
A BILL FOR AN ACT

RELATING TO GOVERNMENT OPERATIONS.

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

1 PART I

2 SECTION 1. The legislature finds that there have been
3 changes in technology and modes of operation that require a new
4 model for oversight and regulation to protect the public
5 interest and to ensure that proper goals and incentives become
6 available and that services are uniformly provided to all
7 residents and persons in the State. Much like electric power in
8 the past, rural areas are in danger of becoming less viable and
9 productive as opportunities for connectivity quickly move pass
10 them, since economic incentives tend to exist only in the more
11 populated and dense areas of the State.

12 The purpose of this Act is to create a new entity to bring
13 all of these services and opportunities under a single
14 regulatory body and to ensure that the people of Hawaii are
15 afforded equitable access to connectivity in all parts of the
16 State.



SECTION 2. Chapter 201, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

"PART .

TELECOMMUNICATIONS CARRIERS

A. General Provisions

§201-A Definitions. As used in this part:

"Basic exchange service" means those services consisting of single-line dial tone, touch-tone dialing, access to operator service, access to enhanced 911, telecommunications relay service, telephone directory, and access to directory-assistance service via 411 dialing.

"Carrier of last resort" means a telecommunications carrier designated by the commission to provide universal service in a given local exchange service area determined to be lacking in effective competition.

"Commissioner" means the commissioner of telecommunications established pursuant to section 201-C.

"Designated local exchange service area" means an area as determined by the commission to be best served by designating a carrier of last resort pursuant to section 201-V.



1 "Department" means the department of business, economic
2 development, and tourism.

3 "Dial tone" means the ability to make or receive telephone
4 calls with or without operator intervention.

5 "Director" means the director of business, economic
6 development, and tourism.

7 "Public utility" shall have the meaning ascribed to it
8 under section 269-1.

9 "Single-line" means a single-party line or a one-party
10 line.

11 "Telecommunications carrier" or "telecommunications common
12 carrier" means any person that, as a public utility, owns,
13 operates, manages, or controls any facility used to furnish
14 telecommunications services for profit to the public, or to
15 classes of users as to be effectively available to the public,
16 engaged in the provision of services, such as voice, data,
17 image, graphics, and video services, that make use of all or
18 part of their transmission facilities, switches, broadcast
19 equipment, signaling, or control devices.

20 "Telecommunications service" or "telecommunications" means
21 the offering of transmission between or among points specified



1 by a user, of information of the user's choosing, including
2 voice, data, image, graphics, and video without change in the
3 form or content of the information, as sent and received, by
4 means of electromagnetic transmission, or other similarly
5 capable means of transmission, with or without benefit of any
6 closed transmission medium, and does not include cable service
7 as defined in section 440G-3.

8 "Touch-tone dialing" means dual-tone multi-frequency, as
9 opposed to dial-pulse signaling.

10 **§201-B Applicability of chapter 269.** The following
11 sections of part 1 of chapter 269 shall apply to this chapter,
12 in which the term "public utility" shall refer to a
13 telecommunications carrier and the term "public utilities
14 commission" shall refer to the department of business, economic
15 development, and tourism:

- 16 (1) Section 269-6, general powers and duties;
17 (2) Section 269-6.5, electronic copies of documents;
18 (3) Section 269-7, investigative powers;
19 (4) Section 269-7.5, certificates of public convenience
20 and necessity;



- 1 (5) Section 269-8, public utilities to furnish
- 2 information;
- 3 (6) Section 269-8.2, location of records;
- 4 (7) Section 269-8.5, annual financial reports;
- 5 (8) Section 269-9, report accidents;
- 6 (9) Section 269-10, commission may compel attendance of
- 7 witnesses, etc.;
- 8 (10) Section 269-12, notices;
- 9 (11) Section 269-13, right to be represented by counsel;
- 10 (12) Section 269-15, commission may institute proceedings
- 11 to enforce chapter;
- 12 (13) Section 269-15.5, appeals;
- 13 (14) Section 269-15.51, contested cases;
- 14 (15) Section 269-16, regulation of utility rates;
- 15 ratemaking procedures;
- 16 (16) Section 269-17, issuance of securities;
- 17 (17) Section 269-17.5, issuance of voting stock;
- 18 restrictions;
- 19 (18) Section 269-18, acquirement of stock of another public
- 20 utility;



(19) Section 269-19, merger and consolidation of public utilities;

(20) Section 269-28, penalty; and

(21) Section 269-29, perjury.

§201-C Commissioner of telecommunications. This part shall be under the supervision and control of an administrator who shall be known as the commissioner of telecommunications. The governor shall appoint the commissioner of telecommunications who shall not be subject to chapter 76. The commissioner of telecommunications shall serve as commissioner under direction of the director and shall be responsible for the performance of the duties imposed under this part.

B. Telecommunications Carriers

§201-D Lifeline telephone rates. (a) The commissioner shall implement a program to achieve lifeline telephone rates for residential telephone users.

(b) "Lifeline telephone rate" means a discounted rate for residential telephone users identified as elders with limited income and the handicapped with limited income as designated by the department.



1 (c) The commissioner shall require every telephone public
2 utility providing local telephone service to file a schedule of
3 rates and charges providing a rate for lifeline telephone
4 subscribers.

5 (d) Nothing in this section shall preclude the
6 commissioner from changing any rate established pursuant to
7 subsection (a) either specifically or pursuant to any general
8 restructuring of all telephone rates, charges, and
9 classifications.

10 §201-E Telecommunications relay services for the deaf,
11 persons with hearing disabilities, and persons with speech
12 disabilities. (a) The commissioner shall implement intrastate
13 telecommunications relay services for the deaf, persons with
14 hearing disabilities, and persons with speech disabilities.

15 (b) The commissioner shall investigate the availability of
16 experienced providers of quality telecommunications relay
17 services for the deaf, persons with hearing disabilities, and
18 persons with speech disabilities. The provision of these
19 telecommunications relay services to be rendered on or after
20 July 1, 2019, shall be awarded by the department to the provider
21 or providers the commissioner determines to be best qualified to



1 provide these services. In reviewing the qualifications of the
2 provider or providers, the commissioner shall consider the
3 factors of cost, quality of services, and experience, and any
4 other factors as the commissioner deems appropriate.

5 (c) If the commissioner determines that the
6 telecommunications relay service can be provided in a cost-
7 effective manner by a service provider or service providers, the
8 commissioner may require every intrastate telecommunications
9 carrier to contract with the provider or providers for the
10 provision of the telecommunications relay service under the
11 terms established by the commissioner.

12 (d) The commissioner may establish a surcharge to collect
13 customer contributions for telecommunications relay services
14 required under this section.

15 (e) The commissioner may adopt rules to establish a
16 mechanism to recover the costs of administering and providing
17 telecommunications relay services required under this section.

18 (f) The commissioner shall require every intrastate
19 telecommunications carrier to file a schedule of rates and
20 charges and every provider of telecommunications relay service
21 to maintain a separate accounting for the costs of providing



1 telecommunications relay services for the deaf, persons with
2 hearing disabilities, and persons with speech disabilities.

3 (g) Nothing in this section shall preclude the
4 commissioner from changing any rate established pursuant to this
5 section either specifically or pursuant to any general
6 restructuring of all telephone rates, charges, and
7 classifications.

8 (h) As used in this section:

9 "Telecommunications relay services" means telephone
10 transmission services that provide an individual who has a
11 hearing or speech disability the ability to engage in
12 communication by wire or radio with a hearing individual in a
13 manner that is functionally equivalent to the ability of an
14 individual who does not have a hearing or speech disability to
15 communicate using wire or radio voice communication services.

16 "Telecommunications relay services" includes services that
17 enable two-way communication using text telephones or other
18 nonvoice terminal devices, speech-to-speech services, video
19 relay services, and non-English relay services.

20 **§201-F Telecommunications carriers and cable systems**
21 **special fund.** (a) There is established a special fund to be



known as the telecommunications carriers and cable systems special fund to be administered by the commissioner.

(b) The special fund shall consist of:

(1) All fees, costs, penalties, and any other sources of revenues derived from the regulation of:

(A) Telecommunications carriers under this part; and

(B) Cable systems under chapter 440G;

(2) Funds transferred from the compliance resolution fund established under section 26-9(o) that are attributable to revenues derived from the former regulation of:

(A) Telecommunication carriers by the public utilities commission; and

(B) Cable systems by the department of commerce and consumer affairs.

(c) The commissioner may use the moneys in the special fund to employ, without regard to chapter 76, hearings officers and attorneys. All other employees may be employed in accordance with chapter 76. Any law to the contrary notwithstanding, the moneys in the fund shall be used to fund the operations of this part. The moneys in the fund may be used



1 to train personnel as the commissioner deems necessary and for
2 any other activity related to the purposes of this part.

3 **§201-G Aggregators of telephone service requirements.** (a)

4 For the purposes of this section:

5 "Aggregator" means every person or entity that is not a
6 telecommunications carrier, who, in the ordinary course of its
7 business, makes telephones available and aggregates the calls of
8 the public or transient users of its business, including but not
9 limited to a hotel, motel, hospital, or university, that
10 provides operator-assisted services through access to an
11 operator service provider.

12 "Operator service" means a service provided by a
13 telecommunications company to assist a customer to complete a
14 telephone call.

15 (b) The commissioner, by rule or order, shall adopt and
16 enforce operating requirements for the provision of operator-
17 assisted services by an aggregator. These requirements shall
18 include the following:

- 19 (1) Posting and display of information in a prominent and
20 conspicuous fashion on or near the telephone equipment
21 owned or controlled by the aggregator which states the



1 identity of the operator service provider, the
2 operator service provider's complaint handling
3 procedures, and means by which the customer may access
4 the various operator service providers;

5 (2) Identification by name of the operator service
6 provider prior to the call connection and, if not
7 posted pursuant to subsection (b) (1), a disclosure of
8 pertinent rates, terms, conditions, and means of
9 access to various operator service providers and the
10 local exchange carriers; provided that the operator
11 service provider shall disclose this information at
12 any time upon request by the customer;

13 (3) Allowing the customer access to any operator service
14 provider operating in the relevant geographic area
15 through the access method chosen by the provider or as
16 deemed appropriate by the commissioner; and

17 (4) Other requirements as deemed reasonable by the
18 commissioner in the areas of public safety, quality of
19 service, unjust or discriminatory pricing, or other
20 matters in the public interest.



1 §201-H Retail intrastate services; fully competitive. (a)
2 Notwithstanding section 201-I or any other law to the contrary,
3 the commissioner shall treat retail intrastate
4 telecommunications services, under the commissioner's
5 classification of services relating to costs, rates, and
6 pricing, as fully competitive and apply all department rules in
7 accordance with that designation. In addition, a
8 telecommunications carrier shall not be required to obtain
9 approval or provide any cost support or other information to
10 establish or otherwise modify in any manner its rates, fares,
11 and charges, or to bundle any service offerings into a single or
12 combined price package; provided that a telecommunications
13 carrier, except upon receiving the approval of the commissioner,
14 shall not charge a higher rate for any retail telecommunications
15 basic exchange service than the rate for the same service
16 included in the telecommunications carrier's filed tariff. All
17 rates, fares, charges, and bundled service offerings shall be
18 filed with the commissioner for information purposes only.

19 (b) This section shall apply to retail rates charged for
20 service to end-user consumers only and shall not apply to
21 wholesale rates charged for services provided by a



1 telecommunications carrier to another telecommunications
2 provider, a wireless communications provider, a voice over
3 internet protocol communications provider, or other similar
4 communications provider.

5 (c) Nothing herein shall modify any requirements of a
6 telecommunications carrier to provide lifeline telephone
7 service, comply with carrier of last resort obligations, or
8 comply with applicable service quality standards.

