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# A BILL FOR AN ACT

RELATING TO ENERGY.

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

1           SECTION 1. The legislature finds that attaining  
2 independence from reliance on fossil fuels is a long-standing  
3 objective of the State. Hawaii is the state most dependent on  
4 petroleum for its energy needs. Reducing our dependence on oil  
5 and its consequent price volatility is critical in attaining  
6 energy security.

7           Hawaii has an abundance of natural, renewable energy  
8 resources from wind, solar, ocean and wave, geothermal, and bio-  
9 based fuels. Hawaii's clean energy policy mandates and strongly  
10 promotes the use of these renewable energy resources.

11           Act 155, Session Laws of Hawaii 2009, increased the 2020  
12 renewable portfolio standard for electric utility companies from  
13 twenty per cent to twenty-five per cent, and added a new forty  
14 per cent requirement for the year 2030. Act 155 also included  
15 the mandate that by January 1, 2015, one hundred per cent of a  
16 utility's renewable portfolio standard needs to be met by  
17 electrical generation using renewable energy as the source.

18           One of the key elements of Hawaii's energy policy concerns



1 is the desire for reasonable fixed price indigenous renewable  
2 resources. Reasonable fixed price indigenous renewable  
3 resources are the best hedge against rising oil prices that  
4 could return to the \$147 per barrel level experienced in 2008.  
5 For the State to meet its clean energy objectives, hundreds of  
6 megawatts of reasonable fixed price renewable energy must be  
7 developed in the near future. The legislature recognizes that  
8 no single resource can provide the "silver bullet" solution as a  
9 hedge against oil price volatility.

10 To achieve the State's aggressive renewable portfolio  
11 standard goals, electric utility companies need to emphasize  
12 technologies that are commercially available, are capable of  
13 being developed soon, are available on a large scale, and may be  
14 used to generate electricity that may be delivered to Hawaii's  
15 load centers.

16 Electrical services on the islands of Oahu, Maui, Molokai,  
17 Lanai, and Hawaii are provided by affiliated, franchised  
18 electric utility companies. None of the electric utility  
19 systems on these islands are presently electrically  
20 interconnected to an electric utility system on any other  
21 island.



1 Oahu has the largest demand for electricity and the largest  
2 concentration of the population base. A variety of renewable  
3 energy resources that are limited on Oahu are abundant on the  
4 neighbor islands. To help attain renewable portfolio standard  
5 goals, strategies to link Oahu's demand to abundant reasonable  
6 fixed price resources from the neighbor islands are being  
7 pursued. For example, technical implementation and routing  
8 studies have been conducted that show that it is technically  
9 feasible to connect renewable energy generation facilities in  
10 Maui county to the Oahu load using undersea high-voltage  
11 transmission cables.

12 The islands of Maui and Hawaii currently have significant  
13 as-available renewable resource penetration levels, based on  
14 projects that are currently in service or that have power  
15 purchase contracts. They also have significant potential for  
16 additional renewable resources. There are plans to consider  
17 using high-voltage undersea transmission cables to link the  
18 electric utility systems on these islands to the electric  
19 utility system on Oahu.

20 Economic analyses have shown that harnessing the wind  
21 resources for the islands appears to be a relatively cost-  
22 effective means for helping to meet Hawaii's energy policy



1 objectives. The cost of the energy delivered to the load center  
2 is expected to be at or below the cost of other commercially  
3 available large scale renewable resources in the near-term, and  
4 at or below the cost of petroleum based generation in the  
5 longer-term. The capital costs of constructing renewable energy  
6 generation projects and developing the high-voltage electric  
7 transmission cable systems are substantial in relationship to  
8 the electric utility companies' existing rate bases, however,  
9 and it is expected that renewable energy generation projects and  
10 transmission cable projects will be installed by non-utility  
11 investors who assume financial responsibility for the projects  
12 until they achieve commercial operations.

