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# A BILL FOR AN ACT

RELATING TO ENERGY.

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

1           SECTION 1. The legislature finds that it is imperative to  
2 enable the development of affordable clean energy resources for  
3 the benefit of utility customers in the State. Many existing  
4 generating units in the State will need to be retired in the  
5 next few years due to obsolescence and environmental permitting  
6 requirements. The impending retirement of these units makes it  
7 urgent to obtain replacement resources, without which the  
8 reliability of electric supplies in the State will be at risk.  
9 In addition, continued reliance on these aging units, even if  
10 feasible, would result in increased costs for utility customers  
11 and continued reliance on fossil fuels, contrary to the State's  
12 policy to transition to renewable, non-carbon-emitting  
13 resources.

14           The procurement or purchase of energy from replacement  
15 clean energy resources by a certain investor-owned electric  
16 utility and its electric utility subsidiaries is ongoing in its  
17 Stage 3 request for proposals, further anticipated in its first



1 Integrated Grid Planning request for proposals, and other  
2 proposals. These proposals will set forth energy plans that  
3 have been developed through extensive engagement with local  
4 stakeholders and communities and reviewed and approved by the  
5 public utilities commission. The legislature finds that  
6 successful purchase of energy from clean energy resources is in  
7 the public interest and necessary to avoid significant  
8 detrimental reliability and affordability impacts to electric  
9 utility customers.

10 The legislature further finds that the development of clean  
11 energy resources by independent power producers is essential to  
12 achieve the State's goals of one hundred per cent net  
13 electricity sales from renewable sources by 2045, a zero  
14 emissions economy by 2045, and greater energy security and  
15 energy diversification, as established by the Hawaii State  
16 Planning Act and existing public utility laws.

17 The legislature also finds that continued development of  
18 clean energy resources requires adequate assurances that  
19 payments for purchased power will be made to independent power  
20 producers as and when due by the utility under power purchase  
21 agreements. The current sub-investment-grade status of a



1 certain investor-owned electric utility and its subsidiaries,  
2 arising from the tragic events that occurred in the 2023 Maui  
3 wildfires, has led independent power producers, and those who  
4 would otherwise finance renewable energy projects, to raise  
5 concerns about the reliability of payment by the utility and its  
6 subsidiaries under power purchase agreements procured through  
7 the Stage 3 and Integrated Grid Planning requests for proposals.  
8 Those concerns may cause independent power producers to cancel  
9 renewable energy projects or increase the prices they would  
10 charge for deliveries to address this perceived credit risk.  
11 Either outcome would be contrary to the interests of electric  
12 utility customers in the State.

13 The legislature further finds that the public interest  
14 would be served if the department of budget and finance enters  
15 into "step-in agreements" with independent power producers,  
16 pursuant to which the department of budget and finance would  
17 agree to make payments to the independent power producers after  
18 a failure by an electric utility to make required payments  
19 pursuant to the terms of the power purchase agreements. The  
20 department of budget and finance's obligation to make payments  
21 pursuant to the terms of a step-in agreement is limited to the



1 moneys associated with a power purchase agreement subject to a  
2 step-in agreement and reserve fees that are on deposit in a  
3 power purchase costs trust fund. Neither the full faith and  
4 credit of the State, nor any other moneys of the State, will be  
5 pledged for any obligations under a step-in agreement.

6       The legislature finds that step-in agreements may provide  
7 assurances that payments for purchased power will be made to  
8 independent power producers as and when due by the utility under  
9 the covered power purchase agreements. The legislature also  
10 finds that the intent of this Act is further served by  
11 appointing, authorizing, and empowering the electric utility to  
12 serve as the billing, collection, and payment agent of the  
13 department of budget and finance. Prior to a payment default by  
14 the electric utility, the electric utility will be authorized to  
15 utilize moneys to discharge its obligations to pay independent  
16 power producers for electric energy and related products. The  
17 obligations of the department of budget and finance under this  
18 Act are undertaken for a public purpose, namely, the protection  
19 of public health, safety, and welfare by supporting the  
20 development of clean energy resources that are needed for the  
21 reliable provision of electric supply at a reasonable cost.



