

TAX REVIEW COMMISSION

MINUTES FOR THE SEVENTEENTH MEETING OF THE
TAX REVIEW COMMISSION
HELD AT 830 PUNCHBOWL STREET
DEPARTMENT OF LABOR & INDUSTRIAL RELATIONS ROOM 310
IN THE CITY AND COUNTY OF HONOLULU
STATE OF HAWAII, ON Thursday, JANUARY 18, 2018 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 January 18, 2018.

Members Present: Colleen Takamura, Chair
Vaughn Cook, Vice-Chair
John Knox
Nalani Kaina
Dawn Lippert
Raymond Blouin
Billy Pieper

Staff: Seth Colby, Titin Sakata and Noe Kaawa

Others: Randall Nishiyama, Department of the Attorney General
Donald Rousslang, Department of Taxation
Chuck Marikiyo, Office of the Auditor
Janea Blouin

CALL TO ORDER:

Chair Takamura called the meeting to order at 1:02 pm.

APPROVAL OF MINUTES:

Chair Takamura said the first order of business was the approval of the minutes from the November 8, 2017. She asked if there was any motion to amend or approve the minutes.

Commissioner Blouin moved the motion to approve the minutes from November 8, 2017 and Commissioner Pieper seconded the motion. The motion carried unanimously.

DISCUSSION AND ACTION REGARDING APPROVAL OF ADDITIONAL BUDGET FOR THE REPORT WRITER FOR THE TAX REVIEW COMMISSION:

Chair Takamura said she knew Dr. Rousslang had gone over and has still written for the TRC. She said there was a request for a \$5,000 increase for the report writer which was originally at \$15,000 and would be at \$20,000. She said the TRC had money in the budget

Commissioner Blouin motioned to approve additional funds for the report writer and Commissioner Pieper seconded the motion. The motion carried unanimously.

DISCUSSION AND APPROPRIATE ACTION RELATING TO THE TAX REVIEW COMMISSION'S REPORT AND ITS EVALUATION OF THE STATE'S TAX STRUCTURE AND RECOMMENDATION ON TAX REVENUES AND POLICY:

Chair Takamura said the TRC had a packet which included the letter to the legislature, The TRC, table of contents and what's new was the executive summary that was emailed to the TRC on 1/15/2018. She said where the TRC left off from the last meeting were there were two recommendations that still needed to be worked on and that was for the pension and the carbon tax. She said that Commissioner Lippert had written up the recommendations for pension and carbon tax and said the TRC had to discuss that first. She asked if there were any comments on the pension recommendation.

Commissioner Knox said very minor and should the TRC have a study source since most of the other things explained why they had concerns and what the study was. He asked what the study was and was it the one PFM wrote?

Chair Takamura said part of it was from PFM.

Dr. Colby said PFM made the recommendation.

Commissioner Lippert said there weren't enough details specifically from PFM specifically path forward but they did make a recommendation related to that.

Commissioner Cook said that was a recommendation that has been a recurring recommendation based on past reports as well as good tax policy of equity.

Commissioner Knox said he was being a little compulsive and just saying here if we had an approach and format.

Mrs. Sakata said for the benefit of everyone at the meeting, the TRC should read out loud what the recommendation was because that was not discussed at the last meeting.

Commissioner Knox said the recommendation was Hawaii should tax retirement incomes more evenly and said Dr. Rousslang produced a page of text about that which he thought was basically a pretty good explanation of what the issues were, and he was simply saying he wished some of the other recommendations had some reference to why or what the study was that they were basing the recommendation. He said he was asking whether inserting a sentence to that affect, something simple.

Commissioner Blouin said to reference PFM.

Commissioner Lippert said she should also mention she had a couple more one on one comments in the last couple of days and it made sense to discuss it first since it was relatively minor. She said one of them was to take out number two, continue current level of taxation because it was no change and make it that other piece.

Commissioner Blouin asked what page was that on.

Commissioner Lipper said that was on page five, number two.

Commissioner Blouin said take out number two entirely?

Commissioner Lippert said just number two because there was like no change.

Commissioner Knox said there wouldn't be a number one just one paragraph.

Commissioner Lippert said the one thing that would be helpful for the TRC to discuss was the idea of a 10-year lead time and since the TRC had discussed lots of different things at the last meeting, and didn't really settle on what the recommendations should be so she drafted a few things from what she read and thought would be helpful for the TRC to discuss which made sense, and to hear from the tax folks.

Commissioner Knox said lead time made a lot of sense but 10 years. He didn't know, maybe less. He asked where the 10-year figure came from.

Commissioner Lippert said it didn't have a strong analytical basis unless someone knew of a strong analytical basis for that. She would love to reference it but in the research, she did couldn't find a really strong statement that that was a good number.

Commissioner Blouin said he thought there should be specific years. He said when he read that, it drew a lot of attention to him so he thought they should consider between 5 to 7 years max. He said he believed it should be 5 years because the TRC should put themselves into the shoes of those retiring right that minute and if he were to assume his retirement was coming soon, and thinks in the last 5 years of one's professional life, you're really buckling down and thought about retirement. He said for those already in that process in the next 5 years or so, he thought would be a disruption that would not financially be recovered from easily if they gave anything less than 5 years. He recommended 5 to 7 years max.

Commissioner Lippert said her other comment was the sentence "revenue raised from this could be available," which if they waited 10 years wasn't really true. She said she wanted it to at least say "eventually made available" or something like that otherwise, change that and making it 5 years would make that part of the recommendation more salient.

Commissioner Cook said the one thing he liked was the idea from a policy point of view of equity, treating retirement income the same. He said the revenue raising by exempting it, he wasn't sure the TRC had the economic analysis to know how much it was going to be because right now 100% of pension income from he thought from public employee's pension income was exempt but 401K income and other retirement income from defined contribution plans were not

exempt if it was over in excess of the contribution. He said if the TRC was recommending increasing the base exemption for everybody to a certain amount like \$50,000 that could but didn't know economically whether or not it was going to raise or cost money because you'll probably get some from those who got 100% exemption bringing it down to \$50,000, but for those previously taxed, they would go up to the \$50,000 exemption.

Commissioner Lippert said that recommendation was to actually remove the exemption up to a certain base of \$50,000 which was what the previous TRC had recommended, but in the discussion at the last meeting, something like that would mean a net revenue loss for the state.

