

Senate Energy and Natural Resources Committee

Joshua Schauer 271-3077

SB 597-FN, relative to utility rate increases to inflation-adjusted thresholds and performance incentive metrics for utilities.

Hearing Date: February 10, 2026

Time Opened: 9:00 a.m.

Time Closed: 9:52 a.m.

Members of the Committee Present: Senators Avard, Pearl, McConkey, Watters and Rosenwald

Members of the Committee Absent : None

Bill Analysis: This bill prohibits the public utilities commission, pursuant to its rulemaking authority, from adopting an energy rate for any electric utility that exceeds the previous year's rate after adjusting for inflation. The bill also directs the public utilities commission to implement performance incentive metrics for utilities, including determining whether TOTEX ratemaking should be established.

Sponsors:

Sen. Perkins Kwoka

Sen. Rosenwald

Sen. Watters

Sen. Long

Sen. Prentiss

Sen. Altschiller

Sen. Fenton

Rep. McGhee

Rep. Wall

Rep. Cormen

Who supports the bill: 41 Individuals signed in support of the legislation. Please contact Joshua.Schauer@gc.nh.gov for more information.

Who opposes the bill: 7 Individuals signed in opposition of the legislation. Please contact Joshua.Schauer@gc.nh.gov for more information.

Who is neutral on the bill: 2 Individuals signed neutral on the legislation. Please contact Joshua.Schauer@gc.nh.gov for more information.

Summary of testimony presented:

Senator Rebecca Perkins Kwoka, District 21

- Senator Perkins-Kwoka reintroduced the bill following recess to continue consideration and advance the updated proposal.

- She presented an amendment developed in collaboration with the relevant regulatory agency to address technical concerns and improve implementation.
- Beginning on page 2, line 2, she raised questions about how electricity is procured, including the use of contracts, competitive bidding, and other purchasing mechanisms.
- She emphasized exploring stronger financial tools to better manage costs, reduce rate volatility, and protect consumers.
- Section 4 focuses on utilities engaging in infrastructure upgrades, including modernization of transmission, distribution, and other capital equipment.
- The bill establishes criteria to incorporate into the ratemaking process, creating incentives for utilities to maintain and update infrastructure so equipment remains current and reliable.
- The amendment includes an inflation adjuster on the rate cap to account for rising costs while maintaining overall consumer rate protections.

Senator Watters referenced the amendment and asked how the proposed trigger mechanism would operate. He questioned how the “4% over inflation” provision would be applied in practice and whether the rate adjustment would automatically take effect once inflation plus 4% is reached. He also asked whether a separate triggering event would be required, or if the inflation-based formula itself would serve as the adjustment standard.

Senator Perkins-Kwoka responded that a separate trigger mechanism is not necessary. However, she emphasized that consumers are already facing rising costs, and the provision was intended as a way to motivate utilities to control expenses and operate more efficiently. The inflation-plus framework was designed not just as an adjustment tool, but as a policy signal to encourage cost discipline while still allowing reasonable flexibility.

Senator Watters referred to the language at the bottom of page 1 of the amendment concerning the performance mechanism. He stated that he agrees with her regarding the broader national trend toward using performance-based incentives in utility regulation. He then asked her to clarify that section of the amendment—specifically how the performance mechanism would function and under what circumstances utilities would be able to raise additional revenue.

Senator Perkins-Kwoka explained that the performance mechanism is designed to incentivize measurable outcomes related to reliability, modernization, and proactive system planning. She noted it would encourage strong maintenance practices, preparation for peak demand, and investment in storage solutions to help keep supply aligned with demand. She emphasized the importance of rapid integration of new energy resources and the timely execution of contracts to avoid delays and added costs. Referencing practices in other states, she highlighted the need for improved interconnection processes and ensuring utilities are prepared to connect new generation sources efficiently, which can foster competition. She also underscored the

value of public access to electricity system planning data to promote transparency. She described grid modernization as essential in today's two-way energy system, where electricity both flows to and from the grid, and stressed the importance of ensuring the grid is physically and technically prepared to support this new structure.

Senator Watters responded that this is a good approach and noted that it has the potential to save consumers money. He pointed out that recent power prices in New Hampshire have been significantly higher compared to Maine and asked Senator Perkins-Kwoka to explain how the utilities can justify these costs.