9 **§201-I Telecommunications providers and services. (a)**

10 Notwithstanding any provision of this part to the contrary, the
11 commissioner, upon its own motion or upon the application of any
12 person, and upon notice and hearing, may exempt a
13 telecommunications provider or a telecommunications service from
14 any or all of the provisions of this part, except the provisions
15 of section 201-N, upon a determination that the exemption is in
16 the public interest. In determining whether an exemption is in
17 the public interest, the commissioner shall consider whether the
18 exemption promotes state policies in telecommunications, the
19 development, maintenance, and operation of effective and
20 economically efficient telecommunications services, and the
21 furnishing of telecommunications services at just and reasonable



1 rates and in a fair manner in view of the needs of the various
2 customer segments of the telecommunications industry. Among the
3 specific factors the commissioner may consider are:

4 (1) The responsiveness of the exemption to changes in the
5 structure and technology of the State's
6 telecommunications industry;

7 (2) The benefits accruing to the customers and users of
8 the exempt telecommunications provider or service;

9 (3) The impact of the exemption on the quality,
10 efficiency, and availability of telecommunications
11 services;

12 (4) The impact of the exemption on the maintenance of
13 fair, just, and reasonable rates for
14 telecommunications services;

15 (5) The likelihood of prejudice or disadvantage to
16 ratepayers of basic local exchange service resulting
17 from the exemption;

18 (6) The effect of the exemption on the preservation and
19 promotion of affordable, universal, basic
20 telecommunications services as those services are
21 determined by the commissioner;



1 (7) The resulting subsidization, if any, of the exempt
2 telecommunications service or provider by nonexempt
3 services;

4 (8) The impact of the exemption on the availability of
5 diversity in the supply of telecommunications services
6 throughout the State;

7 (9) The improvements in the regulatory system to be gained
8 from the exemption, including the reduction in
9 regulatory delays and costs;

10 (10) The impact of the exemption on promoting innovations
11 in telecommunications services;

12 (11) The opportunity provided by the exemption for
13 telecommunications providers to respond to
14 competition; and

15 (12) The potential for the exercise of substantial market
16 power by the exempt provider or by a provider of the
17 exempt telecommunications service.

18 (b) The commissioner shall expedite, where practicable,
19 the regulatory process with respect to exemptions and shall
20 adopt guidelines under which each provider of an exempted
21 service shall be subject to similar terms and conditions.



1 (c) The commissioner may condition or limit any exemption
2 as the commissioner deems necessary in the public interest. The
3 commissioner may provide a trial period for any exemption and
4 may terminate the exemption or continue it for such period and
5 under any conditions and limitations as it deems appropriate.

6 (d) The department may require a telecommunications
7 provider to apply for a certificate of public convenience and
8 necessity pursuant to section 269-7.5; provided that the
9 commission may waive any application requirement whenever it
10 deems the waiver to be in furtherance of the purposes of this
11 section. The exemptions under this section may be granted in a
12 proceeding for certification or in a separate proceeding.

13 (e) The department may waive other regulatory requirements
14 under this part applicable to telecommunications providers when
15 it determines that competition will serve the same purpose as
16 public interest regulation.

17 (f) If any provider of an exempt telecommunications
18 service or any exempt telecommunications provider elects to
19 terminate its service, it shall provide notice of this to its
20 customers, the department, and every telephone public utility
21 providing basic local exchange service in this State. The



1 notice shall be in writing and given not less than six months
2 before the intended termination date. Upon termination of
3 service by a provider of an exempt service or by an exempt
4 provider, the appropriate telephone public utility providing
5 basic local exchange service shall ensure that all customers
6 affected by the termination receive basic local exchange
7 service. The commissioner upon notice and hearing or by rule,
8 shall determine the party or parties who shall bear the cost, if
9 any, of access to the basic local exchange service by the
10 customers of the terminated exempt service.

11 (g) Upon the petition of any person or upon its own
12 motion, the commissioner may rescind any exemption or waiver
13 granted under this section if, after notice and hearing, it
14 finds that the conditions prompting the granting of the
15 exemption or waiver no longer apply, or that the exemption or
16 waiver is no longer in the public interest, or that the
17 telecommunications provider has failed to comply with one or
18 more of the conditions of the exemption or applicable statutory
19 or regulatory requirements.

20 (h) For purposes of this section, the commissioner, upon
21 determination that any area of the State has less than adequate



1 telecommunications service, shall require the existing
2 telecommunications provider to show cause as to why the
3 commission should not authorize an alternative
4 telecommunications provider for that area under the terms and
5 conditions of this section.

6 **§201-J Universal service subsidies.** (a) For any
7 alternative telecommunications provider authorized to provide
8 basic local exchange service to any area of the State pursuant
9 to section 201-I(h), the commissioner may consider the
10 following:

11 (1) Transferring the subsidy, if any, of the local
12 exchange provider's basic residential telephone
13 service to the alternative provider; and
14 (2) Transferring from the local exchange carrier to the
15 alternative provider the amounts, if any, generated by
16 the local exchange provider's services other than
17 basic residential telephone service and which are used
18 to subsidize basic residential service in the area.

19 (b) To receive the subsidy amounts from the local exchange
20 service provider, the alternative telecommunications provider
21 shall be required, to the extent possible, to obtain basic



1 residential service subsidies from both the local exchange
2 service provider and national universal service providers.

3 §201-K Changes in subscriber carrier selections; prior
4 authorization required; penalties for unauthorized changes. (a)

5 No telecommunications carrier shall initiate a change in a
6 subscriber's selection or designation of a long-distance carrier
7 without first receiving:

8 (1) A letter of agency or letter of authorization;

9 (2) An electronic authorization by use of a toll-free
10 number;

11 (3) An oral authorization verified by an independent third
12 party; or

13 (4) Any other prescribed authorization;

14 provided that the letter or authorization shall be in accordance
15 with verification procedures that are prescribed by the Federal
16 Communications Commission or the commissioner. For purposes of
17 this section, "telecommunications carrier" does not include a
18 provider of commercial mobile radio service as defined by 47
19 United States Code section 332(d)(1).

20 (b) Upon a determination that any telecommunications
21 carrier has engaged in conduct that is prohibited in subsection



1 (a), the commissioner shall order the carrier to take corrective
2 action as deemed necessary by the commissioner and may subject
3 the telecommunications carrier to administrative penalties
4 pursuant to section 269-28. Any proceeds from administrative
5 penalties collected under this section shall be deposited into
6 the general fund.

7 The commissioner, if consistent with the public interest,
8 may suspend, restrict, or revoke the registration, charter, or
9 certificate of the telecommunications carrier, thereby denying,
10 modifying, or limiting the right of the telecommunications
11 carrier to provide service in this State.

12 (c) The commissioner shall adopt rules, pursuant to
13 chapter 91, necessary for the purposes of this section. The
14 commissioner may notify customers of their rights under these
15 rules.

16 **§201-L Release of domestic abuse victims from shared**
17 **wireless plans.** (a) All wireless telecommunications service
18 providers shall release, without charge, penalty, or fee, any
19 victim of domestic abuse from a shared or family wireless
20 service contract involving the victim's abuser; provided that
21 the victim submits an opt-out request in writing and with



1 evidence of domestic abuse as documented by any of the following
2 items:

3 (1) Valid police report documenting an instance or series
4 of instances of domestic abuse;

5 (2) Order for protection granted pursuant to chapter 586;
6 or

7 (3) Signed affidavit from a licensed medical or mental
8 health care provider, employee of a court acting
9 within the scope of their employment, or social
10 worker.

11 (b) When a victim of domestic abuse submits an opt-out
12 request to a wireless telecommunications service provider
13 pursuant to subsection (a), the wireless telecommunications
14 service provider shall, within forty-eight hours from the time
15 the opt-out request is submitted to the wireless
16 telecommunications service provider:

17 (1) Transfer the billing authority and all rights to the
18 wireless telephone number or numbers of a shared
19 wireless plan to the person who has been granted the
20 release pursuant to subsection (a); or



1 (2) Remove or release the person, who has been granted the
2 release pursuant to subsection (a), from a shared
3 wireless plan and assign a substitute telephone number
4 or numbers,
5 without charge, penalty, or fee.

6 (c) A cause of action shall not lie against any wireless
7 telecommunications service provider, its officers, employees, or
8 agents for the actions taken that are related to the transfer of
9 the billing authority and rights to the wireless telephone
10 number or numbers in accordance with this section.

11 (d) For purposes of this section:

12 "Domestic abuse" shall have the same meaning as in section
13 586-1.

14 "Wireless telecommunications service" shall have the same
15 meaning as "commercial mobile radio service" as defined in title
16 47 Code of Federal Regulations section 20.3.

17 "Wireless telecommunications service provider" means a
18 provider of wireless telecommunications service.

19 **\$201-M Emergency telephone service; capital costs;**
20 **ratemaking.** (a) A public utility providing local exchange
21 telecommunications services may recover the capital cost and



1 associated operating expenses of providing a statewide enhanced
2 911 emergency telephone service in the public switched telephone
3 network, through:

4 (1) A telephone line surcharge; or

5 (2) Its rate case.

6 (b) Notwithstanding the commissioner's rules on
7 ratemaking, the commissioner shall expedite and give highest
8 priority to any necessary ratemaking procedures related to
9 providing a statewide enhanced 911 emergency telephone service;
10 provided that the commissioner may set forth conditions and
11 requirements as the commissioner determines are in the public
12 interest.

13 (c) The commissioner shall require every public utility
14 providing statewide enhanced 911 emergency telephone service to
15 maintain a separate accounting of the costs of providing an
16 enhanced 911 emergency service and the revenues received from
17 related surcharges until the next general rate case. The
18 commissioner shall further require that every public utility
19 imposing a surcharge shall identify such as a separate line item
20 on all customer billing statements.



1 (d) This section shall not preclude the commissioner from
2 changing any rate, established pursuant to this section, either
3 specifically or pursuant to any general restructuring of all
4 telephone rates, charges, and classifications.

5 §201-N Obligations of telecommunications carriers. In
6 accordance with conditions and guidelines established by the
7 commissioner to facilitate the introduction of competition into
8 the State's telecommunications marketplace, each
9 telecommunications carrier, upon bona fide request, shall
10 provide services or information services, on reasonable terms
11 and conditions, to an entity seeking to provide intrastate
12 telecommunications, including:

13 (1) Interconnection to the telecommunications carrier's
14 telecommunications facilities at any technically
15 feasible and economically reasonable point within the
16 telecommunications carrier's network so that the
17 networks are fully interoperable;

18 (2) The current interstate tariff used as the access rate
19 until the department can adopt a new intrastate local
20 service interconnection tariff pursuant to section
21 201-P;



- 1 (3) Nondiscriminatory and equal access to any
2 telecommunications carrier's telecommunications
3 facilities, functions, and the information necessary
4 to the transmission and routing of any
5 telecommunications service and the interoperability of
6 both carriers' networks;
- 7 (4) Nondiscriminatory access among all telecommunications
8 carriers, where technically feasible and economically
9 reasonable, and where safety or the provision of
10 existing electrical service is not at risk, to the
11 poles, ducts, conduits, and rights-of-way owned or
12 controlled by the telecommunications carrier, or the
13 department shall authorize access to electric
14 utilities' poles as provided by the joint pole
15 agreement, department tariffs, rules, orders, or
16 Federal Communications Commission rules and
17 regulations;
- 18 (5) Nondiscriminatory access to the network functions of
19 the telecommunications carrier's telecommunications
20 network, that shall be offered on an unbundled,
21 competitively neutral, and cost-based basis;



(6) Telecommunications services and network functions without unreasonable restrictions on the resale or sharing of those services and functions; and

(7) Nondiscriminatory access of customers to the telecommunications carrier of their choice without the need to dial additional digits or access codes, where technically feasible. The commissioner shall determine the equitable distribution of costs among the authorized telecommunications carriers that will use the access and shall establish rules to ensure such access.

