

WEST VIRGINIA LEGISLATURE

2016 REGULAR SESSION

ENROLLED

Committee Substitute

for

House Bill 4295

BY MR. SPEAKER (MR. ARMSTEAD) AND DELEGATE MILEY

(BY REQUEST OF THE EXECUTIVE)

[Passed March 12, 2016; in effect ninety days from
passage.]

1 AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,
2 designated §18-5B-14; and to amend said code by adding thereto a new article,
3 designated §18-5E-1, §18-5E-2, §18-5E-3, §18-5E-4, §18-5E-5, §18-5E-6 and §18-5E-7,
4 all relating to education innovation; terminating funding for Innovation Zones and Local
5 Solution Dropout Prevention and Recovery Innovation Zones; setting forth purpose of
6 Innovation in Education Act; defining Innovation in Education school; allowing
7 incorporation of more than one of certain attributes into an Innovation in Education
8 school's program design; setting forth certain requirements for Innovation in Education
9 school; authorizing soliciting, accepting and expending gifts, donations and grants with
10 certain limits; authorizing State Board of Education designation of Innovation in Education
11 school; requiring state board rule for implementation and authorizing emergency rule if
12 necessary; requiring rule to include certain provisions pertaining to the application
13 process, minimum contents of the application, and the process by which the state board
14 will review performance and student success, reaffirm or reconsider designation, and
15 identify exemplary schools; allowing state board to provide for West Virginia Department
16 of Education to independently assess applicants; setting forth requirements applicable to
17 the state board when making a designation determination; setting forth items that
18 Innovation in Education Plan must include; requiring operational agreement between
19 school principal and county board of education; specifying minimum contents of
20 operational agreement; requiring performance report on and evaluations of Innovation in
21 Education school; allowing county superintendent to make certain recommendations to
22 the county board and state board in the evaluation; allowing the state board to take certain
23 actions based on the county superintendent's evaluation and a data analysis conducted
24 by the Department one of which is the termination of the Innovation in Education
25 designation in certain instances; and creating Innovation in Education Fund.

Be it enacted by the Legislature of West Virginia:

1 That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new
2 section, designated §18-5B-14; and that said code be amended by adding thereto a new article,
3 designated §18-5E-1, §18-5E-2, §18-5E-3, §18-5E-4, §18-5E-5, §18-5E-6 and §18-5E-7, all to
4 read as follows:

ARTICLE 5B. SCHOOL INNOVATION ZONES ACT.

**§18-5B-14. Termination of funding for School Innovation Zones and Local Solution
Dropout Prevention and Recovery Innovation Zones.**

1 No school, group of schools, district, subdivision or department of a group of schools, or
2 a subdivision or department of a school designated or to be designated as an Innovation Zone or
3 Local Solution Dropout Prevention and Recovery Innovation Zone shall receive any funding
4 pursuant to this article after June 30, 2016.

ARTICLE 5E. INNOVATION IN EDUCATION ACT.

§18-5E-1. Purpose.

1 The purpose of this act is to encourage and incentivize public schools to improve overall
2 student outcomes through the implementation of key innovational priorities for improving
3 education in the following areas:

- 4 (1) Science, technology, engineering and math (STEM);
- 5 (2) Community school partnership;
- 6 (3) Entrepreneurship;
- 7 (4) Career pathways; and
- 8 (5) The arts.

9 This act provides a mechanism for public schools designated by the state board as
10 Innovation in Education schools to redesign their curriculum, instructional delivery and

11 instructional strategies, to enhance student engagement, to develop meaningful community
12 partnerships and to operate under greater flexibility to increase student achievement.

§18-5E-2. Innovation in Education school defined.

1 (a) An Innovation in Education school is a public school in this state that applies to and is
2 designated by the state board in accordance with this article as an Innovation in Education School
3 with a principal focus in one of the following areas:

4 (1) Science, technology, engineering and math (STEM);

5 (2) Community school partnership;

6 (3) Entrepreneurship;

7 (4) Career pathways; and

8 (5) The arts.

9 (b) Nothing in this article prohibits an Innovation in Education school from incorporating
10 more than one of the attributes of STEM education, community school partnerships,
11 entrepreneurship, career pathways or the arts into its program design, notwithstanding the
12 primary designation under which it applies or is subsequently designated.

