A BILL FOR AN ACT

RELATING TO HAIKU VALLEY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

- 1 SECTION 1. The legislature finds that Haiku valley on Oahu 2 is of significant cultural and historic importance to the native
- 3 people of Hawaii. Haiku valley is renowned for its
- 4 archaeological and other cultural and historic sites, including
- 5 loi, sacred sites, and burial sites, and for the presence of
- 6 native and endangered flora and fauna. Preserving the valley's
- 7 cultural and historic resources and educating the public about
- $oldsymbol{8}$ these resources are of paramount importance.
- 9 The legislature further finds that ownership of the valley
- 10 is divided among several entities. The valley's fragmented
- 11 ownership and limited stewardship have placed its cultural and
- 12 historic resources at high risk. Ensuring adequate management
- 13 of, and appropriate access to, the valley has proven elusive.
- 14 This Act addresses these problems by establishing a
- 15 commission to provide a system that recognizes the valley's
- 16 unique challenges and preserves in perpetuity its cultural and
- 17 historic resources for the people of Hawaii.



- 1 The purpose of this Act is to establish the Haiku valley
- 2 cultural preserve commission to have policy and management
- 3 oversight over the Haiku valley cultural preserve.
- 4 SECTION 2. The Hawaii Revised Statutes is amended by
- 5 adding a new chapter to be appropriately designated and to read
- 6 as follows:
- 7 "CHAPTER
- 8 HAIKU VALLEY CULTURAL PRESERVE
- 9 S -1 Administration of chapter. The Haiku valley
- 10 cultural preserve commission and the department of land and
- 11 natural resources shall administer this chapter.
- 12 § -2 Definitions. As used in this chapter, unless the
- 13 context otherwise requires:
- "Board" means the board of land and natural resources.
- "Commission" means the Haiku valley cultural preserve
- 16 commission.
- "Department" means the department of land and natural
- 18 resources.
- "Haiku valley cultural preserve" or "valley cultural
- 20 preserve" means parcels 1-C, 6, 7, 8, and 9 encompassed within
- 21 tax map key 4-6-15:014 known as Haiku valley on the island of
- 22 Oahu.

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1 -3 Cultural preserve established; reservation of uses. 2 (a) There is established the Haiku valley cultural preserve which shall operate solely and exclusively for the following 3 4 purposes: 5 Preservation and practice of all rights customarily (1)6 and traditionally exercised by native Hawaiians for cultural, spiritual, and subsistence purposes; 7 8 (2) Preservation and protection of the area's cultural, 9 archaeological, historical, and environmental 10 resources; 11 (3) Rehabilitation, re-vegetation, habitat restoration, 12 and preservation; (4)Education; 13 14 (5) Farming activities pursuant to subsection (c); and 15 (6) Other purposes as determined by the commission. 16 Haiku valley shall be reserved in perpetuity for the (b) 17 uses enumerated in this section. Commercial uses shall be 18 strictly prohibited. 19 The commission shall adopt rules pursuant to chapter 20 91 to permit farming activities in the Haiku valley cultural

preserve that are consistent with the purposes of this chapter

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- 1 and that take into consideration the health and safety of the
- 2 general public.
- 3 § -4 Powers and duties. The department and other
- 4 departments and agencies of the State shall be subject to the
- 5 oversight of the commission with regard to the control and
- 6 management of the Haiku valley cultural preserve. Subject to
- 7 section -7, the department shall:
- 8 (1) Implement controls and permitted uses for the valley
- 9 cultural preserve;
- 10 (2) Enforce this chapter; and
- 11 (3) Authorize its employees as it deems reasonable and
- necessary to serve and execute warrants and arrest
- offenders or issue citations in all matters relating
- to enforcement of the laws and rules applicable to the
- 15 Haiku valley cultural preserve.
- 16 § -5 Board of land and natural resources. The board
- 17 shall approve all actions taken by the department pursuant to
- 18 this chapter. The board shall adopt rules in accordance with
- 19 chapter 91 to address decisions taken by the commission.
- 20 § -6 Commission. (a) There is established the Haiku
- 21 valley cultural preserve commission to be placed within the
- 22 department of land and natural resources for administrative

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1	purposes	as provided in section 26-35. The commission shall
2	consist o	f seven members to be appointed in the manner and to
3	serve for	the terms provided in section 26-34; provided that the
4	commissio	n shall consist of:
5	(1)	The executive director of the Koolau Foundation or the
6		executive director's designee;
7	(2)	Two members appointed by the governor from a list of
8		nominees provided by the Koolaupoko Hawaiian Civic
9		Club;
10	(3)	The administrator of the office of Hawaiian affairs,
11		or the administrator's designee;
12	(4)	An official of the city and county of Honolulu

16 (5) A representative of the board of land and natural
17 resources; and

appointed by the governor from a list of nominees

provided by the mayor of the city and county of

- 18 (6) One member appointed by the governor from a list 19 provided by native Hawaiian organizations.
- 20 (b) The chairperson shall be elected by the commission21 from among the members of the commission.

