

# **WEST VIRGINIA LEGISLATURE**

## **2022 REGULAR SESSION**

**Introduced**

### **House Bill 4389**

BY DELEGATES ELLINGTON, TONEY, LONGANACRE,

TULLY, HORST, JENNINGS AND MAYNOR

[Introduced January 25, 2022; Referred to the  
Committee on Education]

1 A BILL to repeal §18-5B-1, §18-5B-2, §18-5B-3, §18-5B-4, §18-5B-5, §18-5B-6, §18-5B-7, §18-  
 2 5B-8, §18-5B-9, §18-5B-11, §18-5B-12, §18-5B-13 and §18-5B-14 of the Code of West  
 3 Virginia, 1931, as amended; to amend and reenact §18-5B-10 of said code; and to amend  
 4 and reenact §18-5E-3 of said code, all relating to repealing school innovation zones  
 5 provisions superseded by Innovation in Education Act; updating exceptions to statutes  
 6 granted to schools to reflect changes in underlying circumstances; updating provisions  
 7 related to granted exceptions to accommodate exceptions which may be granted to  
 8 innovation in education schools and school systems; and clarifying process for state board  
 9 and legislative oversight commission on education accountability to approve and  
 10 recommend exceptions to statutes.

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

**ARTICLE 5B. ~~SCHOOL INNOVATION ZONES ACT~~ EXCEPTIONS TO STATUTES  
FOR SCHOOLS AND SCHOOL SYSTEMS TO IMPLEMENT INNOVATIVE  
ALTERNATIVES.**

**§18-5B-1. Title.**

1 [Repealed.]

**§18-5B-2. Legislative findings and purpose.**

1 [Repealed.]

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

1 [Repealed.]

**§18-5B-4. Innovation zones; required plans; plan approval; state board rule.**

1 [Repealed.]

**§18-5B-5. Approval of innovation zone plans; waiver of statutes, policies, rules or  
interpretations.**

1 [Repealed.]

**§18-5B-6. Employee approval of innovation plan application and plan; transfer of employees.**

1 [Repealed.]

**§18-5B-7. Progress reviews and annual reports.**

1 [Repealed.]

**§18-5B-8. Teacher vacancies in an innovation zone; job postings exceeding certain qualifications and requirements; approval of postings.**

1 [Repealed.]

**§18-5B-9. Establishment of new innovation zone schools by state institutions of higher education.**

1 [Repealed.]

**§18-5B-10. Exceptions to statutes ~~granted to innovation zones~~ for schools and school systems to implement innovative alternatives; limitations.**

1 (a) The Legislature hereby grants an exception to the statute or statutes indicated for the  
2 following schools and school systems pursuant to and for the purposes enumerated in their  
3 innovation zone plans or innovation in education plans approved by the state board at its meeting  
4 on the date specified. The grant of an exception to a statute means that the school or schools  
5 granted the exception may implement the actions as specifically described in their approved  
6 ~~innovation zone~~ plan notwithstanding the provisions of this code from which they are specifically  
7 excepted. These exceptions are limited to the purposes as specifically described in the plan  
8 approved on the date indicated and are expressly repealed for any plan modification or plan  
9 implementation which changes those purposes. However, nothing in this section prohibits a  
10 school or schools with an approved innovation zone or innovation in education plan from  
11 requesting plan modifications, subject to approval of the state board, and if the modifications  
12 change the purposes for which an exception to a statute was granted, the state board shall  
13 request an exception to achieve the new purposes in the manner provided in ~~section five of this~~

14 ~~article or requesting exceptions to a statute §18-5E-1 et seq. of this code.~~ If the approved  
15 innovation zone or innovation in education plan of a school or schools is withdrawn by the state  
16 board, or the innovation zone or innovation in education designation of a school or schools is  
17 revoked by the state board, the exception granted to that school or those schools is expressly  
18 repealed.

19 (b) The following exceptions are granted:

20 (1) Piedmont Elementary School, Kanawha County, is excepted from §18A-4-14(b) of this  
21 code for the purpose of allowing specialist teachers to take their planning period before and after  
22 school totaling one hour, three days per week, and from §18-5-18a of this ~~chapter~~ code for the  
23 purpose of permitting a number of students in music and physical education classes in excess of  
24 the class size limits to provide the time and structure for teams to meet in professional learning  
25 communities, which purposes are as more specifically described in the school's innovation zone  
26 plan approved by the state board on January 13, 2010;

27 (2) Putnam County High Schools Consortium comprised of Buffalo High School, Hurricane  
28 High School, Poca High School, Winfield High School and Putnam Career and Technical Center,  
29 Putnam County, is excepted from §18-5-45 of this ~~chapter~~ code only to the extent necessary for  
30 the purpose of establishing a structured transition program for ~~freshman~~ freshmen only one day  
31 prior to the beginning of the regular instructional term, and for the purpose of permitting the  
32 creation of not more than three hours each month during the school term of structured, regularly  
33 scheduled time for all teachers to work in professional learning communities, which purposes are  
34 as more specifically described in the schools' innovation zone plan approved by the state board  
35 on January 13, 2010;

