

1 **ENROLLED**

2 **H. B. 4619**

3  
4 (By Delegates M. Poling, Perry, Pethtel, Lawrence, Barrett,  
5 Campbell, Rowan, Pasdon, Hamrick, Westfall and Ambler)  
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7  
8 [Passed March 8, 2014; in effect ninety days from passage.]  
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10  
11 AN ACT to amend and reenact §18-5B-3 of the code of West  
12 Virginia, 1931, as amended; and to further amend said code  
13 by adding thereto a new section, designated §18-5B-13, all  
14 relating to school innovation zones Act; providing limited  
15 priority for limited years for certain entrepreneurship  
16 education innovation zones; authorizing innovation school  
17 districts; making legislative findings and providing intent  
18 and purpose of section; school system eligibility and  
19 application categories; providing for application process,  
20 review, content and periods; innovation school district plan  
21 purpose and content; plan development, approval and  
22 submission to state board; state board designation of  
23 innovation school districts; affect of designation and  
24 process for waiver of statutes, policies, rules and  
25 interpretations; limitation on waivers; revision and

1 extension of plans; revocation of designation; affect of  
2 plan expiration on innovations; requiring state board rule;  
3 and annual review.

4 *Be it enacted by the Legislature of West Virginia:*

5 That §18-5B-3 of the code of West Virginia, 1931, as  
6 amended, be amended and reenacted; and that said code be further  
7 amended by adding thereto a new section, designated §18-5B-13,  
8 all to read as follows:

9 **ARTICLE 5B. SCHOOL INNOVATION ZONES ACT.**

10 **§18-5B-3. School innovation zones; application for designation;**  
11 **state board rule.**

12 (a) A school, a group of schools, a subdivision or  
13 department of a group of schools, or a subdivision or department  
14 of a school may be designated as an innovation zone in accordance  
15 with this article.

16 (b) The state board shall promulgate a rule, including an  
17 emergency rule if necessary, in accordance with article three-b,  
18 chapter twenty-nine-a of this code to implement the provisions of  
19 this article. The rule shall include provisions for at least the  
20 following:

21 (1) A process for a school, a group of schools, a  
22 subdivision or department of a group of schools or a subdivision  
23 or department of a school to apply for designation as an  
24 innovation zone that encompasses at least the following:

1 (A) The manner, time and process for the submission of an  
2 innovation zone application;

3 (B) The contents of the application, which must include a  
4 general description of the innovations the school or schools seek  
5 to institute and an estimation of the employees who may be  
6 affected by the implementation of the innovations; and

7 (C) Factors to be considered by the state board when  
8 evaluating an application, which shall include, but are not  
9 limited to, the following factors:

10 (i) The level of staff commitment to apply for designation  
11 as an innovation zone as determined by a vote by secret ballot at  
12 a special meeting of employees eligible to vote on the plan, as  
13 provided in section six of this article;

14 (ii) Support from parents, students, the county board of  
15 education, the local school improvement council and school  
16 business partners; and

17 (iii) The potential for an applicant to be successful as an  
18 innovation zone; and

19 (2) Standards for the state board to review applications for  
20 designation as innovation zones and to make determinations on the  
21 designation of innovation zones.

22 (c) The state board shall review innovation zone  
23 applications in accordance with the standards adopted by the  
24 board and shall determine whether to designate the applicant as

1 an innovation zone. The state board shall notify an applicant of  
2 the board's determination within sixty days of receipt of an  
3 innovation zone application.

4 When initially designating innovation zones after the  
5 enactment of this article by the first extraordinary session of  
6 the 2009 Legislature, the state board shall consider applicants  
7 for designation in the following order: (1) A school and groups  
8 of schools; (2) a group of schools seeking designation across the  
9 same subdivision or department of the schools; and (3) a school  
10 seeking designation of a subdivision or a department.