13 Non-utility investors in a cable project would be selected  
14 through a competitive bidding process authorized, reviewed, and  
15 approved by the public utilities commission and developed, with  
16 input and assistance from the state energy resources  
17 coordinator, by the electric utility that would use the cable.  
18 The process would be conducted by the electric utility that  
19 would use the cable and the public utilities commission would  
20 determine whether a selected cable company would be certified.  
21 The use of this process allows for the certified cable company,  
22 rather than utility ratepayers, to assume risks associated with



1 obtaining permits for the cable project and the costs incurred  
2 to construct the cable, and to earn a return on investment  
3 commensurate with the assumption of these risks. The renewable  
4 energy generation project developers would also bear development  
5 period risks, such as permitting and construction, for their  
6 projects, since the prices for energy from their projects will  
7 be fixed in their power purchase agreements with the electric  
8 utility, which are also reviewed and approved by the public  
9 utilities commission.

10 The legislature also finds that the development of large-  
11 scale renewable energy projects has the potential to impact the  
12 communities where the projects are located, and that at least  
13 some of the environmental review processes conducted as part of  
14 the permitting process for the projects would occur after the  
15 public utilities commission would need to act on a cable  
16 certification application. To foster communication with the  
17 affected communities and the commission, the legislature has  
18 incorporated within this Act a requirement that the commission  
19 hold a public hearing on each island proposed to be connected by  
20 the high-voltage electric transmission cable system for the  
21 purposes of obtaining input from interested parties.



1 To connect undersea high-voltage transmission cables to an  
2 electric utility system, the electric utility company will need  
3 to install on-island transmission infrastructure. In addition,  
4 because of the fixed costs of renewable energy projects relative  
5 to the variable costs of fossil fuel generation, it is expected  
6 that electric utility ratepayers would benefit if the electric  
7 utility company acquires the undersea high-voltage transmission  
8 cables at or after the commencement of commercial operations.  
9 Given the cost of the on-island transmission infrastructure, the  
10 need to have the on-island infrastructure available when the  
11 undersea high-voltage transmission cables commence commercial  
12 operations, and the potential acquisition cost of the undersea  
13 high-voltage transmission cables, the electric utility's credit  
14 quality, which is essential to the development of renewable  
15 energy resources in Hawaii, may be negatively impacted unless  
16 specified cost recovery provisions are added to the public  
17 utilities law.

18 The purpose of this Act is to establish the regulatory  
19 structure under which interisland undersea transmission cables  
20 can be developed, financed, and constructed on commercially  
21 reasonable terms, such as those upon which successful cable



1 projects have been undertaken in New York, California, and  
2 around the world.

3 SECTION 2. Chapter 269, Hawaii Revised Statutes, is  
4 amended by adding a new part to be appropriately designated and  
5 to read as follows:

6 "PART . INTERISLAND TRANSMISSION SYSTEM

7 §269-A Definitions. As used in this part:

8 "Cable acquisition cost" means the electric utility  
9 company's costs, including reasonable transaction costs, to  
10 acquire a high-voltage electric transmission cable system  
11 pursuant to a turnkey cable contract or a cable purchase  
12 contract.

13 "Cable company" means any person or persons, company,  
14 corporation, or entity that is selected through a request for  
15 proposals, or other process approved by the commission, to be a  
16 certified cable company applicant.

17 "Cable purchase contract" means a contract to purchase a  
18 high-voltage electric transmission cable system at or after it  
19 achieves commercial operations.

20 "Cable surcharge" means the surcharge approved by the  
21 commission pursuant to section 269-D.



1 "Certified cable company" means any person or persons,  
2 company, corporation, or entity who owns or controls a high-  
3 voltage electric transmission cable system and who receives a  
4 certificate of public convenience and necessity from the  
5 commission pursuant to section 269-B.

6 "Commercial operations" means the period after the high-  
7 voltage electric transmission cable system:

8 (1) Passes acceptance tests approved by the commission, as  
9 determined by a qualified independent engineer  
10 approved by the commission; and

11 (2) Meets other criteria the commission determines to be  
12 reasonable.

13 "Commercial operations date" means the date upon which the  
14 high-voltage electric transmission cable system begins  
15 commercial operations, as determined by the commission.

16 "Commission" means the public utilities commission.

