

JOSH GREEN, M.D.
GOVERNOR | KE KIA'ĀINA

SYLVIA LUKE
LIEUTENANT GOVERNOR | KA HOPE KIA'ĀINA

STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAI'I
OFFICE OF THE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
KA 'OIHANA PILI KĀLEPA
335 MERCHANT STREET, ROOM 310
P.O. BOX 541
HONOLULU, HAWAII 96809
Phone Number: (808) 586-2850
Fax Number: (808) 586-2856
cca.hawaii.gov

NADINE Y. ANDO
DIRECTOR | KA LUNA HO'OKELE

DEAN I HAZAMA
DEPUTY DIRECTOR | KA HOPE LUNA HO'OKELE

Testimony of the Department of Commerce and Consumer Affairs

Before the
Senate Committee on Government Operation
Tuesday, April 1, 2025
10:07 a.m.
Conference Room 229 and Videoconference

On the following measure:
S.C.R. 44, S.D. 1, REQUESTING THE SENATE STANDING COMMITTEE AND
HOUSE OF REPRESENTATIVES STANDING COMMITTEE WHOSE PURVIEW
INCLUDES CONSUMER PROTECTION WITH THE SUPPORT OF THE
LEGISLATIVE REFERENCE BUREAU, TO CONVENE A LEGISLATIVE WORKING
GROUP TO DETERMINE RECOMMENDATIONS FOR ESTABLISHING
APPROPRIATE FAMILY NOTICE AND STANDARDIZED CONSENT PROVISIONS
FOR PRE-NEED CONTRACTS GOVERNING CREMATION

Chair Keohokalole and Members of the Committee:

My name is Chelsea Fukunaga, and I am the Executive Officer of the Department of Commerce and Consumer Affairs' (Department), Professional and Vocational Licensing Division's, Cemetery and Funeral Trusts Program. The Department provides the following comments on this measure.

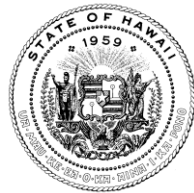
The purposes of this resolution are to: (1) convene a legislative working group to determine recommendations for establishing appropriate family notice and standardized consent provisions for pre-need contracts governing cremation; (2) conduct a review of mortuary operations in each county of the State and other states involved in the collection, recycling, potential disposition, and sale of incombustible metal surgical

implants to determine the revenues generated from these practices; (3) propose definitions for incombustible metal implants that remain following cremation; (4) recommend contract provisions that mortuaries in the State should include in pre-need contracts with designated family representatives sign to express their preferences and decisions regarding the disposition of metal implants that remain following cremation; (5) report on current practices employed by mortuaries that sell accumulated incombustible metal surgical implants in bulk and report revenue generated from the sale of incombustible metal surgical implants; (6) identify conditions that may impact the quality and quantity of metal fragments during cremation and recommend the appropriate recycling or disposition of incombustible metal surgical implants; (7) recommend best practices for estate planners, senior advocacy groups, and eldercare attorneys addressing health care directives and wills in addressing decisions related to cremation services and disposition of metal implants, including donations of income from disposed metal implants to a designated nonprofit organization; and (8) submit a report of its findings and recommendations to the Legislature, including any proposed legislation by November 30, 2025.

For the Committee's information, the Cemetery and Funeral Trusts Program only regulates and licenses cemetery authorities and pre-need funeral authorities and does not regulate at-need cremation transactions, the disposition of human remains under Hawaii Revised Statutes (HRS) Chapter 531B, or mortuaries.

The Department would like to note that the intent of this resolution may be frustrated, as at-need cremation transactions remains unaddressed. We therefore recommend that at-need cremation transactions be included in this measure to ensure that all cremation transactions will be held to the same regulation standards, not just those with pre-need contracts in place.

Thank you for the opportunity to testify on this bill.