Where possible, telecommunications carriers shall enter into negotiations to agree on the provision of services or information services without requiring intervention by the commissioner; provided that any agreement subject to this section shall be subject to review by the commissioner to ensure compliance with the requirements of this section.

§201-O Universal service. The commissioner shall preserve and advance universal service by:

(1) Maintaining affordable, just, and reasonable rates for basic residential service;



- 1 (2) Assisting individuals or entities who cannot afford
2 the cost of or otherwise require assistance in
3 obtaining or maintaining their basic service or
4 equipment as determined by the commissioner; and
- 5 (3) Ensuring that consumers are given the information
6 necessary to make informed choices among the
7 alternative telecommunications providers and services.

8 **§201-P Telecommunications number portability.** The
9 commissioner shall ensure that telecommunications number
10 portability within an exchange is available, upon request, as
11 soon as technically feasible and economically reasonable. An
12 impartial entity shall administer telecommunications numbering
13 and make the numbers available on an equitable basis.

14 **§201-Q Compensation agreements.** The commissioner shall
15 ensure that telecommunications carriers are compensated on a
16 fair basis for termination of telecommunications services on
17 each other's networks, taking into account, among other things,
18 reasonable and necessary costs to each telecommunications
19 carrier of providing the services in question.

20 Telecommunications carriers may negotiate compensation
21 arrangements, that may include "bill and keep", mutual and equal



1 compensation, or any other reasonable division of revenues
2 pending tariff access rates to be set by the commissioner. Upon
3 failure of the negotiations, the commissioner shall determine
4 the proper methodology and amount of compensation.

5 **§201-R Regulatory flexibility for effectively competitive**
6 **services.** The commissioner may allow telecommunications
7 carriers to have pricing flexibility for services that the
8 commissioner finds are effectively competitive; provided that
9 the rates for:

10 (1) Basic telephone service and for services that are not
11 effectively competitive are cost-based and remain
12 just, reasonable, and nondiscriminatory; and

13 (2) Universal service is preserved and advanced.

14 **§201-S Cross-subsidies.** (a) The commissioner shall
15 ensure that noncompetitive services shall not cross-subsidize
16 competitive services. Cross-subsidization shall be deemed to
17 have occurred:

18 (1) If any competitive service is priced below the total
19 service long-run incremental cost of providing the
20 service as determined by the commissioner in
21 subsection (b); or



(2) If competitive services, taken as a whole, fail to cover their direct and allocated joint and common costs as determined by the commissioner.

(b) The commissioner shall determine the methodology and frequency with which providers calculate total service long-run incremental cost and fully allocated joint and common costs. The total service long-run incremental cost of a service shall include an imputation of an amount equal to the contribution that the telecommunications carrier receives from noncompetitive inputs used by alternative providers in providing the same or equivalent service.

§201-T Access to advanced services. The commissioner shall ensure that all consumers are provided with nondiscriminatory, reasonable, and equitable access to high quality telecommunications network facilities and capabilities that provide subscribers with sufficient network capacity to access information services that provide a combination of voice, data, image, and video, and that are available at just, reasonable, and nondiscriminatory rates that are based on reasonably identifiable costs of providing the services.



1 §201-U Universal service program; establishment; purpose;
2 principles. There is established the universal service program.
3 The purpose of this program is to:

4 (1) Maintain affordable, just, and reasonable rates for
5 basic residential telecommunications service, as
6 defined by the commissioner;

7 (2) Assist customers located in the areas of the State
8 that have high costs of essential telecommunications
9 service, low-income customers, and customers with
10 disabilities, in obtaining and maintaining access to a
11 basic set of essential telecommunications services as
12 determined by the department. The commissioner may
13 expand or otherwise modify relevant programs, such as
14 the lifeline program under section 201-D;

15 (3) Ensure that consumers in all communities are provided
16 with access, at reasonably comparable rates, to all
17 telecommunications services that are used by a
18 majority of consumers located in metropolitan areas of
19 the State. The commissioner shall provide for a
20 reasonable transition period to support the statewide
21 deployment of these advanced telecommunications



1 services, including the use of strategic community
2 access points in public facilities such as education,
3 library, and health care facilities;

4 (4) Ensure that consumers are given the information
5 necessary to make informed choices among the
6 alternative telecommunications carriers and services;
7 and

8 (5) Promote affordable access throughout the State to
9 enhanced government information and services,
10 including education, health care, public safety, and
11 other government services.

12 The commissioner shall administer the universal service
13 program, including the establishment of criteria by which the
14 purposes of the program are met.

15 **§201-V Universal service program; contributions. (a)**

16 There is established outside of the state treasury a special
17 fund to be known as the universal service fund to be
18 administered by the commissioner to implement the policies and
19 goals of universal service. The fund shall consist of
20 contributions from the sources identified in subsections (e) and
21 (f). Interest earned from the balance of the fund shall become



1 a part of the fund. The commissioner shall adopt rules
2 regarding the distribution of moneys from the fund including
3 reimbursements to carriers for providing reduced rates to low-
4 income, elderly, residents of underserved or rural areas, or
5 other subscribers, as authorized by the commissioner.

6 (b) The department may allow distribution of funds
7 directly to customers based upon a need criteria established by
8 the commissioner.

9 (c) A telecommunications carrier or other person
10 contributing to the universal service program may establish a
11 surcharge that is clearly identified and explained on customers'
12 bills to collect from customers contributions required under
13 this section.

14 (d) Telecommunications carriers may compete to provide
15 services to underserved areas using funds from the universal
16 service program. For the purposes of this section, "underserved
17 areas" means those areas in the State that lack or have very
18 limited access to high capacity, advanced telecommunications
19 networks and information services, including access to cable
20 television.



1 (e) The commissioner shall require all telecommunications
2 carriers to contribute to the universal service program. The
3 commissioner may require a person other than a
4 telecommunications carrier to contribute to the universal
5 service program if, after notice and opportunity for hearing,
6 the commissioner determines that the person is offering a
7 commercial service in the State that directly benefits from the
8 telecommunications infrastructure, and that directly competes
9 with a telecommunications service provided in the State for
10 which a contribution is required under this subsection.

11 (f) The commissioner shall designate the method by which
12 the contributions under subsection (e) shall be calculated and
13 collected. The commissioner shall consider basing contributions
14 solely on the gross operating revenues from the retail provision
15 of intrastate telecommunications services offered by the
16 telecommunications carriers subject to the contribution.

17 **§201-W Carriers of last resort.** (a) The commissioner may
18 define and designate local exchange service areas where the
19 department has determined that providing universal service funds
20 to a single provider will be the most appropriate way to ensure
21 service for these areas.



1 (b) The commissioner shall determine the level of service
2 that is appropriate for each designated local exchange service
3 area and shall invite telecommunications providers to bid for a
4 level of service that is appropriate. The successful bidder
5 shall be designated the carrier of last resort for the
6 designated local exchange service area for a period of time and
7 upon conditions set by the commissioner. In determining the
8 successful bidder, the commissioner shall take into
9 consideration the level of service to be provided, the
10 investment commitment, and the length of the agreement, in
11 addition to the other qualifications of the bidder.

12 (c) The universal service fund shall also provide service
13 drops and basic service at discounted rates to public
14 institutions, as stated in section 201-U.

15 (d) The commissioner shall adopt rules pursuant to chapter
16 91 to carry out the provisions of this section."

17 SECTION 3. Section 36-27, Hawaii Revised Statutes, is
18 amended by amending subsection (a) to read as follows:

19 "(a) Except as provided in this section, and
20 notwithstanding any other law to the contrary, from time to
21 time, the director of finance, for the purpose of defraying the



1 prorated estimate of central service expenses of government in
2 relation to all special funds, except the:

3 (1) Special out-of-school time instructional program fund
4 under section 302A-1310;

5 (2) School cafeteria special funds of the department of
6 education;

7 (3) Special funds of the University of Hawaii;

8 (4) State educational facilities improvement special fund;

9 (5) Convention center enterprise special fund under
10 section 201B-8;

11 (6) Special funds established by section 206E-6;

12 (7) Aloha Tower fund created by section 206J-17;

13 (8) Funds of the employees' retirement system created by
14 section 88-109;

15 (9) Hawaii hurricane relief fund established under chapter
16 431P;

17 (10) Hawaii health systems corporation special funds and
18 the subaccounts of its regional system boards;

19 (11) Tourism special fund established under section
20 201B-11;



- 1 (12) Universal service fund established under section
2 ~~[269-42;]~~ 201-V;
- 3 (13) Emergency and budget reserve fund under section
4 328L-3;
- 5 (14) Public schools special fees and charges fund under
6 section 302A-1130;
- 7 (15) Sport fish special fund under section 187A-9.5;
- 8 [+] (16) [+] Neurotrauma special fund under section 321H-4;
- 9 [+] (17) [+] Glass advance disposal fee established by section
10 342G-82;
- 11 [+] (18) [+] Center for nursing special fund under section
12 304A-2163;
- 13 [+] (19) [+] Passenger facility charge special fund established
14 by section 261-5.5;
- 15 [+] (20) [+] Solicitation of funds for charitable purposes
16 special fund established by section 467B-15;
- 17 [+] (21) [+] Land conservation fund established by section
18 173A-5;
- 19 [+] (22) [+] Court interpreting services revolving fund under
20 section 607-1.5;
- 21 [+] (23) [+] Trauma system special fund under section 321-22.5;



1 [+] (24) [+] Hawaii cancer research special fund;
2 [+] (25) [+] Community health centers special fund;
3 [+] (26) [+] Emergency medical services special fund;
4 [+] (27) [+] Rental motor vehicle customer facility charge
5 special fund established under section 261-5.6;
6 [+] (28) [+] Shared services technology special fund under
7 section 27-43;
8 [+] (29) [+] Automated victim information and notification system
9 special fund established under section 353-136;
10 [+] (30) [+] Deposit beverage container deposit special fund
11 under section 342G-104;
12 [+] (31) [+] Hospital sustainability program special fund under
13 [+] section 346G-4 [+];
14 [+] (32) [+] Nursing facility sustainability program special fund
15 under [+] section 346F-4 [+];
16 [+] (33) [+] Hawaii 3R's school improvement fund under section
17 302A-1502.4;
18 [+] (34) [+] After-school plus program revolving fund under
19 section 302A-1149.5; and
20 [+] (35) [+] Civil monetary penalty special fund under section
21 321-30.2,



1 shall deduct five per cent of all receipts of all other special
2 funds, which deduction shall be transferred to the general fund
3 of the State and become general realizations of the State. All
4 officers of the State and other persons having power to allocate
5 or disburse any special funds shall cooperate with the director
6 in effecting these transfers. To determine the proper revenue
7 base upon which the central service assessment is to be
8 calculated, the director shall adopt rules pursuant to chapter
9 91 for the purpose of suspending or limiting the application of
10 the central service assessment of any fund. No later than
11 twenty days prior to the convening of each regular session of
12 the legislature, the director shall report all central service
13 assessments made during the preceding fiscal year."