11 (d) When designating innovation zones under these provisions  
12 following the amendment and reenactment of this section by the  
13 Legislature at its regular session 2014, and for each of the four  
14 succeeding school years, the state board shall establish a  
15 priority for applications that include the establishment of  
16 entrepreneurship education programs as a curricular offering for  
17 students. To qualify under this priority, the program strategy  
18 must include the active involvement of one or more partners from  
19 the business community in program delivery. Nothing in this  
20 subsection requires the state board to designate all applicants  
21 that include the establishment of entrepreneurship education  
22 programs as innovation zones, or to exclude other qualified  
23 applicants for innovations in other areas from designation.

24 **§18-5B-13. Innovation school district Act; legislative**

1 findings, intent and purpose; eligibility;  
2 application; innovation plan and plan approval;  
3 designation; waiver of statutes, policies, rules  
4 or interpretations; exceptions; progress reviews  
5 and annual reports; state board rule.

6 (a) *Legislative findings:*

7 (1) High school completion is an essential milestone for all  
8 West Virginia students and impacts the future success of the  
9 individual, community and state as well as providing the pathway  
10 to and appreciation for life-long learning endeavors;

11 (2) There are significant correlations between educational  
12 attainment and labor market outcomes, greater labor force  
13 participation rate, increased employment rates, improved health,  
14 and decreased levels of poverty and crime. The negative impact on  
15 these linkages is most evident in the absence of high school  
16 completion;

17 (3) West Virginia as a state must improve in areas of  
18 student achievement, graduation rate, attendance, the college  
19 going rate and other indicators of academic success in public  
20 schools;

21 (4) Research identifies a number of effective strategies for  
22 engaging students that have the most positive impact on improving  
23 student success and high school graduation. Some of these  
24 strategies are school-community collaboration, safe learning

1 environments, family engagement, early literacy development,  
2 mentoring and tutoring services, service learning opportunities,  
3 alternative and nontraditional schooling, offering multiple  
4 pathways and settings for attaining high school diplomas, after-  
5 school opportunities, individualized instruction and career and  
6 technical education;

7 (5) Among the major issues raised by the Efficiency Audit of West  
8 Virginia's Primary and Secondary Education System conducted by Public  
9 Works, LLC, is a description of West Virginia's system of schools as  
10 heavily regulated. The report expresses the advantages of more local  
11 autonomy to better meet the needs of students, elevate their  
12 aspirations, and prepare them for post-secondary education and careers.  
13 Among its general conclusions is the need to drive more educational  
14 decision-making to the level closest to the students, to the classroom  
15 and building level - allowing principals to lead and teachers to  
16 deliver the most effective curriculum for their students - and then  
17 holding them accountable for student success;

18 (6) The Goals for Education, Vision 2020: An Education  
19 Blueprint for Two Thousand Twenty include policy-oriented  
20 objectives for restoring the autonomy, authority, flexibility,  
21 and capacity of local schools and county boards to improve  
22 student learning to meet or exceed the expectations established  
23 by the state board and Legislature;

24 (7) Allowing exceptions from certain statutes, policies,  
25 rules and interpretations through the creation of innovation

1 school districts will restore the autonomy, authority,  
2 flexibility, and capacity of local schools and county boards to  
3 enable greater local autonomy and encourage innovation over the  
4 important factors that impact student achievement and the  
5 delivery of educational services to improve student learning; and

6 (8) When educators, parents, elected officials, business  
7 leaders, faith-based leaders, human service personnel, judicial  
8 personnel and civic leaders collectively work together, they are  
9 often able to find innovative solutions to address school and  
10 community problems and implement a variety of innovative  
11 improvements that increase student engagement, develop more  
12 flexible schedules, enhance student and teacher ownership of the  
13 learning process and increase student achievement.

