ON THE FOLLOWING MEASURE:
S.B. NO. 1050, S.D. 1, RELATING TO CRIMINAL HISTORY RECORD CHECKS.

BEFORE THE:
HOUSE COMMITTEE ON JUDICIARY AND HAWAIIAN AFFAIRS

DATE:	Tuesday, March 30, 2021	**TIME:**	2:00 p.m.
LOCATION:	State Capitol, Room 325, Via Videoconference		
TESTIFIER(S):	Clare E. Connors, Attorney General, or		
	Christopher D. W. Young, Administrator,		
	Hawaii Criminal Justice Data Center		

Chair Nakashima and Members of the Committee:

The Department of the Attorney General (Department) supports this bill.

The purpose of this bill is to authorize the Department to search the criminal histories and fingerprint records of current and prospective employees and contractors who receive access to federal tax information (FTI), as required by federal law.

The Internal Revenue Service's (IRS) Publication 1075, Tax Information Security Guidelines for Federal, State and Local Agencies, mandates that agencies receiving FTI perform background checks, including a Federal Bureau of Investigation fingerprint-based search, on all employees, applicants for employment, and contractors who have access to FTI. In accordance with this requirement, the Department identified positions whose essential duties include regular access of FTI. However, the Department needs specific authorization under section 846-2.7, Hawaii Revised Statutes (HRS), before it may perform fingerprint-based criminal history record checks.

Statutory authorization under section 846-2.7, HRS, was previously provided to the Department of Taxation, Department of Labor and Industrial Relations, Department of Human Services, and the Child Support and Enforcement Agency to comply with the IRS requirement. The Department respectfully requests that it also be granted the statutory authority to comply with federal law.

Thank you for the opportunity to provide testimony.

STATE OF HAWAII
DEPARTMENT OF TAXATION
P.O. BOX 259
HONOLULU, HAWAII 96809
PHONE NO: (808) 587-1540
FAX NO: (808) 587-1560

To: The Honorable Mark M. Nakashima, Chair;
                  The Honorable Scot Z. Matayoshi, Vice Chair;
                  and Members of the House Committee on Judiciary & Hawaiian Affairs

From: Isaac W. Choy, Director
                  Department of Taxation

Date: March 30, 2021
Time: 2:00 P.M.
Place: Via Video Conference, State Capitol

Re: S.B. 1050, S.D. 1, Relating to Criminal History Records Checks

The Department of Taxation (Department) <u>strongly supports</u> S.B. 1050, S.D. 1, an Administration measure, and offers the following comments for your consideration. This measure authorizes the Department of the Attorney General (AG) to conduct a background investigation for any person, including any authorized contractor, that may have access to Federal Tax Information (FTI) prior to such person being able to access FTI. The Senate Committee on Judiciary removed the provision in the original measure which provided that determinations of the AG on the matter was not subject to the requirements of Chapter 91, Hawaii Revised Statutes. S.B. 1050, S.D. 1, is effective upon approval.

In 2014, the United States Treasury Inspector General for Tax Administration audited several state agencies, which were asked to provide copies of background check policy and procedures. While such background checks were required by the Internal Revenue Service (IRS) for anyone having access to FTI, the actual investigations varied from very thorough to no checks at all. This resulted in a Finding and Recommendation for the Office of Safeguards, of which the IRS ultimately adopted 3 recommendations. Currently, background investigations for any individual granted access to FTI now must include, at a minimum:

- FBI fingerprinting – review of Federal Bureau of Investigation (FBI) fingerprint results conducted to identify possible suitability issues.
- Check of local law enforcement agencies where the subject has lived, worked, and/or attended school within the last five years, and if applicable, of the appropriate agency for any identified arrests.
- Citizenship/residency – Validate the subject's eligibility to legally work in the United States (e.g., a United States citizen or foreign citizen with the necessary authorization).

S.B. 1050, S.D. 1, makes the AG responsible for such background checks, and provides that a prior conviction of a crime is to be considered in determining whether a person is eligible to access FTI.

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

DAVID Y. IGE
GOVERNOR

RYKER WADA
DIRECTOR

ANDREW T. GARRETT
DEPUTY DIRECTOR

STATE OF HAWAIʻI
DEPARTMENT OF HUMAN RESOURCES DEVELOPMENT
235 S. BERETANIA STREET
HONOLULU, HAWAIʻI 96813-2437

TESTIMONY TO THE
HOUSE COMMITTEE ON JUDICIARY AND HAWAIIAN AFFAIRS

For Hearing on Tuesday, March 30, 2021 at 2 p.m.
Via Videoconference

BY

RYKER WADA
DIRECTOR

Senate Bill No. 1050 Senate Draft 1
Relating to Criminal History Record Checks

<u>**WRITTEN TESTIMONY ONLY**</u>

CHAIR NAKASHIMA, VICE CHAIR MATAYOSHI AND MEMBERS OF THE COMMITTEE:

DHRD **supports** Senate Bill No. 1050 S.D. 1, which adds the Department of the

Attorney General to the list of agencies that are authorized to conduct criminal history record

checks on current or prospective employees or contractors who have access to federal tax

information.

The Internal Revenue Service requires that comprehensive background checks be

completed for all current and prospective employees who receive access to federal tax

information. We believe that adding the Department of the Attorney General to the list of

agencies that are authorized to conduct criminal history record checks will streamline their

process to be in compliance for the approximately 300 employees that are impacted along with

prospective employees.

Thank you very much for the opportunity to testify in support of this administration

measure.

SB-1050-SD-1
Submitted on: 3/30/2021 7:14:02 AM
Testimony for JHA on 3/30/2021 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
John D. Smith	Individual	Support	No

Comments:

I support this bill and pass it through.