Dr. Colby said his understanding from the previous TRC was to limit it to \$50,000 only on what you're already exempting. It wasn't providing a new exemption to 401Ks and non-defined benefit plans.

Commissioner Blouin said he agreed and that was his train of thought as well.

Commissioner Cook said if that was the case.

Dr. Colby said just to let the TRC know, there was a special exemption for people over the age of 65. He said there were already things here to ensure that senior citizens bare less of the burden and \$50,000 was a lot of retirement income.

Mrs. Sakata said just for clarification, it was not just public pension; it was all employers funded pension, public and private. It's everybody public and private.

Dr. Colby asked to make one more suggestion. He said one of the things that was unique to Hawaii was its tax policy on all income was taxed. It's either taxed going into a fund or going out of a fund. So, if you were switching the way you were paying in like right now public employees pay tax on what they put into their defined contribution benefit plan, but if they're going to be taxed on the way out, that was double taxation. You should have one or the other. He said it was complicated with the exemption amount and he didn't know how the TRC was going to handle it and raising the possibility that things were going to be taxed twice.

Dr. Rousslang said the assumption he thought would be was to just follow the federal which exempts part of the contribution.

Commissioner Cook asked how the federal treated that situation then.

Dr. Rousslang said part of it was treated as taxed already and they do a calculation of how long you were going to live.

Chair Takamura said usually there was a gross and taxable amount.

Commissioner Knox asked if there was a need for a little phrase that would indicate that that's understood and acknowledged.

Commissioner Blouin said absolutely.

Commissioner Knox asked where that would go.

Commissioner Blouin said in the section drawing attention.

Commissioner Cook said the paragraph that started with "revenue raised could be available."

Dr. Rousslang said use the statement clarifying we're following federal treatment.

Commissioner Knox asked who was tasked with that, was Commissioner Lippert going to do that.

Commissioner Knox said a point of just information and perhaps he was dense about it, it was mentioned the revenue could be available to personally offset the recommendation above but the recommendation above said it was suppose to be revenue neutral if we're referring to 5.1. He said he was confused by that belatedly.

Commissioner Lippert said if they could finish the one piece first, that one was saying "revenue raised from this change", the TRC recommends why conform to the federal tax treatment of retirement income.

Commissioner Knox asked did they want to explicitly say we're conforming to it in order that there won't be double taxation.

Commissioner Blouin said he didn't think it needed to be clarified that much because if it changes then we're already in compliance to what it changed to.

Commissioner Lippert said Hawaii should change to conform to the federal treatment of retirement income with a 5-year delay, phase in. She asked if that was the essence of explanation now.

Dr. Colby said it should go into effect immediately. Once you start paying in, you don't really see that benefit for 20 to 30 years. He said it shouldn't happen at the same time.

Commissioner Cook said those making contributions should be exempt, treated like federal.

Commissioner Kaina said which the original version did say in the last sentence.

She said she was also concerned and thought Dr. Rousslang should be making the edits so they could get their report done and didn't have a formal process. As she understood, there were only three members on the subcommittee and Commissioner Lippert wasn't appointed to that subcommittee to assist with the report writing. So, if they were going to get the report done, she really thought that Dr. Rousslang could take the notes to make those changes so that they could get a final version rather than having Commissioner Lippert submit to everybody. It was about the procedural process and she didn't want to be back there in March.

She said again, that phrase was in the original version and they just had to figure out which line they were going to use at that point.

Commissioner Blouin said up to that point Commissioner Lippert's contributions for the draft was very well received.

Commissioner Knox said was there a need to partially offset the recommendation in the above or was the recommendation above revenue neutral.

Dr. Rousslang said it just said revenue neutral and didn't say how you were going to do it. He thought it would be really hard to plan something that took effect 5 years after enactment. You had some money coming in 5 years from now and if that thing was going to be revenue neutral year on year, he supposed it could be revenue neutral with the entire budget window. He said it would be really hard and in 5 years that was the last year of the budget window, and at 7 years was outside the budget window so maybe he would make that part of the suggestion.

Commissioner Blouin said he knew there was a reason he said 5 to 7 years.

Dr. Rousslang asked if they wanted 5 to 7 years or just 5.

Commissioner Blouin said the point was well received and should consider 7.

Dr. Colby said he didn't understand and thought one of the points was the need for more revenue to pay for the pension.

Commissioner Blouin asked if his point was to have it immediately.

Dr. Colby said no, but what he was saying was it should not need to be revenue neutral and that was to raise tax revenue, right?

Dr. Rousslang said they were talking about modernization-standardization. They would rather make him put that piece in as part of the revenue neutral calculation to save him some work.

Dr. Colby said no, that should not be because one of the recommendations was that it would a revenue enhancing measure. He said 7 years was a long time and they needed to think about the value of money. So, the further it was put off the less value it was for the state.

Commissioner Knox said they also had to think about political acceptability of language. He wasn't sure the legislature was going to bite that at all for political reasons, but would probably be a bit more palatable to them if it gave people plenty of time.

Commissioner Cook said the \$50,000 was actually fairly generous. If they looked at a married couple, that would be \$100,000 of retirement income.

Dr. Rousslang asked if that was back in.

Commissioner Pieper said that part was out.

Commissioner Cook asked what the amount was.

Commissioner Pieper said that whole baseline was out.

Commissioner Cook said so it would be phased in over 5 years.

Commissioner Lippert said she thought it should be over 5 years. She said they were not the political institution and thought whatever the politicians did with it was whatever they did with it. She thought their recommendation should still be 5 years.

Mrs. Sakata said so 5 years from today the pension would be taxed but the money going in today was still taxed.

Dr. Colby said the tax treatment of funds going into the pension funds should be conformed to the federal.

Dr. Rousslang said social security and government pensions get taxed going in, that was part of the tax gross income. They don't take those out before they apply tax. So, the state and federal conform there, we were already in conformity there. He said we don't have special rules.

Commissioner Pieper said it was both, taxed going in and out.

Dr. Rousslang said coming out, the federal doesn't tax it. He said when you get your social security part of that, it was treated as exempt because it was already taxed and part of it was taxable income. For the state, the whole thing was exempt. Now what they were talking about was conforming to the federal instead of just tax the whole thing.

