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## HOUSE RESOLUTION

REQUESTING THE WILLIAM S. RICHARDSON SCHOOL OF LAW 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 such property 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 a spirit of  
22 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, which assures dignity and  
30 freedom from unnecessary disturbance; and  
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32           WHEREAS, the Island Burial Councils were created by Act  
33 306, Session Laws of Hawaii 1990 (Act 306), to further its  
34 purpose of augmenting current procedures relating to the proper



1 care and protection of burial sites found in the State, avoid  
2 future disputes arising from the discovery of human skeletal  
3 remains, and provide additional protection for native Hawaiian  
4 burial sites of high preservation value; and  
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6 WHEREAS, the Department of Land and Natural Resources'  
7 State Historic Preservation Division serves to protect and  
8 preserve historic properties significant to Hawaii's history  
9 through several program areas; and  
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11 WHEREAS, audits of the State Historic Preservation Division  
12 have reported serious internal strife and a significant backlog  
13 of project reviews, resulting in the undermining of the  
14 preservation and protection of unmarked burial sites throughout  
15 the islands; and  
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17 WHEREAS, on January 19, 2021, the chairpersons of the  
18 burial councils for the islands of Oahu, Maui/Lanai, and Hawaii  
19 coordinated an islands-wide protest to raise awareness of their  
20 collective duties and responsibilities to protect Hawaiian  
21 burial sites and care for iwi kupuna (ancestral bones) and moepu  
22 (funerary possessions); and  
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24 WHEREAS, the chairpersons of the Island Burial Councils  
25 asserted that systemic and chronic mismanagement of the burial  
26 councils by the Department of Land and Natural Resources' State  
27 Historic Preservation Division has effectively undermined the  
28 ability of the Island Burial Councils to exercise their legally  
29 established authorities, rights, and responsibilities, resulting  
30 in the inability to provide protection and cultural care to  
31 unmarked Hawaiian burial sites in accordance with the program  
32 enacted by Act 306; and  
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34 WHEREAS, the chairpersons of the Island Burial Councils  
35 cited examples of the State Historic Preservation Division's  
36 mismanagement of the Island Burial Councils and Burial Sites  
37 program, including the failure to:  
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39 (1) Adequately staff the Island Burial Councils and manage  
40 the terms of council members;  
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- 1           (2) Provide training to State historic preservation staff  
2           and burial council members regarding the burial law  
3           and administrative rules, Sunshine Law, and Code of  
4           Ethics;
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- 6           (3) Require the Department of the Attorney General to  
7           ensure independent legal representation of the island  
8           burial councils;
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- 10          (4) Implement administrative rules to develop the burial  
11          sites inventory;
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- 13          (5) Provide proper administrative support to the island  
14          burial councils, including timely actions, decisions,  
15          and recommendations regarding the preparation of  
16          agenda items, and providing the councils proper  
17          guidance on the processes involving burial matters;
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- 19          (6) Comply with legal requirements applicable to the  
20          inadvertent discovery of human remains; and
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- 22          (7) Undertake enforcement actions of documented statutory  
23          and regulatory violations involving burial sites;
- 24

25 now, therefore,

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27           BE IT RESOLVED by the House of Representatives of the  
28 Thirty-first Legislature of the State of Hawaii, Regular Session  
29 of 2021, that the William S. Richardson School of Law is  
30 requested to form the Burial Sites Working Group to provide  
31 formal recommendations on how to correct the mismanagement by  
32 the Department of Land and Natural Resources' State Historic  
33 Preservation Division; and

34  
35           BE IT FURTHER RESOLVED that the Department of Land and  
36 Natural Resources' State Historic Preservation Division is  
37 requested to cooperate with the Burial Sites Working Group; and

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39           BE IT FURTHER RESOLVED that the Burial Sites Working Group  
40 is urged to include the chairpersons of all Island Burial  
41 Councils; Administrator of the Department of Land and Natural  
42 Resources' State Historic Preservation Division; History and



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1 Culture Branch Chief of the Department of Land and Natural  
 2 Resources' State Historic Preservation Division; Department of  
 3 Land and Natural Resources' State Historic Preservation Division  
 4 Burials Specialist; a representative of the Office of Hawaiian  
 5 Affairs; two representatives of large landowners and developers  
 6 to be appointed by the Governor; a representative of the  
 7 Hawaiian community familiar with and experienced with the Burial  
 8 Sites Program to be appointed by the Office of Hawaiian Affairs;  
 9 and a representative of Huliauapa'a/Kali'uokapa'akai Collective to  
 10 be selected by that organization; and

11  
 12 BE IT FURTHER RESOLVED that the Burial Sites Working Group  
 13 is requested to submit a report detailing the formal findings  
 14 and recommendations for corrective action, including proposed  
 15 legislation, to the Legislature no later than twenty days prior  
 16 to the convening of the Regular Session of 2022; and

17  
 18 BE IT FURTHER RESOLVED that certified copies of this  
 19 Resolution be transmitted to the Governor, Chairperson of the  
 20 Board of Land and Natural Resources, Chairperson of the Board of  
 21 Trustees of the Office of Hawaiian Affairs, Chairperson of each  
 22 Island Burial Council, Dean of the William S. Richardson School  
 23 of Law, and President of the Huliauapa'a/Kali'uokapa'akai  
 24 Collective.

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OFFERED BY:   
 MAR 12 2021