1           Therefore, the purpose of this Act is to:

2           (1) Require the department of budget and finance to enter  
3           into a step-in agreement with an independent power  
4           producer under which the department of budget and  
5           finance will agree to make required payments to the  
6           independent power producer after a failure by the  
7           electric utility to make required payments pursuant to  
8           the terms of a power purchase agreement;

9           (2) Establish a trust fund outside the state treasury that  
10          shall be capitalized by money from a surcharge  
11          supporting a reserve account and, in the event of a  
12          default, by money received from power purchase  
13          charges, in each case associated with covered power  
14          purchase agreements, for the fulfillment of payment  
15          obligations arising from the power purchase agreement;

16          (3) Establish that money collected from on-bill charges  
17          associated with covered power purchase agreements and  
18          money from a surcharge supporting a reserve account  
19          that are deposited in the power purchase costs trust  
20          fund shall be held in trust by the State, and that  
21          independent power producers shall hold a beneficial



1 interest in the moneys to the extent of the amounts  
2 owed to such independent power producers under the  
3 covered power purchase agreements; and

4 (4) Appoint, authorize, and empower an electric utility to  
5 serve as the billing, collection, and payment agent of  
6 the department of budget and finance to implement the  
7 requirements of this Act.

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

11 **"PART . STEP-IN AGREEMENTS COVERING POWER PURCHASE COSTS**

12 **§269-A Definitions.** As used in this part:

13 "Covered power purchase agreement" means a power purchase  
14 agreement that is subject to a step-in agreement.

15 "Default" means the failure by an electric utility to pay  
16 power purchase costs as and when due to an obligee under a  
17 covered power purchase agreement after the expiration of any  
18 applicable grace or cure periods and extensions thereto.

19 "Default" shall not mean a bankruptcy filing by an electric  
20 utility.



1 "Department" means the department of budget and finance, or  
2 any successor by law.

3 "Electric utility" means a public utility that produces,  
4 conveys, transmits, delivers, or furnishes electric power.

5 "Energy cost recovery clause" means the provision, or other  
6 equivalent, in an electric utility's rate schedules that allows  
7 the electric utility to recover its costs of fuel, expenses, and  
8 related taxes, for energy costs of power purchased under a power  
9 purchase agreement.

10 "Fund" means the power purchase costs trust fund  
11 established pursuant to section 269-D.

12 "Investment grade status" means a credit rating for the  
13 electric utility's senior unsecured long-term debt obligations  
14 or an issuer credit rating for the electric utility, in each  
15 case, without regard for third-party credit enhancements, from  
16 at least two out of three of the following:

- 17 (1) BBB- or higher for S&P Global Ratings, or any  
18 successor by law;
- 19 (2) BAA3 or higher by Moody's Investor Services, Inc., or  
20 any successor by law; or



1 (3) BBB- or higher by Fitch Ratings, Inc., or any  
2 successor by law.

3 "Obligee" means any user, owner, or operator of the Hawaii  
4 electric system that is owed payment of power purchase costs by  
5 an electric utility under a power purchase agreement.

6 "Power purchase agreement" means a contract between an  
7 electric utility and a user, owner, or operator of the Hawaii  
8 electric system, approved by the public utilities commission,  
9 pursuant to which the electric utility agrees to purchase, and  
10 the user, owner, or operator of the Hawaii electric system  
11 agrees to sell, electric energy and related products produced by  
12 plants or facilities.

13 "Power purchase charges" means the on-bill charges,  
14 excluding reserve fees, authorized by the public utilities  
15 commission to be imposed on and collected from all existing and  
16 future customers of an electric utility or any successor for  
17 power purchase costs, including but not limited to the energy  
18 cost recovery clause and the purchased power adjustment clause.

19 "Power purchase costs" means costs incurred by an electric  
20 utility pursuant to the terms of a power purchase agreement,  
21 including without limitation, costs such as termination payments



1 payable by an electric utility in connection with the  
2 termination of a power purchase agreement as a result of a  
3 default by the electric utility. "Power purchase costs"  
4 includes, without limitation, all categories of costs  
5 recoverable under the energy cost recovery clause and the  
6 purchased power adjustment clause under their respective  
7 tariffs.