JOSH GREEN, M.D.
GOVERNOR | KE KIA'ĀINA

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LIEUTENANT GOVERNOR | KA HOPE KIA'ĀINA

STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAI'I
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Testimony of the Department of Commerce and Consumer Affairs

Before the
Senate Committee on Commerce and Consumer Protection
Tuesday, April 1, 2025
10:07 a.m.
Conference Room 229

On the following measure:

S.C.R. 44, S.D. 2 (PROPOSED), REQUESTING THE SENATE STANDING COMMITTEE AND HOUSE OF REPRESENTATIVES STANDING COMMITTEE WHOSE PURVIEW INCLUDES CONSUMER PROTECTION TO CONVENE A LEGISLATIVE WORKING GROUP TO PROVIDE RECOMMENDATIONS FOR FAMILY NOTICE AND STANDARDIZED CONSENT PROVISIONS FOR PRE-NEED CONTRACTS GOVERNING CREMATION

Chair Keohokalole and Members of the Committee:

My name is Esther Brown, and I am the Complaints and Enforcement Officer of the Department of Commerce and Consumer Affairs (DCCA) Regulated Industries Complaints Office (RICO). RICO **supports** the S.D. 2 (PROPOSED). RICO wishes to express its sincere thanks to the Chair, Vice Chair, and Committee for its consideration, and for the many hours of work expended on the resolution.

Thank you for the opportunity to testify.



1001 Bishop Street #625 | Honolulu, HI 96813
866-295-7282 | aarp.org/hi | hiaarp@aarp.org |
[Twitter.com/aarphawaii](https://twitter.com/aarphawaii) | facebook.com/aarphawaii

The State Legislature
Senate Committee on Commerce and Consumer Protection
Tuesday, April 1, 2025
10:07 a.m., Conference Room 229

TO: The Honorable Jarrett Keohokalole, Chair
FROM: Keali'i S. López, State Director
RE: Support for SCR 44, SD2 Establishing Working Group for Appropriate Notice and Consent in Contracts to Provide Cremation Services

Aloha Chair Keohokalole and Members of the Committee:

My name is Keali'i Lopez and I am the State Director for AARP Hawai'i. AARP is a nonpartisan, social impact organization that advocates for individuals aged 50 and older. We have a membership of nearly 38 million nationwide and nearly 135,000 in Hawaii. We advocate at the state and federal level for the issues that matter most to older adults and their families.

AARP is in support of SCR 44, SD2 which seeks to establish a legislative working group to determine recommendations for appropriate family notice and standardized consent provisions for pre-need contracts governing cremation.

As cremation becomes an increasingly preferred method for final arrangements, it is crucial to address the ethical and practical considerations associated with this process. SCR 44 aims to ensure that families are adequately informed, and consent is properly obtained, particularly regarding the disposition of incombustible metal implants and other precious metals that may have monetary value.

The establishment of a working group to develop standardized consent provisions will promote transparency and ethical practices within the cremation industry. This initiative will help prevent any potential misuse or unauthorized sale of incombustible metal implants, ensuring that families' wishes are respected and upheld.

Furthermore, standardized consent provisions will provide clarity and consistency for both service providers and families, reducing the likelihood of misunderstandings and disputes. By implementing these recommendations, Hawaii can set a precedent for ethical practices in the cremation industry, benefiting all parties involved. Thank you for supporting SCR 44, SD2.

**STATEMENT IN OPPOSITION OF SCR44 FROM
MILILANI GROUP, INC. d.b.a. MILILANI MEMORIAL PARK & MORTUARY**

TO: COMMITTEE ON COMMERCE and CONSUMER PROTECTION
Senator Jarrett Keohokalole, chair
Senator Carol Fukunaga, vice chair
Committee Members

SUBJECT: SENATE CR44; Relating to Mandatory PRIOR WRITTEN NOTICE
AND CONSENT IN CONTRACTS TO PROVIDE CREMATION
SERVICES.

HEARING DATE: Tuesday, April 1, 2025; 10:07 A.M.

This statement is made on behalf of Mililani Group, Inc., a company doing business as Mililani Memorial Park and Mortuary (hereafter called "Mililani"). Mililani **OPPOSES SCR44.**

We believe the proposed legislation and creation of related groups to oversee the removal of various devices or implants to be unnecessary based on our current practices. We have implemented language within our documents that deal with the care and treatment of any medical device or radioactive device implants and hereby are currently providing notice to decedent's families at the time of passing. Including similar provisions for pre-need contract is equally meaningless and unnecessary as notification and assessment is only appropriate at the time of death.

Mililani has been engaged in the business of funeral service and cemetery operations for more than 50 years and during this period, we have been able to deliver our services in a professional and highly competent manner

FOR THE ABOVE REASONS, Mililani stands in strong opposition of the proposed SCR44.

RESPECTFULLY SUBMITTED,

MILILANI GROUP, INC.