13 (c) An Innovation in Education school:

14 (1) Shall provide a program of public education that includes one or more of the grade
15 levels prekindergarten to grade twelve, including any associated post-secondary dual credit,
16 advanced placement and industry or workforce credential programs;

17 (2) Shall design its educational program to meet or exceed the student performance
18 standards required under section five, article two-e of this chapter and is subject to all student
19 assessment, accreditation and federal accountability requirements applicable to other public
20 schools in this state. However, nothing shall prohibit an Innovation in Education school from
21 establishing additional student assessment measures or implementing competency-based course
22 completion strategies that go beyond state requirements;

23 (3) Shall operate according to an Innovation in Education plan developed by the school's
24 principal and faculty with input from its local school improvement council, the county board, the
25 county superintendent and, if the school is a high school, the students of the school;

26 (4) Shall, if designated by the state board as an Innovation in Education Demonstration
27 School, host visits and tours of its facility and programs to provide information and an opportunity
28 to observe any successful innovations which may be replicated in other schools. The school may
29 require the payment of a fee to off-set the cost of hosting such visits and tours; and

30 (5) May solicit and accept gifts, donations or grants for school purposes from public or
31 private sources in any manner that is available to a local school district and expend or use such
32 gifts, donations or grants in accordance with the conditions prescribed by the donor except that a
33 gift, donation or grant may not be accepted if subject to a condition that is contrary to any provision
34 of law or term of the school's Innovation in Education plan. Any monies received by an Innovation
35 in Education school from any source remaining in the school's accounts at the end of a fiscal year
36 shall remain in its accounts for use during subsequent fiscal years.

**§18-5E-3. Application for Innovation in Education school designation; application review
and approval; state board rule.**

1 (a) The state board may designate a school as a STEM, community school partnership,
2 entrepreneurship, career pathways or the arts Innovation in Education school in accordance with
3 this article and shall promulgate a rule, including an emergency rule if necessary, in accordance
4 with article three-b, chapter twenty-nine-a of this code to implement the provisions of this article.
5 The rule shall include at least the following:

6 (1) A process for a school to apply for designation as an Innovation in Education school in
7 STEM, community school partnership, entrepreneurship, career pathways or the arts;

8 (2) Clear and concise application evaluation factors in rubric form, including standards for
9 the state board to review and make a determination of whether to designate an applicant as an

10 Innovation in Education school;

11 (3) The manner, time and process for application submission;

12 (4) The form and necessary contents of the application, including but not limited to, the
13 following:

14 (A) The proposed mission and vision of the school as it pertains to becoming an Innovation
15 in Education school, including identification of the designation it seeks to obtain as a primary focus
16 on which may include: (i) Science, technology, engineering and math (STEM); (ii) community
17 school partnership; (iii) entrepreneurship; (iv) career pathways; or (v) the arts;

18 (B) An executive summary;

19 (C) The school's proposed academic program, including a description of the school's
20 instructional design, learning environment, class structure, curriculum overview, teaching
21 methods, research basis and other elements required in the school's Innovation in Education plan
22 pursuant to section four of this article;

23 (D) A clear articulation of the areas of autonomy and flexibility in curriculum, budget, school
24 schedule and calendar, professional development, and staffing policies and procedures which
25 would require a waiver of policy or code; and

26 (E) The school's Innovation in Education plan; and

27 (7) Following the initial evaluation of Innovation in Education schools as provided in
28 section six of this article, the process by which the state board will periodically review the
29 performance and student success of Innovation in Education schools, reaffirm or reconsider the
30 designation of a school, and identify exemplary schools to serve as demonstration sites.

31 (b) The state board may provide for the West Virginia Department of Education to
32 independently assess applicants based on the evaluation factors rubric and provide the state
33 board with this assessment. The state board shall consider the evaluation factors in rubric form
34 in making any Innovation in Education school designation determination. In making a designation

35 determination, the state board shall:

36 (1) Grant a designation only to applicants who have demonstrated competence in each
37 element of the evaluation factors and who have demonstrated their capacity to operate an
38 Innovation in Education school that will increase student achievement;

39 (2) Base determinations on documented evidence collected through the application review
40 process;

41 (3) If appropriate, include in a designation determination reasonable conditions that the
42 applicant must meet before commencing operation under the designation, including resubmission
43 of the application;

44 (4) Decline weak or inadequate applications and clearly state its reasons for denial;

45 (5) Make and announce all designations of Innovation in Education schools in a meeting
46 open to the public and clearly state in a resolution the reasons for the decisions. A copy of the
47 resolution shall be submitted to Legislative Oversight Commission on Education Accountability;
48 and

49 (6) Convey its determination on an application in writing to the applicant.

