

Bill as
Introduced

HB 226 - AS AMENDED BY THE HOUSE

28Feb2019... 0247h

2019 SESSION

19-0340
06/04

HOUSE BILL **226**

AN ACT relative to the renomination of teachers.

SPONSORS: Rep. Van Houten, Hills. 45; Rep. Bouchard, Hills. 11; Rep. Hamer, Hills. 17; Rep. Sullivan, Sull. 1

COMMITTEE: Education

ANALYSIS

This bill reduces from 5 to 3 consecutive years of teaching required for a teacher to be entitled to notification and a hearing where the teacher is not reappointed.

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 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Nineteen

AN ACT relative to the renomination of teachers.

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

1 1 School Boards; Failure to be Renominated or Reelected. Amend RSA 189:14-a, I(c) to read as
2 follows:

3 (c) Any such teacher who has taught for [5] 3 consecutive years or more in the teacher's
4 current school district[~~or who taught for 3 consecutive years or more in the teacher's current school~~
5 ~~district before July 1, 2011,~~] and who has been so notified may request in writing within 10 days of
6 receipt of said notice a hearing before the school board and may in said request ask for reasons for
7 failure to be renominated or reelected. For purposes of this section only, a leave of absence shall not
8 interrupt the consecutive nature of a teacher's service, but neither shall such a leave be included in
9 the computation of a teacher's service. Computation of a teacher's service for any other purposes
10 shall not be affected by this section. The notice shall advise the teacher of all of the teacher's rights
11 under this section. The school board, upon receipt of said request, shall provide for a hearing on the
12 request to be held within 15 days. The school board shall issue its decision in writing within 15 days
13 of the close of the hearing.

14 2 School Boards; Failure to be Renominated or Reelected. Amend RSA 189:14-a, II to read as
15 follows:

16 II. Any teacher who has a professional standards certificate from the state board of
17 education shall be entitled to all of the rights for notification and hearing in paragraphs I(b), III, and
18 IV of this section if:

19 (a) the teacher has taught for [5] 3 consecutive years or more in any school district in
20 the state and has taught for [3] 2 consecutive years or more in the teacher's current school district;
21 or

22 (b) ~~Before July 1, 2011, the teacher taught for 3 consecutive years or more in any school~~
23 ~~district in the state and taught for 2 consecutive years or more in the teacher's current school~~
24 ~~district].~~

25 3 Effective Date. This act shall take effect July 1, 2020.

HB 226 - AS AMENDED BY THE SENATE

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This bill changes the requirements for a teacher to be entitled to notification and a hearing where the teacher is not reappointed.

This bill also requires the state board of education to issue an experienced educator certificate to certain teachers.

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5 writing on or before April 15 or within 15 days of the adoption of the district budget by the
6 legislative body, whichever is later, if that teacher is not to be renominated or reelected, provided
7 that no notification shall occur later than the Friday following the second Tuesday in May.

8 (b) School boards shall have a teacher performance evaluation policy.

9 (c) Any such teacher who has at one time obtained an experienced educator certificate
10 from the state board of education and who has also taught for 2 consecutive years or more in his or
11 her current school district, may request in writing within 10 days of receipt of said notice a hearing
12 before the school board and may in said request ask for reasons for failure to be renominated or
13 reelected. For those teachers who obtain for the first time an experienced educator certificate after
14 July 1, 2019, experienced educator certificate shall be as defined in RSA 186:11, XXXVIII. The
15 notice shall advise the teacher of all of the teacher's rights under this section. The school board,
16 upon receipt of said request, shall provide for a hearing on the request to be held within 15 days.
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18 purposes of this section only, a leave of absence shall not interrupt the consecutive nature of a
19 teacher's service, but neither shall such a leave be included in the computation of a teacher's service.
20 Computation of a teacher's service for any other purposes shall not be affected by this section.

21 II. In cases of nonrenomination or nonreelection because of reduction in force, the reduction
22 in force shall not be based solely on seniority.

23 III. In all proceedings before the school board under this section, the burden of proof for
24 nonrenewal of a teacher shall be on the superintendent of the local school district by a
25 preponderance of the evidence. Except as provided in paragraph II, the grounds for
26 nonrenomination and nonreelection shall be determined at the sole discretion of the school board.

