LINDA LINGLE
Governor

SANDRA LEE KUNIMOTO
Chairperson, Board of Agriculture

DUANE OKAMOTO
Deputy to the Chairperson

State of Hawaii
DEPARTMENT OF AGRICULTURE
1428 South King Street
Honolulu, Hawaii 96814-2512
Phone: (808) 973-9600 Fax: (808) 973-9613

TESTIMONY OF SANDRA LEE KUNIMOTO
CHAIRPERSON, BOARD OF AGRICULTURE

BEFORE THE HOUSE COMMITTEE ON FINANCE
THURSDAY, FEBRUARY 26, 2008; 10:00 A.M.

HOUSE BILL NO. 2739, HD1
RELATING TO STATE ENTERPRISE ZONES

Chairperson Oshiro and Members of the Committees:

Thank you for the opportunity to comment on House Bill No. 2739, HD1. The purpose of this bill is to qualify agricultural businesses for enterprise zones and allow them to receive benefits in case of a force majeure event.

The Hawaii Department of Agriculture (HDOA) supports the intent of this bill as it allows qualified agricultural businesses in the Enterprise Zone (EZ) program to remain eligible for all tax incentives while experiencing a force majeure event and also extends the seven-year eligibility period by the duration of the loss.

This bill addresses concerns raised previously by defining the term "*force majeure*" and amends Section 4 (a)(4) (Page 5; lines 14-20) by allowing qualified businesses to stay eligible in subsequent years by <u>maintaining</u> a higher level of employment of at least 10 per cent in the first year, provided that value-added products are made from crops grown within the EZ or are engaged in producing or processing agricultural products.

However, we wish to point out that agribusinesses, in general, will still find it challenging to meet the increase in full-time employee requirements, especially when agricultural labor is in short supply. An alternate performance measure such as an annual increase in gross income by two percent is more attainable. This was proposed by DBEDT in bills for several years and we suggest these criteria be revived.

LINDA LINGLE
GOVERNOR
THEODORE E. LIU
DIRECTOR
MARK K. ANDERSON
DEPUTY DIRECTOR

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT & TOURISM

No. 1 Capitol District Bldg., 250 South Hotel St., 5th Flr., Honolulu, Hawaii 96813
Mailing Address: P.O. Box 2359, Honolulu, Hawaii 96804
Web site: www.hawaii.gov/dbedt

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Statement of
THEODORE E. LIU
Director
Department of Business, Economic Development, and Tourism
before the
HOUSE COMMITTEE ON FINANCE

Tuesday, February 26, 2008
10:00 AM
State Capitol, Conference Room 308

in consideration of
HB 2739 H.D. 1
RELATING TO STATE ENTERPRISE ZONES

Chairs Oshiro, Vice-Chair Lee, and Committee members:

The department supports the concept of HB 2739 H.D. 1. There have been many good ideas introduced this legislative session that support the State's economic development goals. We note, however, that this appropriation was not included in the Executive's Supplemental Budget, and request that this appropriation not displace the priorities contained in that budget.

Agriculture is a vital component of Hawaii's economy, preserving open space essential to tourism and helping to protect our environment. Currently, there are more than 5500 farms, but as of 2006, only 44 participated in the Enterprise Zone (EZ) Partnership. In 2005, only 12 of the 44 firms qualified for benefits, 4 companies did not qualify and the remaining 21 farmers did not file their annual reports. Common reasons for not filing included closing the business or knowing that qualification criteria had not been met.

This bill also helps farmers cope with natural disasters by allowing them to retain EZ eligibility when their operation has been negatively affected and then resume production, with the time added to their full participation period. This change would have benefited many farmers affected by the Spring 2006 floods on Oahu and Kauai and a few on the Big Island whose water systems were damaged by the Kiholo earthquake.

