

**WEST VIRGINIA LEGISLATURE**  
**2019 FIRST EXTRAORDINARY SESSION**

**Introduced**  
**House Bill 203**

BY DELEGATE WILSON

[Introduced June 18, 2019; Referred  
to the Select Committee on Education Reform B]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,  
2 designated §18-5H-1, §18-5H-2, §18-5H-3, §18-5H-4, §18-5H-5, §18-5H-6, §18-5H-7,  
3 and §18-5H-8, all relating to the establishment and operation of experimental school  
4 zones; providing method by which an experimental school zone may be proposed;  
5 providing for an option by election of parents and school personnel; outlining requirements  
6 for transition to an experimental school zone; authorizing exemptions from law and policies  
7 in the operation of schools within the experimental school zone; providing for open  
8 enrollment and student transfers; requiring students and parents to sign a commitment  
9 contract to meet minimum criteria in participation; providing for evaluation and renewal as  
10 well as reversion to standard school methodology and practice; authorizing additional  
11 financial support for demonstrated improvement in outcomes; and mandating the  
12 promulgation of rules to facilitate the provisions of this act.

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

## **ARTICLE 5H. THE EXPERIMENTAL SCHOOL ACT.**

### **§18-5H-1. Establishment of experimental school zones; definition; proposal; election.**

1 (a) An experimental school zone consists of a designated high school and the elementary  
2 and middle schools from which students advance to the high school upon reaching appropriate  
3 age and skill.

4 (b) Any person or persons may propose that a specified high school and its feeder schools  
5 become an experimental school zone. The proposal shall include a plan for the proposed  
6 academic program, including a description of the instructional design, learning environment, class  
7 structure, curriculum overview, calendar, credit and advancement formulas, teaching methods,  
8 staffing policies, attendance requirements, use of instructional and research technologies, and  
9 nutrition and health standards to be implemented within the experimental school zone. The  
10 proposal shall also include a clear explanation of the areas of autonomy and flexibility in  
11 curriculum, budget, school schedule and calendar, professional development, and staffing

12 policies and procedures which would require a waiver of policy, rule, or code in state or federal  
13 law.

14 (c) Upon a petition to the county board of education from the parent-teacher organizations  
15 for one or more of the schools within a high school's district, or upon motion of the county board  
16 of education, a proposal to establish an experimental school zone for a high school district shall  
17 be put to a vote of the parents, teachers, and professional support staff within the proposed  
18 district. The parents of students currently enrolled in the schools proposed for inclusion within the  
19 experimental school zone and the teachers and professional support staff shall be provided with  
20 copies of the proposal for the experimental school zone. In not less than 30 nor more than 100  
21 days after distribution of the proposal to these interested parties, the county board of education  
22 shall conduct an election to put the question of whether the proposal should be adopted to the  
23 parents of students currently enrolled in the schools proposed for inclusion within the experimental  
24 school zone and the teachers and professional support staff of those schools.

25 (d) If a majority of the votes cast in the election are in favor of establishment of the  
26 experimental school zone, then the county board of education shall recognize that the attendance  
27 zone and residence areas for the schools identified in the proposal are an experimental school  
28 zone and shall begin the process of transition to an independent, experimental school zone  
29 pursuant to the provisions of §18-5H-2 of this code.

30 (e) If there is not a majority of votes in favor of establishment of the experimental school  
31 zone, then the schools within the proposed zone shall continue to operate under established laws  
32 and policies for public schools and no new or revised proposals shall be considered or put to  
33 election for at least two years.

**§18-5H-2. Transition to experimental school program.**

1 Transition to operation as an experimental school zone shall coincide with the start of the  
2 school year as conducted by other schools within the county where the experimental school zone  
3 will be located. In no event shall an experimental school zone begin operations involving the in-

4 class instruction of students in fewer than 100 days following the determination of the outcome of  
5 the vote on the experimental school zone option election. Operations as an experimental school  
6 zone may not begin until the schools within the designated zone have satisfied the conditions for  
7 operation established by the State Board of Education by rule. Prior to the start of the school year  
8 in an experimental school zone, parents who do not wish their children to participate in the  
9 experimental school program may seek the transfer of their children to other schools pursuant to  
10 the provisions of §18-5H-4 of this code.

