



**JOSH GREEN, M.D.**  
GOVERNOR | KE KIA'ĀINA

**SYLVIA LUKE**  
LIEUTENANT GOVERNOR | KA HOPE KIA'ĀINA

**STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAI'I**  
**OFFICE OF THE DIRECTOR**  
**DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS**  
**KA 'OIHANA PILI KĀLEPA**  
335 MERCHANT STREET, ROOM 310  
P.O. BOX 541  
HONOLULU, HAWAII 96809  
Phone Number: (808) 586-2850  
Fax Number: (808) 586-2856  
cca.hawaii.gov

**NADINE Y. ANDO**  
DIRECTOR | KA LUNA HO'OKELE

**DEAN I HAZAMA**  
DEPUTY DIRECTOR | KA HOPE LUNA HO'OKELE

## **Testimony of the Department of Commerce and Consumer Affairs**

**Before the**  
**House Committee on Finance**  
**Monday, March 31, 2025**  
**3:15 p.m.**  
**Conference Room 308**

**On the following measure:**  
**S.B. 1501, S.D. 2, H.D. 1, RELATING TO ENERGY**

Chair Yamashita and Members of the Committee:

My name is Michael Angelo, and I am the Executive Director of the Department of Commerce and Consumer Affairs' (Department) Division of Consumer Advocacy. The Department offers comments on this bill.

The purpose of this bill is to: (1) require the Department of Budget and Finance to enter into step-in agreements for payment obligations arising under certain power purchase agreements; (2) establish the Power Purchase Costs Trust Fund; (3) establish that money from on-bill charges for power purchase agreements and money from a surcharge supporting a reserve account shall be held in trust by the State, and that independent power producers shall hold a beneficial interest in the revenues to the extent of the amounts owed under the covered power purchase agreements; and (4) appoint, authorize, and empower the 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.

At the outset, the Department notes to the Committee the past amendments and testimony to the proposed legislation provided by the Attorney General and Department of Budget and Finance as appropriate and important considerations.

As discussed in greater detail below, the Department also recommends that independent power producers (IPPs) be required to provide information and evidence within a docketed proceeding before the Public Utilities Commission on the financing terms and conditions that they were receiving or received:

- prior to the downgrade of Hawaiian Electric's credit rating due to the Maui wildfires,
- after the downgrade, and
- after the establishment of this legislation.

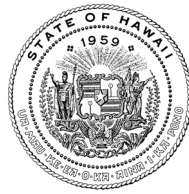
The information is needed to help provide assurance to the State and utility customers that IPPs are verifiably delivering on the intended benefit to the State and ratepayers of obtaining clean energy generation that is more cost effective and deployed in greater amounts than would be possible absent the legislation.

As the legislation is currently drafted, it does not include a mechanism to evaluate whether it resulted in the IPPs providing better power purchase agreement (PPA) pricing to customers and greater deployment of renewable energy. The legislation does, however, increase rates for Hawaiian Electric's customers to establish the reserve account in the proposed legislation's Hawaii Revised Statutes § 269-E. The reserve account is an additional financial benefit to IPPs because it provides a cushion to ensure that IPPs under a "covered power purchase agreement" are always paid in full. Critically, there is not a counterbalancing component to evaluate whether the legislation, if approved, would actually result in decreased pricing on PPAs to ratepayers or would enable IPPs to obtain financing for their renewable projects to allow them to proceed with their project.

While the Department believes that this legislation could possibly help provide a means to enable more cost-effective deployment of renewable energy more rapidly than without the legislation, it is critical that the legislation be amended to provide greater assurance to the State and utility customers that it is enabling IPPs to deliver the purported benefit of lower PPA pricing and greater renewable energy deployment. For

these reasons, the Department recommends that the bill's language be modified to require IPPs to provide information and evidence on the financing terms and conditions, as described above, to evaluate whether the State and ratepayers are receiving the benefits that the legislation intends to deliver.

Thank you for the opportunity to testify on this bill.



JOSH GREEN, M.D.  
GOVERNOR

SYLVIA LUKE  
LIEUTENANT GOVERNOR

LUIS P. SALAVERIA  
DIRECTOR

SABRINA NASIR  
DEPUTY DIRECTOR

EMPLOYEES' RETIREMENT SYSTEM  
HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND  
OFFICE OF THE PUBLIC DEFENDER

**STATE OF HAWAII**  
**DEPARTMENT OF BUDGET AND FINANCE**  
*Ka 'Oihana Mālama Mo'ohelu a Kālā*  
P.O. BOX 150  
HONOLULU, HAWAII 96810-0150

ADMINISTRATIVE AND RESEARCH OFFICE  
BUDGET, PROGRAM PLANNING AND MANAGEMENT DIVISION  
FINANCIAL ADMINISTRATION DIVISION  
OFFICE OF FEDERAL AWARDS MANAGEMENT

**TESTIMONY BY LUIS P. SALAVERIA**  
**DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE**  
**TO THE HOUSE COMMITTEE ON FINANCE**  
**ON**  
**SENATE BILL NO. 1501, S.D. 2, H.D. 1**

**March 31, 2025**  
**3:15 p.m.**  
**Room 308 and Videoconference**

**RELATING TO ENERGY**

The Department of Budget and Finance (B&F) offers comments on this bill.

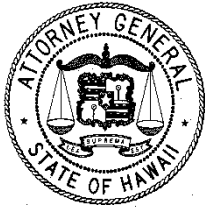
Senate Bill (S.B.) No. 1501, S.D. 2, H.D. 1, adds a new part to Chapter 269, HRS, to: 1) following a satisfactory due diligence review, require B&F to enter into a step-in agreement for payment obligations arising under power purchase agreements entered into from an electric utility and its regulated subsidiaries and independent power producers (IPPs) in the event of a default; 2) establish the Power Purchase Costs Trust Fund outside of the State Treasury for B&F to collect revenues and make payments under a step-in agreement; 3) requires the electric utility to file monthly rate adjustments for the power purchase charges with the Public Utilities Commission (PUC); and 4) authorize B&F to contract with an electric utility or its successor to act as an agent of the department to provide billing, collection, payment, management, and other related services to effectuate a step-in agreement.

S.B. No. 1501, S.D. 2, H.D. 1, requires B&F to conduct a due diligence investigation on IPPs owed payment of power purchase costs. B&F would be required to enter into a step-in agreement with an IPP upon a satisfactory due diligence review.

It is important to point out that B&F does not have the necessary staff and expertise to conduct an effective due diligence review of entities in this industry. For this reason, B&F strongly believes that due diligence instead should be conducted by the PUC, with the PUC's satisfactory review being a prerequisite to B&F entering into a step-in agreement with the IPP.

B&F is willing to continue working with all involved parties on this measure

Thank you for your consideration of our comments.



**TESTIMONY OF  
THE DEPARTMENT OF THE ATTORNEY GENERAL  
KA 'OIHANA O KA LOIO KUHINA  
THIRTY-THIRD LEGISLATURE, 2025**

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**ON THE FOLLOWING MEASURE:**

S.B. NO. 1501, S.D. 2, H.D. 1, RELATING TO ENERGY.

**BEFORE THE:**

HOUSE COMMITTEE ON FINANCE

**DATE:** Monday, March 31, 2025

**TIME:** 3:15 p.m.

**LOCATION:** State Capitol, Room 308

**TESTIFIER(S):** Anne E. Lopez, Attorney General, or  
Randall S. Nishiyama, Deputy Attorney General

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Chair Yamashita and Members of the Committee:

The Department of the Attorney General provides the following comments and offers some proposed amendments regarding this bill.

This bill:

1. Requires the Department of Budget and Finance (B&F) to enter into step-in agreements with independent power producers (IPP) for payment obligations arising under certain power purchase agreements.
2. Requires B&F to establish the Power Purchase Costs Trust Fund (Trust Fund).
3. 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 IPPs shall hold a beneficial interest in the moneys to the extent of the amounts owed under the covered power purchase agreements.
4. Appoints, authorizes, and empowers an electric utility to serve as the billing, collection, and payment agent of B&F in the service of performing step-in agreements.

This bill seeks to have B&F, pursuant to step-in agreements, make payments to IPPs for purchased power in the event of a default by an electric utility. A step-in

agreement is an agreement that allows a third party, B&F, to "step-in" and take over certain obligations under the agreement using funds from the Trust Fund if an electric utility fails to meet its obligations under the agreement, for example, failing to make payments to an IPP. The step-in agreement is intended to provide continuity of payments to an IPP. Further, this bill establishes the statutory framework to effectuate this program, including establishing the Trust Fund to deposit moneys received from ratepayers.

The discussion below summarizes some of the proposed amendments to this bill in order to minimize any adverse impacts to the State and B&F.

**1. Payment Calculations:** The proposed amendments seek to ensure that the State and B&F are not responsible for calculating, verifying, or questioning any payment amounts that B&F is required to make pursuant to a step-in agreement. The continuity of funds would be accomplished by the State using funds from the Trust Fund.

**2. Due Diligence:** We request that the bill be amended to provide that B&F shall enter into a step-in agreement with an IPP only after receiving satisfactory results (as determined by B&F in its sole discretion) from a due diligence investigation by B&F of the IPP and the proposed step-in agreement.

**3. Limitation on the Use of Moneys in the Reserve Account:** The proposed amendments seek to ensure that any revenues collected by an electric utility from the surcharge are directly transferred by the electric utility for deposit into the reserve account established in the Trust Fund are pledged to secure the repayment of payment obligations under a covered power purchase agreement. The proposed amendments will ensure that an electric utility cannot use the reserve fees as an additional revenue source. The amendments provide that the revenues from the surcharge can only be used to pay obligees pursuant to a step-in agreement and to pay incremental administrative costs of B&F and cannot be used for any incremental administrative costs incurred by an electric utility.

4. **Clarifying Amendments:** We request that the following clarifying amendments be made:

Section 1:

Page 1, line 14, through page 2, line 8:

"The procurement or purchase of energy from replacement clean energy resources by a certain investor-owned electric utility and its electric utility subsidiaries is ongoing in its Stage 3 request for proposals and further anticipated in its first Integrated Grid Planning request for proposals. These requests for proposals set forth energy plans that have been developed through extensive engagement with local stakeholders and communities and reviewed and approved by the public utilities commission. The legislature finds that successful [~~procurement of~~] purchase of energy from clean energy resources is in the public interest and necessary to avoid significant detrimental reliability and affordability impacts to electric utility customers." See page 1, line 14, through page 2, line 8.

Page 3, line 12, through page 6, line 9:

"The legislature further finds that the public interest would be served if the department of budget and finance enters into step-in agreements with independent power producers, pursuant to which the department of budget and finance would agree to make payments to [~~the~~] an independent power producer after a failure by [~~an~~] the electric utility to make required payments pursuant to the terms of [~~the~~] a power purchase agreement. The department of budget and finance's obligation to make payments pursuant to the terms of a step-in agreement is limited to the [~~moneys~~] revenues received from power purchase charges associated with a power purchase agreement subject to a step-in agreement and reserve fees that are on deposit in the power purchase costs trust fund established by the department of budget and finance. Neither the full faith and credit of the State, nor any other moneys of the State, will be pledged for any obligations under a step-in agreement.

The legislature finds that step-in agreements may provide assurances that payments for purchased power will be made to independent power producers as and when due by the utility under the covered power purchase agreements. The legislature



also finds that the intent of this Act is further served by appointing, authorizing, and empowering the electric utility to serve as the billing, collection, and payment agent of the department of budget and finance. Prior to a payment default by the electric utility~~[,]~~ under a covered power purchase agreement, the electric utility will be authorized to utilize moneys received from ~~[independent power producers related to]~~ power purchase charges to discharge its obligations to pay independent power producers for electric energy and related products. The obligations of the department of budget and finance under this Act are undertaken for a public purpose, namely, the protection of public health, safety, and welfare by supporting the development of clean energy resources that are needed for the reliable provision of electric supply at a reasonable cost.