17 "Cost" means all capital investments, including rate of  
18 return; any applicable taxes; any applicable land costs; and all  
19 expenses, including capacity payments, operation and maintenance  
20 expenses, related to or resulting from the planning, licensing,  
21 permitting, designing, development, construction, or operation  
22 of a high-voltage electric transmission cable system.





1 "Cost-effective" has the same meaning as in section 269-91.

2 "Development period" means the period of time after the  
3 certified transmission entity has been granted a certificate of  
4 public convenience and necessity, but before commercial  
5 operations.

6 "Electric utility company" means a public utility as  
7 defined under section 269-1, for the production, conveyance,  
8 transmission, delivery, or furnishing of electric power.

9 "Electric utility system" means the electric system owned  
10 and operated by an electric utility company, including any non-  
11 utility owned facilities that are interconnected to the system,  
12 consisting of power plants, transmission and distribution lines,  
13 and related equipment for the production and delivery of  
14 electric power to the public.

15 "Energy resources coordinator" or "coordinator" means the  
16 director of business, economic development, and tourism.

17 "Expected commercial operations date" means the date  
18 reasonably determined by the certified cable company for the  
19 high-voltage electric transmission cable system to commence  
20 commercial operations.

21 "High-voltage electric transmission cable system" means one  
22 hundred twenty kilovolts or greater of alternating current (AC)



1 or direct current (DC) transmission cables constructed undersea,  
2 including connected transmission cables or lines installed on  
3 land that connect the electric utility systems on two or more  
4 islands or allow for the transmission of power from one or more  
5 renewable energy generation facilities to the electric utility  
6 system located on another island of the State; AC substation or  
7 AC/DC converter station; fiber optic communication cables; and  
8 other appurtenant facilities.

9 "On-island transmission infrastructure" means the  
10 modifications and additions to the existing alternating current  
11 transmission grid on an island and other electric utility system  
12 modifications needed to reliably connect a high-voltage electric  
13 transmission cable system to an electric utility system, and to  
14 reliably accept power generated from large scale renewable  
15 energy generation facilities and transmitted via the high-  
16 voltage electric transmission cable system connecting two or  
17 more islands of the State's electric utility systems.

18 "Power purchase agreement" means an agreement between an  
19 electric utility company and the developer of a renewable energy  
20 generation facility to sell the power generated by the facility  
21 to the electric utility company.



1 "Predevelopment period" means the period of time before the  
2 certified transmission entity has been granted a certificate of  
3 public convenience and necessity.

4 "Project-on-project financing risk" means the risk involved  
5 when mutually dependent projects, whose risk of completion, and  
6 therefore, financing, are dependent on each other, such as in  
7 the case of a high-voltage electric transmission cable system  
8 intended to connect a renewable energy generation facility to an  
9 electric utility system where the uncertainty as to whether the  
10 renewable energy generation facility can be financed or built  
11 results in increased risk for the high-voltage electric  
12 transmission cable system project because it is not viable  
13 without a source of energy to transmit, and vice versa.

14 "Renewable electricity" means electrical energy generated  
15 using renewable energy as the source.

16 "Renewable energy" has the same meaning as in section  
17 269-91.

18 "Renewable energy generation facility" means a facility  
19 generating electrical energy using renewable energy as the  
20 primary source.

21 "Renewable portfolio standard" has the same meaning as that  
22 provided in section 269-91.



1 "Request for proposals" means a request for proposals  
2 issued pursuant to a competitive bidding process authorized,  
3 reviewed, and approved by the commission, and developed and  
4 conducted by the electric utility company or companies to which  
5 the capacity of a high-voltage electric transmission cable  
6 system will be made available, with input and assistance from  
7 the state energy resources coordinator, to select a cable  
8 company.

9 "Turnkey cable contract" means a contract entered into  
10 pursuant to a request for proposal under which a cable company  
11 designs, builds, and transfers a high-voltage electric  
12 transmission cable system to an electric utility company upon  
13 commencement of commercial operations.