14 SECTION 4. Section 36-30, Hawaii Revised Statutes, is
15 amended by amending subsection (a) to read as follows:

16 "(a) Each special fund, except the:

17 (1) Special out-of-school time instructional program fund
18 under section 302A-1310;

19 (2) School cafeteria special funds of the department of
20 education;

21 (3) Special funds of the University of Hawaii;



- 1 (4) State educational facilities improvement special fund;
- 2 (5) Special funds established by section 206E-6;
- 3 (6) Aloha Tower fund created by section 206J-17;
- 4 (7) Funds of the employees' retirement system created by
- 5 section 88-109;
- 6 (8) Hawaii hurricane relief fund established under chapter
- 7 431P;
- 8 (9) Convention center enterprise special fund established
- 9 under section 201B-8;
- 10 (10) Hawaii health systems corporation special funds and
- 11 the subaccounts of its regional system boards;
- 12 (11) Tourism special fund established under section
- 13 201B-11;
- 14 (12) Universal service fund established under section
- 15 [~~269-42,~~] 201-V;
- 16 (13) Emergency and budget reserve fund under section
- 17 328L-3;
- 18 (14) Public schools special fees and charges fund under
- 19 section 302A-1130;
- 20 (15) Sport fish special fund under section 187A-9.5;
- 21 [+](16)[+] Neurotrauma special fund under section 321H-4;



1 [+] (17) [+] Center for nursing special fund under section
2 304A-2163;
3 [+] (18) [+] Passenger facility charge special fund established
4 by section 261-5.5;
5 [+] (19) [+] Court interpreting services revolving fund under
6 section 607-1.5;
7 [+] (20) [+] Trauma system special fund under section 321-22.5;
8 [+] (21) [+] Hawaii cancer research special fund;
9 [+] (22) [+] Community health centers special fund;
10 [+] (23) [+] Emergency medical services special fund;
11 [+] (24) [+] Rental motor vehicle customer facility charge
12 special fund established under section 261-5.6;
13 [+] (25) [+] Shared services technology special fund under
14 section 27-43;
15 [+] (26) [+] Nursing facility sustainability program special fund
16 established pursuant to [+]section 346F-4[+];
17 [+] (27) [+] Automated victim information and notification system
18 special fund established under section 353-136;
19 [+] (28) [+] Hospital sustainability program special fund under
20 [+]section 346G-4[+]; and



[+](29)[+] Civil monetary penalty special fund under section 321-30.2, shall be responsible for its pro rata share of the administrative expenses incurred by the department responsible for the operations supported by the special fund concerned."

SECTION 5. Section 138-2, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (a) to read:

"(a) There is created within the department of accounting and general services, for administrative purposes, an enhanced 911 board consisting of thirteen voting members; provided that the membership shall consist of:

(1) The chief information officer or the chief information officer's designee;

(2) Three representatives from wireless communications service providers, who shall be appointed by the governor as provided in section 26-34;

(3) One representative each from the public safety answering points for Oahu, Hawaii, Kauai, Maui, and Molokai and one representative, chosen by the mayor of the city and county of Honolulu, who shall be



1 appointed by the governor as provided in section
2 26-34;

3 (4) The consumer advocate or the consumer advocate's
4 designee;

5 (5) One representative from a communications service
6 company that offers Interconnected Voice over Internet
7 Protocol services, who shall be appointed by the
8 governor as provided in section 26-34; and

9 (6) One representative of the public utility providing
10 telecommunications services and land line enhanced 911
11 services through section [~~269-16.95-~~] 201-M."

12 2. By amending subsection (e) to read:

13 "(e) The members representing wireless providers, the
14 public utility providing telecommunications services and land
15 line enhanced 911 services through section [~~269-16.95-~~] 201-M,
16 and Interconnected Voice over Internet Protocol service
17 providers shall be appointed by the governor for terms of two
18 years."

19 SECTION 6. Section 138-4, Hawaii Revised Statutes, is
20 amended as follows:

21 1. By amending subsections (a) and (b) to read:



1 "(a) A monthly enhanced 911 surcharge, subject to this
2 chapter, shall be imposed upon each communications service
3 connection, except connections of the public utility providing
4 telecommunications services and land line enhanced 911 services
5 through section ~~[269-16.95.]~~ 201-M.

6 (b) The rate of the surcharge shall be set at 66 cents per
7 month for each communications service connection. The surcharge
8 shall have uniform application and shall be imposed on each
9 communications service connection operating within the State
10 except:

- 11 (1) Connections billed to federal, state, and county
12 governmental entities;
13 (2) Prepaid connections; and
14 (3) Connections provided by the public utility providing
15 telecommunications services and land line enhanced 911
16 services through section ~~[269-16.95.]~~ 201-M."

17 2. By amending subsection (g) to read:

18 "(g) A public utility providing telecommunications
19 services and land line enhanced 911 services for its customer
20 base and other service providers using the wire line provider's



1 enhanced 911 service may collect and retain the surcharge at the
2 established rate set forth in section [~~269-16-95.~~] 201-M."

3 SECTION 7. Section 269-1, Hawaii Revised Statutes, is
4 amended as follows:

5 1. By amending the definition of "public utility" to read
6 as follows:

7 "Public utility":

8 (1) Includes every person who may own, control, operate,
9 or manage as owner, lessee, trustee, receiver, or
10 otherwise, whether under a franchise, charter,
11 license, articles of association, or otherwise, any
12 plant or equipment, or any part thereof, directly or
13 indirectly for public use for the transportation of
14 passengers or freight; for the conveyance or
15 transmission of telecommunications messages; for the
16 furnishing of facilities for the transmission of
17 intelligence by electricity within the State or
18 between points within the State by land, water, or
19 air; for the production, conveyance, transmission,
20 delivery, or furnishing of light, power, heat, cold,
21 water, gas, or oil; for the storage or warehousing of



1 goods; or for the disposal of sewage; provided that
2 the term shall include:

3 (A) An owner or operator of a private sewer company
4 or sewer facility; and

5 (B) A telecommunications carrier or
6 telecommunications common carrier; provided that
7 a telecommunications carrier and a
8 telecommunications common carrier shall be exempt
9 from regulation under this chapter and shall
10 instead be subject to regulation as a public
11 utility under chapter 201; and

12 (2) Shall not include:

13 (A) An owner or operator of an aerial transportation
14 enterprise;

15 (B) An owner or operator of a taxicab as defined in
16 this section;

17 (C) Common carriers that transport only freight on
18 the public highways, unless operating within
19 localities, along routes, or between points that
20 the public utilities commission finds to be



- 1 inadequately serviced without regulation under
- 2 this chapter;
- 3 (D) Persons engaged in the business of warehousing or
- 4 storage unless the commission finds that
- 5 regulation is necessary in the public interest;
- 6 (E) A carrier by water to the extent that the carrier
- 7 enters into private contracts for towage,
- 8 salvage, hauling, or carriage between points
- 9 within the State; provided that the towing,
- 10 salvage, hauling, or carriage is not pursuant to
- 11 either an established schedule or an undertaking
- 12 to perform carriage services on behalf of the
- 13 public generally;
- 14 (F) A carrier by water, substantially engaged in
- 15 interstate or foreign commerce, that transports
- 16 passengers on luxury cruises between points
- 17 within the State or on luxury round-trip cruises
- 18 returning to the point of departure;
- 19 (G) Any user, owner, or operator of the Hawaii
- 20 electric system as defined under section 269-141;



1 (H) A telecommunications provider [~~only to the extent~~
2 ~~determined by the public utilities commission~~
3 ~~pursuant to section 269-16.9~~];

4 (I) Any person who controls, operates, or manages
5 plants or facilities developed pursuant to
6 chapter 167 for conveying, distributing, and
7 transmitting water for irrigation and other
8 purposes for public use and purpose;

9 (J) Any person who owns, controls, operates, or
10 manages plants or facilities for the reclamation
11 of wastewater; provided that:

12 (i) The services of the facility are provided
13 pursuant to a service contract between the
14 person and a state or county agency and at
15 least ten per cent of the wastewater
16 processed is used directly by the state or
17 county agency that entered into the service
18 contract;

19 (ii) The primary function of the facility is the
20 processing of secondary treated wastewater
21 that has been produced by a municipal



1 wastewater treatment facility owned by a
2 state or county agency;

3 (iii) The facility does not make sales of water to
4 residential customers;

5 (iv) The facility may distribute and sell
6 recycled or reclaimed water to entities not
7 covered by a state or county service
8 contract; provided that, in the absence of
9 regulatory oversight and direct competition,
10 the distribution and sale of recycled or
11 reclaimed water shall be voluntary and its
12 pricing fair and reasonable. For purposes
13 of this subparagraph, "recycled water" and
14 "reclaimed water" means treated wastewater
15 that by design is intended or used for a
16 beneficial purpose; and

17 (v) The facility is not engaged, either directly
18 or indirectly, in the processing of food
19 wastes;

20 (K) Any person who owns, controls, operates, or
21 manages any seawater air conditioning district



1 cooling project; provided that at least fifty per
2 cent of the energy required for the seawater air
3 conditioning district cooling system is provided
4 by a renewable energy resource, such as cold,
5 deep seawater;

6 (L) Any person who owns, controls, operates, or
7 manages plants or facilities primarily used to
8 charge or discharge a vehicle battery that
9 provides power for vehicle propulsion;

10 (M) Any person who:

11 (i) Owns, controls, operates, or manages a
12 renewable energy system that is located on a
13 customer's property; and

14 (ii) Provides, sells, or transmits the power
15 generated from that renewable energy system
16 to an electric utility or to the customer on
17 whose property the renewable energy system
18 is located; provided that, for purposes of
19 this subparagraph, a customer's property
20 shall include all contiguous property owned
21 or leased by the customer without regard to



1 interruptions in contiguity caused by
2 easements, public thoroughfares,
3 transportation rights-of-way, and utility
4 rights-of-way; and

5 (N) Any person who owns, controls, operates, or
6 manages a renewable energy system that is located
7 on such person's property and provides, sells, or
8 transmits the power generated from that renewable
9 energy system to an electric utility or to
10 lessees or tenants on the person's property where
11 the renewable energy system is located; provided
12 that:

13 (i) An interconnection, as defined in section
14 269-141, is maintained with an electric
15 public utility to preserve the lessees' or
16 tenants' ability to be served by an electric
17 utility;

18 (ii) Such person does not use an electric public
19 utility's transmission or distribution lines
20 to provide, sell, or transmit electricity to
21 lessees or tenants;



1 (iii) At the time that the lease agreement is
2 signed, the rate charged to the lessee or
3 tenant for the power generated by the
4 renewable energy system shall be no greater
5 than the effective rate charged per kilowatt
6 hour from the applicable electric utility
7 schedule filed with the public utilities
8 commission;

9 (iv) The rate schedule or formula shall be
10 established for the duration of the lease,
11 and the lease agreement entered into by the
12 lessee or tenant shall reflect such rate
13 schedule or formula;

14 (v) The lease agreement shall not abrogate any
15 terms or conditions of applicable tariffs
16 for termination of services for nonpayment
17 of electric utility services or rules
18 regarding health, safety, and welfare;

19 (vi) The lease agreement shall disclose: (1) the
20 rate schedule or formula for the duration of
21 the lease agreement; (2) that, at the time



1 that the lease agreement is signed, the rate
2 charged to the lessee or tenant for the
3 power generated by the renewable energy
4 system shall be no greater than the
5 effective rate charged per kilowatt hour
6 from the applicable electric utility
7 schedule filed with the public utilities
8 commission; (3) that the lease agreement
9 shall not abrogate any terms or conditions
10 of applicable tariffs for termination of
11 services for nonpayment of electric utility
12 services or rules regarding health, safety,
13 and welfare; and (4) whether the lease is
14 contingent upon the purchase of electricity
15 from the renewable energy system; provided
16 further that any disputes concerning the
17 requirements of this provision shall be
18 resolved pursuant to the provisions of the
19 lease agreement or chapter 521, if
20 applicable; and



(vii) Nothing in this section shall be construed to permit wheeling.

If the application of this chapter is ordered by the commission in any case provided in paragraph (2)(C), (D), (H), and (I), the business of any public utility that presents evidence of bona fide operation on the date of the commencement of the proceedings resulting in the order shall be presumed to be necessary to the public convenience and necessity, but any certificate issued under this proviso shall nevertheless be subject to terms and conditions as the public utilities commission may prescribe, as provided in ~~[sections 269-16.9 and]~~ section 269-20."

