TAX REVIEW COMMISSION

MINUTES FOR THE NINETH 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, MARCH 6, 2017 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, March 6, 2017.

Members Present:	Colleen Takamura, Chair Vaughn Cook, Vice-Chair William Pieper II Nalani Kaina John Knox Raymond Blouin Dawn Lippert
Staff:	Ted Shiraishi, Seth Colby, Titin Sakata and Noe Kaawa
Others:	Randall Nishiyama, Department of the Attorney General Peter Fritz Jana Moore, CAN Katarina Ruiz, CAN Randy Bauer, PFM Group Consulting LLC John Cape, PFM Group Consulting LLC Deanna Yocco, PFM Group Consulting LLC

CALL TO ORDER:

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

Chair Takamura said she wanted a motion to add a couple of items to the agenda. First was adding the December 13, 2016 minutes to number two and second, was adding public comments as number eight on the agenda.

Commissioner Knox moved to add the December 13, 2016 minutes and public comments to the agenda, and Commissioner Pieper seconded the motion. The motion carried unanimously.

APPROVAL OF MINUTES FROM PREVIOUS MEETING:

Chair Takamura deferred approval of minutes for later on in the meeting. She said today there was the presentation from the PFM Group Consulting LLC for the study their going to do for the TRC.

Mr. Bauer introduced himself and was the Director with PFM Group Solutions.

Mr. Cape introduced himself and was the Managing Director of PFM.

Ms. Yocco introduced herself and was a Senior Analyst.

PRESENTATION BY PFM GROUP CONSULTING LLC ON PROGRESS REPORT ON STUDIES OF HAWAII'S TAX SYSTEM, SPECIFICALLY ON THE FOLLOWING TOPICS:

a) A study showing who bears the burden of Hawaii's taxes. The study would show the incidence of the taxes imposed by the State and by the counties by income class, and the portion of each tax that is exported to non-residents.

b) A study showing ways to reform Hawaii's taxes to make them less regressive. Solutions might include reducing reliance on more regressive taxes in favor of taxes that are more progressive, or making the individual income tax more progressive. The reform can be designed to raise tax revenue, or to be revenue neutral.

c) A study on the best ways to generate more revenue through new and existing sources, and through improve compliance with Hawaii's tax laws. The study should consider, at least broadly, how much revenue will be needed to maintain the current level of government services (tax adequacy), including unfunded or underfunded liabilities for pension and health care benefits for retired state workers.

Mr. Cape greeted and said thank you for having them here in the beautiful state. He left upstate New York where the temperature and wind chill was four below zero. So believe him when he said they were happy to be here. PFM was honored to be back again to look at this tax policy issue, for them, it was one of the unique tax policy challenges in the country because Hawaii has an island economy and the structure of the economy. They were here to learn just as much as be a part of thoughts and ideas. The PFM presentation was a basic overview of the project and one item added was to talk about what's going on nationally because there was a lot currently going on in tax policy right now. They wanted to broach that subject with the TRC and then proceed with the layout of the project. PFM had the opportunity to speak with each TRC member.

However, after the presentation and the last bullet of discussion would really be the opportunity for members to talk with them and give them feedback on what was being proposed how it was being proposed and help direct them.

He introduced the PFM Project team:

John Cape, Managing Director, joined PFM in 2006. John has led multiple projects with the Commonwealth of Pennsylvania Governor's Office, Governor's Budget Office and Department of Public Welfare. His clients have also included the States of Delaware, Virginia and Minnesota. Prior to joining PFM, he served from 2004 to 2007 as Director of the Budget for New York State, overseeing a $113 billion operating budget. John served in state government for more than 30 years.

Randall Bauer, Director, joined PFM in 2005. Randy, leads the Management and Budget Consulting Practice related to tax and revenue policy and has led related projects for the States of Hawaii, Oklahoma, Pennsylvania and Washington as well as the Cities of Aurora, Baltimore, Colorado Springs and St. Louis. Prior to joining PFM, he was the State of Iowa Budget Director and spent nearly 20 years in state government in both the legislative and executive branches.

