



TESTIMONY WITH COMMENTS ON SENATE BILL 2341
RELATING TO HISTORIC PRESERVATION

Senate Committee on Water, Land, Culture and the Arts
Hawai'i State Capitol

February 4, 2026

1:00 PM

Room 224

Aloha e Chair Lee, Vice Chair Inouye, and Members of the Committee on Water, Land, Culture and the Arts :

The Office of Hawaiian Affairs (OHA) provides **COMMENTS** on SB2341, which 1) authorizes the State Historic Preservation Division (SHPD) to conduct a phased review of proposed projects on private property, and 2) establishes a 90-day time limit (30 days if no historic properties are affected) for SHPD to respond to submissions from private project proponents, where a failure to respond is an automatic approval.

OHA is the constitutionally established body responsible for protecting and promoting the rights of Native Hawaiians.¹ As part of our constitutional and statutory mandate, OHA has been intimately involved with historic preservation related advocacy for decades and is granted specific kuleana under the Hawai'i Historic Preservation law, Hawai'i Revised Statutes (HRS) Chapter 6E, and implementing regulations.² Thus, we are well aware of the pitfalls within the current laws and rules, and where amendments to these laws and rules would improve the state's historic preservation process.

First, OHA recognizes that this measure is informed by recommendations from the Simplifying Permitting for Enhanced Economic Development (SPEED) Task Force, where discussions revealed that incomplete and deficient submissions to SHPD often cause long review times.³ OHA and SHPD have consistently identified incomplete submissions as a major contributor to delays. Accordingly, to the extent that this measure seeks to reinforce a complete submittal framework similar to that adopted in Act 160 (2025), we support this concept as a means of addressing delays without weakening substantive historic preservation protections.

Second, OHA questions the necessity and appropriateness of authorizing phased review for projects involving privately owned historic properties governed by HRS § 6E-10. Where the

¹ Haw. Const. Art. XII § 5.

² See HRS §§ 6E-3, 6E-43, 6E-43.5, 6E-43.6; HAR §§ 13-284-6(c), 13-275-6(c).

³ *Presentation by State Historic Preservation Division on Chapter 6E: Historic Preservation Compliance Overview*, SPEED Task Force Meeting, Sept. 11, 2025 [hereinafter 6E Presentation].

presence of a historic property has already been established, the review should be informed at the outset. Additionally, from our understanding, the provisions of HRS § 6E-42 also apply to private projects covered in the scope of HRS § 6E-10. Therefore, the proposed amendments to HRS § 6E-10 are duplicative.

Third, while this measure intends to consolidate and extend the automatic approval timelines of HRS § 6E-8 to sections 6E-10 and 6E-42, we emphasize that the timelines adopted in Act 160 (2025) were the result of extensive discussion and intended to be limited in scope, targeting state-sponsored affordable housing projects, and evaluated over time. Extending similar automatic approval provisions to all projects subject to SHPD review is a significant expansion that, without careful tailoring, risks allowing several projects to proceed without adequate historic review. **Therefore, OHA encourages deletion of the new subsection (b) in HRS § 6E-42 at page 8, line 15 to page 9, line 4; and the language “or fails to timely provide non-concurrence” at page 9, line 20. (Removing the same language in Section 3 at page 19, lines 9-19.)**

In particular, we are concerned that the 30-day expedited timeline is triggered by an initial determination made by agencies that frequently lack historic preservation expertise and may depend solely on reports from private project proponents, who often do not hire professionals to make that determination. Data presented to the SPEED Task Force indicates that SHPD's average review time is approximately 56 days.⁴ A 30-day automatic approval period—especially one premised on an unverified agency determination—creates a substantial risk that projects will bypass meaningful review altogether. **In effect, this provision may operate as a de facto exemption from Chapter 6E review, rather than a procedural improvement.** Moreover, these automatic approval provisions run counter to SPEED Task Force findings that exemptions or narrow readings of statutory triggers do not reliably speed up development when they increase the likelihood of unplanned discoveries.⁵ **Therefore, as stated above, at minimum OHA encourages deletion of the language “, or within thirty calendar days if no historical properties are impacted by the proposed project,” at page 8, lines 16-18; and similar language at page 8 line 21. (Removing the same in Section 3 at page 19, lines 10-12 and 15-16.)**

Alternatively, we urge the Legislature to prioritize measures that strengthen SHPD capacity rather than relying on procedural shortcuts that undermine substantive protections.

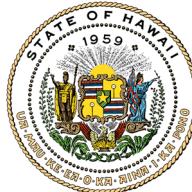
Mahalo nui for the opportunity to testify on this critical issue. OHA respectfully urges the committee to carefully consider our **COMMENTS** on SB2341.

⁴ 6E Presentation, SPEED Task Force, *supra* note 3.

⁵ See *Final Report of the Permitted Interaction Groups for Chapter 6E/Historic Preservation, Individual Wastewater Systems, and Building Permits*, SPEED Task Force, p. 13 (Dec. 2025).