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12 3 New Paragraph; Duties of State Board of Education. Amend RSA 186:11 by inserting after
13 paragraph XXXVII the following new paragraph:

14 XXXVIII. Experienced Educator Certificate. The state board of education shall issue an
15 experienced educator certificate to an individual who has at least 3 years of full-time experience as
16 an educator at the elementary through secondary levels of education, has been deemed effective or
17 above according to a local evaluation system for 2 consecutive years, and has completed successfully
18 a 3 year renewal cycle pursuant to rules of the department as of July 1, 2019 and according to the
19 state master plan as of July 1, 2019 or a local professional development master plan as determined
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HB 226 - FINAL VERSION

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9 (b) School boards shall have a teacher performance evaluation policy.

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15 VETOED September 27, 2019

Amendments

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UNAPPROVED

2019-1937s

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2019-1962s

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Committee Minutes

SENATE CALENDAR NOTICE

Education and Workforce Development

Sen Jay Kahn, Chair
Sen Jeanne Dietsch, Vice Chair
Sen Jon Morgan, Member
Sen Ruth Ward, Member
Sen David Starr, Member

Date: March 20, 2019

HEARINGS

| Tuesday | | 03/26/2019 |
|-------------------------------------|---------------|--|
| (Day) | | (Date) |
| Education and Workforce Development | LOB 103 | 9:30 a.m. |
| (Name of Committee) | (Place) | (Time) |
| 9:30 a.m. | HB 181 | relative to the house and senate members of the university system board of trustees. |
| 9:50 a.m. | HB 123 | relative to emergency response plans in schools. |
| 10:10 a.m. | HB 329 | relative to review and adoption of school data security plans. |
| 10:30 a.m. | HB 226 | relative to the renomination of teachers. |
| 11:00 a.m. | HB 149 | relative to the apportionment of costs in cooperative school districts. |

EXECUTIVE SESSION MAY FOLLOW

Sponsors:

HB 181

Rep. Ladd
Sen. Gray

Rep. Hinch

Rep. Hennessey

Rep. Shaw

HB 123

Rep. Ladd

Rep. Cordelli

Rep. Shaw

HB 329

Rep. Tanner

Rep. Doherty

HB 226

Rep. Van Houten

Rep. Bouchard

Rep. Hamer

Rep. Sullivan

HB 149

Rep. Belanger
Sen. Gray

Rep. McGhee

Rep. St. John

Rep. Beaulieu

Tricia Melillo 271-3077

Jay Kahn
Chairman

Senate Education and Workforce Development Committee
Tricia Melillo 271-3077

HB 226, relative to the renomination of teachers.

Hearing Date: March 26, 2019

Members of the Committee Present: Senators Kahn, Dietsch, Morgan, Ward and Starr

Members of the Committee Absent : None

Bill Analysis: This bill reduces from 5 to 3 consecutive years of teaching required for a teacher to be entitled to notification and a hearing where the teacher is not reappointed.

Sponsors:

Rep. Van Houten
Rep. Sullivan

Rep. Bouchard

Rep. Hamer

Who supports the bill: Representative Tanner, Nicole Heimarck, Larry Ballard

Who opposes the bill: Jerry Frew

Summary of testimony presented in support:

Representative Tanner

- Teaching is a job where there is a lot of on the job training during the first three years.
- In addition to learning the job teachers lay down roots in the community where they are employed.
- After three years the teacher can get certified from the Department of Education and get re-nominated to maintain employment.
- Recently, the time period to get re-nominated went from three to five years.
- This means the teacher is in limbo for five years and then may not even get re-nominated.
- They want to become part of the community but cannot settle.
- Before re-nomination teachers are an at will employee. It is advantageous for the school to release a teacher who has been there for 4 years with a bigger salary and then hire a first-year teacher with a smaller one.
- The DOE gives you certification at three years and the nomination process should go back to three years.
- At one-point mentors were telling teachers not to get involved with any school projects until they get nominated and waiting five years is a long time to sit in the background.
- Senator Ward asked if for a new teacher coming in you get re-nominated every year. Representative Tanner replied that they are under contract each year and the district can decide not to renew. After three years you can get a notice that you are not going to be re-nominated.
- Senator Ward asked if you are not nominated after three years do you still get certified from the state. Representative Tanner stated, yes but you have to start again with a new school district.

- Senator Kahn asked if teacher certification comes before you teach in a classroom but after three years you apply for experienced educator certification from the DOE. Representative Tanner answered yes that is how it works.