36 ~~(3) Nellis Elementary School, Boone County, is excepted from subsection (a), section two,~~  
37 ~~article five-a of this chapter, for the purpose of expanding the membership of its local school~~  
38 ~~improvement council, which purpose is as more specifically described in the school's innovation~~  
39 ~~zone plan approved by the state board on January 13, 2010~~

40           ~~(4)~~ (3) Cabell County Secondary School Consortium comprised of Cabell County Career  
41 Technical Center, Cabell Midland High School and Huntington High School, Cabell County, is  
42 excepted from §18-8-1 and §18-8-1a of this ~~chapter~~ code for the purpose of raising the  
43 compulsory school attendance age to 18 years old, ~~and from section two-b, article three, chapter~~  
44 ~~eighteen-a of this code for the purpose of providing a customized high quality beginning teacher~~  
45 ~~induction program developed at the county level, which purposes are as~~ purpose is more  
46 specifically described in the schools' innovation zone plan approved by the state board on January  
47 13, 2010;

48           ~~(5)~~ (4) Clay County Schools is excepted from §18-5-15 of this ~~chapter~~ code for the purpose  
49 of allowing persons over the age of 21 years to enroll without charge of fees in the Clay County  
50 Schools "iREAD" program and upon, successful completion, be awarded a Clay County High  
51 School Diploma, which purposes are more specifically described in the Clay County ~~School's~~  
52 Schools' innovation zone plan approved by the state board on January 12, 2011. The grant of this  
53 exception does not abrogate the authority of the state board to determine the minimum standards  
54 for granting diplomas pursuant to §18-2-6 of this ~~chapter~~ code and does not permit persons over  
55 the age of 21 who reenter the public schools to be included in net enrollment for the purposes of  
56 funding pursuant to §18-9A-1 *et seq.* of this ~~chapter~~ code, except as otherwise provided by law;

57           ~~(6)~~ (5) Monroe County Schools is excepted from §18-8-1a(a)(3) of this ~~chapter~~ code for  
58 the purpose of allowing the school district to increase the compulsory school attendance age from  
59 17 years of age to 18 years of age as part of its county-wide dropout prevention initiative as more  
60 specifically described in the Monroe County ~~School's~~ Schools' Local Solutions Dropout  
61 Prevention and Recovery Innovation Zone plan approved by the state board on November 14,  
62 2012; and

63           ~~(7)~~ (6) Nicholas County Schools is excepted from ~~sections §§~~ §§18-8-4, -8 and -11 of this  
64 ~~chapter~~ code only to the extent necessary to permit up to two unexcused absences per semester  
65 on regular instructional days to be erased from a student's attendance record and not used toward

66 the initiation of the attendance enforcement actions as set forth in those sections, if the student  
 67 successfully completes the county’s Saturday instruction program operated as part of the county’s  
 68 county-wide Attendance Recovery dropout prevention initiative as more specifically described in  
 69 the Nicholas County ~~School’s~~ Schools’ Local Solutions Dropout Prevention and Recovery  
 70 Innovation Zone plan approved by the state board on October 3, 2012.

**§18-5B-11. Local Solution Dropout Prevention and Recovery Innovation Zone Act.**

1 [Repealed.]

**§18-5B-12. School system collaborative innovation zone; requirements to qualify;  
 application for designation; required plans for innovation zones; plan approval;  
 waiver of statutes, policies, rules or interpretations; progress reviews and annual  
 reports; teacher vacancies, job postings and approval.**

1 [Repealed.]

**§18-5B-13. Innovation school district Act; legislative findings, intent and purpose;  
 eligibility; application; innovation plan and plan approval; designation; waiver of  
 statutes, policies, rules or interpretations; exceptions; progress reviews and annual  
 reports; state board rule.**

1 [Repealed.]

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

1 [Repealed.]

**ARTICLE 5E. INNOVATION IN EDUCATION ACT.**

**§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 §29A-3b-1 *et seq.* of this code to implement the provisions of this article. The rule shall  
5 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)(5)~~ 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) If the state board approves an Innovation in Education designation which requires the  
51 waiver of a state statute, the state board shall forward the approved application to the Legislative  
52 Oversight Commission on Education Accountability. The commission shall acknowledge receipt  
53 of the application, promptly in consultation with the state board or its agents and determine  
54 whether a recommendation should be made for an Act of the Legislature to waive the statute to  
55 permit implementation of the Innovation In Education.



56           ~~(e)~~ (d) An Innovation in Education school may not commence or continue operations  
57 without a signed operational agreement as provided in section five of this article between the  
58 county board and the school principal.

NOTE: The purpose of this bill is to remove School Innovation Zones Act provisions that were superseded by enactment of the Innovation In Education Act in 2016. The bill also updates exceptions to statutes that were previously granted to schools to reflect changes in underlying circumstances. This section is also updated to accommodate exceptions which may be granted to Innovation in Education schools and school systems and the process for the state board and LOCEA to recommend exceptions to statutes is clarified.

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