Deanna Yocco, Senior Analyst joined PFM in 2015. Deanna provides quantitative, analytical, and research support for governmental performance improvement, including recent projects for the States of Illinois, Kansas and Oklahoma. Prior to joining PFM, she was a Budget Analyst at the University of Pennsylvania and a Budget and Management Analyst for the State of Ohio's Office of Budget and Management.

The project team was familiar with role of state government in the tax continuum, were keenly aware of the role taxes play in the economy and looking forward to preparing the guidance the TRC has asked for.

He said PFM serves only state and local governments. They were the largest financial advisor to state and local governments with forty-five offices around the country and employees over six hundred professionals. PFM does three things. They advise on debt issuance, they were money managers with its own trading floor and manages over one hundred billion dollars of governmental funds that include long term pension investments to short term cash pools, and provide management and budget consulting services that are all fiscally related to the operation state and local governments.

Mr. Bauer said he was going to speak about national tax policy issues. PFM understands that Hawaii in many instances was unique as an island state without bordering other states other than Alaska, there were no others exactly like it. For many of the issues that states were dealing with as it relates to challenges around tax capacity, tax burden and equity were similarly being faced. Some of the same sorts of what should of what should our system look like, what should be the components and what portion of revenue should be raised from each components were being talked about across the country. He was going to provide information on a few of the key aspects of that.

When they think of state tax systems, they generally think of a three-legged stool and those have traditionally been the individual income tax, sales tax and corporate income tax. There was often another three-legged stool discussed and that was taxes were raised in three ways. Taxes on wealth, which was thought of as property tax and in most states a local tax, taxes on income would be the individual or corporate income taxes, and taxes on consumption with the most common being sales and use taxes, and a variety of excise taxes as in the case of Hawaii with the general excise tax. The three-legged stool PFM was talking about today was individual income, sales and corporate income taxes. The benefit of having a broad array of taxes was they impact on different types of taxpayers differently, on different areas of the economy, and often different types of business cycles differently. Having that type of mix allows a state to weather different types of economic circumstances, tax different parts of the economy, different types of individuals and paid by different portions of the economy. There were no perfect taxes, every tax has disadvantages. Some of it was economic, there would be dead weight losses due to the economy based on taxes, but if there was the ability to spread the tax and different types of taxes around the economy differently that allowed for balancing each other out.

Among the three major tax components, what was seen nationally including Hawaii was the third leg of the stool, has over time become very narrow and that's the corporate income tax. Among the three different types of taxes, individual income tax was a little more than a third, sales and use taxes was about half, and corporate income tax was about a twentieth and declining. That percentage has changed over time and as they talked more about the corporate income tax, we'll understand some of the reasons why. That in itself has changed some of the ways states were approaching their tax systems.

Within this kind of key issues of the traditional three-legged stool, the first evidently was the issue of diminishment at the corporate income tax level that continues to decline as a share of state tax revenue. Another important issue was sales tax which was a critical component in many states and was about half the revenue in aggregate for state tax collections has seen erosion of its base in several areas. At the same time, another major component, the individual income tax was a volatile tax. It tends to rise when the economy was doing well and as in recent recessions dramatically fall in times when the economy wasn't doing as well. The final key issue and somewhat outside of the scope of PFM's work, but would certainly touch on aspects of it, was what's happening with federal tax changes. It was pretty well agreed upon by most analysts that there was going to be some change in the federal structure. How that impacts on state structures was an important issue and was something to be mindful of as we talk about different ways of either changes or to the similar kinds of existing approaches to state taxation.

Within the individual income tax changes that had occurred, in the past, the traditional form of income tax was a progressive tax. As income rises, the percentage of income subject to tax also rises. Most graduated individual income tax structures had brackets that kicked in at different income levels, so as income rises, the marginal tax rate also rises. However, what has been seen now were eight states with a single bracket for all individual income taxpayers and another three states, while they may have multiple brackets and have small differences in income that for practical purposes, they're a flat tax as well. These were the different structures that existed twenty-thirty years ago and how that may play out in the future was certainly an issue to be considered for the individual income taxes.