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

SYLVIA LUKE
LIEUTENANT GOVERNOR | KA HOPE KIA'ĀINA



DAWN N.S. CHANG
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
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STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
KA 'OIHANA KUMUWAIWAI 'ĀINA

P.O. BOX 621
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Testimony of
RYAN K.P. KANAKA'OLE
Acting Chairperson

Before the Senate Committee on
WATER, LAND, CULTURE AND THE ARTS

Wednesday, February 4, 2026
1:00 PM

State Capitol Conference Room 224 & Videoconference

In consideration of
SENATE BILL 2341
RELATING TO HISTORIC PRESERVATION

Senate Bill 2341 would amend Hawai'i Revised Statutes (HRS) sections 6E-10 and 42, to allow the Department of Land and Natural Resources, Historic Preservation Division (SHPD) to conduct phased reviews for projects on private property, under certain circumstances. It also amends the process and deadlines by which SHPD may provide its concurrence or non-concurrence for proposed projects on private property listed in the Hawaii Register of Historic Places (HRHP). **The Department of Land and Natural Resources (Department) supports this measure and submits the follow comments for consideration.**

HRS Chapter 6E provides the framework for a comprehensive statewide historic preservation program in Hawai'i. A key part of that program is the review of projects on private property, as required by HRS sections 6E-10 and 42. This statutory provision reflects the Legislature's intent to require project proponents to consider the impact of their projects on historic properties listed in or eligible for listing in the HRHP.

The Department recognizes the need to clarify and streamline the historic preservation review process. This bill would establish a process for executing agreements between SHPD and property owners that allows for a phased review of certain projects on private property. This bill also amends and clarifies existing language within HRS sections 6E-10 and 42 related to the historic preservation review process and deadlines for projects on private property. The amendments and additions to HRS sections 6E-10 and 42 that include alternative approaches to the historic preservation review process established within this bill are both reasonable and feasible.

To further strengthen this bill, the Department recommends the following edits and additions.

Pg. 1-2, lines 16-17, 1-4

“(3) Circumstances dictate that construction, alteration, disposition, routine maintenance or improvement be done in stages or repeatedly executed to ensure the preservation of historic properties, the department’s review may be based on a phased review of the project or long-term maintenance of the property; provided that there shall be a programmatic agreement executed among [between] the department, [and the] property owner, and any project proponent, that identifies each phase and the estimated timeline of each phase, or the long-term and repeated maintenance activities that are required to preserve the historic property.”

Pg. 2, lines 5-11

“(b) The department shall provide written concurrence or non-concurrence within ninety calendar days, or within thirty calendar days if no [historical] historic properties are adversely affected [impacted] by the proposed construction, alteration, disposition, or improvement, after the department has processed a complete submittal filed by the property owner. The department shall [process] certify a complete submittal within five business days of its filing.”

Pg. 3, lines 8-14

“written concurrence or non-concurrence. If the department fails to provide written concurrence or non-concurrence within ninety calendar days, or within thirty calendar days if no [historical] historic properties are [impacted] adversely affected by the proposed project, after receiving and [processing] certifying a true and complete submittal from the property owner, the property owner may assume the department’s concurrence for the proposed project.”

Pgs. 8-9, lines 15-21 and 1-4

“(b) The department shall provide written concurrence or non-concurrence within ninety calendar days, or within thirty calendar days if no [historical] historic properties are [impacted] adversely affected by the proposed project, after the filing of a request with the department. If the department fails to provide written concurrence or non-concurrence with a project effect determination within ninety calendar days, or within thirty calendar days if no historic properties are to be adversely affected, of receiving a complete submittal for a project, the lead agency may assume the department’s concurrence and the project may move to the next step in the compliance process.”

Pg. 12, line 1 — SHPD did not receive any transit-oriented development (TOD) plans by January 1, 2026, thus the department recommends extending the deadline with the following edit:

“(g) No later than January 1, [2026] 2028...”

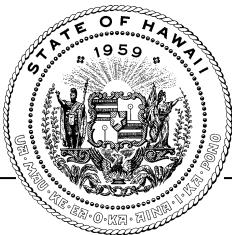
Pg. 19, lines 9-19

“(b) The department shall provide written concurrence or non-concurrence within ninety calendar days, or within thirty calendar days if no [historical] historic properties are [~~impacted~~] adversely affected by the proposed project, after the filing of a request with the department. If the department fails to provide written concurrence or non-concurrence with a project effect determination within ninety calendar days, or within thirty calendar days if no historic properties are to be adversely affected, of receiving a complete submittal for a project, the lead agency may assume the department’s concurrence and the project may move to the next step in the compliance process.”

Pg. 25, line 1 — SHPD did not receive any TOD plans by January 1, 2026, thus the department recommends extending the deadline with the following edit:

“(j) No later than January 1, [2026] 2028...”

Mahalo for the opportunity to comment on this measure.