The department, however, identifies two major changes contained on page 4, lines 13 through 19 that will have a negative impact on businesses and the department. The first impacts 'existing' businesses. The bill will require firms to <u>increase the average annual number of full-time</u> employees **by at least 15%** at the ends of the fourth, fifth, sixth and seventh years of eligibility. Presently, 'existing' EZ businesses need to increase employees by *10% each year* for the term of their eligibility. We feel that the *current language requiring the 10% increase is more realistic* and attainable given the State's low unemployment levels and positive impact results the current 10% increase already has. And 'existing' businesses will include and affect small mom-and-pop farms and businesses probably as much as large companies.

The second change contained on page 6, lines 12-19, establishes the base employee count from the time <u>the business opened for operation</u> and not when they applied into the EZ program as is currently practiced. The implication is that a business that has been around for 30, 40, or 50 years, can apply and use their base employee count from 30, 40, or 50 years ago, and if they increased their staff by 10% in the first year, and 15% in years two to seven, they would *automatically fulfill this requirement* for benefits that would apply 23, 33, or 43 years later. It will be difficult to obtain credible data from companies that have been for over 10 years. It would be difficult to verify and difficult to enforce. Furthermore, this would conflict with the purpose of the EZ program which is to encourage economic growth in our communities *today*. We would recommend not including the changes stated on lines 12 to 19.

Our last comment is the additions on page 7 lines 9 to 12. We appreciate the specific omission of agricultural retail sales from being GET exempt, however, we want to retain the inclusion of 'genetically-engineered... agricultural... products,' to encourage and promote biotechnology development and utilization in Hawaii. We suggest page 7 lines 9 through 12 state, ";provided that agricultural businesses <u>not engaged in genetically-engineered agricultural production</u> shall not be exempt from the payment of general excise taxes on the gross proceeds of agricultural retail."

Thank you for the opportunity to offer these comments.

LINDA LINGLE
GOVERNOR

JAMES R. AIONA, JR.
LT. GOVERNOR

KURT KAWAFUCHI
DIRECTOR OF TAXATION

SANDRA L. YAHIRO
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF TAXATION
P.O. BOX 259
HONOLULU, HAWAII 96809

PHONE NO: (808) 587-1510
FAX NO: (808) 587-1560

HOUSE COMMITTEE ON FINANCE

TESTIMONY REGARDING HB 2739 HD 1
RELATING TO STATE ENTERPRISE ZONES

TESTIFIER: KURT KAWAFUCHI, DIRECTOR OF TAXATION (OR DESIGNEE)
DATE: FEBRUARY 26, 2008
TIME: 10:00AM
ROOM: 308

This bill would provide farmers with an alternative means of obtaining and maintaining enterprise zone (EZ) benefits.

The Joint House Committee on Economic Development & Taxation and Agriculture amended the measure by defining a "force majure" event, among other nonsubstantive changes.

The Department of Taxation ("Department") takes **no position** on the merits of this bill. The Department defers to the Department of Business, Economic Development and Tourism ("DBEDT") and the Department of Agriculture regarding this bill's merits.

The State currently provides tax breaks for qualifying businesses in an Enterprise Zone. Under section 209E-11, Hawaii Revised Statutes (HRS), certain types of businesses in the enterprise zone that satisfy hiring requirements are exempt from the state general excise and use tax for up to seven years. Qualified businesses can also claim two partial state income tax credits under section 209E-10, HRS:

1. **An income tax credit based on taxes due the State.** The tax credit is equal to 80 percent of the taxes due for the first tax year, which decreases by 10 percent for each year thereafter, over the next six years;

2. **An income tax credit based on unemployment taxes paid.** The tax credit is equal to 80 percent of the unemployment taxes paid during the first year, which decreases by 10 percent for each year thereafter, over the next six years.

The Department notes that pursuant to HRS 209E-10, DBEDT has been tasked with certifying to the Department the applicability of the tax credit for a qualified business against any taxes due to the State.

This bill amends the requirements of the state enterprise zone program by:

1. Allowing the Department of Business, Economic Development, and Tourism to extend tax incentives to qualifying agricultural businesses for the duration of the effects of a *force majeure*;

2. Enabling agricultural businesses to remain eligible for the tax incentives under the Program during any period of interruption caused by a *force majeure* event;

3. Adds a definition of "force majure event," "leased employee," and "joint employment" to HRS § 209E-2, and amends HRS § 209E-2 to include "leased employees" and "joint employees" in the definition of "full-time employees";

4. Amends HRS § 209E-10 to allow agricultural business as the only businesses that could use retail sales of value-added products from crops grown within an EZ to count toward certification for the tax credit.