At the other end of the scale within the progressive individual income taxes, a move towards the high tax bracket at the top end of the income scale, referred to as the millionaires tax bracket, although if often kicked in while below a million dollars was an increase top bracket and there were some states like New York, where there really was a millionaires tax bracket but there was at least twelve states since 2009, essentially since the end of the great recession that have increased their top bracket. There was kind of an opposite ends of the tax policy as it relates to individual income taxes instead of going to the flat tax versus those whom had increased significantly their top tax bracket.

Another issue that has become increasingly important among states was thinking about exemptions and credits. What's often referred to as classic good tax or good tax structure had a broad as possible base and lowest possible rate to the extent that there would be significant exemptions and credits in a tax structure, and the individual income tax being the most common of those types of income exemptions and credits that was going to make it more difficult to keep the rate down. Many states had resorted to ways of studying or putting into effect formal policies that require exemptions and credits to be reviewed on a regular basis. For example, Mr. Cape, Ms. Yocco and myself were involved with the state of Oklahoma which has a state appointed commission that on a rolling basis over a four-year period looked at all of their business taxes incentives for the opportunity to revise them if it was found not to be performing as the state expected, and that was happening in a number of states.

As they talked about volatility at the individual income tax level was a significant concern among a number of states because during the last recession there was a profound drop in the individual income tax collections that far exceeded the drops seen in prior recessions to the extent that many tax structures depended on that as their primary source of revenue. Some states that have an income tax don't have a sales tax, for example, was a concern and that was something states were impressing.

What they were seeing in many states was consumption taxes which was sometimes referred to as "sin" taxes like cigarettes, alcohol, most recently marijuana or other kinds of consumption taxes like gasoline and motor fuels were being used in many states not so much to replace a major tax source, but to replace the revenue that may have been less because of erosion in sales tax or volatility of the personal income tax. The key issues with these changes seen were in a number of states. There were a significant amount of rate cuts put in place, contemplation to create more economic development or to change their tax structure to one that was focused on consumption taxes. In general, that meant an increase in sales tax, in the rate or base.

Then the federal deduction for state taxes was an issue that was being addressed in a number of states. Most plans coming out of Washington, D.C. suggested that the deduction was likely to go away and return for reduced rates. That's a problem states because effectively state taxpayers would no longer be able to deduct their state taxes from their federal taxes and would see an increase in their tax liability and that may then suggest was because of state levels of taxation.

On broad base consumption tax side, usually considered to be sales and use taxes in a lot of states but a state like Hawaii used a different form of tax base, the GET. The issue here was around the erosion of the base. Most frequently thought of now was because of E-Commerce, Internet Sales and that's important but that was not the only reason that there's erosion. One key factor was most sales tax structures were based on taxing all tangible goods unless there specifically exempted but not taxing intangible goods or services unless specifically enumerated. That was fine for the economy fifty years ago because what was purchased and what was consumed were largely those kinds of tangible goods, about sixty-six percent. Fifty years later, what we consumed was nearly sixty percent in tangible goods and services, and that tax structure in most states were not capturing those kinds of services that had significantly changed. The other area besides E-Commerce was what has been happening to the population as a whole. The age cohort where we consume these kinds of goods and services that were subject to tax peaks when one was in their late thirties to middle forties which made sense since you had families and furnished homes. As we get older, kids were gone, home fully furnished or move into a smaller place, and not making the same level of purchases. As the country gets older and states getting older, that impacts on collections.

Everyone has been aware of issues related to E-Commerce and the famous Supreme Court decision from the Quill vs. North Dakota from 1992 that determined at that point in time that states could not compel an E-Tailer to collect sales tax from those making purchases unless they had a physical presence determined to be nexus in that state.

The final issue was the concept of legislative erosion of the base. He said he started his career in the legislature and there was nothing that a legislator liked more than legislation for tax reduction. Often in the sales tax area that was done by some kind of specific exemption of some activity or goods from sales tax. Besides those kinds of natural erosion that occur from the economy or erosion that occurred through Supreme Court decisions and the legislatures eroding the tax base in a lot of areas.