2. By repealing the definitions of "basic exchange service", "carrier of last resort", "designated local exchange service area", "dial tone", "single-line", "telecommunications carrier" or "telecommunications common carrier", "telecommunications service" or "telecommunications", and "touch-tone dialing":

~~["Basic exchange service" means those services consisting of single line dial tone, touch tone dialing, access to operator service, access to enhanced 911, telecommunications relay~~



1 ~~service, telephone directory, and access to directory assistance~~
2 ~~service via 411 dialing.~~

3 ~~"Carrier of last resort" means a telecommunications carrier~~
4 ~~designated by the commission to provide universal service in a~~
5 ~~given local exchange service area determined to be lacking in~~
6 ~~effective competition.~~

7 ~~"Designated local exchange service area" means an area as~~
8 ~~determined by the commission to be best served by designating a~~
9 ~~carrier of last resort pursuant to section 269-43.~~

10 ~~"Dial tone" means the ability to make or receive telephone~~
11 ~~calls with or without operator intervention.~~

12 ~~"Single line" means a single party line or a one party~~
13 ~~line.~~

14 ~~"Telecommunications carrier" or "telecommunications common~~
15 ~~carrier" means any person that owns, operates, manages, or~~
16 ~~controls any facility used to furnish telecommunications~~
17 ~~services for profit to the public, or to classes of users as to~~
18 ~~be effectively available to the public, engaged in the provision~~
19 ~~of services, such as voice, data, image, graphics, and video~~
20 ~~services, that make use of all or part of their transmission~~



1 facilities, switches, broadcast equipment, signalling, or
2 control devices.

3 ~~"Telecommunications service" or "telecommunications" means~~
4 ~~the offering of transmission between or among points specified~~
5 ~~by a user, of information of the user's choosing, including~~
6 ~~voice, data, image, graphics, and video without change in the~~
7 ~~form or content of the information, as sent and received, by~~
8 ~~means of electromagnetic transmission, or other similarly~~
9 ~~capable means of transmission, with or without benefit of any~~
10 ~~closed transmission medium, and does not include cable service~~
11 ~~as defined in section 440G-3.~~

12 ~~"Touch-tone dialing" means dual-tone multi-frequency, as~~
13 ~~opposed to dial-pulse signaling."]~~

14 SECTION 8. Section 269E-1, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "[~~f~~]§269E-1 Administration.[~~t~~] This chapter shall be
17 administered by the public utilities commission and the
18 provisions of this chapter and of chapter 269, not inconsistent
19 with this chapter, shall govern its administration; provided
20 that sections 201-N to 201-W, 269-7.5, 269-8.2, 269-8.5, 269-9,
21 269-16 to 269-28, 269-30, 269-31, [~~269-34 to 269-43,~~] and 269-71



1 to 269-111 shall not, in any respect, apply to the one call
2 center."

3 SECTION 9. Section 440G-3, Hawaii Revised Statutes, is
4 amended by amending the definitions of "cable system",
5 "department", and "director" to read as follows:

6 "Cable system" means any facility within this State
7 consisting of a set of closed transmission paths and associated
8 signal generation, reception, and control equipment that is
9 designed to provide cable service which includes video
10 programming and which is provided to multiple subscribers within
11 a community, but does not include (1) a facility that serves
12 only to retransmit the television signals of one or more
13 television broadcast stations; (2) a facility that serves only
14 subscribers in one or more multiple unit dwellings under common
15 ownership, control, or management, unless that facility or
16 facilities uses any public right-of-way; or (3) a facility of a
17 public utility subject in whole or in part to the provisions of
18 chapter 201 or chapter 269, except to the extent that those
19 facilities provide video programming directly to subscribers.

20 "Department" means the department of [~~commerce and consumer~~
21 ~~affairs.~~] business, economic development, and tourism.



1 "Director" means the director of [~~commerce and consumer~~
2 ~~affairs~~] business, economic development, and tourism."

3 SECTION 10. Section 440G-11.5, Hawaii Revised Statutes, is
4 amended by amending subsection (c) to read as follows:

5 "[+] (c) [+] The department [~~of commerce and consumer~~
6 ~~affairs~~] shall report annually to the legislature, no later than
7 twenty days prior to the convening of each regular session, on
8 the receipt and expenditure of federal moneys from the American
9 Recovery and Reinvestment Act of 2009, and moneys from other
10 federal appropriation measures or applicable federal acts, for
11 the purposes of purchasing broadband facilities, services, or
12 equipment or for entering into contracts for broadband-related
13 projects by all state agencies for all state agencies approval."

14 SECTION 11. Act 199, Session Laws of Hawaii 2010, as
15 amended by section 5, Act 151, Session Laws of Hawaii 2011, as
16 amended by section 2, Act 23, Session Laws of Hawaii 2016, is
17 amended by amending section 3 to read as follows:

18 "SECTION 3. **Telework promotion; broadband assistance**
19 **advisory council; establishment; purpose.** (a) The director of
20 [~~commerce and consumer affairs~~] business, economic development,
21 and tourism shall convene and chair the broadband assistance



1 advisory council to advise the director of [~~commerce and~~
2 ~~consumer affairs~~] business, economic development, and tourism on
3 policy and funding priorities to promote and encourage use of
4 telework alternatives for public and private employees, and
5 expedite deployment of affordable and accessible broadband
6 services in Hawaii.

7 (b) The council shall be composed of the director of
8 commerce and consumer affairs, or the director's designee; the
9 director of business, economic development, and tourism, or the
10 director's designee; and the following twelve members who shall
11 be equally appointed by the president of the senate and by the
12 speaker of the house of representatives as follows:

13 (1) Two members of the senate, appointed by the president
14 of the senate;

15 (2) Two members of the house of representatives, appointed
16 by the speaker of the house of representatives;

17 (3) Four representatives of federal, state, and county
18 government entities having a role in infrastructure
19 deployment; management of public rights-of-way,
20 regulation, and franchising; information technology;
21 and economic development; and



1 (4) Four representatives of Hawaii's private sector
2 technology, telecommunications, and investment
3 industries.

4 In making the appointments pursuant to subsection (b)(1) through
5 (b)(3), the president of the senate and the speaker of the house
6 of representatives shall ensure representation of each of the
7 counties of Hawaii, Maui, and Kauai, and the city and county of
8 Honolulu by one or more appointed members. Except for the
9 director of commerce and consumer affairs and the director of
10 business, economic development, and tourism, all members shall
11 serve for a term of four years. Notwithstanding any law to the
12 contrary, the terms of all members as of July 1, 2016, shall
13 expire on June 30, 2019; and, each subsequent four-year term
14 shall commence on July 1, and expire on June 30 every four years
15 thereafter. Any member of the council whose term has expired
16 may continue to serve as a holdover member until reappointment
17 or until a successor is appointed. Any vacancies occurring in
18 the membership of the advisory council shall be filled for the
19 remainder of the unexpired term in the same manner as the
20 original appointments.



1 (c) The director of [~~commerce and consumer affairs~~]
2 business, economic development, and tourism shall serve as
3 chairperson of the council. The chairperson may designate
4 representatives of other interested public or private sector
5 organizations to serve as members of the council, or as members
6 of the work groups of the council to address specified issues on
7 an ad hoc basis, as the chairperson deems necessary. The
8 council shall meet at times as may be called by the chairperson.
9 Members and ad hoc members shall be reimbursed for reasonable
10 expenses, including travel expenses, necessary for the
11 performance of their duties. Administrative support to the
12 council shall be provided by the department of [~~commerce and~~
13 ~~consumer affairs.~~] business, economic development, and tourism.

14 (d) The council shall:

- 15 (1) Monitor the broadband-based development efforts of
16 other states and nations in areas such as business,
17 education, and health;
- 18 (2) Advise the department on other states' best practices
19 involving telework promotion and policies and
20 strategies related to making affordable broadband
21 services available to every Hawaii home and business;



(3) Monitor broadband-related activities at the federal level;

(4) Monitor regulatory and policy changes for potential impact on broadband deployment and sustainability in Hawaii; [and]

(5) Encourage public-private partnerships to increase the deployment and adoption of broadband services and applications[-]; and

(6) Advise the director of business, economic development, and tourism on broadband deployment."

SECTION 12. Section 269-16.5, Hawaii Revised Statutes, is repealed.

~~["§269-16.5 Lifeline telephone rates. (a) The public utilities commission shall implement a program to achieve lifeline telephone rates for residential telephone users.~~

~~(b) "Lifeline telephone rate" means a discounted rate for residential telephone users identified as elders with limited income and the handicapped with limited income as designated by the commission.~~

~~(c) The commission shall require every telephone public utility providing local telephone service to file a schedule of~~



1 ~~rates and charges providing a rate for lifeline telephone~~
2 ~~subscribers.~~

3 ~~(d) Nothing in this section shall preclude the commission~~
4 ~~from changing any rate established pursuant to subsection (a)~~
5 ~~either specifically or pursuant to any general restructuring of~~
6 ~~all telephone rates, charges, and classifications."]~~

7 SECTION 13. Section 269-16.6, Hawaii Revised Statutes, is
8 repealed.

9 ~~["§269-16.6 Telecommunications relay services for the~~
10 ~~deaf, persons with hearing disabilities, and persons with speech~~
11 ~~disabilities. (a) The public utilities commission shall~~
12 ~~implement intrastate telecommunications relay services for the~~
13 ~~deaf, persons with hearing disabilities, and persons with speech~~
14 ~~disabilities.~~

15 ~~(b) The commission shall investigate the availability of~~
16 ~~experienced providers of quality telecommunications relay~~
17 ~~services for the deaf, persons with hearing disabilities, and~~
18 ~~persons with speech disabilities. The provision of these~~
19 ~~telecommunications relay services to be rendered on or after~~
20 ~~July 1, 1992, shall be awarded by the commission to the provider~~
21 ~~or providers the commission determines to be best qualified to~~



1 ~~provide these services. In reviewing the qualifications of the~~
2 ~~provider or providers, the commission shall consider the factors~~
3 ~~of cost, quality of services, and experience, and such other~~
4 ~~factors as the commission deems appropriate.~~

5 ~~(c) If the commission determines that the~~
6 ~~telecommunications relay service can be provided in a cost-~~
7 ~~effective manner by a service provider or service providers, the~~
8 ~~commission may require every intrastate telecommunications~~
9 ~~carrier to contract with such provider or providers for the~~
10 ~~provision of the telecommunications relay service under the~~
11 ~~terms established by the commission.~~

12 ~~(d) The commission may establish a surcharge to collect~~
13 ~~customer contributions for telecommunications relay services~~
14 ~~required under this section.~~

15 ~~(e) The commission may adopt rules to establish a~~
16 ~~mechanism to recover the costs of administering and providing~~
17 ~~telecommunications relay services required under this section.~~

18 ~~(f) The commission shall require every intrastate~~
19 ~~telecommunications carrier to file a schedule of rates and~~
20 ~~charges and every provider of telecommunications relay service~~
21 ~~to maintain a separate accounting for the costs of providing~~



1 ~~telecommunications relay services for the deaf, persons with~~
2 ~~hearing disabilities, and persons with speech disabilities.~~

3 ~~(g) Nothing in this section shall preclude the commission~~
4 ~~from changing any rate established pursuant to this section~~
5 ~~either specifically or pursuant to any general restructuring of~~
6 ~~all telephone rates, charges, and classifications.~~

7 ~~(h) As used in this section:~~

8 ~~"Telecommunications relay services" means telephone~~
9 ~~transmission services that provide an individual who has a~~
10 ~~hearing or speech disability the ability to engage in~~
11 ~~communication by wire or radio with a hearing individual in a~~
12 ~~manner that is functionally equivalent to the ability of an~~
13 ~~individual who does not have a hearing or speech disability to~~
14 ~~communicate using wire or radio voice communication services.~~