5. Adds clarifying language to HRS § 209E-11 that an agricultural business is not exempt from general excise tax on gross proceeds of agricultural retail sales.

Revenue losses are estimated to be $800,000 for fiscal year 2009, $2.4 million for fiscal year 2010, $800,000 for fiscal year 2011 and $550,000 per year thereafter.

While it is understandable that agricultural operations are perhaps more prone to suffer economic dislocation as a result of a natural disaster or severe weather conditions, one has to pose the question whether or not other businesses that suffer from a force majeure should also be granted the same leniency this measure proposes? What this measure does emphasize is the inequity created by enterprise zones by handing out more favorable treatment for those located in the zone, usually at the expense of those who are not.

The proposed measure also amends the eligibility requirements of an enterprise zone to include the processing of agricultural products. It should be remembered that in recent years, the type of businesses that have been included to receive enterprise zone benefits include call centers of disease management services, sale of wind farm generated electricity sold to a public utility, research, development and sale of genetically engineered medical, agricultural, or maritime biotechnology, etc. The proposed measure would singling out another business for preferential treatment merely conferring preferences for those businesses at the expense of all other taxpayers

It should be remembered that enterprise zones merely exacerbate what is already considered a poor climate in which to do business. Singling out specific areas of the state merely confers preferences for those businesses located within those geographic areas at the expense of all other taxpayers who are not so favored. It should be remembered that those taxpayers who live and work in the zone will demand the same public services as those who are not as fortunate to be located in the zone. Who then will pay for these services?

Concurrent efforts must be made to improve Hawaii's business climate to enhance the economic prospects for all businesses. Enterprise zones are merely an abdication of government's responsibility to create a nurturing and supportive business climate so that all businesses can thrive in Hawaii and provide the jobs the people of Hawaii need.

Finally, while Hawaii has had the enterprise zone concept on the books for years, no evaluation of how effective these zones have been in improving the well-being of those communities on which this status has been conferred. Before further corrupting the economic marketplace with added versions of the enterprise zone concept, an evaluation of the current zones should be undertaken. Instead of expanding the enterprise zone program, the program should be repealed in favor of across-the-board tax relief for all businesses in Hawaii. Indeed, has there not been a comprehensive evaluation of the program and do lawmakers know exactly how much enterprise zone businesses have benefitted and whether or not they have created the jobs promised when the program was first established? If the legislature is adamant about the designation of enterprise zones in the state, then the whole state should be designated an enterprise zone and the tax treatment will be equitable to all businesses

Digested 2/25/08

HARC

Hawaii Agriculture Research Center

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Aiea, Hawaii 96701
Ph: 808-487-5561/Fax: 808-486-5020

TESTIMONY BEFORE THE HOUSE COMMITTEE ON FINANCE

HOUSE BILL 2739 HD1

RELATING TO STATE ENTERPRISE ZONES

February 26, 2008

Chairman Oshiro and Members of your Committee:

My name is Stephanie Whalen. I am President and Research Director of the Hawaii Agriculture Research Center (HARC). I am testifying today on behalf of the center, our research and support staff, and our members and clients.

HARC strongly supports House Bill 2739 Relating to State Enterprise Zones.

Recognizing the uniqueness of agricultural businesses as this proposal does will be very helpful in maintaining the viability of agriculture. In the transition from large scale farming to smaller and more diverse farms it is imperative that the statutes also change and adapt to the needs of this situation. Many of the newer crops do not require year-round labor but with the diversity developing shared or leased employees just makes sense. Whereas diversity existed under one employer in the past which allowed year-round employment by one company, that diversity is now manifested in many independent farms where peak and shorter employment periods are the norm.