8 "Purchased power adjustment clause" means the provision, or  
9 other equivalent, in an electric utility's rate schedules that  
10 allows the electric utility to recover expenses and related  
11 taxes for non-energy costs of power purchased under a power  
12 purchase agreement.

13 "Reserve fees" means the surcharges described in section  
14 269-E(a).

15 "Revenue" means moneys from power purchase charges and  
16 reserve fees net of any applicable taxes or government fees,  
17 including but not limited to the franchise tax, public service  
18 company tax, and public utilities commission fee.

19 "Step-in agreement" means a contract by which the  
20 department undertakes the obligation of payment for power  
21 purchase costs owed to an obligee as and when due by an electric



1 utility under a power purchase agreement following a default, as  
2 described in section 269-B(a); provided that the department's  
3 payment obligation under the step-in agreement is limited to the  
4 moneys from power purchase charges and reserve fees collected in  
5 connection with the covered power purchase agreements and on  
6 deposit in the fund.

7 "User, owner, or operator of the Hawaii electric system"  
8 has the same meaning as defined in section 269-141.

9 **§269-B Step-in agreements.** (a) The department shall  
10 enter into a step-in agreement with an obligee after receipt of  
11 satisfactory results from a due diligence investigation by the  
12 department of an obligee and the proposed step-in agreement.  
13 The step-in agreement shall require the department to make  
14 payments for power purchase costs owed by an electric utility to  
15 the obligee in the event of a default; provided that before  
16 entering into any step-in agreement, the department shall  
17 conduct due diligence on the obligee, including through  
18 communication with the prospective obligee, within thirty days  
19 of the effective date of this Act. Pursuant to the step-in  
20 agreement and upon the default, the department shall make  
21 payments to the obligee for power purchase costs with moneys on



1 deposit in the fund as and when due by the electric utility  
2 under the covered power purchase agreement; provided that any  
3 step-in agreement shall provide that the department's payment  
4 obligation thereunder shall be limited to the moneys from power  
5 purchase charges and reserve fees collected in connection with  
6 covered power purchase agreements that are on deposit in the  
7 fund. Each step-in agreement shall include a clause stating  
8 that neither the full faith and credit of the State nor any  
9 other moneys of the State will be pledged for any obligations  
10 pursuant to the terms of the step-in agreement; that in any  
11 action concerning a failure by the department to comply with the  
12 terms of the step-in agreement, the sole and exclusive remedy  
13 available to an obligee and the electric utility against the  
14 department shall be an order directing specific performance of  
15 the step-in agreement; and that under no circumstances shall the  
16 department be liable for any costs, expenses, other monetary  
17 relief, or compensatory damages. An obligee of a covered power  
18 purchase agreement shall have no claim or lien on any moneys of  
19 the State except for those revenues from the power purchase  
20 charges and reserve fees attributable to the covered power  
21 purchase agreement that are transferred by the electric utility



1 and on deposit in the fund. An obligee shall remain entitled to  
2 all payments for power purchase costs owed under the covered  
3 power purchase agreement, whether or not the moneys from power  
4 purchase charges attributable to the covered power purchase  
5 agreement are timely collected. Notwithstanding anything to the  
6 contrary in this part, a step-in agreement shall also obligate  
7 the department to pay claims of the obligee from moneys on  
8 deposit in the fund arising out of termination of a power  
9 purchase agreement by the electric utility under bankruptcy law.

10 (b) The department shall enter into a step-in agreement  
11 for each covered power purchase agreement. The department shall  
12 enter into a step-in agreement related to a power purchase  
13 agreement when the power purchase agreement is executed, or if  
14 the power purchase agreement has already been executed as of  
15 July 1, 2025, as soon as reasonably possible.

16 (c) The payment obligation of the department under a step-  
17 in agreement shall commence not later than two days after the  
18 date of a notice given by the department to the electric utility  
19 pursuant to section 269-C(a).

20 (d) The step-in agreement shall terminate when the credit  
21 rating of the electric utility or its successor achieves



1 investment grade status or by express agreement of the obligee,  
2 department, and electric utility. Following the termination of  
3 a step-in agreement, the department shall have no obligation to  
4 the electric utility or the obligee upon a default by the  
5 electric utility.

