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To: The Honorable Karl Rhoads, Chair;
The Honorable Jarrett Keohokalole, Vice Chair;
and Members of the Senate Committee on Judiciary

From: Isaac W. Choy, Director
Department of Taxation

Date: February 4, 2021
Time: 9:15 A.M.
Place: Via Video Conference, State Capitol

Re: S.B. 1196, Relating to Withholding Tax

The Department of Taxation (Department) strongly supports S.B. 1196, an Administration measure.

S.B. 1196 amends the due date for employers to furnish a wage and tax statement (Form W-2) to their employees and with the Department from the last day of February to January 31 following the close of the calendar year. This amendment will align the State's filing deadlines with the Internal Revenue Service (IRS). Employers will benefit from having a single deadline for filing.

S.B. 1196 also imposes a penalty on an employer who fails to furnish a Form W-2 to an employee by the prescribed due date, fails to file a copy of the Form W-2 with the Department by the prescribed due date, or fails to electronically file a copy of the Form W-2 if required to file electronically. The proposed penalty is \$25 per violation, and limited to \$50 per employee.

Under current law, there is currently no State penalty if an employer fails to furnish an employee with their Form W-2 or fails to file a copy with the Department. The IRS imposes a similar penalty at a rate of \$50 per violation. The Department believes that a flat fee penalty is appropriate and necessary as there is no tax that is owed based on Form W-2 itself that would allow for an accurate method of calculating a percentage-based penalty. In regards to tax administration, penalties are established to encourage voluntary compliance.

Thank you for the opportunity to testify in support of this measure.