Larry Ballard – President Amherst Education Association

- He has dealt first-hand with non-renewals of teachers both for teachers without continuing contract and tenured teachers.
- The argument to retain the five-year waiting period, the longest in any New England State, is that after 450 days in a classroom and multiple observations, a supervisor is still unable to determine if the teacher is doing a good job.
- That argument speaks more about leader effectiveness than it does about teacher effectiveness
- Waiting for five-years to be allowed the protection of a continuing contract has a chilling effect on teachers being able to speak honestly about policies that may not be in the best interest of the students.
- Mr. Ballard gave two examples of teachers that were blindsided with non-renewal because under current statute a reason for non-renewal is not required before a teacher has been awarded a continuing contract after the five-year wait.
- The five-year wait for continuing contract also has a chilling effect on public employee freedom of expression, which the legislature has specifically protected in RSA 98-E
- His district does not have a written procedure for evaluating teachers that is equitably applied across the workforce.
- Without continuing contract, schools not only don't have to give a reason, some feel they don't even need to have a reason to terminate a good teacher.
- Continuing contract does not prevent schools from getting rid of ineffective teachers, but it does help prevent the problems that he has described today.

Summary of testimony presented in opposition:

Jerry Frew – NH School Administrators Association

- The NHSAA members believe that the more time they can work with teachers over the first five years the better.
- Once three years have passed, the process of decision making for releasing a teacher is more intensive.
- Three years is too short of a time to see potential and if the school officials have doubts after three years they will release them instead of keeping them to work with the teacher.
- Five years gives the teacher the best chance for success with the school district.
- Senator Kahn asked if he had any experience with this in other states. Mr. Frew replied that he does not.
- Senator Morgan asked how long has it been at the five-year mark. Mr. Frew stated he is not certain but thinks it has been since 2011.

Speakers

Testimony

Testimony before the NH Senate Education and Workforce Development Committee in favor of House Bill 226 (an act relative to the renomination of teachers) March 26th, 2019.

Larry Ballard, Amherst, NH

Good morning, my name is Larry Ballard. I have been teaching music for 23 years. I am currently in my 21st year teaching at the Amherst Middle School, where I also currently serve as President of the Amherst Education Association, our teachers' union representing 133 teachers in grades PreK through 8.

In the role of association president, I have dealt first-hand with non-renewals of teachers, both for teachers without continuing contract, and I have also been in the room at the moment when a tenured teacher's career ends. It happens, and it is not as difficult for school districts as some might have you believe.

The argument to retain our five-year wait period for continuing contract, currently the longest in any New England state, is essentially this: After more than 450 days in a classroom and multiple observations, a supervisor is still unable to determine if their employee is doing a good job. To me, that speaks volumes about leader effectiveness more than it does about teacher effectiveness.

It's important to understand what continuing contract means. It means you need to be given a reason for termination and you have the right to a hearing before a school board, a board that still has the sole discretion to determine the grounds for non-renewal.

Continuing contract status is, in the words of University of Wisconsin professor Julie Underwood, "not a job guarantee, but rather protection against arbitrary or politically motivated maltreatment"¹. Continuing contract helps prevent firings for reasons such as nepotism, playing favorites, or arbitrary dismissal².

It allows teachers, the people most directly engaged with students, to speak truthfully on policies, programs or procedures we do not believe are in the best interest of students. Knowing you can be terminated for any reason has a chilling effect on honesty during those first few years, especially for experienced educators hired from other districts.

In my building this year, four untenured teachers were informed they would not be renewed. Prior to that meeting, none of those teachers were brought into the principal's office and warned their performance may be placing their employment at risk. They were blindsided. That also means if there were performance issues, management did not make the effort to improve or correct what they believed to be ineffective teacher performance.

¹ Underwood, Julie. "The State of Teacher Tenure." *Kappanonline.org*, 28 Sept. 2018, www.kappanonline.org/underwood-state-teacher-tenure/.

² *Ibid.*

Perhaps the most egregious example was a teacher we recruited away from continuing contract status in a nearby district. For three years, I have worked closely with that teacher every day. This teacher is a model of professionalism, a highly-trained expert teacher who cares for kids. His evaluations were spotless, he was well-liked by students and parents, and in a short period of time he has already made positive changes to re-build his program, precisely what we hired him to do. With no warning, he was brought into the office and told he was not going to be renewed for next year.

When the union questioned this decision, because the statute does not require a reason for non-renewal, we were not given a reason. Pressing a little further, the best we could get was that there had been a parent that shared a concern to senior administration that was never relayed back to the teacher, and that maybe their subject could be a little more "fun".