It is exciting to see legislation now developing to support this diversification of agriculture that has been the goal for over 3 decades.

Thank you for the opportunity to testify in support of Hawaii's agricultural needs but in opposition to this proposed measure.

Hawaii Aquaculture Association

To:

HOUSE OF REPRESENTATIVES
THE TWENTY-FOURTH LEGISLATURE
REGULAR SESSION OF 2008

COMMITTEE ON FINANCE
Rep. Marcus R. Oshiro, Chair
Rep. Marilyn B. Lee Vice Chair

<u>HEARING</u>

DATE: Tuesday, February 26, 2008
TIME: 10:00a.m.
PLACE: Conference Room 308, State Capitol
415 South Beretania Street

Agenda #1

From: Ronald P. Weidenbach, President, Hawaii Aquaculture Association
Cell: 429-3147, Email: hawaiifish@gmail.com

Re: **HB2739 HD1** - RELATING TO STATE ENTERPRISE ZONES

Chair Oshiro, Vice-Chair Lee, and Members of the Committees:

The Hawaii Aquaculture Association (HAA) strongly supports the intent of HB2739 HD1 to qualify agricultural businesses for enterprise zones, to allow them to receive benefits in case of force majeure, to count leased employees and joint employment workers in hiring formulas, and to qualify certain value-added agricultural sales towards certification for income tax credit purposes.

However, HB2739 HD1 fails to address the needs of small agriculture operations and micro-enterprises in initially meeting and subsequently maintaining eligibility under current hiring requirements and clearly providing for the immediate needs of Hawaii's agriculture operations affected by one or more of the force majeure events of the last fifteen months that are currently seeking to maintain Enterprise Zone (EZ) eligibility. HAA therefore respectfully requests that HB2739 HD1 be amended to address these two concerns, as follows:

1. In Section 1. or elsewhere as appropriate, it should be stated that the effective date of eligible force majure events extend back to November 2006, the start of the 40 days of

rain in November/December 2006 so as to cover EZ agriculture operations severely affected by these rains and/or by subsequent earthquake, wind and fire natural disasters. This amendment is particularly important for agribusinesses producing crops that take one or more years to grow, such as aquaculture products, fruit trees, and forestry products, where losses in 2006 subsequently affected the agribusinesses' ability to meet increased employment requirements in 2007 thereby affecting EZ eligibility in 2008 and beyond.

2. In Section 4. (b), an agribusiness firm should be eligible to be designated a qualified business if the business increases its average annual number of full-time employees by 10% per year (not increasing by 15% per year in years 4, 5, 6, and 7 as indicated in HB2739 HD1), or, if an agribusiness firm increases its gross sales of agricultural crops or products produced within the enterprise zone by 2 %, as specified in last year's HB1923 HD2SD1 Relating to Enterprise Zones for Agriculture that was passed by EDB, AGR, and FIN. To make increased employment the only measure of initial and annual eligibility favors larger businesses whereas EZ start-ups are often small "Mom and Pop" micro-enterprise operations, many initially without employees. The inequity of this current situation is demonstrated in the following example:

   A business with 10 existing employees that is located within or moving into an EZ could be immediately eligible to be designated as a qualified business and would have to increase its average annual number of full-time employees by one (1) to meet the 10% annual increase requirement.

   In comparison, a micro-enterprise without employees would have to add one (1) employee just to become eligible for EZ designation, and this hire would not count towards the 10% annual increase requirement (under DBEDT's interpretation of the current EZ eligibility requirements). Therefore, once EZ designation is obtained, the micro-enterprise would then have to hire a second full-time employee to count towards the 10% annual increase requirement. However, if this second employee were hired two or three months after EZ designation, which is likely given the current shortage of available agricultural employees, then the micro-enterprise would have to hire a third employee at least two or three months before the end of the year in order to have 12 months of FTE new-hire employment for the year to meet the 10% annual increase requirement and maintain eligibility.

