

**Rep. Maile Shimabukuro**

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**From:** Sara Collins [sara.l.collins.sha@gmail.com]  
**Sent:** Tuesday, March 24, 2009 9:23 AM  
**To:** HAWtestimony  
**Subject:** Comments on HCR 226 and HR 194, Requesting the Office of Hawaiian Affairs to Convene a Working Group to Review the System and Procedures for the Review of Native Hawaiian Burial Sites

**TO:** Representative Mele Carroll, Chair, and Members of the  
House Committee on Hawaiian Affairs  
[HAWtestimony@Capitol.hawaii.gov](mailto:HAWtestimony@Capitol.hawaii.gov)

**FROM:** Sara Collins, Ph.D., Legislative Committee Chair  
Society for Hawaiian Archaeology  
Email: [sara.l.collins.sha@gmail.com](mailto:sara.l.collins.sha@gmail.com)  
Phone: 808-348-2937

**HEARING:** March 25, 2009, 9:30 AM, House Conference Room 329

**SUBJECT:** Comments on HCR 226 and HR 194, Requesting the Office of Hawaiian Affairs to Convene a Working Group to Review the System and Procedures for the Review of Native Hawaiian Burial Sites

I am Dr. Sara Collins, Legislative Committee Chair of the Society for Hawaiian Archaeology (SHA). We have over 200 members that include professional archaeologists and advocates of historic preservation in general. We support the general intent of HCR 226 and HR 194 but have some comments and recommendations to make. The subject resolutions direct the Office of Hawaiian Affairs (OHA) to convene a working group to review the system and procedures for the review and treatment of Native Hawaiian burial sites.

The resolutions call for the working group convened by OHA to focus on two issues:

- Procedures relating to the recovery, reburial, preservation, and protecting of ancestral Hawaiian remains, including known native Hawaiian burial sites and inadvertent discovered sites, particular during construction; and

- Consideration and discussion of the definition of the term "burial cave" proposed in House Bill No. 1662 (2009), that states that a "burial cave" means a cave or lava tube, or a portion of a cave or lava tube, where sufficient physical or cultural evidence suggests that the cave or lava tube, or a portion of the cave or lava tube, was used for or viewed as a burial site"

The statutes governing the treatment and disposition of Native Hawaiian burials include Chapters 6E-43, 6E-43.5, and 6E-43.6, Hawaii Revised Statutes, first passed in 1990 and amended subsequently. In addition, the Hawaii Administrative Rules Chapter 13-300, in place since 1996, contain many of the specific procedures documenting, evaluating, and receiving treatment determinations. We concur that a thorough review by relevant stakeholders of current law, rules, and practice is long overdue.

Depending on whether a burial is deemed to be "previously identified" or and "inadvertent discovery," the preceding steps are carried out under the oversight of the burial councils or the Department of Land and Natural Resources (DLNR), State Historic Preservation Division (SHPD). Qualified archaeologists, including many members of SHA, have played an important role in all of these procedural steps. Our members have worked with all of the island burial councils on burial treatment matters since the councils' inception. Many of SHA's members have also assisted SHPD or other entities in at least hundreds of cases of inadvertently discovered burials. SHA members have documented or recovered hundreds of burials in a variety of situations and contexts, resulting in a wealth of experience that we believe would be a beneficial addition to the working group proposed in the subject resolutions.

Given this history, we would respectfully suggest that the subject resolutions be amended so as to include in OHA's working group a representative from SHA who is a qualified archaeologist with demonstrated experience in working with the Chapter 6E and HAR 13-300 procedures. Our recommended amendments are as follows, with new language underlined:

BE IT FURTHER RESOLVED that it is requested that the working group include a representative of the Kamakakuokalani Center for Hawaiian Studies at the University of Hawaii, Kanaka Council, Historic Preservation Division of the Department of Land and Natural Resources, the island burial councils, Hui Malama I Na Kupuna O Hawaii Nei, and a representative of the Society for Hawaiian Archaeology, chosen on the basis of his or her demonstrated qualifications and experience with state burials laws and regulations;

Thank you for the opportunity to testify and for considering our comments. We look forward to working with committee and other stakeholders on the subject resolutions. Should you have any questions, please feel free to contact me at the above telephone number and email address.

Sincerely,

Sara L. Collins, Ph.D.  
Chair, Legislative Committee  
Society for Hawaiian Archaeology