14 **§269-B Certification.** (a) Prior to installing a high-  
15 voltage electric transmission cable system, a cable company  
16 shall be selected through a request for proposals, or other  
17 process approved by the commission, and issued a certificate of  
18 public convenience and necessity by the commission pursuant to  
19 section 269-7.5.

20 (b) The utility and the energy resources coordinator, or  
21 the energy resources coordinator's designee, shall develop the  
22 request for proposals, and the energy resources coordinator or



1 the energy resources coordinator's designee shall be a member of  
2 the selection committee that will review and evaluate the  
3 proposals. The utility shall suspend or terminate the request  
4 for proposals at the discretion of the commission.

5 (c) Notwithstanding any provisions in section 269-7.5 to  
6 the contrary:

7 (1) The commission shall approve, disapprove, or approve  
8 subject to certain conditions, an application for a  
9 certificate of public convenience and necessity for a  
10 high-voltage electric transmission cable system, and  
11 shall issue a final order within one hundred eighty  
12 days after the application is filed; provided that the  
13 commission may extend the timeline as necessary;

14 (2) In determining whether the cable company is  
15 financially fit, the commission may allow for the use  
16 of commercially reasonable non-recourse project  
17 financing for the high-voltage electric transmission  
18 cable system;

19 (3) In determining whether the proposed transmission  
20 capacity service is or will be required by the present  
21 or future public convenience and necessity, the  
22 commission shall determine whether the high-voltage



- 1 electric transmission cable system would be a cost-  
2 effective means of:
- 3 (A) Interconnecting two or more electric utility  
4 systems;
  - 5 (B) Helping one or more electric utility companies  
6 meet the applicable renewable portfolio standard;  
7 or
  - 8 (C) Achieving other considerations the commission may  
9 deem appropriate;
- 10 (4) If the primary source or sources of the renewable  
11 electricity that will be transmitted to an electric  
12 utility company or companies using the high-voltage  
13 electric transmission cable system will be provided  
14 pursuant to a power purchase agreement or agreements  
15 between the electric utility company or companies and  
16 an owner or owners of a new renewable energy  
17 generation facility or facilities, in reviewing and  
18 approving the application for a certificate of public  
19 convenience and necessity, the commission shall, among  
20 other factors, take into consideration:
- 21 (A) The status of the power purchase agreement or  
22 agreements;



1 (B) The extent to which the project-on-project  
2 financing risk of the high-voltage electric  
3 transmission cable system and the associated  
4 renewable energy generation facilities is  
5 materially reduced through agreements between the  
6 certified cable company and the owner or owners  
7 of the renewable energy generation facilities  
8 holding the power purchase agreement or  
9 agreements, or through common ownership  
10 arrangements; and

11 (C) The extent to which the certified cable company  
12 assumes financial responsibility for the high-  
13 voltage electric transmission cable system until  
14 both the cable system and the new generation  
15 facility or facilities have achieved commercial  
16 operations;

17 (5) In the certification process, the commission shall  
18 review and determine ratemaking principles appropriate  
19 and applicable to the high-voltage electric  
20 transmission cable system during commercial  
21 operations. The ratemaking principles shall be used  
22 in determining the certified cable company's revenue



1 requirement that is used to determine its transmission  
2 capacity charges, and may be used to fix the capital  
3 investment costs for the high-voltage electric  
4 transmission cable system upon which the certified  
5 cable company will be allowed to earn an authorized  
6 rate of return and the operating costs that may be  
7 included in the certified cable company's revenue  
8 requirement;

9 (6) In determining the authorized rate of return that will  
10 apply to a certified cable company, the commission may  
11 consider the risks assumed by the certified cable  
12 company during the predevelopment, development, and  
13 commercial operations periods related to or resulting  
14 from the development, financing, construction, and  
15 operation of the high-voltage electric transmission  
16 cable system, including other factors deemed relevant  
17 and appropriate by the commission such as the terms  
18 and conditions of the transmission tariff as may be  
19 approved by the commission; and

20 (7) Prior to approving the application for a certificate  
21 of public convenience and necessity, the commission  
22 shall hold a public hearing on each island to be





1 connected by the high-voltage electric transmission  
2 cable system to obtain input from the affected  
3 communities about the high-voltage electric  
4 transmission cable system.