Therefore, the purpose of this Act is to:

- (1) Require the department of budget and finance, after receipt of satisfactory results (as determined by the department of budget and finance) from a due diligence investigation of that independent power producer and the proposed step-in agreement, to enter into a step-in agreement with an independent power producer under which the department of budget and finance will agree to make required payments to that independent power producer from ~~[moneys]~~ revenues received from power purchase charges ~~[independent power producers related to power purchase charges]~~ and reserve fees ~~[to the independent power producer]~~ after a failure by the electric utility to make required payments pursuant to the terms of a power purchase agreement;
- (2) ~~[Require the department of budget and finance to establish]~~ Establish a trust fund outside the state treasury that shall be capitalized by money from a surcharge supporting a reserve account within the trust fund and, in the event of a default~~[,]~~ by the electric utility of its payment obligations under one or more covered power purchase agreements, by money received from the power purchase charges~~[, in each case associated with]~~ related to the defaulted covered power purchase agreements, for the

fulfillment of payment obligations arising ~~[from the]~~ under the covered power purchase agreements;

- (3) Establish that money collected from on-bill power purchase charges associated with covered power purchase agreements and money from a surcharge supporting a reserve account that are deposited in the power purchase costs trust fund shall be held in trust by the ~~[State,]~~ department of budget and finance, and that independent power producers shall hold a beneficial interest in ~~[such]~~ the moneys to the extent of the amounts owed to ~~[such]~~ each independent power producer under the related covered power purchase agreement; and" See page 3, line 12, through page 6, line 9.

Section 2:

Section 269-A – Definitions, page 6, line 18, through page 10, line 17:

""Default" means the failure by an electric utility to pay power purchase costs as and when due to an obligee under a covered power purchase agreement after the expiration of any applicable grace or cure periods and extensions thereto. "Default" ~~[does]~~ shall not mean a bankruptcy filing by an electric utility." See page 7, line 1-6.

""Power purchase costs" means costs incurred by an electric utility pursuant to the terms of a power purchase agreement~~["Power purchase costs" include but are not limited to]~~, including without limitation, costs such as termination payments payable by an electric utility in connection with the termination of a power purchase agreement as a result of a default by ~~[such]~~ the electric utility ~~[thereunder and]~~. "Power purchase costs" includes, without limitation, all categories of costs recoverable under the energy cost recovery clause and the purchased power adjustment clause under their respective tariffs in effect on July 1, 2025." See page 9, lines 7-15.

""Reserve account" refers to the account established within the fund pursuant to section 269-D(a) for deposit and accounting of revenues from reserve fees." See page 10.

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

"Step-in agreement" means a contract by which the department undertakes the obligation of payment for power purchase costs owed to an obligee as and when due by an electric utility under a power purchase agreement following a default~~[-]~~ by the electric utility, as described in section 269-B(a); provided that the department's payment obligation under ~~[such]~~ the step-in agreement is limited to the ~~[moneys]~~ revenues from power purchase charges collected in connection with the covered power purchase agreement and reserve fees ~~[collected in connection with the covered power purchase agreements and]~~ that are on deposit in the fund[-]; provided further that in all circumstances under which the department is required to make payments pursuant to a step-in agreement from moneys on deposit in the fund, the department shall conclusively rely and shall be protected in acting or refraining from acting upon the written direction of an obligee in the determination of the amounts owed to an obligee. Notwithstanding anything herein to the contrary, the department shall not be bound to make any independent calculation, verification, or investigation into the facts or matters stated in any written direction of an obligee.

"User, owner, or operator of the Hawaii electric system" has the same meaning as defined in section 269-141." See page 10, lines 3-17.

Section 269-B – Step-in agreements, page 10, line 18, through page 18, line 17:

" (a) The department shall enter into a step-in agreement with an obligee after receipt of satisfactory results~~[-]~~ (as determined by the department, solely within the department's discretion)~~[-]~~ from a due diligence investigation by the department of ~~[an]~~ the obligee and the proposed step-in agreement. ~~[Such]~~ The step-in agreement shall require the department to make payments for power purchase costs owed by an electric utility to the obligee in the event of a default~~[-]~~ under the related covered power purchase agreement. Pursuant to ~~[such]~~ the step-in agreement and upon ~~[the]~~ a default~~[-]~~ by the electric utility under the covered power purchase agreement related to the step-in agreement, the department shall make payments to the obligee for power

purchase costs with ~~[moneys]~~ revenues received from power purchase charges from the covered power purchase agreement related to the step-in agreement and reserve fees that are on deposit in the fund as and when due by the electric utility under the related covered power purchase agreement; provided that any ~~[such]~~ step-in agreement entered into by the department shall provide that the department's payment obligation thereunder shall be limited to the ~~[moneys]~~ revenues received from power purchase charges from the covered power purchase agreement related to the step-in agreement and reserve fees ~~[collected in connection with covered power purchase agreements]~~ that are on deposit in the fund. Each step-in agreement shall include a clause stating that neither the full faith and credit of the State nor any other moneys of the State will be pledged for any obligations pursuant to the terms of a step-in agreement and that in any action concerning a failure by the department to comply with the terms of ~~[the]~~ a step-in agreement, the sole and exclusive remedy available to an obligee and the electric utility under the step-in agreement against the department shall be an order directing specific performance by the department of the step-in agreement, and that under no circumstances shall the department be liable for any costs, expenses, ~~[or]~~ other monetary relief, or compensatory damages~~[-]~~ for a failure to comply with the terms of a step-in agreement. An obligee of a covered power purchase agreement shall have no claim or lien on any moneys of the State. An obligee of a covered power purchase agreement shall only have a claim or lien on ~~[moneys attributable to covered power purchase agreements]~~ those revenues from power purchase charges and reserve fees that are transferred by the electric utility and on deposit in the fund. An obligee shall remain entitled to all payments for power purchase costs owed under ~~[the]~~ its covered power purchase agreement, whether or not the moneys from power purchase charges attributable to ~~[the]~~ its covered power purchase agreement are timely collected. Notwithstanding anything to the contrary in this part, a step-in agreement shall also obligate the department to pay claims of ~~[the]~~ an obligee from ~~[moneys]~~ revenues received from power purchase charges and reserve fees on deposit in the fund arising out of ~~[the]~~ a termination of [a] the covered power purchase agreement by the electric utility under bankruptcy law. In determining any amounts owed, the department shall

conclusively rely and shall be protected in acting or refraining from acting upon the written direction of an obligee in the determination of the amounts owed.

Notwithstanding anything herein to the contrary, the department shall not be bound to make any independent calculation, verification or investigation into the facts or matters stated in any written direction of an obligee.

(b) The department shall enter into a step-in agreement only if ~~[the]~~ a power purchase agreement subject to the step-in agreement arises from the Stage 3 request for proposals under docket number 2017-0352 before the public utilities commission or the first Integrated Grid Planning request for proposals issued under docket number 2024-0258 before the public utilities commission. ~~[The]~~ Upon satisfaction of the due diligence provisions set forth in section 269-B(a), the department shall enter into a step-in agreement related to a power purchase agreement when the power purchase agreement is executed or, if the power purchase agreement has already been executed as of July 1, 2025, as soon as reasonably possible.

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

(d) ~~[The]~~ A step-in agreement shall terminate when the credit rating of the electric utility or its successor achieves investment grade status or may be terminated by express agreement of the obligee, department, and electric utility. Following the termination of a step-in agreement, the department shall have no obligation to the electric utility or the obligee upon a continuing or future default by the electric utility~~[-]~~ under the related power purchase agreement.

(e) Following a default of a covered power purchase agreement and any payment by the department from moneys in the fund, the electric utility, through agreement with all obligees of its covered power purchase agreements, may elect to resume payments for power purchase costs related to the defaulted covered power purchase agreement owed by the electric utility, regardless of the credit rating of the electric utility at that time, in which case the electric utility shall cease to transfer revenues ~~[representing moneys]~~ received from power purchase charges ~~[collected]~~ in

connection with the defaulted covered power purchase ~~[agreement]~~ agreements to the department for deposit in the fund as described in section 269-C(a), and may use the revenues received from power purchase charges related to the defaulted covered power purchase agreement through the vesting of title in the electric utility as described in subsection (h); provided that ~~[the]~~ any election by the electric utility to continue making payments shall not terminate the step-in agreement that is related to the defaulted covered power purchase agreement and the related step-in agreement shall remain in effect until terminated pursuant to subsection (d), and the department shall remain obligated to pay the obligee of the defaulted covered power purchase agreements upon a subsequent default by the electric utility solely from ~~[moneys]~~ revenues on deposit in the fund; provided further that no election by the electric utility ~~[is]~~ shall be permitted if the department has made payment for any power purchase costs with moneys from the reserve ~~[fees-]~~ account.

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

(g) As consideration for the department entering into a step-in agreement, the electric utility or its successor shall enter into an agreement to assign and transfer title to the revenues from power purchase charges ~~[and reserve fees]~~ attributable to the covered power purchase agreement to the department to be held in trust for the benefit of the obligee under the covered power purchase agreement to the extent of the amounts owed to ~~[such obligees-]~~ the obligee. The assignment and transfer of title to the revenues from the power purchase charges by the electric utility shall be made and remain for the term of the step-in agreement free and clear of any prior lien, pledge, security interest, or encumbrance of any kind, and shall be exempt from section 269-19.

The revenues from power purchase charges and reserve fees shall not be subject to appropriation for any other purpose. The revenues shall be exempt from the requirements of chapters 36 and 38. The electric utility or its successor shall be and remain at all times, even upon the occurrence and during the continuance of a default by the electric utility or its successor, obligated to bill and collect the power purchase charges and reserve fees as an agent for the department to effectuate the purposes of this part.

(h) Prior to default or an entry of an order of relief with respect to the electric utility pursuant to title 11 of the United States Code, if any payment obligation of the electric utility under a covered power purchase agreement for power purchase costs becomes owed and due, any title held by the department in trust to the revenues ~~[related to moneys]~~ from power purchase charges for the payment obligation owed and due shall divest from the department and vest in the electric utility or its successor at the time the payment by the electric utility or its successor is made to the obligee. Any vesting of ~~[moneys]~~ revenues from power purchase charges to the electric utility at the time of payment may be made without appropriation by the legislature or allotment. The department, other than as permitted pursuant to section 269-C(a), shall not otherwise assign, sell, or transfer any title to, or any claim or right to, the revenues from power purchase charges or reserve fees.

(i) To meet the requirements of the State and the public utilities commission as they pertain to electric reliability, energy security, and energy diversification under this chapter and any rules adopted pursuant thereto, the electric utility shall ensure that it maintains sufficient availability of electric energy and related products, to the extent provided by an obligee in accordance with a covered power purchase agreement. The public utilities commission ~~[shall]~~ may exercise its regulatory powers to ensure that the electric utility complies with its obligations under ~~[the]~~ a covered power purchase agreement.

(j) Notwithstanding any other law to the contrary, the electric utility shall file with the public utilities commission, and the public utilities commission ~~[shall]~~ may allow to become effective, monthly rate adjustments provided under the energy cost recovery

clause and purchased power adjustment clause to establish or adjust power purchase charges in a manner designed to:

- (1) Generate sufficient [~~moneys~~] revenues from power purchase charges to timely and fully pay amounts when owed and due under covered power purchase agreements;
- (2) Ensure that in no event shall [~~moneys~~] revenues from power purchase charges fall below the amounts owed and due under covered power purchase agreements by a sum that exceeds the amounts in the reserve account established under section 269-E; and
- (3) Recover any applicable taxes and government fees and any incremental administrative costs of the electric utility or the department incurred to implement the requirements of this part.

To achieve the objectives established pursuant to this subsection, unless the public utilities commission otherwise directs, prior to a default the electric utility may retain revenues collected from power purchase charges in excess of amounts owed and due under [~~the~~] a covered power purchase agreement. Any moneys in the reserve account established under the fund [~~related to reserve fees will~~] shall remain with the department[~~-~~] at all times, subject to section 269-C(a). The obligations of the electric utility and of the public utilities commission under this section shall survive any default by the electric utility and shall terminate only upon the termination of all the step-in agreements as provided in subsection (d)." See page 10, line 18, through page 18, line 17.

Section 269-C – Default of electric utility; successor requirements, page 18, line 18, through page 21, line 14:

"(a) After [~~the~~] an obligee provides notice to the department of a default of a covered power purchase agreement, the department shall promptly provide the electric utility with a copy of [~~such~~] the notice [~~of default~~]. One day after the electric utility receives the notice, the electric utility shall transfer all revenues from the power purchase charges arising from any covered power purchase agreement identified in the notice and reserve fees, regardless of when collected, then in its possession, and,



subject to section 269-B(e), all future revenues from the power purchase charges arising from the covered power purchase agreement identified in the notice and reserve fees thereafter collected to the fund established pursuant to section 269-D(a). These amounts shall include all revenues from power purchase charges and reserve fees received by the electric utility after a default for ~~[such]~~ the power purchase charges and reserve fees billed before the default. ~~[The]~~ Following a default, the department shall use the revenues collected from the power purchase charges and reserve fees on deposit in the fund only in the order as follows:

- (1) To pay power purchase costs pursuant to step-in agreements, subject to the appointment, authorization, and empowerment of the electric utility as an agent as described in section 269-F(e)~~], and for revenues in excess of amounts owed under covered power purchase agreements];~~ provided however that, for purposes of complying with the requirements of this part, the department shall conclusively rely and shall be protected in acting or refraining from acting upon the written direction of an obligee in the determination of the amounts owed to an obligee. Notwithstanding anything to the contrary, the department shall not be bound to make any independent calculation, verification, or investigation into the facts or matters stated in any written direction of an obligee;
- (2) To recover any incremental administrative costs of ~~[the electric utility or]~~ the department incurred to implement the requirements of this part; and
- (3) To implement a rate credit to customers.