14 (b) *Legislative intent and purpose of section:*

15 In light of the foregoing findings, it is the intent of the  
16 Legislature through this section to create a special category of  
17 innovation zones entitled "Innovation School Districts" to  
18 provide an additional tool for school systems in collaboration  
19 with community and business partners to plan and implement new  
20 approaches to improve the performance and progress of the  
21 students, schools and school system. This section is intended to  
22 establish a process that includes:

23 (1) Broad participation and collaboration in the  
24 establishment of an innovation school district plan that includes

1 approaches to build the capacity of the district to improve the  
2 performance and progress of its students, schools and school  
3 system; and

4 (2) Provides multiple opportunities over a period of five  
5 years for a school system designated as an innovation school  
6 district to seek and receive exceptions to certain statutes,  
7 policies, rules and interpretations applicable throughout the  
8 county or at certain schools within the county as needed to best  
9 meet the needs of its students as the system moves forward with  
10 its partners toward fulfillment of its innovation school district  
11 plan.

12 (c) *School System Eligibility:*

13 All county boards are eligible to apply for designation as  
14 an innovation school district: *Provided,* That a district that has  
15 expended funds or incurred obligations in violation of section  
16 twenty-six, article eight, chapter eleven of this code is not  
17 eligible to apply for designation as an innovation school  
18 district, unless otherwise determined by the state board. The  
19 applications shall be taken in four categories: Sparse Density  
20 County; Low Density County; Medium Density County; and High  
21 Density County, as those terms are defined in section two,  
22 article nine-a of this chapter. The state board is authorized to  
23 designate no more than one county from each category as an  
24 innovation school district beginning July 1, 2015: *Provided,* That



1 the State Board, after July 1, 2016, may designate one additional  
2 county from each category as an innovation school district as  
3 long as the number of counties designated at any one time does  
4 not exceed two counties from each category as innovation school  
5 districts, subject to other considerations included herein. The  
6 designation of counties as innovation school districts shall be  
7 on a competitive basis.

8 (d) *Application for designation as Innovation School*  
9 *District:*

10 The rule promulgated by the state board to implement this  
11 section shall include an application and approval process for  
12 innovation school district plans that includes, but is not  
13 limited to, the following provisions:

14 (1) The manner, time and process for the submission of  
15 innovation school district applications. The initial application  
16 deadline may not be prior to January 2015. If after  
17 consideration of the applications submitted to it during an  
18 application period, the state board in its sole discretion does  
19 not designate the allotted number of school systems in each  
20 density category as innovation school districts, the state board  
21 may establish another application period to permit county boards  
22 in a density category not filled to reapply. In addition, at any  
23 time the number of designated innovation school districts in a  
24 density category is less than the maximum number allowed by

1 subsection (c) of this section due to the revocation or  
2 expiration of a designation, the state board may establish an  
3 application period and may select on a competitive basis new  
4 school systems to achieve the maximum number allowed by  
5 subsection (c) of this section per density category;

6 (2) The contents of the application, which must include:

7 (A) The innovation school district plan approved in  
8 accordance with subsection (f) of this section; and

9 (B) A general description of the innovations the school  
10 district seeks to institute as proposed in its innovation school  
11 district plan;

12 (3) Factors to be considered by the state board when  
13 evaluating an application, which shall include, but are not  
14 limited to, the following factors:

15 (A) Support from teachers, staff, parents, students, the  
16 county board of education, the local school improvement council  
17 and school business partners; and

18 (B) The potential for an applicant to be successful in  
19 raising student achievement as an innovation school district;

20 (4) Standards for the state board to review applications for  
21 designation as an innovation school district and to make  
22 determinations on the designation of a school system as an  
23 innovation school district; and

24 (5) An innovation zone application review committee and

1 recommendation process which shall be the same committee and  
2 process as used for all other innovation zones under this  
3 article.

4 (e) *Innovation School District Plan:*

5 The innovation school district plan is intended to serve as  
6 the basis for the innovative activities of the school system and  
7 to provide a vision for the school improvement goals it will work  
8 to accomplish in collaboration with its school and community  
9 partners. The plan is not intended as a limit on the normal  
10 school improvement activities that all school systems are  
11 expected to pursue, nor is the plan intended as a restriction on  
12 the ability of the school system or its schools to pursue other  
13 innovative strategies in accordance with the other provisions of  
14 this article. The innovation school district plan may include,  
15 but are not limited to, the following proposals:

