.

Commissioner Kaina said that the National Center for State Legislators issued a report that summarized the 2015 actions by states with regards to tax legislations. As the TRC looks towards other states and as an RFP gets issued, was to get a copy of that report to members for review and discuss at the next meeting to see if there were certain things the TRC may want to further study rather than hire someone to do that report or what the legislators may get for free or had access to.

She said another option the TRC hasn't discussed as part of the resource base was national organizations that may have already conducted studies the TRC could look at, not necessarily what the TRC should do, but may provide some guidance on making recommendations. She said she was only suggesting that if the TRC was looking to add a revenue study. Why not take a study that may already be out there rather than hire a consultant to do that.

Dr. Rousslang said the first thing the PFM Group did was project what was going to happen to the budget and what would happen to revenue under the current tax structure. He said they used two measures, cash accounting and accrual accounting. He said that under accrual accounting the budget went pretty bad by 2022 and got worse further out. The PFM Group was asked to devise ways to raise revenues, including cutting tax credits, eliminating exemptions and increasing various taxes. The TRC concluded that the budget gap and the implied budget gap were too big to fix just with tax increases. They suggested a taskforce to devise a compromise between raising taxes and cutting spending to close that gap. He clarified that the state can't run an operating deficit, so the deficit being considered was what would happen if the tax structure stayed the same and we maintained the current level of government services.

Commissioner Knox asked what the reactions were and actions taken by the legislature.

Dr. Rousslang said he was not sure if it was caused by the TRC, but the Legislature passed Act 268 in 2013, which said if the administration didn't start funding the healthcare benefits for retired workers, the money would be taken directly from the GET collections before they went into the general fund, beginning July, 2018. He said the amount of funding would depend on accounting studies, on actuarial studies. He said he thought at the time the estimate was \$400 to \$500 million a year, which would be a huge piece of the budget.

Chair Knox asked, weren't they fundamentally supposed to start funding it in increments with the percentage getting higher and higher each year.

Dr. Rousslang said if the counties don't start funding it, they won't get their TAT allocations. They're in the same boat as the state. He doesn't know how much the State or the counties have so far set aside to fund the healthcare benefits.

Commissioner Pieper asked if the last TRC didn't make recommendations of a soft drink tax or anything specific.

Dr. Rousslang said the last TRC listed the suggestions made by the PFM Group to raise revenue, but they didn't endorse anything specific.

Chair Knox said there was some criticism because even though the last TRC did not endorse the PFM recommendation for a tax increase, some people thought that including the PFM ideas implied the TRC was calling for a tax increase.

Commissioner Cook referred to the handout Implication of Replacing Hawaii's Income Tax with an Increase in GET thinks that the premise was how to make the recommendation to keep the effect revenue neutral. The TRC could look into other revenue sources but present it in a way that doesn't seem to recommend an increase in taxes.

Commissioner Blouin said how about on the statistics and the facts, and if there were any social implications take those into consideration.

Dr. Rousslang said the TRC mainly just pointed out that the budget crisis was coming.

Commissioner Blouin said much to his earlier point and he's not sure if the TRC needs more studies to identify how big the financial crisis was and felt it was more of a reason to step over the horizon of new sources of potential revenue that the TRC could identify in an impartial manner and what's out there statistically, what successes other states had been able to rustle with and perhaps make recommendations for the legislature to consider.

Chair Knox said there were two versions of additional revenue source studies that were articulated in the Potential Study Topics handout. One was to simply focus on additional revenue to address the healthcare benefits issue and the other was to look at revenue sources needed to meet other needs as well. He also said the revenue study should include some consideration of regressivity, because the equity studies might suggest ways to reduce regressivity but the revenue studies might include recommendations that would increase it again.

Commissioner Takamura said we're not trying to increase taxes on the Hawaii residents, but she questioned how we could increase taxes for the non-residents. She also said the biggest industry was tourism and what was the point at which the tourists pay so much tax that they won't come back to Hawaii, and are we at that point yet. If we increase TAT or create some other tourist tax, would they come back? For example, if we increase their tax by 2%, would they not come back? She thinks the TRC has to look at what taxes we have too and see if there is a way to tax the non-residents versus the residents then maybe revenues could increase and not burden the residents.

She said if the state imposed a soda tax that would affect everyone, so to make it revenue neutral for the residents, would residents get a credit to offset that tax.

Commissioner Blouin said his deep thought on the soda tax was to affiliate it to health which is the way New York approached this new tax and it made good health sense to diminish the consumption of something that was poor for your health and could cause obesity.