5 **§269-C Transmission tariff.** The commission shall, by  
6 order, approve, disapprove, or approve subject to certain  
7 conditions, the tariff of the certified cable company pursuant  
8 to which the certified cable company shall make the capacity of  
9 its high-voltage electric transmission cable system available to  
10 the electric utility company or companies. The tariff shall be  
11 consistent with the tariff provisions provided in the request  
12 for proposals. The tariff shall specify the terms and  
13 conditions under which the certified cable company will be  
14 entitled to receive revenues collected through the cable  
15 surcharge. The certified cable company may submit its proposed  
16 tariff for approval prior to the expected commercial operations  
17 date, and the commission shall take final action on the proposed  
18 tariff within one hundred twenty days after submittal of the  
19 proposed tariff with supporting documentation as may be required  
20 by the commission; provided that the commission may extend the  
21 timeline as necessary.



1           **§269-D Cable Surcharge.** (a) The commission shall  
2 establish a cable surcharge to allow recovery of the high-  
3 voltage electric transmission cable system costs designated for  
4 recovery according to the ratemaking principles pursuant to  
5 section 269-B.

6           (b) Pursuant to the transmission tariff, the commission  
7 shall, by order, designate the electric utility company or  
8 companies to which the capacity of the high-voltage electric  
9 transmission cable system shall be made available as the agent  
10 of the certified cable company to collect the cable surcharge  
11 approved by the commission. The electric utility company or  
12 companies collecting the cable surcharge for the benefit of the  
13 certified cable company shall have no right, title, or interest  
14 in the moneys. The commission shall approve a fee, to be  
15 collected by the electric utility company or companies  
16 concurrently with the cable surcharge, for acting as the  
17 collection agent for the certified cable company.

18           (c) Notwithstanding any requirements to the contrary, a  
19 high-voltage electric transmission cable system may be deemed  
20 "used or useful for public utility purposes" upon commencing  
21 commercial operations, subject to the commission's determination  
22 and approval.



1           **§269-E Electric utility company acquisition of cable**  
2 **system.** (a) The commission may approve an electric utility  
3 company's acquisition of a high-voltage electric transmission  
4 cable system pursuant to a commission-approved turnkey cable  
5 contract or cable purchase contract.

6           (b) In the case of a turnkey cable contract, the  
7 commission shall review and approve, disapprove, or approve  
8 subject to certain conditions, the contract upon application  
9 filed by the electric utility company.

10           (c) In the case of a cable purchase contract, the  
11 commission shall review and approve, disapprove, or approve  
12 subject to certain conditions, the option to purchase in the  
13 same proceeding in which the commission reviews and approves a  
14 certificate of public convenience and necessity for a cable  
15 company providing the option to purchase or a power purchase  
16 agreement containing the option to purchase, and shall review  
17 and approve, disapprove, or approve subject to certain  
18 conditions, the cable purchase contract resulting from exercise  
19 of the option to purchase upon application filed by the electric  
20 utility company proposing to acquire the high-voltage electric  
21 transmission cable system.



1           **§269-F Recovery of electric utility company costs.** (a)

2 An electric utility company may recover its revenue requirement,  
3 as approved by the commission, resulting from the costs that it  
4 prudently incurs in acquiring a high-voltage electric  
5 transmission cable system throughout the commercial operations  
6 period after it is acquired; provided that the acquisition is  
7 approved by the commission.

8           (b) An electric utility company shall be entitled to  
9 recover, through an automatic rate adjustment clause, its  
10 revenue requirement resulting from the capital costs that it  
11 prudently incurs for on-island transmission infrastructure;  
12 provided that the commission has approved the utility's  
13 commitment of capital expenditure costs for the project.

14           (c) To provide for timely recovery of the revenue  
15 requirement, the commission shall establish a separate automatic  
16 rate adjustment clause for that purpose, or modify an existing  
17 automatic rate adjustment clause. The use of the automatic rate  
18 adjustment clause to recover the revenue requirement shall be  
19 allowed to continue until the revenue requirement is  
20 incorporated in rates in an electric utility company's rate  
21 case.