STATE OF HAWA'I OFFICE OF PLANNING & SUSTAINABLE DEVELOPMENT

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Statement of **MARY ALICE EVANS, Director**

before the
SENATE COMMITTEE ON WATER, LAND, CULTURE AND THE ARTS
Wednesday, February 4, 2026, 1:00 PM
State Capitol, Conference Room 224

in consideration of
SB 2341
RELATING TO HISTORIC PRESERVATION.

Chair Lee, Vice Chair Inouye, and Members of the Senate Committee on Water, Land, Culture and the Arts, the Office of Planning and Sustainable Development (OPSD) **supports SB 2341**, which authorizes the State Historical Preservation Division (SHPD) to conduct a phased review of a proposed project on private property under certain circumstances, and amends the process and deadlines by which SHPD must provide written concurrence or non-concurrence for a proposed project on private property or other project that requires entitlement for use, after which concurrence may be assumed and the project may proceed.

SB 2341 is a direct outgrowth of the concerted efforts of the Simplifying Permitting for Enhanced Economic Development (SPEED) Taskforce. Specifically, this measure represents key recommendations developed by the Chapter 6E Historic Preservation Permitted Interaction Group (PIG), which was tasked with identifying administrative and statutory bottlenecks within the Hawai'i Revised Statutes Chapter 6E historic preservation review process. By formalizing these recommendations, SB 2341 provides a pragmatic, balanced approach to modernizing our preservation laws while addressing the State's shortage of affordable housing.

OPSD supports this measure because of the urgent need to streamline the permitting process to facilitate the acceleration in housing production outlined in Governor Green's "Ke Ala Hou" housing strategy. Currently, the State Historic Preservation Division (SHPD) review process can significantly delay project timelines, often adding months or even years to the pre-construction phase. The implementation of phased reviews will significantly speed up the delivery of housing by allowing projects to move forward with site preparation and initial construction phases while detailed reviews for subsequent stages continue. This prevents a "stop-and-wait" cycle that inflates carrying costs and renders many affordable housing projects financially unviable. Furthermore, the establishment of clear, mandatory timelines for written concurrence or non-concurrence provides the private sector with the predictability needed to manage large-scale developments. For these reasons, OPSD respectfully asks the committee to pass SB 2341.

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



SENATE COMMITTEE ON WATER, LAND, CULTURE AND THE ARTS

February 4, 2026

1:00 PM

Conference Room 224

In OPPOSITION to SB2341: RELATING TO HISTORIC PRESERVATION

Aloha Chair Lee, Vice Chair Inouye, and Members of the Water & Land Committee,

On behalf of our over 20,000 members and supporters, the Sierra Club of Hawai'i **OPPOSES SB2341**, which only risks significant and costly conflict, poor project planning, and the potentially irreparable destruction or loss of otherwise protected historic properties and sites, including iwi kūpuna.

"Phased" archaeological reviews have a history of both significant, costly conflict and irreversible destruction, as seen most notably in the development of the H3 Interstate Highway. Allowing projects to proceed with only partial archaeological surveys for their projected footprints will inevitably lead to unexpected encounters with historic properties. This in turn will either 1) significantly disrupt project plans, including with respect to scope, size, location, design, etc. leading to significant delays and cost increases; and/or 2) result in constraints and decisions to displace, jeopardize, or even desecrate irreplaceable historic resources, sites, and iwi kupuna.

Prudent planning and common sense dictate that full environmental and historic preservation reviews be completed as part of project design—not as an afterthought, once a project is being actively developed. Please help to avoid unnecessary conflict, costs, and the deepest of cultural and spiritual harms by not endorsing the phased reviews proposed by this measure.

Accordingly, the Sierra Club of Hawai'i urges the Committee to **HOLD HB1710**. Mahalo nui for the opportunity to testify.

February 4, 2026

The Honorable Chris Lee, Chair

Senate Committee on Water, Land, Culture and the Arts
State Capitol, Conference Room 224 & Videoconference

RE: Senate Bill 2341, Relating to Historic Preservation

HEARING: Wednesday, February 4, 2026, at 1:00 p.m.

Aloha Chair Lee, Vice Chair Inouye, and Members of the Committee:

My name is Lyndsey Garcia, Director of Advocacy, testifying on behalf of the Hawai'i Association of REALTORS® ("HAR"), the voice of real estate in Hawaii and its over 10,000 members. HAR **supports** Senate Bill 2341, which authorizes SHPD to conduct a phased review of a proposed project on private property under certain circumstances. Amends the process and deadlines by which SHPD must provide written concurrence or non-concurrence for a proposed project on private property or other project that requires entitlement for use, after which concurrence may be assumed and the project may proceed.

Allowing historic property reviews to be completed in phases helps projects move forward without unnecessary delays. Clear and predictable review timelines also help property owners and project teams plan responsibly. At the same time, this measure maintains important protection for historic properties while reducing delays that can slow projects, such as for much needed housing production.

Mahalo for the opportunity to provide testimony on this measure.