Chair Knox said he wanted to note the last sentence of option 3a, which was a study of additional revenue sources that should include a qualitative analysis of the effects on the economy or specific sectors. He thought it was necessary to consider the possibility that raising some types of taxes could harm the economy.

Commissioner Cook said following up on the discussion that Commissioner Takamura brought up that the TRC may want to look at existing revenue sources and broadening those bases. For example taxes on alcohol, TAT, cigarette and tobacco and so forth.

Chair Knox said most of the specifics were looked at by the PFM Group before. The TRC could make sure specific items like a soda tax are written into any scope of work contracted.

Commissioner Blouin said he felt the study should identify trends that other states were attempting to do or have administered.

Commissioner Kaina said only with respect to the potential study on additional revenue sources. The TRC could move ahead with other studies but should do more research on possible studies related to additional revenue sources and she's trying to keep costs down.

Mr. Shiraishi said Hawaii's jurisdiction is unique. We have a GET and it's a good tax with a broad base at a low rate, and we tax almost everything. In a sense it's circular and people tend to say we have a regressive tax structure. There is no easy answer. For example, we tax items other states don't, but other states tax at a higher tax rate. So if we carved out items to not to tax, we would need a higher tax rate to pay for government services plus the additional liabilities that was not very well planned for. He's not sure if Hawaii's jurisdiction is that similar anyway to other jurisdictions, but when the TRC mentioned revenue measures, ultimately what's being talked about is an increase of the GET.

Mr. Shiraishi said for the TRC's information, the Department of Health has put together a taskforce to attempt in implementing a soda tax or fee, and who was going to administer it or would it be like the HI-5 or recycling programs. DoTAX felt it shouldn't be a tax. As of now, he is not sure of the status.

Mr. Shiraishi said Hawaii taxes everything and it's a matter of additionally what items you would like to tax more and how does that affect the people or what industry, that would always be the question. Unlike other states that has a sales tax and only taxed tangible personal property.

Commissioner Blouin said statistically from the straw poll, the TRC voted highest on GET exemptions, income tax credits and exemptions and tax equity issues. Study topic number four on GET exemptions seemed like a logical one to move forward with a study.

Chair Knox said that would be possible but from the last meeting, what the TRC did was a straw poll only, which was just a preliminary vote of subject matters of interest that was not intended to be a binding vote.

Commissioner Blouin said that was the point of the exercise to see what could be a viable direction for the TRC to move as a group and the straw poll was an indicator of an area that we should.

Commissioner Kaina said for clarification of GET/exemptions that could be a potential to increase the GET rate. It was an area of interest to her because the State would not be able to fund its unfunded liabilities potentially without an increase of the GET and it's an issue that can't be ignored. She wanted to be clear that her vote was not just to study GET exemptions, but to study GET/exemptions.

Commissioner Cook said he also wanted to clarify based on the straw poll voting that he was more focused on the GET exemptions because he was looking at SCR request from the legislature and their concerns related to the proliferations of exemptions.

Chair Knox said there were some feelings at the legislature that the stud they had asked DBEDT to do may cover some of the things they were interested in.

Commissioner Kaina said she was focused on SCR 138, to increase the GET around public education and long term care financing which were big issues during this past legislative session.

Commissioner Takamura said if we did a study on GET and things that were not taxed---She believed there was an earlier study that showed the revenues from healthcare and what was earned, and what the impact would be. That could be a source of revenue to the state and maybe the legislature needs to see that again. She believed the study she was referring to just gave estimates.

Dr. Rousslang said the data on exemptions being claimed could begin coming in September, 2016. He said the estimates from the 2005-2007 study implied that Act 105 would provide \$200 million in revenue. He said when the Council on Revenues asked him how much of that could be counted on; he had answered about \$50 million. He said that according to the models, that turned out to be a reasonable estimate. He said he told the 2005-2007 TRC that the exemptions weren't all tax expenditures, because some of them were there to prevent the GET from applying to things that it shouldn't, like wages. He said he strongly advised them not to produce the study until they could first answer the question of which GET exemptions were tax expenditures.

Commissioner Takamura said that there was no real way to tell or no way of knowing what type of exemptions was currently being used.

Dr. Rousslang said that the dollar amounts were not known, but that there was a study published in State Tax Notes that explained which GET exemptions were anti-pyramiding relief, which exemptions were there because GET shouldn't be taxing the item, and which exemptions were tax expenditures.

Commissioner Takamura questioned that a study on GET exemptions was already done?

Dr. Rousslang said yes, a qualitative study was done that tried to identify the tax expenditures in the GET, but the quantitative measures were not reliable.

Chair Knox asked if the TRC felt comfortable in moving forward that day with making decisions from the topics list or making changes or adding to the list. He also asked if the TRC needed more information, if so, what?