EADEAN BUFFINGTON,

Operations Manager



Written Testimony in **Opposition of SCR44 SD2**
RELATING TO MANDATORY PRIOR WRITTEN NOTICE
AND CONSENT IN CONTRACTS TO PROVIDE CREMATION SERVICES.

March 28, 2025

Committee on Commerce and Consumer Protection
Senator Jarrett Keohokalole, Chair
Senator Carol Fukunaga, Vice Chair
Committee Members

HEARING DATE/TIME: April 1st, 2025. 10:07Am

Senator Jarrett Keohokalole, Chair, Senator Carol Fukunaga, Vice Chair and Committee Members,

My name is Jay Morford, President of Hawaii Memorial Life Plan, Inc. and Ballard Mortuary, Inc. Our company representing 7 Mortuaries are in **Opposition of SCR44 SD2**.

We agree with the HFCA's testimony in **opposition** to this resolution.

Our Company operates 7 funeral homes on the Islands of Oahu, Maui, Hawai'i and Kaua'i.

We believe the proposed Resolution establishing a working group is unnecessary based on our companies' current practices and the practices of funeral industry statewide.

We Currently have (disclosures) within our "Cremation Authorization" that confirms if a decedent does or does not have any medical device or radioactive device implants. There are disclosures that state any metals remaining after the cremation will be disposed of through recycling and the proceeds are given to charity. The mortuaries do not remove any other metal that may be implanted in a decedent prior to cremation. If requested by the authorized representative any removal of such items would need to be conducted by a professional at the expense of the decedents authorized representative.

As stated by the HFCA, the family will give us direction and request medical devices be returned or disposed of. The medical device or radioactive device implants they must be removed prior to the cremation. The devices are then stored in a bio-hazard container for recycling. Any personal valuables that may have come in with the decedent that the family does not want cremated are returned to the family. Mortuaries will only remove an implant that causes damage to the crematory, a pacemaker is a device that will need to be removed.

For these reasons we oppose SCR44 SD2.

Sincerely,
Jay Morford



Hawaii Funeral & Cemetery Association, Inc.
1330 Maunakea Street, Honolulu, Hawaii 96817

Written Testimony in **Opposition of SCR44 SD2**
RELATING TO MANDATORY PRIOR WRITTEN NOTICE
AND CONSENT IN CONTRACTS TO PROVIDE CREMATION SERVICES.

March 26, 2025

Committee on Commerce and Consumer Protection

Senator Jarrett Keohokalole, Chair

Senator Carol Fukunaga, Vice Chair

Committee Members

HEARING DATE/TIME: April 1st, 2025. 10:07Am

STATEMENT FROM THE HFCA BOARD OF DIRECTORS

The Hawaii Funeral & Cemetery Association, Inc. is a Domestic Nonprofit Corporation, comprised of 12 independent Board of Directors representing 13 mortuaries and 10 cemeteries that serve the largest majority of Hawaii's families. The HFCA is an independent association that acts in the best interest of its members and the community. The HFCA Board of Directors reviewed the bills and voted to oppose them in their current form based on the concerns provided in our previous testimony.

Senator Jarrett Keohokalole, Chair, Senator Carol Fukunaga, Vice Chair and Committee Members,

My name is Jay Morford, President for the Hawaii Funeral and Cemetery Association, Inc. ("HFCA").
The HFCA is in **Opposition of SCR44 SD2**

We believe the proposed Resolution establishing a working group is unnecessary based on current mortuary practices.

Currently mortuaries have language (disclosures) within their documents that establish if a decedent does or does not have any medical device or radioactive device implants. The family will direct us at that time if they want the devices returned or disposed of. The mortuaries also have a personal effect form that inventories any valuables that may come in with a decedent. If a decedent has a medical device or radioactive device implants they must be removed prior to the cremation. The devices are then stored in a bio-hazard container for recycling. Any personal valuables that may have come in with the decedent that the family does not want cremated are returned to the family. Mortuaries will only remove an implant that will cause damage to the crematory, a pacemaker is a device that will need to be removed. The mortuaries do not remove any other metal that may be implanted in a decedent prior to cremation. If requested by the authorized representative any removal of such items would need to be conducted by a professional at the expense of the decedents authorized representative.

