

EXECUTIVE CHAMBERS

HONOLULU

June 22, 2001

STATEMENT OF OBJECTIONS TO SENATE BILL NO. 1207

Honorable Members
Twenty-First Legislature
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, Senate Bill No. 1207, entitled "A Bill for an Act Relating to the University of Hawaii."

The purpose of this bill is to confirm that the University autonomy legislation did not abrogate the Eleventh Amendment immunity enjoyed by the University of Hawaii. This bill declares that any liability incurred by the University in litigation shall be a liability of the State.

There is agreement among the legislators, the executive branch, and the University that the University is still an entity of the State for purposes of the Eleventh Amendment of the United States Constitution. Even though the University was given greater autonomy over its affairs, the autonomy measures enacted in the past few years were not intended to affect the University's protection from suit under the Eleventh Amendment.


My objections to this bill are not based on policy differences with the Legislature over the University's Eleventh Amendment status, but are based only on the method by which the status is being confirmed. To achieve the purpose of this bill, the Legislature need only expressly reaffirm that the University's Eleventh Amendment immunity was never intended to be abrogated by University autonomy legislation. Chapter 304, Hawaii Revised Statutes, should be amended to include a provision stating, "Nothing in this chapter is intended to abrogate the Eleventh Amendment immunity of the University." It is unnecessary for the State to assume all of the University's liabilities in order to assure the University's immunity under

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the Eleventh Amendment. Such assumption of liability by the State is contrary to the University's goal of autonomy and accountability for its actions.

For the foregoing reasons, I am returning Senate Bill No. 1207 without my approval.

Respectfully,


BENJAMIN J. CAYETANO
Governor of Hawaii