
A BILL FOR AN ACT

RELATING TO GOVERNMENT OPERATIONS.

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

PART I

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

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



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

"PART .

TELECOMMUNICATIONS CARRIERS

A. General Provisions

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

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

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

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

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



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

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

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

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

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

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



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

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

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

18 (1) Section 269-6, general powers and duties;

19 (2) Section 269-6.5, electronic copies of documents;

20 (3) Section 269-7, investigative powers;



- 1 (4) Section 269-7.5, certificates of public convenience
- 2 and necessity;
- 3 (5) Section 269-8, public utilities to furnish
- 4 information;
- 5 (6) Section 269-8.2, location of records;
- 6 (7) Section 269-8.5, annual financial reports;
- 7 (8) Section 269-9, report accidents;
- 8 (9) Section 269-10, commission may compel attendance of
- 9 witnesses, etc.;
- 10 (10) Section 269-12, notices;
- 11 (11) Section 269-13, right to be represented by counsel;
- 12 (12) Section 269-15, commission may institute proceedings
- 13 to enforce chapter;
- 14 (13) Section 269-15.5, appeals;
- 15 (14) Section 269-15.51, contested cases;
- 16 (15) Section 269-16, regulation of utility rates;
- 17 ratemaking procedures;
- 18 (16) Section 269-17, issuance of securities;
- 19 (17) Section 269-17.5, issuance of voting stock;
- 20 restrictions;



1 (18) Section 269-18, acquirement of stock of another public

2 utility;

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

4 utilities;

5 (20) Section 269-28, penalty; and

6 (21) Section 269-29, perjury.

7 **§201-C Commissioner of telecommunications.** This part

8 shall be under the supervision and control of an administrator

9 who shall be known as the commissioner of telecommunications.

10 The governor shall appoint the commissioner of

11 telecommunications who shall not be subject to chapter 76. The

12 commissioner of telecommunications shall serve as commissioner

13 under direction of the director and shall be responsible for the

14 performance of the duties imposed under this part.

15 **B. Telecommunications Carriers**

16 **§201-D Lifeline telephone rates.** (a) The commissioner

17 shall implement a program to achieve lifeline telephone rates

18 for residential telephone users.

19 (b) "Lifeline telephone rate" means a discounted rate for

20 residential telephone users identified as elders with limited



1 income and the handicapped with limited income as designated by
2 the department.

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

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

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

17 (b) The commissioner shall investigate the availability of
18 experienced providers of quality telecommunications relay
19 services for the deaf, persons with hearing disabilities, and
20 persons with speech disabilities. The provision of these
21 telecommunications relay services to be rendered on or after



1 July 1, 2019, shall be awarded by the department to the provider
2 or providers the commissioner determines to be best qualified to
3 provide these services. In reviewing the qualifications of the
4 provider or providers, the commissioner shall consider the
5 factors of cost, quality of services, and experience, and any
6 other factors as the commissioner deems appropriate.

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

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

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

20 (f) The commissioner shall require every intrastate
21 telecommunications carrier to file a schedule of rates and



1 charges and every provider of telecommunications relay service
2 to maintain a separate accounting for the costs of providing
3 telecommunications relay services for the deaf, persons with
4 hearing disabilities, and persons with speech disabilities.

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

10 (h) As used in this section:

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

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



1 §201-F Telecommunications carriers and cable systems

2 special fund. (a) There is established a special fund to be
3 known as the telecommunications carriers and cable systems
4 special fund to be administered by the commissioner.

5 (b) The special fund shall consist of:

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

8 (A) Telecommunications carriers under this part; and

9 (B) Cable systems under chapter 440G;

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

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

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

18 (c) The commissioner may use the moneys in the special
19 fund to employ, without regard to chapter 76, hearings officers
20 and attorneys. All other employees may be employed in
21 accordance with chapter 76. Any law to the contrary



1 notwithstanding, the moneys in the fund shall be used to fund
2 the operations of this part. The moneys in the fund may be used
3 to train personnel as the commissioner deems necessary and for
4 any other activity related to the purposes of this part.

5 **§201-G Aggregators of telephone service requirements. (a)**

6 For the purposes of this section:

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

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

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



- 1 (1) Posting and display of information in a prominent and
2 conspicuous fashion on or near the telephone equipment
3 owned or controlled by the aggregator which states the
4 identity of the operator service provider, the
5 operator service provider's complaint handling
6 procedures, and means by which the customer may access
7 the various operator service providers;
- 8 (2) Identification by name of the operator service
9 provider prior to the call connection and, if not
10 posted pursuant to subsection (b)(1), a disclosure of
11 pertinent rates, terms, conditions, and means of
12 access to various operator service providers and the
13 local exchange carriers; provided that the operator
14 service provider shall disclose this information at
15 any time upon request by the customer;
- 16 (3) Allowing the customer access to any operator service
17 provider operating in the relevant geographic area
18 through the access method chosen by the provider or as
19 deemed appropriate by the commissioner; and
- 20 (4) Other requirements as deemed reasonable by the
21 commissioner in the areas of public safety, quality of



1 service, unjust or discriminatory pricing, or other
2 matters in the public interest.

3 **§201-H Retail intrastate services; fully competitive. (a)**

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



1 (b) This section shall apply to retail rates charged for
2 service to end-user consumers only and shall not apply to
3 wholesale rates charged for services provided by a
4 telecommunications carrier to another telecommunications
5 provider, a wireless communications provider, a voice over
6 internet protocol communications provider, or other similar
7 communications provider.

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

12 **§201-I Telecommunications providers and services. (a)**
13 Notwithstanding any provision of this part to the contrary, the
14 commissioner, upon its own motion or upon the application of any
15 person, and upon notice and hearing, may exempt a
16 telecommunications provider or a telecommunications service from
17 any or all of the provisions of this part, except the provisions
18 of section 201-N, upon a determination that the exemption is in
19 the public interest. In determining whether an exemption is in
20 the public interest, the commissioner shall consider whether the
21 exemption promotes state policies in telecommunications, the



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

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

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

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

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

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



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



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

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

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

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



1 (f) If any provider of an exempt telecommunications
2 service or any exempt telecommunications provider elects to
3 terminate its service, it shall provide notice of this to its
4 customers, the department, and every telephone public utility
5 providing basic local exchange service in this State. The
6 notice shall be in writing and given not less than six months
7 before the intended termination date. Upon termination of
8 service by a provider of an exempt service or by an exempt
9 provider, the appropriate telephone public utility providing
10 basic local exchange service shall ensure that all customers
11 affected by the termination receive basic local exchange
12 service. The commissioner upon notice and hearing or by rule,
13 shall determine the party or parties who shall bear the cost, if
14 any, of access to the basic local exchange service by the
15 customers of the terminated exempt service.