The union also questioned what criteria was used to make the determination – after all, we have three buildings in our district and all the non-renewals came from one building. We wanted to ensure that whatever standard was being used to make employment decisions was being applied fairly to all teachers in the District.

As it turns out, despite a three-year committee process including teachers, school board members, administrators, parents and community members, to revise our teacher evaluation system -- we don't have any written procedures for our evaluation system, therefore we don't have any consistent guidelines that define effective or ineffective teaching, and with no standard, we can't insure equity between buildings within the same school district when it comes to non-renewals.

New teachers in our district are supposed to be observed 5 times a year: one formal observation with pre and post-conferences, and four brief informal unannounced walk-throughs of around 10 minutes or so. While the teacher I mentioned had not received all the observations that *should* have been completed, all of his observations that were completed showed no signs of trouble and indicated good performance. When we pointed this out to senior administration, they agreed to review those observations. When we reconvened that meeting a brief time later, it was noted that all observations of the teacher's job performance of the teacher in question were good. I thought to myself: "Does this mean they were prepared to non-renew someone without ever having looked at their personnel file?"

The five-year wait for continuing contract, the longest such wait in New England, also has a chilling effect on public employee freedom of expression, something the Legislature has specifically protected under RSA 98-E.

I am only willing to share this story because we were able to get administration to reconsider the non-renewal, and the teacher involved has already signed and returned their employment contract for next year granting them continuing contract status. I will also say this is not an isolated example, I have other teachers that were not renewed this year, those are currently in

progress – and watching the news last week, it seems mine is not the only NH school district where situations like this are taking place.

I work in a really good school system, the kind of district that has the ability to commit significant resources for three years towards developing an evaluation system that was supposed to be a model of professional development and pedagogical practice. And yet, my district wasn't following that evaluation model, my district doesn't have a written procedure that is equitably applied across the workforce. In essence, without continuing contract, schools not only don't have to give a reason, some apparently feel they don't even need to *have* a reason to terminate a good teacher.

Continuing contract does not prevent schools from getting rid of ineffective teachers, but it does help prevent problems like the ones I described today which are a needless distraction from the important work of educating our students. I thank you for listening this morning, and I ask the members of this committee to recommend House Bill 226 as "Ought To Pass".

Sincerely,

Larry Ballard
Amherst, NH

Voting Sheets

**Senate Education & Workforce Development
Committee
EXECUTIVE SESSION RECORD
2019 Session**

Bill # HB 226

Hearing date: 3/26/19

Executive Session date: 5/14/19

Motion of: OTP Vote: _____

| Committee Member | Present | Made by | Second | Yes | No |
|--------------------------|-------------------------------------|-------------------------------------|-------------------------------------|--------------------------|--------------------------|
| Sen. Kahn, Chair | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Sen. Dietsch, Vice Chair | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Sen. Morgan | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Sen. Ward | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Sen. Starr | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

Motion of: Amend 1937s Vote: _____

| Committee Member | Present | Made by | Second | Yes | No |
|--------------------------|-------------------------------------|-------------------------------------|-------------------------------------|-------------------------------------|--------------------------|
| Sen. Kahn, Chair | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Sen. Dietsch, Vice Chair | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Sen. Morgan | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Sen. Ward | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Sen. Starr | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |

Motion of: OTP/A Vote: 5-0

| Committee Member | Present | Made by | Second | Yes | No |
|--------------------------|-------------------------------------|--------------------------|--------------------------|-------------------------------------|--------------------------|
| Sen. Kahn, Chair | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Sen. Dietsch, Vice Chair | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Sen. Morgan | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Sen. Ward | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Sen. Starr | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |

Reported out by: Sen. Kahn

Notes: _____

Committee Report

STATE OF NEW HAMPSHIRE

SENATE

REPORT OF THE COMMITTEE

Tuesday, May 14, 2019

THE COMMITTEE ON Education and Workforce Development

to which was referred **HB 226**

AN ACT

relative to the renomination of teachers.

