POLICY GUIDELINES FOR QUALIFIED TRANSPORTATION FRINGE BENEFIT PLAN	Page 1 of 6

1.0 PURPOSE

1.1 The purpose of these guidelines is to establish a qualified transportation fringe benefits plan within the meaning of section 132(f) of the Code, for the exclusive benefit of eligible employees of the State.

1.2 These guidelines implement the plan and are intended to comply with the requirements of the Code. If there are any conflicts between the Code and these guidelines, the Code shall prevail.

2.0 DEFINITIONS

2.1 As used in these guidelines, unless a different meaning clearly appears in the context:

"Code" means the Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder.

"Director" means the director of the State of Hawaii department of human resources development.

"Eligible employee" means an employee who is employed by the State of Hawaii executive branch; has a parking assignment to park on lands under the jurisdiction of the comptroller of the department of accounting and general services; and is assessed a monthly parking fee via payroll deduction in accordance with schedule A, entitled "Monthly Permittee Parking Rate", in Hawaii Administrative Rules section 3-30-8.

"Month" means a calendar month.

"Plan" means the qualified transportation fringe benefits plan authorized under section 132(f) of the Code and established under these guidelines.

"Qualified parking" means automobile parking, including parking for carpools and vanpools, provided to an eligible employee by the State.

"Qualified transportation fringe benefits" means those pre-tax benefits authorized under section 132(f) of the Code, including qualified parking.

"State" means the State of Hawaii.

3.0 PLAN ADMINISTRATOR

3.1 The director shall be the administrator of the plan.

3.2 The director may delegate any responsibilities to representatives of any State agency for the day-to-day administration of the plan, and may retain consultants or advisors as needed.

4.0 NONDISCRIMINATORY ADMINISTRATION

The plan shall be administered by the director, and the director's representatives, in a nondiscriminatory manner and in accordance with the Code and other applicable state laws.

5.0 PARTICIPATION

5.1 Pre-Tax Parking Benefit

5.1.1 An eligible employee who is provided qualified parking and assessed a monthly parking fee in accordance with schedule A of Hawaii Administrative Rules section 3-30-8 shall automatically have the parking fee deducted from the eligible employee's paycheck on a pre-tax basis. The pre-tax deduction shall be equal to the amount specified in schedule A of Hawaii Administrative Rules section 3-30-8 and shall not exceed the statutory monthly maximum specified in the Code.

5.1.2 An eligible employee who does not wish to participate in the plan shall be required to file an election form which affirmatively states that the eligible employee does not wish to participate in the plan and requests that the parking fee be deducted on a post-tax basis. The election form shall be filed with and received by the department of accounting and general services automotive management division at least twenty days prior to the beginning of the pay period to which the election applies.

5.1.3 An eligible employee who wishes to re-enroll in the plan shall file the appropriate forms with the department of accounting and general services automotive management division at least twenty

days prior to the beginning of the pay period to which the election applies.

5.1.4 Participation in the plan shall be effective January 1, 2001, for employees parking in qualified parking spaces on January 1, 2001, or the first day an eligible employee obtains qualified parking, whichever is later, unless an eligible employee has filed an election form to deduct the parking fee on a post-tax basis under subsection 5.1.2.

5.1.5 Participation in the plan shall continue as long as the employee continues to be an eligible employee, or until the employee files an election form to deduct the parking fee on a post-tax basis under subsection 5.1.2.

6.0 CANCELLATION OF THE PRE-TAX PARKING BENEFIT

6.1 An eligible employee may cancel the pre-tax parking benefit by filing the appropriate forms with the department of accounting and general services automotive management division at least twenty days prior to the cancellation date and in accordance with Hawaii Administrative Rules section 3-30-11.

6.2 Any eligible employee who retains the employee's parking assignment while on leave of absence without pay in accordance with Hawaii Administrative Rules chapter 3-30, by paying for the monthly parking fees on a post-tax basis shall automatically continue participation in the pre-tax parking benefit upon return to paid status.

6.3 An administrative cancellation of the pre-tax parking benefit may be made if:

6.3.1 An employee:

(A) Is no longer eligible for the pre-tax parking benefit;
(B) Commits a violation of Hawaii Administrative Rules chapter 3-30;
(C) Terminates employment without notification; or
(D) Dies;

in which case the cancellation shall become effective as of the same date on which the parking assignment is canceled; or

6.3.2 An eligible employee does not have sufficient funds to cover the payment of the pre-tax parking benefit, provided that the administrative cancellation shall be effective retroactively to the beginning of the pay period in which the employee failed to make the monthly contribution.

7.0 FORFEITURES

Amounts forfeited in accordance with Hawaii Administrative Rules section 3-30-11 shall not be refunded to an employee and shall revert to the State.

8.0 BENEFITS

Maximum Benefit Limits

The salary reduction amount of the qualified transportation fringe benefit that an eligible employee may exclude from the eligible employee's monthly gross income shall not exceed the statutory monthly maximum provided by the Code.

9.0 AMENDMENT OR TERMINATION OF THE PLAN

9.1 The State or the director may amend or terminate the plan, in whole or in part, for any reason, and at any time without the consent of any employee or other person.

9.2 The State or the director may amend or modify the plan retroactively to enable the plan to provide qualified transportation fringe benefits under the Code.

10.0 GENERAL PROVISIONS

10.1 Appeals

10.1.1 Except as otherwise provided by law, an employee may appeal any decision regarding the plan by submitting a written statement, within thirty days after receiving the decision, to the director which lists all of the reasons upon which the request for review is based and all facts in support thereof.

10.1.2 The director shall issue a written response or decision within sixty days after receiving the appeal.

10.1.3 Except as otherwise provided by law, the director's response or decision shall be final and conclusive.

10.2 Effect of the plan on employment.

10.2.1 The plan shall not be deemed to constitute a contract of employment between the State and any participant, or to be a consideration or an inducement for the employment of any participant or eligible employee.

10.2.2 Nothing contained in this plan shall be deemed to give any participant or eligible employee the right to be retained in the service of the State or to interfere with the right of the State to terminate any participant or eligible employee at any time regardless of the effect which such termination will have upon the eligible employee as a participant of this plan.

10.3 Tax consequences

Neither the State nor the director makes any warranty or other representation as to whether or not any benefits received by an eligible employee participating under the plan shall be treated as includible in gross income for federal and state income tax purposes.

10.4 Transfer of benefits.

Except as otherwise provided in this chapter, benefits under the plan shall not be voluntarily or involuntarily transferred, assigned, or alienated.

10.5 Computation of time

Except as otherwise provided in these guidelines, whenever a period of time is stated in terms of days, the period shall mean calendar days.

10.6 Headings and captions.

The headings and captions set forth in these guidelines are provided for convenience only, and shall not affect the construction or interpretation of the plan.

10.7 Liability of the State.

The State, including its employees, shall not be liable for any loss, taxes, or penalties due to an error or omission in administration of the plan unless the loss, taxes, or penalties are due to the gross negligence or willful misconduct of the State.

10.8 Severability

If any provision of these guidelines or the plan is declared to be invalid or unenforceable, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining provisions of these guidelines or the plan, and these guidelines and the plan shall be construed and enforced as if such provision had not been included.

10.9 Applicable law

The plan shall be construed and enforced according to the Code, and the laws of the State to the extent not preempted by federal law.