We do not feel there is a need to have a working group discussing a standardized provision in our contracts informing clients of practices that involve recycling. Existing contract language discloses the practice of disposal or recycling. We inform our clients that devices need to be removed from their loved one prior to being cremated, the family makes the decision at that time if they want the device returned to them or disposed of.

If no instruction for disposition is given the funeral home will dispose of the device or post cremation remnant metal through our recycling company.

For these reasons we oppose SCR44 SD2.

Sincerely,

Jay Morford

Testimony Submitted by Jim Shon April 1, 2025

RE: SCR 44 PROPOSED SD2

I strongly support SCR 44 and its proposed SD2.

Clearly, the premise of the Resolution, that the status and fate of valuable (or dangerous) surgical implants after cremation is of concern of knowledgeable seniors advocates and senior's families that justify closer investigation.

We are in a new era where the respect and personal choices of families facing the death of a loved one are evolving to a more mature, legally grounded consumer friendly standard. We are also faced with a population of longer-living seniors who may struggle with mobility, dementia, and lack of familiarity with technology.

The goal is to define a common process of notifications and options to those planning their end of life arrangements, as well as their families when faced by a death.

Often the bureaucratic and complicated decisions upon a death are quite a challenge. Death is a *logistical* crisis. Loose ends, disposal of property, even selling a home. Insurance issues. Social security issues. A surviving spouse may not have been deeply involved in many personal finances. Who needs to be officially notified?

We are entering new challenges for families that may have difficulty contacting and negotiating with shortages of public and private staff at the federal and state levels. Hours waiting on the phone.

To create a straightforward, easy to understand set of common forms to present and record choices would be an important step in facilitating an improved system when there is to be a cremation.

Since the resolution was first introduced there is a growing buzz in the community with interest.

The proposed working group, which seems to work out to about a dozen key individuals, appears to be comprehensive enough yet not too cumbersome.

For several years I was Chair of the House Committee on Health, and later led Kokua Council, and did my doctorate relating to aging. Among the lessons learned from the many knowledgeable advocates was this: If you plan to address the needs of folks in general, you probably will not meet your goals. But if you plan to address the needs of the most vulnerable – the disabled – infants and children - the aged – women – the

poor...those in crisis - you will create a delivery system that ends up serving society well.

Thus, the vision embodied in this resolution hones in on creation of an emerging issue for the vulnerable in time of crisis – with respect, good dialogue, and mediation.

For these reasons I urge the Committee to support SCR 44 SD2.

Written Testimony in Opposition of SCR 44 SD2 RELATING TO MANDATORY
PRIOR WRITTEN NOTICE AND CONSENT IN CONTRACTS TO PROVIDE CREMATION
SERVICES.

March 26, 2025

Committee on Commerce and Consumer Protection
Senator Jarrett Keohokalole
Chair Senator Carol Fukunaga
Vice Chair Committee Members

HEARING DATE/TIME: April 1st, 2025. 10:07 A.M.

STATEMENT FROM DODO MORTUARY, INC.:

Dodo Mortuary, Inc. is a Domestic Corporation, comprised of three physical locations on the island of Hawaii; Dodo Mortuary, Inc. & Crematory in Hilo, Dodo Mortuary, Inc. in Kealahou, Kona, and Cremation Services of West Hawaii in Kailua-Kona which serve a large majority of the Big Island's families in time of need of bereavement care. Collectively, we have reviewed SCR 44 SD2 and agree to oppose the proposed measure in its current form.

Senator Jarrett Keohokalole, Chair, Senator Carol Fukunaga, Vice Chair and Committee Members,

My name is Mitchell Dodo, Vice-President/Operations Manager of Dodo Mortuary, Inc. We are in opposition of SCR 44 SD2 and believe the proposed Resolution establishing a working group is unnecessary based on the current practices of our company.

Currently, our three locations on the Big Island already use language (disclosures) within our cremation authorization documents that establish if a decedent does or does not have any medical device or radioactive device implants. The family will direct us at that time if they want the devices returned or disposed of. We also utilize a "personal effects form" which inventories any valuables that may come in with a decedent. If a decedent has a medical device or radioactive device implants which must be removed prior to the cremation the device(s) are then stored in a bio-hazard container for recycling. Any personal valuables that may have come in with the decedent that the family does not want cremated are returned to the family. We will only remove an implanted device which will potentially cause damage to our crematory units, such as a heart pacemaker (small implantable medical device that helps regulate the heart's rhythm by sending electrical impulses to the heart muscle). We do not remove any other metal that may

199 Wainaku Street – Hilo, Hawaii 96720
Phone: (808) 935-5751 – Fax: (808) 935-1074
www.dodomortuary.com



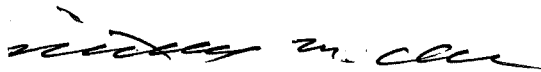
Dodo Mortuary, Inc.

be implanted in a decedent prior to cremation. If requested by the authorized representative any removal of such items would need to be conducted by a professional at the expense of the authorized representative.