1 (d) The electric utility company's revenue requirement  
2 shall include:

- 3 (1) The commission-approved rate of return, as set in the  
4 electric utility company's last rate case, on the  
5 utility's net investment in the high-voltage electric  
6 transmission cable system from the acquisition date of  
7 the high-voltage electric transmission cable system,  
8 and in the on-island transmission infrastructure from  
9 the date the on-island transmission infrastructure is  
10 completed and available for service;
- 11 (2) Depreciation; and
- 12 (3) Revenue taxes and other relevant costs as approved by  
13 the commission.

14 (e) The electric utility company's net investment includes  
15 the cable acquisition cost in the case of the high-voltage  
16 electric transmission cable system and the costs of planning,  
17 permitting, and constructing the on-island transmission  
18 infrastructure, including an allowance for funds used during  
19 construction where the utility finances the planning,  
20 permitting, and construction costs, less offsets such as  
21 accumulated depreciation and associated unamortized deferred  
22 income taxes.



1 (f) The on-island transmission infrastructure shall be  
2 available for service before the commercial operations date of  
3 the high-voltage electric transmission cable system.

4 Notwithstanding any other provision in this chapter to the  
5 contrary, at the time the commission approves the electric  
6 utility company's commitment of capital expenditure costs for  
7 the project, the commission may either:

8 (1) Allow the electric utility company to recover its  
9 approved revenue requirement resulting from the  
10 capital costs that it prudently incurs for on-island  
11 infrastructure at the time that the infrastructure is  
12 available for service; or

13 (2) Allow the company to continue to accrue an allowance  
14 for funds used during construction on such prudently  
15 incurred capital costs until the commercial operations  
16 date for the high-voltage electric transmission  
17 system.

18 (g) If the electric utility company elects not to complete  
19 the on-island transmission infrastructure, and the commission  
20 approves this election, or the electric utility company is  
21 precluded from completing construction of the on-island  
22 transmission infrastructure, the electric utility company shall



1 be allowed to recover all costs determined by the commission to  
2 have been prudently incurred by the electric utility company  
3 during the predevelopment and development periods. The electric  
4 utility company shall recover these costs through the cable  
5 surcharge over a period equal to the period during which the  
6 costs were incurred or five years, whichever is greater."

7 SECTION 3. Chapter 239, Hawaii Revised Statutes, is  
8 amended by adding a new section to be appropriately designated  
9 and to read as follows:

10 "§239- Cable surcharge amounts exempt. Amounts received  
11 in the form of a cable surcharge by an electric utility company  
12 acting on behalf of a certified cable company under section  
13 269-D shall not be counted as gross income of that electric  
14 utility company for purposes of this chapter; provided that any  
15 amounts retained by that electric utility company for collection  
16 or other costs shall not be included in this exemption."

17 SECTION 4. Chapter 240, Hawaii Revised Statutes, is  
18 amended by adding a new section to be appropriately designated  
19 and to read as follows:

20 "§240- Cable surcharge amounts exempt. Amounts received  
21 in the form of a cable surcharge by an electric utility company  
22 acting on behalf of an affected certified cable company under



1 section 269-D shall not be counted as gross receipts for that  
2 electric utility company for purposes of this chapter; provided  
3 that any amounts retained by that electric utility company for  
4 collection or other costs shall not be included in this  
5 exemption."

6 SECTION 5. Section 235-7, Hawaii Revised Statutes, is  
7 amended by amending subsection (a) to read as follows:

8 "(a) There shall be excluded from gross income, adjusted  
9 gross income, and taxable income:

10 (1) Income not subject to taxation by the State under the  
11 Constitution and laws of the United States;

12 (2) Rights, benefits, and other income exempted from  
13 taxation by section 88-91, having to do with the state  
14 retirement system, and the rights, benefits, and other  
15 income, comparable to the rights, benefits, and other  
16 income exempted by section 88-91, under any other  
17 public retirement system;

18 (3) Any compensation received in the form of a pension for  
19 past services;

