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DAMIEN A. ELEFANTE  
DEPUTY DIRECTOR

To: The Honorable Henry J.C. Aquino, Chair  
and Members of the House Committee on Transportation

Date: Friday, February 10, 2017  
Time: 10:00 A.M.  
Place: Conference Room 423, State Capitol

From: Maria E. Zielinski, Director  
Department of Taxation

Re: H.B. 721, Relating to Public Transportation Incentives

The Department of Taxation (Department) appreciates the intent of H.B. 721 and provides the following comments for your consideration.

H.B. 721 creates an income tax credit for amounts spent to purchase public transportation passes. The amount spent on public transportation passes is multiplied by the number of qualified exemptions the taxpayer may claim on their income tax return. The credit is available to taxpayers with federal adjusted gross (AGI) income of \$100,000 or less. It is not clear whether the credit is refundable or nonrefundable. The bill becomes effective upon approval and applies to taxable years beginning after December 31, 2016.

First, the Department notes that as written, this credit may be overly generous. This is because the credit is not equal to just 100% of the amount spent on public transportation passes, but 100% of the amount spent multiplied by the number of exemptions the taxpayer can claim. This means that a family of four would receive a tax credit equal to 400% of the amount actually spent on public transportation passes.

Take for example, a family of four at the top of the credit's income limit of \$100,000 per year. After reducing their income by the minimum of the standard deduction and four personal exemptions, the Hawaii tax owed would equal \$6,034. If this family purchases two annual bus passes at \$660.00 each, the family could claim a total tax credit of \$5,280 against their liability of \$6,034, or approximately 80 percent of their total liability. More importantly, this \$5,280 tax credit is due to the family's total expenditure of only \$1,320 on bus passes.

In general, credits offered at 100% of expenditures create incentives for abuse and waste. This incentive only increases as the amount of the credit allowed exceeds 100% of total expenditures. To address this, the Department recommends, at a minimum, removing the provision that multiplies the credit by the number of exemptions the taxpayer can claim.

Second, the Department notes that this bill does not state whether the credit is refundable or nonrefundable. In general, the Department prefers nonrefundable credits to refundable credits. Due to the possibility of receiving a cash payout, refundable credits create a greater incentive for fraud and abuse. The Department recommends that if this measure is moved forward, that the credit be amended to a nonrefundable credit.

Third, the Department notes that this as written this credit would apply only to residents. Limiting credits to residents may raise discrimination issues under the United States Constitution. The Department defers to the Department of the Attorney General for further information on any Constitutional issues this bill may raise.

Finally, the Department requests that if this measure is moved forward, the bill be amended to apply to taxable years beginning after December 31, 2017 to allow sufficient time for the necessary form, instruction and computer system changes for proper implementation.

Thank you for the opportunity to provide comments.

# TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 304

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: INCOME, Tax Credit for Public Transportation

BILL NUMBER: HB 721

INTRODUCED BY: HAR, BROWER, CULLEN, HASHEM, ICHiyAMA, ITO, KONG, LOPRESTI, MCKELVEY, OSHIRO, QUINLAN, SAN BUENAVENTURA, TOKIOKA, DeCoite

EXECUTIVE SUMMARY: Grants credits for bus passes and similar public transportation purchases, presumably including rail passes. Many taxpayers will be eligible for multiple incentives. In addition, the credit amount is more than the cost to the taxpayer, which could be a typographical error.

BRIEF SUMMARY: Adds a new section to HRS chapter 235 to allow a taxpayer with adjusted gross income of \$100,000 or less and who is not a dependent to claim an income tax credit equal to the amount spent by the taxpayer to purchase public transportation passes during the taxable year; provided that the total amount of any tax credit allowed under this section shall not exceed: (1) \$ \_\_\_\_ per individual taxpayer; or (2) \$ \_\_\_\_ per participating employee if the taxpayer purchases the public transportation passes for use by the taxpayer's employees.

The credit is equal to the amount spent by the taxpayer to purchase public transportation passes during the taxable year, multiplied by the number of qualified exemptions to which the taxpayer is entitled.