16 (1) Methods for providing schools and communities with  
17 opportunities for greater collaboration to plan and implement  
18 systemic approaches that include evidence-based solutions for  
19 increasing graduation rates, increasing achievement and  
20 educational outcomes and reducing the number of dropouts;

21 (2) Innovative approaches to revitalize vocational and  
22 technical education, an essential mission of county boards;

23 (3) Increased collaborative site-based decision-making  
24 powers over the budgeting for and spending on programs and

1 services for students;

2 (4) Increased collaborative site-based decision-making  
3 powers over teacher recruitment;

4 (5) Improved site-based mentoring, collaboration and support  
5 for strengthening the professional practices of new and emerging  
6 teachers, including recognizing and supporting school-based  
7 teacher leaders that perform these duties;

8 (6) Allowing a collaborative process which ensures  
9 accountability and transparency to all stakeholders, provides  
10 information and additional measures of the effects of specific  
11 innovations upon which the success of the plan may be judged, and  
12 documents student, school and school system success;

13 (7) Allows input and demonstrative buy-in from education  
14 personnel regarding appropriate professional development,  
15 supports, resources and working conditions.

16 (8) Allowing a collaborative site-based process to reduce  
17 certain requirements to allow staff to meet the school's mission;

18 (9) Allowing, through a collaborative site-based process,  
19 flexibility to the alternative teacher certification programs;

20 (10) Utilizing virtual school courses aligned with the  
21 Southern Regional Education Board's Standards for Quality Online  
22 Courses;

23 (11) Providing for greater autonomy for county board, and  
24 through the board's innovation's, for local schools; and

1           (12) Other innovation zone plans approved under the  
2 provisions of this article and being implemented in other schools  
3 and school systems throughout the state.

4           The innovation school district plan shall include a general  
5 description of the innovations the county school district seeks  
6 to institute, a proposed time line for implementation and  
7 measures for judging the success of the innovation school  
8 district plan.

9           (f) *Innovation School District Plan - District Level*  
10 *Approval:*

11           Prior to submitting an innovation school district plan to  
12 the state board, the county board shall:

13           (1) Form a broad based innovation school district  
14 stakeholders committee which may include, but is not limited to,  
15 educators, parents, elected officials, business leaders, faith-  
16 based leaders, human service personnel, judicial personnel and  
17 civic leaders, but at a minimum shall include the principals  
18 employed within the county, the chairs of the faculty senates of  
19 each school in the county, employee organization representatives,  
20 a school service person from each work site and parent  
21 representatives. The stakeholder committee shall compose a  
22 conceptual proposal for the purpose of soliciting input on a  
23 variety of approaches that may be undertaken within the county if  
24 designated as an innovation school district and to guide

1 development of an innovation school district plan;

2 (2) Direct the county superintendent to hold a meeting of  
3 all regularly employed school employees to provide them an  
4 opportunity to examine and discuss the conceptual proposal. The  
5 superintendent shall direct that a vote of all regularly employed  
6 school employees in the county be conducted within fifteen days  
7 of the meeting to determine the level of school employee support  
8 for the conceptual proposal. The vote shall be by secret ballot  
9 administered by the panels created in subsection (c), section six  
10 of this article for each school and shall be administered in  
11 accordance with that subsection. For the vote to be valid,  
12 ballots must be cast by at least fifty percent of all regularly  
13 employed school employees in the county. Before proceeding with  
14 the succeeding subdivisions of this subsection, the conceptual  
15 proposal must be approved by at least two-thirds ballots cast  
16 voting to approve it. If not approved, the stakeholder committee  
17 may revise the conceptual proposal and, subject to direction of  
18 the county board, the superintendent shall repeat the steps set  
19 forth in this subdivision for a revote;

20 (3) Make its conceptual proposal for an innovation school  
21 district available to the public at least 20 days prior to the  
22 public town hall meetings required under subdivision (4) of this  
23 subsection. In order to comply with this public notice  
24 requirement, the proposed plan shall be posted on the county

1 board's web site, as well as hard copies of the proposed plan  
2 being made available at all county school sites and the county's  
3 central office, for public viewing and copying;