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

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

(d) Any successor to an electric utility shall be bound by the requirements of this part. The successor shall perform and satisfy all obligations of the electric utility in the

same manner and to the same extent as the electric utility, including the ~~[obligation]~~ obligations upon a default ~~[to bill and collect the power purchase charges and reserve fees and remit to the fund the revenues collected in connection with any covered power purchase agreement, unless and until the step-in agreement is terminated as described in section 269-B(d).]~~ set forth in section 269-B(g).

(e) If ~~[the]~~ a step-in agreement is terminated as described in section 269-B(d), then by operation of law, any title to the revenues related to power purchase charges attributable to the related covered power purchase agreement shall immediately cease to be held in trust and the electric utility or its successor shall thereafter be the sole holder of title or beneficial and equitable interest in, and any claim or right to, the revenues related to power purchase charges~~[,]~~ attributable to the related covered power purchase agreement, and the obligation of the electric utility or its successor to bill and collect the power purchase charges and reserve fees for the covered power purchase agreement as an agent for the department, and, if applicable, to remit the collected revenues for the covered power purchase agreement to the fund, shall terminate." See page 18, line 19, through page 21, line 14.

Section 269-D – Power purchase costs trust fund, page 21, line 15, through page 23, line 15:

"(a) There is established outside the state treasury the power purchase costs trust fund to be administered by the department. The department shall establish and maintain two separate accounts within the fund, the first account to be utilized for the deposit of all revenues received from power purchase charges transferred by the electric utility and the second account to be utilized for the deposit of revenues received from reserve fees transferred by the electric utility. The electric utility shall transfer to the department for deposit into the applicable account in the fund all revenues collected in connection with covered power purchase agreements from:

- (1) Power purchase charges ~~[in the event of]~~ following a default of a covered power purchase ~~[agreements;]~~ agreement; and
- (2) Reserve fees.

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

(c) If a step-in agreement is terminated as described in section 269-B(d), the fund shall cease to receive any ~~[moneys]~~ revenues from the power purchase charges collected by the electric utility or its successor related to the terminated covered power purchase agreement and the department, as directed by the electric utility, shall pay to the electric utility or its successor the remainder of any ~~[moneys]~~ revenues in the fund attributable to power purchase charges~~[- Those moneys from power purchase charges]~~ associated with the terminated covered power purchase agreement covered by the step-in agreement, which shall be considered moneys of the electric utility or its successor.

(d) The department shall be under no obligation to make payment to any obligee in excess of the moneys in the fund. Any default or failure by the department to make payments pursuant to the terms of a step-in agreement under this part shall not result in any recourse by the electric utility or an obligee to any funds of the State. ~~[The only moneys are]~~ An obligee of a covered power purchase agreement shall only have the benefit of ~~[are moneys]~~ revenues derived from power purchase charges and the reserve fees collected and on deposit in the fund. In any action concerning a breach by the department of a step-in agreement, the sole and exclusive remedy available to an obligee and the electric utility against the department shall be an order directing specific performance by the department of the step-in agreement, and under no circumstances shall the department be liable for any costs, expenses, ~~[or other]~~ any monetary relief or compensatory damages~~[-]~~ for a failure to comply with the terms of a step-in agreement."  
See page 21, line 15, through page 23, line 15.

Section 269-E – Reserve account; establishment, page 23, line 16, through page 25, line 16:

"(a) By August 1, 2025, the public utilities commission [~~shall~~] may create a utility-wide nonbypassable surcharge, referred to as reserve fees, which shall be deposited into an account within the fund and be pledged to secure and be applied to the repayment of payment obligations under a covered power purchase agreement to the extent that there is a shortfall in the amount of moneys received from power purchase charges on deposit in the fund. Reserve fees shall be collected in full by the electric utility or its successors, as collection agents for the department, [~~in full~~] through a surcharge that is separate and apart from the electric utility's rates. The department shall establish and maintain a separate account within the fund to accept and account for revenues from reserve fees, and the electric utility shall, within one day of receipt, transfer all revenues collected from the surcharge related to the reserve fees directly to the department for deposit into [~~this separate~~] the account. The electric utility shall not otherwise assign, sell, or transfer any title to, or any claim or right to, the revenues from reserve fees, except as provided under this part. The electric utility shall not access the reserve account or utilize the revenues from the reserve fees deposited therein, except as directed by the department pursuant to section 269-F(e). The public utilities commission may require, in the financing order creating the surcharge, that, if a default occurs by the electric utility in remittance of the reserve fees collected, the public utilities commission, upon the application by the department, and without limiting any other remedies available to the department by reason of the default, shall order the sequestration and payment to the department of the reserve fees. Any order shall remain in full force and effect notwithstanding any bankruptcy, reorganization, or other insolvency proceedings with respect to the electric utility.

(b) Reserve fees shall be collected and maintained, and if necessary, reinstated, to establish and, if necessary, replenish a reserve account in an amount not to exceed the total of fifteen per cent of the forecasted monthly power purchase costs of all covered power purchase agreements plus an amount sufficient to recover costs related to administration by the department of the reserve account.

(c) If [~~the~~] a step-in agreement terminates pursuant to section 269-B(d), reserve fees collected in connection with the related covered power purchase agreement shall

cease to be collected~~[, and]~~. Upon the termination of all step-in agreements all moneys remaining in the ~~[fund attributable to the reserve fees]~~ reserve account shall be returned in full, together with any associated interest earned, to customers through a rate credit."

See page 23, line 16, through page 25, line 16.

Section 269-F – Electric utility; agent of the department, page 25, line 17, through page 27, line 14:

"(a) To implement the requirements of this part, the department may contract with ~~[an]~~ the electric utility or its successor to act as an agent of the department to provide billing, collection, payment, and other related services. In any action concerning a breach by the department of ~~[the]~~ an agency agreement~~[-]~~ entered into in connection with the billing, collection, payment, and other related services, the sole remedy available to an electric utility against the department shall be an order directing specific performance by the department of the agency agreement. Under no circumstances shall the department be liable for any costs, expenses, ~~[or]~~ other monetary relief, or compensatory damages in connection with a breach of any agency agreement.

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

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

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

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

payment obligations of the department arising from step-in agreements related to covered power purchase agreements. The appointment shall terminate when ~~[the]~~ all step-in ~~[agreement-is]~~ agreements are terminated as described in section 269-B(d)~~[-]~~ or as otherwise directed by the director of finance.

(f) The department's contract with the electric utility for services pursuant to subsections (a) and (e) shall be exempt from chapter 103D." See page 25, line 17, through page 27, line 8.

We respectfully ask the Committee to amend this bill to address these concerns.

JOSH GREEN, M.D.  
GOVERNOR

SYLVIA LUKE  
LT. GOVERNOR



**STATE OF HAWAII**  
**PUBLIC UTILITIES COMMISSION**

465 S. KING STREET, #103  
HONOLULU, HAWAII 96813

LEODOLOFF R. ASUNCION, JR.  
CHAIR

NAOMI U. KUWAYE  
COMMISSIONER

COLIN A. YOST  
COMMISSIONER

Telephone: (808) 586-2020  
Facsimile: (808) 586-2066

Website: [puc.hawaii.gov](http://puc.hawaii.gov)  
E-mail: [puc@hawaii.gov](mailto:puc@hawaii.gov)

## Testimony of the Public Utilities Commission

To the  
House Committee on  
Finance

Monday, March 31, 2025  
3:15 p.m.

Chair Yamashita, Vice Chair Takenouchi, and Members of the Committee:

**Measure:** S.B. No. 1501, S.D. 2, H.D.1  
**Title:** RELATING TO ENERGY.

**Position:**

The Public Utilities Commission ("Commission") supports this measure and offers the following comments for consideration.

**Comments:**

The Commission supports the intent of this measure to encourage the continued development of affordable clean energy resources for the benefit of utility customers in the State.

The Commission is aware of the concerns surrounding Independent Power Producer ("IPPs") financing cost increases and market uncertainty created by Hawaiian Electric's non-investment grade credit rating. The Commission closely monitors the Stage 3 Request for Procurement process (Docket No. 2017-0352) and meets regularly with the Independent Observer on the status of all projects. IPPs in their ongoing Power Purchase Agreement ("PPA") negotiations with Hawaiian Electric have sought higher prices than previous rounds to offset their increased financing costs caused by Hawaiian Electric's PPA default risk. Hawaiian Electric in response has sought to find ways to accommodate IPPs to balance ratepayer electricity costs and developer economics. IPPs bidding into the forthcoming Integrated Grid Plan RFP, which is under review by the Commission for approval (Docket No. 2024-0258), will face these same financing cost challenges unless Hawaiian Electric's credit rating improves. This measure may provide a means to reduce the default risk costs imposed on IPPs by their potential lenders.

Furthermore, the Step-in Agreement will ensure that IPPs continue to be paid for the renewable energy they will produce should the electric utility trigger a default. The Commission is supportive of language that may grant the Department of Budget and Finance the opportunity to agree to a Step-in Agreement with IPPs that have a PPA approved by the Commission. In the worst-case scenario, if IPPs are not paid for their renewable energy, the IPP may shut down operations and would result in a loss of that renewable energy source.

The Commission respectfully defers to the Department of Budget and Finance on the implementation of other portions of the measure.

Thank you for the opportunity to testify on this measure.





Representative Kyle Yamashita, Chair  
Representative Jenna Takenouchi, Vice Chair  
Committee on Finance

Monday, March 31, 2025; 3:15 p.m.; Agenda #3  
Conference room 308 & Videoconference

**RE: SB 1501 SD2 HD1 – Relating to Energy – In Support**

Aloha Chair Yamashita, Vice Chair Takenouchi and members of the Committee,

My name is Wren Wescoatt, Vice President of Development for Longroad Energy (Longroad), and I am testifying in support of SB 1501 SD2 HD1. This bill provides critical support to enable the financing of new renewable energy projects in Hawaii and lower the price of energy for ratepayers.

I have been developing clean energy in Hawai'i for the past 17 years for Longroad and First Wind. Together, our team has developed about half of the utility-scale wind and solar capacity operating in Hawaii today and financed more than \$500 million for construction of local projects – all of which have power contracts with Hawaiian Electric Company (HECO). Hawai'i has been making steady progress toward 100% renewable electricity, but with HECO's current credit rating below investment grade since the Maui fires, it is difficult for energy producers like Longroad to secure financing to fund future solar projects. If HECO is below investment grade, then either the cost to finance the projects will be higher because lenders are taking on more risk – or the State of Hawai'i needs to guaranty the power contracts somehow. This will give banks loaning money to build projects the assurance that the contract is backed by an investment-grade counterparty.

The current bill allows the State to step in and facilitate payments on future HECO power contracts. While this is not as strong as a full guaranty by the State, having the State serve as trustee for payments will give lenders a higher degree of confidence and should enable them to reduce the cost of borrowing. This would decrease the price of energy from solar projects, which is directly passed through to Hawaii's ratepayers.

We support SB 1501 SD2 HD1 and ask that you give the measure your favorable consideration.

Mahalo,

A handwritten signature in black ink, appearing to read "Wren W. Wescoatt", written over a horizontal line.

Wren W. Wescoatt  
Vice President of Development  
[wren.wescoatt@longroadenergy.com](mailto:wren.wescoatt@longroadenergy.com)  
808-780-1000

Representative Kyle Yamashita, Chair  
Representative Jenna Takenouchi, Vice Chair  
Committee on Finance

Monday, March 31, 2025; 3:15 p.m.; Agenda #3  
Conference room 308 & Videoconference

**RE: SB 1501 SD2 HD1 Relating to Energy – In Support**

Aloha Chair Yamashita, Vice Chair Takenouchi and members of the Committee:

Plus Power appreciates this opportunity to submit testimony in support of SB 1501 SD2 HD1, which requires the Department of Budget and Finance to enter into step-in agreements for payment obligations arising under certain power purchase agreements, and establishes the Power Purchase Costs Trust Fund.

There is a need to replace retiring fossil fuel units. SB 1501 SD2 HD1 is necessary to procure affordable clean energy resources to replace these units and stabilize the grid.