15 ~~"Telecommunications relay services" includes services that~~
16 ~~enable two-way communication using text telephones or other~~
17 ~~nonvoice terminal devices, speech to speech services, video~~
18 ~~relay services, and non-English relay services."]~~

19 SECTION 14. Section 269-16.8, Hawaii Revised Statutes, is
20 repealed.



1 ~~["§269-16.8] Aggregators of telephone service~~
2 ~~requirements. (a) For the purposes of this section:~~

3 ~~"Aggregator" means every person or entity that is not a~~
4 ~~telecommunications carrier, who, in the ordinary course of its~~
5 ~~business, makes telephones available and aggregates the calls of~~
6 ~~the public or transient users of its business, including but not~~
7 ~~limited to a hotel, motel, hospital, or university, that~~
8 ~~provides operator-assisted services through access to an~~
9 ~~operator service provider.~~

10 ~~"Operator service" means a service provided by a~~
11 ~~telecommunications company to assist a customer to complete a~~
12 ~~telephone call.~~

13 ~~(b) The commission, by rule or order, shall adopt and~~
14 ~~enforce operating requirements for the provision of operator-~~
15 ~~assisted services by an aggregator. These requirements shall~~
16 ~~include, but not be limited to, the following:~~

- 17 ~~(1) Posting and display of information in a prominent and~~
18 ~~conspicuous fashion on or near the telephone equipment~~
19 ~~owned or controlled by the aggregator which states the~~
20 ~~identity of the operator service provider, the~~
21 ~~operator service provider's complaint handling~~



1 ~~procedures, and means by which the customer may access~~
2 ~~the various operator service providers.~~

3 ~~(2) Identification by name of the operator service~~
4 ~~provider prior to the call connection and, if not~~
5 ~~posted pursuant to subsection (b) (1), a disclosure of~~
6 ~~pertinent rates, terms, conditions, and means of~~
7 ~~access to various operator service providers and the~~
8 ~~local exchange carriers; provided that the operator~~
9 ~~service provider shall disclose this information at~~
10 ~~any time upon request by the customer.~~

11 ~~(3) Allowing the customer access to any operator service~~
12 ~~provider operating in the relevant geographic area~~
13 ~~through the access method chosen by the provider or as~~
14 ~~deemed appropriate by the commission.~~

15 ~~(4) Other requirements as deemed reasonable by the~~
16 ~~commission in the areas of public safety, quality of~~
17 ~~service, unjust or discriminatory pricing, or other~~
18 ~~matters in the public interest."]~~

19 SECTION 15. Section 269-16.85, Hawaii Revised Statutes, is
20 repealed.



1 ~~["§269-16.85 Retail intrastate services; fully~~
2 ~~competitive. (a) Notwithstanding section 269-16.9 or any other~~
3 ~~law to the contrary, the public utilities commission shall treat~~
4 ~~retail intrastate telecommunications services, under the~~
5 ~~commission's classification of services relating to costs,~~
6 ~~rates, and pricing, as fully competitive and apply all~~
7 ~~commission rules in accordance with that designation. In~~
8 ~~addition, a telecommunications carrier shall not be required to~~
9 ~~obtain approval or provide any cost support or other information~~
10 ~~to establish or otherwise modify in any manner its rates, fares,~~
11 ~~and charges, or to bundle any service offerings into a single or~~
12 ~~combined price package; provided that a telecommunications~~
13 ~~carrier, except upon receiving the approval of the commission,~~
14 ~~shall not charge a higher rate for any retail telecommunications~~
15 ~~basic exchange service than the rate for the same service~~
16 ~~included in the telecommunications carrier's filed tariff. All~~
17 ~~rates, fares, charges, and bundled service offerings shall be~~
18 ~~filed with the public utilities commission for information~~
19 ~~purposes only.~~
20 ~~(b) This section shall apply to retail rates charged for~~
21 ~~service to end user consumers only and shall not apply to~~



1 ~~wholesale rates charged for services provided by a~~
2 ~~telecommunications carrier to another telecommunications~~
3 ~~provider, a wireless communications provider, a voice over~~
4 ~~internet protocol communications provider, or other similar~~
5 ~~communications provider.~~

6 ~~(c) Nothing herein shall modify any requirements of a~~
7 ~~telecommunications carrier to provide lifeline telephone~~
8 ~~service, comply with carrier of last resort obligations, or~~
9 ~~comply with applicable service quality standards."]~~

10 SECTION 16. Section 269-16.9, Hawaii Revised Statutes, is
11 repealed.

12 [~~"§269-16.9 Telecommunications providers and services.~~

13 ~~(a) Notwithstanding any provision of this chapter to the~~
14 ~~contrary, the commission, upon its own motion or upon the~~
15 ~~application of any person, and upon notice and hearing, may~~
16 ~~exempt a telecommunications provider or a telecommunications~~
17 ~~service from any or all of the provisions of this chapter,~~
18 ~~except the provisions of section 269-34, upon a determination~~
19 ~~that the exemption is in the public interest. In determining~~
20 ~~whether an exemption is in the public interest, the commission~~
21 ~~shall consider whether the exemption promotes state policies in~~



1 ~~telecommunications, the development, maintenance, and operation~~
2 ~~of effective and economically efficient telecommunications~~
3 ~~services, and the furnishing of telecommunications services at~~
4 ~~just and reasonable rates and in a fair manner in view of the~~
5 ~~needs of the various customer segments of the telecommunications~~
6 ~~industry. Among the specific factors the commission may~~
7 ~~consider are:~~

8 ~~(1) The responsiveness of the exemption to changes in the~~
9 ~~structure and technology of the State's~~
10 ~~telecommunications industry;~~

11 ~~(2) The benefits accruing to the customers and users of~~
12 ~~the exempt telecommunications provider or service;~~

13 ~~(3) The impact of the exemption on the quality,~~
14 ~~efficiency, and availability of telecommunications~~
15 ~~services;~~

16 ~~(4) The impact of the exemption on the maintenance of~~
17 ~~fair, just, and reasonable rates for~~
18 ~~telecommunications services;~~

19 ~~(5) The likelihood of prejudice or disadvantage to~~
20 ~~ratepayers of basic local exchange service resulting~~
21 ~~from the exemption;~~



- ~~(6) The effect of the exemption on the preservation and promotion of affordable, universal, basic telecommunications services as those services are determined by the commission;~~
- ~~(7) The resulting subsidization, if any, of the exempt telecommunications service or provider by nonexempt services;~~
- ~~(8) The impact of the exemption on the availability of diversity in the supply of telecommunications services throughout the State;~~
- ~~(9) The improvements in the regulatory system to be gained from the exemption, including the reduction in regulatory delays and costs;~~
- ~~(10) The impact of the exemption on promoting innovations in telecommunications services;~~
- ~~(11) The opportunity provided by the exemption for telecommunications providers to respond to competition; and~~
- ~~(12) The potential for the exercise of substantial market power by the exempt provider or by a provider of the exempt telecommunications service.~~



1 ~~(b) The commission shall expedite, where practicable, the~~
2 ~~regulatory process with respect to exemptions and shall adopt~~
3 ~~guidelines under which each provider of an exempted service~~
4 ~~shall be subject to similar terms and conditions.~~

5 ~~(c) The commission may condition or limit any exemption as~~
6 ~~the commission deems necessary in the public interest. The~~
7 ~~commission may provide a trial period for any exemption and may~~
8 ~~terminate the exemption or continue it for such period and under~~
9 ~~such conditions and limitations as it deems appropriate.~~

10 ~~(d) The commission may require a telecommunications~~
11 ~~provider to apply for a certificate of public convenience and~~
12 ~~necessity pursuant to section 269-7.5; provided that the~~
13 ~~commission may waive any application requirement whenever it~~
14 ~~deems the waiver to be in furtherance of the purposes of this~~
15 ~~section. The exemptions under this section may be granted in a~~
16 ~~proceeding for certification or in a separate proceeding.~~

17 ~~(e) The commission may waive other regulatory requirements~~
18 ~~under this chapter applicable to telecommunications providers~~
19 ~~when it determines that competition will serve the same purpose~~
20 ~~as public interest regulation.~~



~~(f) If any provider of an exempt telecommunications service or any exempt telecommunications provider elects to terminate its service, it shall provide notice of this to its customers, the commission, and every telephone public utility providing basic local exchange service in this State. The notice shall be in writing and given not less than six months before the intended termination date. Upon termination of service by a provider of an exempt service or by an exempt provider, the appropriate telephone public utility providing basic local exchange service shall ensure that all customers affected by the termination receive basic local exchange service. The commission shall, upon notice and hearing or by rule, determine the party or parties who shall bear the cost, if any, of access to the basic local exchange service by the customers of the terminated exempt service.~~

~~(g) Upon the petition of any person or upon its own motion, the commission may rescind any exemption or waiver granted under this section if, after notice and hearing, it finds that the conditions prompting the granting of the exemption or waiver no longer apply, or that the exemption or waiver is no longer in the public interest, or that the~~



1 ~~telecommunications provider has failed to comply with one or~~
2 ~~more of the conditions of the exemption or applicable statutory~~
3 ~~or regulatory requirements.~~

4 ~~(h) For purposes of this section, the commission, upon~~
5 ~~determination that any area of the State has less than adequate~~
6 ~~telecommunications service, shall require the existing~~
7 ~~telecommunications provider to show cause as to why the~~
8 ~~commission should not authorize an alternative~~
9 ~~telecommunications provider for that area under the terms and~~
10 ~~conditions of this section."]~~

11 SECTION 17. Section 269-16.91, Hawaii Revised Statutes, is
12 repealed.

13 ~~["[§269-16.91] Universal service subsidies. (a) For any~~
14 ~~alternative telecommunications provider authorized to provide~~
15 ~~basic local exchange service to any area of the State pursuant~~
16 ~~to section 269-16.9(h), the commission may consider the~~
17 ~~following:~~

18 ~~(1) Transferring the subsidy, if any, of the local~~
19 ~~exchange provider's basic residential telephone~~
20 ~~service to the alternative provider; and~~



~~(2) Transferring from the local exchange carrier to the alternative provider the amounts, if any, generated by the local exchange provider's services other than basic residential telephone service and which are used to subsidize basic residential service in the area.~~

~~(b) To receive the subsidy amounts from the local exchange service provider, the alternative telecommunications provider shall be required, to the extent possible, to obtain basic residential service subsidies from both the local exchange service provider and national universal service providers."~~

SECTION 18. Section 269-16.92, Hawaii Revised Statutes, is repealed.