**§18-5H-3. Waiver of standards and regulation; responsibilities of county board.**

1 (a) When established by a county board of education, an experimental school zone shall  
2 operate as an independent district within the county. Schools, staff, and students within an  
3 experimental school zone shall be exempt from state law and policies, subject to the terms of the  
4 approved experimental school zone proposal, regarding the following:

- 5 (1) Mandatory credit and advancement formulas;  
6 (2) Curriculum, methods of instruction, and testing;  
7 (3) Class size, class composition, instructor-student ratios, student-professional support  
8 staff ratios, class duration, and minimum instructional day;  
9 (4) Calendar and scheduling;  
10 (5) Selection and use of technology in the schools;  
11 (6) Student nutrition, physical activity, creative programs, and mind-body integration;  
12 (7) Teacher evaluation methodologies or criteria;  
13 (8) Consequences to the school for attendance issues or drop-out rates; and  
14 (9) Participation and involvement of parents in the development of instruction programs  
15 and school policy.

16 (b) The county board of education shall be responsible for payroll operations, routine  
17 maintenance and upkeep of physical facilities, and for compliance with health and safety  
18 standards within the experimental school zone, but shall have no authority to direct or set policy

19 for any of the elements listed in subsection (a) of this section.

**§18-5H-4. Student enrollment and transfers.**

1 (a) Definitions. – For the purposes of this section, unless a different meaning clearly  
2 appears from the context:

3 “Nonresident student” means a student who resides in this state and who is enrolled in or  
4 is seeking enrollment in a county school district other than the county school district in which the  
5 student resides.

6 “Open enrollment” means a policy adopted and implemented by a county board to allow  
7 nonresident students to enroll in any school within the district. Open enrollment is distinct from a  
8 mutual agreement of two county boards regarding mass transfer of students, as contemplated in  
9 §18-5-13(f)(1)(C) of this code.

10 (b) Enrollment policies. – County boards shall establish and implement an open enrollment  
11 policy to facilitate enrollment within an experimental school zone without charging tuition and  
12 without obtaining approval from the board of the county in which a student resides and transfers.  
13 These policies shall clearly articulate any admission criteria, application procedures,  
14 transportation provisions, timelines for open enrollment periods, and restrictions on transfers due  
15 to building capacity constraints. Enrollment policies are subject to the following:

16 (1) A county board may give enrollment preference to:

17 (A) Siblings of students already enrolled through the open enrollment policy;

18 (B) Secondary students who have completed 10th grade and, due to family relocation,  
19 become nonresident students, but express the desire to remain in a specific school to complete  
20 their education; and

21 (C) Students residing within an experimental school zone whose parents do not wish their  
22 children to participate in the experimental school program.

23 (2) A county must comply with all enrollment requirements for children who are in foster  
24 care or who meet the definition of unaccompanied youth prescribed in the McKinney-Vento

25 Homeless Assistance Act, 42 U.S.C. § 11434a(6).

26 (3) Within limits for overall enrollment determined by the experimental school zone, an  
27 experimental school zone shall be open to the enrollment of any student residing within the county  
28 or adjoining counties as long as the parent is capable of providing or arranging for transportation  
29 of the student to and from the school.

30 (c) Appeal. – The State Board of Education shall, by rule, establish a process whereby a  
31 parent or guardian of a student may appeal the refusal of a county board to accept the transfer of  
32 the student. If during the appeal process, the state superintendent discovers that the education  
33 and the welfare of the student could be enhanced, the state superintendent may direct that the  
34 student may be permitted to attend a school in the receiving county.

35 (d) Net enrollment. – For purposes of net enrollment as defined in §18-9A-2 of this code,  
36 whenever a student is transferred on a full-time basis from one school district to another district  
37 pursuant to the provisions of this section, the county to which the student is transferred shall  
38 include the student in its net enrollment: *Provided*, That if, after transferring to another county, a  
39 student chooses to return to a school in his or her county of residence after the second month of  
40 any school year, the following applies:

41 (1) The county of residence may issue an invoice to the county from which the student  
42 transferred for the amount, determined on a pro rata basis, that the county of residence otherwise  
43 would have received under the state basic foundation program established in §18-9A-1 *et seq.* of  
44 this code; and

45 (2) The county from which the student transferred shall reimburse the county of residence  
46 for the amount of the invoice.

47 (e) No parent, guardian, or person acting as parent or guardian is required to pay for the  
48 transfer of a student or for the tuition of the student after the transfer when the transfer is carried  
49 out under the terms of this section.

50 (f) Nothing in this article supersedes the eligibility requirements for participation in extra-

51 curricular activities established by the Secondary Schools Activities Commission.