Feb. 4, 2026, 1 p.m.
Hawaii State Capitol
Conference Room 224 and Videoconference

To: Senate Committee on Water, Land, Culture and the Arts

Sen. Chris Lee, Chair
Sen. Lorraine R. Inouye, Vice-Chair

From: Grassroot Institute of Hawaii

Ted Kefalas, Director of Strategic Campaigns

RE: TESTIMONY IN SUPPORT OF SB2341 — RELATING TO HISTORIC PRESERVATION

Aloha chair, vice chair and other members of the Committee,

The Grassroot Institute of Hawaii **supports** [SB2341](#), which would require the State Historic Preservation Division to give its written concurrence or non-concurrence within 30 days for certain projects if it determines that no historical properties will be impacted, or within 90 days if it determines that historical properties could be affected and that taking mitigation steps would be necessary to protect them.

The bill would define the term “complete submittal” and further stipulate that if SHPD fails to make a determination within those timeframes, the project applicant “may assume the department's concurrence for the proposed project.”

Requiring SHPD to review certain projects within a defined period of time would add certainty to the construction process for state infrastructure and much-needed housing projects.

This legislation is based on recommendations from the Simplifying Permitting for Enhanced Economic Development task force's historic preservation permitted interaction group.

The group pointed out that [Act 160 \(2025\)](#) set up a framework with specific timelines and definitions that applied to the review of projects within county-designated transit-oriented development zones, and that this framework could be applied to all SHPD reviews.

The group also highlighted the confusion that exists in current SHPD processes:

“The same project may be re-introduced to SHPD multiple times as a series of ‘new’ cases, rather than being managed as a single, coherent undertaking. … Subsequent changes to previously approved permits can trigger re-review even if the risk to historic properties or appropriate mitigation measures remain the same.”¹

According to The Economic Research Organization at the University of Hawai‘i, Hawaii’s housing regulations are the strictest in the country, and “approval delays” for housing developments are three times longer than the national average among communities surveyed.² Likewise, UHERO researchers estimated that regulations comprise 58% of the cost of new condominium construction.³

Historic preservation reviews certainly play a role in these delays and their associated costs. For example, SHPD noted in its report to the 2023 Legislature that its archaeology reviews were taking between six months and one year, on average.⁴

Additionally, a 2025 Grassroot white paper, “[Preserving the past or preventing progress?](#)”, analyzed SHPD data and found that more than 90% of the projects the agency reviewed from 2021 to 2024 were determined to have no impact on historic properties.

The average review time for projects issued determinations during that time period was 94 days. However, the division reviewed less than half of the applications it had received during that period.

Thank you for the opportunity to testify.

Ted Kefalas
Director of Strategic Campaigns
Grassroot Institute of Hawaii

¹ “[6E Historic Preservation Interaction Group Report](#),” Simplifying Permitting for Enhanced Economic Development (Speed) Task Force, December 2025, p. 15.

² Rachel Inafuku, Justin Tyndall and Carl Bonham, “[Measuring the Burden of Housing Regulation in Hawaii](#),” The Economic Research Organization at the University of Hawai‘i, April 14, 2022, p. 6.

³ Justin Tyndall and Emi Kim, “[Why are Condominiums so Expensive in Hawai‘i?](#)” The Economic Research Organization at the University of Hawai‘i, May 2024, p. 11.

⁴ “[Report to the Thirty-Second Legislature 2023 Regular Session on the State Historic Preservation Program For Fiscal Year 2021-2022](#),” Hawaii Department of Land and Natural Resources, October 2022, p. 1.

SB-2341

Submitted on: 2/3/2026 11:16:43 AM
Testimony for WLA on 2/4/2026 1:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Clare Apana	Testifying for Malama Kakanilua	Oppose	Remotely Via Zoom

Comments:

Aloha Senators,

I am president of Malama Kakanilua, a nonprofit organization whose mission is to protect iwi kupuna and historic properties. We oppose this bill.

Consultation and preparation of this bill omitted organizations such as ours that deal with this process. We have serious concerns and amendments that are needed to ensure protection of Hawai'i's historic resources and especially burial sites.

- Clare Apana, Wailuku

LATE



Native Hawaiian LEGAL CORPORATION

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Testimony to the SENATE COMMITTEE ON WATER, LAND, CULTURE AND THE ARTS

Relating to Senate Bill 2341

Relating to Historic Preservation.

February 4, 2026

1:00 p.m.

State Capitol, Conference Room 224

Aloha e Chair Lee, Vice Chair Inouye, and members of the Committee:

The Native Hawaiian Legal Corporation (“NHLC”) respectfully submits this testimony **IN OPPOSITION to SB 2341** which authorizes the State Historic Preservation Division (“SHPD”) to conduct a phased review of a proposed project on private property under certain circumstances and amends the process and deadlines by which SHPD must provide written concurrence or non-concurrence for a proposed project on private property or other project that requires entitlement for use, after which concurrence may be assumed and the project may proceed.