Commissioner Lippert said so we don't double tax that portion but tax the rest of it.

Commissioner Cook said so right now the state employees were being taxed only for federal and state purposes but previously was there a different treatment.

Dr. Colby said right now, he paid state taxes when he puts money into his pension and no federal taxes.

Commissioner Kaina said so it was already taxed, just trying to clarify that.

Dr. Colby said he was taxed by the state when putting money into his pension but not taxed by the federal government.

Dr. Rousslang said he wasn't sure about the state pension but he knew the federal pension, it was like social security. It was taken out before they calculated the tax.

Commissioner Cook said there was some confusion here. Part of the confusion was normally when you had a defined benefit pension; you were not contributing your own money into it or decide how much went in, it was just a formula based on years of service and the salary.

Dr. Colby said with the state, you're required to put money from your paycheck in to the defined pension.

Dr. Rousslang said it was the same with the federal. They took 7%.

Dr. Colby said that part was taxed.

Commissioner Cook said that would have been a good study to have done at the beginning of the TRC, how the state pension worked.

Dr. Colby said social security was deducted from the taxable income.

Chair Takamura said she thought that was why they only taxed 85% if you were over the threshold.

Commissioner Cook said he was okay with conforming to federal treatment which is what it was now.

Dr. Rousslang said giving 5 years after they enact it.

Commissioner Lippert said the confusion was still would something take effect now and something take effect in 5 years.

Chair Takamura said the question of the pension exemption would take effect in 5 years.

Commissioner Cook asked was it a step or phase in.

Dr. Rousslang said he thought you enact legislation now and 5 years from now it takes effect and starts taxing the pension income the same as the feds taxes it. He said not change there.

Commissioner Lippert said from now until 2023 for planning essentially.

Commissioner Blouin said they had to get that moving otherwise how could it be forecasted.

Chair Takamura asked how they wanted it worded because it was different from what was there.

Commissioner Blouin said slightly and thought Dr. Rousslang just kind of explained how that might be worded.

Chair Takamura said if Dr. Rousslang made the changes, would the TRC just agree to those changes now.

Commissioner Lippert said the TRC could email him individually with questions.

Chair Takamura said then the TRC couldn't approve the draft.

Commissioner Cook said he thought they had to approve the draft in substance what the recommendation was.

Commissioner Blouin said given the following change.

Chair Takamura said the recommendation was to tax the social security and pensions similar to the federal, and in 5 years the 100% exemption would drop to \$50,000 per person.

Commissioner Cook said he thought it was zero.

Chair Takamura said zero?

Dr. Rousslang said zero.

Chair Takamura said no exemption.

Commissioner Cook said yeah, it goes from 100% to a cliff of zero.

Commissioner Lippert said to treat it fair across the board essentially.

Dr. Rousslang asked if he could read his understanding. He read "retirement income was taxed unevenly by the State of Hawaii under current law, Hawaii exempts social security payments and income from employer provided pensions." He wasn't sure if that was the draft the TRC had because before they had defined benefit. He said employer provided was the more succinct way to say it.

He said "from the individual income tax, that taxes income from deferred compensation whereby taxpayers voluntarily set aside their earnings for retirement. The TRC recommends the legislature remove the exemptions for social security payments and from income from employer provided pensions, and conforms to the federal tax treatment of that income. To alleviate the tax burden on the tax change on current retirees, the TRC recommends that the tax be change be enacted with a lag taking effect 5 years after its enactment in order to give people time to plan for the change."

Commissioner Blouin said what he thought Chair Takamura was doing was the TRC wanted to get their draft approved with the following changes.

Chair Takamura said yes.

Commissioner Blouin said backing up just a little bit, there was another on page 5, section 2 that was discussed earlier which was going to be removed, correct? He said that's where the \$50,000 situation was.

Chair Takamura said that was going to be replaced with what Dr. Rousslang just read.

Commissioner Kaina said what Dr. Rousslang just read was the final and would replace all of that.

Commissioner Knox said we also talked about some brief sentence or phrase referring to the PFM report.

Dr. Rousslang said there was another paragraph not from PFM but referred to prior TRCs. He read "the TRC recommends this approach rather than exempting all retirement income up to a base amount in order to provide revenue," and that was a policy statement he made.

He read "the 2001-2003 TRC also recommended taxing all retirement income equally with a delayed phase in only after careful study. The 2005-2007 TRC also recommended Hawaii tax employer provided pensions but suggested excluding an annual amount e.g. \$50,000 to ameliorate the affect of the change on individuals who had planned their retirement assuming the current law exemptions continued."

Chair Takamura said the other recommendation that needed to be discussed was the study on the carbon tax, which Commissioner Lippert wrote up.

Commissioner Lippert said on page 8, should she read what some of the changes were or what would be most efficient.

Commissioner Blouin said maybe callout what's different.

Commissioner Lippert said a study on this actually dropped two days ago that talked about five key things states needed to look at or decide on around that. There had been some discussion around that, so essentially what that could look like was changing the recommendation here to "the TRC recommends a comprehensive study on a carbon tax" and include the following elements as well as recommendations for implementation. She said those five points were:

- 1) Scope of coverage, which sectors and which gases were taxed, and what amount of total Hawaii greenhouse gas emissions would be covered by a tax.

She said that was similar to those other ideas just maybe a little more succinct.

- 2) Point of taxation, study of why carbon tax should be assessed in the same manner as the current barrel tax or in a different way. The tax could be applied at the point of import or the point of fuel consumption or in between, the point of requirements and administrative burden should be considered when assessing the options.
- 3) Tax rate as well as method for setting the rate whether dynamic and market driven static with an escalator or another method was preferred.
- 4) Revenue allocation including impact of a dividend approach in which revenues were distributed back to state residents while the TRC recognized that a carbon tax could increase the cost of electricity and fuel for consumers in the near term. There were also structures that ensure significant portion of revenue was returned to residents as direct payments also called dividends.

She said that would ensure residents benefit financially while polluters pay.

- 5) The overall impact on Hawaii's environmental goals. A macro assessment on how the tax interacts with support change and/or compliment desired outcomes.

6) Recommendations for implementation.