Honolulu;

1	(c) The members of the commission shall serve without pay
2	but shall be reimbursed for their actual and necessary expenses
3	including travel expenses, incurred in the discharge of their
4	duties.
5	(d) Any action taken by the commission shall be approved
6	by a simple majority of its members. Four members shall
7	constitute a quorum to do business.
8	(e) The commission, without regard to the requirements of
9	chapter 76, may hire employees necessary to perform its duties.
10	S -7 Responsibilities and duties of the commission. The
11	general administration of the valley cultural preserve shall
12	rest with the commission. In discharging its duties and
13	responsibilities, the commission:
14	(1) Shall establish criteria, policies, and controls for
15	permissible uses within the valley cultural preserve;
16	(2) Shall approve all contracts for services and adopt
17	rules pertaining to the valley cultural preserve;
18	(3) Shall provide advice to the governor, the department,
19	and other departments and agencies on any matter

relating to the valley cultural preserve;

(4) Shall provide advice to the office of planning and the

department of the attorney general on any matter

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1		relating to the conveyance of Haiku valley to the
2		department;
3	(5)	May enter into curator or stewardship agreements with
4		appropriate Hawaiian cultural and spiritual community
5		organizations for the perpetuation of native Hawaiian
6		cultural, religious, and subsistence customs, beliefs,
7		and practices for the purposes stated in section
8		-3;
9	(6)	Shall have those powers and carry out those duties
10		otherwise conferred upon the board and the land use
11		commission with regard to dispositions and approvals
12		pertaining to the valley cultural preserve;
13	(7)	Shall carry out those powers and duties concerning the
14		valley cultural preserve otherwise conferred upon the
15		city and county of Honolulu by chapter 205A;
16	(8)	Shall carry out those powers and duties concerning the
17		valley cultural preserve otherwise conferred upon the
18		island burial councils and the department with regard
19		to proper treatment of burial sites and human skeletal
20		remains found in the valley preserve;
21	(9)	Shall adopt rules in accordance with chapter 91 that

are necessary for the purposes of this chapter and

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1		shall maintain a record of its proceedings and
2		actions;
3	(10)	May delegate to the executive director or employees of
4		the commission, by formal commission action, such
5		power and authority vested in the commission by this
6		chapter as the commission deems reasonable and proper
7		for the effective administration of this chapter; and
8	(11)	May solicit and accept grants, donations, and
9		contributions for deposit into the Haiku valley
10		cultural preserve trust fund to support the purposes
11	24.5	of this chapter.
12	\$	-8 Penalty. Any person who violates any of the laws
13	or rules	applicable to the Haiku valley cultural preserve shall
14	be guilty	of a petty misdemeanor and shall be fined not more
15	than \$1,0	00, imprisoned not more than thirty days, or both, for
16	each offe	nse. Each day of each violation shall be deemed a
17	separate	offense.
18	\$	-9 General administrative penalties. (a) Except as
19	otherwise	provided by law, the commission is authorized to set,
20	charge, a	nd collect administrative fines, or bring legal action
21	to recove	r administrative costs of the commission or the
22	departmen	t, or payment for damages, or for the cost to correct
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- 1 damages resulting from a violation of this chapter or any rule
- 2 adopted hereunder. The administrative fines shall be as
- 3 follows:
- 4 (1) For a first violation, a fine of not more than
- 5 \$10,000;
- 6 (2) For a second violation within five years of a previous
- 7 violation, by a fine of not more than \$15,000; and
- **8** (3) For a third or subsequent violation within five years
- 9 of the last violation, by a fine of not more than
- 10 \$25,000.
- 11 (b) In addition, an administrative fine of up to \$5,000
- 12 may be levied for each specimen of natural resource or any
- 13 historic property taken, killed, injured, broken, or damaged in
- 14 violation of any rule adopted under this chapter.
- 15 For purposes of this subsection:
- 16 "Historic property" means any building, structure, object,
- 17 district, landscape, area, or site, including heiau and
- 18 underwater sites, that is over fifty years old.
- "Natural resource" means any archaeological artifacts,
- 20 minerals, any aquatic life or wildlife or parts thereof,
- 21 including their eggs, and any land plants or parts thereof,
- 22 including seeds.