Founded in 1974, NHLC is a public interest law firm whose mission is to protect and advance Native Hawaiian identity and culture through legal and other forms of advocacy. NHLC is the only public interest legal organization dedicated exclusively to Native Hawaiian rights. For over fifty years, NHLC has served the lāhui and, through this work, has developed extensive expertise regarding the legal needs of Native Hawaiians and the systemic justice gaps that continue to burden our community. For these reasons, NHLC provides legal services needed to protect familial relationships between mo‘opuna, mākua, kūpuna, and iwi kūpuna and to protect wahi pana (storied places), including sacred places, historic sites, and burial sites.

Phased Review Undermines the Purpose of and Protections Provided Under Hawai‘i’s Historic Preservation Review Process

SB 2341 would authorize the Department of Land and Natural Resources (“DLNR”) SHPD to conduct a “phased review” of a private landowner’s proposed project. This approach undermines the purpose and sequential process of the historic

preservation process by allowing review to occur in piecemeal stages rather than for the full project area at the outset.

Burials and other historic properties are protected under the Hawai‘i Constitution as public trust resources. Hawai‘i Revised Statutes (“HRS”) § 6E-1 explains:

The Constitution of the State of Hawaii recognizes the value of conserving and developing the historic and cultural property within the State for the public good. The legislature declares that the historic and cultural heritage of the State is among its important assets and that *the rapid social and economic developments of contemporary society threaten to destroy the remaining vestiges of this heritage.*

Accordingly, the State is obligated “to ensure the administration of such historic and cultural property in a spirit of stewardship and trusteeship for future generations, and to conduct activities, plans, and programs in a manner consistent with the preservation and enhancement of historic and cultural property.” *Id.*

To satisfy these obligations, the historic preservation review process first requires the identification and inventory of historic properties present in a project area – “the area the proposed project may potentially affect, either directly or indirectly[.]” Hawaii Administrative Rules (“HAR”) § 13-284-2. Our Hawai‘i Supreme Court has held that, “the broad definition of ‘project area’ is, in itself, inconsistent with phasing.” *Kaleikini v. Yoshioka*, 128 Hawai‘i 53, 78, 283 P.3d 60, 85 (2012).

A “phased” review prevents the State, private landowners, Native Hawaiian practitioners, and affected communities from identifying historic properties – including iwi kūpuna - within a project area *before* irreversible decisions are made. Without early identification and inventory, meaningful protections (including mitigation measures) and informed planning are no longer possible. Early identification supports strategic planning and helps prevent future conflicts, such as community opposition, regulatory delays, or costly project redesigns, which can arise from the inadequate consideration of historic properties within a project area.

Phased Review Is Contrary to Established Law and Hawai‘i Supreme Court Precedent

The Hawai‘i Supreme Court has explicitly rejected phased review in the historic preservation context. In *Kaleikini*, the Court explained that the historic preservation

review process is intentionally sequential and must be completed for the entire project area before SHPD concurrence may be given. *Id.* at 79, 283 P.3d at 86. The Court emphasized that phased review “commits to undergoing the historic preservation review process at a later time,” which is incompatible with Hawai‘i law. *Id.* at 76, 283 P.3d at 83.

Where a rule is unambiguous and consistent with statutory policy, courts enforce its plain meaning. *In re Wai‘ola O Moloka‘i, Inc.*, 103 Hawai‘i 425, 83 P.3d 688 (2004). The absence of any express authorization for phasing in Hawai‘i Administrative Rules chapters 13-275 and 13-278 creates no ambiguity. Rather, as the Court stated in *Kaleikini*, this silence “**suggests an intent to preclude the phasing of projects**, rather than an intent to leave that issue open.” 128 Haw. at 81, 283 P.3d at 88 (emphasis added).

While portions of SB 2341 appear to be informed by the National Environmental Policy Act and Section 106 of the National Historic Preservation Act, the Supreme Court has made clear that federal phasing provisions cannot be imported into Hawai‘i law absent express legislative adoption of the **full set of safeguards that accompany them**. *Id.* at 80, 283 P.3d at 87. SB 2341 does not do so.

Phased Review and “Assumed Concurrence” Increase the Risk of Harm to Iwi Kūpuna

SB 2341’s proposed “assumed concurrence” framework is particularly troubling. While framed as a streamlining mechanism to avoid project delays, automatic or presumed approvals weaken SHPD’s ability – and incentive – to fulfill its constitutional and statutory obligations as trustee of historic properties.

Speeding up review without full identification increases the likelihood of inadvertent discoveries, which are afforded lesser protections under the law. SHPD is already strained in its capacity to respond to inadvertent discoveries and increasing their frequency further compromises protection of iwi kūpuna. Moreover, once construction is underway, opportunities for preservation in place narrow dramatically, making disturbance or relocation more likely.

Requiring a “complete submittal” from project proponents is important, but it cannot substitute for independent verification, comprehensive inventory, and meaningful consultation. SHPD cannot rely solely on information provided by applicants to satisfy its obligations under HRS Chapter 6E.

Historic preservation review is not a procedural hurdle to be rushed or segmented. It is a constitutional duty rooted in stewardship and trusteeship.