   The inequity of this situation for a micro-enterprise is clearly apparent with the micro-enterprise without employees having to hire three (3) employees in one year to meet EZ eligibility qualification requirements while the 10-employee business only has to hire one (1). This inequity could be corrected by adding the alternative eligibility criteria of increasing gross sales by 2% as defined in last year's HB 1923 HD2SD1.

The HAA strongly supports the EZ program but urges the amendments requested above to address the eligibility crisis for EZ agribusinesses affected by force majure events over the past fifteen months and to make the program equitable for micro-enterprises and agribusinesses with fewer than 10 employees by allowing firms to meet eligibility requirements by either a 10% annual employee increase or by a 2% increase in gross sales.

Thank you for the opportunity to testify.

HAWAII FARM BUREAU FEDERATION
2343 ROSE STREET
HONOLULU, HI 96819

FEBRUARY 26, 2008

HEARING BEFORE THE
HOUSE COMMITTEE ON FINANCE

TESTIMONY ON HB 2739, HD 1
RELATING TO STATE ENTERPRISE ZONES

Chairs Oshiro and committee members:

My name is Alan Takemoto, Executive Director, of the Hawaii Farm Bureau Federation, which is the largest non-profit general agriculture organization representing approximately 1,600 farm and ranch family members statewide.

The Hawaii Farm Bureau Federation supports the intent of HB 2739, HD 1. We support the provision that allows agricultural businesses to continue to be qualified in the event of any natural disaster. Agricultural businesses can be completely out of production for weeks and sometimes for months with strong winds, rain, and flooding. Also allowing value added agricultural products grown in the zone may also take advantage of these tax credits provided. This will encourage more value added production and help farmers to diversify their operation.

We do have concerns regarding the added labor requirements stated in this bill. With the labor shortage here in Hawaii, especially for agricultural operations, it has been very difficult to hire willing laborers to work on farms. Small family farms will continue to not participate in this program if this labor requirement becomes more difficult. We recommend that for agricultural operations, we add that revenues be an alternative if the farm operation cannot meet the labor requirement. With revenues as an added component, the agricultural operation will then have a realistic incentive mechanism to eventually hire more labor.

Thank you.

SciTech

HAWAII SCIENCE & TECHNOLOGY COUNCIL

HB2739 HD1: RELATING TO STATE ENTERPRISE ZONES

DATE: February 26, 2008
10:00 am., Conference Room 308

TO: Committee on Finance
Representative Marcus Oshiro, Chair
Representative Marilyn Lee, Vice Chair

FROM: Lisa H. Gibson
President
Hawaii Science & Technology Council

RE: **Testimony In Support of the Purpose and Intent of HB2739 HD1**

Aloha Chair, Vice Chair, and Members of the Committee:

The Hawaii Science & Technology Council supports the EZ program but urges the amendments submitted by the Hawaii Aquaculture Association to address the eligibility crisis for EZ agribusinesses affected by force majure events over the past fifteen months and to make the program equitable for micro-enterprises and agribusinesses with fewer than 10 employees by allowing firms to meet eligibility requirements by either a 10% annual employee increase

The Hawaii Science & Technology Council is a private tax-exempt 501(c)6 industry association with a 28-member board. The council serves Hawaii companies engaged in ocean sciences, agricultural biotechnology, astronomy, defense aerospace, biotech/life sciences, information & communication technology, energy, environmental technologies, and creative media.

Thank you for the opportunity to testify on this important bill.

Lisa H. Gibson
President

735 Bishop Street, Suite 401 Honolulu, Hawaii 96813
808.536.4670 *phone* | 808.536.4680 *fax* |

Hawaii
Crop
Improvement
Association

Sarah Styan, President
P.O. Box 609
Waimea, Hawaii 96796
Phone: 808- 338-8300 ext 113

Testimony by: Sarah Styan
HB 2739hd1, Relating to State Enterprise Zones
House FIN Committee
Tuesday, Feb. 26, 2008
Room 308: 10:00 am – Agenda #1

Position: Support

Chair Oshiro and Members of the House FIN Committee:

My name is Sarah Styan. I am a Kauai resident, President of HCIA and research scientist of Pioneer Hi-Bred International, Waimea Research Station. The HCIA represents seed production and research facilities operating in Hawaii for nearly 40 years. The HCIA is comprised of five member companies that farm an estimated 8,000 acres on four islands, valued at $97.6 million in operating budget (2006/2007 HASS). We are proud members of Hawaii's diversified agriculture and life sciences industries.