**§18-5H-5. Student and parent commitment contracts; good faith performance; effect of failure to comply.**

1 (a) At the commencement of each school year, every school within an experimental school  
2 zone shall provide commitment contract forms to the parents of each student enrolled at that  
3 school. The commitment contract shall outline in simple, clear terms the responsibilities of the  
4 parents and the student regarding good faith efforts to participate in the school program. For the  
5 student, the commitment contract shall specify the criteria by which the student will commit to  
6 attendance and participation in the instructional components of the school's program. For the  
7 parents, the commitment contract shall specify the responsibilities of the parent to mentor, coach,  
8 and support the student in completion of his or her instructional tasks and participation in the  
9 school's academic program.

10 (b) If the commitment contract is not signed by the parents and student and submitted to  
11 the school at the end of 10 days, the student is not to continue enrollment in the experimental  
12 school zone and the student shall be transferred to another school pursuant to the provisions of  
13 §18-5H-4 of this code.

14 (c) Student attendance shall be governed by and subject to the remedial procedures  
15 specified in the provisions of §18-8-1 et seq. of this code.

16 (d) The principal of each school in an experimental school zone shall issue periodic reports  
17 to each parent of an enrolled student to identify how the student is complying with the criteria  
18 established in the commitment contract. If a student is failing to abide by the good faith criteria in  
19 the commitment contract and does not demonstrate responsible change within the course of a  
20 semester, or analogous period of the experimental school's calendar, the student shall be  
21 transferred to another school outside of the experimental school zone pursuant to the provisions  
22 of §18-5H-4 of this code.

**§18-5H-6. Evaluation of experimental schools.**

1           (a) During the fifth full year of operation of an experimental school zone and every fifth  
2 year thereafter that the school zone continues in operation as an experimental school zone, the  
3 State Superintendent of Schools shall collect data relating to the performance of the schools  
4 within the experimental school zone, including, but not limited to the following:

5           (1) PSAT and SAT scores;

6           (2) National Assessment of Educational Progress scores;

7           (3) Other standardized test data from test programs currently in use by the State  
8 Department of Education;

9           (4) Percentages of graduates requiring remedial education in institutions of higher  
10 education;

11           (5) Percentages of students requiring remedial classes within the schools of the  
12 experimental school zone;

13           (6) Post-graduation employment rates; and

14           (7) Other evaluation criteria recommended by the experimental school zone authority.

15           (b) After collecting the required data, the state superintendent shall conduct a comparison  
16 of this data with the same types of data from school districts with demographic compositions, such  
17 as poverty rates, employment levels, student entry scores, and family make-up, that are  
18 substantially similar to those of the experimental school zone.

19           (c) If the comparison of these criteria shows no statistically significant difference in the  
20 performance of the schools within the experimental school zone, then the experimental school  
21 zone shall be dissolved and the schools shall return to the curriculum, calendar, methods of  
22 instruction, staffing, and credit and advancement formulas that are in place for public schools  
23 within that county.

24           (d) If the comparison of these criteria shows that there has been a statistically significant  
25 improvement in the performance of the schools within the experimental school zone, then that  
26 experimental school zone shall continue in operation for an additional five years and, during such



27 period, shall receive an increased allocation of financial support as provided in §18-5H-6 of this  
28 code.

**§18-5H-7. Basic support provisions; additional financial support based upon performance.**

1 Nothing in this article shall be interpreted to alter the provisions and formulas for public  
2 school support set out in §18-9A-1 et seq. of this code; *Provided*, That if experimental the school  
3 zone demonstrates improvement as specified in §18-5H-6(d) of this code, then the schools within  
4 that experimental school zone shall receive an additional allocation of \$xxx per year for each  
5 student enrolled in those schools for each year until the next evaluation period and comparison  
6 is completed. In similar fashion, nothing in the provisions of §18-9A-1 et seq. of this code shall be  
7 interpreted to constrain or fix staffing levels, student-teacher ratios, or class sizes within an  
8 experimental school zone.

**§18-5H-8. Promulgation of rule for the proposal and administration of experimental school**  
**zones.**

1 The state board of education shall promulgate rules, pursuant to the provisions of  
2 §29A-3B-1 et seq. to carry out the provisions and further the purposes of this article including, but  
3 not limited to, provisions for the following:

4 (1) The form of and minimum elements to be contained in a proposal to establish an  
5 experimental school zone;

6 (2) Procedures for conducting an election for approval or rejection of an experimental  
7 school zone proposal;

8 (3) Conditions to be met before the experimental school zone may begin full operations;

9 (4) Procedures for declaring exemptions from state and county law and policies for  
10 operation of the experimental school zone and how such declarations may be amended; and

11 (5) Criteria for the evaluation of outcomes for students in an experimental school zone.

NOTE: The purpose of this bill is to authorize the establishment of experimental school

zones and to provide for the evaluation of the performance of experimental curricula and policies.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.