4 (4) After the closure of the 20 day public review period,  
5 conduct public town hall meetings in at least three schools in  
6 the county, including at least one each at schools with separate  
7 secondary, middle and elementary programmatic levels, or as near  
8 as possible considering the county's facility infrastructure, for  
9 the purpose of soliciting input from those in attendance on the  
10 challenges affecting the quality of education in the county and  
11 the potential strategies and priorities for addressing them;

12 (5) Direct the county superintendent to hold a meeting of  
13 the innovation school district stakeholders committee following  
14 the public town hall meetings for the purpose of reviewing the  
15 input gathered at the meetings and developing an innovation  
16 school district plan;

17 (6) Direct the county superintendent to hold a meeting of  
18 all regularly employed school employees to provide them an  
19 opportunity to examine and discuss the innovation school district  
20 plan. The superintendent shall direct that a vote of all  
21 regularly employed school employees in the county be conducted  
22 within fifteen days of the meeting to determine the level of  
23 school employee support for the innovation school district plan.  
24 The vote shall be conducted as provided in subdivision (2) of

1 this subsection, except that for the vote to be valid, ballots  
2 must be cast by at least sixty percent of all regularly employed  
3 school employees in the county and the innovation school district  
4 plan must be approved by at least two-thirds of the ballots cast  
5 voting to approve it. If not approved, the stakeholder committee  
6 may revise the plan and, subject to direction of the county  
7 board, the superintendent shall repeat the steps set forth in  
8 this subdivision for a revote; and

9 (7) The plan may then be submitted by the county  
10 superintendent to the county board for a vote to submit the plan  
11 to the state board. The authority of a county board to vote to  
12 submit an innovation school district plan and the right to submit  
13 the plan and be designated as an innovation school district, if  
14 selected, in accordance with this section are not subject to or  
15 affected by the approval status of the school system or  
16 intervention in the authority of county board for school system  
17 operation pursuant to section five, article two-e of this  
18 chapter.

19 (g) *State Board Designation of Innovation School Districts:*

20 The state board shall review the innovation school district  
21 applications in accordance with the standards adopted by the  
22 board, shall determine the highest rated applicants in each  
23 category and shall determine whether to designate those  
24 applicants as innovation school districts. The designation of an



1 applicant as an innovation school district is at the sole  
2 discretion of the state board. The state board shall notify each  
3 applicant of the board's determination within thirty days of the  
4 final determinations.

5 (h) *Innovation School Districts:*

6 The designation of a school system as an innovation school  
7 district authorizes the county board to submit requests to the  
8 state board for exceptions to statutes, policies, rules and  
9 interpretations that are required to permit implementation of the  
10 innovative strategies contemplated in its innovation school  
11 district plan. The designation as an innovation school district  
12 authorizes the county board to submit to submit multiple  
13 individual requests for exceptions to permit implementation of  
14 different strategies contemplated in the plan as the strategies  
15 are developed. Each request for an exception shall be submitted  
16 and may be approved by the state board subject to the following:

17 (1) The county board of a school system designated as an  
18 innovation school district may request an exception to a statute,  
19 policy, rule or interpretation by submitting an application to  
20 the state board that contains the following information:

21 (A) A description of the program or initiative the school  
22 system intends to implement at a school, group of schools or  
23 district-wide as an innovative strategy to improve student  
24 achievement if the request is approved by the state board;

1 (B) An explanation of the specific exception to a statute,  
2 policy, rule or interpretation, in the singular or plural, that  
3 the school system has identified as prohibiting or constraining  
4 the implementation of the program or initiative and why the  
5 exception is necessary;

6 (C) An explanation of how the program or initiative furthers  
7 the activities contemplated in the innovation school district  
8 plan;

9 (D) A certification by the county superintendent that the  
10 request for an exception was approved by a vote of the eligible  
11 employees in accordance with the process for voting as set forth  
12 in section six of this article; and

13 (E) Any other information the state board requires as set  
14 forth in its rule to implement this section.