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



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

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

11 **§201-J Universal service subsidies.** (a) For any
12 alternative telecommunications provider authorized to provide
13 basic local exchange service to any area of the State pursuant
14 to section 201-I(h), the commissioner may consider the
15 following:

- 16 (1) Transferring the subsidy, if any, of the local
17 exchange provider's basic residential telephone
18 service to the alternative provider; and
19 (2) Transferring from the local exchange carrier to the
20 alternative provider the amounts, if any, generated by
21 the local exchange provider's services other than



1 basic residential telephone service and which are used
2 to subsidize basic residential service in the area.

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

8 **§201-K Changes in subscriber carrier selections; prior**
9 **authorization required; penalties for unauthorized changes. (a)**
10 No telecommunications carrier shall initiate a change in a
11 subscriber's selection or designation of a long-distance carrier
12 without first receiving:

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

14 (2) An electronic authorization by use of a toll-free
15 number;

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

18 (4) Any other prescribed authorization;

19 provided that the letter or authorization shall be in accordance
20 with verification procedures that are prescribed by the Federal
21 Communications Commission or the commissioner. For purposes of



1 this section, "telecommunications carrier" does not include a
2 provider of commercial mobile radio service as defined by 47
3 United States Code section 332(d)(1).

4 (b) Upon a determination that any telecommunications
5 carrier has engaged in conduct that is prohibited in subsection
6 (a), the commissioner shall order the carrier to take corrective
7 action as deemed necessary by the commissioner and may subject
8 the telecommunications carrier to administrative penalties
9 pursuant to section 269-28. Any proceeds from administrative
10 penalties collected under this section shall be deposited into
11 the general fund.

12 The commissioner, if consistent with the public interest,
13 may suspend, restrict, or revoke the registration, charter, or
14 certificate of the telecommunications carrier, thereby denying,
15 modifying, or limiting the right of the telecommunications
16 carrier to provide service in this State.

17 (c) The commissioner shall adopt rules, pursuant to
18 chapter 91, necessary for the purposes of this section. The
19 commissioner may notify customers of their rights under these
20 rules.



1 §201-L Release of domestic abuse victims from shared
2 wireless plans. (a) All wireless telecommunications service
3 providers shall release, without charge, penalty, or fee, any
4 victim of domestic abuse from a shared or family wireless
5 service contract involving the victim's abuser; provided that
6 the victim submits an opt-out request in writing and with
7 evidence of domestic abuse as documented by any of the following
8 items:

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

11 (2) Order for protection granted pursuant to chapter 586;
12 or

13 (3) Signed affidavit from a licensed medical or mental
14 health care provider, employee of a court acting
15 within the scope of their employment, or social
16 worker.

17 (b) When a victim of domestic abuse submits an opt-out
18 request to a wireless telecommunications service provider
19 pursuant to subsection (a), the wireless telecommunications
20 service provider shall, within forty-eight hours from the time



1 the opt-out request is submitted to the wireless
2 telecommunications service provider:

3 (1) Transfer the billing authority and all rights to the
4 wireless telephone number or numbers of a shared
5 wireless plan to the person who has been granted the
6 release pursuant to subsection (a); or

7 (2) Remove or release the person, who has been granted the
8 release pursuant to subsection (a), from a shared
9 wireless plan and assign a substitute telephone number
10 or numbers,

11 without charge, penalty, or fee.

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

17 (d) For purposes of this section:

18 "Domestic abuse" shall have the same meaning as in section
19 586-1.



1 "Wireless telecommunications service" shall have the same
2 meaning as "commercial mobile radio service" as defined in title
3 47 Code of Federal Regulations section 20.3.

4 "Wireless telecommunications service provider" means a
5 provider of wireless telecommunications service.

6 §201-M Emergency telephone service; capital costs;
7 ratemaking. (a) A public utility providing local exchange
8 telecommunications services may recover the capital cost and
9 associated operating expenses of providing a statewide enhanced
10 911 emergency telephone service in the public switched telephone
11 network, through:

12 (1) A telephone line surcharge; or

13 (2) Its rate case.

14 (b) Notwithstanding the commissioner's rules on
15 ratemaking, the commissioner shall expedite and give highest
16 priority to any necessary ratemaking procedures related to
17 providing a statewide enhanced 911 emergency telephone service;
18 provided that the commissioner may set forth conditions and
19 requirements as the commissioner determines are in the public
20 interest.



1 (c) The commissioner shall require every public utility
2 providing statewide enhanced 911 emergency telephone service to
3 maintain a separate accounting of the costs of providing an
4 enhanced 911 emergency service and the revenues received from
5 related surcharges until the next general rate case. The
6 commissioner shall further require that every public utility
7 imposing a surcharge shall identify such as a separate line item
8 on all customer billing statements.

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

13 **§201-N Obligations of telecommunications carriers.** In
14 accordance with conditions and guidelines established by the
15 commissioner to facilitate the introduction of competition into
16 the State's telecommunications marketplace, each
17 telecommunications carrier, upon bona fide request, shall
18 provide services or information services, on reasonable terms
19 and conditions, to an entity seeking to provide intrastate
20 telecommunications, including:



- 1 (1) Interconnection to the telecommunications carrier's
2 telecommunications facilities at any technically
3 feasible and economically reasonable point within the
4 telecommunications carrier's network so that the
5 networks are fully interoperable;
- 6 (2) The current interstate tariff used as the access rate
7 until the department can adopt a new intrastate local
8 service interconnection tariff pursuant to section
9 201-P;
- 10 (3) Nondiscriminatory and equal access to any
11 telecommunications carrier's telecommunications
12 facilities, functions, and the information necessary
13 to the transmission and routing of any
14 telecommunications service and the interoperability of
15 both carriers' networks;
- 16 (4) Nondiscriminatory access among all telecommunications
17 carriers, where technically feasible and economically
18 reasonable, and where safety or the provision of
19 existing electrical service is not at risk, to the
20 poles, ducts, conduits, and rights-of-way owned or
21 controlled by the telecommunications carrier, or the



1 department shall authorize access to electric
2 utilities' poles as provided by the joint pole
3 agreement, department tariffs, rules, orders, or
4 Federal Communications Commission rules and
5 regulations;

6 (5) Nondiscriminatory access to the network functions of
7 the telecommunications carrier's telecommunications
8 network, that shall be offered on an unbundled,
9 competitively neutral, and cost-based basis;

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

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



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

7 **§201-O Universal service.** The commissioner shall preserve
8 and advance universal service by:

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

11 (2) Assisting individuals or entities who cannot afford
12 the cost of or otherwise require assistance in
13 obtaining or maintaining their basic service or
14 equipment as determined by the commissioner; and

15 (3) Ensuring that consumers are given the information
16 necessary to make informed choices among the
17 alternative telecommunications providers and services.