Commissioner Blouin said he proposed to look at GET and exemptions, and perhaps the DoTAX staff would review the outline presented and maybe determine the potential benefit that could be accomplished with such a study. If the response were to be the TRC would gain insight that the legislators would appreciate and the TRC could make a decision that day. However, if DoTAX staff felt the TRC needed more time in identifying the make-up of how the studies would be administered, then the TRC should follow DoTAX's lead.

Commissioner Pieper said he agreed with seeking advice from DoTAX. He said for the equity piece, the TRC should do some type of study especially in relation to export the tax burden without negative impact.

Commissioner Takamura suggested doing the study of GET and that the TRC should review the past study on tax expenditure versus other GET exemptions.

Dr. Rousslang said there were still questions about some of those things. He said he had looked at what other states did when they tried to measure tax expenditures for sales taxes and found that none of them did it right. He said there was a federal exercise at the Treasury Department to measure tax expenditures for the income tax code, so he knew what a study like that was supposed to do. The problem other states had in measuring tax expenditures in their sales tax is that their taxes aren't broad enough, so the exemptions from the sales tax far exceeded the base of what was taxed. He said Hawaii had a big advantage, because the GET was so broad that they could do a sensible study on tax expenditures.

Chair Knox said if the TRC decided to allocate funds to study equity and revenue sources, the TRC could study GET issues itself without using funds for consultants. The TRC could possibly function as a study group over time on GET issues, and try to educate itself enough to make recommendations based on past studies and other materials it reviewed.

Commissioner Blouin said perhaps the TRC could allocate some funds to hire a staff member to assist DoTAX administration so that the staff could have the time and would be able to update the study.

Dr. Rousslang said the conclusion he got from his examination of the GET was that unless you were willing to tax hospitals, private schools and other nonprofits, there was not much room in the GET for getting more revenue by eliminating tax expenditures.

Mr. Shiraishi reiterated that DoTAX currently does not have data and Commissioner Kaina's point on having a report that gave some recommendations the legislature could adopt and based

on his experience, without those types of numbers, it would be impossible for the legislature to adopt. DoTAX has been tasked with providing revenue impact statements but have not been able to do or not without some kind of accuracy. It could be possible to do such a study, however it would be purely academic.

Commissioner Cook asked about the neutrality study described and potentially what would the scope consist of or include. From Commissioner Pieper's previous email to the TRC addressed what could be done not to be seen as over burdening different industries and how can to be revenue neutral to encourage more investments to Hawaii.

Dr. Rousslang said a study of neutrality is really a combination of the studies on income tax expenditures and on GET expenditures. He said those were the things that distort business decisions. He said that tax breaks for a particular industry might spur the industry, but they might hurt other industries that are not tax favored.

Commissioner Cook said maybe neutrality could work itself into the exemption study because the fewer exemptions you had the more neutral the tax would be.

Chair Knox said if the TRC looked at the packaged studies, the topics sort of hung together logically and if the TRC did a package study, it would likely use most of the budget.

Commissioner Blouin made a motion to move and accept package 1, 2, and 3. Commissioner Pieper seconded the motion.

Commissioner Kaina said she was concerned about how additional revenue sources would be written up. She felt it should include potential increase of the GET.

Commissioner Pieper asked would it include attracting new industries or promote growth of existing industries.

Dr. Rousslang said the study he did asked what the rate of GET would need to be if it was raised to replace the income tax. He said the study made qualitative statements about what that would do to the economy. He said that as far as things to encourage new industries, a study on neutrality should include things like the renewable energy tax credit and film credit in a negative way. That is, it should say what would happen if those credits were taken away, to see if they were good ideas.

Chair Knox said he understood the discussion to indicate there was an amended motion to accept package 1, 2, and 3, and to incorporate into the study the effects of potential increase of existing tax types to raise revenue, as well as completely new revenue sources.

The amended motion was moved by Commissioner Blouin and seconded by Commissioner Pieper. The motion carried unanimously.

Commissioner Cook said he was fine with looking at increasing existing and new revenue sources but wants it to be made clear in the report that the TRC is not recommending the legislature "increase." The TRC should give them the information they need to make the decisions.

Commissioner Kaina said she was concerned about making caveats to the information on what the TRC should be submitting. As far as what the TRC recommends to the legislature, the TRC cannot make that decision at this point without information because it could shape a policy decision for the TRC.