We do not feel there is a need to have the formation of a working group discussing a standardized provision in our contracts informing clients of practices that involve recycling. Existing contract language discloses the practice of disposal or recycling. We inform our clients that devices need to be removed from their loved one prior to being cremated and the family makes the decision at that time if they want the device returned to them or disposed of.

If no instruction for disposition is given the funeral home will dispose of the device or post cremation remnant metal through an approved recycling company. For these reasons we oppose SCR 44 SD2.

Sincerely,



Mitchell M. Dodo
Vice-President / Operations Manager

LATE

SCR-44-SD-1

Submitted on: 3/30/2025 2:53:30 PM

Testimony for CPN on 4/1/2025 10:07:00 AM

Submitted By	Organization	Testifier Position	Testify
Cullen Hayashida	Individual	Support	Written Testimony Only

Comments:

Aloha Chair and Members of the Senate Consumer Protection Committees

My name is Cullen Hayashida and I SUPPORT SCR44 SD1

I strongly agree that there is a need for mortuaries to work in cooperation with families at the time of the passing of their loved ones. There has been a lack of awareness by the general community and need for the mortuaries industry in Hawaii to maintain the highest level of professional ethics, standards and conduct in preparing of the deceased for memorial services. Our growing older adult population has seen their life expectancy benefiting from advancements in medical science and the increased use of surgical procedures often involving metal implants. Upon death, cremation which is often to preferred method for the final disposition of the deceased in Hawaii has resulted in the accumulation of incombustible metal surgical implants that are not included with the ash remains when returned to the family in an urn.

All too often, families are not involved in the decision by mortuaries regarding the disposition of incombustible metal remains. Recognizing that there are numerous issues that need to be resolved without presupposing the need for additional laws at this time, this Senate Concurrent Resolution calls for the creation of a Legislative Working Group composed of representatives of the mortuary industry and family advocacy groups to prepare recommendations with the highest regard of protecting the family and the deceased wishes and maintaining the highest standard of ethical conduct by the mortuary industry.

*Thank you for this opportunity to accept my testimony to urge you to **PASS this Concurrent Resolution.***

Sincerely,

Cullen T. Hayashida

March 31, 2025

Charlotte A. Carter-Yamauchi
Director

Shawn K. Nakama
First Assistant

Research 808-587-0666
Revisor 808-587-0670
Fax 808-587-0681

LATE



LEGISLATIVE REFERENCE BUREAU
State of Hawaii
State Capitol, Room 446
415 S. Beretania Street
Honolulu, Hawaii 96813

Written Comments

SCR 44, SD1

REQUESTING THE SENATE STANDING COMMITTEE AND HOUSE OF REPRESENTATIVES STANDING COMMITTEE WHOSE PURVIEW INCLUDES CONSUMER PROTECTION, WITH THE SUPPORT OF THE LEGISLATIVE REFERENCE BUREAU, TO CONVENE A LEGISLATIVE WORKING GROUP TO DETERMINE RECOMMENDATIONS FOR ESTABLISHING APPROPRIATE FAMILY NOTICE AND STANDARDIZED CONSENT PROVISIONS FOR PRE-NEED CONTRACTS GOVERNING CREMATION.

Charlotte A. Carter-Yamauchi, Director
Legislative Reference Bureau

Presented to the Senate Committee on Government Operations

Tuesday, April 1, 2025, 10:07 a.m.
Conference Room 229

Chair Keohokalole and Members of the Committee:

Good morning, Chair Keohokalole and members of the Committee. My name is Charlotte Carter-Yamauchi, and I am the Director of the Legislative Reference Bureau (Bureau). Thank you for providing the opportunity to submit written **comments** on S.C.R. No. 44, S.D. 1, Requesting the Senate Standing Committee and House of Representatives Standing Committee Whose Purview Includes Consumer Protection, with the Support of the Legislative Reference Bureau, to Convene a Legislative Working Group to Determine Recommendations for Establishing Appropriate Family Notice and Standardized Consent Provisions for Pre-Need Contracts Governing Cremation.