She said essentially, there were a lot of discussion about this piece, the barrel tax, how to use revenue and which things to include, and she thought those five could more succinctly ask for that in a study as opposed to like the specifics looking at the barrel tax.

Commissioner Kaina said for clarification, Commissioner Lippert said there was a study that dropped yesterday; did the TRC have a copy of that study or was that study shared? She said we were relying on a study that should probably be part of our report.

Commissioner Lippert said she would share and reference it. It was dropped on Tuesday, January 16 U.S. Carbon Tax Design Options and Implications.

Commissioner Knox asked who did it.

Commissioner Lippert said it was done by the Center on Global Energy Policy at Columbia University School of International and Public Affairs in collaboration with external partners including the Rhodium Group. She said she'll send it around.

Chair Takamura said so we're going to take out the thing about indexing the barrel tax and just list what Commissioner Lippert had. She said it was kind of like a proclamation and thought it was a good thing to follow, and they could look at it so they had a reference for it.

Commissioner Knox said he had a very small suggestion. He said if they could take the language that was in the text and make sure it was in the summary so the legislature should commission a comprehensive study on before instituting a tax on greenhouse gas emissions.

Commissioner Lippert said the other piece in the first paragraph and some folks had mentioned like an acknowledgement of Hawaii as a leader in the states saying "currently, other states have regulated greenhouse gas emissions none has implemented a full carbon tax contemplated here. Hawaii could be a leader in that arena and help pave the way for future states" and go down from there.

She said another option that the legislative staff wanted left open was whether to fund the comprehensive study or direct a third-party study of the same. They wanted it left open for the possibility that there may be other studies on going they could direct.

Commissioner Knox said the legislature would direct a study and asked what that meant.

Chair Takamura said she guessed what Commissioner Lippert was saying was there were other studies being done.

Commissioner Lippert said like if Columbia was doing a specific study, they would ask them to do it for Hawaii or something like that as opposed to funding it. It was an option.

Commissioner Knox said he was going to recommend a place or two else that the TRC made sure that the phrase "do a study" or " should consider a study be strong enough that they were not

just dismissing it, and he did like the "my golly, do it!" So, if they could make that change while not sounding wishy washy.

Commissioner Blouin said it was highly recommended by the TRC to study that and asked if that's what Commissioner Knox was saying.

Commissioner Knox said something like that.

Commissioner Blouin said going back to what Commissioner Kaina questioned a while ago, did the TRC need a little more editing before that goes to final. The study that just surfaced yesterday was the reason why she formatted it.

Commissioner Lippert said it was actually in line with all the information received and basically said instead of being so specific, can they just say the things that should be studied and then the things the TRC had in there were just mirrored by that other study in what they looked at for the U.S. She said it was more of a confirmation by the TRC than a directive by that study.

Commissioner Blouin said that was the last piece of their puzzle and was it then appropriate for Commissioner Lippert and Dr. Rousslang to collaborate on the last piece.

Commissioner Knox asked did they need something right now.

Commissioner Cook said the TRC may need to have another meeting if they did that otherwise they would have to decide right now what they wanted in the draft.

Commissioner Lippert said those pieces that were in it if it could be approved with those changes and Dr. Rousslang could put them in there.

Commissioner Cook said in the package they got there was the draft, the smaller print draft which was the text they were discussing right now but behind that was draft 1/15/2018.

Dr. Rousslang said he believed the one labeled 1/15/2018 had only non-substantive no one would disagree editorial changes that were clear improvements and it only does that for the recommendation that were outside the ones Commissioner Lippert was going to redraft, so it doesn't have the pension and the carbon tax.

Commissioner Cook said 1/15/2018 was the document that would be modified and changed based on what they were discussing there. The thing they were talking about now regarding the carbon tax would go into section 5.3 just to clarify, its recommended topics for further study.

Chair Takamura said it was going to be 5.3.1.

Commissioner Cook said he appreciated Commissioner Lippert's input into that and it was fortuitous to have someone with expertise in energy when one of their recommendations with a big dollar sign next to it in their PFM study was the carbon tax. The reason he recommended to study it was because it seemed they really didn't have time to study it. He wondered how much detail they wanted to get into for the recommendation to study. Did they want to give them guidance or what kinds of options for a study would they look at. From the TRC's point of view,

they should be looking at different tax options and thought Commissioner Lippert outlined them pretty well and there was changing the barrel tax.

Commissioner Kaina said she thought that Commissioner Lippert said she wanted to pull that and don't give as many specifics.

Commissioner Lippert said to give them those five recommended areas plus one.

Chair Takamura said at least we're not giving them too much information but areas they should consider and that was going to come from that report.

Commissioner Lippert said it was related to that from the input of folks just generalizing the things already in there that include:

- 1) Scope of coverage, which sectors and which gases were taxed, and what amount of total Hawaii greenhouse gas emissions would be covered by a tax.
- 2) Point of taxation, study of why carbon tax should be assessed in the same manner as the current barrel tax or in a different way. The tax could be applied at the point of import or the point of fuel consumption or in between, the point of requirements and administrative burden should be considered when assessing the options.
- 3) Tax rate as well as method for setting the rate whether dynamic and market driven static with an escalator or another method was preferred.
- 4) Revenue allocation including impact of a dividend approach in which revenues were distributed back to state residents while the TRC recognized that a carbon tax could increase the cost of electricity and fuel for consumers in the near term. There were also structures that ensure significant portion of revenue was returned to residents as direct payments also called dividends.
- 5) The overall impact on Hawaii's environmental goals. A macro assessment on how the tax interacts with support change and/or compliment desired outcomes.
- 6) Recommendations for implementation.

She said the five were also related to the fact that the state passed as law to meet the Paris Agreement and then we also had a Climate Change Commission, so it was basically saying like to look at how the interacts with other laws on the books and other environmental goals and laws.

Chair Takamura said they would be listed after the first paragraph, the TRC recommends a comprehensive study of a carbon tax include the following elements scope of coverage and wouldn't go into details of it right? We were going to just list those topics.

Commissioner Blouin said we could go into a couple.

Commissioner Lippert said the stuff that was covered were ones like basic sectors and which gases were taxed and what amount of total greenhouse gas emissions would be covered by it. She said she didn't know if people would know what scope of coverage meant.