The current biggest issue was the concept of nexus. What has happened in a variety of states and in recent years was the introduction of forty-two bills in sixteen states was to define nexus. The Supreme Court said nexus was this, but our definition under our state law said nexus was going to be this, and it's been generally ruled economic nexus. Some amount of sales went into a state for state sales tax purposes and some would be determined to be nexus, and you would have to collect sales tax. That's being litigated already and sooner or later it would end up in front of the U.S. Supreme Court. At least one of the justice's, Justice Kennedy who was generally a swing justice had suggested in a ruling in 2015 that he was willing to reconsider the Quill decision and President Trump's nominee to the Supreme Court while on a Court of Appeals also suggested a willingness to reconsider that. So it was possible that this would work itself out in that way. It was notable that Amazon, the largest E-Tailer in the country had kind of thrown in the towel on this issue. Thirty-nine states through February 1, 2017, had aqueous or they were required because they already had physical nexus to collect sales tax, and unfortunately Hawaii is one of the remaining states where that were not yet the case.

In terms of business taxes, it really was the incredible shrinking revenue source and over time was much more of the third leg of equal branch of the stool, and that was not the case anymore. Even when it was a significant revenue source it was highly volatile because in most states it was based on the profits and those ebb and flow, but even more so businesses had become very adept at planning at tax avoidance and was not in any way activities that were illegal, but their way of being able to spread income often by the way the tax codes were written like carry forward or carry backward, opportunities related to profits, losses and credits, and businesses had taken advantage of that. As a result, corporate income taxes had continued to become a smaller percentage of overall collections.

In other areas, the legislature had determined that it was to their benefit to change the way income was apportioned for corporate income tax purposes and because most businesses operate in more than one state, it was necessary to have rules for determining how much of that business's profit was going to be apportioned to each of those states. That goes back a long way to the uniform rules that were set. What has happened to the traditional three factors that were uniform rules set of payroll, sales and property would have stayed over time had been changed. There were about ten states that still used the traditional three factors and Hawaii was one of them, but in a lot of states it was weighted in terms of sales and in some states, sales was the only factor. That significantly changes winners and losers as it relates to the corporate income taxes and in many places it creates income that was not taxed anywhere.

Exemptions and credits have already been talked about and that's also an issue. One of the issues that have been used by a number of states to try and deal with some of the tax planning has talked about combined corporate reporting which has seen less of that as an area of interest amongst the states and when one looked at the ebb and flow of tax policy, the one thing that doesn't seem to be as hot as it had been in the past.   What has happened with the corporate income taxes was the change of the traditional ones to an increase of interest in alternate forms of business taxes.

Gross receipt taxes which were just whatever the amount of the receipt one generates within a state was subject usually to a very small percentage tax as in three major states of Ohio, Texas and Washington, and some variations in other states.   They have their own sets of issues. A significant issue around pyramiding particularly with gross receipt taxes, but that was a natural reaction in some states to the fact that they no longer had some other substantial form of income. It was notable that two of those three states, Texas and Washington do not have an individual income tax. What was seen in a state without a significant revenue source like that was as it impacts on other significant revenue sources they start looking for ways to get back that loss of tax revenue.   Some of those alternative forms of revenue sources were franchise taxes, business privilege taxes, individual business taxes and insurance premiums were being used in other places.

What were we going to do if the legs of the stool are wobbling, we had to start looking for ways to strengthen or find other ways to replace them. There has been greater focus in some states on looking at existing exemptions and credits which would make for good public policy. There was certainly a focus on tax incidence and impact, how regressive or progressive was our tax structure, who bears the burden of those taxes particularly with the individual income tax, sales and use taxes, and legislative nexus. Some of the other ways to deal with issues around sales tax was Quill doesn't say that tax wasn't owed, but said that the E-Tailer was not compelled to collect it and the tax owed was generally a use tax paid by the taxpayer. Some states had done the other route by informing and educating taxpayers that the use tax was owed. Many tax forms in some states had a line for that and they were in some way letting their citizens know it was their duty in terms of the tax that was owed. The other was to increase the number of services subject to tax and thought that was good policy particularly when it relates to consumer purchases, but less clearer when talking about business purchases of services because often that leads to pyramiding or leads to business making choices as to how they provide those services as you don't want the tax system picking winners and losers. With corporate income tax there was a rise in gross receipt or other ways to skim. Another was unclaimed property as there was a rise in the use of alternate payment vehicles like gift cards. What happens to gift cards when they were not used or partially use when it expires? Some go back to states and some don't. These were some ways of dealing with issues of corporate revenue.