Senator Perkins-Kwoka explained that the bill enables utilities to receive different rates of return (ROR) based on their investments and expenditures. By using the TOTEX (total expenditure) approach rather than focusing solely on operational costs, regulators and stakeholders can evaluate the return on investment for both capital and operating expenses, providing a more comprehensive view of utility performance and incentivizing efficient, long-term investments.

Senator Watters clarified that he wanted to understand whether this approach, allowing utilities different rates of return and using the TOTEX framework, would result in an increase in costs related to grid modernization and continued investment.

Senator Perkins-Kwoka said that it would, noting that it would also direct capital toward modernization efforts, which would ultimately save money.

Senator Rosenwald asked about letter G of the amendment. She noted that she had spoken with Eversource and learned that their current meters are expected to become outdated in 2028, at which point they plan to begin replacing them with smart meters and AMI. She asked if this aligns with Eversource's plans.

Senator Perkins-Kwoka said yes and explained that, for the most part, what is in the bill is reflected in Eversource's plan. She added that it makes sense for utilities to use smart meters for this type of capital investment, and that the approach allows rates to remain flexible while supporting modernization efforts.

Senator Watters asked whether it is the case that the 20-year-old meters are still being installed in new construction projects.

Senator Perkins-Kwoka said yes.

Joshua Elliot, DOE

- The department was neutral on the bill and focused its remarks on the proposed amendment, specifically paragraph 3, lines 19–22. He noted that while the amendment referenced a utility rate increase exceeding 4%, it did not define the applicable time period and stated it should be assumed to mean a calendar year.
- He explained that the provision allowing for inflation adjustments lacked specificity, as it did not identify the method, index, or entity responsible for determining and applying the adjustment.

- He stated that performance-based rate making would not affect the distribution side of the grid.
- He emphasized that performance-based mechanisms function as financial incentives, including step increases, and framed this as a policy question regarding how and when rate increases should be implemented.

Senator Avard asked about periods when utility rates remain relatively flat and then sharply increase. He noted that when major upgrades or remodeling projects occur, utilities may significantly raise rates all at once rather than gradually, leading ratepayers to experience a sudden and substantial increase. He described this as “sticker shock” for consumers.

Mr. Elliot stated that step adjustments are a policy choice with both advantages and disadvantages. He said the bill did not clearly define how risk would be allocated among technologies and energy sources and stressed the need to balance volatility with affordability, noting concerns about consumers paying a risk premium. He emphasized that fair utility compensation does not necessarily result in lower rates. He also referenced TOTEX, noting it has no clear U.S. precedent and may raise GAAP compliance questions, and added that the Public Utilities Commission and the Total Expenditures and Procurement Study Committee have already addressed many of these issues, suggesting further requirements may be unnecessary. He further observed that certain language would likely be interpreted as applying to natural gas and pointed out inconsistencies in the bill.

Senator Rosenwald asked about Section 3(III) of the amendment, noting that it appeared to allow a 4% rate increase above inflation before the utility would be subject to the performance metrics. She questioned the basis for selecting the 4% figure and sought clarification on how that threshold would function within the overall framework.

Mr. Elliot said that the mechanism worked that way, but the price of electricity was something they could not control. He asked whether they really wanted to hold them accountable for something beyond their control, warning that if it was not done carefully, it could become a cash machine for the utilities.

Senator Watters asked about the study committee portion and said that the department does a lot of research. He asked whether they would prefer to write a report instead of establishing a committee.

Mr. Elliot said they could, but it depended on how in-depth they wanted to go.

Senator Watters asked about the incentive and distribution side and said that more might need to be added to the distribution part.

Mr. Elliot said that vertical integration should be a key focus, particularly on the distribution side, emphasizing that improvements or oversight in distribution could have the most impact on efficiency and effectiveness.

Senator Watters followed up and asked about the focus on performance-based rate making on the distribution side, seeking clarification on that point to better understand how it would be applied and measured.

Mr. Elliot said that it all depended on the mechanism. He noted that if it was designed correctly, it could work as intended, but if designed incorrectly, it would simply give money to the utilities.

Senator Watters said that the government shares the concern about the cost of electricity and asked whether moving in this direction would help fortify a more affordable and reliable grid.

