

EXECUTIVE CHAMBERS

HONOLULU

June 20, 2002

COPY

STATEMENT OF OBJECTIONS TO SENATE BILL NO. 2985

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. 2985, entitled "A Bill for an Act Relating to Qualified Improvement Tax Credit."

The purpose of Senate Bill No. 2985 is to provide a tax credit for the cost of capital improvements made to a "federally qualified health center," which is defined to mean "an entity that has entered into an agreement with the centers for Medicare and Medicaid Services . . . to meet Medicare program requirements . . . and is receiving a grant under section 330 of the Public Health Service Act or is receiving funding from the recipient of a grant" under that federal act. This tax credit applies to "qualified improvement costs," which are defined to include "capitalized interest expense," incurred for taxable years beginning after December 31, 2001, and before January 1, 2011. The "qualified improvement costs" are defined to also include purchases of "qualified equipment," which are defined to include "any device, instrument, appliance, system, or apparatus that is intended for use in . . . medical record-keeping." If the federal qualified health center is a tax-exempt entity that has no income tax liability, the tax credit shall be "refundable" to the health center.

This bill would apply to only nine federally qualified health centers in Hawaii. Because these health centers are nonprofit organizations, the "refundable" tax credit payable under this bill to health centers that are nonprofit organizations appear to be in the nature of grants or subsidies for these nine health centers. Section 4 of Article VII of the


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State Constitution states, "[n]o grant of public money or property shall be made except pursuant to standards provided by law." General standards have been provided by law in chapter 42F, Hawaii Revised Statutes. To ensure compliance with the constitutional provision, the health centers should apply to the Legislature for grants or subsidies in accordance with chapter 42F.

This bill provides definitions that are too broad. For example, other income tax credits are generally limited to hard construction costs and do not include the costs of financing the construction. However, the definition of "qualified improvement costs" in this bill includes "capitalized interest expense for plans, design, construction, or equipment." Furthermore, the definition of "qualified equipment" includes any system for medical record-keeping. If this bill were to become law, other taxpayers in the health industry will be encouraged to seek the same credit, because all other taxpayers in the health industry will be or have been incurring the cost of purchasing medical record-keeping systems. If a federally qualified health center does have unrelated business taxable income, a refundable four percent capital good excise tax credit is available under existing statutes.

For the foregoing reasons, I am returning Senate Bill No. 2985 without my approval.

Respectfully,

  
BENJAMIN J. CAYETANO  
Governor of Hawaii

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P R O C L A M A T I O N

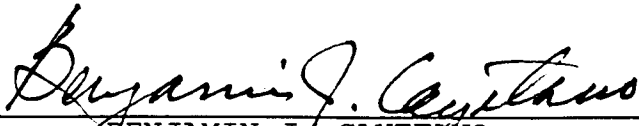
WHEREAS, under Section 16 of Article III of the Constitution of the State of Hawaii, the Governor is required to give notice, by a proclamation, of the Governor's plan to return with the Governor's objections any bill presented to the Governor less than ten days before adjournment sine die or presented to the Governor after adjournment sine die of the Legislature; and

WHEREAS, Senate Bill No. 2985, entitled "A Bill for an Act Relating to Qualified Improvement Tax Credit," passed by the Legislature, was presented to the Governor within the aforementioned period; and

WHEREAS, Senate Bill No. 2985 is unacceptable to the Governor of the State of Hawaii;

NOW, THEREFORE, I, BENJAMIN J. CAYETANO, Governor of the State of Hawaii, do hereby issue this proclamation, pursuant to the provisions of Section 16 of Article III of the Constitution of the State of Hawaii, giving notice of my plan to return Senate Bill No. 2985 with my objections thereon to the Legislature as provided by said Section 16 of Article III of the Constitution.

DONE at the State Capitol, Honolulu,  
State of Hawaii, this 20  
day of June, 2002.

  
BENJAMIN J. CAYETANO  
Governor of Hawaii