Defines "public transportation passes" as: (1) monthly or annual bus passes; or (2) monthly or annual passes for a public transportation program operated or contracted by the state or a county.

Requires all claims for the credit to be filed on or before the end of the twelfth month following the close of the taxable year. The director of taxation may adopt rules pursuant to HRS chapter 91 and prepare the necessary forms to claim the credit and may require proof of the claim for the credit.

EFFECTIVE DATE: Upon approval, applies to taxable years beginning after Dec. 31, 2016.

STAFF COMMENTS: It appears that this measure is intended to provide an incentive in the form of an income tax credit to encourage taxpayers to utilize public transportation by purchasing bus passes. Tax credits generally are designed to reduce the tax burdens of certain groups by refunding a portion of taxes paid on purchases of essential items and services. This credit would be granted to anyone regardless of their income level and would amount to nothing more than a partial subsidy of state funds as there is no obvious undue burden of taxes.

Here, the credit granted is the amount spent by the taxpayer on bus passes and the like during the year, multiplied by the number of qualified exemptions to which the taxpayer is entitled. That

calculation does not seem to make sense because the amount spent on transportation presumably includes transportation costs for the taxpayer's

The measure would also allow an employer to claim a tax credit for state income tax purposes, it should be remembered that under section 132 of the Internal Revenue Code (IRC), which is operable for Hawaii income tax purposes, this provision would allow multiple tax benefits. IRC section 132 would allow an employer to provide transit benefits tax free as a fringe benefit to its employees up to \$130 per month in 2015.

If it is the intent of the legislature to subsidize the use of public transportation, then a direct subsidy to the transportation providers should be considered in lieu of the proposed tax credit for individual taxpayers which may be cumbersome and unwieldy to claim by taxpayers and burdensome to administer and verify by the department of taxation.

Digested 2/8/2017

TRNtestimony

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From: mailinglist@capitol.hawaii.gov  
Sent: Wednesday, February 8, 2017 12:22 PM  
To: TRNtestimony  
Cc: prentissc001@hawaii.rr.com  
Subject: Submitted testimony for HB721 on Feb 10, 2017 10:00AM

**HB721**

Submitted on: 2/8/2017

Testimony for TRN on Feb 10, 2017 10:00AM in Conference Room 423

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Charles Prentiss	Individual	Comments Only	No

Comments: If adopted, this bill, of course, means that the State will subsidize the Honolulu rail an amount equal to the passes purchased by local residents. This is a major subsidy.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email [webmaster@capitol.hawaii.gov](mailto:webmaster@capitol.hawaii.gov)

TO: Members of the Committee on Transportation

FROM: Natalie Iwasa, CPA, CFE  
Honolulu, HI 96825  
808-395-3233

HEARING: 10:00 a.m. Friday, February 10, 2017

SUBJECT: HB 721, Tax Credit for Bus Passes - **Comments**

Aloha Chair and Committee Members,

Thank you for allowing me the opportunity to provide testimony on HB 721 which offers a tax credit to taxpayers who purchases bus passes and have \$100,000 or less adjusted gross income.

The credit amount would be equal to the amount spent to purchase the passes “multiplied by the number of qualified exemptions.” If I understand correctly, a taxpayer who has four exemptions would get four times the amount paid for the pass. The incentive then is to simply purchase a pass in order to make money in the form of the tax credit.

Please consider amending this bill, so that a taxpayer receives no more than the amount paid.

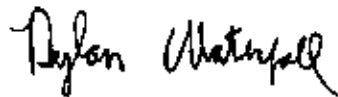
**LATE**

**LATE TESTIMONY**

Dear Chair Aquino, Vice Chair Quinlan and members of the Transportation Committee,

Please support HB 721. As an island state, Hawaii has always been limited in its ability to build its transportation infrastructure. Overcrowding and traffic has been a problem. This bill would provide incentives to encourage people to leave their cars at home and take the bus. The people of Hawaii deserve efficient roads, and this bill would be a step in the right direction.

Mahalo,



Dylan Waterfall

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Mahalo,

A handwritten signature in black ink, appearing to read "Ryan Ferguson", with a long horizontal flourish extending to the right.

Ryan Ferguson