18 **§201-P Telecommunications number portability.** The
19 commissioner shall ensure that telecommunications number
20 portability within an exchange is available, upon request, as
21 soon as technically feasible and economically reasonable. An



1 impartial entity shall administer telecommunications numbering
2 and make the numbers available on an equitable basis.

3 **§201-Q Compensation agreements.** The commissioner shall
4 ensure that telecommunications carriers are compensated on a
5 fair basis for termination of telecommunications services on
6 each other's networks, taking into account, among other things,
7 reasonable and necessary costs to each telecommunications
8 carrier of providing the services in question.
9 Telecommunications carriers may negotiate compensation
10 arrangements, that may include "bill and keep", mutual and equal
11 compensation, or any other reasonable division of revenues
12 pending tariff access rates to be set by the commissioner. Upon
13 failure of the negotiations, the commissioner shall determine
14 the proper methodology and amount of compensation.

15 **§201-R Regulatory flexibility for effectively competitive**
16 **services.** The commissioner may allow telecommunications
17 carriers to have pricing flexibility for services that the
18 commissioner finds are effectively competitive; provided that
19 the rates for:



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

(2) Universal service is preserved and advanced.

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

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

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

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



1 inputs used by alternative providers in providing the same or
2 equivalent service.

3 **§201-T Access to advanced services.** The commissioner
4 shall ensure that all consumers are provided with
5 nondiscriminatory, reasonable, and equitable access to high
6 quality telecommunications network facilities and capabilities
7 that provide subscribers with sufficient network capacity to
8 access information services that provide a combination of voice,
9 data, image, and video, and that are available at just,
10 reasonable, and nondiscriminatory rates that are based on
11 reasonably identifiable costs of providing the services.

12 **§201-U Universal service program; establishment; purpose;**
13 **principles.** There is established the universal service program.
14 The purpose of this program is to:

- 15 (1) Maintain affordable, just, and reasonable rates for
16 basic residential telecommunications service, as
17 defined by the commissioner;
- 18 (2) Assist customers located in the areas of the State
19 that have high costs of essential telecommunications
20 service, low-income customers, and customers with
21 disabilities, in obtaining and maintaining access to a



1 basic set of essential telecommunications services as
2 determined by the department. The commissioner may
3 expand or otherwise modify relevant programs, such as
4 the lifeline program under section 201-D;

5 (3) Ensure that consumers in all communities are provided
6 with access, at reasonably comparable rates, to all
7 telecommunications services that are used by a
8 majority of consumers located in metropolitan areas of
9 the State. The commissioner shall provide for a
10 reasonable transition period to support the statewide
11 deployment of these advanced telecommunications
12 services, including the use of strategic community
13 access points in public facilities such as education,
14 library, and health care facilities;

15 (4) Ensure that consumers are given the information
16 necessary to make informed choices among the
17 alternative telecommunications carriers and services;
18 and

19 (5) Promote affordable access throughout the State to
20 enhanced government information and services,



1 including education, health care, public safety, and
2 other government services.

3 The commissioner shall administer the universal service
4 program, including the establishment of criteria by which the
5 purposes of the program are met.

6 **§201-V Universal service program; contributions. (a)**

7 There is established outside of the state treasury a special
8 fund to be known as the universal service fund to be
9 administered by the commissioner to implement the policies and
10 goals of universal service. The fund shall consist of
11 contributions from the sources identified in subsections (e) and
12 (f). Interest earned from the balance of the fund shall become
13 a part of the fund. The commissioner shall adopt rules
14 regarding the distribution of moneys from the fund including
15 reimbursements to carriers for providing reduced rates to low-
16 income, elderly, residents of underserved or rural areas, or
17 other subscribers, as authorized by the commissioner.

18 (b) The department may allow distribution of funds
19 directly to customers based upon a need criteria established by
20 the commissioner.



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

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

13 (e) The commissioner shall require all telecommunications
14 carriers to contribute to the universal service program. The
15 commissioner may require a person other than a
16 telecommunications carrier to contribute to the universal
17 service program if, after notice and opportunity for hearing,
18 the commissioner determines that the person is offering a
19 commercial service in the State that directly benefits from the
20 telecommunications infrastructure, and that directly competes



1 with a telecommunications service provided in the State for
2 which a contribution is required under this subsection.

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

9 **§201-W Carriers of last resort.** (a) The commissioner may
10 define and designate local exchange service areas where the
11 department has determined that providing universal service funds
12 to a single provider will be the most appropriate way to ensure
13 service for these areas.

14 (b) The commissioner shall determine the level of service
15 that is appropriate for each designated local exchange service
16 area and shall invite telecommunications providers to bid for a
17 level of service that is appropriate. The successful bidder
18 shall be designated the carrier of last resort for the
19 designated local exchange service area for a period of time and
20 upon conditions set by the commissioner. In determining the
21 successful bidder, the commissioner shall take into



1 consideration the level of service to be provided, the
2 investment commitment, and the length of the agreement, in
3 addition to the other qualifications of the bidder.

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

7 (d) The commissioner shall adopt rules pursuant to chapter
8 91 to carry out the provisions of this section."

