

S.B. NO. 3037

JAN 26 2022

A BILL FOR AN ACT

RELATING TO GIFTS.

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

1 SECTION 1. The legislature finds that, from time to time,
2 legislators and other state employees accept protocol gifts on
3 behalf of the State or either house of the legislature from
4 foreign officials, federal officers, or state officials from
5 other states. These gifts may symbolize goodwill or strengthen
6 international or national friendships. Failure to accept such a
7 gift may cause embarrassment to the donor and the recipient.
8 These gifts may be small tokens, such as a fountain pen or a
9 gift that a state is famous for, or may be larger gifts, such as
10 a painting, musical instrument, or commemorative plate.

11 The legislature further finds that, unlike the federal
12 government, where several federal offices and agencies abide by
13 a system for the receipt, valuation, and disposition of gifts to
14 the President of the United States, the treatment of protocol
15 gifts accepted by legislators and state employees on behalf of
16 the State or either house of the legislature from visiting
17 dignitaries is not established under state law. Furthermore,
18 because these gifts are not accepted on the legislator's or

1 state employee's own behalf, these gifts are not required to be
2 reported in the gifts disclosure statement. Many legislators
3 and state employees keep an inventory of protocol gifts they
4 receive in accordance with rules adopted by the state senate or
5 the state house of representatives. However, without a uniform
6 set of procedures regarding the custody, inventory, and
7 maintenance of these protocol gifts, gifts may be inadvertently
8 lost, misplaced, or not reasonably maintained.

9 The purpose of this Act is to establish procedures for the
10 custody, inventory, and care of protocol gifts received by
11 members of either house of the legislature or other state
12 employees.

13 SECTION 2. Chapter 84, Hawaii Revised Statutes, is amended
14 by adding a new section to be appropriately designated and to
15 read as follows:

16 "§84- Protocol gifts; written record; legislators. (a)
17 Upon receipt of a protocol gift from any foreign officials,
18 federal officers, or officials from other states by state
19 employee or member of either house of the legislature, the
20 recipient shall keep a written record of the following:

- 21 (1) A description of the protocol gift;
- 22 (2) The date on which the protocol gift was received;
- 23 (3) The identity of the individual donor,

1 Government agency, entity, or organization that gave
2 the gift or on whose behalf the protocol gift was
3 given;

4 (4) The location where the protocol gift is
5 displayed or stored, if applicable; and

6 (5) If no longer in the custody of the recipient:

7 (A) The reason for ending custody and result of the
8 disposition, if any, of the protocol gift; or

9 (B) The other location where the protocol gift is
10 stored or displayed if custody of the
11 protocol gift was transferred.

12 Each recipient shall be responsible for maintaining a written
13 record of any protocol gift received and shall forward a copy of
14 written record to the state archives by the end of each fiscal
15 year. The written record shall be readily available for
16 inspection upon request.

17 (b) Each recipient shall exercise reasonable care in the
18 maintenance of any protocol gift in the recipient's possession
19 that is listed on the written record. All protocol gifts listed
20 on the written record shall be the property of the State
21 regardless of whether the recipient who received the protocol
22 gift is in office or employed by the State.

23 (c) Upon the end of a recipient's term of office or

1 employment, the protocol gifts on the written record may:

2 (1) Remain with the office of receipt, and the succeeding
3 office holder shall be responsible for exercising
4 reasonable care in the maintenance of the protocol
5 gifts;

6 (2) Be transferred to the state archives; or

7 (3) Be transferred to the state foundation on
8 culture and the arts.

9 The incumbent office holder shall transfer the written record to
10 the succeeding office holder, who shall be responsible for
11 maintaining the written record thereafter."

12 SECTION 3. Section 84-3, Hawaii Revised Statutes, is
13 amended by adding a new definition to be appropriately inserted
14 and to read as follows:

15 "Protocol gift" means a tangible and nonperishable present
16 tendered to or received by a legislator or state employee from
17 an individual donor, government agency, entity, or organization
18 as a gesture of goodwill and friendship between the institution
19 of the gifter and the State."

20 SECTION 4. Section 84-11.5, Hawaii Revised Statutes, is
21 amended by amending subsection (d) to read as follows:

22 "(d) Excluded from the reporting requirements of this
23 section are the following:

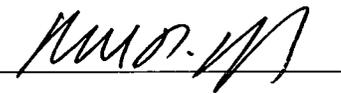
- 1 (1) Gifts received by will or intestate succession;
- 2 (2) Gifts received by way of distribution of any inter
3 vivos or testamentary trust established by a spouse or
4 ancestor;
- 5 (3) Gifts from a spouse, fiance, fiancée, or any Relative
6 within four degrees of consanguinity, or the spouse,
7 fiance, or fiancée of such a relative. A gift from
8 any such person is a reportable gift if the person is
9 acting as an agent or intermediary for any person not
10 covered by this paragraph;
- 11 (4) Political campaign contributions that comply with
12 state law;
- 13 (5) Anything available to or distributed to the public
14 generally without regard to the official status of the
15 recipient;
- 16 (6) [~~Gifts~~] Non-protocol gifts that, within thirty days
17 after receipt, are returned to the giver or delivered
18 to a public body or to a bona fide educational or
19 charitable organization without the donation being
20 claimed as a charitable contribution for tax purposes;
21 and
- 22 (7) Exchanges of approximately equal value on holidays,
23 ~~[birthday,]~~ birthdays, or special occasions."

1 SECTION 5. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

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

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INTRODUCED BY: 

6

BY REQUEST

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Report Title:

Gifts, Reporting and Disposition of Gifts Received

Description:

Defines the reporting and disposition requirements for gift received by members of the legislature or employees of the State.

JUSTIFICATION SHEET

SB. NO. 3037

DEPARTMENT: ACCOUNTING AND GENERAL SERVICES

TITLE: A BILL FOR AN ACT RELATING TO GIFTS.

PURPOSE: To define reporting and disposition requirements for protocol gifts received by State employees or members of either house of the Legislature.

MEANS: Add a new section to chapter 84 and amend sections 84-3 and 84-11.56, Hawaii Revised Statutes

JUSTIFICATION: Protocol gifts received by State employees or members of the Legislature on behalf of the State or its people have important historical and political value far beyond the initial act of gifting. As such, these gifts, as property of the State, should be closely tracked to ensure that they remain accessible to the State when representatives of the original gifting institution return to Hawaii. Currently, tracking of such protocol gifts is lacking with little to no traceability. When the original recipients of the protocol gifts separate from State service, an irretrievable loss of the protocol gifts can occur thereby negatively affecting the State's ability to showcase the history of interaction between the State and original gifting institution.

Impact on the public: Important historic objects gifted to the State by officials, federal officers, or state officials from other states shall continue as a valued asset of the State, available for continued public inspection, and available for display in the future when individuals from the gifting institution visit Hawaii.

Impact on the department and other agencies: This bill will require that State employees and members of either house of the

Legislature keep formal records of receipt of protocol gifts, transfer a copy of the list annually to the State Archives, and ensure the continued custody of protocol gifts by the State when the recipient separates from the State.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM
DESIGNATION: AGS-111.

OTHER AFFECTED
AGENCIES: Any agency or house of the Legislature that receives protocol gifts from foreign dignitaries, federal officers, or state officials from other states.

EFFECTIVE DATE: Upon approval.