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# A BILL FOR AN ACT

RELATING TO INFORMATION PRACTICES.

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

1           SECTION 1. The legislature finds that private donations to  
2 the University of Hawaii are critical to the success of the  
3 university's educational mission. This proposal is to protect  
4 the privacy rights of individual donors to the University of  
5 Hawaii and the University of Hawaii Foundation.

6           The legislature finds that the intent of the Uniform  
7 Information Practices Act was not to require disclosure of  
8 private donor information, but rather to open government  
9 operations up to public scrutiny. Section 92F-2, Hawaii Revised  
10 Statutes, provides in pertinent part:

11           Opening up the government processes to public  
12 scrutiny and participation is the only viable and  
13 reasonable method of protecting the public's interest.  
14 Therefore the legislature declares that it is the  
15 policy of this State that the formation and conduct of  
16 public policy--the discussions, deliberations,



1 decisions, and action of government agencies--shall be  
2 conducted as openly as possible.

3 The policy of conducting government business as  
4 openly as possible must be tempered by a recognition  
5 of the right of the people to privacy.

6 The legislature finds that individual donors to the  
7 University of Hawaii or the University of Hawaii Foundation have  
8 significant privacy interests in records relating to their  
9 donations. The legislature further finds that this Act would  
10 clarify the law in this area by protecting from disclosure, for  
11 purposes of the Uniform Information Practices Act, certain donor  
12 records held by the University of Hawaii and the University of  
13 Hawaii Foundation, if those records were found to be subject to  
14 the Act.

15 The purpose of this Act is to provide that certain donor  
16 records and information would not be subject to disclosure for  
17 purposes of the Uniform Information Practices Act under chapter  
18 92F, Hawaii Revised Statutes. This would thus protect from  
19 disclosure: (1) donor records that disclose or may lead to the  
20 discovery of the identity of an individual donor who has  
21 requested anonymity; (2) any individual donor's personal,  
22 financial, estate or gift planning matters; or (3) any donor



1 solicitation strategies of the Foundation or the University.  
2 This exception would not protect from disclosure the amount,  
3 date, and purpose of any donation; the name of a donor who did  
4 not request anonymity; or information regarding corporate  
5 donors. Further, the protection from disclosure would not  
6 protect the anonymity of a donor who directly or indirectly  
7 transacts business with the University of Hawaii or the  
8 University of Hawaii Foundation.

9 SECTION 2. Chapter 304A, Hawaii Revised Statutes, is  
10 amended by adding a new section to be appropriately designated  
11 and to read as follows:

12 "§304A- Donor records protected from disclosure. (a)  
13 For the purposes of chapter 92F, records that contain  
14 information about or pertain to any individual who is a donor or  
15 potential donor to the University of Hawaii or the University of  
16 Hawaii Foundation or donor solicitation strategy shall not be  
17 disclosed, other than:

- 18 (1) The name of the donor, unless the donor requested  
19 anonymity;  
20 (2) Date;  
21 (3) Amount; and  
22 (4) Purpose of the donation.



1           (b) Notwithstanding the provisions of subsection (a), the  
 2 name of any donor that requested anonymity shall not be  
 3 protected from disclosure if the donor, or any entity in which  
 4 the donor has a substantial interest, transacts business with  
 5 the University of Hawaii or the University of Hawaii Foundation,  
 6 or any affiliate thereof, within three years of the date of any  
 7 donation by that donor.

8           (c) For the purposes of this section, a business  
 9 transaction shall include any sale or lease of any real or  
 10 personal property, or sales of services on behalf of oneself or  
 11 on behalf of any third party as an agent, broker, dealer, or  
 12 representative in an aggregate amount in excess of \$10,000  
 13 during a calendar year.

14           As used in this section, "substantial interest" means the  
 15 direct or indirect ownership of more than twenty-five per cent  
 16 of the assets or ownership interests of an entity."

17           SECTION 3. Section 23-5, Hawaii Revised Statutes, is  
 18 amended by amending subsection (a) to read as follows:

19           "(a) The auditor may examine and inspect all accounts,  
 20 books, records, files, papers, and documents and all financial  
 21 affairs of every department, office, agency, and political  
 22 subdivision[-], notwithstanding section 304A- ."



1 SECTION 4. Section 92F-13, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 **"§92F-13 Government records; exceptions to general rule.**

4 This part shall not require disclosure of:

- 5 (1) Government records which, if disclosed, would  
6 constitute a clearly unwarranted invasion of personal  
7 privacy;
- 8 (2) Government records pertaining to the prosecution or  
9 defense of any judicial or quasi-judicial action to  
10 which the State or any county is or may be a party, to  
11 the extent that such records would not be  
12 discoverable;
- 13 (3) Government records that, by their nature, must be  
14 confidential in order for the government to avoid the  
15 frustration of a legitimate government function;
- 16 (4) Government records which, pursuant to state or federal  
17 law including an order of any state or federal court,  
18 are protected from disclosure; [~~and~~]
- 19 (5) Inchoate and draft working papers of legislative  
20 committees including budget worksheets and unfiled  
21 committee reports; work product; records or  
22 transcripts of an investigating committee of the



1 legislature which are closed by rules adopted pursuant  
2 to section 21-4 and the personal files of members of  
3 the legislature~~[ ]~~; and

4 (6) Records protected from disclosure pursuant to section  
5 304A- ."

6 SECTION 5. Statutory material to be repealed is bracketed  
7 and stricken. New statutory material is underscored.

8 SECTION 6. This Act shall take effect upon its approval.



**Report Title:**

Government Records; University of Hawaii

**Description:**

Provides a qualified exemption to the University of Hawaii and the University of Hawaii Foundation from disclosure of donor information.