This is a measure that will facilitate the growth of Hawaii's agricultural industry by creating agricultural enterprise zones, in which farmers in specified rural areas may receive incentives for farming. It takes into account some of the unique challenges that farming brings to agricultural enterprise zones, primarily labor availability and weather conditions, and allows for certain value-added agricultural sales towards certification for this credit.

We support the provisions that allow for continued benefit of tax incentives during a force majeure event. The definitions for "joint employer" and "leased employee" are appreciated because in today's tight labor market, some of the agricultural employees are leased employees or may be employed by more than one farmer.

Thank you for the opportunity to present testimony.

FINtestimony

From: Bill Spencer [bspencer@hawaii.rr.com]
Sent: Monday, February 25, 2008 1:09 PM
To: FINtestimony
Subject: Testimony in Strong Support of Intent of HB2739 HD1

Hawaii Oceanic Technology, Inc.
425 South Street, Suite 2902
Honolulu, Hawaii 96813
808-225-3579

To: COMMITTEE ON FINANCE
Rep. Marcus R. Oshiro, Chair
Rep. Marilyn B. Lee Vice Chair

From: Bill Spencer,CEO Hawaii Oceanic Technology, Inc.

Re: **HB2739 HD1** - RELATING TO STATE ENTERPRISE ZONES
DATE: Tuesday, February 26, 2008
TIME: 10:00a.m.
PLACE: Conference Room 308, State Capitol

Dear Chair Oshiro, Vice-Chair Lee, and Members of the Committees:

The Hawaii Oceanic Technology, Inc. strongly supports the intent of HB2739 HD1 to qualify agricultural businesses for enterprise zones, to allow them to receive benefits in case of force majeure, to count leased employees and joint employment workers in hiring formulas, and to qualify certain value-added agricultural sales towards certification for income tax credit purposes.

However, HB2739 HD1 fails to address the needs of small agriculture operations and micro-enterprises in initially meeting and subsequently maintaining eligibility under current hiring requirements and clearly providing for the immediate needs of Hawaii's agriculture operations affected by one or more of the force majeure events of the last fifteen months that are currently seeking to maintain Enterprise Zone (EZ) eligibility. I therefore respectfully requests that HB2739 HD1 be amended to address these two concerns, as follows:

1. In Section 1. or elsewhere as appropriate, it should be stated that the effective date of eligible force majeure events extend back to November 2006, the start of the 40 days of rain in November/December 2006 so as to cover EZ agriculture operations severely affected by these rains and/or by subsequent earthquake, wind and fire natural disasters. This amendment is particularly important for agribusinesses producing crops that take one or more years to grow, such as aquaculture products, fruit trees, and forestry products, where losses in 2006 subsequently affected the agribusinesses' ability to meet increased employment requirements in 2007 thereby affecting EZ eligibility in 2008 and beyond.

2. In Section 4. (b), an agribusiness firm should be eligible to be designated a qualified business if the business increases its average annual number of full-time employees by 10% per year (not increasing by 15% per year in years 4, 5, 6, and 7 as indicated in HB2739 HD1), or, if an agribusiness firm increases its gross sales of agricultural crops or products produced within the enterprise zone by 2 %, as specified in last year's HB1923 HD2SD1 Relating to Enterprise Zones for Agriculture that was passed by EDB, AGR, and FIN. To make increased employment the only measure of initial and annual eligibility favors larger businesses whereas EZ start-ups are often small "Mom and Pop" micro-enterprise operations, many initially without employees. The inequity of this current situation is demonstrated in the following example:

   A business with 10 existing employees that is located within or moving into an EZ could be immediately eligible to be designated as a qualified business and would have to increase its average annual number of full-time employees by one (1) to meet the 10% annual increase requirement.