~~["§269-16.92] Changes in subscriber carrier selections, prior authorization required; penalties for unauthorized changes. (a) No telecommunications carrier shall initiate a change in a subscriber's selection or designation of a long distance carrier without first receiving:~~

~~(1) A letter of agency or letter of authorization;~~

~~(2) An electronic authorization by use of a toll free number;~~



~~(3) An oral authorization verified by an independent third party; or~~

~~(4) Any other prescribed authorization; provided that the letter or authorization shall be in accordance with verification procedures that are prescribed by the Federal Communications Commission or the public utilities commission. For purposes of this section, "telecommunications carrier" does not include a provider of commercial mobile radio service as defined by 47 United States Code section 332(d)(1).~~

~~(b) Upon a determination that any telecommunications carrier has engaged in conduct that is prohibited in subsection (a), the public utilities commission shall order the carrier to take corrective action as deemed necessary by the commission and may subject the telecommunications carrier to administrative penalties pursuant to section 269-28. Any proceeds from administrative penalties collected under this section shall be deposited into the public utilities commission special fund.~~

~~The commission, if consistent with the public interest, may suspend, restrict, or revoke the registration, charter, or certificate of the telecommunications carrier, thereby denying,~~



1 ~~modifying, or limiting the right of the telecommunications~~
2 ~~carrier to provide service in this State.~~

3 ~~(c) The commission shall adopt rules, pursuant to chapter~~
4 ~~91, necessary for the purposes of this section. The commission~~
5 ~~may notify customers of their rights under these rules."]~~

6 SECTION 19. Section 269-16.93, Hawaii Revised Statutes, is
7 repealed.

8 [~~"§269-16.93 Release of domestic abuse victims from shared~~
9 ~~wireless plans. (a) All wireless telecommunications service~~
10 ~~providers shall release, without charge, penalty, or fee, any~~
11 ~~victim of domestic abuse from a shared or family wireless~~
12 ~~service contract involving the victim's abuser; provided that~~
13 ~~the victim submits an opt out request in writing and with~~
14 ~~evidence of domestic abuse as documented by any of the following~~
15 ~~items:~~

16 ~~(1) Valid police report documenting an instance or series~~
17 ~~of instances of domestic abuse;~~

18 ~~(2) Order for protection granted pursuant to chapter 586;~~
19 ~~or~~

20 ~~(3) Signed affidavit from a licensed medical or mental~~
21 ~~health care provider, employee of a court acting~~



1 ~~within the scope of their employment, or social~~
2 ~~worker.~~

3 ~~(b) When a victim of domestic abuse submits an opt out~~
4 ~~request to a wireless telecommunications service provider~~
5 ~~pursuant to subsection (a), the wireless telecommunications~~
6 ~~service provider shall, within forty eight hours from the time~~
7 ~~the opt out request is submitted to the wireless~~
8 ~~telecommunications service provider:~~

9 ~~(1) Transfer the billing authority and all rights to the~~
10 ~~wireless telephone number or numbers of a shared~~
11 ~~wireless plan to the person who has been granted the~~
12 ~~release pursuant to subsection (a); or~~

13 ~~(2) Remove or release the person, who has been granted the~~
14 ~~release pursuant to subsection (a), from a shared~~
15 ~~wireless plan and assign a substitute telephone number~~
16 ~~or numbers,~~

17 ~~without charge, penalty, or fee.~~

18 ~~(c) A cause of action shall not lie against any wireless~~
19 ~~telecommunications service provider, its officers, employees, or~~
20 ~~agents for the actions taken that are related to the transfer of~~



1 ~~the billing authority and rights to the wireless telephone~~
2 ~~number or numbers in accordance with this section.~~

3 ~~(d) For purposes of this section:~~

4 ~~"Domestic abuse" shall have the same meaning as in section~~
5 ~~586-1.~~

6 ~~"Wireless telecommunications service" shall have the same~~
7 ~~meaning as "commercial mobile radio service" as defined in title~~
8 ~~47 Code of Federal Regulations section 20.3.~~

9 ~~"Wireless telecommunications service provider" means a~~
10 ~~provider of wireless telecommunications service."]~~

11 SECTION 20. Section 269-16.95, Hawaii Revised Statutes, is
12 repealed.

13 ~~["§269-16.95 Emergency telephone service; capital costs;~~
14 ~~ratemaking. (a) A public utility providing local exchange~~
15 ~~telecommunications services may recover the capital cost and~~
16 ~~associated operating expenses of providing a statewide enhanced~~
17 ~~911 emergency telephone service in the public switched telephone~~
18 ~~network, through:~~

19 ~~(1) A telephone line surcharge; or~~

20 ~~(2) Its rate case.~~



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1 ~~(b) Notwithstanding the commission's rules on ratemaking,~~
2 ~~the commission shall expedite and give highest priority to any~~
3 ~~necessary ratemaking procedures related to providing a statewide~~
4 ~~enhanced 911 emergency telephone service; provided that the~~
5 ~~commission may set forth conditions and requirements as the~~
6 ~~commission determines are in the public interest.~~

7 ~~(c) The commission shall require every public utility~~
8 ~~providing statewide enhanced 911 emergency telephone service to~~
9 ~~maintain a separate accounting of the costs of providing an~~
10 ~~enhanced 911 emergency service and the revenues received from~~
11 ~~related surcharges until the next general rate case. The~~
12 ~~commission shall further require that every public utility~~
13 ~~imposing a surcharge shall identify such as a separate line item~~
14 ~~on all customer billing statements.~~

15 ~~(d) This section shall not preclude the commission from~~
16 ~~changing any rate, established pursuant to this section, either~~
17 ~~specifically or pursuant to any general restructuring of all~~
18 ~~telephone rates, charges, and classifications."]~~

19 SECTION 21. Section 269-34, Hawaii Revised Statutes, is
20 repealed.



1 ~~["§269-34] Obligations of telecommunications carriers.~~

2 ~~In accordance with conditions and guidelines established by the~~
3 ~~commission to facilitate the introduction of competition into~~
4 ~~the State's telecommunications marketplace, each~~
5 ~~telecommunications carrier, upon bona fide request, shall~~
6 ~~provide services or information services, on reasonable terms~~
7 ~~and conditions, to an entity seeking to provide intrastate~~
8 ~~telecommunications, including:~~

9 ~~(1) Interconnection to the telecommunications carrier's~~
10 ~~telecommunications facilities at any technically~~
11 ~~feasible and economically reasonable point within the~~
12 ~~telecommunications carrier's network so that the~~
13 ~~networks are fully interoperable;~~

14 ~~(2) The current interstate tariff used as the access rate~~
15 ~~until the commission can adopt a new intrastate local~~
16 ~~service interconnection tariff pursuant to section~~
17 ~~269-37;~~

18 ~~(3) Nondiscriminatory and equal access to any~~
19 ~~telecommunications carrier's telecommunications~~
20 ~~facilities, functions, and the information necessary~~
21 ~~to the transmission and routing of any~~



1 ~~telecommunications service and the interoperability of~~
2 ~~both carriers' networks;~~

3 ~~(4) Nondiscriminatory access among all telecommunications~~
4 ~~carriers, where technically feasible and economically~~
5 ~~reasonable, and where safety or the provision of~~
6 ~~existing electrical service is not at risk, to the~~
7 ~~poles, ducts, conduits, and rights of way owned or~~
8 ~~controlled by the telecommunications carrier, or the~~
9 ~~commission shall authorize access to electric~~
10 ~~utilities' poles as provided by the joint pole~~
11 ~~agreement, commission tariffs, rules, orders, or~~
12 ~~Federal Communications Commission rules and~~
13 ~~regulations;~~

14 ~~(5) Nondiscriminatory access to the network functions of~~
15 ~~the telecommunications carrier's telecommunications~~
16 ~~network, that shall be offered on an unbundled,~~
17 ~~competitively neutral, and cost-based basis;~~

18 ~~(6) Telecommunications services and network functions~~
19 ~~without unreasonable restrictions on the resale or~~
20 ~~sharing of those services and functions; and~~



1 ~~(7) Nondiscriminatory access of customers to the~~
2 ~~telecommunications carrier of their choice without the~~
3 ~~need to dial additional digits or access codes, where~~
4 ~~technically feasible. The commission shall determine~~
5 ~~the equitable distribution of costs among the~~
6 ~~authorized telecommunications carriers that will use~~
7 ~~such access and shall establish rules to ensure such~~
8 ~~access.~~

9 ~~Where possible, telecommunications carriers shall enter~~
10 ~~into negotiations to agree on the provision of services or~~
11 ~~information services without requiring intervention by the~~
12 ~~commission; provided that any such agreement shall be subject to~~
13 ~~review by the commission to ensure compliance with the~~
14 ~~requirements of this section."]~~

15 SECTION 22. Section 269-35, Hawaii Revised Statutes, is
16 repealed.

17 ~~["§269-35] Universal service. The commission shall~~
18 ~~preserve and advance universal service by:~~

19 ~~(1) Maintaining affordable, just, and reasonable rates for~~
20 ~~basic residential service;~~



- 1 ~~(2) Assisting individuals or entities who cannot afford~~
2 ~~the cost of or otherwise require assistance in~~
3 ~~obtaining or maintaining their basic service or~~
4 ~~equipment as determined by the commission; and~~
5 ~~(3) Ensuring that consumers are given the information~~
6 ~~necessary to make informed choices among the~~
7 ~~alternative telecommunications providers and~~
8 ~~services."]~~

9 SECTION 23. Section 269-36, Hawaii Revised Statutes, is
10 repealed.

11 ~~[" §269-36 Telecommunications number portability. The~~
12 ~~commission shall ensure that telecommunications number~~
13 ~~portability within an exchange is available, upon request, as~~
14 ~~soon as technically feasible and economically reasonable. An~~
15 ~~impartial entity shall administer telecommunications numbering~~
16 ~~and make the numbers available on an equitable basis."]~~

17 SECTION 24. Section 269-37, Hawaii Revised Statutes, is
18 repealed.

19 ~~[" §269-37 Compensation agreements. The commission shall~~
20 ~~ensure that telecommunications carriers are compensated on a~~
21 ~~fair basis for termination of telecommunications services on~~



1 ~~each other's networks, taking into account, among other things,~~
2 ~~reasonable and necessary costs to each telecommunications~~
3 ~~carrier of providing the services in question.~~

4 ~~Telecommunications carriers may negotiate compensation~~
5 ~~arrangements, that may include "bill and keep", mutual and equal~~
6 ~~compensation, or any other reasonable division of revenues~~
7 ~~pending tariff access rates to be set by the commission. Upon~~
8 ~~failure of the negotiations, the commission shall determine the~~
9 ~~proper methodology and amount of compensation."]~~

10 SECTION 25. Section 269-38, Hawaii Revised Statutes, is
11 repealed.

12 ~~["§269-38] Regulatory flexibility for effectively~~
13 ~~competitive services. The commission may allow~~
14 ~~telecommunications carriers to have pricing flexibility for~~
15 ~~services that the commission finds are effectively competitive,~~
16 ~~provided that the rates for:~~

17 ~~(1) Basic telephone service and for services that are not~~
18 ~~effectively competitive are cost based and remain~~
19 ~~just, reasonable, and nondiscriminatory; and~~

20 ~~(2) Universal service is preserved and advanced."]~~



SECTION 26. Section 269-39, Hawaii Revised Statutes, is repealed.

~~["§269-39] Cross subsidies. (a) The commission shall ensure that noncompetitive services shall not cross subsidize competitive services. Cross subsidization shall be deemed to have occurred:~~

~~(1) If any competitive service is priced below the total service long run incremental cost of providing the service as determined by the commission in subsection (b); or~~

~~(2) If competitive services, taken as a whole, fail to cover their direct and allocated joint and common costs as determined by the commission.~~

~~(b) The commission shall determine the methodology and frequency with which providers calculate total service long run incremental cost and fully allocated joint and common costs. The total service long run incremental cost of a service shall include an imputation of an amount equal to the contribution that the telecommunications carrier receives from noncompetitive inputs used by alternative providers in providing the same or equivalent service."]~~



SECTION 27. Section 269-40, Hawaii Revised Statutes, is repealed.

~~["§269-40] Access to advanced services. The commission shall ensure that all consumers are provided with nondiscriminatory, reasonable, and equitable access to high quality telecommunications network facilities and capabilities that provide subscribers with sufficient network capacity to access information services that provide a combination of voice, data, image, and video, and that are available at just, reasonable, and nondiscriminatory rates that are based on reasonably identifiable costs of providing the services."]~~

SECTION 28. Section 269-41, Hawaii Revised Statutes, is repealed.