Mr. Elliot said that if the bill was designed correctly, it could achieve its intended goals. He noted that the bill currently includes 11 criteria, but for the legislature to ensure its success, those criteria would need to be narrowed and clarified. Without a more focused set of requirements, he warned, the bill risked being too broad to implement effectively and could create confusion or unintended outcomes.

Senator Avard asked him to explain TOTEX.

Mr. Elliot said that the Rocky Mountain Institute had been encouraging this approach. He explained that revenue typically falls into two buckets: capital expenditures and operating expenditures, but noted that some expenses fall between the two. By putting less into capital and blending the two into total expenditures (TOTEX), utilities can focus on overall cost-effectiveness rather than favoring one type of spending. He added that the utility selects a target amount, and it can only earn a rate of return on a specific percentage set by the regulatory framework, ensuring that incentives are aligned with efficiency rather than spending more.

Deana Dennis, CPCNH

- Ms. Dennis remained neutral on the bill but appreciated the sponsor's focus on incentives.
- She emphasized that consumers' utility bills are the key concern.
- She noted a missing metric: how utilities support energy services, including renewable energy offerings and similar programs, and that competitive suppliers may provide better options.
- She supported inclusion of TOTEX but said it should be paired with real capital and tax considerations, as TOTEX alone is not sufficient.
- She stressed that performance-based rate making (PBR) works best when utilities are not effectively receiving "free money," and expressed concern about clarity in language regarding energy rates and different cost drivers.
- She warned that artificially constraining rates through statute could have unintended consequences, potentially raising costs, and noted that the Public

Utilities Commission (PUC) already has authority to review rates, so imposing a ceiling could increase costs.

Alec O'meara, Unitil

- He opposed the bill, noting that while the amendment included some positive elements, he remained opposed. He explained that the state currently does not have a rate-based structure but does have a performance-based structure in Massachusetts, which can serve as a helpful tool to establish goals. The concept of incentive-based rates, he said, is intended to tailor goals to legislative priorities.
- He expressed concern that not all utilities may fit into a single tailored plan, as utilities differ and require different incentives. He emphasized that the proceedings established by the PUC represent the most appropriate way to move forward and should be allowed to continue.
- He highlighted that supply rates are the most volatile component and are the most likely to trigger a non-inflation-based cap. He stated that the PUC process is preferred, as regulators should retain the discretion to manage rates appropriately.

Senator Rosenwald followed up on Senator Watters' question to the DOE about meters, asking whether they were installing AMI meters.

Mr. Omeara said that yes, they have been installing AMI meters since 2004 and are currently in the process of installing new and updated meters. He explained that allowing customers to see how they are using energy helps them better understand and manage their energy costs.

Senator Watters asked whether those meters allow large users and utilities to better manage peak demand.

Mr. Omeara said that AMI meters are a foundational technology. Having them in place provides customers with the tools to monitor their energy use and choose the options they prefer.

Senator Watters asked about supply and the price of electricity, noting the difference between rates and usage. He asked where there might be opportunities to improve efficiency and better manage costs.

Mr. Omeara said that the best tools for customers would encourage a shift to off-peak usage. He explained that designing a rate structure for lower-demand periods could help achieve this. He also echoed the NHSAVES program as an example of how utilities can identify potential savings for customers.

Senator Watters asked whether the policy should legislate performance-based ratemaking, noting that this would be the best approach for PBR.

Mr. Omeara said that he would defer to the legislature on that decision but emphasized that PBR is a tool designed to encourage utilities to operate more efficiently and achieve desired outcomes.

Michael Licata, Eversource

- Mr. Licata said that while he appreciated the sponsor's intent, he remained opposed to the legislation. He echoed concerns that many of the costs addressed by the bill are outside the utilities' control, making it difficult to hold them fully accountable. He stated that he would like to see a more targeted approach that focuses on controllable factors and incentivizes efficiency without exposing utilities or consumers to unnecessary risk.
- He also expressed concern about the reference to TOTEX, noting that several other states have not moved forward with a TOTEX-based framework because it has not been viewed as a fully effective or practical tool for aligning incentives and managing costs. He emphasized the importance of carefully considering how such a mechanism would be implemented to avoid unintended consequences, such as over-incentivizing capital expenditures or creating uneven financial outcomes.