50 (c) An Innovation in Education school may not commence or continue operations without
51 a signed operational agreement as provided in section five of this article between the county board
52 and the school principal.

§18-5E-4. Innovation in Education Plan; required contents; measurable annual performance goals; uses.

1 The Innovation in Education Plan for a STEM, community school partnership,
2 entrepreneurship, career pathways or the arts Innovation in Education school shall include each
3 of the following:

4 (1) A description of how the school will address the overall climate and culture of the school
5 as a high performing learning environment in which every child may succeed to the best of his or

6 her ability, including but not limited to measurable annual goals to:

7 (A) Increase overall student achievement;

8 (B) Address dropout prevention; and

9 (C) Transform school culture;

10 (2) A curriculum plan that includes a detailed description of the curriculum and related
11 programs for the proposed school and how the curriculum is expected to improve school
12 performance and student achievement;

13 (3) Measurable annual performance goals to assess the school's performance and student
14 success across multiple measures and that will serve as the basis evaluating the Innovation in
15 Education school, including but not limited to, goals relating to the following:

16 (A) Student attendance;

17 (B) Student safety and discipline;

18 (C) Student promotion and graduation and dropout rates;

19 (D) Student performance on the state-wide summative assessment and other assessment
20 required by the state board;

21 (E) Progress in areas of academic underperformance;

22 (F) Progress among subgroups of students, including, but not limited to, low-income
23 students and students receiving special education;

24 (G) With respect to high school, postsecondary readiness, including the percentage of
25 graduates submitting applications to postsecondary institutions, and postsecondary enrollment or
26 employment; and

27 (H) Parent and community engagement; and

28 (4) A budget plan that includes a detailed description of how funds will be used in the
29 proposed school to support school performance and student achievement that is or may be
30 different than how funds are used in other public schools in the district;

31 (5) A school schedule plan that includes a detailed description of the ways the program or
32 calendar of the proposed school may be enhanced or expanded;

33 (6) A staffing plan and professional development plan that includes a detailed description
34 of how the school may provide professional development to its administrators, teachers and other
35 staff;

36 (7) A policies and procedures plan that includes:

37 (A) A detailed description of the unique operational policies and procedures to be used by
38 the school seeking designation and how the procedures will support school performance and
39 student achievement; and

40 (B) Any exemptions to rule, policy or statute the school is seeking: *Provided*, That a school
41 may not request an exemption nor may an exemption be granted from any assessment program
42 required by the state board or any provision of law or policy required by the Every Student
43 Succeeds Act of 2015 or other federal law;

44 (8) The school's plan, if any, for using additional internal and external metrics of the
45 performance agreed to by the school and the county board to measure the school's performance
46 and student success;

47 (9) Opportunities and expectations for parent involvement; and

48 (8) Any other information the state board requires.

§18-5E-5. Operational agreement between Innovation in Education school and county board.

1 An Innovation in Education school designated by the state board may not commence or
2 continue operations without a signed operational agreement between the county board and the
3 school principal which sets forth at least the following:

4 (1) Any conditions which must be met before the Innovation in Education school may begin
5 full operations. If necessary, the full implementation of an Innovation in Education school may be

6 postponed for up to one school year following its initial designation to enable all conditions
7 necessary for full operation to be met;

8 (2) Any material term of the school's Innovation in Education Plan concerning curriculum,
9 budget, school schedule, calendar, staffing, professional development and policies and
10 procedures to be adhered to by both the county board and the school;

11 (3) An agreed-upon process for amending or refining the school's Innovation in Education
12 Plan to improve the school's performance and student success, including but not limited to, the
13 request for additional waivers of rules, policies, interpretations and statutes through the local
14 school improvement council process;