Having considered the same, the committee recommends that the Bill

OUGHT TO PASS WITH AMENDMENT

BY A VOTE OF: 5-0

AMENDMENT # 1962s

Senator Jay Kahn
For the Committee

Tricia Melillo 271-3077

Docket of HB226**Bill Title:** relative to the renomination of teachers.**Official Docket of HB226.:**

| Date | Body | Description |
|-------------|-------------|---|
| 12/27/2018 | H | Introduced 01/02/2019 and referred to Education HJ 2 P. 42 |
| 1/8/2019 | H | Public Hearing: 01/22/2019 10:15 am LOB 207 |
| 1/30/2019 | H | Executive Session: 02/05/2019 10:00 am LOB 207 |
| 2/7/2019 | H | Majority Committee Report: Ought to Pass with Amendment #2019-0247h for 02/27/2019 (Vote 14-6; RC) HC 13 P. 28 |
| 2/7/2019 | H | Minority Committee Report: Inexpedient to Legislate |
| 2/28/2019 | H | Amendment #2019-0247h : AA VV 02/28/2019 HJ 7 P. 55 |
| 2/28/2019 | H | Ought to Pass with Amendment 2019-0247h: MA DV 200-128 02/28/2019 HJ 7 P. 55 |
| 3/18/2019 | S | Introduced 03/14/2019 and Referred to Education and Workforce Development; SJ 9 |
| 3/20/2019 | S | Hearing: 03/26/2019, Room 103, LOB, 10:30 am; SC 15 |
| 5/14/2019 | S | Committee Report: Ought to Pass with Amendment #2019-1962s , 05/23/2019; SC 23 |
| 5/24/2019 | S | Special Order to to the present time, Without Objection, MA; 05/23/2019; SJ 17 |
| 5/23/2019 | S | Committee Amendment #2019-1962s , AA, VV; 05/23/2019; SJ 17 |
| 5/23/2019 | S | Ought to Pass with Amendment 2019-1962s, MA, VV; OT3rdg; 05/23/2019; SJ 17 |
| 6/13/2019 | H | House Concurs with Senate Amendment 1962s (Rep. Myler): MA VV 06/13/2019 HJ 19 P. 3 |
| 9/19/2019 | H | Enrolled Bill Amendment #2019-2645e : AA RC 211-145 09/19/2019 HJ 22 P. 6 |
| 9/19/2019 | S | Sen. Soucy Moved Adoption of Enrolled Bill Amendment #2019-2645e , AA, VV; 09/19/2019; SJ 22 |
| 9/23/2019 | H | Enrolled 09/19/2019 HJ 22 |
| 9/24/2019 | S | Enrolled (In recess 09/19/2019); SJ 23 |
| 10/3/2019 | H | Vetoed by Governor Sununu 09/27/2019 |

Other Referrals

Senate Inventory Checklist for Archives

Bill Number: HB 226

Senate Committee: Ed + WFD

Please include all documents in the order listed below and indicate the documents which have been included with an "X" beside

Final docket found on Bill Status

Bill Hearing Documents: {Legislative Aides}

- Bill version as it came to the committee
- All Calendar Notices
- Hearing Sign-up sheet(s)
- Prepared testimony, presentations, & other submissions handed in at the public hearing
- Hearing Report
- Revised/Amended Fiscal Notes provided by the Senate Clerk's Office

Committee Action Documents: {Legislative Aides}

All amendments considered in committee (including those not adopted):

- amendment # 1937 - amendment # 1962
- amendment # _____ - amendment # _____
- Executive Session Sheet
- Committee Report

Floor Action Documents: {Clerk's Office}

All floor amendments considered by the body during session (only if they are offered to the senate):

- amendment # _____ - amendment # _____
- amendment # _____ - amendment # _____

Post Floor Action: (if applicable) {Clerk's Office}

- Committee of Conference Report (if signed off by all members. Include any new language proposed by the committee of conference):
- Enrolled Bill Amendment(s) 2045
- Governor's Veto Message

All available versions of the bill: {Clerk's Office}

- as amended by the senate as amended by the house
- final version

Completed Committee Report File Delivered to the Senate Clerk's Office By:

Committee Aide

Date

Senate Clerk's Office JM

June 25, 2019
2019-2645-EBA
05/08

Enrolled Bill Amendment to HB 226

The Committee on Enrolled Bills to which was referred HB 226

AN ACT relative to the renomination of teachers.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

FOR THE COMMITTEE

Explanation to Enrolled Bill Amendment to HB 226

This enrolled bill amendment makes a technical correction.

Enrolled Bill Amendment to HB 226

Amend section 1 of the bill by inserting after line 2 the following:

189:14-a Failure to be Renominated or Reelected.

Amend the bill by deleting section 2 of the bill and renumbering the remaining sections 3 and 4 to read as 2 and 3, respectively.