Other areas around replacement legs of the stool were excise taxes, traditional "sin" taxes like cigarettes, tobacco and alcohol were commonly used during the last two recessions and enough of a revenue source to replace one of the major taxes, but often wasn't enough to replace the reduction seen in taxes, especially cigarette taxes. In some places, taxes had doubled and tripled in the last two recessions although it was one of the common ways of dealing with revenue shortfalls. Now we see new levies like marijuana in states that legalized it and have become a revenue source of interest and taxes on sugary drinks, Philadelphia being a prime example. The argument there in some way they were seeking to reduce consumption of sugary drinks which could cause obesity and other related health issues. There were a variety of visitor taxes. Importing revenue was often seen as a useful way to impact the overall tax structure for the better for residents. Residents already pay taxes for services provided. These were some of the common ways of replacing revenue and reducing some of the burden on residents. User fees and motor fuel taxes were the most common and had seen the most growth in recent years partially because of issues with the federal government as it relates to their contributions to infrastructure. We would also be looking at how to pass on some of the cost for infrastructure like tolls and similar charges for services. Finally, there were voluntary taxes, forms of gambling and lotteries, and federal tax changes that were going to have opportunities and threats, and were something to be mindful of as one looks for what's happening in Hawaii's tax system and what might happen to when those changes take place.

Ms. Yocco said she was going to speak about PFM's approach to the project and the different factors they were going to be looking at. The project was broken down into four phases. The first was the planning and project management which was for the most part complete. We had an executed contract, provided a detailed information request to DoTAX and other departments to help with the analysis, did phone interviews with the TRC to get feedback and PFM were here, kicking off the project now. Over the next couple of days, PFM was having some on-site meetings with stakeholders, DoTAX and others, and they had established a written project reporting process to inform the TRC of where they were in the project process.

The second phase was information gathering which was already underway. There was information they needed from the TRC and information that was already out there that helps them analyze the issues. Background research on Hawaii included new things and information that already existed like the past project five years ago. Completing the data request would be useful and how does Hawaii compare to other governments which was a question that came up in the phone interviews from the TRC members. They were trying to get some perspective on what other states were doing and why it would or wouldn't work for Hawaii and that was going to be a huge part of what they would be doing as part of the information gathering phase. In addition, there would be follow up questions and answers as needed based on the information provided by everyone involved. A really important part of this would be the financial models to help measure the three studies involved with the project.

The next phase was evaluation, taking all the information gathered thus far and determining what the options were and how best to move forward. Hawaii's specific issues related to benchmark governments, looking into how Hawaii compared to other states and was there any options good for the state. In addition to the revenue piece, they were going to talk about other opportunities for revenue generation through improve administration which does not necessarily changing what Hawaii was taxing but how it was being taxed at the administrative level. Qualitative and quantitative factors for other sources of revenue and was there anything on the horizon that made sense for Hawaii and with that, they would be developing and communicating their high level findings.

The fourth phase of the project, recommendations, would basically be all the findings, information, analyzing them and putting into a way the TRC would find useful because they know it was not just their report, but the report of the TRC as well. Drafts of the report would be provided for feedback and eventually the final report. They would also assist and ensure the TRC had what they needed to prepare their report.

The project timeline was moved up and adjusted to give the TRC more time with the information to do what was needed. One important date would be in the first week in August when the draft report was due and they would be here in person to speak with the TRC about it. A month later, they would be providing the final report that would all the feedback and recommendation the TRC may have had based on the draft provided.