The purpose of this measure is to request the formation of a legislative working group, consisting of numerous legislative, agency, and community members, to:

- (1) Conduct a review of mortuary operations in each county of the State and other states involved in the collection, recycling, potential disposition, and sale of

incombustible metal surgical implants to determine the revenues generated from these practices;

- (2) Propose definitions for incombustible metal implants that remain following cremation;
- (3) Recommend contract provisions that mortuaries in the State should include in pre-need contracts which designated family representatives sign to express their preferences and decisions regarding the disposition of metal implants that remain following cremation;
- (4) Report on current practices employed by mortuaries that sell accumulated incombustible metal surgical implants in bulk and report revenue generated from the sale of incombustible metal surgical implants;
- (5) Identify conditions that may impact the quality and quantity of metal fragments during cremation and recommend the appropriate recycling or disposition of incombustible metal surgical implants;
- (6) Recommend best practices for estate planners, senior advocacy groups, and eldercare attorneys addressing health care directives and wills in addressing decisions related to cremation services and the disposition of metal implants, including donations of income from disposed metal implants to a designated nonprofit organization; and
- (7) Submit a report of its findings and recommendations to the Legislature, including any proposed legislation, by November 30, 2025.

The measure further requests the Legislative Reference Bureau to provide administrative support to the working group, including assisting the group with drafting its report to the Legislature.

The Bureau takes no position on this measure, but we have serious concerns about our ability to provide administrative support and the specified timeframe in which to draft a report, and we submit the following comments for your consideration.

As a general matter, the Bureau notes that it lacks the resources to provide administrative support to a working group. The Bureau can assist the working group with drafting legislation necessary to implement the working group's recommendations and finalizing its report to the Legislature. However, the Bureau has no control over meeting space in the State Capitol and is not equipped or staffed to provide other administrative support duties, such as booking meeting facilities, arranging needed transportation, staffing working group meetings, taking meeting minutes, etc.

Additionally, we are concerned about providing research support, particularly within the timeframe provided, given the very broad ranging scope of the inquiry requested of the working group. In particular, the measure specifically asks for a "review of mortuary operations in each county of the State and other states involved in the collection, recycling, potential disposition, and sale of incombustible metal surgical implants to determine the revenues generated from these practices." Given the number of state jurisdictions in the United States that would be encompassed under this broad language, the amount of research required to evaluate their operations would be prohibitive. Similarly, it is not at all clear how the *revenues from sales of metal surgical implants* would be determined, given the scale of jurisdictions and mortuaries involved.

Accordingly, we respectfully suggest that the Committee may wish to focus on the primary, underlying issues present in need of resolution (such as the need for mandatory, uniform notice and consent provisions) and amend the measure to narrow the scope of the research to the *relevant practices in a few specific jurisdictions*.

Further, we are concerned that the present timeframe for submitting a report to the Legislature, by November 30, 2025, may be too short for the working group to complete its deliberations and then to enable the Bureau to prepare the report, given the many other assignments tasked to the Bureau during the interim, such as bill drafting requests, numerous bill research requests, and other legislative studies that have been or may be assigned to the Bureau.

If the Committee still believes the Bureau's participation in this matter is necessary, the Bureau respectfully requests that the measure be further amended to limit the scope of the Bureau's involvement to assisting the working group with finalizing its report and the drafting of any legislation necessary to implement the recommendations of the working group. If the Committee chooses to amend the measure in this manner, the Bureau also requests that the working group be instructed to finalize its deliberations and submit to the Bureau, not later than October 30, 2025, a preliminary draft of its report for the Bureau to finalize and any request for proposed legislation and necessary supporting documents, information, and materials so that work on the proposed legislation would not adversely impact our ability to provide our core services to the Legislature in preparation for the Regular Session of 2026.

If all of these requested amendments are made, then the Bureau believes that the services requested under the amended measure would be manageable, provided that the Bureau's interim workload is not adversely impacted by too many other studies or additional responsibilities, such as conducting studies, writing or finalizing other reports, drafting legislation, or any combination of these for the Legislature or for other state agencies, task forces, or working groups that may be requested or required under other legislative measures.

Thank you again for your consideration.