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

11 "(a) Except as provided in this section, and
12 notwithstanding any other law to the contrary, from time to
13 time, the director of finance, for the purpose of defraying the
14 prorated estimate of central service expenses of government in
15 relation to all special funds, except the:

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

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

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

21 (4) State educational facilities improvement special fund;



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



- 1 [+] (17) [+] Glass advance disposal fee established by section
2 342G-82;
- 3 [+] (18) [+] Center for nursing special fund under section
4 304A-2163;
- 5 [+] (19) [+] Passenger facility charge special fund
6 established by section 261-5.5;
- 7 [+] (20) [+] Solicitation of funds for charitable purposes,
8 special fund established by section 467B-15;
- 9 [+] (21) [+] Land conservation fund established by section
10 173A-5;
- 11 [+] (22) [+] Court interpreting services revolving fund under
12 section 607-1.5;
- 13 [+] (23) [+] Trauma system special fund under section 321-
14 22.5;
- 15 [+] (24) [+] Hawaii cancer research special fund;
- 16 [+] (25) [+] Community health centers special fund;
- 17 [+] (26) [+] Emergency medical services special fund;
- 18 [+] (27) [+] Rental motor vehicle customer facility charge
19 special fund established under section 261-5.6;
- 20 [+] (28) [+] Shared services technology special fund under
21 section 27-43;



1 [+] (29) [+] Automated victim information and notification
2 system special fund established under section 353-136;
3 [+] (30) [+] Deposit beverage container deposit special fund
4 under section 342G-104;
5 [+] (31) [+] Hospital sustainability program special fund
6 under [+]section 346G-4[+];
7 [+] (32) [+] Nursing facility sustainability program special
8 fund under [+]section 346F-4[+];
9 [+] (33) [+] Hawaii 3R's school improvement fund under section
10 302A-1502.4;
11 [+] (34) [+] After-school plus program revolving fund under
12 section 302A-1149.5; and
13 [+] (35) [+] Civil monetary penalty special fund under section
14 321-30.2,
15 shall deduct five per cent of all receipts of all other special
16 funds, which deduction shall be transferred to the general fund
17 of the State and become general realizations of the State. All
18 officers of the State and other persons having power to allocate
19 or disburse any special funds shall cooperate with the director
20 in effecting these transfers. To determine the proper revenue
21 base upon which the central service assessment is to be



1 calculated, the director shall adopt rules pursuant to chapter
2 91 for the purpose of suspending or limiting the application of
3 the central service assessment of any fund. No later than
4 twenty days prior to the convening of each regular session of
5 the legislature, the director shall report all central service
6 assessments made during the preceding fiscal year."

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

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

- 10 (1) Special out-of-school time instructional program fund
11 under section 302A-1310;
- 12 (2) School cafeteria special funds of the department of
13 education;
- 14 (3) Special funds of the University of Hawaii;
- 15 (4) State educational facilities improvement special fund;
- 16 (5) Special funds established by section 206E-6;
- 17 (6) Aloha Tower fund created by section 206J-17;
- 18 (7) Funds of the employees' retirement system created by
19 section 88-109;
- 20 (8) Hawaii hurricane relief fund established under chapter
21 431P;



- 1 (9) Convention center enterprise special fund established
2 under section 201B-8;
- 3 (10) Hawaii health systems corporation special funds and
4 the subaccounts of its regional system boards;
- 5 (11) Tourism special fund established under section
6 201B-11;
- 7 (12) Universal service fund established under section
8 ~~[269-42,]~~ 201-V;
- 9 (13) Emergency and budget reserve fund under section
10 328L-3;
- 11 (14) Public schools special fees and charges fund under
12 section 302A-1130;
- 13 (15) Sport fish special fund under section 187A-9.5;
- 14 ~~[+]~~ (16) ~~[+]~~ Neurotrauma special fund under section 321H-4;
- 15 ~~[+]~~ (17) ~~[+]~~ Center for nursing special fund under section
16 304A-2163;
- 17 ~~[+]~~ (18) ~~[+]~~ Passenger facility charge special fund
18 established by section 261-5.5;
- 19 ~~[+]~~ (19) ~~[+]~~ Court interpreting services revolving fund under
20 section 607-1.5;



1 [+] (20) [+] Trauma system special fund under section 321-
2 22.5;
3 [+] (21) [+] Hawaii cancer research special fund;
4 [+] (22) [+] Community health centers special fund;
5 [+] (23) [+] Emergency medical services special fund;
6 [+] (24) [+] Rental motor vehicle customer facility charge
7 special fund established under section 261-5.6;
8 [+] (25) [+] Shared services technology special fund under
9 section 27-43;
10 [+] (26) [+] Nursing facility sustainability program special
11 fund established pursuant to [+]section 346F-4[+];
12 [+] (27) [+] Automated victim information and notification
13 system special fund established under section 353-136;
14 [+] (28) [+] Hospital sustainability program special fund
15 under [+]section 346G-4[+]; and
16 [+] (29) [+] Civil monetary penalty special fund under section
17 321-30.2,
18 shall be responsible for its pro rata share of the
19 administrative expenses incurred by the department responsible
20 for the operations supported by the special fund concerned."



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

1. By amending subsection (a) to read:

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

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

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

(3) One representative each from the public safety answering points for Oahu, Hawaii, Kauai, Maui, and Molokai and one representative, chosen by the mayor of the city and county of Honolulu, who shall be appointed by the governor as provided in section 26-34;

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



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

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

2. By amending subsection (e) to read:

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

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

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

"(a) A monthly enhanced 911 surcharge, subject to this chapter, shall be imposed upon each communications service connection, except connections of the public utility providing



1 telecommunications services and land line enhanced 911 services
2 through section [~~269-16.95.~~] 201-M.

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

8 (1) Connections billed to federal, state, and county
9 governmental entities;

10 (2) Prepaid connections; and

11 (3) Connections provided by the public utility providing
12 telecommunications services and land line enhanced 911
13 services through section [~~269-16.95.~~] 201-M."

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

15 "(g) A public utility providing telecommunications
16 services and land line enhanced 911 services for its customer
17 base and other service providers using the wire line provider's
18 enhanced 911 service may collect and retain the surcharge at the
19 established rate set forth in section [~~269-16.95.~~] 201-M."