Mr. Bauer said they use the project reporting as a way to for the TRC understand what was done, what was being planned and any roadblocks or obstacles encountered. This would keep the TRC appraised as to where they were in the project and allows for the TRC to give feedback. They would provide bi-monthly written reports with specific categories to include the activities that took place during that period, planned activities for the next period, and an overall calendar with the milestones on it as well as really important dates which would be updated with each report to reflect any changes that may take place on that calendar. It would also include a table on issues, need or resolutions that may have some material impact related to the project and classify those issues by level of importance. There would also be a summary of the project to date.

PFM would participate in meetings in person when possible, but would participate by video-conferencing, telephonic conferencing, and webinar if they had something to present to the TRC. They intend to be an active participant and were a resource for this project. They would present in the August meeting the draft report at that time and if there was wish by the TRC for them to participate in other meetings, they would do that as well.

QUESTIONS AND ANSWERS FOR THE PFM GROUP CONSULTING LLC ON STUDIES OF HAWAII'S TAX SYSTEM:

Commissioner Cook said Mr. Bauer mentioned how Amazon threw in the towel and was voluntarily collecting sales taxes for many states and asked why they didn't include Hawaii?

Mr. Bauer said he may have some theories. Amazon has over time agreed to voluntarily collect the tax. He thought some came from pressure, from states legislatures or governors, and suspects some of it was a goodwill marketing gesture on their part. For example, when Amazon recently announced that they were going to voluntarily start collecting in Rhode Island which came with press releases, it was in the newspapers and articles about the windfall to the state, again keeping in mind that it was taxes legally owed to the state even before Amazon was collecting for them. His guess and doesn’t know it as a fact was Amazon viewed this as something beneficial for them in the long run. The other aspect of this could be that once they were in a state and has developed kinds of infrastructure whether it was to be able to get products into a state more quickly, once they put in those kinds of facilities in place, they’ve got physical presence and nexus anyway. Some of it may just relate to how they want serve customers in a state too. With Hawaii being separated from other states and that may have to do with the fact that they haven’t felt that need yet.

Mr. Cape said New York was one of the early states that litigated with Amazon over this issue of economic nexus. We said we would use records from United Postal Service (UPS), FedEx and the U.S. Postal Service to establish what was delivered to households in New York State and at the end of the year would bill you for the goods delivered. If you don’t pay, we're going to bill the resident that ordered goods and say it was because Amazon would not pay.

Chair Takamura asked if that was done through legislation in order to do that.

Mr. Cape said yes, but legislation was general and authorized the Commissioner of Taxation with demands to establish by rule reasonable enforcement efforts which allowed us to extort Amazon and Amazon settled with New York, opened some stores establishing visible nexus and agreed to pay rather than have the bad public relations of every one of their customers getting the bill marked because they didn’t pay Amazon, right around Christmas.

Mr. Bauer said the other issue around Amazon and these kinds of Amazon taxes were Amazon's networks they've developed so when you shopped on Amazon they had other kinds of firms that were also advertising that you could purchase from and the claims that a lot of states had made in their statutes was that that was a form of nexus also even though Amazon doesn’t have a physical location in state, but it was a firm that was part of their network was located in Albany and was selling over the Amazon system. They were able to establish that in states once states claimed it created nexus, but that becomes something that could be litigated.

Commissioner Lippert asked Mr. Bauer if he knew what the magnitude for that amount of taxes would be for Hawaii.

Mr. Bauer said he didn't have that amount off the top of his head, but Dr. Bill Fox and some colleagues from the University of Tennessee had done an analysis across the country. However, it was really hard to know until you have collections. This issue came up when he was the Iowa Budget Director, his Department of Revenue (DOR) took their numbers, did their own calculations and said Dr. Fox's number was too high because they did not factor in a sufficient amount of use tax collections. The rate of use tax collections on business to business transactions were much higher than business to consumer transactions. Iowa DOR said a lot of those were business to business transactions and had already been captured in use tax. So there were all kinds of complexities around a lot of these issues.