Native Hawaiian Legal Corporation
Testimony Re: SB 2341
February 4, 2026
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Identification and inventory of historic properties must occur at the start of project planning so that the State, affected communities, and project proponents have a clear picture of the path ahead before development begins.

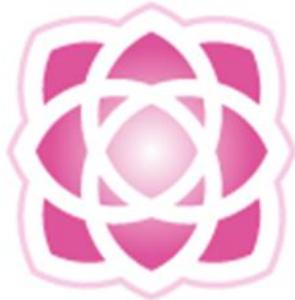
SB 2341 undermines this foundational principle, increases the risk of irreversible harm to iwi kūpuna, and contradicts controlling Hawai‘i Supreme Court precedent. For these reasons, NHLC respectfully urges the Legislature to reject SB 2341.

Mahalo for the opportunity to provide written testimony.

Na‘u nō me ka ha‘aha‘a,



Kirsha K.M. Durante
Litigation Director



LATE

**HEARING BEFORE THE SENATE COMMITTEE ON WATER, LAND, CULTURE & THE ARTS
HAWAII STATE CAPITOL, SENATE CONFERENCE ROOM 224
WEDNESDAY, FEBRUARY 4, 2026 AT 1:00 P.M.**

To The Honorable Senator Chris Lee, Chair
The Honorable Senator Lorraine R. Inouye, Vice Chair
Members of the Committee on Water, Land, Culture, and the Arts

SUPPORT FOR SB2341 RELATING TO HISTORIC PRESERVATION

The Maui Chamber of Commerce supports SB2341 because it seeks to modernize the State Historic Preservation Division's (SHPD) project review procedures, which directly affect the ability of businesses and property owners to move forward with construction, innovation, and economic activity.

The bill's authorization of phased reviews and the establishment of clear deadlines for SHPD concurrence or non-concurrence represent meaningful steps toward greater predictability and transparency in the permitting process. Delays in project review can stall economic activity, increase costs, and deter investment—challenges that are particularly acute for Maui and rebuilding in Lahaina. By allowing projects to proceed when SHPD does not respond within the specified timeframe, SB2341 helps ensure that regulatory processes do not become unintended barriers to economic recovery and diversification.

Continued collaboration between stakeholders will be essential to achieving the dual goals of economic vitality and historic preservation. We respectfully urge passage of SB2341 as a positive step toward a more resilient and responsive regulatory environment.

Mahalo for the opportunity to share our support.

Sincerely,

Pamela Tumpap
President

To advance and promote a healthy economic environment for business, advocating for a responsive government and quality education, while preserving Maui's unique community characteristics.



February 4, 2026

Senator Chris Lee, Chair
Senator Lorraine Inouye, Vice Chair
Committee on Water, Land, Culture and the Arts

RE: SB2341 - Relating to Historic Preservation
Hearing date: February 4, 2026 at 1:00 PM

Aloha Chair Lee, Vice Chair Inouye and members of the committee,

Mahalo for the opportunity to submit testimony on behalf of NAIOP Hawaii with **STRONG SUPPORT** on **SB2341 - Relating to Historic Preservation**. NAIOP Hawaii is the local chapter of the nation's leading organization for office, industrial, retail, residential and mixed-use real estate. NAIOP Hawaii has over 200 members in the State including local developers, owners, investors, asset managers, lenders and other professionals.

SB2341 improves the historic preservation review process by establishing clearer timelines, reducing duplicative reviews, and creating a more predictable pathway for projects that are unlikely to impact historic resources. Importantly, the bill maintains essential protections for historic properties, burial sites, and cultural resources while addressing longstanding procedural delays that hinder housing and infrastructure development.

Hawai‘i is facing an urgent housing shortage, and regulatory uncertainty and prolonged review timelines substantially increase project costs and risks. SB2341 helps address these challenges by:

- Establishing firm deadlines for concurrence or non-concurrence determinations, ensuring projects are not stalled indefinitely.
- Allowing phased and programmatic reviews for large or complex projects, which improves efficiency without sacrificing oversight.
- Preventing repetitive reviews once concurrence has been issued, unless new information or discoveries warrant further evaluation.
- Preserving safeguards for inadvertent discoveries of burial sites and historically significant resources.

Senator Chris Lee, Chair

Senator Lorraine Inouye, Vice Chair

Committee on Water, Land, Culture and the Arts

February 4, 2026

Page 2

By modernizing the review process, SB2341 supports the timely development of residential and mixed-use projects while continuing to uphold Hawai'i's commitment to protecting its cultural and historic heritage.

This balanced approach is critical to addressing the housing crisis, supporting smart growth near transit corridors, and ensuring that historic preservation efforts remain focused where they are truly needed.

We respectfully urge the committee to pass SB2341. This measure will help alleviate the backlog of projects awaiting SHPD review and facilitate the development of much-needed housing units and other projects across Hawaii. NAIOP appreciates the Legislature's commitment to collaborating on this issue and look forward to working together.

Mahalo for your consideration,

A handwritten signature in black ink, appearing to read "Ken K. Hayashida".