6 (e) Following a default of a covered power purchase  
7 agreement and any payment by the department from moneys in the  
8 fund, the electric utility, through agreement with all obligees  
9 of its covered power purchase agreements, may elect to resume  
10 payments for power purchase costs owed by the electric utility,  
11 regardless of the credit rating of the electric utility at that  
12 time, in which case the electric utility shall cease to transfer  
13 revenues representing moneys from power purchase charges  
14 collected in connection with the covered power purchase  
15 agreement to the fund as described in section 269-C(a), and may  
16 use the revenues from power purchase charges through the vesting  
17 of title in the electric utility as described in subsection (h);  
18 provided that the payments shall not terminate the step-in  
19 agreement, which shall remain in effect until terminated  
20 pursuant to subsection (d), and the department shall remain  
21 obligated to pay the obligee upon a subsequent default by the



1 electric utility solely from moneys on deposit in the fund;  
2 provided further that no such election by the electric utility  
3 shall be permitted if the department has made payment for power  
4 purchase costs with moneys from the reserve fees.

5 (f) The department may impose other conditions, and may  
6 include other terms, in a step-in agreement that it deems  
7 necessary to implement the requirements of this part; provided  
8 that the conditions and terms shall not adversely affect the  
9 obligation of the department to make payments, but only to the  
10 extent that there are moneys in the fund for power purchase  
11 costs owed by an electric utility to the obligee as and when due  
12 in the event of a default as required by section 269-B(a) or  
13 otherwise inconsistent with the covered power purchase  
14 agreement.

15 (g) As consideration for the department entering into the  
16 step-in agreement, the electric utility or its successor shall  
17 enter into an agreement to assign and transfer title to the  
18 revenues from power purchase charges and reserve fees  
19 attributable to the covered power purchase agreement to the  
20 department to be held in trust for the benefit of the obligees  
21 under the covered power purchase agreement to the extent of the



1 amounts owed to the obligees. The assignment and transfer of  
2 title to the revenues by the electric utility shall be made and  
3 remain for the term of the step-in agreement free and clear of  
4 any prior lien, pledge, security interest, or encumbrance of any  
5 kind, and shall be exempt from section 269-19. The revenues  
6 shall not be subject to appropriation for any other purpose.  
7 The revenues shall be exempt from the requirements of chapters  
8 36 and 38. The electric utility or its successor shall be and  
9 remain at all times, even upon the occurrence and during the  
10 continuance of a default by the electric utility or its  
11 successor, obligated to bill and collect the power purchase  
12 charges and reserve fees as an agent for the department to  
13 effectuate the purposes of this part.

14 (h) Prior to default or an entry of an order of relief  
15 with respect to the electric utility under title 11 of the  
16 United States Code, if any payment obligation of the electric  
17 utility under a covered power purchase agreement for power  
18 purchase costs becomes owed and due, any title held by the  
19 department in trust to the revenues related to moneys from power  
20 purchase charges for the payment obligation owed and due shall  
21 divest from the department and vest in the electric utility or



1 its successor at the time the payment by the electric utility or  
2 its successor is made to the obligee. Any vesting of moneys  
3 from power purchase charges to the electric utility at the time  
4 of payment may be made without appropriation by the legislature  
5 or allotment. The department shall not otherwise assign, sell,  
6 or transfer any title to, or any claim or right to, the revenues  
7 from power purchase charges or reserve fees.

8 (i) To meet the requirements of the State and the public  
9 utilities commission pertaining to electric reliability, energy  
10 security, and energy diversification under this chapter and any  
11 rules adopted pursuant thereto, the electric utility shall  
12 ensure that it maintains sufficient availability of electric  
13 energy and related products, to the extent provided by an  
14 obligee in accordance with a covered power purchase agreement.  
15 The public utilities commission may exercise its regulatory  
16 powers to ensure that the electric utility complies with its  
17 obligations under the covered power purchase agreement.