Commissioner Kaina said she had a question related to the first phase, under planning and project management, Ms. Yocco spoke about providing a detailed information request and asked that the TRC receive a copy of that just to know what information had been requested since there were other requests made by certain members of the TRC.

Ms. Yocco said yes.

Commissioner Kaina said Ms. Yocco also mentioned initial on-site meetings with stakeholders and could a list of who they were be provided to the TRC just in case there were additional members the TRC would like to recommend.

Ms. Yocco said yes, that would be something important to know and the people we met with this time was not an encompassing list and PFM planned to do more outreach over the phone and eventually when they come back to Hawaii. Included in conversations with members, had asked if there was anyone else PFM should meet with.

Commissioner Pieper said can the list include those PFM spoke with and those they intend to speak with.

APPROVAL OF MINUTES FROM PREVIOUS MEETINGS:

Chair Takamura said the first order of business was the approval of the minutes from the December 13, 2016 and January 23, 2017 meetings. She asked if there was any motion to amend or approve the minutes. Commissioner Cook moved the motion to approve the minutes with edits of December 5, 2016 and January 23, 2017, and Commissioner Pieper seconded the motion. The motion carried unanimously.

DISCUSSION AND ACTION ON DOTAX ASSISTANCE AND POTENTIAL ADDITIONAL STUDIES BY THE COMMISSION:

Chair Takamura said what she and Commissioner Cook did as chair and vice-chair was they sent a letter to the DoTAX requesting some studies be done and gathering of information they would like. It was the start for our list of things they would like them to do and did add a response date. They put down what really needed to get done and what they would like to get done. The list started may not be all inclusive and guessed it would be addressed to Mr. Colby, who would be helping them do these things.

Mr. Shiraishi said DoTAX was not ready to issue a formal response but did meet regarding the letter assuming the entire TRC saw the letter.
Commissioner Kaina said she wanted to go on record that the letter was done individually by Chair Takamura and Vice-Chair Cook and not done on behalf of the entire TRC.

Mr. Shiraishi said Commissioner Kaina was correct, that the letter was to the DoTAX director from the chair and vice-chair. There was two sets of requests in the letter and would like to go through them briefly. First was the table which contained five items and based on the DoTAX discussion and perspective:

a) Item one, Adequacy of Hawaii's Tax Structure was probably includable or already included in topic three of their contract with the vendor PFM.

b) Item two, the Revenue Costs for selected GET and Use Tax Exemptions and Deductions were incorporated in what DoTAX already has been tasked with under Act 94, Session Laws Hawaii 2015.

Chair Takamura said no, it was a different study that she was looking at. It was the study done by the 2005 TRC.

Commissioner Cook said it was Appendix H from the 2005 TRC report.

Mr. Shiraishi said if what Chair Takamura was asking for was an update of figures, DoTAX would need to review that further and could not give an answer.

c) Item three, study on the question, "Should Hawaii Replace its Income and Franchise Taxes with an Increase in the GET?" DoTAX can update that report.

d) Item four, study on the Progressive or Regressive Nature of Hawaii's Taxes was another, DoTAX felt was included in their contract with the vendor PFM.

e) Item five, Effect of Eliminating Income Tax for Those Below Poverty Level, DoTAX can update the report.

As for the request for DoTAX assist the TRC by conducting a study into the topic of "The Effects of Eliminating the Hawaii Corporate Income Tax" and Mr. Rousslang, former TRP Officer was willing to do it. However, he has to do it using overtime and estimates it would take him about 160 hours or roughly $10,000. A decision doesn't have to be made now, but wanted to provide the TRC with that information prior to our formal response, as Mr. Rousslang was not involved with legislation, and if the TRC approved, he could start sooner than later.

This was not the official response from DoTAX. However, items to be updated by DoTAX could not be started until the legislative session was done.