The Plus Power team is accelerating the deployment of transmission-connected battery energy storage throughout the United States. Plus Power develops, owns, and operates standalone battery energy storage systems that provide capacity, energy, and ancillary services, enabling the rapid integration of renewable generation resources. We now have 7 operating projects, with 1 in Hawaii, 4 in Texas, 2 in Arizona, and 2 more coming online this year in Maine and Massachusetts, totaling over 4000 MWh. Behind those, we have 10 GW of projects in 28 U.S. states and Canada in development.

We ask your favorable consideration in passing this measure.

Brian Duncan  
Senior Vice President, Origination & Commercial  
Plus Power



Email: [communications@ulupono.com](mailto:communications@ulupono.com)

HOUSE COMMITTEE ON FINANCE  
Monday, March 31, 2025 — 3:15 p.m.

**Ulupono Initiative supports SB 1501 SD 2 HD 1, Relating to Energy.**

Dear Chair Yamashita and Members of the Committee:

My name is Micah Munekata, and I am the Director of Government Affairs at Ulupono Initiative. We are a Hawai'i-focused impact investment firm that strives to improve the quality of life throughout the islands by helping our communities become more resilient and self-sufficient through locally produced food, renewable energy and clean transportation choices, and better management of freshwater resources.

**Ulupono supports SB 1501 SD 2 HD 1**, which requires the Department of Budget and Finance to enter into step-in agreements for payment obligations arising under certain power purchase agreements (PPAs); establishes the Power Purchase Costs Trust Fund; establishes that money from on-bill charges for PPAs and money from a surcharge supporting a reserve amount shall be held in trust by the State, and that independent power producers shall hold a beneficial interest in the revenues to the extent of the amounts owed under the covered power purchase agreements; and appoints, authorizes, and empowers the electric utility to serve as the billing, collection, payment, and managing agent of the Department of Budget and Finance in the service of performing step-in agreements.

This bill is essential for achieving Hawai'i's clean energy objectives, enhancing energy security, and protecting ratepayers from disruptions or increased costs due to utility credit concerns. This legislation is necessary and beneficial in that it:

- Facilitates the transition to renewable energy;
- Addresses energy reliability and affordability;
- Provides financial stability amidst utility credit challenges;
- Leverages existing revenue streams; and
- Strengthens energy security and diversification.

However, based on recent updates in the committee report, we respectfully offer the following recommendations to further strengthen the bill:

- Because the latest version of the bill has broadened the scope of PPAs covered, it is currently unclear what specific termination costs may be associated with each PPA. Therefore, we recommend amending the bill to explicitly limit termination costs to

*Investing in a Sustainable Hawai'i*

compensatory-type costs only, excluding punitive damages that may exist in existing PPAs.

- Regarding the provision that requires the State to conduct due diligence prior to stepping into PPAs, we agree this is a prudent measure. Even so, we strongly suggest additional language clarifying the State's obligations in cases where due diligence results in unfavorable findings. Specifically, clarification is needed to determine the next steps or obligations of the State, given the ongoing payment obligations for power delivered.
- Finally, there appears to be potential ambiguity between clauses restricting the electric utility's role to that of a managerial agent and later clauses authorizing the Public Utilities Commission to empower the utility to act as an agent for the State. If this language tension is intentional, we recommend providing additional clarification or explanation to ensure transparent and effective implementation.

In conclusion, this bill is a forward-thinking measure that balances the State's renewable energy aspirations with the practical needs of maintaining reliability, affordability, and financial prudence. It provides the necessary assurances to independent power producers to continue developing critical clean energy infrastructure without undue delays or costs. UluPono respectfully urges the committee to pass this bill to secure a sustainable and resilient energy future for Hawai'i.

Thank you for the opportunity to testify.

Respectfully,

Micah Munekata  
Director of Government Affairs

March 31, 2025

TO: HONORABLE KYLE YAMASHITA, CHAIR, HONORABLE JENNA  
TAKENOUCHI, VICE CHAIR, COMMITTEE ON FINANCE.

SUBJECT: **SUPPORT THE INTENT OF S.B. 1501 SD2 HD1, RELATING TO  
ENERGY.** 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 from on-bill charges for power purchase agreements and money from a  
surcharge supporting a reserve account shall be held in trust by the State, and that  
independent power producers shall hold a beneficial interest in the revenues to the  
extent of the amounts owed under the covered power purchase agreements.  
Appoints, authorizes, and empowers the 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.

HEARING

DATE: Monday, March 31, 2025  
TIME: 3:15 p.m.  
PLACE: Capitol Room 308

Dear Chair Yamashita, Vice Chair Takenouchi and Members of the Committees,

The General Contractors Association of Hawaii (GCA) is an organization comprised of  
approximately five hundred (500) general contractors, subcontractors, and construction related  
firms. The GCA was established in 1932 and is the largest construction association in the State  
of Hawaii. Our mission is to elevate Hawaii's construction industry and strengthen the  
foundation of our community.

GCA **supports the intent** of S.B. 1501 SD2 HD1, which 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  
from on-bill charges for power purchase agreements and money from a surcharge supporting a  
reserve account shall be held in trust by the State, and that independent power producers shall  
hold a beneficial interest in the revenues to the extent of the amounts owed under the covered  
power purchase agreements. Appoints, authorizes, and empowers the 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.

The State has a policy goal of 100% renewable by 2045. This measure will help the state reach  
its goal by encouraging continued investment in renewable energy projects by providing  
assurances to power project developers. Further, the reduced risks associated with the passage of



this measure will lead to lower project costs, which will ultimately lead to lower costs for ratepayers.

Thank you for the opportunity to testify in support of the intent of this measure.

QUALITY PEOPLE. QUALITY PROJECTS



111 Speen Street, Suite 410  
Framingham, MA 01701

P: 508 661 2200  
Toll Free: 1-866-AMERESCO

Ameresco.com

## TESTIMONY TO THE COMMITTEE ON FINANCE

3:15 PM, March 31, 2025

Conference Room 308 & Via Videoconference

### SB 1501 HD1

Chair Yamashita, Vice Chair Takenouchi, and Members of the Committee,

Ameresco **strongly supports** SB 1501 HD1, which requires the Department of Budget and Finance to enter into step-in agreements for payment obligations arising under certain power purchase agreements and establishes the Power Purchase Costs Trust Fund.

The bill is essential to ensuring the financing and construction of the critically needed renewable energy projects. Ameresco is a leading cleantech integrator and renewable energy asset developer, owner and operator. With 25 years of experience, we have successfully completed energy saving, renewable energy and environmentally responsible projects for commercial, industrial, Federal, State and Local government in Hawai'i, across the US, Canada and Europe. Ameresco has been a part of the Hawai'i community for the last 15 years and committed to supporting the goals of clean, reliable and affordable energy. Last year, we completed the Kūpono Solar 42 MW/168 MWh photovoltaic solar and battery storage project in 'Ewa.

We currently have three additional large-scale renewable energy projects in development on O'ahu and Maui – a firm energy 99MW Pu'uloa Energy and 6 MW / 30MWh Pu'uloa Solar both on Oahu and a firm energy 40MW Ūkiu Energy on Maui – the completion of these projects hinges on successful financing, which in turn depends on the passage of this bill.

As currently drafted, SB 1501 HD1 will help ensure the financing and construction of future renewable projects, by allowing the State to enter into step-in agreements with the IPPs and make payments required under the PUC approved PPAs. These step-in-agreements will instill greater lender confidence that the payments will continue to be made even in the event of a Hawaiian Electric bankruptcy, making the projects financeable.

To effectively mitigate financial risk of the lenders, participation in step-in agreements must be mandatory, not optional or discretionary. For this legislation to be effective in preserving the ability of these projects to move forward, these trust funds are necessary to be in existence in advance and funded prior to any bankruptcy.

Additionally, setting up a separate reserve fund that exists and is funded prior to any Hawaiian Electric bankruptcy will be critical to ensuring the effectiveness of this legislation. Because the IPP contracts are approved by the Public Utilities Commission for the benefit of the ratepayers and authorizes the recovery of the full costs of the projects from the ratepayers, the reserve fund is an interim stopgap, covering shortfalls in cost recovery timing and forecast reconciliation and can also be used to credit ratepayers. Since these step-in-agreements are not backed by the full faith and credit of the State, lenders will need certainty that there are funds available to support the step-in-agreement payments in the event of bankruptcy.

Thank you for the opportunity to provide this testimony in support of SB 1501 HD1.



**TESTIMONY BEFORE THE HOUSE COMMITTEE ON FINANCE**

**STRONG SUPPORT OF SB 1501, SD2, HD1  
Relating to Energy**

Monday, March 31, 2025  
3:15PM  
State Capitol, Conference Room 308

Rebecca Dayhuff Matsushima  
Vice President, Resource Procurement  
Hawaiian Electric

Dear Chair Yamashita, Vice Chair Takenouchi, and Members of the Committee,

My name is Rebecca Dayhuff Matsushima and I am testifying on behalf of Hawaiian Electric in **strong support** of SB 1501, SD2, HD1, Relating to Energy, with proposed amendments.

Hawaiian Electric strongly believes in the benefits that this bill can provide to customers and has been actively working through issues raised by State agencies (the Department of Budget and Finance (“B&F”), the Department of the Attorney General, and the Consumer Advocate) and independent power producers (“IPPs”) so that the bill can ultimately be successful and achieve its intended result. SB 1501, SD2, HD1 incorporates many amendments that were suggested during this legislative session to address the concerns of the State agencies and IPPs. In an ongoing effort to address concerns raised by these stakeholders, Hawaiian Electric respectfully suggests additional improvements to this bill, many of which were developed through discussion with State agencies and IPPs, as shown and explained in the attached two documents. For ease of review, the first attachment details our proposed amendments and the reasons for their inclusion, and the second attachment is a comprehensive redline showing our proposed changes.

With the attached proposed amendments, SB 1501, SD2, HD1 would provide significant benefits to Hawaiian Electric’s customers by helping to avoid higher-cost contracts with IPPs



and helping to ensure the successful development of new renewable energy projects, thereby promoting system reliability.

IPPs responding to Hawaiian Electric's most recent Stage 3 RFP have indicated that Hawaiian Electric's current sub-investment-grade credit rating raises concerns from their financing parties about the assurance of payments to be made by Hawaiian Electric pursuant to PPAs with the IPPs. As a result, we have seen developers withdraw several awarded projects as, at least in part, unfinanceable, or request, in order to pay higher financing costs, increases to their bid pricing in response to this perceived risk. Both of these outcomes result in detrimental effects to Hawaiian Electric customers and the State's energy policies.

Canceled projects will impact system reliability. Without new projects, on some islands, there will be less generators than there are today due to mandatory retirements of some existing facilities to comply with environmental regulations. New generation projects will add much needed renewable energy sources that will help maintain system reliability. If new generators are not added timely, there will be less generation available to deal with forced plant retirements, unplanned plant shutdowns and emergency maintenance.

Additionally, new renewable energy projects are needed to help meet the State's Renewable Portfolio Standards ("RPS") and greenhouse gas laws. If developers continue to withdraw their projects, or fail to bid into the Hawaiian Electric's future procurements, the State's RPS requirements of 70% and 100% net electricity generation from renewable energy by 2040 and 2045, respectively, may be jeopardized.

This bill aims to address these risks for a limited number of developers negotiating PPAs and seeking financing for new projects. The bill provides for the B&F to enter into a "step-in" agreement to pay those IPPs in the unlikely event that the utility defaults. The department would make those payments using specific revenues collected from utility customers, consistent with existing law. To ensure that sufficient funds are available, this bill also establishes a reserve account funded by a reserve fee. We estimate that, with the proposed amendments to the legislation, a typical 500 kWh residential customer would pay

between 8 and 16 cents per month for about 29 months to fund the reserve account for Hawaiian Electric's covered Stage 3 RFP projects, with any remaining amount being returned once the utility regains its investment-grade credit rating. This cost is significantly less than the increased costs that customers would otherwise face due to Hawaiian Electric's current credit rating. For example, some IPPs have indicated that in the absence of a state step-in agreement, the pricing required for their projects may be 20-30% higher every month over the 20- to 30-year term of their contracts. PPA costs to the utility are passed through to customers without mark-up by the utility.

Hawaiian Electric believes that the customer benefits provided by this bill, with the proposed amendments, far outweigh the costs imposed. Given current conditions, Hawaiian Electric also believes this bill offers the best solution to address IPPs' financing concerns. Accordingly, Hawaiian Electric strongly supports SB 1501, SD2, HD1 with proposed amendments. Thank you for this opportunity to testify.