18 (j) Notwithstanding any other law to the contrary, the  
19 electric utility shall file with the public utilities  
20 commission, and the public utilities commission may allow to  
21 become effective, monthly rate adjustments provided under the



1 energy cost recovery clause and purchased power adjustment  
2 clause to establish or adjust power purchase charges in a manner  
3 designed to:

4 (1) Generate sufficient moneys from power purchase charges  
5 to timely and fully pay amounts when owed and due  
6 under covered power purchase agreements;

7 (2) Ensure that in no event shall moneys from power  
8 purchase charges fall below the amounts owed and due  
9 under covered power purchase agreements by a sum that  
10 exceeds the amounts in the reserve account established  
11 under section 269-E; and

12 (3) Recover any applicable taxes and government fees and  
13 any incremental administrative costs of the electric  
14 utility or the department incurred to implement the  
15 requirements of this part.

16 To achieve the objectives established pursuant to this  
17 subsection, unless the public utilities commission otherwise  
18 directs, the electric utility may retain revenues collected from  
19 power purchase charges in excess of amounts owed and due under  
20 the covered power purchase agreements. Any moneys in the  
21 reserve account established under the fund shall remain with the



1 department. The obligations of the electric utility and of the  
2 public utilities commission under this section shall survive any  
3 default by the electric utility and shall terminate only upon  
4 the termination of the step-in agreement as provided in  
5 subsection (d).

6 (k) If an obligee provides notice to the department that  
7 the electric utility has failed to timely file any submission as  
8 described in subsection (j), the department shall promptly file,  
9 or direct the electric utility to file, pursuant to section  
10 269-F(a), and the public utilities commission shall allow to  
11 become effective, a substitute filing as if the filing had been  
12 submitted by the electric utility under subsection (j). The  
13 electric utility shall implement the power purchase charges in  
14 the substitute filing from the department.

15 **§269-C Default of electric utility; successor**

16 **requirements.** (a) If the obligee provides notice to the  
17 department of a default of a covered power purchase agreement,  
18 the department shall promptly provide the electric utility with  
19 a copy of the notice of the default. One day after the electric  
20 utility receives the notice, the electric utility shall transfer  
21 all revenues from the power purchase charges arising from any



1 covered power purchase agreements identified in the notice and  
2 reserve fees, regardless of when collected, then in its  
3 possession, and, subject to section 269-B(e), all future  
4 revenues from the power purchase charges and reserve fees  
5 thereafter collected to the fund established pursuant to section  
6 269-D(a). These amounts shall include all revenues received by  
7 the electric utility after a default for the power purchase  
8 charges and reserve fees billed before the default. The  
9 department shall use the revenues collected from the power  
10 purchase charges and reserve fees on deposit in the fund only in  
11 the order as follows:

- 12 (1) To pay power purchase costs pursuant to step-in  
13 agreements, subject to the appointment, authorization,  
14 and empowerment of the electric utility as an agent as  
15 described in section 269-F(e), and for revenues in  
16 excess of amounts owed under covered power purchase  
17 agreements;
- 18 (2) To recover any incremental administrative costs of the  
19 electric utility or the department incurred to  
20 implement the requirements of this part; and
- 21 (3) To implement a rate credit to customers.



1 (b) Any step-in agreement shall remain in effect  
2 notwithstanding any bankruptcy, reorganization, or other  
3 insolvency proceedings with respect to the electric utility.

4 (c) The obligation of the electric utility to collect and  
5 remit the revenues from power purchase charges and reserve fees  
6 pursuant to the requirements of this part shall not be subject  
7 to any setoff, counterclaim, surcharge, or defense by the  
8 electric utility, or in connection with a bankruptcy of any  
9 electric utility.

10 (d) Any successor to an electric utility shall be bound by  
11 the requirements of this part. The successor shall perform and  
12 satisfy all obligations of the electric utility in the same  
13 manner and to the same extent as the electric utility, including  
14 the obligation upon default to bill and collect the power  
15 purchase charges and reserve fees and remit to the fund the  
16 revenues collected in connection with any covered power purchase  
17 agreement, unless and until the step-in agreement is terminated  
18 as described in section 269-B(d).