On the next page there was six items listed requesting mainly information and DoTAX response was:

> #1) Yes, someone from DoTAX could do a presentation to report and/or update the TRC on the Tax System Modernization Project. Any specific information related to #2
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> #2) Yes, DoTAX was working on collecting the data and finding various ways to detect and deter refund fraud but will not be giving specific information on what forms or how DoTAX would do that matching. Compliance plans were not shared with anyone.
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> #3) GET data would be addressed in the DoTAX formal response to the TRC and would not confirm what data was or would be made available.
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> #4) Corporate income tax data was already available in the DoTAX Annual Report, but could be compiled for the TRC.
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> #5) DoTAX would compile as much data related to deductions claimed on individual income tax returns for pensions not taxed in Hawaii.
>
> #6) DoTAX would compile as much data related to HARPTA withholding.

Chair Takamura said she and Commissioner Cook took it upon themselves to send the letter thinking of the timing of getting information from DoTAX. She asked the TRC if there were any other request for an additional study or any information you would like to know from DoTAX to help with the TRC report.

Commissioner Kaina said she had concerns about the scope of what the TRC supposed to do especially the request around identity theft information. She doesn't understand how that fits into the scope of the TRC.

Chair Takamura said that was just a comment because she had asked if the W-2s and 1099s were a part of the Tax System Modernization Program since she didn't hear anything about it when she attended the workshop last summer and as a tax practioner, we get a lot of letters asking to submit W-2s.

Commissioner Kaina said the TRC had certain responsibilities and what was being asked of DoTAX was respectfully related to the role as the TRC, not in her role as a practioner. That was her concern since Chair Takamura indicated that the question was related to her practice as a tax practioner. Commissioner Kaina raised the issue to ensure the proper use of the TRC's resources and what the TRC asked of DoTAX.

Commissioner Pieper said that he wanted the work prioritized especially related to the PFM study and that their requests from DoTAX takes precedence.

Commissioner Kaina said she agreed.

DISCUSSION AND ACTION ON INTERIM REPORT TO THE 2017 LEGISLATURE:

Chair Takamura said a draft interim report was circulated to the TRC members and thanked Commissioner Knox for preparing it. She hoped that the TRC did or will make time to review and make comments since it was not final.

Commissioner Knox said it was incomplete and that there were things left open for additional items to be added and hoped maybe that could be discussed today. He noted that page three left open the possibility of changes, additional language, and attachments to reflect the March 6, 2017 discussion and/or decisions related to the interim report.

Commissioner Cook said the legislature would still be in session until the first week in May, 2017, so it was possible for the TRC to have a draft interim report ready to finalize by the next meeting in April, 2017.

Chair Takamura asked Mr. Nishiyama if the TRC had to vote on the interim report before it was submitted.

Mr. Nishiyama said yes,

Commissioner Kaina said it was previously put on record that there was no requirement for the TRC to submit an interim report.

Mr. Nishiyama said that was correct.

Chair Takamura asked TRC member to submit comment for the interim report to her a week before the next meeting. Then at the next meeting would discuss the changes made and finalize the report.

Commissioner Knox said if it seems the comments were specific and aren't at odds with each other, perhaps he could come back with a document in the track changes format for the TRC to react to and approve. He was afraid that, if there was an extensive list of comments, we may need another meeting for the final and was trying to pass it in the next meeting. Therefore, he would need the comments two weeks prior to the next meeting.

Commissioner Kaina said she felt the interim report should have a summary of all the meetings that took place and not just the letter from the governor, there were requests made, resolutions that were proposed. She felt those items should be included in the interim report and it couldn't just say that the TRC had an RFP that went out or a letter was sent by the chair and vice-chair which is pretty much what was said right now. She said if the TRC was going to submit a report to the legislature, it needed to be more extensive than its current form.

WRITTEN COMMENTS ON HAWAII'S TAX STRUCTURE:

Chair Takamura said there were no written comments to the TRC.

PUBLIC COMMENTS ON HAWAII'S TAX STRUCTURE:

Mr. Fritz said the TRC needed to pay attention to discrimination against individuals with disabilities and has brought it up in the past. Documents posted to the web were not ADA compliant.

NEXT MEETING:

The next meeting was scheduled for Monday, April 24, 2017 at 1:00 PM.

ADJOURNMENT:

The meeting was adjourned at 2:55 PM.