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



1 1. By amending the definition of "public utility" to read:

2 ""Public utility":

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

19 (A) An owner or operator of a private sewer company
20 or sewer facility; and



1 (B) A telecommunications carrier or
2 telecommunications common carrier; provided that
3 a telecommunications carrier and a
4 telecommunications common carrier shall be exempt
5 from regulation under this chapter and shall
6 instead be subject to regulation as a public
7 utility under chapter 201; and

8 (2) Shall not include:

9 (A) An owner or operator of an aerial transportation
10 enterprise;

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

13 (C) Common carriers that transport only freight on
14 the public highways, unless operating within
15 localities, along routes, or between points that
16 the public utilities commission finds to be
17 inadequately serviced without regulation under
18 this chapter;

19 (D) Persons engaged in the business of warehousing or
20 storage unless the commission finds that
21 regulation is necessary in the public interest;



1 (E) A carrier by water to the extent that the carrier
2 enters into private contracts for towage,
3 salvage, hauling, or carriage between points
4 within the State; provided that the towing,
5 salvage, hauling, or carriage is not pursuant to
6 either an established schedule or an undertaking
7 to perform carriage services on behalf of the
8 public generally;

9 (F) A carrier by water, substantially engaged in
10 interstate or foreign commerce, that transports
11 passengers on luxury cruises between points
12 within the State or on luxury round-trip cruises
13 returning to the point of departure;

14 (G) Any user, owner, or operator of the Hawaii
15 electric system as defined under section 269-141;

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

19 (I) Any person who controls, operates, or manages
20 plants or facilities developed pursuant to
21 chapter 167 for conveying, distributing, and



transmitting water for irrigation and other
purposes for public use and purpose;

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

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

(ii) The primary function of the facility is the
processing of secondary treated wastewater
that has been produced by a municipal
wastewater treatment facility owned by a
state or county agency;

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

(iv) The facility may distribute and sell
recycled or reclaimed water to entities not



1 covered by a state or county service
2 contract; provided that, in the absence of
3 regulatory oversight and direct competition,
4 the distribution and sale of recycled or
5 reclaimed water shall be voluntary and its
6 pricing fair and reasonable. For purposes
7 of this subparagraph, "recycled water" and
8 "reclaimed water" means treated wastewater
9 that by design is intended or used for a
10 beneficial purpose; and

11 (v) The facility is not engaged, either directly
12 or indirectly, in the processing of food
13 wastes;

14 (K) Any person who owns, controls, operates, or
15 manages any seawater air conditioning district
16 cooling project; provided that at least fifty per
17 cent of the energy required for the seawater air
18 conditioning district cooling system is provided
19 by a renewable energy resource, such as cold,
20 deep seawater;



1 (L) Any person who owns, controls, operates, or
2 manages plants or facilities primarily used to
3 charge or discharge a vehicle battery that
4 provides power for vehicle propulsion;

5 (M) Any person who:

6 (i) Owns, controls, operates, or manages a
7 renewable energy system that is located on a
8 customer's property; and

9 (ii) Provides, sells, or transmits the power
10 generated from that renewable energy system
11 to an electric utility or to the customer on
12 whose property the renewable energy system
13 is located; provided that, for purposes of
14 this subparagraph, a customer's property
15 shall include all contiguous property owned
16 or leased by the customer without regard to
17 interruptions in contiguity caused by
18 easements, public thoroughfares,
19 transportation rights-of-way, and utility
20 rights-of-way; and



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

9 (i) An interconnection, as defined in section
10 269-141, is maintained with an electric
11 public utility to preserve the lessees' or
12 tenants' ability to be served by an electric
13 utility;

14 (ii) Such person does not use an electric public
15 utility's transmission or distribution lines
16 to provide, sell, or transmit electricity to
17 lessees or tenants;

18 (iii) At the time that the lease agreement is
19 signed, the rate charged to the lessee or
20 tenant for the power generated by the
21 renewable energy system shall be no greater



1 than the effective rate charged per kilowatt
2 hour from the applicable electric utility
3 schedule filed with the public utilities
4 commission;

5 (iv) The rate schedule or formula shall be
6 established for the duration of the lease,
7 and the lease agreement entered into by the
8 lessee or tenant shall reflect such rate
9 schedule or formula;

10 (v) The lease agreement shall not abrogate any
11 terms or conditions of applicable tariffs
12 for termination of services for nonpayment
13 of electric utility services or rules
14 regarding health, safety, and welfare;

15 (vi) The lease agreement shall disclose: (1) the
16 rate schedule or formula for the duration of
17 the lease agreement; (2) that, at the time
18 that the lease agreement is signed, the rate
19 charged to the lessee or tenant for the
20 power generated by the renewable energy
21 system shall be no greater than the



1 effective rate charged per kilowatt hour
2 from the applicable electric utility
3 schedule filed with the public utilities
4 commission; (3) that the lease agreement
5 shall not abrogate any terms or conditions
6 of applicable tariffs for termination of
7 services for nonpayment of electric utility
8 services or rules regarding health, safety,
9 and welfare; and (4) whether the lease is
10 contingent upon the purchase of electricity
11 from the renewable energy system; provided
12 further that any disputes concerning the
13 requirements of this provision shall be
14 resolved pursuant to the provisions of the
15 lease agreement or chapter 521, if
16 applicable; and

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

19 If the application of this chapter is ordered by the
20 commission in any case provided in paragraph (2) (C), (D), (H),
21 and (I), the business of any public utility that presents



1 evidence of bona fide operation on the date of the commencement
2 of the proceedings resulting in the order shall be presumed to
3 be necessary to the public convenience and necessity, but any
4 certificate issued under this proviso shall nevertheless be
5 subject to terms and conditions as the public utilities
6 commission may prescribe, as provided in [~~sections 269-16.9 and~~
7 section 269-20."]

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

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

19 [~~"Carrier of last resort" means a telecommunications carrier~~
20 ~~designated by the commission to provide universal service in a~~



1 ~~given local exchange service area determined to be lacking in~~
2 ~~effective competition.~~

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

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

8 ~~"Single line" means a single party line or a one party~~
9 ~~line.~~

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

19 ~~"Telecommunications service" or "telecommunications" means~~
20 ~~the offering of transmission between or among points specified~~
21 ~~by a user, of information of the user's choosing, including~~



~~voice, data, image, graphics, and video without change in the form or content of the information, as sent and received, by means of electromagnetic transmission, or other similarly capable means of transmission, with or without benefit of any closed transmission medium, and does not include cable service as defined in section 440G-3.~~

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

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

"[+]§269E-1 Administration.[+] This chapter shall be administered by the public utilities commission and the provisions of this chapter and of chapter 269, not inconsistent with this chapter, shall govern its administration; provided that sections 201-N to 201-W, 269-7.5, 269-8.2, 269-8.5, 269-9, 269-16 to 269-28, 269-30, 269-31, ~~[269-34 to 269-43,~~] and 269-71 to 269-111 shall not, in any respect, apply to the one call center."