19 (e) If the step-in agreement is terminated as described in  
20 section 269-B(d), then by operation of law, any title to the  
21 revenues related to power purchase charges attributable to the



1 covered power purchase agreement shall immediately cease to be  
 2 held in trust and the electric utility or its successor shall  
 3 thereafter be the sole holder of title or beneficial and  
 4 equitable interest in, and any claim or right to, the revenues  
 5 related to power purchase charges, and the obligation of the  
 6 electric utility or its successor to bill and collect the power  
 7 purchase charges and reserve fees as an agent for the  
 8 department, and, if applicable, to remit the collected revenues  
 9 to the fund, shall terminate.

10       **§269-D Power purchase costs trust fund.** (a) There is  
 11 established outside the state treasury the power purchase costs  
 12 trust fund to be administered by the department. The department  
 13 shall establish and maintain two separate accounts within the  
 14 fund, with the first account to be utilized for the deposit of  
 15 all power purchase charges transferred by the electric utility,  
 16 and the second account to be utilized for the deposit of reserve  
 17 fees transferred by the electric utility. The electric utility  
 18 shall transfer to the department for deposit into the applicable  
 19 account in the fund all revenues collected in connection with  
 20 covered power purchase agreements from:



1 (1) Power purchase charges in the event of a default of  
2 covered power purchase agreements; and

3 (2) Reserve fees.

4 (b) Moneys in the fund shall be held by the department in  
5 trust for the term of the step-in agreement for the benefit of  
6 obligees of covered power purchase agreements to the extent of  
7 the amounts owed to the obligees. The department's payments  
8 from the fund shall be made without appropriation or allotment,  
9 as provided in section 37-40.

10 (c) If a step-in agreement is terminated as described in  
11 section 269-B(d), the fund shall cease to receive any moneys  
12 from the power purchase charges collected by the electric  
13 utility or its successor and the department shall pay to the  
14 electric utility or its successor the remainder of any moneys in  
15 the fund attributable to power purchase charges, which shall be  
16 considered moneys of the electric utility or its successor.

17 (d) The department shall be under no obligation to make  
18 payment to any obligee in excess of the moneys in the fund. Any  
19 default or failure by the department to make payments pursuant  
20 to the terms of a step-in agreement under this part shall not  
21 result in any recourse by the electric utility or obligee to any



1 funds of the State. An obligee shall only have the benefit of  
 2 moneys derived from power purchase charges and the reserve fee  
 3 collected and on deposit in the fund. In any action concerning  
 4 a breach by the department of a step-in agreement, the sole and  
 5 exclusive remedy available to an obligee and the electric  
 6 utility against the department shall be an order directing  
 7 specific performance of the step-in agreement and under no  
 8 circumstances shall the department be liable for any costs,  
 9 expenses, any monetary relief, or compensatory damages.

10 **§269-E Reserve account; establishment.** (a) By August 1,  
 11 2025, the public utilities commission may create a utility-wide  
 12 nonbypassable surcharge, referred to as reserve fees, which  
 13 shall be deposited into an account within the fund and pledged  
 14 to secure and be applied to the repayment of payment obligations  
 15 under a covered power purchase agreement to the extent that  
 16 there is a shortfall in the amount of power purchase charges on  
 17 deposit in the fund. Reserve fees shall be collected in full by  
 18 the electric utility or its successors, as collection agents for  
 19 the department, through a surcharge that is separate and apart  
 20 from the electric utility's rates. The department shall  
 21 establish and maintain a separate account within the fund to



1 accept and account for revenues from reserve fees, and the  
2 electric utility shall, within one day of receipt, transfer all  
3 revenues collected from the surcharge related to the reserve  
4 fees directly into the account. The electric utility shall not  
5 otherwise assign, sell, or transfer any title to, or any claim  
6 or right to, the revenues from reserve fees, except as provided  
7 under this part. The electric utility shall not access the  
8 reserve account or utilize the revenues deposited therein,  
9 except as directed by the department pursuant to section  
10 269-F(e). The public utilities commission may require, in the  
11 financing order creating the surcharge, that, if a default  
12 occurs by the electric utility in remittance of the reserve fee  
13 collected, the public utilities commission, upon the application  
14 by the department, and without limiting any other remedies  
15 available to the department by reason of the default, shall  
16 order the sequestration and payment to the department of the  
17 reserve fee. Any order shall remain in full force and effect  
18 notwithstanding any bankruptcy, reorganization, or other  
19 insolvency proceedings with respect to the electric utility.