Commissioner Blouin said for example, we would want to give a glimpse of what the point covers but not everything.

Chair Takamura said then there would be a reference to the study to be included in their report.

Commissioner Blouin asked Commissioner Lippert if there were any laws that they needed to comply with then perhaps that would be the number one bullet and this would be the reason, and that should be a slam dunk decision.

Commissioner Lippert said so start with the overall impact on Hawaii's environmental goals.

Commissioner Blouin said number two, if it benefits the consumer, the public and thought point number four had what part of the tax revenue that would be refunded to individuals and that's big. Then the rest could follow suit. He said the other thing that interested him about what Commissioner Lippert said had to do with the State of Hawaii being an innovative position, being a leader, and that was in the opening statement or in the conclusion, but could those be put into the opening statement before the points were made.

Commissioner Lippert said she had it in the opening statement as "currently other states and regions had greenhouse gas emissions yet none had implemented a full carbon tax contemplated here in Hawaii. Hawaii could be a leader in that arena and help pave the way for other states.

Commissioner Cook said he would be hesitant because remember their focus was on the system not policy goals outside of tax. The only reason we were talking about a carbon tax was the PFM study recommended it, mentioned it in a list of possible ways to address the unfunded liability. He said it was going a little far field and might be something the legislature could study but didn't know if a recommendation from the TRC to look at policy.

Commissioner Blouin said he didn't think it should be a recommendation but they've stumbled upon an opportunity to have the state take a leadership role in that arena, and was worth mentioning.

Commissioner Lippert said she'll leave it as it was.

Commissioner Knox said it could be mentioned without being a recommendation.

Commissioner Cook said without the TRC telling the legislature that was a policy they thought and they're going to say what was the TRC telling us about energy policy.

Commissioner Blouin said during the course of our meetings, they've uncovered a potential opportunity to continue our leadership role in environmental efficiencies.

Commissioner Cook said he was sensitive to that because of their kuleana.

Commissioner Knox asked if they were there on that section.

Dr. Rousslang asked Commissioner Lippert she had in there a dividend to non-polluters, tax polluters to pay a dividend, could that maybe include reducing the income taxes using the money from that because once you start collecting the money for that you imposed the dead weight loss of collection and everything else on the taxpayer. So, to give it back and take that in income tax, for example, money to fund the healthcare and pension benefits, and was usually more efficient if you just kept it for use some other time. He said maybe in addition to.

Commissioner Blouin said one the advantages of giving back was you increase participation.

Dr. Rousslang said they may not believe you're going to give it back.

Commissioner Lippert said that was exactly what was going on in Washington State. Do they keep it for the general fund or do they refund it? It's a huge political fight.

Dr. Rousslang said maybe they should study that.

Commissioner Lippert said it was in there as the revenue allocation portion of the study, but that's exactly what Washington State, Massachusetts and other states looking at that, fighting over general fund, specific projects like California' specific project to reduce emissions and giving back to consumers. Those were the three poles that people were pulling between.

Dr. Rousslang asked which ones winning.

Commissioner Lippert said depended on the states politically. It was actually interesting depends on the state politically. The states with larger constituents with conservative legislators, the consumer was winning. States with larger democratic constituents, the general fund was winning. In California, the actual projects like the electric bus and disadvantaged neighborhoods were winning, so it just depends.

She said there was a lot going on at this phase since its super dynamic so it's an evolving thing and it would give us room to look at all those different things that were going on.

Chair Takamura asked if the TRC was good with the recommendation, basically what Commissioner had said.

Dr. Rousslang asked about the other recommendations from draft 1/15/2018, was that agreeable to everyone. He said he made some changes to the one discussed at the last meeting. For example, they had discussed the tax modernization using 2016 but the federal reform had passed and was effective 2018. So, it was easier and neater to use 2017. He said he sent out the change with an explanation.

Commissioner Knox said he had a few small suggestions although they were going to have discussions about other possible studies. He said again, just to make sure we sound like they were making strong, not statements and recommendations instead of just tossing something. He looked at the header for 5.2 Other Recommendations and asked it would be possible to do something like recommendations related to revenue adequacy to be a little more substantive and

for the same reason change 5.3 Recommended In-depth Studies to make it clear they were not kicking the can down the road, then the second sentence of the next paragraph, in particular they recommended in-depth studies be commissioned on the following topics.

Commissioner Lippert asked was it following measures as opposed to the following topics.

Dr. Rousslang asked for that to be repeated

Commissioner Knox said they recommended in-depth studies be commissioned on the following measures.

Commissioner Cook said they were going to change recommended topics to recommended in-depth studies.

Commissioner Knox said on the very end of 5.3.3 the last sentence and read "the department should study whether it would be cost effective to devote more resources to educating the public about their tax responsibilities." He said all the discussion had been reasons why they should do it but should the not at least have one sentence in there saying on the other hand maybe it wouldn't be a problem because of something, why worry about it being cost effective because they don't have anything in the discussion.

Dr. Rousslang said that would just be why you would want to do it and then if you're going to do it, there was nothing quantitative in any of those things. You had these things happen, how often has it happened and was it effective to hire a new person for something that happened once in every _____.

Commissioner Knox said that's what he was wondering just to say that explicitly in a sentence. He also said he did wonder whether they might suggest any studies on one he anticipated the legislature asking them if they appear before them and didn't know if they would at that point because they were late, but if we did, he was sure Chair Takamura would be asked about the tax modernization system.

Chair Takamura said actually she didn't think so and that wasn't part of their scope. She wasn't sure if she asked Mr. Nishiyama because of all the problems that was in the paper and was it the TRC's responsibility to address it at the meeting and was told no, it was out of their scope.

Commissioner Knox said that he all he was concerned about.

Dr. Rousslang said the one thing they might ask Chair Takamura about was the federal changes.

Commissioner Cook said yes because 5.1 talked about 2017.

Dr. Rousslang said originally you talked about 2016 because we weren't sure of the new federal changes but it takes effect after 2017, so that's why it was easier to start at the latest year.

Commissioner Cook said what he wanted to ask was doesn't DoTAX usually come up with conformity? He asked what's going to happen, was there an idea yet, was a conformity bill drafted yet, and was Hawaii going to conform to the federal and do away with the exemptions?

