

STAND. COM. REP. NO. **2891**

Honolulu, Hawaii

**MAR 01 2024**

RE: GOV. MSG. NO. 597

Honorable Ronald D. Kouchi  
President of the Senate  
Thirty-Second State Legislature  
Regular Session of 2024  
State of Hawaii

Sir:

Your Committee on Higher Education, to which was referred Governor's Message No. 597, submitting for study and consideration the nomination of:

BOARD OF REGENTS OF THE UNIVERSITY OF HAWAI'I

G.M. No. 597 ALAPAKI NAHALE-A,  
for a term to expire 06-30-2028,

begs leave to report as follows:

Your Committee reviewed the personal history, resume, and statement submitted by Alapaki Nahale-a for service on the Board of Regents of the University of Hawai'i.

Your Committee received testimony in support of the nomination for the reappointment of Alapaki Nahale-a from the Office of Hawaiian Affairs, University of Hawaii Professional Assembly, Office of the Mayor of the County of Hawai'i, The Leader Project, and sixteen individuals.

Your Committee received testimony in opposition to the nomination for the reappointment of Alapaki Nahale-a from Academic Labor United and twenty individuals.

Your Committee received comments on the nomination for the reappointment of Alapaki Nahale-a from two individuals.



Your Committee acknowledges the testimony received in support of Mr. Nahale-a to continue to serve as a Regent on the Board of Regents of the University of Hawaii. Specifically, your Committee notes Mr. Nahale-a's extensive experience in working in community education and engagement, land management, and as an advocate for Native Hawaiian issues.

#### ROLE OF THE BOARD OF REGENTS

Your Committee finds that a position on the Board of Regents of the University of Hawaii is an important and high-profile office. Regents make critical decisions that guide the direction of the University of Hawaii System and are sometimes provided opportunities to comment publicly regarding decisions made by the Board. Pursuant to section 304A-104, Hawaii Revised Statutes, the Senate is required to consider the combination of abilities, breadth of experiences, and characteristics of the Board of Regents, as a whole, that will best serve the diverse interests and needs of the students of the university system and assist the university system in achieving its strategic goals and performance indicators.

Your Committee notes that Mr. Nahale-a has been serving on the Board of Regents of the University of Hawaii as Regent of Hawaii County since 2019, and is currently serving as Chairperson of the Board of Regents, a position he has held since July 2023. However, for the reasons discussed below, your Committee finds that Mr. Nahale-a is not the appropriate person to continue to serve on the Board of Regents going forward.

#### TRANSPARENCY AND LACK OF ACCOUNTABILITY

Your Committee is troubled by reports from the Board of Regents that the formulation of monthly meetings of the Board involve input from University of Hawaii administrators. In a public hearing on his nomination, Mr. Nahale-a confirmed that there is pushback by administrators on certain potential agenda items, creating instances where pressing university matters may not be addressed in a public forum or acknowledged in a way to ensure prompt action by the Board of Regents. While the Board of Regents has an exemption to the Sunshine Law that authorizes Board leadership to discuss agenda items for future meetings, which includes the presence of general counsel, there is no official documentation of conversations held during agenda setting meetings between Regents or with administrators present. Mr. Nahale-a



noted that the Board Secretary is present to take notes, but the documentation of information is informal in nature. Your Committee believes that the creation of monthly agendas should be a collaborative process that considers topics from individual Regents and the Board as a whole, rather than university administrators.

Your Committee also notes that the lack of transparency with the University of Hawaii administration poses significant issues that have not led to any consequences for administrators. Despite five years of service as a Regent, Mr. Nahale-a's actions as a member have not reflected a high level of engagement that would challenge the complacency of university operations. While Mr. Nahale-a noted that the culture of the Board of Regents is shifting to address issues such as student housing, university athletics, graduate student unionization, and workforce development, your Committee is not adequately assured that Mr. Nahale-a would be an initiator of change.

While Mr. Nahale-a noted that he supports a University of Hawaii President who is solely focused on system-level issues and priorities, your Committee expressed concerns regarding the inaction of the Board of Regents on holding the University of Hawaii President accountable for the various responsibilities assigned to the role. Presently, the University of Hawaii President also serves as Chancellor of the University of Hawaii at Manoa, Chief Procurement Officer, and as the Principal Investigator for four major Department of Defense contracts through the Applied Research Laboratory. Further, concerns were expressed that the University of Hawaii System focuses efforts on development of the University of Hawaii at Manoa, rather than growth at other campuses, including neighbor island institutions. Despite the amount of work done to fulfill the requirements of various roles, the Board of Regents has not fully addressed diversification of University of Hawaii System programs.

Accordingly, your Committee cannot recommend with full confidence a nominee who neither takes initiative to hold administrators accountable nor promotes transparency within the governance of the university system. Because the only measurements of accountability for Regents are meeting recordings, minutes, and specific actions taken, it is imperative that nominees for the Board of Regents are transparent with their deliberations to provide clear insight to the public of the Board of Regent's operations.



## REACTIVE LEADERSHIP

Your Committee finds that Mr. Nahale-a has not displayed traits and attributes of a proactive leader who is willing to assert policy goals that will shape the overall direction of the University of Hawaii. While Mr. Nahale-a has contributed to the beginning of a cultural shift within the Board of Regents since assuming the position of Chairperson in July 2023, your Committee expressed concerns regarding Mr. Nahale-a's previous four years of service as a Regent. Mr. Nahale-a himself admitted that he was "disappointed" at his own inaction regarding the condition of student housing at the University of Hawaii at Manoa and University of Hawaii at Hilo despite having previous knowledge of the poor condition of the housing. Additionally, prior inaction on high profile incidents involving high-level administrators raises additional concerns that the Board of Regents is reactive rather than proactive in addressing situations.