Ken Hayashida, President
NAIOP Hawaii

SB-2341

Submitted on: 2/2/2026 10:01:53 PM
Testimony for WLA on 2/4/2026 1:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Kumella Aiu	Individual	Oppose	Written Testimony Only

Comments:

Aloha,

I am writing in opposition of SB2341. Hawaiians and only Hawaiians should be able to determine the significance of a historic site. Iwi are the protectors of the land. If we are changing laws to make exceptions, it should not be in the favor of private landowners, but in favor of restoration of Hawaiian self determination. It has been acknowledged by the federal and state governments that Hawaiian lands were taken illegally, and it is the duty of the state to move towards healing and restoration, not towards more private land developers. So much has already been lost. The process should not be shortened. It is there as protection and should be maintained or adjusted to center Hawaiian ea.

Mahalo,

Kumella Aiu

Senator Chris Lee, Chair
Senator Lorraine R. Inouye, Vice Chair
Members of the Senate Committee on Water, Land, Culture and the Arts

From: Leimomi Khan, Community Advocate for Sound Laws

Subject: Testimony on Opposition to SB2341, Relating to Historic Preservation Review
Hearing, February 4, 2026, 1:00 p.m.

Aloha Chair, Vice Chair, and Members of the Committee,

Leimomi Khan, ko'u 'ino. I respectfully submit this testimony **in strong opposition to SB2341.**

SB2341 threatens to undermine the integrity of Hawai'i's historic preservation review process by weakening long-standing legal protections for **iwi kūpuna, kulāwi, and wahi kupuna**. The bill echoes prior legislative attempts to authorize **phased or incomplete archaeological review**, an approach that has already been rejected by the Hawai'i Supreme Court and shown to cause lasting harm to both cultural resources and development outcomes.

Existing Law Reflects Hard-Won Protections

Hawai'i's historic preservation framework—established under **HRS Chapter 6E** and **HAR §13-300**—exists because of past failures that resulted in the mass excavation and desecration of Native Hawaiian burials, most notably at Honokahua, Maui in 1986. These laws reflect decades of advocacy by Kānaka Maoli to ensure that development does not come at the cost of ancestral remains and culturally significant sites

The Hawai'i Supreme Court reaffirmed these protections in **Kaleikini v. Yoshioka**, holding that a **complete Archaeological Inventory Survey (AIS)** must be conducted *before* construction begins. This requirement is not procedural technicality—it is essential to identifying historic properties, evaluating impacts, and meaningfully considering preservation or mitigation alternatives.

Phased Review Undermines Meaningful Protection

SB2341 would permit development activity to begin **before a full understanding of the historic landscape is known**. As documented in prior legislative debates, phased review:

- Limits preservation alternatives once construction is underway
- Prevents a comprehensive understanding of a site's cultural significance
- Increases the likelihood of disturbing iwi kūpuna during active construction
- Shifts risk and harm onto communities rather than developers

Without a complete AIS, there is no reliable way to assess cumulative impacts or responsibly mitigate harm to historic resources

Claims of Efficiency Are Misleading

Proponents often argue that relaxing historic review requirements promotes efficiency or aligns state law with federal standards. However, prior legislative testimony revealed that even state attorneys struggled to explain how phased review meaningfully aligns with federal law. In practice, incomplete surveys have resulted in **project delays, cost overruns, litigation, and community trauma**—the opposite of efficiency.

Projects such as **Ke‘eaumoku Walmart, Ward Village, and Kawaiahā‘o Church’s multipurpose center** demonstrate that failure to complete proper AIS work upfront leads to unnecessary disturbance of burials and worsened project outcomes .

Responsible Development Requires Foresight

Sound planning requires **research, consultation, and full disclosure before ground is broken**. When historic review is treated as an obstacle rather than a foundation, everyone loses—communities, agencies, and developers alike.

Native Hawaiians are not opposed to development. We are opposed to development that proceeds **without respect, without knowledge, and without accountability**.

Conclusion

SB2341 compromises the very safeguards designed to protect Hawai‘i’s cultural and ancestral resources. It reopens wounds that our laws were specifically crafted to heal and ignores clear judicial guidance affirming the necessity of complete historic review.

For these reasons, I respectfully urge this Committee to **DEFER SB2341**.

Mahalo for the opportunity to submit testimony.

Respectfully submitted,

Leimomi Khan

SB-2341

Submitted on: 2/2/2026 10:34:07 PM
Testimony for WLA on 2/4/2026 1:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Malia Marquez	Individual	Oppose	Written Testimony Only

Comments:

Aloha Kākou,

We should NOT be giving SHPD full authorization for projects on private property. This is how "things" get passed and slip between the cracks. We need more transparency from SHPD on ALL projects, on both public and private properties.