Dr. Rousslang said he wasn't sure and it was up to the legislature. He said he was not in the Rules Office so he was speaking out of school there and sometimes the bill was just a placeholder that said conformity.

Dr. Colby said it was something being taken up with the administration that was finalizing their perspective and they go to the legislature. He said it was just a question of was it going to be a non-conformity revenue neutral bill or a pure conformity revenue enhanced bill.

Commissioner Blouin said if anything, he thought the legislators were going to be most interested in what the TRC had come up with over the last year as compared to what their opinions were as to what's going on with all of the tax movements for the last three to five months because they hadn't allowed any of those things affect much of their decisions since they didn't know what would be approved and what wasn't approved. If anything, that's their decision.

Commissioner Cook said we did discuss it a bit like the corporate income tax and whether it would make sense.

Commissioner Blouin said he thought they anticipated to the best of their ability that section because both were comparable with both their position and thoughts, and what was coming down the pike.

Chair Takamura said regarding the recommendations, she had one more she wanted to put in and was something in the report itself but they had not addressed the GET at all. She said what she would like to do was put in what was pretty much in the report, saying that they didn't it and didn't have the information on the exemptions from DoTAX, and that there was a study being done by the Auditor's Office and when they get that information the state should look at the exemptions at that time.

Dr. Rousslang said the auditor was charged with a cost benefit analysis for each one of those already.

Dr. Colby said the tax exemption report was on the website and was publicly available.

Commissioner Kaina asked if that paragraph was added to page 2 of the introduction under the mandate. She said she was trying to figure out what's new and what's old.

Chair Takamura said it was there and what she would like to put in was a recommendation for an additional study to be done. They wrote it in the report but didn't in the recommendations for an additional study. So, she wanted that to go in as an additional study to be done.

Dr. Rousslang said the auditor was going to be doing the cost benefit analysis on each one of those exemptions already.

Chair Takamura said she wrote something up and basically said what was in the paragraph but wanted to highlight it in the recommendations because they didn't address the GET and they didn't do it because they didn't have the information to do it and she wanted to do it as another study recommendation.

Commission Blouin asked Dr. Rousslang was the cost benefit analysis done every year.

Dr. Rousslang said no, there were so many exemptions, also tax credits and exemptions in the income tax, so they got it broken down and every so many years they take a different piece.

Mr. Marikiyo said exemptions were on a 10-year cycle and credits were on a 5-year cycle but the first report was due before the 2020 legislative session. It was a new law that was passed a couple of sessions ago.

Commissioner Blouin asked Chair Takamura how would the recommendation for a study fit into the calendar that was already out there and what benefit would that have.

Chair Takamura said by the time they had enough information for the exemptions from DoTAX modernization program it would be by the time for the new TRC to convene and she would like them to look at what they had and look at those exemptions because now they had information.

Commissioner Blouin said tie to the need for the next TRC.

Dr. Colby said DoTAX provided them with a list of exemptions in September, 2017 which gave them more then he had time to prepare.

Commissioner Cook said it was referred to on page 3.

Chair Takamura said they should say something about it.

Commissioner Kaina said she felt like what they had on that addressed the issue, they discussed it and those two paragraphs on page 2 and 3 said why it was happening and the State Auditor's Office was doing it.

She said they also had kind of clear conversations that they were trying to get things done by a certain time and she was hesitant to add more things without a full conversation, and we kind of told Dr. Rousslang at the last meeting we weren't going to revisit some of those items. So, she was hesitant they changed protocol in terms of that and thought it was there, its not a missing because there were other things there she would prefer in the recommendations and some Commissioner Cook compromised on the he wanted in the recommendations by ended up putting it in the report itself. So, everyone within the process compromised around what made sense and felt it was a really good process and was hesitant when people start to say they want this or that.

Commissioner Blouin said the biggest recommendation which talked about the expenditures was tied to the GET.

Commissioner Knox said the Simpson-Bowles thing.

Commissioner Blouin said yes, with that respect doesn't that kind of cover what Chair Takamura's was thinking of.

Chair Takamura said that was fine, it's in the report.

Commissioner Cook said he thought what Chair Takamura was talking about was making explicit-implicit on pages 2 and 3. He said implicitly we're saying why we didn't have the GET study and what she was saying was they didn't do it but do we believe it should be a study considered later.

Dr. Rousslang said even now, DoTAX had the GET exemptions on the website, there was a report about the electronic filing and paper filing though it's not complete.

Dr. Colby said everything was available for the first 6 months of 2017, all of the exemptions were listed and they also created another report for GET tax expenditures and those only include electronic filings which included about three-fourths of all GET expenditures reported.

Chair Takamura asked Dr. Colby what he meant by GET expenditures.

Dr. Colby said there was GET expenditures and GET deductions which slightly differ. GET deductions was just the amount of money you say you don't have to pay because of the deduction. The GET expenditure eludes to the revenue loss that occurred because of the deduction. So, in some cases if you had a deduction before claiming at the 4% rate but if the deduction didn't exist they would just claim something at the wholesaled rate of .5%. So, you wouldn't necessarily anticipate that people would receive the full amount of the deduction and that's what that report did. In the conclusion of the report was all the methodology, what a tax expenditure was, how it differed from a deduction and was all available online.

Dr. Rousslang said basically conceptually the idea was the GET was very close to a uniform tax on consumption. For example, it had some exemptions in it that were not taxable expenditures because they were not exemptions, the exception from the uniform tax. As an example of one that doesn't strike people was exports. The exemption for export was not a tax exemption because it wasn't an exemption from the uniform tax on consumption of residents. It's not consumed here.

He said there were other exemptions in our code because the GET was worded so broadly it would be in everything including your wages so they had to have explicit exemptions in there for things that had no business being included in the consumption tax. He said the first distinction between an exemption and what's a special tax break was that's the first thing a tax expenditure was supposed to help tell you.

Chair Takamura asked if there anything else on the recommendations.

Commissioner Knox said he didn't know whether it needed to go into the report to the legislature or not because he didn't know the specific language, but they did talk last time of how the sense of lessons learned about the TRC process they would like to pass on somehow to appointed authorities and future TRCs, and perhaps DoTAX staff. He asked if there was a way to do that outside the report with some sort of memo. He said he was willing to try a draft something before next time if it were allowed with forcing them into a March meeting or a second meeting after that.