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



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

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

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

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



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

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

14 "SECTION 3. **Telework promotion; broadband assistance**
15 **advisory council; establishment; purpose.** (a) The director of
16 [~~commerce and consumer affairs~~] business, economic development,
17 and tourism shall convene and chair the broadband assistance
18 advisory council to advise the director of [~~commerce and~~
19 ~~consumer affairs~~] business, economic development, and tourism on
20 policy and funding priorities to promote and encourage use of
21 telework alternatives for public and private employees, and



1 expedite deployment of affordable and accessible broadband
2 services in Hawaii.

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

9 (1) Two members of the senate, appointed by the president
10 of the senate;

11 (2) Two members of the house of representatives, appointed
12 by the speaker of the house of representatives;

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

18 (4) Four representatives of Hawaii's private sector
19 technology, telecommunications, and investment
20 industries.



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

18 (c) The director of [~~commerce and consumer affairs~~]
19 business, economic development, and tourism shall serve as
20 chairperson of the council. The chairperson may designate
21 representatives of other interested public or private sector



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

10 (d) The council shall:

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



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

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

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

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

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

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

~~(c) The commission shall require every telephone public utility providing local telephone service to file a schedule of rates and charges providing a rate for lifeline telephone subscribers.~~



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

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

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

~~(b) The commission shall investigate the availability of experienced providers of quality telecommunications relay services for the deaf, persons with hearing disabilities, and persons with speech disabilities. The provision of these telecommunications relay services to be rendered on or after July 1, 1992, shall be awarded by the commission to the provider or providers the commission determines to be best qualified to provide these services. In reviewing the qualifications of the provider or providers, the commission shall consider the factors~~



1 ~~of cost, quality of services, and experience, and such other~~
2 ~~factors as the commission deems appropriate.~~

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

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

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

16 ~~(f) The commission shall require every intrastate~~
17 ~~telecommunications carrier to file a schedule of rates and~~
18 ~~charges and every provider of telecommunications relay service~~
19 ~~to maintain a separate accounting for the costs of providing~~
20 ~~telecommunications relay services for the deaf, persons with~~
21 ~~hearing disabilities, and persons with speech disabilities.~~



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

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

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

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

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

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



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

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

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

15 ~~(1) Posting and display of information in a prominent and~~
16 ~~conspicuous fashion on or near the telephone equipment~~
17 ~~owned or controlled by the aggregator which states the~~
18 ~~identity of the operator service provider, the~~
19 ~~operator service provider's complaint handling~~
20 ~~procedures, and means by which the customer may access~~
21 ~~the various operator service providers.~~



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

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

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

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

~~["§269-16.85 Retail intrastate services; fully competitive. (a) Notwithstanding section 269-16.9 or any other law to the contrary, the public utilities commission shall treat~~



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

17 ~~(b) This section shall apply to retail rates charged for~~
18 ~~service to end-user consumers only and shall not apply to~~
19 ~~wholesale rates charged for services provided by a~~
20 ~~telecommunications carrier to another telecommunications~~
21 ~~provider, a wireless communications provider, a voice over~~



1 ~~internet protocol communications provider, or other similar~~
2 ~~communications provider.~~

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

7 SECTION 16. Section 269-16.9, Hawaii Revised Statutes, is
8 repealed.

9 ~~["§269-16.9 Telecommunications providers and services.~~

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



~~1 just and reasonable rates and in a fair manner in view of the~~
~~2 needs of the various customer segments of the telecommunications~~
~~3 industry. Among the specific factors the commission may~~
~~4 consider are:~~

~~5 (1) The responsiveness of the exemption to changes in the~~
~~6 structure and technology of the State's~~
~~7 telecommunications industry;~~

~~8 (2) The benefits accruing to the customers and users of~~
~~9 the exempt telecommunications provider or service;~~

~~10 (3) The impact of the exemption on the quality,~~
~~11 efficiency, and availability of telecommunications~~
~~12 services;~~

~~13 (4) The impact of the exemption on the maintenance of~~
~~14 fair, just, and reasonable rates for~~
~~15 telecommunications services;~~

~~16 (5) The likelihood of prejudice or disadvantage to~~
~~17 ratepayers of basic local exchange service resulting~~
~~18 from the exemption;~~

~~19 (6) The effect of the exemption on the preservation and~~
~~20 promotion of affordable, universal, basic~~



- 1 ~~telecommunications services as those services are~~
2 ~~determined by the commission;~~
- 3 ~~(7) The resulting subsidization, if any, of the exempt~~
4 ~~telecommunications service or provider by nonexempt~~
5 ~~services;~~
- 6 ~~(8) The impact of the exemption on the availability of~~
7 ~~diversity in the supply of telecommunications services~~
8 ~~throughout the State;~~
- 9 ~~(9) The improvements in the regulatory system to be gained~~
10 ~~from the exemption, including the reduction in~~
11 ~~regulatory delays and costs;~~
- 12 ~~(10) The impact of the exemption on promoting innovations~~
13 ~~in telecommunications services;~~
- 14 ~~(11) The opportunity provided by the exemption for~~
15 ~~telecommunications providers to respond to~~
16 ~~competition; and~~
- 17 ~~(12) The potential for the exercise of substantial market~~
18 ~~power by the exempt provider or by a provider of the~~
19 ~~exempt telecommunications service.~~
- 20 ~~(b) The commission shall expedite, where practicable, the~~
21 ~~regulatory process with respect to exemptions and shall adopt~~



1 ~~guidelines under which each provider of an exempted service~~
2 ~~shall be subject to similar terms and conditions.~~

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

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

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

19 ~~(f) If any provider of an exempt telecommunications~~
20 ~~service or any exempt telecommunications provider elects to~~
21 ~~terminate its service, it shall provide notice of this to its~~



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

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



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

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

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

- ~~(1) Transferring the subsidy, if any, of the local exchange provider's basic residential telephone service to the alternative provider; and~~
- ~~(2) Transferring from the local exchange carrier to the alternative provider the amounts, if any, generated by the local exchange provider's services other than~~



1 ~~basic residential telephone service and which are used~~
2 ~~to subsidize basic residential service in the area.~~