Your Committee also notes that Mr. Nahale-a's leadership style is too deferential to the University of Hawaii President and administration. Mr. Nahale-a confirmed that the Board of Regents had a limited role in the formulation of the University of Hawaii's 2024 supplemental budget for the 2023-2025 fiscal biennium. The Regents received the draft budget from university administration, but Mr. Nahale-a noted that the Board did not have sufficient time to review all items included. Mr. Nahale-a also noted that the budget presented to the Board of Regents was separated by campus priorities rather than thematic priorities for the overall university system, creating difficulties in the ability to scrutinize the budget. Your Committee expressed concerns that Mr. Nahale-a voted to approve the budget despite issues with the review process. Instead, Mr. Nahale-a relied on historical budget data from previous years to examine consistency with spending and other university projects. Without parameters to ensure accountability over the budget and revenue generation, it is ultimately the students and the people of Hawaii who suffer the consequences of inaction.

The Chairperson of the Board of Regents should have a proactive, engaging role and voice for the Board in external matters such as appearances at legislative informational briefings, university events, and community engagements that require the presence of the Regents. However, since assuming the role of Chairperson, Mr. Nahale-a has been notably absent from



legislative informational briefings that would have provided insight into the perspective and position of the Board of Regents. Mr. Nahale-a has also been absent from legislative hearings regarding legislation pertaining to the University of Hawaii and its budget. Additionally, while Mr. Nahale-a did attend a tour orchestrated by another Regent, Mr. Nahale-a, as chairperson, has not initiated any site visits of his own volition to tour university campuses or student housing facilities to proactively understand persistent issues faced by University of Hawaii students.

As the policymaking body of the University of Hawaii, accountability of the University of Hawaii President and administration is imperative to promote transparency in the formulation of university policy. Being the only system of public higher education in the State, the University of Hawaii should be accountable to the people of Hawaii through oversight by the Board of Regents. However, without initiative and proactive leadership from the Board of Regents to address the concerns of students, faculty, staff, and the greater university community, the questionable culture and operations of the university will remain unchanged.

#### POTENTIAL OR PERCEIVED CONFLICT OF INTEREST

Your Committee finds that Mr. Nahale-a was previously employed as the Chief Executive Officer at 'Iole. However, the University of Hawaii intended to appoint board members during Mr. Nahale-a's tenure, as the President of Arizona State University also serves as a member. Additionally, two other high-level University of Hawaii administrators also serve as members of the Board at 'Iole. Mr. Nahale-a confirmed that he sought ethics guidance from the State Ethics Commission, but he did not obtain a formal opinion. The State Ethics Commission discouraged the University of Hawaii President from serving on the board, as Mr. Nahale-a would have served as a direct supervisor. Further, guidance provided also suggested a separate point of contact between projects at 'Iole and the University of Hawaii. However, Mr. Nahale-a did not publicly disclose the conflict of interest nor did he seek an official ruling from the State Ethics Commission, as there was uncertainty regarding continuity of his role as a Regent. Mr. Nahale-a subsequently resigned from the position of Chief Executive Officer of 'Iole but did so only after he was reappointed to the Board of Regents for a second term



rather than immediately upon the realization that a conflict could arise. Your Committee therefore expressed concerns regarding the questionable timing of Mr. Nahale-a's resignation given the gravity of the potential or perceived conflict of interest.

As a Regent of the University of Hawaii, Mr. Nahale-a is involved in the evaluation of the University of Hawaii President. Regardless of whether actual conflicts of interest exist, the mere perception of a conflict of interest may generate questions about the impartiality of decisions made by the Board of Regents concerning the President or any matter concerning the university. Your Committee is therefore concerned as to what extent Mr. Nahale-a can effectively perform his responsibilities and duties as a Regent and Chairperson of the Board.

A Regent's duty to serve as an ambassador to the community and consider the community's interests rely, in part, on active engagement with the public and with relevant university stakeholders, rather than reacting to issues after the fact. Your Committee therefore finds that Mr. Nahale-a has not demonstrated a sufficient level of engagement within his role as a Regent and as Chairperson of the Board to lead the formulation of university policy and hold university administration accountable.

As affirmed by the record of votes of the members of your Committee on Higher Education that is attached to this report, your Committee, after full consideration of the background, experience, and qualifications of the nominee, recommends that the Senate not advise and consent to the nomination.

Respectfully submitted on  
behalf of the members of the  
Committee on Higher Education,



DONNA MERCADO KIM, Chair



The Senate  
 Thirty-Second Legislature  
 State of Hawai'i

**Record of Votes**  
**Committee on Higher Education**  
**HRE**  
**Advise and Consent**

Governor's Message No.:* <b>GM 597</b>	Committee Referral: <b>HRE</b>	Date: <b>02-27-24</b>		
<input type="checkbox"/> The Committee is reconsidering its decision				
The Recommendation is:				
<input checked="" type="checkbox"/> Advise and Consent 2340	<input checked="" type="checkbox"/> Not Advise and Consent 2345			
<b>Members</b>	<b>Aye</b>	<b>Aye (WR)</b>	<b>Nay</b>	<b>Excused</b>
KIM, Donna Mercado (C)	/			
KIDANI, Michelle N. (VC)	/			
FUKUNAGA, Carol	/	/		
HASHIMOTO, Troy N.	/			
FEVELLA, Kurt	/			
<b>TOTAL</b>	<b>4</b>	<b>1</b>		
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: 				
Distribution:      Original                      Yellow                      Pink                      Goldenrod File with Committee Report      Clerk's Office      Drafting Agency      Committee File Copy				

\*Only one Governor's Message per Record of Votes