20 (4) Compensation paid to a patient affected with Hansen's  
21 disease employed by the State or the United States in





- 1 any hospital, settlement, or place for the treatment  
2 of Hansen's disease;
- 3 (5) Except as otherwise expressly provided, payments made  
4 by the United States or this State, under an act of  
5 Congress or a law of this State, which by express  
6 provision or administrative regulation or  
7 interpretation are exempt from both the normal and  
8 surtaxes of the United States, even though not so  
9 exempted by the Internal Revenue Code itself;
- 10 (6) Any income expressly exempted or excluded from the  
11 measure of the tax imposed by this chapter by any  
12 other law of the State, it being the intent of this  
13 chapter not to repeal or supersede any express  
14 exemption or exclusion;
- 15 (7) Income received by each member of the reserve  
16 components of the Army, Navy, Air Force, Marine Corps,  
17 or Coast Guard of the United States of America, and  
18 the Hawaii national guard as compensation for  
19 performance of duty, equivalent to pay received for  
20 forty-eight drills (equivalent of twelve weekends) and  
21 fifteen days of annual duty, at an:



- 1 (A) E-1 pay grade after eight years of service;  
2 provided that this subparagraph shall apply to  
3 taxable years beginning after December 31, 2004;
- 4 (B) E-2 pay grade after eight years of service;  
5 provided that this subparagraph shall apply to  
6 taxable years beginning after December 31, 2005;
- 7 (C) E-3 pay grade after eight years of service;  
8 provided that this subparagraph shall apply to  
9 taxable years beginning after December 31, 2006;
- 10 (D) E-4 pay grade after eight years of service;  
11 provided that this subparagraph shall apply to  
12 taxable years beginning after December 31, 2007;  
13 and
- 14 (E) E-5 pay grade after eight years of service;  
15 provided that this subparagraph shall apply to  
16 taxable years beginning after December 31, 2008;
- 17 (8) Income derived from the operation of ships or aircraft  
18 if the income is exempt under the Internal Revenue  
19 Code pursuant to the provisions of an income tax  
20 treaty or agreement entered into by and between the  
21 United States and a foreign country; provided that the  
22 tax laws of the local governments of that country



1 reciprocally exempt from the application of all of  
2 their net income taxes, the income derived from the  
3 operation of ships or aircraft that are documented or  
4 registered under the laws of the United States;

5 (9) The value of legal services provided by a prepaid  
6 legal service plan to a taxpayer, the taxpayer's  
7 spouse, and the taxpayer's dependents;

8 (10) Amounts paid, directly or indirectly, by a prepaid  
9 legal service plan to a taxpayer as payment or  
10 reimbursement for the provision of legal services to  
11 the taxpayer, the taxpayer's spouse, and the  
12 taxpayer's dependents;

13 (11) Contributions by an employer to a prepaid legal  
14 service plan for compensation (through insurance or  
15 otherwise) to the employer's employees for the costs  
16 of legal services incurred by the employer's  
17 employees, their spouses, and their dependents;

18 (12) Amounts received in the form of a monthly surcharge by  
19 a utility acting on behalf of an affected utility  
20 under section 269-16.3 shall not be gross income,  
21 adjusted gross income, or taxable income for the  
22 acting utility under this chapter. Any amounts



1 retained by the acting utility for collection or other  
2 costs shall not be included in this exemption; ~~and~~

3 (13) Amounts received in the form of a monthly cable  
4 surcharge by an electric utility company acting on  
5 behalf of a certified cable company under section  
6 269-D shall not be counted as gross income, adjusted  
7 gross income, or taxable income for that electric  
8 utility company under this chapter; provided that any  
9 amounts retained by that electric utility company for  
10 collection or other costs shall not be included in  
11 this exemption.

12 ~~[(13)]~~ (14) One hundred per cent of the gain realized by a  
13 fee simple owner from the sale of a leased fee  
14 interest in units within a condominium project,  
15 cooperative project, or planned unit development to  
16 the association of owners under chapter 514A or 514B,  
17 or the residential cooperative corporation of the  
18 leasehold units.