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- 1 (c) Any criminal penalty for any violation of this chapter
- 2 or any rule adopted under this chapter shall not be deemed to
- 3 preclude the commission from bringing a civil legal action to
- 4 recover additional administrative fines and costs. Any civil
- 5 legal action against a person to recover administrative fines
- 6 and costs for any violation of this chapter or any rule adopted
- 7 under this chapter shall not be deemed to preclude the State
- 8 from pursuing any criminal action against that person.
- 9 (d) In any judicial proceeding to recover an
- 10 administrative penalty imposed, the commission need only show
- 11 that:
- 12 (1) Notice was given;
- 13 (2) A hearing was held, or the time granted for requesting
- a hearing has run without such a request;
- 15 (3) An administrative penalty was imposed;
- 16 (4) The administrative penalty remains unpaid; and
- 17 (5) The penalty has not been appealed or all appeals have
- 18 been exhausted.
- 19 § -10 Transfer. Upon its conveyance to the department,
- 20 the resources and waters of the Haiku valley cultural preserve
- 21 shall be held in trust by the department as part of the public
- 22 land trust; provided that the department shall transfer

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- 1 management and control of the Haiku valley cultural preserve to
- 2 the sovereign native Hawaiian entity upon its recognition by the
- 3 United States and the State.
- 4 All terms, conditions, agreements, and laws affecting the
- 5 valley shall remain in effect unless expressly terminated.
- 6 § -11 Haiku valley cultural preserve trust fund. (a)
- 7 There is created in the state treasury the Haiku valley cultural
- 8 preserve trust fund to be administered by the department with
- 9 the prior approval of the commission. Subject to this chapter:
- 10 (1) Any moneys received from the federal government for
- purposes consistent with this chapter;
- 12 (2) Any moneys appropriated by the legislature to the
- 13 trust fund;
- 14 (3) Any moneys received from grants and donations or the
- proceeds from contributions; and
- 16 (4) The interest or return on investments earned from
- moneys in the trust fund;
- 18 shall be deposited into the trust fund and shall be used to
- 19 fulfill the purposes of this chapter.
- 20 (b) The commission may use moneys in the trust fund to
- 21 carry out the purposes of this chapter, including hiring

- 1 employees, specialists, and consultants necessary to complete
- 2 projects related to the purposes of this chapter.
- 3 (c) Moneys deposited into or appropriated to the trust
- 4 fund shall remain available until they are obligated or until
- 5 the trust fund is terminated.
- 6 (d) If the trust fund is terminated, all funds shall be
- 7 transferred to the general fund; provided that all unexpended or
- 8 unencumbered balances shall be disbursed in accordance with any
- 9 requirements set by funding sources and for purposes consistent
- 10 with this chapter.
- 11 (e) The commission shall submit an annual report on the
- 12 status of the Haiku valley cultural preserve trust fund to the
- 13 legislature no later than twenty days prior to the convening of
- 14 each regular session. The annual report shall include the total
- 15 number of and amount of grants, donations, and contributions
- 16 received and balances remaining on June 30 of each year."
- 17 SECTION 3. The office of planning and the department of
- 18 the attorney general, after consulting with the Haiku valley
- 19 cultural preserve commission, are authorized to initiate the
- 20 conveyance of all of Haiku valley in fee simple to the
- 21 department of land and natural resources; provided that before
- 22 the valley is conveyed to the department of land and natural



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- 1 resources, agreements shall be executed with respect to
- 2 liability, monetary resources, and removal of hazardous wastes.
- 3 SECTION 4. The office of Hawaiian affairs shall provide
- 4 the necessary funding for the purposes of this Act, including
- 5 the acquisition of Haiku valley by the department of land and
- 6 natural resources.
- 7 SECTION 5. This Act does not affect rights and duties that
- 8 matured, penalties that were incurred, and proceedings that were
- 9 begun before its effective date.
- 10 SECTION 6. If any provision of this Act, or the
- 11 application thereof to any person or circumstance, is held
- 12 invalid, the invalidity does not affect other provisions or
- 13 applications of the Act that can be given effect without the
- 14 invalid provision or application, and to this end the provisions
- 15 of this Act are severable.
- 16 SECTION 7. All rights, powers, functions, and duties of
- 17 the Board of Land and Natural resources and the Land Use
- 18 Commission with regard to the dispositions and approvals
- 19 pertaining to the Haiku valley cultural preserve are transferred
- 20 to the Haiku valley cultural preserve commission, established
- 21 pursuant to this Act.

- 1 SECTION 8. All appropriations, records, equipment,
- 2 machines, files, supplies, contracts, books, papers, documents,
- 3 maps, and other personal property heretofore made, used,
- 4 acquired, or held by the board of land and natural resources or
- 5 land use commission relating to the functions transferred to the
- 6 Haiku valley cultural preserve commission shall be transferred
- 7 with the functions to which they relate.
- 8 SECTION 9. This Act shall take effect on July 1, 2050.

Report Title:

Haiku Valley

Description:

Establishes the Haiku Valley cultural preserve commission to provide policy and management oversight of the Haiku Valley cultural preserve. Initiates process of conveying Haiku valley in fee simple to the department of land and natural resources. Effective 7/1/2050. (SD2)

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