

Bill as  
Introduced

HB 1354 - AS INTRODUCED

2018 SESSION

18-2383  
04/01

HOUSE BILL        **1354**

AN ACT            adding the speaker of the house of representatives and senate president as permanent members of the university system board of trustees.

SPONSORS:        Rep. Hinch, Hills. 21; Rep. Hennessey, Graf. 1

COMMITTEE:      Education

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ANALYSIS

This bill makes the speaker of the house of representatives and senate president permanent voting members of the university system board of trustees.

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Explanation:     Matter added to current law appears in **bold italics**.  
Matter removed from current law appears ~~[in brackets and struck through]~~  
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

HB 1354 - AS INTRODUCED

18-2383  
04/01

STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Eighteen*

AN ACT adding the speaker of the house of representatives and senate president as permanent members of the university system board of trustees.

*Be it Enacted by the Senate and House of Representatives in General Court convened:*

1           1 University System; Trustees of the University System. Amend RSA 187-A:13, VIII and IX to  
2 read as follows:

3           VIII. The senate president or designee from the senate leadership[~~who shall be a~~  
4 ~~nonvoting member~~].

5           IX. The speaker of the house of representatives or designee from the house leadership[~~who~~  
6 ~~shall be a nonvoting member~~].

7           2 Repeal. 2015, 276:250, relative to the membership of the speaker of the house of  
8 representatives and senate president on the university system board of trustees, is repealed.

9           3 Effective Date. This act shall take effect upon its passage.

# Amendments



Sen. Morse, Dist 22  
April 9, 2018  
2018-1410s  
04/01

Amendment to HB 1354

- 1 Amend the title of the bill by replacing it with the following:
- 2
- 3 AN ACT           relative to the speaker of the house of representatives and senate president as
- 4                   members of the university system board of trustees.
- 5
- 6 Amend the bill by deleting section 1 and renumbering the original sections 2-3 to read as 1-2,
- 7 respectively.



2018-1410s

AMENDED ANALYSIS

This bill makes the speaker of the house of representatives and senate president permanent members of the university system board of trustees.



Senate Finance  
April 10, 2018  
2018-1441s  
04/01

Amendment to HB 1354

1 Amend the title of the bill by replacing it with the following:

2

3 AN ACT relative to the speaker of the house of representatives and senate president as  
4 members of the university system board of trustees.

5

6 Amend the bill by deleting section 1 and renumbering the original sections 2-3 to read as 1-2,  
7 respectively.



2018-1441s

AMENDED ANALYSIS

This bill makes the speaker of the house of representatives and senate president permanent members of the university system board of trustees.



# Committee Minutes

# Senate Finance Committee

*Deb Martone 271-4980*

**HB 1354**, adding the speaker of the house of representatives and senate president as permanent members of the university system board of trustees.

**Hearing Date:** March 27, 2018

**Time Opened:** 3:09 p.m.

**Time Closed:** 3:18 p.m.

**Members of the Committee Present:** Senators Daniels, Reagan and Morse

**Members of the Committee Absent:** Senators Feltes, D'Allesandro and Giuda

**Bill Analysis:** This bill makes the speaker of the house of representatives and senate president permanent voting members of the university system board of trustees.

**Sponsors:**

Rep. Hinch

Rep. Hennessey

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**Who supports the bill:** Representatives Hennessey and Ladd;

**Who opposes the bill:** Representatives Cali-Pitts, Burton and Horrigan;

**Who is neutral on the bill:** Atty. Ronald Rodgers

**Summary of testimony presented in support:**

Representative Hennessey:

- After Representative Hennessey introduced HB 1354, Senator Reagan asked what brought about the filing of the bill. Representative Hennessey explained the Senate President and Speaker of the House are members of the USNH Board of Trustees, but are non-voting members. They have no say in what is done with funds that are budgeted for the University System.
- Senator Daniels noted both the Speaker and the Senate President can appoint a designee in their stead. What benefit does that lend to the bill? Representative Hennessey was unsure.

**Summary of testimony presented in opposition:**

Representative Burton:

- RSA 187-A:2-b on legislative oversight states in part, "the General Court recognizes the need to protect the institutions of the University System from

inappropriate external influence which might threaten the academic freedom of faculty members..."

- To accomplish that goal, the legislature passed RSA 187-A:28-a that established the Public Higher Education Study Committee to "examine the goals, purposes, organization, and financing of public higher education in New Hampshire, and evaluate and make recommendations on the University of New Hampshire." This committee and its Chair, Senator Reagan, has done a great job. They requested a performance audit of the community colleges. There were some things that needed to be worked on, and Senator Reagan made sure they got done. That is the watchdog role of the Legislature.
- The trustees of the University System under state law should serve as advocates for higher education and for the University System. That is their role.
- HB 1354 sets up an inherent conflict of interest. How does an individual who serves as Chair of the Senate Education Committee ask for a performance audit of an organization that he or she is pledged to advocate for?
- Being a trustee of USNH is an honor. Representative Burton disagrees with the idea of having a designee.
- The people serving on the Board currently are honorable. This bill seems to introduce structural change that is overkill.