Encl: 2 Attachments

## Proposed Amendments to SB 1501, SD2, HD1

Hawaiian Electric respectfully requests adoption of all of the following proposed amendments in the attached redline of SB 1501 SD2 HD1. These edits are necessary to ensure that the bill achieves cost reductions for customers from power purchase agreements arising from Hawaiian Electric's Stage 3 and Integrated Grid Planning ("IGP") requests for proposals. The below sets forth the policy rationale for each proposed edit.

### **1. Removal of "Utility-Wide Nonbypassable" Language**

#### **Section 269-E(a)**

(a) By August 1, 2025, the public utilities commission shall create a ~~utility-wide nonbypassable~~ surcharge, referred to as reserve fees, which shall be deposited into an account within the fund and be pledged to secure and be applied to the repayment of payment obligations under a covered power purchase agreement to the extent that there is a shortfall in the amount of power purchase charges on deposit in the fund. Reserve fees shall be collected by the electric utility or its successors, as collection agents for the department, in full through a surcharge that is separate and apart from the electric utility's rates. Reserve fees may be included in the purchased power adjustment clause on customer bills. The department

This proposed amendment removing the language of "utility-wide nonbypassable" and adding language allowing the surcharge to be part of the "power purchase adjustment clause on customer bills" is necessary to avoid equity issues between islands and to minimize implementation challenges and costs.

The language of "utility-wide nonbypassable" would impose the following effect: all customers of a certain rate schedule, on all islands, would pay the same fixed amount for reserve fees at the same dollar amount per customer per month. This language would *prevent* the surcharge from being included in any volumetric charge, such as the purchased power adjustment clause. Inclusion of reserve fees in the volumetric purchased power adjustment clause, however, would be a more equitable design. Any individual project associated with a covered PPA would deliver benefits to only one of the islands, and a fixed charge across all customers across all islands would thus be inappropriate. Including the fee as part of the volumetric power purchase adjustment clause would allow the utility to assign the cost to customers in a manner allocated to those that actually benefit from the covered PPAs.

In addition, there are administrative, IT, and billing-related hurdles and costs associated with creation of a new "utility-wide nonbypassable" charge that, while not insurmountable, would nevertheless likely delay implementation of the legislation and may result in unnecessary additional customer costs. Simply including the separate reserve fee surcharge as part of the purchased power adjustment clause on customer bills allows the most equitable and administrable approach.

## **2. Back-Up Filing Mechanism**

### **Section 269-B(k)**

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

This proposed amendment restores language intended to provide assurances to IPPs that, should the utility ever fail to file a monthly rate submission to ensure adequate payment to IPPs, the IPPs may prompt such submission by providing notice to the department. In that case, the department may either file such submission itself, or direct the utility to file such submission. To be clear, Hawaiian Electric fully intends to continue filing these monthly rate submissions under all circumstances, including following default and during a bankruptcy proceeding (through continued operations via a day one order). This provision assures IPPs and financing parties of continued and adequate payment in the unlikely event that such monthly rate submissions are interrupted, and thus reduces risks that would otherwise be reflected in increased customer rates.

## **3. Exemption from Chapter 103D**

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

This proposed amendment exempts the agency agreement between the department and the utility from chapter 103D, or the Hawaii Public Procurement Code. This exemption is justified because Hawaiian Electric already provides all of these services in the ordinary course of its business and can continue do so at the lowest possible administrative cost. The exemption would also avoid costly implementation delays.

## **4. Management of Revenues**

**Passim (See attached redline: Section 1, paragraph 6; Section 1, paragraph 7, subsection (4); Section 269-B(g); Section 269-C(e))**

### **Section 269-F(a)**

(a) To implement the requirements of this part, the department may contract with an electric utility or its successor to act as an agent of the department to provide billing, collection, payment, management, and other related services. In any action concerning a breach by the department of the agency agreement, the sole remedy available to an electric utility against the department shall be an order directing specific performance of the agency agreement. Under no circumstances shall the department be liable for any costs, expenses, or other monetary relief or compensatory damages in connection with a breach of any agency agreement.

## Section 269-F(e)

(e) To implement the requirements of this part, the director of finance may appoint, authorize, and empower the electric utility, as agent for and on behalf of the department, to collect, manage, and pay out moneys, including from the fund, for fulfillment of payment obligations of the department arising from step-in agreements related to covered power purchase agreements. The appointment shall terminate when the step-in agreement is terminated as described in section 269-B(d).

These proposed amendments restore language allowing the utility to “manage” funds that are held in trust by the department. The process of collecting revenues and making payment under PPAs in the normal course includes a range of activities that could be construed as “management” of revenues and moneys: e.g., meter reads, sending bills, handling delinquencies, processing and depositing collections and other customer service functions, and calculations of ECRC and PPAC revenues, among others. Because Section 269-F contemplates that Hawaiian Electric and the department will enter into an agreement specifying the responsibilities of Hawaiian Electric as the agent, it is prudent to allow flexibility in the statutory framework to account for any unforeseen scenarios that are identified during the process of developing that agreement. That process also allows the department to specifically address any concerns it has with Hawaiian Electric’s management of moneys held in trust by the department.

There is clear precedent for this language in the Green Energy Market Securitization (GEMS) program. The language of the service provider agreement between the utility (the service provider) and the State under the GEMS program provides that the “Service Provider’s duties in general shall include *management*, servicing and administration of the Green Infrastructure Property to be collected by it . . . .” The proposed statutory language is therefore consistent with the responsibilities already exercised by Hawaiian Electric on behalf of the State for the GEMS program.

## **5. Due Diligence by the Department**

### **Section 269-B(a)**

(a) The department shall enter into a step-in agreement with an obligee after receipt of satisfactory results, as determined by the department, from a due diligence investigation by the department of an obligee and the step-in agreement. Such step-in agreement shall require the department to make payments for power purchase costs owed by an electric utility to the obligee in the event of a default; provided that before entering into any step-in agreement, the department shall conduct due diligence on the obligee, including through communication with the prospective obligee, within thirty days of a request to enter into a step-in agreement. Pursuant to

This proposed language, drawn in part from HB 974 HD1 SD1, requires the department to complete its due diligence within thirty days of a request to enter into a step-in agreement. A time limit on due diligence ensures that due diligence is completed in a timely manner, and that the obligation that a department “shall” enter into a step-in agreement is not undermined due to a potentially interminable due diligence period. Ensuring a stringent “shall” obligation for the department entering into a step-in agreement allows parties to negotiate lower PPA pricing due

to the confidence it provides that there will, in fact, be a step-in agreement that addresses the financial risks associated with the utility.

## **6. Two Days for Transfer of Funds**

### **Section 269-C(a)**

(a) After the obligee provides notice to the department of a default of a covered power purchase agreement, the department shall promptly provide the electric utility with a copy of such notice of default. ~~One~~-Two days after the electric utility receives the notice, the electric utility shall transfer all revenues from the power purchase charges arising from any covered power purchase agreements identified in the notice and reserve fees, regardless of when collected, then in its possession, and, subject to section 269-B(e), all future revenues from the power purchase charges and reserve fees thereafter collected to the fund established pursuant to section 269-D(a). These amounts shall include all revenues

### **Section 269-E(a)**

utility's rates. Reserve fees may be included in the purchased power adjustment clause on customer bills. The department shall establish and maintain a separate account within the fund to accept and account for revenues from reserve fees, and the electric utility shall, within ~~one~~-two days of receipt, transfer all revenues collected from the surcharge related to the reserve fees into this separate account. The electric

This proposed amendment is necessary because of implementation challenges inherent to delivering on a one-day transfer. Same day processing of wire transfers in Hawaii must occur in the morning and cannot occur in the afternoon or evening. Hawaiian Electric simply may not have adequate time to internally administer, calculate, and segregate revenues from various agreements and charges, and transfer those revenues within a one-day timeframe.

## **7. Termination at End of Term of the Step-In Agreement**

### **Section 269-B(d)**

(d) The step-in agreement shall terminate, in addition to at the conclusion of its defined term, when the credit rating of the electric utility or its successor achieves investment grade status or by express agreement of the obligee, department, and electric utility. Following the termination of a step-in agreement, the department shall have no obligation to the electric utility or the obligee upon a default by the electric utility.

This proposed amendment is necessary to clarify the obligations that arise at the end of the term of the step-in agreement. Several key sections of the bill refer to this Section 269-B(d) to describe the implications of termination of the step-in agreement for the utility, department, and others. For example, Section 269-E(c) states that termination pursuant to this provision ceases collection of reserve fees. Section 269-F(e) states that termination pursuant to this provision likewise terminates any appointment of the utility as a payment agent of the department. Section 269-C(e) states that termination pursuant to this provision also ceases transfer of title to power

purchase charges to the department, and Section 269-D(c) states that termination pursuant to this provision causes the fund to cease receiving power purchase charges. This proposed edit simply clarifies that these effects also occur when the step-in agreement terminates upon the conclusion of its defined term.

## **8. Replenishment of Reserve Account**

(b) Reserve fees shall be collected and maintained, and if necessary, reinstated, to establish and replenish the~~-a~~ reserve account in an amount not to exceed the total of fifteen per cent of the forecasted monthly power purchase costs of all covered power| purchase agreements plus an amount sufficient to recover costs related to administration of the reserve account and any applicable taxes and fees.

This proposed amendment clarifies that the reserve account will be replenished if it is ever drawn upon, and as additional covered PPAs are added under the Stage 3 and IGP requests for proposals. The reserve account will continue to be capped at fifteen per cent of forecasted monthly power purchase costs.

## **9. Other**

### **Legislative Findings: “received from independent power producers”**

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

Therefore, the purpose of this Act is to:

(1) Require the department of budget and finance to enter into a step-in agreement with an independent power producer under which the department of budget and finance will agree to make required payments from moneys ~~received from independent power producers~~ related to power purchase charges and reserve fees to the independent power producer after a failure by the electric utility to make required payments pursuant to the terms of a power purchase agreement;

These proposed amendments delete erroneous language in the legislative findings added in HD1. The language indicating that moneys are “received from independent power producers” is incorrect. The moneys are instead received from customers through rates via the power purchase adjustment clause and the energy cost recovery clause without any markup by the utility. They are then passed through to pay independent power purchasers for electricity.

## Section 269-B(g)

the amounts owed to such obligees. The assignment and transfer of title to the revenues by the electric utility shall be made and remain for the term of the step-in agreement free and clear of any prior lien, pledge, security interest, or encumbrance of any kind, and shall be exempt from section 269-19. The

This very minor edit restores “and clear” to ensure that the term of art, “free and clear,” applies to the transfer of title over revenues to the department. The term indicates that there are no encumbrances, such as liens or security interests, attached to the title of revenues prior to their assignment and transfer to the department.

## Section 269-C(a)(1)

(1) To pay power purchase costs pursuant to step-in agreements, subject to the appointment, authorization, and empowerment of the electric utility as an agent as described in section 269-F(e);~~;~~ and for revenues in excess of amounts owed under covered power purchase agreements.~~;~~

This minor proposed amendment of exchanging commas and semi-colons only seeks to clarify that the phrase “for revenues in excess of amounts owed under covered power purchase agreements” applies to subparagraphs (2) and (3), and not to subparagraph (1). Recovery of incremental administrative costs and implementation of a rate credit applies only for “revenues in excess of amounts owed under covered power purchase agreements.”



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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 of replacement clean energy resources by a  
15 certain investor-owned electric utility and its electric

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

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

18 The legislature also finds that continued development of  
19 clean energy resources requires adequate assurances that  
20 payments for purchased power will be made to independent power  
21 producers as and when due by the utility under power purchase  
22 agreements. The current sub investment grade status of a  
23 certain investor-owned electric utility and its subsidiaries,  
24 arising from the tragic events that occurred in the 2023 Maui  
25 wildfires, has led independent power producers, and those who  
26 would otherwise finance renewable energy projects, to raise  
27 concerns about the reliability of payment by the utility and

1 its subsidiaries under power purchase agreements procured  
2 through the Stage 3 and Integrated Grid Planning requests for  
3 proposals. Those concerns may cause independent power  
4 producers to cancel renewable energy projects or increase the  
5 prices they would charge for deliveries to address this  
6 perceived credit risk. Either outcome would be contrary to the  
7 interests of electric utility customers in the State.

8 The legislature further finds that the public interest  
9 would be served if the department of budget and finance enters  
10 into "step-in agreements" with independent power producers,  
11 pursuant to which the department of budget and finance would  
12 agree to make payments to the independent power producers after  
13 a failure by an electric utility to make required payments  
14 pursuant to the terms of the power purchase agreements. The  
15 department of budget and finance's obligation to make payments  
16 pursuant to the terms of a step-in agreement is limited to the  
17 moneys received from power purchase charges associated with a  
18 power purchase agreement subject to a step-in agreement and  
19 reserve fees that are on deposit in the power purchase costs  
20 trust fund established by the department of budget and  
21 finance. Neither the full faith and credit of the State, nor  
22 any other moneys of the State, will be pledged for any  
23 obligations under a step-in agreement.