19 For purposes of this paragraph:

20 "Condominium project" and "cooperative project"  
21 shall have the same meanings as provided under section  
22 514C-1.



1 "Fee simple owner" shall have the same meaning as  
2 provided under section 516-1; provided that it shall  
3 include legal and equitable owners[+].

4 "Legal and equitable owner", and "leased fee  
5 interest" shall have the same meanings as provided  
6 under section 516-1[+and].

7 [~~"Condominium project" and "cooperative project"~~  
8 ~~shall have the same meanings as provided under section~~  
9 ~~514C-1.] "~~

10 SECTION 6. Section 269-30, Hawaii Revised Statutes, is  
11 amended to read as follows:

12 "**§269-30 Finances; public utility fee.** (a) Sections 607-  
13 5 to 607-9 shall apply to the public utilities commission and  
14 each commissioner, as well as to the supreme and circuit courts,  
15 and all costs and fees paid or collected pursuant to this  
16 section shall be deposited with the director of finance to the  
17 credit of the public utilities commission special fund  
18 established under section 269-33.

19 (b) There also shall be paid to the public utilities  
20 commission in each of the months of July and December of each  
21 year, by each public utility subject to investigation by the  
22 public utilities commission, a fee equal to one-fourth of one



1 per cent of the gross income from the public utility's business  
2 during the preceding year, or the sum of \$30, whichever is  
3 greater. This fee shall be deposited with the director of  
4 finance to the credit of the public utilities commission special  
5 fund.

6 (c) Each public utility paying a fee under subsection (b)  
7 may impose a surcharge to recover the amount paid above one-  
8 eighth of one per cent of gross income. The surcharge imposed  
9 shall not be subject to the notice, hearing, and approval  
10 requirements of this chapter; provided that the surcharge may be  
11 imposed by the utility only after thirty days' notice to the  
12 public utilities commission. Unless ordered by the public  
13 utilities commission, the surcharge shall be imposed only until  
14 the conclusion of the public utility's next rate case; provided  
15 that the surcharge shall be subject to refund with interest at  
16 the public utility's authorized rate of return on rate base if  
17 the utility collects more money from the surcharge than actually  
18 paid due to the increase in the fee to one-fourth of one per  
19 cent.

20 (d) Notwithstanding any provision of this chapter to the  
21 contrary, the public utilities commission may, upon the filing  
22 of a petition by a public utility, credit a public utility for



1 amounts paid under subsection (b) toward amounts the public  
2 utility owes in one call center fees under section 269E-6(f).

3 (e) Amounts received in the form of a cable surcharge by  
4 an electric utility company acting on behalf of a certified  
5 cable company under section 269-D shall not be counted as gross  
6 income for that electric utility company for purposes of this  
7 section; provided that any amounts retained by that electric  
8 utility company for collection or other costs shall not be  
9 included in this exemption."

10 SECTION 7. In codifying the new sections added by section  
11 2 of this Act, the revisor of statutes shall substitute  
12 appropriate section numbers for the letters used in designating  
13 the new sections in this Act.

14 SECTION 8. Statutory material to be repealed is bracketed  
15 and stricken. New statutory material is underscored.

16 SECTION 9. This Act shall take effect on July 1, 2011.



**Report Title:**

Energy; Interisland High Voltage Electric Transmission Cable System; Public Utilities Commission; Tax Exemptions

**Description:**

Establishes a regulatory structure for the installation and implementation of an interisland high voltage electric transmission cable system and for the construction of on-island transmission infrastructure. Allows for the utility company to collect surcharges from its ratepayers to recover the costs of the cable installation on behalf of the cable company. Exempts the surcharges from being counted as gross income, adjusted gross income, or taxable income for tax purposes. Provides for the eventual acquisition of the cable system by the utility company from the cable company. Allows the utility company to recover the costs of acquiring the cable system and developing the on island infrastructure through an automatic rate adjustment clause and then through its rates. Allows the utility to recover the reasonable costs, as determined by the public utilities commission, of predevelopment and development in the event that the system is not completed. Effective July 1, 2011. (SB367 HD1)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

