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# A BILL FOR AN ACT

RELATING TO PRIVATE SUPPORT OF EDUCATION.

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

1           SECTION 1. The legislature finds that conditional gifts  
2 made for purposes to support private educational efforts,  
3 including both schooling and scholarships, promotes learning,  
4 access, and academic advancement, and are not intended to create  
5 contractual obligations. Treating these awards as contractual  
6 obligations may undermine donor intent, discourage charitable  
7 giving, and create uncertainty and inconsistent legal treatment  
8 of these awards.

9           The legislature further finds that these gifts customarily  
10 include specified eligibility criteria, including academic  
11 performance minimums, standards of conduct, and enrollment  
12 status, and require compliance with the donor's stated  
13 requirements for the continuation of the award.

14           The legislature further finds that recognizing and  
15 providing guidance about the nature and benefits of these  
16 conditional educational gifts is a public purpose, and will  
17 preserve and promote donors' intentions, will encourage



1 flexibility, innovation, and additional philanthropic  
2 educational support across the State for students, and will  
3 promote uniform statewide treatment.

4 The legislature finds that private pre-schools and private  
5 K-12 schools in the State have long played an important role in  
6 the community and that confirming that treating free education  
7 and scholarships as gifts will encourage private support for  
8 education.

9 The legislature further finds that establishing statewide  
10 uniformity in the treatment of private conditional gifts will be  
11 beneficial and avoid potentially conflicting treatment for  
12 private sponsors of educational programs.

13 The legislature also finds that through this approach,  
14 students in private pre-K and K-12 education institutions and  
15 students receiving scholarships for this schooling will enjoy  
16 stronger support and be able to benefit from these educational  
17 resources, opportunities, and activities without the fear of  
18 legal penalties for any perceived contractual obligations to the  
19 student or the institution.

20 The purpose of the Act is to:



1 (1) Clarify and establish uniformity regarding the  
 2 relationship between private schools where no tuition  
 3 is required, students, and donors concerning  
 4 educational awards conditioned on donor-specified  
 5 requirements; and

6 (2) To provide that the schooling and awards are  
 7 considered conditional gifts rather than contractual  
 8 obligations unless the parties agree otherwise in  
 9 writing.

10 SECTION 2. The Hawaii Revised Statutes is amended by  
 11 adding a new chapter to be appropriately designated and to read  
 12 as follows:

13 **"CHAPTER**

14 **EDUCATIONAL GIFTS**

15 § -1 **Conditional gift.** (a) Unless the parties agree  
 16 otherwise in writing, any donor-conditioned educational award  
 17 for attendance at a private pre-school, elementary, middle, or  
 18 high school or any school-conditioned enrollment at any private  
 19 school where no tuition or other monetary consideration is  
 20 required or paid by the recipient shall be considered to be a  
 21 conditional gift and not a contract, notwithstanding that the



1 donor or school operator may require the student or the  
2 student's parents or guardians to:

3 (1) Pay for any optional extracurricular benefits, goods,  
4 or services;

5 (2) Allow the use of the student's name, image, likeness,  
6 or work product for non-commercial purposes; or

7 (3) Sign waivers, consents, or similar agreements as a  
8 condition of participation in any school-related  
9 activity.

10 (b) A conditional gift under this section may be subject  
11 to reasonable conditions, including eligibility criteria,  
12 academic performance minimums, standards of conduct, enrollment  
13 status, or other donor-imposed or educational institution  
14 requirements, and the continuation of the award shall be  
15 contingent upon the satisfaction of those conditions.

16 (c) The modification or termination of any  
17 donor-conditioned educational award or any school-conditioned  
18 enrollment for failure to satisfy the applicable conditions  
19 shall not give rise to a contractual claim; provided that the  
20 conditions are applied in a manner consistent with the terms of  
21 the award and applicable law.



1 (d) For the purposes of this section, "donor-conditioned  
2 educational award" means a scholarship, grant, tuition waiver,  
3 or similar educational benefit funded in whole or in part by a  
4 private donation, endowment, or charitable contribution and  
5 subject to donor-imposed conditions."

6 SECTION 3. This Act shall apply only to donor-conditioned  
7 educational awards and school-conditioned enrollments made on or  
8 after its effective date.

9 SECTION 4. If any provision of this Act or the application  
10 thereof to any person or circumstance is held invalid, the  
11 invalidity does not affect other provisions or applications of  
12 the Act that can be given effect without the invalid provision  
13 or application, and to this end the provisions of this Act are  
14 severable.

15 SECTION 5. This Act shall take effect upon its approval.

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**Report Title:**

Educational Gifts; Donor-Conditioned Educational Awards;  
Conditional Gifts; School-Conditioned Enrollment; Contractual  
Relationships

**Description:**

Clarifies that free tuition at private educational institutions or school-conditioned enrollment at private educational institutions where no tuition or other monetary consideration is required or paid by the recipient are to be considered conditional gifts that support educational advancements rather than contractual obligations unless the parties agree otherwise in writing. (SD1)

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