~~["§269-41] Universal service program; establishment; purpose; principles. There is established the universal service program. The purpose of this program is to:~~

~~(1) Maintain affordable, just, and reasonable rates for basic residential telecommunications service, as defined by the commission;~~

~~(2) Assist customers located in the areas of the State that have high costs of essential telecommunications~~



1 ~~service, low income customers, and customers with~~
2 ~~disabilities, in obtaining and maintaining access to a~~
3 ~~basic set of essential telecommunications services as~~
4 ~~determined by the commission. The commission may~~
5 ~~expand or otherwise modify relevant programs, such as~~
6 ~~the lifeline program under section 269-16.5;~~

7 ~~(3) Ensure that consumers in all communities are provided~~
8 ~~with access, at reasonably comparable rates, to all~~
9 ~~telecommunications services which are used by a~~
10 ~~majority of consumers located in metropolitan areas of~~
11 ~~the State. The commission shall provide for a~~
12 ~~reasonable transition period to support the statewide~~
13 ~~deployment of these advanced telecommunications~~
14 ~~services, including, but not limited to, the use of~~
15 ~~strategic community access points in public facilities~~
16 ~~such as education, library, and health care~~
17 ~~facilities;~~

18 ~~(4) Ensure that consumers are given the information~~
19 ~~necessary to make informed choices among the~~
20 ~~alternative telecommunications carriers and services;~~
21 ~~and~~



~~(5) Promote affordable access throughout the State to enhanced government information and services, including education, health care, public safety, and other government services.~~

~~The commission shall administer the universal service program, including the establishment of criteria by which the purposes of the program are met."]~~

SECTION 29. Section 269-42, Hawaii Revised Statutes, is repealed.

~~["§269-42 Universal service program; contributions. (a) There is established outside of the state treasury a special fund to be known as the universal service fund to be administered by the commission to implement the policies and goals of universal service. The fund shall consist of contributions from the sources identified in subsections (c) and (f). Interest earned from the balance of the fund shall become a part of the fund. The commission shall adopt rules regarding the distribution of moneys from the fund including reimbursements to carriers for providing reduced rates to low-income, elderly, residents of underserved or rural areas, or other subscribers, as authorized by the commission.~~



1 ~~(b) The commission may allow distribution of funds~~
2 ~~directly to customers based upon a need criteria established by~~
3 ~~the commission.~~

4 ~~(c) A telecommunications carrier or other person~~
5 ~~contributing to the universal service program may establish a~~
6 ~~surcharge which is clearly identified and explained on~~
7 ~~customers' bills to collect from customers contributions~~
8 ~~required under this section.~~

9 ~~(d) Telecommunications carriers may compete to provide~~
10 ~~services to underserved areas using funds from the universal~~
11 ~~service program. For the purposes of this section, "underserved~~
12 ~~areas" means those areas in the State that lack or have very~~
13 ~~limited access to high capacity, advanced telecommunications~~
14 ~~networks and information services, including access to cable~~
15 ~~television.~~

16 ~~(e) The commission shall require all telecommunications~~
17 ~~carriers to contribute to the universal service program. The~~
18 ~~commission may require a person other than a telecommunications~~
19 ~~carrier to contribute to the universal service program if, after~~
20 ~~notice and opportunity for hearing, the commission determines~~
21 ~~that the person is offering a commercial service in the State~~



1 ~~that directly benefits from the telecommunications~~
2 ~~infrastructure, and that directly competes with a~~
3 ~~telecommunications service provided in the State for which a~~
4 ~~contribution is required under this subsection.~~

5 ~~(f) The commission shall designate the method by which the~~
6 ~~contributions under subsection (e) shall be calculated and~~
7 ~~collected. The commission shall consider basing contributions~~
8 ~~solely on the gross operating revenues from the retail provision~~
9 ~~of intrastate telecommunications services offered by the~~
10 ~~telecommunications carriers subject to the contribution."]~~

11 SECTION 30. Section 269-43, Hawaii Revised Statutes, is
12 repealed.

13 ~~["[§269-43] Carriers of last resort. (a) The commission~~
14 ~~may define and designate local exchange service areas where the~~
15 ~~commission has determined that providing universal service funds~~
16 ~~to a single provider will be the most appropriate way to ensure~~
17 ~~service for these areas.~~

18 ~~(b) The commission shall determine the level of service~~
19 ~~that is appropriate for each designated local exchange service~~
20 ~~area and shall invite telecommunications providers to bid for a~~
21 ~~level of service that is appropriate. The successful bidder~~



1 ~~shall be designated the carrier of last resort for the~~
2 ~~designated local exchange service area for a period of time and~~
3 ~~upon conditions set by the commission. In determining the~~
4 ~~successful bidder, the commission shall take into consideration~~
5 ~~the level of service to be provided, the investment commitment,~~
6 ~~and the length of the agreement, in addition to the other~~
7 ~~qualifications of the bidder.~~

8 ~~(c) The universal service fund shall also provide service~~
9 ~~drops and basic service at discounted rates to public~~
10 ~~institutions, as stated in section 269-41.~~

11 ~~(d) The commission shall adopt rules pursuant to chapter~~
12 ~~91 to carry out the provisions of this section."]~~

13 PART II

14 SECTION 31. All rights, powers, functions, and duties of
15 the department of commerce and consumer affairs relating to
16 cable television systems and the broadband assistance advisory
17 council are transferred to the department of business, economic
18 development, and tourism.

19 All employees who occupy civil service positions and whose
20 functions are transferred to the department of business,
21 economic development, and tourism by this Act shall retain their



1 civil service status, whether permanent or temporary. Employees
2 shall be transferred without loss of salary, seniority (except
3 as prescribed by applicable collective bargaining agreements),
4 retention points, prior service credit, any vacation and sick
5 leave credits previously earned, and other rights, benefits, and
6 privileges, in accordance with state personnel laws and this
7 Act; provided that the employees possess the minimum
8 qualifications and public employment requirements for the class
9 or position to which transferred or appointed, as applicable;
10 provided further that subsequent changes in status may be made
11 pursuant to applicable civil service and compensation laws.

12 Any employee who, prior to this Act, is exempt from civil
13 service and is transferred as a consequence of this Act may
14 retain the employee's exempt status, but shall not be appointed
15 to a civil service position as a consequence of this Act. An
16 exempt employee who is transferred by this Act shall not suffer
17 any loss of prior service credit, vacation or sick leave credits
18 previously earned, or other employee benefits or privileges as a
19 consequence of this Act; provided that the employees possess
20 legal and public employment requirements for the position to
21 which transferred or appointed, as applicable; provided further



1 that subsequent changes in status may be made pursuant to
2 applicable employment and compensation laws. The director of
3 business, economic development, and tourism may prescribe the
4 duties and qualifications of these employees and fix their
5 salaries without regard to chapter 76, Hawaii Revised Statutes.

6 SECTION 32. All appropriations, including all unencumbered
7 moneys attributable to fees, penalties, or other assessments or
8 collections made from telecommunications carriers by the public
9 utilities commission and cable systems by the department of
10 commerce and consumer affairs and deposited into either the
11 public utilities commission special fund established pursuant to
12 section 269-33, Hawaii Revised Statutes, or the compliance
13 resolution fund established pursuant to section 26-9(o), Hawaii
14 Revised Statutes, records, equipment, machines, files, supplies,
15 contracts, books, papers, documents, maps, and other personal
16 property heretofore made, used, acquired, or held by the
17 department of commerce and consumer affairs relating to the
18 functions transferred to the department of business, economic
19 development, and tourism shall be transferred with the functions
20 to which they relate.



1 SECTION 33. All rules, policies, procedures, guidelines,
2 and other material adopted or developed by the department of
3 commerce and consumer affairs under chapter 440G, Hawaii Revised
4 Statutes, to implement provisions of the Hawaii Revised Statutes
5 which are reenacted or made applicable to the department of
6 business, economic development, and tourism by this Act, shall
7 remain in full force and effect until amended or repealed by the
8 department of business, economic development, and tourism
9 pursuant to chapter 91, Hawaii Revised Statutes. In the
10 interim, every reference to the department of commerce and
11 consumer affairs or director of commerce and consumer affairs in
12 those rules, policies, procedures, guidelines, and other
13 material is amended to refer to the department of business,
14 economic development, and tourism or the director of business,
15 economic development, and tourism as appropriate.

16 SECTION 34. All rights, powers, functions, and duties of
17 the public utilities commission relating to telecommunications
18 carriers are transferred to the department of business, economic
19 development, and tourism.

20 All employees who occupy civil service positions and whose
21 functions are transferred to the department of business,



1 economic development, and tourism by this Act shall retain their
2 civil service status, whether permanent or temporary. Employees
3 shall be transferred without loss of salary, seniority (except
4 as prescribed by applicable collective bargaining agreements),
5 retention points, prior service credit, any vacation and sick
6 leave credits previously earned, and other rights, benefits, and
7 privileges, in accordance with state personnel laws and this
8 Act; provided that the employees possess the minimum
9 qualifications and public employment requirements for the class
10 or position to which transferred or appointed, as applicable;
11 provided further that subsequent changes in status may be made
12 pursuant to applicable civil service and compensation laws.

13 Any employee who, prior to this Act, is exempt from civil
14 service and is transferred as a consequence of this Act may
15 retain the employee's exempt status, but shall not be appointed
16 to a civil service position as a consequence of this Act. An
17 exempt employee who is transferred by this Act shall not suffer
18 any loss of prior service credit, vacation or sick leave credits
19 previously earned, or other employee benefits or privileges as a
20 consequence of this Act; provided that the employees possess
21 legal and public employment requirements for the position to



1 which transferred or appointed, as applicable; provided further
2 that subsequent changes in status may be made pursuant to
3 applicable employment and compensation laws. The director of
4 business, economic development, and tourism may prescribe the
5 duties and qualifications of these employees and fix their
6 salaries without regard to chapter 76, Hawaii Revised Statutes.

7 SECTION 35. All appropriations, records, equipment,
8 machines, files, supplies, contracts, books, papers, documents,
9 maps, and other personal property heretofore made, used,
10 acquired, or held by the public utilities commission relating to
11 the functions transferred to the department of business,
12 economic development, and tourism shall be transferred with the
13 functions to which they relate.

14 SECTION 36. All rules, policies, procedures, guidelines,
15 and other material adopted or developed by the public utilities
16 commission under chapter 269, Hawaii Revised Statutes, to
17 implement provisions of the Hawaii Revised Statutes which are
18 reenacted or made applicable to the department of business,
19 economic development, and tourism by this Act, shall remain in
20 full force and effect until amended or repealed by the
21 department of business, economic development, and tourism



1 pursuant to chapter 91, Hawaii Revised Statutes. In the
 2 interim, every reference to the public utilities commission or
 3 the chair or a commissioner of the public utilities commission
 4 in those rules, policies, procedures, guidelines, and other
 5 material is amended to refer to the department of business,
 6 economic development, and tourism or the director of business,
 7 economic development, and tourism as appropriate.

8 SECTION 37. In codifying the new sections added by section
 9 2 of this Act, the revisor of statutes shall substitute
 10 appropriate section numbers for the letters used in designating
 11 the new sections in this Act.

12 SECTION 38. Statutory material to be repealed is bracketed
 13 and stricken. New statutory material is underscored.

14 SECTION 39. This Act shall take effect on July 1, 2019.

15

INTRODUCED BY:

[Signature] *[Signature]*
[Signature] *[Signature]*
[Signature] *[Signature]*
[Signature] *[Signature]*
[Signature] *[Signature]*



H.B. NO. 2236

Report Title:

Cable TV; Telecommunications; DCCA; PUC; DBEDT

Description:

Transfers to the Department of Business, Economic Development, and Tourism (DBEDT) jurisdiction over cable TV and the Broadband Assistance Advisory Council from the Department of Commerce and Consumer Affairs and telecommunications carriers from the Public Utilities Commission. Establishes the position of a commissioner of telecommunications. Creates special fund in DBEDT for cable TV and telecommunications carriers. Requires the Broadband Assistance Advisory Council to advise the Director of DBEDT on broadband deployment.

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