Mrs. Sakata said he could as an individual write a memo to the Director of DoTAX or to be filed because he wanted it to be passed on to the next TRC.

Commissioner Lippert said as an individual he could write a memo.

Commissioner Cook said it could just be a communication that could go into the record.

Commissioner Knox asked to whom would it be addressed.

Mrs. Sakata said it could be to DoTAX or it could be filed since you wanted it passed on to the next TRC.

Commissioner Knox said not only to the next TRC but the governor and legislature to give them more time which was part of it.

Chair Takamura asked if that would be a letter from the TRC to the governor.

Mr. Nishiyama said if they did it as a letter from the TRC to the governor, it would require a vote.

Chair Takamura asked if they could do an individual memo to the governor.

Mr. Nishiyama said yes.

Commissioner Knox said it would have to be a private thing but if people happen to agree it could it be signed by other people.

Mr. Nishiyama said yes.

Commissioner Knox said but it wouldn't be on the agenda.

Commissioner Cook said it could be communication. Commissioner Knox could draft a communication and then as they discussed it and decided to voted on it to adopt it as a TRC recommendation.

Mrs. Sakata said you could talk about it now.

Commissioner Knox said one key issue was to talk about adequate time for initial presentations and discussions prior to commissioning major study which was the big thing on his mind.

Chair Takamura said he needed to specify what meant by presentations.

Commissioner Knox said the DoTAX presentations rounding in the tax system and major issues that had come up with time for the TRC to decide up on a course of action. He said they basically didn't have time to decide or was told they didn't have time to have substantial input or any sort of hearings because we had to commission their study very, very fast, and that just felt like they were going real fast in figuring out what the issues were. He asked if that felt right to people?

Commissioner Blouin said what he was trying to do was bridged the gap between the previous TRC and their TRC, so what could they do going forward to set up the next TRC for a higher level of success. So, rather than think so much about the past, lets suggest that before the next TRC was assigned, a summary was prepared and maybe a representative from this TRC could meet the individuals who were responsible to appoint the TRC could bridge the gap.

Commissioner Knox said to talk with the governor.

Commissioner Blouin said yeah and step two would be to add more time.

Commissioner Kaina said she was uncomfortable with that and should just write something individually because she thought other TRCs has successfully turned out reports in the same amount of time. So, she can's say it was indicative of their TRC or another TRC, and thought that whatever concerns that were out there should be expressed individually because she didn't necessarily agree with everything in terms of how they progressed as a TRC.

She said there were things that could have been better and didn't think it was something that was necessarily anyone's fault, but was concerned about writing as a group and that individual commissioners could write to the governor, could write to the Director of Taxation, and express whatever their concerns were about the TRC but she did think other TRCs had the same amount of time, actually less time than them and successfully put out a report. She said to her, if it was necessarily a time issue but there were other things that were there the she didn't even want to surmise at so it was better to write individually.

Commissioner Knox said we successfully put out a report, that wasn't the issue.

Commissioner Kaina said no, we're late! She said she disagreed with the idea of trying to do a group thing and the individual commissioners could write those letters.

Commissioner Knox said frankly he wasn't going to do it.

Chair Takamura asked the TRC to finish the report. She said the cover letter was standard.

Dr. Rousslang asked the TRC members how they wanted their association/affiliation to be listed under their names.

Chair Takamura said the acknowledgement changed.

Commissioner Cook said yes.

Chair Takamura said it didn't have individual people.

Chair Takamura confirmed Dr. Rousslang was going to add from Commissioner Lippert the carbon tax study.

Dr. Rousslang said those were studies the TRC commissioned not references.

Commissioner Cook said it could be a footnote the study then it won't need to be an appendix.

Dr. Rousslang said yes.

Commissioner Lippert asked what the TRC thought of if they said "the TRC wishes to acknowledge staff of DoTAX for administrative and content or substantive support" or something like that. She said Dr. Colby gave them presentations and it felt like more than administrative.

Commissioner Cook said the only thing they had to be careful of was they didn't want the legislature to think they were an appendage of DoTAX and we need to show independence. He said that may be why in the past, they used the term administrative.

Mrs. Sakata said she wanted to give some clarification. Dr. Colby was right and Dr. Rousslang was wrong on the taxation of pension. She said it was the employee contribution into the pension that was currently taxed at the state level and not at the federal level, and on the way out it wasn't taxed but the TRC was suggesting **it should be taxed**.

Dr. Rousslang asked Mrs. Sakata to state that again.

Mrs. Sakata said when you, me and all state employees made their contribution, it ranged from 6-10% depending on when they were hired or if qualified, it could be **14- %**, so it was that portion of the contribution that was not taxed at the federal level but taxed at the state level. She said that was why the state doesn't tax it on the way out but the federal did.

Dr. Colby said what could be done was you don't tax anything for a 5-year period going in or out and then 5 years later tax it coming out.

Dr. Rousslang said everything would be taxed coming out.

Dr. Colby said right you always pay taxes either going in or coming out and right now we're opposite of the federal government and then we're going to switch with a time delay of when individual paid taxes in versus got it out. He said they should adjust it as soon as possible for those paying in and that most people won't get that benefit until later.

Dr. Rousslang said so it would be exempt from state tax going in.

Mrs. Sakata said with the pension, there would be a 5-year delay.

Dr. Colby said that would make sense because nobody right who was retiring right now pays into the pension right now, only the younger people were paying into the pension.

Commissioner Cook said with the current language, he thought they were okay right because the it had to be explicit.

Dr. Rousslang said we'll conform to the federal taxation on pension income so that was a state thing, therefore, they were saying we'll want to start taxing going in immediately or in 5 years.

Dr. Colby said stop taxing going in immediately or whenever the bill passed, if there was a bill that's ever passed.

Dr. Rousslang said exempted going in immediately and tax everything when it came out.

Chair Takamura said 5 years later.

Commissioner Lippert asked why exempt immediately then?

Dr. Colby said then you'll be double taxing. For example, he would already be double taxed because he's already paid half the tax going in and taxed again coming out.

Commissioner Cook said it was actually an incentive then for people to remain employed because it was deferring their taxes because when the money goes in, it won't be taxed but right now they're being taxed. If a bill passed they'll be exempt from tax on their contribution.

