

STAND. COM. REP. NO.

**2602**

Honolulu, Hawaii

**MAR 01 2018**

RE: S.B. No. 2644  
S.D. 2

Honorable Ronald D. Kouchi  
President of the Senate  
Twenty-Ninth State Legislature  
Regular Session of 2018  
State of Hawaii

Sir:

Your Committee on Commerce, Consumer Protection, and Health,  
to which was referred S.B. No. 2644, S.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO BROADBAND SERVICE,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Require a provider of broadband internet access services to be transparent with network management practices, performance, and commercial terms of its broadband internet access services; and
- (2) Prohibit a provider of broadband internet access services from blocking lawful websites, impairing or degrading lawful internet traffic, engaging in paid prioritization, or unreasonably interfering with or disadvantaging users of broadband internet access services.

Your Committee received testimony in support of this measure from the Department of Business, Economic Development, and Tourism; Department of Education; and two individuals. Your Committee received testimony in opposition to this measure from CTIA and Charter Communications. Your Committee received comments on this measure from the Department of the Attorney General.



Your Committee finds that the recent actions of the federal government to repeal net neutrality has caused distress and concern about the freedom from undue influence or interference in legal content from the Internet. Your Committee further finds that it is important to preserve the principles of net neutrality and provide an environment that supports open and free access to the Internet.

Your Committee notes the concerns raised by the Department of the Attorney General, that certain language in this measure is inconsistent with a recent declaratory order (Order) issued by the Federal Communications Commission, and thus may be subject to a preemption challenge. However, according to the Department of the Attorney General, because this area of law is developing rapidly, future developments may affect the risk of a legal challenge to this measure. The Department of the Attorney General noted that the Order will not take effect until publication in the Federal Register. Furthermore, the Order is subject to judicial review and has been challenged in court; Hawaii is one of twenty-one states that have filed a petition for review of the Order in the United States Court of Appeals for the District of Columbia Circuit. Your Committee appreciates these concerns and acknowledges that although the federal courts could ultimately overturn the Order, there are no guarantees in litigation.

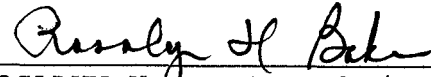
Nevertheless, your Committee concludes that the State has a duty to do its part to protect equal access to independent content on the Internet. Your Committee wishes to emphasize its strong support for net neutrality and communicate this support to any broadband internet service provider who chooses to do business in this State.

Your Committee has amended this measure by making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection, and Health that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2644, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2644, S.D. 2.



Respectfully submitted on  
behalf of the members of the  
Committee on Commerce, Consumer  
Protection, and Health,



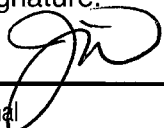
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ROSALYN H. BAKER, Chair



The Senate  
Twenty-Ninth Legislature  
State of Hawai'i

**Record of Votes**  
**Committee on Commerce, Consumer Protection, and Health**  
**CPH**

Bill / Resolution No.:*	Committee Referral:	Date:		
SB 2644, SD1	ETT, CPH	2/23/18		
<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is:				
<input type="checkbox"/> Pass, unamended 2312	<input checked="" type="checkbox"/> Pass, with amendments 2311	<input type="checkbox"/> Hold 2310		
<input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
BAKER, Rosalyn H. (C)	/			
TOKUDA, Jill N. (VC)	/			
CHANG, Stanley	/			
ESPERO, Will	/			
IHARA, Jr., Les	/			
NISHIHARA, Clarence K.	/			
RUDERMAN, Russell E.				/
<b>TOTAL</b>	6			1
Recommendation:				
<input checked="" type="checkbox"/> Adopted <span style="margin-left: 200px;"><input type="checkbox"/> Not Adopted</span>				
Chair's or Designee's Signature:				
				
Distribution:				
Original	Yellow	Pink	Goldenrod	
File with Committee Report	Clerk's Office	Drafting Agency	Committee File Copy	

\*Only one measure per Record of Votes