   In comparison, a micro-enterprise without employees would have to add one (1) employee just to become eligible for EZ designation, and this hire would not count towards the 10% annual increase requirement (under DBEDT's interpretation of the current EZ eligibility requirements). Therefore, once EZ designation is obtained, the micro-enterprise would then have to hire a second full-time employee to count towards the 10% annual increase requirement. However, if this second employee were hired two or three months after EZ designation, which is likely given the current shortage of available agricultural employees, then the micro-enterprise would have to hire a third employee at least two or three months before the end of the year in order to have 12 months of FTE new-hire employment for the year to meet the 10% annual increase requirement and maintain eligibility.

   The inequity of this situation for a micro-enterprise is clearly apparent with the micro-enterprise without employees having to hire three (3) employees in one year to meet EZ eligibility qualification requirements while the 10-employee business only has to hire one (1). This inequity could be corrected by adding the alternative eligibility criteria of increasing gross sales by 2% as defined in last year's HB 1923 HD2SD1.

   The HAA strongly supports the EZ program but urges the amendments requested above to address the eligibility crisis for EZ agribusinesses affected by force majeure events over the past fifteen months and to make the program equitable for micro-enterprises and agribusinesses with fewer than 10 employees by allowing firms to meet eligibility requirements by either a 10% annual employee increase or by a 2% increase in gross sales.

   Thank you for the opportunity to testify.

   Sincerely,

   /s/

   Bill Spencer
   CEO

L E G I S L A T I V E

TAXBILLSERVICE

126 Queen Street, Suite 304 TAX FOUNDATION OF HAWAII Honolulu, Hawaii 96813 Tel. 536-4587

179-180

SUBJECT: MISCELLANEOUS, Enterprise zone agricultural businesses

BILL NUMBER: HB 2739, HD-1

FIN 2/26

INTRODUCED BY: House Committees on Economic Development and Business Concerns and Agriculture

2:00 pm 1/10

BRIEF SUMMARY: Adds a new section to HRS chapter 209E to provide that if an agricultural business is: (1) prevented from maintaining enterprise zone eligibility requirements; or (2) interrupted due to a force majeure event, the business located in an enterprise zone shall not be disqualified as an eligible business. The seven-year eligibility period for such business shall be extended by the duration of the force majeure event.

Amends HRS section 209E-2 to add the definition of "force majeure," "joint employment," and "leased employee" for purposes of the measure. Amends the definition of "full-time" employee to include leased employees and employees under a joint employment relationship and the definition of "qualified business" to include a business engaged in processing agricultural products. Defines "force majeure" as an event including, but not limited to, damaging weather or natural disasters such as epidemic disease, pest outbreak, high wind, thunderstorm, hail storm, tornado, fire, flood, earthquake, lava flow or other volcanic activity, drought, tidal wave, hurricane, or any situation beyond the control of the agricultural business.

Amends HRS section 209E-9 to stipulate that receipts from value-added products made from crops grown within an enterprise zone and sold at retail pursuant to the enterprise zone requirements, shall count toward the gross receipts requirement for business firms engaged in producing or processing agricultural products. Also provides that a business shall be eligible as a "qualified business" if the business increases its average annual number of full-time employees employed at the business located within the enterprise zone by at least 10% by the end of the first year of operation; and by 15% by the end of each of the fourth, fifth, sixth, and seventh years of operation.

Amends HRS section 209E-11 to provide that agricultural businesses shall not be exempt from the payment of general excise taxes on the gross proceeds of agricultural retail sales.

EFFECTIVE DATE: Tax years beginning after December 31, 2034

STAFF COMMENTS: In an enterprise zone, businesses are attracted and encouraged to relocate to the zone through tax incentives, bonds, and other appropriate measures. Businesses located in an enterprise zone may claim a credit against taxes paid for a period of seven years and also allows the sale of items sold by such businesses to be exempt from the general excise tax. This measure proposes to allow an agricultural business located in an enterprise zone to maintain its eligibility requirements in the event of a force majeure and also to extend its enterprise zone benefits by the duration of the event.