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# SENATE RESOLUTION

REQUESTING THE OFFICE OF HAWAIIAN AFFAIRS TO ESTABLISH THE  
BURIAL SITES WORKING GROUP TO EXAMINE THE BURIAL SITES  
PROGRAM UNDER THE DEPARTMENT OF LAND AND NATURAL RESOURCES'  
STATE HISTORIC PRESERVATION DIVISION.

1           WHEREAS, the Hawaii State Constitution recognizes the value  
2 of conserving and developing the historic and cultural property  
3 within the State; and  
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5           WHEREAS, according to section 6E-1, Hawaii Revised  
6 Statutes, the historic and cultural heritage of the State is  
7 among its most important assets and that the rapid social and  
8 economic developments of contemporary society threaten to  
9 destroy the remaining vestiges of this heritage; and  
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11           WHEREAS, section 6E-1, Hawaii Revised Statutes, provides  
12 that it is in the public's interest to engage in a comprehensive  
13 program of historic preservation at all levels of government to  
14 promote the use and conservation of affected properties for the  
15 education, inspiration, pleasure, and enrichment of its  
16 citizens; and  
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18           WHEREAS, section 6E-1, Hawaii Revised Statutes, sets forth  
19 that the State must provide leadership in preserving, restoring,  
20 and maintaining historic and cultural property to ensure the  
21 administration of historic and cultural property in the spirit  
22 of stewardship and trusteeship for future generations, and to  
23 conduct activities, plans, and programs in a manner consistent  
24 with the preservation and enhancement of historic and cultural  
25 property; and  
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27           WHEREAS, native Hawaiian traditional prehistoric and  
28 unmarked burials are especially vulnerable and often not  
29 afforded adequate protection of law, although these statutory  
30 and regulatory measures assure the dignity and freedom from  
31 unnecessary disturbance; and  
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1           WHEREAS, the Island Burial Councils were created by Act  
2 306, Session Laws of Hawaii 1990 (Act 306), to augment current  
3 procedures relating to the proper care and protection of burial  
4 sites found in the State, avoid future disputes arising from the  
5 discovery of human skeletal remains, and provide additional  
6 protection for native Hawaiian burial sites of high preservation  
7 value; and

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9           WHEREAS, the Department of Land and Natural Resources'  
10 State Historic Preservation Division serves to protect and  
11 preserve historic properties significant to Hawaii's history  
12 through several program areas; and

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14           WHEREAS, previous audits of the State Historic Preservation  
15 Division have reported serious internal strife and a significant  
16 backlog of project reviews, resulting in the undermining of the  
17 preservation and protection of unmarked burial sites throughout  
18 the islands; and

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20           WHEREAS, on January 19, 2021, the chairpersons of the  
21 burial councils for the islands of Oahu, Maui/Lanai, and Hawaii  
22 coordinated a joint protest to raise awareness of their  
23 collective duties and responsibilities to protect Hawaiian  
24 burial sites and care for iwi kūpuna (ancestral bones) and moepu  
25 (funerary possessions); and

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27           WHEREAS, the chairpersons of the Island Burial Councils  
28 asserted that systemic and chronic mismanagement by the  
29 Department of Land and Natural Resources' State Historic  
30 Preservation Division has effectively undermined the ability of  
31 the Island Burial Councils to exercise their legally established  
32 authorities, rights, and responsibilities, thereby resulting in  
33 the inability to provide protection and cultural care to  
34 unmarked Hawaiian burial sites in accordance with the program  
35 enacted by Act 306; and

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37           WHEREAS, the chairpersons of the Island Burial Councils  
38 cited examples of the State Historic Preservation Division's  
39 mismanagement of the Island Burial Councils and Burial Sites  
40 program, including the failure to:



- 1 (1) Adequately staff the Island Burial Councils and manage
- 2 the terms of council members;
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- 4 (2) Provide training to State historic preservation staff
- 5 and burial council members regarding the burial law
- 6 and administrative rules, Sunshine Law, and Code of
- 7 Ethics;
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- 9 (3) Require the Department of the Attorney General to
- 10 ensure independent legal representation of the island
- 11 burial councils;
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- 13 (4) Implement administrative rules to develop the burial
- 14 sites inventory;
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- 16 (5) Provide proper administrative support to the Island
- 17 Burial Councils, including timely actions, decisions,
- 18 and recommendations regarding the preparation of
- 19 agenda items, and providing the councils proper
- 20 guidance on the processes involving burial matters;
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- 22 (6) Comply with legal requirements applicable to the
- 23 inadvertent discovery of human remains; and
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- 25 (7) Undertake enforcement actions of documented statutory
- 26 and regulatory violations involving burial sites;
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28 now, therefore,

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30 BE IT RESOLVED by the Senate of the Thirty-first

31 Legislature of the State of Hawaii, Regular Session of 2021,

32 that the Office of Hawaiian Affairs is requested to form the

33 burial sites working group to study and analyze the allegations

34 of mismanagement by the Department of Land and Natural

35 Resources' State Historic Preservation Division; and

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37 BE IT FURTHER RESOLVED that the burial sites working group

38 determine a recommended course of action to address and resolve

39 the allegations of mismanagement by the Department of Land and

40 Natural Resources' State Historic Preservation Division; and

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1 BE IT FURTHER RESOLVED that the Department of Land and  
2 Natural Resources' State Historic Preservation Division is  
3 requested to cooperate with the burial sites working group; and  
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5 BE IT FURTHER RESOLVED that the burial sites working group  
6 is requested to include:  
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- 8 (1) A representative from the Office of Hawaiian Affairs,  
9 who will serve as the chairperson of the Burial Sites  
10 Working Group;
- 11 (2) The chairpersons of each Island Burial Council;
- 12 (3) Administrator of the Department of Land and Natural  
13 Resources' State Historic Preservation Division;
- 14 (4) The History and Culture Branch Chief of the Department  
15 of Land and Natural Resources' State Historic  
16 Preservation Division;
- 17 (5) The Department of Land and Natural Resources' State  
18 Historic Preservation Division Burials Specialist;
- 19 (6) Two representatives of large landowners and developers  
20 to be appointed by the Governor;
- 21 (7) A representative of the Hawaiian community familiar  
22 with and experienced with the burial sites program to  
23 be appointed by the Office of Hawaiian Affairs;
- 24 (8) A representative from the William S. Richardson School  
25 of Law; and
- 26 (9) A representative of Huliauapa'a/Kali'uokapa'akai  
27 Collective to be selected by that organization; and  
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37 BE IT FURTHER RESOLVED that the burial sites working group  
38 is requested to submit a report detailing the formal findings  
39 and recommendations for corrective action, including proposed  
40 legislation, to the Legislature no later than twenty days prior  
41 to the convening of the Regular Session of 2022; and  
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1 BE IT FURTHER RESOLVED that certified copies of this  
2 Resolution be transmitted to the Governor, Chairperson of the  
3 Board of Land and Natural Resources, Chairperson of the Board of  
4 Trustees of the Office of Hawaiian Affairs, Chairperson of each  
5 Island Burial Council, Dean of the University of Hawaii William  
6 S. Richardson School of Law, and President of the Board of  
7 Directors of the Huliauapa'a/Kali'uokapa'akai Collective.