20 (b) Reserve fees shall be collected and maintained, and if  
21 necessary, reinstated, to establish and replenish a reserve



1 account in an amount not to exceed the total of fifteen per cent  
2 of the forecasted monthly power purchase costs of all covered  
3 power purchase agreements plus an amount sufficient to recover  
4 costs related to administration of the reserve account and any  
5 applicable taxes and fees.

6 (c) If the step-in agreement terminates pursuant to  
7 section 269-B(d), reserve fees collected in connection with the  
8 covered power purchase agreement shall cease to be collected and  
9 all moneys remaining in the fund attributable to the reserve  
10 fees shall be returned in full, together with any associated  
11 interest earned, to customers through a rate credit.

12 **§269-F Electric utility; agent of the department.** (a) To  
13 implement the requirements of this part, the department may  
14 contract with an electric utility or its successor to act as an  
15 agent of the department to provide billing, collection, payment,  
16 and other related services. In any action concerning a breach  
17 by the department of the agency agreement, the sole remedy  
18 available to an electric utility against the department shall be  
19 an order directing specific performance of the agency agreement.  
20 Under no circumstances shall the department be liable for any



1 costs, expenses, other monetary relief, or compensatory damages  
2 in connection with a breach of any agency agreement.

3 (b) At the request of the department, the public utilities  
4 commission may order an electric utility or its successor to  
5 perform the duties pursuant to a contract under subsection (a).

6 (c) The act of serving as an agent to bill and to collect  
7 the power purchase charges and reserve fees shall not cause any  
8 electric utility to be subject to the laws that regulate  
9 financial institutions, escrow depositories, or collection  
10 agencies. An electric utility shall not be responsible for  
11 lending, underwriting, and credit determinations in respect to  
12 these billing and collection activities.

13 (d) To the extent any revenues are received by an electric  
14 utility pursuant to subsection (a) in the process of collection,  
15 and pending their transfer to the fund pursuant to section 269-  
16 D(a), those moneys shall be held in trust for the department's  
17 exercise of its obligations pursuant to this part.

18 (e) To implement the requirements of this part, the  
19 director of finance may appoint, authorize, and empower the  
20 electric utility, as agent for and on behalf of the department,  
21 to collect and pay out moneys, including from the fund, for



1 fulfillment of payment obligations of the department arising  
2 from step-in agreements related to covered power purchase  
3 agreements. The appointment shall terminate when the step-in  
4 agreement is terminated as described in section 269-B(d).

5 (f) The department's contract with the electric utility  
6 for services pursuant to subsections (a) and (e) shall be exempt  
7 from chapter 103D."

8 SECTION 3. If any provision of this Act, or the  
9 application thereof to any person or circumstance, is held  
10 invalid, the invalidity does not affect other provisions or  
11 applications of the Act that can be given effect without the  
12 invalid provision or application, and to this end the provisions  
13 of this Act are severable.

14 SECTION 4. In codifying the new sections added by section  
15 2 of this Act, the revisor of statutes shall substitute  
16 appropriate section numbers for the letters used in designating  
17 the new sections in this Act.

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



**Report Title:**

BNF; Public Utilities Commission; Energy; Step-In Agreements;  
Power Purchase Agreements; Power Purchase Costs Trust Fund

**Description:**

Requires the Department of Budget and Finance to enter into step-in agreements for payment obligations arising under certain power purchase agreements. Establishes the Power Purchase Costs Trust Fund. Establishes that money collected from on-bill charges for power purchase agreements and money received from a surcharge supporting a reserve account that are deposited in the Trust Fund shall be held in trust by the State, and that independent power producers shall hold a beneficial interest in the moneys to the extent of the amounts owed under the covered power purchase agreements. Appoints, authorizes, and empowers an electric utility to serve as the billing, collection, and payment agent of the Department of Budget and Finance in the service of performing step-in agreements. (SD1)

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