24 The legislature finds that step-in agreements may provide  
25 assurances that payments for purchased power will be made to  
26 independent power producers as and when due by the utility  
27 under the covered power purchase agreements. The legislature

1 also finds that the intent of this Act is further served by  
2 appointing, authorizing, and empowering the electric utility to  
3 serve as the billing, collection, ~~and payment~~, and management  
4 agent of the department of budget and finance. Prior to a  
5 payment default by the electric utility, the electric utility  
6 will be authorized to utilize moneys ~~received from independent~~  
7 ~~power producers~~ related to power purchase charges to discharge  
8 its obligations to pay independent power producers for electric  
9 energy and related products. The obligations of the department  
10 of budget and finance under this Act are undertaken for a  
11 public purpose, namely, the protection of public health,  
12 safety, and welfare by supporting the development of clean  
13 energy resources that are needed for the reliable provision of  
14 electric supply at a reasonable cost.

15 Therefore, the purpose of this Act is to:

16 (1) Require the department of budget and finance to enter  
17 into a step-in agreement with an independent power producer  
18 under which the department of budget and finance will agree to  
19 make required payments from moneys ~~received from independent~~  
20 ~~power producers~~ related to power purchase charges and reserve  
21 fees to the independent power producer after a failure by the  
22 electric utility to make required payments pursuant to the  
23 terms of a power purchase agreement;

24 (2) Require the department of budget and finance to  
25 establish a trust fund outside the state treasury that shall be  
26 capitalized by money from a surcharge supporting a reserve  
27 account and, in the event of a default, by money received from

1 power purchase charges, in each case associated with covered  
2 power purchase agreements, for the fulfillment of payment  
3 obligations arising from the power purchase agreement;

4 (3) Establish that money collected from on-bill charges  
5 associated with covered power purchase agreements and money  
6 from a surcharge supporting a reserve account that are  
7 deposited in the power purchase costs trust fund shall be held  
8 in trust by the State, and that independent power producers  
9 shall hold a beneficial interest in such moneys to the extent  
10 of the amounts owed to such independent power producers under  
11 the covered power purchase agreements; and

12 (4) Appoint, authorize, and empower the electric utility  
13 to serve as the billing, collection, ~~and~~ payment, and  
14 management agent of the department of budget and finance to  
15 implement the requirements of this Act.

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

19 "Part. STEP-IN AGREEMENTS COVERING POWER PURCHASE COSTS

20 §269-A Definitions. As used in this part:

21 "Covered power purchase agreement" means a power purchase  
22 agreement that is subject to a step-in agreement.

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

1 "Default" does not mean a bankruptcy filing by an electric  
2 utility.

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

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

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

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

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

19 (1) BBB- or higher for S&P Global Ratings, or any  
20 successor by law;

21 (2) BAA3 or higher by Moody's Investor Services, Inc., or  
22 any successor by law; or

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

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

1 "Power purchase agreement" means a contract between an  
2 electric utility and a user, owner, or operator of the Hawaii  
3 electric system, approved by the public utilities commission,  
4 pursuant to which the electric utility agrees to purchase, and  
5 the user, owner, or operator of the Hawaii electric system  
6 agrees to sell, electric energy and related products produced  
7 by plants or facilities that have not provided, sold, or  
8 transmitted electricity to the electric utility before July 1,  
9 2025.

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

16 "Power purchase costs" means costs incurred by an electric  
17 utility pursuant to the terms of a power purchase  
18 agreement. "Power purchase costs" include but are not limited  
19 to costs such as termination payments payable by an electric  
20 utility in connection with the termination of a power purchase  
21 agreement as a result of a default by such electric utility  
22 thereunder and all categories of costs recoverable under the  
23 energy cost recovery clause and the purchased power adjustment  
24 clause under their respective tariffs in effect on July 1,  
25 2025.

26 "Purchased power adjustment clause" means the provision,  
27 or other equivalent, in an electric utility's rate schedules

1 that allows the electric utility to recover expenses and  
2 related taxes for non-energy costs of power purchased under a  
3 power purchase agreement.

4 "Reserve fees" means the surcharges described in section  
5 269-E(a).

6 "Revenue" means moneys from power purchase charges and  
7 reserve fees net of any applicable taxes or government fees,  
8 including but not limited to the franchise tax, public service  
9 company tax, and public utility commission fee.

10 "Step-in agreement" means a contract by which the  
11 department undertakes the obligation of payment for power  
12 purchase costs owed to an obligee as and when due by an  
13 electric utility under a power purchase agreement following a  
14 default, as described in section 269-B(a); provided that the  
15 department's payment obligation under such step-in agreement is  
16 limited to the moneys from power purchase charges and reserve  
17 fees collected in connection with the covered power purchase  
18 agreements and on deposit in the fund.

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

21 §269-B Step-in agreements.

22 (a) The department shall enter into a step-in agreement  
23 with an obligee after receipt of satisfactory results, as  
24 determined by the department, from a due diligence  
25 investigation by the department of an obligee and the step-in  
26 agreement. Such step-in agreement shall require the department  
27 to make payments for power purchase costs owed by an electric



1 utility to the obligee in the event of a default; provided that  
2 before entering into any step-in agreement, the department  
3 shall conduct due diligence on the obligee, including through  
4 communication with the prospective obligee, within thirty days  
5 of a request to enter into a step-in agreement. Pursuant to  
6 such step-in agreement and upon the default, the department  
7 shall make payments to the obligee for power purchase costs  
8 with moneys on deposit in the fund as and when due by the  
9 electric utility under the covered power purchase agreement;  
10 provided that any such step-in agreement shall provide that the  
11 department's payment obligation thereunder shall be limited to  
12 the moneys from power purchase charges and reserve fees  
13 collected in connection with covered power purchase agreements  
14 that are on deposit in the fund. Each step-in agreement shall  
15 include a clause stating that neither the full faith and credit  
16 of the State nor any other moneys of the State will be pledged  
17 for any obligations pursuant to the terms of the step-in  
18 agreement and that in any action concerning a failure by the  
19 department to comply with the terms of the step-in agreement,  
20 the sole and exclusive remedy available to an obligee and the  
21 electric utility against the department shall be an order  
22 directing specific performance of the step-in agreement, and  
23 under no circumstances shall the department be liable for any  
24 costs, expenses, or other monetary relief or compensatory  
25 damages. An obligee of a covered power purchase agreement  
26 shall have no claim or lien on any moneys of the State. An  
27 obligee of a covered power purchase agreement shall only have a

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

13 (b) The department shall enter into a step-in agreement  
14 only if the power purchase agreement subject to the step-in  
15 agreement arises from the Stage 3 request for proposals under  
16 docket number 2017-0352 before the public utilities commission  
17 or the first Integrated Grid Planning request for proposals  
18 issued under docket number 2024-0258 before the public  
19 utilities commission. The department shall enter into a step-  
20 in agreement related to a power purchase agreement when the  
21 power purchase agreement is executed or, if the power purchase  
22 agreement has already been executed as of July 1, 2025, as soon  
23 as reasonably possible.

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

1 (d) The step-in agreement shall terminate, in addition to  
2 at the conclusion of its defined term, when the credit rating  
3 of the electric utility or its successor achieves investment  
4 grade status or by express agreement of the obligee,  
5 department, and electric utility. Following the termination of  
6 a step-in agreement, the department shall have no obligation to  
7 the electric utility or the obligee upon a default by the  
8 electric utility.

9 (e) Following a default of a covered power purchase  
10 agreement and any payment by the department from moneys in the  
11 fund, the electric utility, through agreement with all obligees  
12 of its covered power purchase agreements, may elect to resume  
13 payments for power purchase costs owed by the electric utility,  
14 regardless of the credit rating of the electric utility at that  
15 time, in which case the electric utility shall cease to  
16 transfer revenues representing moneys from power purchase  
17 charges collected in connection with the covered power purchase  
18 agreement to the fund as described in section 269-C(a), and may  
19 use the revenues from power purchase charges through the  
20 vesting of title in the electric utility as described in  
21 subsection (h); provided that the payments shall not terminate  
22 the step-in agreement, which shall remain in effect until  
23 terminated pursuant to subsection (d), and the department shall  
24 remain obligated to pay the obligee upon a subsequent default  
25 by the electric utility solely from moneys on deposit in the  
26 fund; provided that no election by the electric utility is

1 permitted if the department has made payment for power purchase  
2 costs with moneys from the reserve fees.

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

13 (g) As consideration for the department entering into a  
14 step-in agreement, the electric utility or its successor shall  
15 enter into an agreement to assign and transfer title to the  
16 revenues from power purchase charges and reserve fees  
17 attributable to the covered power purchase agreement to the  
18 department to be held in trust for the benefit of the obligees  
19 under the covered power purchase agreements to the extent of  
20 the amounts owed to such obligees. The assignment and transfer  
21 of title to the revenues by the electric utility shall be made  
22 and remain for the term of the step-in agreement free and clear  
23 of any prior lien, pledge, security interest, or encumbrance of  
24 any kind, and shall be exempt from section 269-19. The  
25 revenues shall not be subject to appropriation for any other  
26 purpose. The revenues shall be exempt from the requirements of  
27 chapters 36 and 38. The electric utility or its successor

1 shall be and remain at all times, even upon the occurrence and  
2 during the continuance of a default by the electric utility or  
3 its successor, obligated to bill and collect the power purchase  
4 charges and reserve fees and manage the associated revenues as  
5 an agent for the department to effectuate the purposes of this  
6 part.

7 (h) Prior to default or an entry of an order of relief  
8 with respect to the electric utility pursuant to title 11 of  
9 the United States Code, if any payment obligation of the  
10 electric utility under a covered power purchase agreement for  
11 power purchase costs becomes owed and due, any title held by  
12 the department in trust to the revenues related to moneys from  
13 power purchase charges for the payment obligation owed and due  
14 shall divest from the department and vest in the electric  
15 utility or its successor at the time the payment by the  
16 electric utility or its successor is made to the obligee. Any  
17 vesting of moneys from power purchase charges to the electric  
18 utility at the time of payment may be made without  
19 appropriation by the legislature or allotment. The department  
20 shall not otherwise assign, sell, or transfer any title to, or  
21 any claim or right to, the revenues from power purchase charges  
22 or reserve fees.

23 (i) To meet the requirements of the State and the public  
24 utilities commission as they pertain to electric reliability,  
25 energy security, and energy diversification under this chapter  
26 and any rules adopted pursuant thereto, the electric utility  
27 shall ensure that it maintains sufficient availability of

1 electric energy and related products, to the extent provided by  
2 an obligee in accordance with a covered power purchase  
3 agreement. The public utilities commission shall exercise its  
4 regulatory powers to ensure that the electric utility complies  
5 with its obligations under the covered power purchase  
6 agreement.

7 (j) Notwithstanding any other law to the contrary, the  
8 electric utility shall file with the public utilities  
9 commission, and the public utilities commission shall allow to  
10 become effective, monthly rate adjustments provided under the  
11 energy cost recovery clause and purchased power adjustment  
12 clause to establish or adjust power purchase charges in a  
13 manner designed to:

14 (1) Generate sufficient moneys from power purchase  
15 charges to timely and fully pay amounts when owed and due under  
16 covered power purchase agreements;

17 (2) Ensure that in no event shall moneys from power  
18 purchase charges fall below the amounts owed and due under  
19 covered power purchase agreements by a sum that exceeds the  
20 amounts in the reserve account established under section 269-E;  
21 and

22 (3) Recover any applicable taxes and government fees and  
23 any incremental administrative costs of the electric utility or  
24 the department incurred to implement the requirements of this  
25 part.

26 To achieve the objectives established pursuant to this  
27 subsection, unless the public utilities commission otherwise

1 directs, the electric utility may retain revenues collected  
2 from power purchase charges in excess of amounts owed and due  
3 under the covered power purchase agreements. Any moneys in the  
4 account established under the fund related to reserve fees will  
5 remain with the department. The obligations of the electric  
6 utility and of the public utilities commission under this  
7 section shall survive any default by the electric utility and  
8 shall terminate only upon the termination of the step-in  
9 agreement as provided in subsection (d).

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

19 §269-C Default of electric utility; successor  
20 requirements.