15 (4) The annual performance targets set by the county board and the school to assess and
16 evaluate the school's progress in achieving its annual measureable goals as set forth in its
17 Innovation in Education Plan, including any additional internal and external metrics of
18 performance agreed to by the school and the county board to measure the school's performance
19 and student success. The annual performance targets may be refined or amended by mutual
20 agreement of the county board and the school after the school has been fully operational for one
21 year and has collected baseline performance data;

22 (5) The process and criteria that the county board will use to annually monitor and evaluate
23 the overall performance and student success of the school, including a process to conduct annual
24 site visits;

25 (6) Any information needed by the county board from the school for the purposes of
26 accountability and reporting by the school on the implementation of its mission as an Innovation
27 in Education school;

28 (7) The process the county board will use to notify the school of any deficiencies and the
29 process by which the school may submit an improvement plan; and

30 (8) In the event that an Innovation in Education school's performance appears
31 unsatisfactory, specific provisions addressing the parameters under which the county board may
32 promptly notify the school in writing of perceived problems and provide reasonable opportunity
33 for the school to remedy the problems, or if not remedied, may intervene or recommend to the
34 state board that it place the school's designation on probationary status, require a remedial action
35 plan and potentially revoke the designation. At a minimum, these parameters shall include the
36 circumstances of poor fiscal management and a lack of academic progress.

§18-5E-6. Evaluation of Innovation in Education designated schools.

1 (a) During its third full year of operation the county superintendent shall issue a
2 performance report on the Innovation in Education school. The performance report shall
3 summarize the school's performance record to date based on the data collected under school's
4 Innovation in Education Plan and operational agreement and shall provide notice of any
5 weaknesses or concerns perceived by the superintendent concerning the school that may
6 jeopardize its designation if not timely rectified. The school and the superintendent shall mutually
7 agree to a reasonable time period for the school to respond to the performance report and submit
8 any corrections to the report.

9 (b) After its fourth full year of operation, and periodically thereafter as may be provided by
10 the state board, the Innovation in Education school shall be evaluated by the county
11 superintendent. The county superintendent shall submit the evaluation to the county board and
12 the state board. The evaluation shall determine whether the school has met the annual goals
13 outlined in its Innovation in Education Plan and operational agreement and assess the
14 implementation of the Innovation in Education plan at the school.

15 (c) The county superintendent may recommend to the county board and state board in the
16 evaluation:

17 (1) To amend or suspend one or more components of the Innovation in Education Plan

18 and operational agreement if the county superintendent determines an amendment or suspension
19 is necessary to improve the performance and student success of the school;

20 (2) To amend or suspend one or more components of the Innovation in Education Plan
21 and operational agreement if the county superintendent determines an amendment or suspension
22 is necessary because of subsequent changes in the district that affect one or more components
23 of such Innovation in Education Plan;

24 (3) To support continued operation of the Innovation in Education school in accordance
25 with its Innovation in Education Plan and operational agreement; or

26 (4) To recommend to the state board that the school be designated as an Innovation in
27 Education demonstration school based on its exemplary performance and student success.

28 (d) Based on the county superintendent's evaluation and a data analysis conducted by
29 the West Virginia Department of Education the state board may:

30 (1) Amend or recommend an amendment to one or more components of the school's
31 Innovation in Education Plan and operational agreement;

32 (2) Suspend one or more components of the school's Innovation in Education Plan and
33 operational agreement;

34 (3) Affirm continuation of the Innovation in Education school under its current Innovation
35 in Education Plan and operational agreement; or

36 (4) If it is determined that the school has substantially failed to meet the goals outlined in
37 its Innovation in Education Plan and operational agreement, terminate the Innovation in Education
38 designation of the school.

39 (e) An amendment, suspension or termination may not take place before the completion
40 of the school year.

§18-5E-7. Innovation in education fund.

1 There is hereby created in the State Treasury a special revenue fund to be known as the

2 "Innovation in Education Fund." The fund shall consist of all moneys received from whatever
3 source to further the purpose of this article. The fund shall be administered by the state board
4 solely for the purposes of this article, including providing grants and other financial assistance to
5 innovation in education designated schools to implement and carry out such schools innovation
6 in education plans. Any moneys remaining in the fund at the close of a fiscal year shall be carried
7 forward for use in the next fiscal year. Fund balances shall be invested with the state's
8 consolidated investment fund and any and all interest earnings on these investments shall be
9 used solely for the purposes that moneys deposited in the fund may be used pursuant to this
10 article.