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

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

10 ~~["[§269-16.92] Changes in subscriber carrier selections,~~
11 ~~prior authorization required, penalties for unauthorized~~
12 ~~changes. (a) No telecommunications carrier shall initiate a~~
13 ~~change in a subscriber's selection or designation of a long-~~
14 ~~distance carrier without first receiving:~~

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

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

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

20 ~~(4) Any other prescribed authorization;~~



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

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

~~The commission, if consistent with the public interest, may suspend, restrict, or revoke the registration, charter, or certificate of the telecommunications carrier, thereby denying, modifying, or limiting the right of the telecommunications carrier to provide service in this State.~~



1 ~~(c) The commission shall adopt rules, pursuant to chapter~~
2 ~~91, necessary for the purposes of this section. The commission~~
3 ~~may notify customers of their rights under these rules."]~~

4 SECTION 19. Section 269-16.93, Hawaii Revised Statutes, is
5 repealed.

6 ~~["§269-16.93 Release of domestic abuse victims from shared~~
7 ~~wireless plans. (a) All wireless telecommunications service~~
8 ~~providers shall release, without charge, penalty, or fee, any~~
9 ~~victim of domestic abuse from a shared or family wireless~~
10 ~~service contract involving the victim's abuser; provided that~~
11 ~~the victim submits an opt out request in writing and with~~
12 ~~evidence of domestic abuse as documented by any of the following~~
13 ~~items:~~

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

16 ~~(2) Order for protection granted pursuant to chapter 586;~~
17 ~~or~~

18 ~~(3) Signed affidavit from a licensed medical or mental~~
19 ~~health care provider, employee of a court acting~~
20 ~~within the scope of their employment, or social~~
21 ~~worker.~~



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

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

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

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

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



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

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

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

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

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

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

~~(2) Its rate case.~~

~~(b) Notwithstanding the commission's rules on ratemaking, the commission shall expedite and give highest priority to any necessary ratemaking procedures related to providing a statewide enhanced 911 emergency telephone service; provided that the~~



~~commission may set forth conditions and requirements as the
commission determines are in the public interest.~~

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

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

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

~~["[§269-34] Obligations of telecommunications carriers.
In accordance with conditions and guidelines established by the
commission to facilitate the introduction of competition into
the State's telecommunications marketplace, each
telecommunications carrier, upon bona fide request, shall~~



1 ~~provide services or information services, on reasonable terms~~
2 ~~and conditions, to an entity seeking to provide intrastate~~
3 ~~telecommunications, including:~~

4 ~~(1) Interconnection to the telecommunications carrier's~~
5 ~~telecommunications facilities at any technically~~
6 ~~feasible and economically reasonable point within the~~
7 ~~telecommunications carrier's network so that the~~
8 ~~networks are fully interoperable;~~

9 ~~(2) The current interstate tariff used as the access rate~~
10 ~~until the commission can adopt a new intrastate local~~
11 ~~service interconnection tariff pursuant to section~~
12 ~~269-37;~~

13 ~~(3) Nondiscriminatory and equal access to any~~
14 ~~telecommunications carrier's telecommunications~~
15 ~~facilities, functions, and the information necessary~~
16 ~~to the transmission and routing of any~~
17 ~~telecommunications service and the interoperability of~~
18 ~~both carriers' networks;~~

19 ~~(4) Nondiscriminatory access among all telecommunications~~
20 ~~carriers, where technically feasible and economically~~
21 ~~reasonable, and where safety or the provision of~~



~~existing electrical service is not at risk, to the poles, ducts, conduits, and rights of way owned or controlled by the telecommunications carrier, or the commission shall authorize access to electric utilities' poles as provided by the joint pole agreement, commission tariffs, rules, orders, or Federal Communications Commission rules and regulations;~~

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

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

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



~~such access and shall establish rules to ensure such
access.~~

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

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

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

- ~~(1) Maintaining affordable, just, and reasonable rates for
basic residential service;~~
- ~~(2) Assisting individuals or entities who cannot afford
the cost of or otherwise require assistance in
obtaining or maintaining their basic service or
equipment as determined by the commission; and~~
- ~~(3) Ensuring that consumers are given the information
necessary to make informed choices among the~~



1 ~~alternative telecommunications providers and~~
2 ~~services."~~]

3 SECTION 23. Section 269-36, Hawaii Revised Statutes, is
4 repealed.

5 ~~["§269-36] Telecommunications number portability. The~~
6 ~~commission shall ensure that telecommunications number~~
7 ~~portability within an exchange is available, upon request, as~~
8 ~~soon as technically feasible and economically reasonable. An~~
9 ~~impartial entity shall administer telecommunications numbering~~
10 ~~and make the numbers available on an equitable basis."]~~

11 SECTION 24. Section 269-37, Hawaii Revised Statutes, is
12 repealed.

13 ~~["§269-37] Compensation agreements. The commission shall~~
14 ~~ensure that telecommunications carriers are compensated on a~~
15 ~~fair basis for termination of telecommunications services on~~
16 ~~each other's networks, taking into account, among other things,~~
17 ~~reasonable and necessary costs to each telecommunications~~
18 ~~carrier of providing the services in question.~~
19 ~~Telecommunications carriers may negotiate compensation~~
20 ~~arrangements, that may include "bill and keep", mutual and equal~~
21 ~~compensation, or any other reasonable division of revenues~~



~~pending tariff access rates to be set by the commission. Upon failure of the negotiations, the commission shall determine the proper methodology and amount of compensation."]~~

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

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

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

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

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

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



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

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

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

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

~~["~~§269-40~~ Access to advanced services. The commission shall ensure that all consumers are provided with nondiscriminatory, reasonable, and equitable access to high quality telecommunications network facilities and capabilities~~



1 ~~that provide subscribers with sufficient network capacity to~~
2 ~~access information services that provide a combination of voice,~~
3 ~~data, image, and video, and that are available at just,~~
4 ~~reasonable, and nondiscriminatory rates that are based on~~
5 ~~reasonably identifiable costs of providing the services."]~~

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

8 ~~["[§269-41] Universal service program, establishment,~~
9 ~~purpose, principles. There is established the universal service~~
10 ~~program. The purpose of this program is to:~~