Mahalo,

Malia Marquez

SB-2341

Submitted on: 2/2/2026 11:43:33 PM
Testimony for WLA on 2/4/2026 1:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Dana Keawe	Individual	Oppose	Written Testimony Only

Comments:

Oppose SB2341

Dana Keawe

SB-2341

Submitted on: 2/3/2026 6:27:14 AM
Testimony for WLA on 2/4/2026 1:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Tara Rojas	Individual	Oppose	Remotely Via Zoom

Comments:

Aloha Chair Lee, Vice Chair Inouye, and members of the committee,

Please do **NOT** pass SB2341. This is a **hewa** bill that enables further desecration by allowing developers to delay their kuleana to identify and protect iwi kūpuna and historic sites until after development is already underway.

This approach reverses responsible planning and places cultural protection last, rather than first. It creates a system where harm is foreseeable, yet treated as acceptable collateral damage.

Protection of iwi kūpuna and historic sites must occur **before permits are granted**, not after disturbance has occurred. Anything less undermines the State's obligation to protect Hawai'i's cultural heritage and disrespects the living descendants who continue to carry these responsibilities.

I respectfully urge the committee to **hold SB2341** and reject policies that normalize avoidable cultural harm.

Mahalo for the opportunity to submit testimony.

SB-2341

Submitted on: 2/3/2026 8:54:45 AM
Testimony for WLA on 2/4/2026 1:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Nanea Lo	Individual	Oppose	Written Testimony Only

Comments:

Hello Chair Lee, Vice Chair Inouye, and Members of the Committee,

My name is Nanea Lo and I'm a lineal descendant of these lands. I also write as a previous O'ahu Island Burial Council Member who represented the Kona moku. I respectfully urge you **not** to pass SB2341.

This bill would allow "phased" historic preservation reviews for projects on private property—similar to the process used for the H-3 freeway and the Honolulu rail project. Under this approach, large-scale developments could be planned and even begun without complete archaeological surveys and without a full understanding of whether iwi kūpuna or historic sites lie within a project's footprint.

This effectively creates a pathway for developers to ignore the likely presence of iwi before construction begins, only to later argue that redesigning or stopping a project would be too costly or impractical once burials or cultural sites are discovered. Too often, that outcome has resulted in the disinterment or physical destruction of our most cherished connections to nā kūpuna and to ka wā kahiko.

Protection of burial sites and historic resources must occur **before** ground is broken—not after irreversible harm has already been done. Hawai'i's laws should reinforce a developer's kuleana to identify and protect these places at the earliest possible stage, not weaken that responsibility.

For these reasons, I strongly urge you to **hold SB2341** and prevent further erosion of protections for iwi kūpuna and historic sites.

me ke aloha 'āina,

Nanea Lo

SB-2341

Submitted on: 2/3/2026 9:27:25 AM
Testimony for WLA on 2/4/2026 1:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Bianca Isaki	Individual	Oppose	Remotely Via Zoom

Comments:

Aloha - please do NOT pass SB2341. It will allow "phased" historic preservation reviews for projects on private property - similar to what they did for the H3 and Honolulu Rail. **This means expansive development projects can be planned and commenced without complete archaeological studies and without a full picture of the iwi kūpuna and historic sites that may be in the project's footprint.** This gives developers a way to willfully ignore the possible presence of iwi before starting a project, and then to later claim it will be too expensive or impossible to change a project mid-way once iwi or historic sites are eventually found - leading to the disinterment or even physical destruction of our most cherished connections to nā kūpuna and ka wā kahiko.

Yours,

Bianca Isaki

SB-2341

Submitted on: 2/4/2026 9:27:18 AM
Testimony for WLA on 2/4/2026 1:00:00 PM

LATE

Submitted By	Organization	Testifier Position	Testify
Stacey Alapai	Individual	Oppose	Written Testimony Only

Comments:

Aloha Chair Lee, Vice Chair Inouye, and members of the committee,

Please do NOT pass SB2341, a hewa bill that threatens even greater desecration by letting developers ignore their kuleana to iwi kūpuna and historic sites until it is too late.

I would argue that the requirements for archeological studies are loosely enforced as it is. We hear of so many cases that development moves forward by dragging out contested case hearings and running out the clock on the approval or disapproval. They just wait for automatic approval after ## of days, and when I look at this bill I see the same type of language. To paraphrase: You have 90 days to approve the concurrence or non-concurrence in writing and if you don't then it's automatically taking the faster approval track (concurrence).

Hawai'i is unlike any other place in the world, what we stand to lose by rushing the process is irreplaceable. Once historic sites are gone there is no bringing them back or preserving it. Once Iwi are disturbed there is no undoing it, there is only "mitigation".

The archaeological and environmental studies are essential documentation of what was here before the landscape is modified. The requirement these studies take place BEFORE planning is an important step in the process to influence the overall design and footprint. We have a responsibility to ensure the design makes sense for our long term survival with minimal harm. It's better to design and plan *after* you have a full understanding of the land you are on because it's difficult to change the project once you have started. Short sighted development and backwards planning contributed to the housing and infrastructure crisis we are in today. We have to stop making the same mistakes. We have to stop bulldozing over people's graves.

Please hold this bill. Protect Iwi Kūpuna.