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To: The Honorable Clift Tsuji, Chair  
and Members of the Committee on Economic Development and Business

The Honorable Jessica Wooley, Chair  
and Members of the Committee on Agriculture

Date: Friday, March 14, 2014  
Time: 11:00 A.M.  
Place: Conference Room 312, State Capitol

From: Frederick D. Pablo, Director  
Department of Taxation

Re: S.B. 2020, S.D. 2, Relating to Economic Development

The Department of Taxation (Department) appreciates the intent of S.B. 2020, S.D. 2, and provides the following information and comments for your consideration.

S.B. 2020, S.D. 2, would create an "Agricultural Foreign Trade Zone" on certain designated parcels of land in the State, to be administered by the Department of Business, Economic Development, and Tourism (DBEDT). This measure is intended to provide the same benefits a business would receive in a Foreign Trade Zone to businesses in an "Agricultural Foreign Trade Zone" whose services relate to agriculture. S.D. 2 has a defective effective date of July 1, 2050.

The Department notes that a Foreign Trade Zone (FTZ) is created by federal law, specifically Chapter 19, Section 81 of the United States Code, and is intended to be a zone in which international trade can occur without incurring United States customs duties. The only prohibition on State activity within any FTZ is the prohibition on *ad valorem* taxation by the State within the FTZ, created by Chapter 19, Section 81o(e) of the United States Code. The Department notes that generally agricultural products and commodities are not subject to *ad valorem* taxation under Hawaii's current tax system.

An exemption from the General Excise Tax is provided by Section 212-8, Hawaii Revised Statutes, for certain activities within a FTZ, and this exemption would apply to activities

within a zone created pursuant to this measure, but only once the certification process discussed in prior testimony from DBEDT was complete.

If the intent of the legislature is to provide tax incentives for agricultural trade, the Department suggests utilizing the existing Enterprise Zone law rather than using terminology associated with federal programs.

Thank you for the opportunity to provide comments.