Dr. Rousslang said the TRC would need to say conform to federal taxation of pension contributions upon enactment.

Dr. Colby said be sure to take into account that people were not unfairly taxed twice.

Chair Takamura said she thought they needed to change the comment on taxing retirement income more evenly in the executive summary.

Commissioner Knox said he was also going to suggest in the capsule summary of recommendations in the executive summary, the one about the individual income tax increasing the income tax personal exemptions and standard deductions to include the phrase "to the 2017 federal levels" and include the phrase at the end "index the new tax for inflation thereafter."

Chair Takamura said she just wanted to make sure for the tax return income that there was a 5-year lag.

Commission Pieper said update all the bullets.

Commissioner Lippert said the bullet on the greenhouse gas emissions didn't match but noticed they didn't update as a group the title for that on the recommendation side and wanted to run that by folks really quick. She said it used to say "the legislature should consider studying whether instituting a tax on greenhouse gas emissions" was appropriate and change it to "the legislature should commission an in-depth study on instituting a carbon tax in the State of Hawaii."

Commissioner Kaina said taking out greenhouse gas emissions.

Commissioner Lippert said yes and taking out the word appropriate.

Chair Takamura asked if there were any other changes to the executive summary? She said they just needed to make sure whatever was in the executive summary matched the recommendations.

Commissioner Lippert said change the following issues to following measures on that final page of the executive summary.

Commissioner Kaina said it was mentioned earlier and they kind of danced around the issue but its not in the report, should there be anything specific that indicated they did not take into consideration or account the recent federal tax changes because they hadn't really analyzed that.

Chair Takamura said she didn't thing the state had either.

Commissioner Lippert asked if it was in their charter as a TRC.

Chair Takamura said she doesn't think the state had determined what they were going to do. So, regarding their actual report, she asked if there were any more changes or comments to add and discuss?

Commissioner Lippert said she thought on page 2, middle of paragraph under 1.2 Focus of the Tax Review Commission change the word "but" to "and".

Commissioner Cook said first line of page 3, delete "and are not yet publicly available" and delete the word "however" from the footnote and start with in preliminary.

Commissioner Kaina said she had a quick question to make sure she had it right, but it just seemed to drop on page 18 after the quote, and in last the draft in terms of thought.

Commissioner Lippert said maybe they could add the sentence "In the following section, they describe their recommendations".

She said she had a question on page 4, under Principle of Sound Tax Policy for Hawaii, the sentence "It also interferes as little as possible with economic decisions of individuals and of businesses". She was curious and asked if E-cigarettes-cigarettes and the carbon tax both drive decisions? She was curious if that was one of their principles and felt like they could just strike that sentence, potentially to her.

Dr. Rousslang said he saw what Commissioner Lippert was saying. He said there were sin taxes and maybe say something in the footnote like "that's what sin taxes were for, to discourage sin" and that was their point.

Commissioner Lippert said it was acknowledged in the PFM analysis and other things too, so it felt like it was not totally aligned to her.

Dr. Rousslang said the basic principles of efficient taxation was you want to disturb the market as little as possible. Sin taxes were usually small.

Commissioner Cook said part of the thing about sound tax policy and principles was you can't hit every single policy for everything. He said that was one policy but there was another policy, there's fairness, but there's horizontal equity and there's vertical equity.

Dr. Rousslang said that was economic efficiency. He said it was pointed out later like what was called sin taxes actually had a negative excess burden, but it was true, they were more efficient by disturbing.

Commissioner Lippert said right, you're trying to get less of what you don't want.

Dr. Rousslang said that was boiler plate language.

Dr. Colby said to be fair, they were and you don't know or want them all. Nobody really tried to figure out the optimal now that people smoking bear the tax. If we taxed at this then there would be only 20,000 people smoking left and the governor would have to _____ 20% of their tax liability. He thought there was much more truth in the carbon market where people were really trying to adjust for negative externalities. He said the gallonage on alcohol was totally irrelevant to what the cost on society was. Efficiency was kind of a stretch, it was kind of trying to discourage behavior, but no one knows if it was the discouraged behavior in the most efficient way.

Dr. Rousslang said all of that was in the footnote noting the exception. Generally, you would want taxes to interfere with markets as little as possible except there were those cases.

Commissioner Lippert said they were trying to shape behavior and the examples in the report may included the tax on cigarettes, E-cigarettes and the carbon tax.

Dr. Rousslang said we had what they call Pigot taxes. That's what the carbon tax was.

Chair Takamura asked if there were any other changes.

Commissioner Lippert asked if the could make any other changes after that.

Commissioner Cook said there was going to be a public comment at the next meeting assuming they approve the draft.

Mr. Nishiyama said to take into account public comments in making changes.

Commissioner Knox said at the next meeting if the public said something and the TRC said it was a good thought, we should make a change.

Mr. Nishiyama said that was fine.

Commissioner Cook said then we won't need to have a follow up meeting.

Mr. Nishiyama said that was correct.

Commissioner Lippert said the TRC couldn't make changes only the public could.

Mr. Nishiyama said that was right, you're essentially taking public comments, considering it and if it made sense, then they could make a change. If it didn't make sense, just leave their report as was.

Chair Takamura said there won't be any comments until the report was posted because what they had wasn't public.

Mrs. Sakata said they would need to approve the draft.

Commissioner Kaina said so approve the draft with the proposed changes.

Mrs. Sakata said approve the changes so DoTAX could post it and ask for input, and for comments sent, hopefully before the meeting so they had time to digest it.

Chair Takamura asked for a motion to approve the TRC final draft with changes discussed in the meeting.

Commissioner Pieper moved the motion to approve the TRC report with changes and Commissioner Blouin seconded the motion. The motion carried unanimously.

WRITTEN COMMENTS ON HAWAII'S TAX STRUCTURE OR ITEMS LISTED ON THE AGENDA:

There were no written comments.

PUBLIC COMMENTS ON HAWAII'S TAX STRUCTURE OR ITEMS LISTED ON THE AGENDA:

There were no public comments.

NEXT MEETING:

The next meeting was scheduled for Thursday, February 8, 2018 at 1:30 PM

ADJOURNMENT:

The meeting was adjourned at 2:50 PM.