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

14 ~~(2) Assist customers located in the areas of the State~~
15 ~~that have high costs of essential telecommunications~~
16 ~~service, low income customers, and customers with~~
17 ~~disabilities, in obtaining and maintaining access to a~~
18 ~~basic set of essential telecommunications services as~~
19 ~~determined by the commission. The commission may~~
20 ~~expand or otherwise modify relevant programs, such as~~
21 ~~the lifeline program under section 269-16.5,~~



- ~~(3) Ensure that consumers in all communities are provided with access, at reasonably comparable rates, to all telecommunications services which are used by a majority of consumers located in metropolitan areas of the State. The commission shall provide for a reasonable transition period to support the statewide deployment of these advanced telecommunications services, including, but not limited to, the use of strategic community access points in public facilities such as education, library, and health care facilities,~~
- ~~(4) Ensure that consumers are given the information necessary to make informed choices among the alternative telecommunications carriers and services, and~~
- ~~(5) Promote affordable access throughout the State to enhanced government information and services, including education, health care, public safety, and other government services.~~



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

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

6 ~~["§269-42 Universal service program; contributions. (a)~~

7 ~~There is established outside of the state treasury a special~~
8 ~~fund to be known as the universal service fund to be~~
9 ~~administered by the commission to implement the policies and~~
10 ~~goals of universal service. The fund shall consist of~~
11 ~~contributions from the sources identified in subsections (c) and~~
12 ~~(f). Interest earned from the balance of the fund shall become~~
13 ~~a part of the fund. The commission shall adopt rules regarding~~
14 ~~the distribution of moneys from the fund including~~
15 ~~reimbursements to carriers for providing reduced rates to low-~~
16 ~~income, elderly, residents of underserved or rural areas, or~~
17 ~~other subscribers, as authorized by the commission.~~

18 ~~(b) The commission may allow distribution of funds~~
19 ~~directly to customers based upon a need criteria established by~~
20 ~~the commission.~~



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

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

~~(e) The commission shall require all telecommunications carriers to contribute to the universal service program. The commission may require a person other than a telecommunications carrier to contribute to the universal service program if, after notice and opportunity for hearing, the commission determines that the person is offering a commercial service in the State that directly benefits from the telecommunications infrastructure, and that directly competes with a~~



1 ~~telecommunications service provided in the State for which a~~
2 ~~contribution is required under this subsection.~~

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

9 SECTION 30. Section 269-43, Hawaii Revised Statutes, is
10 repealed.

11 ~~["~~§269-43~~ Carriers of last resort. (a) The commission~~
12 ~~may define and designate local exchange service areas where the~~
13 ~~commission has determined that providing universal service funds~~
14 ~~to a single provider will be the most appropriate way to ensure~~
15 ~~service for these areas.~~

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



~~upon conditions set by the commission. In determining the successful bidder, the commission shall take into consideration the level of service to be provided, the investment commitment, and the length of the agreement, in addition to the other qualifications of the bidder.~~

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

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

PART II

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

All employees who occupy civil service positions and whose functions are transferred to the department of business, economic development, and tourism by this Act shall retain their civil service status, whether permanent or temporary. Employees shall be transferred without loss of salary, seniority (except



1 as prescribed by applicable collective bargaining agreements),
2 retention points, prior service credit, any vacation and sick
3 leave credits previously earned, and other rights, benefits, and
4 privileges, in accordance with state personnel laws and this
5 Act; provided that the employees possess the minimum
6 qualifications and public employment requirements for the class
7 or position to which transferred or appointed, as applicable;
8 provided further that subsequent changes in status may be made
9 pursuant to applicable civil service and compensation laws.

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



1 business, economic development, and tourism may prescribe the
2 duties and qualifications of these employees and fix their
3 salaries without regard to chapter 76, Hawaii Revised Statutes.

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

19 SECTION 33. All rules, policies, procedures, guidelines,
20 and other material adopted or developed by the department of
21 commerce and consumer affairs under chapter 440G, Hawaii Revised



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

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

17 All employees who occupy civil service positions and whose
18 functions are transferred to the department of business,
19 economic development, and tourism by this Act shall retain their
20 civil service status, whether permanent or temporary. Employees
21 shall be transferred without loss of salary, seniority (except



1 as prescribed by applicable collective bargaining agreements),
2 retention points, prior service credit, any vacation and sick
3 leave credits previously earned, and other rights, benefits, and
4 privileges, in accordance with state personnel laws and this
5 Act; provided that the employees possess the minimum
6 qualifications and public employment requirements for the class
7 or position to which transferred or appointed, as applicable;
8 provided further that subsequent changes in status may be made
9 pursuant to applicable civil service and compensation laws.

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



1 business, economic development, and tourism may prescribe the
2 duties and qualifications of these employees and fix their
3 salaries without regard to chapter 76, Hawaii Revised Statutes.

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

11 SECTION 36. All rules, policies, procedures, guidelines,
12 and other material adopted or developed by the public utilities
13 commission under chapter 269, Hawaii Revised Statutes, to
14 implement provisions of the Hawaii Revised Statutes which are
15 reenacted or made applicable to the department of business,
16 economic development, and tourism by this Act, shall remain in
17 full force and effect until amended or repealed by the
18 department of business, economic development, and tourism
19 pursuant to chapter 91, Hawaii Revised Statutes. In the
20 interim, every reference to the public utilities commission or
21 the chair or a commissioner of the public utilities commission



1 in those rules, policies, procedures, guidelines, and other
2 material is amended to refer to the department of business,
3 economic development, and tourism or the director of business,
4 economic development, and tourism as appropriate.

5 SECTION 37. In codifying the new sections added by section
6 2 of this Act, the revisor of statutes shall substitute
7 appropriate section numbers for the letters used in designating
8 the new sections in this Act.

9 SECTION 38. Statutory material to be repealed is bracketed
10 and stricken. New statutory material is underscored.

11 SECTION 39. This Act shall take effect on January 1, 2050.



Report Title:

Cable TV; Telecommunications; DCCA; PUC; DBEDT

Description:

Transfers to the Department of Business, Economic Development, and Tourism (DBEDT) jurisdiction over cable TV and the Broadband Assistance Advisory Council from the Department of Commerce and Consumer Affairs and telecommunications carriers from the Public Utilities Commission. Establishes the position of a commissioner of telecommunications. Creates special fund in DBEDT for cable TV and telecommunications carriers. Requires the Broadband Assistance Advisory Council to advise the Director of DBEDT on broadband deployment. (HB2236 HD1)

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