21 (a) After the obligee provides notice to the department  
22 of a default of a covered power purchase agreement, the  
23 department shall promptly provide the electric utility with a  
24 copy of such notice of default. ~~One~~Two days after the  
25 electric utility receives the notice, the electric utility  
26 shall transfer all revenues from the power purchase charges  
27 arising from any covered power purchase agreements identified

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

11 (1) To pay power purchase costs pursuant to step-in  
12 agreements, subject to the appointment, authorization, and  
13 empowerment of the electric utility as an agent as described in  
14 section 269-F(e) ~~i~~<sup>r</sup> and for revenues in excess of amounts owed  
15 under covered power purchase agreements ~~.~~<sup>+</sup>

16 (2) To recover any incremental administrative costs of  
17 the electric utility or the department incurred to implement  
18 the requirements of this part; and

19 (3) To implement a rate credit to customers.

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

23 (c) The obligation of the electric utility to collect and  
24 remit the revenues from power purchase charges and reserve fees  
25 pursuant to the requirements of this part shall not be subject  
26 to any setoff, counterclaim, surcharge, or defense by the



1 electric utility, or in connection with a bankruptcy of any  
2 electric utility.

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

12 (e) If the step-in agreement is terminated as described  
13 in section 269-B(d), then by operation of law, any title to the  
14 revenues related to power purchase charges attributable to the  
15 covered power purchase agreement shall immediately cease to be  
16 held in trust and the electric utility or its successor shall  
17 thereafter be the sole holder of title or beneficial and  
18 equitable interest in, and any claim or right to, the revenues  
19 related to power purchase charges, and the obligation of the  
20 electric utility or its successor to bill and collect the power  
21 purchase charges and reserve fees and manage the revenues as an  
22 agent for the department, and, if applicable, to remit the  
23 collected revenues to the fund, shall terminate.

24 §269-D Power purchase costs trust fund. (a) There is  
25 established outside the state treasury the power purchase costs  
26 trust fund to be administered by the department. The  
27 department shall establish and maintain two separate accounts

1 within the fund, the first account to be utilized for the  
2 deposit of all power purchase charges transferred by the  
3 electric utility and the second account to be utilized for the  
4 deposit of reserve fees transferred by the electric utility.

5 The electric utility shall transfer to the department for  
6 deposit into the applicable account in the fund all revenues  
7 collected in connection with covered power purchase agreements  
8 from:

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

11 (2) Reserve fees.

12 (b) Moneys in the fund shall be held by the department in  
13 trust for the term of the step-in agreement for the benefit of  
14 obligees of covered power purchase agreements to the extent of  
15 the amounts owed to such obligees. The department's payments  
16 from the fund shall be made without appropriation or allotment,  
17 as provided in section 37-40.

18 (c) If a step-in agreement is terminated as described in  
19 section 269-B(d), the fund shall cease to receive any moneys  
20 from the power purchase charges collected by the electric  
21 utility or its successor and the department shall pay to the  
22 electric utility or its successor the remainder of any moneys  
23 in the fund attributable to power purchase charges. Those  
24 moneys from power purchase charges shall be considered moneys  
25 of the electric utility or its successor.

26 (d) The department shall be under no obligation to make  
27 payment to any obligee in excess of the moneys in the fund.

1 Any default or failure by the department to make payments  
2 pursuant to the terms of a step-in agreement under this part  
3 shall not result in any recourse by the electric utility or  
4 obligee to any funds of the State. The only moneys an obligee  
5 shall have the benefit of are moneys derived from power  
6 purchase charges and the reserve fees collected and on deposit  
7 in the fund. In any action concerning a breach by the  
8 department of a step-in agreement, the sole and exclusive  
9 remedy available to an obligee and the electric utility against  
10 the department shall be an order directing specific performance  
11 of the step-in agreement, and under no circumstances shall the  
12 department be liable for any costs, expenses, or other monetary  
13 relief or compensatory damages.

14 §269-E Reserve account; establishment.

15 (a) By August 1, 2025, the public utilities commission  
16 shall create a ~~utility-wide nonbypassable~~ surcharge, referred  
17 to as reserve fees, which shall be deposited into an account  
18 within the fund and be pledged to secure and be applied to the  
19 repayment of payment obligations under a covered power purchase  
20 agreement to the extent that there is a shortfall in the amount  
21 of power purchase charges on deposit in the fund. Reserve fees  
22 shall be collected by the electric utility or its successors,  
23 as collection agents for the department, in full through a  
24 surcharge that is separate and apart from the electric  
25 utility's rates. Reserve fees may be included in the purchased  
26 power adjustment clause on customer bills. The department  
27 shall establish and maintain a separate account within the fund

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

21 (b) Reserve fees shall be collected and maintained, and  
22 if necessary, reinstated, to establish and replenish the ~~a~~  
23 reserve account in an amount not to exceed the total of fifteen  
24 per cent of the forecasted monthly power purchase costs of all  
25 covered power purchase agreements plus an amount sufficient to  
26 recover costs related to administration of the reserve account  
27 and any applicable taxes and fees.

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

7           §269-F Electric utility; agent of the department.

8           (a) To implement the requirements of this part, the  
9 department may contract with an electric utility or its  
10 successor to act as an agent of the department to provide  
11 billing, collection, payment, management, and other related  
12 services. In any action concerning a breach by the department  
13 of the agency agreement, the sole remedy available to an  
14 electric utility against the department shall be an order  
15 directing specific performance of the agency agreement. Under  
16 no circumstances shall the department be liable for any costs,  
17 expenses, or other monetary relief or compensatory damages in  
18 connection with a breach of any agency agreement.

19           (b) At the request of the department, the public  
20 utilities commission shall order an electric utility or its  
21 successor to perform the duties pursuant to a contract under  
22 subsection (a).

23           (c) The act of serving as an agent to bill and to collect  
24 the power purchase charges and reserve fees shall not cause any  
25 electric utility to be subject to the laws that regulate  
26 financial institutions, escrow depositories, or collection  
27 agencies. An electric utility shall not be responsible for

1 lending, underwriting, and credit determinations in respect to  
2 these billing and collection activities.

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

8 (e) To implement the requirements of this part, the  
9 director of finance may appoint, authorize, and empower the  
10 electric utility, as agent for and on behalf of the department,  
11 to collect, manage, and pay out moneys, including from the  
12 fund, for fulfillment of payment obligations of the department  
13 arising from step-in agreements related to covered power  
14 purchase agreements. The appointment shall terminate when the  
15 step-in agreement is terminated as described in section 269-  
16 B(d).

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

20 SECTION 3. If any provision of this Act, or the  
21 application thereof to any person or circumstance, is held  
22 invalid, the invalidity does not affect other provisions or  
23 applications of the Act that can be given effect without the  
24 invalid provision or application, and to this end the  
25 provisions of this Act are severable.

26 SECTION 4. In codifying the new sections added by section  
27 2 of this Act, the revisor of statutes shall substitute

1 appropriate section numbers for the letters used in designating  
2 the new sections in this Act.

3 SECTION 5. This Act shall take effect ~~on July 1, 3000~~upon  
4 its approval.

5 INTRODUCED BY: \_\_\_\_\_

6 BY REQUEST

**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 from on-bill charges for power purchase agreements and money from a surcharge supporting a reserve account shall be held in trust by the State, and that independent power producers shall hold a beneficial interest in the revenues to the extent of the amounts owed under the covered power purchase agreements. Appoints, authorizes, and empowers the electric utility to serve as the billing, collection, ~~and~~ payment, and managing agent of the Department of Budget and Finance in the service of performing step-in agreements.

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



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**Senate Bill 1501 SD2 HD1 – Relating to Renewable Energy**  
**TESTIMONY**

Hawai'i State House of Representatives  
House Committee on Finance  
Monday, March 31, 2025  
3:15 p.m.

Aloha Chair Yamashita, Vice Chair Takenouchi and Committee Members,

Mahalo for the opportunity to provide testimony in **support of SB 1501 SD2 HD1, relating to renewable energy**. AES Hawai'i is the state's largest renewable energy provider. We share the state's vision for a 100% renewable energy future to enhance energy resilience, decarbonization, and promote energy equity. We are working to accelerate and support Hawai'i's transition toward a carbon-free energy future with renewable projects across the Hawaiian Islands totaling over 405 MW of solar, solar plus storage, and wind resources in operation or under contract, with 102.5 MW of Stage 1 projects and 37 MW of Stage 2 projects. Additionally, AES Hawai'i has two Stage 3 projects which recently signed PPAs and were submitted to the PUC for review and approval.

The purpose of SB 1501 SD2 HD1 is to mitigate the impact of HECO's current non-investment grade status on the financing for renewable energy projects developed by Independent Power Producers (IPPs). The bill is essential for ensuring that IPPs, like AES Hawai'i, can secure competitive financing terms for renewable energy projects under HECO's Stage 3 RFP and IGP RFP.

IPPs rely on lenders and investors to finance utility-scale renewable energy projects under Power Purchase Agreements (PPAs) with HECO. Achieving the lowest PPA rates for these projects requires a PPA customer (HECO) with an investment grade credit rating. Given HECO's current non-investment grade status, it is imperative to AES Hawai'i and all IPPs that have PPAs with HECO for utility-scale renewable energy projects that these PPAs are supported by the proposed step-in agreements. Furthermore, it is critical that the department of budget and finance enter into the proposed step-in agreements to avoid delays to IPPs in developing, constructing, and financing their projects. This ensures IPPs can procure the best possible financing terms for renewable projects under HECO's Stage 3 RFP and IGP RFP.

The proposed step-in agreement with the department of budget and finance will mitigate the default risk associated with HECO's non-investment grade status and provides important assurances to financiers, enabling the financing of utility-scale renewable energy projects. Without these assurances, financing could become unavailable, limited, or extremely expensive, leading to project cancellations, major price increases for HECO and ratepayers and significant delays in the state's transition to 100% renewable energy. It is important to note this bill is primarily intended to help ratepayers mitigate financial risk of rising electricity costs if renewable energy projects with HECO in Hawai'i cannot remain viable through financing.

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AES Hawai'i supports the package of amendments submitted by HECO, which incorporates requested changes from the State and IPPs, including AES. In addition, AES Hawai'i respectfully requests the following amendments, which are intended to ensure the bill can be implemented as intended and mitigate increased financing costs for renewable energy projects:

1. **Section 269-B(k) Step-in agreements.** The following new subsection (k) should be added to Section 269-B to provide a mechanism for the department to file submissions with the public utilities commission if the electric utility fails to do so:

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

2. **Section 269-F (a), (e) and (f) Electric Utility; agent of the department:** The current bill states that the Department may contract with the electric utility to act as an agent on the State's behalf to provide billing, collection, payment, management and other related services. AES believes that HECO is best positioned to perform these services so we agree with HECO that "may" should be replaced with "shall" in the first line. In addition, and consistent with that proposed amendment, to avoid the need for a lengthy procurement process, we propose to add language that would exempt contracts with HECO under Sections 269-F(a) and (e) from Chapter 103D, the State Procurement Code.

(a) To implement the requirements of this part, the department shall contract with an electric utility or its successor to act as an agent of the department to provide billing, collection, payment, and other related services. In any action concerning a breach by the department of the agency agreement, the sole remedy available to an electric utility against the department shall be an order directing specific performance of the agency agreement. Under no circumstances shall the department be liable for any costs, expenses, or other monetary relief or compensatory damages in connection with a breach of any agency agreement.

(e) To implement the requirements of this part, the department ~~may~~ shall contract with an electric utility or its successor to act as an agent of the department to provide billing, collection, payment, management, and other related services on terms and conditions that reasonably compensate the electric utility or its successor for its incremental cost to provide services, and adequately secure payment to the department.

(f) The department's contracts with the electric utility for such services under Sections 269-F(a) and (e) are exempt from chapter 103D.

3. **Clarify that Step-in Agreements obligations are payable from all moneys in the fund.** The current bill should consistently provide that step-in agreement obligations are payable from all moneys in the fund, not solely

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from power purchase charges and reserve fees attributable to a particular covered power purchase agreement.

The second sentence of the fifth paragraph of the bill's preamble should be revised as follows:

The department of budget and finance's obligation to make payments pursuant to the terms of a step-in agreement is limited to the moneys received from power purchase charges associated with ~~a power purchase agreements~~ subject to ~~a step-in agreements~~ and reserve fees that are on deposit in a power purchase costs trust fund established by the department of budget and finance.

The fifth sentence of Section 269-B(a) should be revised as follows:

An obligee of a covered power purchase agreement shall have no claim or lien on any moneys of the State. ~~An obligee of a covered power purchase agreement shall only have a claim or lien on moneys~~ except for those revenues from the power purchase charges and reserve fees attributable to ~~the~~ covered power purchase agreements that are transferred by the electric utility and on deposit in the fund.

**4. Account for the possibility that the electric utility may not be appointed as collection agent for the covered power purchase charges and reserve fees.**

In the second sentence of 269-D(a) add the words "or other collection agents" after the words "electric utility" in two places in that sentence.