15 (2) The state board shall review the request in accordance  
16 with the standards in its rule and shall determine whether to  
17 approve or disapprove the request. The approval or disapproval  
18 of a request is at the sole discretion of the state board in  
19 accordance with the requirements of this section.

20 (3) Except as provided in subdivision (5) of this  
21 subsection, the state board shall approve or disapprove the  
22 request within sixty days of receipt, subject to the following:

23 (A) No exceptions to state board policies, rules or  
24 interpretations are granted unless the state board approves the

1 request at least conditionally pursuant to subdivisions (2) and  
2 (5) of this subsection; and

3 (B) If the request is disapproved, the state board shall  
4 communicate its reasons for the disapproval to the county board  
5 and shall make recommendations for improving the request. The  
6 county board may amend and resubmit the request.

7 (4) Upon approval of the request by the state board, all of  
8 the exceptions to state board policies, rules and interpretations  
9 that were requested are granted;

10 (5) If a request, or a part thereof, may not be implemented  
11 unless an exception to a statute is granted by an Act of the  
12 Legislature, the state board may approve the request, or the part  
13 thereof, only upon the condition that the Legislature acts to  
14 grant the exception. If the state board approves a request on  
15 that condition, the state board shall submit the request for an  
16 exception to a statute, along with supporting reasons, to the  
17 Legislative Oversight Commission of Education Accountability.  
18 The commission shall review the request and make a recommendation  
19 to the Legislature regarding the exception requested; and

20 (6) An innovation school district may not request an  
21 exception nor may an exception be granted from any of the  
22 following:

23 (A) A required statewide assessment program administered by  
24 the West Virginia Department of Education;

1 (B) Any provision of law or policy required by Public Law  
2 94-142, Public Law No. 107-110 or other federal law;

3 (C) Sections two and seven, article two, chapter eighteen-a  
4 of this code and sections seven-a, seven-b, eight and eight-b,  
5 article four, chapter eighteen-a of this code, except that an  
6 innovation school district may make a job posting for a teacher  
7 vacancy in accordance with the procedures and the approval by a  
8 vote of the teachers as provided in section eight of this  
9 article; and

10 (D) Any statute, policy, rule or other requirements of the  
11 state board or other agency related to the health and safety of  
12 students or employees, any requirements imposed by ethics laws or  
13 opinions, any requirements imposed by open records or open  
14 meetings laws, any requirements related to financial or academic  
15 reporting or transparency, or any requirements designed to  
16 protect the civil rights of students or employees.

17 (i) *Revision, Extension and Revocation of Innovation School*  
18 *District Plan:*

19 (1) The county board of a school system designated as an  
20 innovation school district pursuant to this section may revise  
21 its innovation school district plan and resubmit its plan to the  
22 state board for approval after complying with all other  
23 applicable plan requirements set forth in this section for  
24 initial plan approval.

1           (2) The designation of a school system as an innovation  
2 school district shall be for a period of five years. The state  
3 board, upon request of the county board, may extend the  
4 designation for an additional two years if the school system has  
5 outstanding items in its school system collaborative innovation  
6 zone plan that it still wants to pursue and only for the purpose  
7 of pursuing those outstanding items.

8           (3) The state board after periodic review of an established  
9 innovation school district may, upon recommendation of the  
10 innovation zone application review committee, revoke the school  
11 district's designation as an innovation school district for  
12 noncompliance or nonperformance.

13           (j) *Affect of Plan Expiration on Innovations:*

14           The expiration of a school system's designation as an  
15 innovation school district does not negate any exceptions to  
16 statutes, policies, rules or interpretations granted to the  
17 school system unless and until specifically revoked, repealed or  
18 modified by the state board or by the Legislature, as applicable.

19           (k) *State Board Rule and Annual Reviews:*

20           The state board shall adopt, in accordance with article  
21 three-b, chapter twenty-nine-a of this code, a rule for the  
22 implementation of this section. The state board or its  
23 designated committee shall perform annual performance reviews and  
24 provide annual reports in accordance with section seven of this

1 article.