PROCEDURE FOR FINALIZING SCOPE FOR SELECTED STUDIES-DISCUSSION AND ACTION:

Chair Knox said the fastest procedure to finalize the scope of the selected studies would be to appoint the Chair to work with DoTAX to finalize and solicit the RFP. Another option was to select a subcommittee up to three members, may take a little longer but would ensure coverage

Commissioner Kaina volunteered to be on the subcommittee.

Commissioner Pieper volunteered to be on the subcommittee.

Chair Knox motioned to approve subcommittee volunteers Commissioner Kaina and Commissioner Pieper.

It was moved by Commissioner Blouin and second by Commission Takamura to approve subcommittee volunteers to assist with RFP of selected studies. The motion carried unanimously.

Commissioner Pieper asked if subcommittee develops the scope of the RFP and the TRC approves.

Chair Knox said he hoped to move as fast as they could.

Commissioner Pieper said maybe the TRC could review the RFP before execution prior to the start of the next meeting

Commissioner Takamura asked if it was possible to have the draft RFP emailed to the TRC

Mr. Nishiyama said no, it has to be done in an open meeting. The TRC could delegate the information to the investigating committee. If it's the investigating committee reporting, that would require two meetings, one to present the findings to the TRC and the second to vote.

Chair Knox apologized and said he misunderstood, and asked Mr. Nishiyama if it would be faster to have the Chair work with DoTax on the scope than to have a subcommittee.

Mr. Nishiyama said yes.

Commissioner Blouin moved to remove the previous motion and re-motioned to authorize Chair Knox and DoTAX to prepare a draft RFP to be presented at the next TRC meeting and was seconded by Commissioner Pieper. The motion carried unanimously.

POSSIBLE COMMISSION ACTIVITIES IN ADDITION TO STUDIES-DISCUSSION:

Chair Knox said the TRC had just begun to touch on possible commission activities in addition to studies. There was a desired indication to look into the GET exemptions. He would work with DoTAX staff to consider what might realistically be done. The TRC could further discuss the proposed option for a contract staff and could revisit as an action item next time.

Chair Knox asked Mr. Nishiyama if the TRC members email specific suggestions related to the topic for discussions the TRC would have.

Mr. Nishiyama said only if they were no vote items and only suggestions for the TRC to consider.

Chair Knox asked the TRC member to send in any brainstorming ideas and thoughts on the GET topic for the TRC's own study without any consultant expenditure.

Commissioner Cook said in getting out the RFP and how much it would cost, how soon could the TRC members know if any funds may be left and be available.

Chair Knox said it would be up to the TRC. One option could be to specify the dollar amount to the RFP and see what kind of response the TRC gets versus just putting out a scope and taking a little bit.

Commissioner Takamura said for the GET study the TRC should start with reading Dr. Rousslang's study to learn the background and then go forward in deciding what the TRC wanted to do about it. She knows there's nothing quantitative the TRC could do but thinks the study could help the TRC educate the legislators about what the GET actually did in a readable format so they could understand it a little better.

Chair Knox asked if that was something that could be posted online and inform the TRC it was available.

Dr. Rousslang said he could do that, or email it to the TRC. He also said the legislature had the study on tax expenditures in the GET. He said the legislation commanding DoTAX to do a study on the GET exemptions cited the categories of GET expenditures in the study.

Commissioner Kaina said if there were any studies or more recent studies that the TRC should be familiar with from the list provided about relevant potential studies. She felt that past relevant Hawaii studies as well as studies that were referred to in discussions should be reintroduced into the TRCs official records that they were looking into similar things. She thought the TRC should be familiar with the background information and be used as reference

OTHER NEW BUSINESS-DISCUSSION:

Chair Knox moved to item 8 of the agenda and gave anyone the opportunity to make announcements or requests.

Commissioner Blouin said for housekeeping purposes would like to address what was pointed out to the TRC about ADA compliance. He recommends DoTAX review the TRCs ADA

compliance and provides feedback at the next meeting. He also previously recommended contacting other TRCs if questions related to ADA compliance issues had come up and if they did something to resolve issues better or different than Hawaii to ensure we're on the right track of being ADA compliant.

Mr. Shiraishi said it would be difficult reaching out to other TRCs. However, addressing ADA compliance for the website with the DoTAX IT Department is doable. Mr. Fritz's comment was related to the DoTAX website including the TRC page and not directed towards the TRC at all.

Commissioner Kaina suggested at the next meeting she would like the TRC to start developing a timeline for potential hearings or public comments, review of reports, and items of that nature over the course of the next year. She also recommended that the TRC hold at least one public hearing for comments.

NEXT MEETING:

The next meeting was scheduled for Monday, September 19, 2016 at 1:00 PM.

ADJOURNMENT:

The meeting was adjourned at 3:15 pm