In the second sentence of 269-E(a) add the word "or" before the words "other collection agents" after the word "successors".

**5. Clean up comments.**

The third sentence of the sixth paragraph of the preamble should be revised as follows because the electric utility does not receive moneys from independent power producers, it receives money from power purchase charges which are from its customers:

Prior to a payment default by the electric utility, the electric utility will be authorized to utilize moneys ~~received from independent power producers related to power purchase charges~~ to discharge its obligations to pay independent power producers for electric energy and related products.

Clause (1) of the seventh paragraph of the preamble should be revised as follows because the electric utility does not receive moneys from independent power producers, it receives money from power purchase charges which are from its customers:

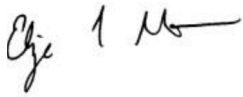
Require the department of budget and finance to enter into a step-in agreement with an independent power producer under which the department

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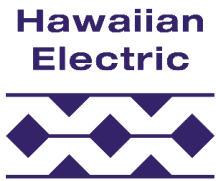
of budget and finance will agree to make required payments ~~from moneys received from independent power producers related to power purchase charges and reserve fees~~ to the independent power producer after a failure by the electric utility to make required payments pursuant to the terms of a power purchase agreement;

Thank you again for your time and consideration. AES Hawai'i supports this measure, to ensure the financial viability of our renewable energy projects and to ensure Hawai'i can achieve ambitious renewable energy goals embedded in our state energy policy.

Mahalo for your consideration.



**Eliza Talbot Manchester**  
Manager Government and Regulatory Affairs  
AES Hawai'i



CATHOLIC CHARITIES HAWAII



HOUSE COMMITTEE ON FINANCE  
March 31, 2025, 3:15 p.m., Room 308

### Testimony in strong support of SB 1501 SD2 HD1

Aloha Chair Yamashita, Vice Chair Takenouchi, and members of the Finance Committee:

As partners of Climate Hawai'i, an initiative of the Hawai'i Executive Collaborative (HEC), we strongly support SB 1501 SD2 HD1, which will help Hawai'i stay on track to achieve its critical climate and energy security goals. The measure establishes step-in agreements to ensure continuity of payments for large-scale renewable energy producers in the event of an electric utility default. This measure is critical to securing financing for new clean energy projects, accelerating Hawai'i's clean energy transition, and ensuring energy affordability and reliability for all residents.

## **Why SB 1501 is Critical for Hawai'i's Energy Future**

Hawai'i is at a pivotal moment in its energy transition. The state must rapidly replace retiring fossil fuel plants with cost-effective renewable energy projects, yet recent events—such as the devastating Maui fires—have degraded Hawaiian Electric's credit rating, which has significantly increased financing costs and project uncertainty. Without intervention, this could lead to:

- Cancellations and delays of clean energy projects, increasing reliance on costly fossil fuels.
- Higher electricity prices for residents due to expensive financing terms or project terminations.
- Grid reliability risks, particularly as existing power plants age and retire without sufficient replacements.

## **Key Benefits of SB 1501**

This bill addresses financing challenges by establishing step-in agreements that allow the state to ensure continued payments to renewable energy producers in the unlikely event of a utility default. This mechanism:

- Restores investor confidence and enables financing for new solar, wind, and storage projects.
- Accelerates Hawai'i's transition to 100% renewable energy, avoiding unnecessary delays.
- Reduces long-term energy costs by securing lower financing rates and keeping clean energy affordable.
- Enhances energy security and resilience by ensuring new projects are built on schedule.

## **A Proven, Low-Risk Model for Ensuring Renewable Energy Development**

Step-in agreements have been successfully used in other jurisdictions to support energy infrastructure investments. Importantly:

- The State does not assume financial liability beyond revenues already collected from ratepayers for power purchases.
- No taxpayer funds are used—these agreements operate within the existing utility billing framework.
- A dedicated reserve account ensures stability, preventing disruptions even if an electric utility encounters financial difficulties.

## **The Cost of Inaction**

If these policies are not adopted, Hawai'i risks losing critical renewable energy projects at a time when the state cannot afford further delays. Renewable energy producers have already withdrawn projects due to financing challenges, and without step-in agreements, more will follow—jeopardizing our climate goals and forcing residents to bear the burden of higher electricity costs from continued fossil fuel use.

## **A Smart, Targeted Solution for a Sustainable Future**

Senate Bill 1501 provides a measured, financially responsible approach to securing Hawai'i's clean energy transition. By ensuring that renewable energy producers have confidence in their

contractual payments, these policies will unlock investment, create local jobs, and accelerate clean energy deployment—all while keeping energy costs stable for Hawai'i's residents and businesses. As Climate Hawai'i partners, we strongly urge the Legislature to pass this policy to protect Hawai'i's energy future and uphold the state's commitment to 100% renewable energy by 2045.

Mahalo for your leadership and the opportunity to testify.

#### **About the Hawai'i Executive Collaborative**

*The Hawai'i Executive Collaborative (HEC) is a nonprofit organization that serves as a convener and provides backbone support to leaders from different sectors who want to help build a more resilient economy and state. HEC members believe in the power of acting collectively and focus their energies and resources on areas where immediate and systemic changes will benefit Hawai'i and the world. For more information on Climate Hawai'i's real-world, high-impact solutions, please visit [climatehawaii.earth](https://climatehawaii.earth).*

#### **Climate Hawai'i partners supporting this testimony:**

- AES Hawai'i
- aio
- Blue Planet Foundation
- Bowers + Kubota
- Catholic Charities Hawaii
- Chaminade University
- County of Kaua'i
- Elemental Impact
- Hawaiian Electric
- Hua Nani Partners
- Manoa Valley Theatre
- PAR Hawaii
- Sun Noodle
- Young Brothers
- Zephyr Insurance



## HOUSE COMMITTEE ON FINANCE

March 31, 2025, 3:15 P.M.

Conference Room 308 and videoconference

### TESTIMONY IN STRONG SUPPORT OF SB 1501 SD2 HD1

Aloha Chair Yamashita, Vice Chair Takenouchi, and members of the Committee:

Blue Planet Foundation **strongly supports SB 1501**, a critical measure to ensure the continued financing and development of affordable clean energy projects in Hawai'i. This bill offers a timely, necessary, and forward-thinking mechanism—step-in agreements and a dedicated Power Purchase Costs Trust Fund—to provide assurances to independent power producers (IPPs) and their lenders amidst utility credit concerns, ultimately protecting Hawai'i's energy future and ratepayers.

***Proposed amendment:*** *Blue Planet believes that community-based renewable energy projects should be included along with IPPs to qualify for the step-in agreement and trust fund.*

Blue Planet Foundation is a Honolulu-based 501(c)(3) committed to helping Hawai'i cut its dangerous carbon emissions and avoid the worst impacts of climate change. We leverage the power of locally driven policy change and awareness to create momentum and inspire broader societal shifts to protect our climate in Hawai'i and beyond.

Hawai'i is at a pivotal juncture. With aging fossil fuel plants approaching retirement and new utility-scale renewable energy projects in development under Hawaiian Electric's Stage 3 and Integrated Grid Plan procurements, it is essential that financing for these projects remains viable. Unfortunately, Hawaiian Electric's current sub-investment-grade credit rating—largely resulting from the tragic Maui wildfires—has created a major financing barrier. Lenders now require higher interest rates or impose more restrictive terms, leading to higher power prices or project cancellations.

Senate Bill 1501 addresses this challenge head-on by creating a mechanism for the Department of Budget and Finance to “step in” and make payments to IPPs in the event of a utility default. This limited and clearly defined credit backstop helps reassure financiers without putting general taxpayer funds at risk. Importantly:

- The proposed trust fund will be capitalized by existing ratepayer revenues already collected under on-bill charges, not general fund appropriations.
- Step-in agreements do not constitute contingent liabilities under the State Constitution.

**[info@blueplanetfoundation.org](mailto:info@blueplanetfoundation.org)**

55 Merchant Street 17<sup>th</sup> Floor • Honolulu, Hawai'i 96813 • 808-954-6161 • [blueplanetfoundation.org](http://blueplanetfoundation.org)



- The bill ensures that if such a mechanism is ever triggered, revenues will be available to maintain uninterrupted payments and energy delivery.
- A reserve fund component, while modest in cost to ratepayers, further strengthens the mechanism's reliability.

It's critical to note that this measure is ultimately about ensuring that ratepayers continue to benefit from competitively priced renewable energy that would otherwise be jeopardized by external credit market forces. Without this bill, project developers may withdraw or increase their PPA prices significantly—outcomes that would burden families and businesses across Hawai'i.

Blue Planet appreciates the Legislatures proactive leadership on this measure. Senate Bill 1501 supports critical climate, energy security, and economic goals by enabling the timely buildout of clean energy infrastructure. We urge the Committee to advance this measure and help secure Hawai'i's clean energy future.

Thank you for the opportunity to provide testimony.



March 29, 2025

Via Electronic Submittal

Committee on Finance  
Representative Kyle T. Yamashita, Chair  
Representative Jenna Takenouchi, Vice Chair

Monday, March 31, 2025, 3:15 p.m.  
Conference Room 308 & Videoconference

**RE: SB 1501 SD2 HD1 – Relating to Energy – In Support, Request Amendment**

Aloha Chair Yamashita, Vice Chair Takenouchi, and members of the Committee:

Clearway Energy Group LLC (“Clearway”) supports SB 1501 SD2 HD1, which allows the State to enter into step-in agreements to ensure continuity of payments under certain power purchase agreements.

Clearway is one of the largest suppliers of renewable energy to Hawaiian Electric and its customers. Clearway owns and operates four solar energy projects on Oahu and has three additional projects under development that were awarded in Hawaiian Electric’s Stage 3 Renewable RFP. Our projects provide clean, reliable power to Hawaiian Electric’s customers at a fixed price and at a lower cost than electricity from fossil fuel sources.

Hawai‘i has an urgent need to add affordable, clean energy generation and storage resources to stabilize the grid and replace aging fossil fuel power plants. To make this possible, the State needs to act to restore the financeability of power purchase agreements with Hawaiian Electric. In October 2024, Clearway and Hawaiian Electric made the difficult decision to end the current round of contract negotiations for the projects originally awarded in the Stage 3 RFP. Because of the utility’s financial distress and change in credit since the Maui wildfires, Clearway has determined that it is currently not possible to secure financing at a reasonable cost for projects relying on revenue from Hawaiian Electric. Financing is a significant component of the cost of new electricity generation and storage resources, so if this problem is not resolved, it will increase costs for all ratepayers.

SB 1501 SD2 HD1 is intended to address the current barriers to financing by using the State's authority to ensure that the flow of payments due under power purchase agreements will continue uninterrupted, even in the case of a bankruptcy filing or other significant financial disruption to the utility.

Importantly, the bill does not provide any State funding or guarantee for power purchase agreements. The role of the State would only be to temporarily hold title to the revenues that flow to power providers if there is an interruption in payments from the utility. A limited reserve fund would be created to reduce the likelihood of a shortfall in payments. When the utility returns to investment-grade status, the contract protection would be removed and the reserve fund would be returned to ratepayers.

Currently, there is no provision in the bill to restore the step-in agreements if the utility's return to investment-grade status is fleeting. Clearway recommends amending Section 2, §269-B(d) such that the termination of step-in agreements is triggered when the utility maintains investment-grade status for at least three months, rather than immediately.

SB 1501 SD2 HD1 would improve access to financing for renewable energy projects, with a very limited impact on the State or on electricity customers. We encourage the Committee to pass SB 1501 SD2 HD1 with our requested amendment.

Thank you for the opportunity to testify on this matter.

Nicola Park  
Director, Hawaii  
Clearway Energy Group

**SB-1501-HD-1**

Submitted on: 3/30/2025 10:20:01 PM

Testimony for FIN on 3/31/2025 3:15:00 PM

Submitted By	Organization	Testifier Position	Testify
Glenn Yamasaki	Individual	Support	Written Testimony Only

Comments:

Chairman Yamashita, Vice Chair Takenouchi and Members of the House Finance Committee:

I stand in strong support of SB1501, SD2, HD1 (HSCR 1492). This legislation provides a strong financial backstop for Independent Power Producers (IPP) who have contracted to sell energy to Hawaiian Electric Company (HECO) under a Power Purchase Agreement in the unfortunate event HECO files for bankruptcy or is hindered from collecting and making contractual payments for purchased energy or capacity. The "Step-in" Agreement will send a strong message to the financial markets that the State of Hawaii is prepared to ensure uninterrupted payments at full contracted prices to the IPP's and and not be faced with any default provisions due to HECO's (off take risk) dire situation.