

STAND. COM. REP. NO.

2478

Honolulu, Hawaii

FEB 16 2018

RE: S.B. No. 2939  
S.D. 1

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. 2939 entitled:

"A BILL FOR AN ACT RELATING TO ENERGY,"

begs leave to report as follows:

The purpose and intent of this measure is to require the  
Public Utilities Commission, on or before January 1, 2020, to  
establish performance incentive and penalty mechanisms that  
directly tie electric utility revenues to the utility's  
achievement on performance metrics.

Your Committee received testimony in support of this measure  
from the Blue Planet Foundation, Hawaii Solar Energy Association,  
and Sierra Club of Hawai'i. Your Committee received testimony in  
opposition to this measure from the Hawaiian Electric Company,  
Inc., and Land Use Research Foundation of Hawaii. Your Committee  
received comments on this measure from the Division of Consumer  
Advocacy of the Department of Commerce and Consumer Affairs,  
Public Utilities Commission, and Kaua'i Island Utility Cooperative.

Your Committee finds that utility rates across the country  
have traditionally been set using a cost-plus system, wherein  
utility profits are generally set as a percentage of utility  
expenditures. Under this type of ratemaking system, electric  
utilities are not directly rewarded for reducing consumer bills,  
adding renewable energy, or increasing the resiliency of the



system. In contrast, a performance-based ratemaking system ties utility revenues to the achievement of certain performance benchmarks, which in turn aligns the financial interests of utility shareholders with the interests of a state and ratepayers. Your Committee further finds that this measure therefore establishes a deadline for the Public Utilities Commission to establish performance-based incentive and penalty mechanisms and provides further guidance to the Commission on certain benchmarks that are consistent with state goals and longstanding regulatory guidance.

However, your Committee has heard the concerns that this measure encompasses all electric utilities in the State, including member-owned cooperative electric utilities. According to testimony received by your Committee, because any incentives or penalties allowed in a member-owned cooperative's rates are essentially collected from the cooperative's ratepayers and paid to the cooperative's shareholders -- which are one and the same -- the concept of performance-based financial incentives and penalties is moot, as a member-owned cooperative's interests are already inherently and fundamentally aligned with the interests of its members. Your Committee understands these concerns and concludes an amendment to this measure is therefore necessary.

Your Committee has amended this measure by:

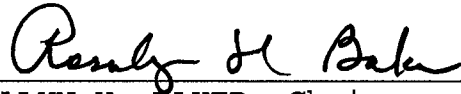
- (1) Clarifying the performance metrics to be considered by the Public Utilities Commission, by:
  - (A) Removing language regarding exceeding the State's renewable portfolio, as this metric is sufficiently covered in the metric on rapid integration of renewable energy sources;
  - (B) Clarifying required consideration of the volatility and affordability of electric rates and bills that customers are asked to pay; and
  - (C) Removing language regarding fair compensation for utility employees, as adoption of this metric could have led to unintended consequences for consumers;



- (2) Exempting member-owned cooperative electric utilities from the requirements of this measure; and
- (3) 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. 2939, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2939, S.D. 1, and be referred to your Committee on Ways and Means.

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 2939   | CPH, WAMM   | 2/15/18                               |                     |         |
| <input type="checkbox"/> The Committee is reconsidering its previous decision on this measure.<br>If so, then the previous decision was to: _____ |   |                                       |                     |         |
| The Recommendation is:  |   |                                       |                     |         |
| <input type="checkbox"/> Pass, unamended<br>2312  | <input checked="" type="checkbox"/> Pass, with amendments<br>2311 | <input type="checkbox"/> Hold<br>2310 |                     |         |
| <input type="checkbox"/> Recommit<br>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.  | /   |                                       |                     |         |
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| <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