#### **Neutral Information Presented:**

##### Ronald Rodgers, General Counsel, University System of New Hampshire:

- In the last couple of years under existing law, which sunsets in December of 2018, the Board of Trustees has had the benefit and appreciated the service of Senator Morse and Former Speaker Jasper, Senator Gray and Representative Ladd. They have been excellent additions to the Board of Trustees. None of what the Board has asked Atty. Rodgers to impart has anything to do with those individuals or the service they have provided.
- The Board would like the Senate Finance Committee to consider the inherent conflict of interest between the role of an elected public official and a member of the Board of Trustees, a governing board with legally binding fiduciary duties to act only in the best interests of the University System without regard to other related interests.
- There are two issues in particular that would give rise to a conflict of interest. The first issue is voting on the operating budget request for the University System of New Hampshire that would then go forward to the Legislature. Any of these individuals with voting obligations would be, in a sense, sitting on both sides of the table, voting once only in the interest of the University System, and then on the other side of the table voting in the interests of the State of New Hampshire and the constituents that voted them in.
- The other potential conflict is the consideration of a change in tuition for in-state students; a similar set of issues.
- An additional concern of the Board is the question of the ability to designate an individual to sit in the stead of the Senate President or Speaker of the House. No other trustees are able, entitled or authorized to send designees.

- These two considerations led to a sensible balance in the existing law. The University System believes the existing law provides a good balance, with two legislative members on the Board of Trustees that are non-voting members. It has worked well, and makes sense.

**Future Action:** Pending

dm

Date Hearing Report completed: March 29, 2018

# Speakers



# Testimony



State of New Hampshire  
HOUSE OF REPRESENTATIVES  
Majority Office

March 27, 2018

Senator Gary Daniels, Chairman  
Senate Finance Committee  
State House Room 103  
Concord, NH 03301

Re: HB1354, adding the speaker of the house of representatives and senate president as permanent members of the university system board of trustees.

Mr. Chairman and members of the committee,

I apologize I am unable to attend today's hearing in person to introduce this bill. I am writing today as the prime sponsor of HB1354, which makes the speaker of the House of Representatives and the president of the Senate permanent voting members of the University System Board of Trustees.

The state budget bills for Fiscal Years 16-17 added legislative appointees to the University System board to increase oversight of their expenditures and operations to ensure the best decisions are being made to improve the quality of education they provide. However, the legislative appointees were added as non voting members.

HB1354 seeks to make one change in the language, which is to make these two appointments, or their designees, voting members. The University System of NH receives \$162 million from the State of New Hampshire in the current biennium. In recent years we have all seen the reports expressing concern over how the University System prioritizes those funds, and I truly believe it's been an effective change to have the speaker and senate president serve on the board. However, we see it as only fitting that two members of the legislature, that approves those taxpayer funds, have a vote on the board as to how it is spent. That is why I sponsored this legislation and why I urge the Senate Finance Committee to vote this bill Ought to Pass.

Thank you for your consideration. Please feel free to reach out to me with any questions you may have.

Sincerely,

A handwritten signature in black ink, appearing to read "Richard W. Hinch".

Richard W. Hinch  
House Majority Leader  
Hillsborough District 21



**NEW HAMPSHIRE GENERAL COURT  
SENATE FINANCE COMMITTEE**

**State House, Room 103**

**March 27, 2018**

**I:15 PM**

**HB 1354**

**Testimony of Ronald Rodgers, General Counsel  
University System of New Hampshire**

Good afternoon. My name is Ronald Rodgers, and I am the General Counsel for the University System of New Hampshire. I am offering testimony on behalf of the University System and its Board of Trustees.

Under current law, adopted in the previous legislative session, the Speaker of the House and the President of the Senate, or their designees, are non-voting members of the USNH Board of Trustees until December 1, 2018. HB 1354, would make the Speaker and the President, or their designees, full voting members of the Board and remove the sunset provision, making the law "permanent." For the past two years, the USNH Board has benefited from, and been appreciative of, the participation of former-Speaker Shawn Jasper and President Chuck Morse and, more recently, the participation of Representative Rick Ladd and Senator Jim Gray, the current designees.

While not opposed to HB 1354, the USNH Board offers two cautions for the committee's consideration regarding the provision that would make these seats full voting members. First, in the execution of their Board-related responsibilities every trustee has a legally-binding fiduciary duty to consider and act only in furtherance of the best interests of USNH. In contrast, a member of the General Court has a duty to represent the best interests of the constituents who elected them. It is easy to imagine how any number of recurring issues would bring these two sets of duties into direct and potentially irreconcilable conflict. For one obvious example, consider the same person voting in first in a Board meeting and a later in the legislature on a USNH biennial request for appropriations from the state's operating and capital budgets. For another example, consider the potential difficulty of voting in both places on a proposal to raise the in-state tuition for New Hampshire students. We surveyed the composition of the governing board of each of the public systems and flagship institutions in New England and New York and found none of them have a seat reserved for a member of the state legislature. The potential for an irreconcilable conflict of duties likely is among the principal reasons for that absence.

Second, the authority of Speaker and the President to designate another member of House or Senate leadership to serve in their stead makes these seats unique – every other member of the USNH Board of Trustees is subject to an appointment or election process or serves by virtue of holding another office and none is entitled to name a designee or participate by proxy. The Governor's appointees serve only with the consent of the Executive Council. Last session the General Court wisely counter-balanced the authority to name a designee by making the two seats non-voting. The USNH Board believes that counter-balance continues to make very good sense.

For those reasons, the USNH Board, while not opposing the legislation respectfully requests this committee to consider the two points described above.

Thank you for this opportunity to testify on HB 1354.

# Committee Report

STATE OF NEW HAMPSHIRE  
SENATE  
REPORT OF THE COMMITTEE

Tuesday, April 10, 2018

THE COMMITTEE ON Finance

to which was referred **HB 1354**

AN ACT

adding the speaker of the house of representatives  
and senate president as permanent members of the  
university system board of trustees.

Having considered the same, the committee recommends that the Bill

OUGHT TO PASS WITH AMENDMENT

BY A VOTE OF: 4-2

AMENDMENT # 1441s

Senator Lou D'Allesandro  
For the Committee

Deb Martone 271-4980