

**WEST VIRGINIA
SECRETARY OF STATE**

NATALIE E. TENNANT

ADMINISTRATIVE LAW DIVISION

Form #5

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2009 SEP 24 PM 3:46

OFFICE WEST VIRGINIA
SECRETARY OF STATE

**NOTICE OF AGENCY ADOPTION OF A PROCEDURAL OR INTERPRETIVE RULE
OR A LEGISLATIVE RULE EXEMPT FROM LEGISLATIVE REVIEW**

AGENCY: West Virginia Board of Education TITLE NUMBER: 126

CITE AUTHORITY: W. Va. Constitution, Article XII, §2, W. Va. Code §§18-2-5, 18-5B-1, 18-5B-2, 18-5B-3, 18-5B-4, 18-5B-5, 18-5B-6, 18-5B-7, 18-5B-8, and 18-5B-9

RULE TYPE: PROCEDURAL _____ INTERPRETIVE _____

EXEMPT LEGISLATIVE RULE X

CITE STATUTE(S) GRANTING EXEMPTION FROM LEGISLATIVE REVIEW

W.Va. Code §§29A-3B-1, et seq.; W. Va. Board of Education
v. Hechler, 180 W.Va. 451; 376 S.E.2d 839 (1988).

AMENDMENT TO AN EXISTING RULE: YES X NO _____

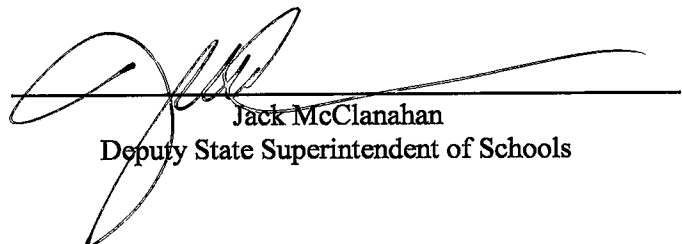
IF YES, SERIES NUMBER OF RULE BEING AMENDED: 75

TITLE OF RULE BEING AMENDED: Education Innovation Zones (3236)

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: _____

TITLE OF RULE BEING PROPOSED: _____

THE ABOVE RULE IS HEREBY ADOPTED AND FILED WITH THE SECRETARY OF STATE. THE
EFFECTIVE DATE OF THIS RULE IS October 26, 2009.


Jack McClanahan
Deputy State Superintendent of Schools

EXECUTIVE SUMMARY
WEST VIRGINIA DEPARTMENT OF EDUCATION

Policy Number and Title: Policy 3236 – Education Innovation Zones

Background: Recent legislation authorized the West Virginia Board of Education (WVBE) to designate education Innovation Zones in schools, groups of schools and departments or subdivisions of a school or schools. This legislation was based on decades of school improvement literature substantiating that schools in which the principal uses a collaborative and distributed approach to leadership and in which the teachers have a unity of purpose, operate in a cohesive learning-centered culture and implement consistent, pervasive and research-based approaches to learning, can and do improve student learning. This legislation takes into consideration that rules are established in public education to manage the resources efficiently, allot time among the activities and processes required and to ensure attention to the goals mandated. It is also understood that rules may limit the flexibility of professional educators to engage in those activities and implement those approaches that may best improve the learning of their students for the twenty-first century. Therefore, it is believed that allowing individual schools to seek and receive exceptions from certain statutes, policies, rules and interpretations through the creation of school innovation zones will provide them greater control over important educational factors that impact student achievement, such as curriculum, personnel, organization of the school day, organization of the school year, technology utilization and the delivery of educational services to improve student learning.

Major Revisions or Reasons for New Policy: A committee representing various education stakeholders reviewed the legislation and provided input for the development of this policy. The purpose of this new WVBE policy is to provide guidelines for implementation of education Innovation Zones to improve educational performance in a manner that provides greater flexibility from policy and law for principals and teachers to meet the needs of a diverse population of students.

Impact: This WVBE policy will create the opportunity for information regarding the effects of specific innovative educational strategies on student achievement; and to provide more public school accountability for student achievement as measured by the state assessment programs and local assessment processes identified by the schools. This policy will provide greater flexibility for innovation zone schools which will enable school-level, professional educators to exercise more fully their professional judgment to improve student learning for the twenty-first century by instituting creative and innovative practices.

Response to Comments: Seventeen comments were received during the comment period from total of (3) individuals. Comments were received from (1) business/community leader, (1) school principal and (1) WVDE General Legal Counsel. The comments generally addressed concerns about the regulatory nature of the policy inhibiting plans for innovation, the multiple layers of review and approval, the timeline of the application process, and the number of members on the selection committee, as well as who will appoint the various members of this committee. As a result of these comments, revisions have been made to clarify the number of members that comprise the WVBE Innovation Zone Selection Committee, as well as to clarify that the WVBE President and the State

Superintendent will jointly appoint members from state teacher organizations, a representative from an institution of higher education, and a representative of a community/business organization to this committee. A revision was also made to the Innovation Zone Timeline, Appendix A, to reflect a special WVBE meeting scheduled for September 23, 2009 to allow an earlier approval of WVBE Policy 3236 in order to expedite the process. Clarification was also provided for the rationale of the review and approval process, the timeline, and the methods included in the policy to promote real innovation.

WVBE Policy 3236 (Education Innovation Zones) Stakeholder Committee

David Alfred	Middle/JHS - National Board Certified Teacher
Suzanne Anderson	Elementary Teacher
Mickey Blackwell	Middle School Principal
Ed Delaney	High School Teacher
Van Dempsey	Public Higher Education Representative
James Denova	Benedum Foundation
Barbara Fish	State Board of Education Member
Hank Hager	Senate Education Committee Liaison
Robert Harrison	Public Higher Education Representative
Mary Humphreys	High School Teacher - National Board Certified Teacher
Lowell Johnson	State Board of Education Member
Stephen Knighton	Elementary Principal
Wade Linger	State Board of Education Member
Tammy McKnight	Middle School Teacher
Bettina Messersmith	Career Tech. Teacher
David Mohr	House Education Committee Liaison
Edna Ruth Patrick	Elementary - National Board Certified Teacher
Christine Poling	Middle/JHS Teacher
Valerie Roberts	High School Teacher
Lynn Gableman Rupp	Public Higher Education Representative
Ruth Ann Scherich	Retired educator
Mark Wills	Attorney

**TITLE 126
LEGISLATIVE RULE
WEST VIRGINIA BOARD OF EDUCATION**

**SERIES 75
EDUCATION INNOVATION ZONES (3236)**

FILED

2009 SEP 24 PM 3:46

OFFICE WEST VIRGINIA
SECRETARY OF STATE

§126-75-1. General.

1.1. Scope. -- This legislative rule authorizes the West Virginia Board of Education (hereinafter WVBE) to designate education Innovation Zones in schools, groups of schools and departments or subdivisions of a school or schools; establishes an application, plan review, approval and amendment process; authorizes exceptions to certain policies, rules, interpretations and statutes; provides for approval of the Innovation Zone plan by certain employees of a school; provides for revocation of designation and plan approval; requires annual report by the WVBE; designates the order in which the WVBE must consider applications; provides for the voluntary transfer of employees; authorizes teacher job postings that exceed certain qualifications and requirements; and provides that a state institution of higher education may establish a school designated as an Innovation Zone, that such school may not receive certain funds; provides the procedure in which a state institution of higher education may apply for and establish an Innovation Zone school; and provides for the approval mechanism for an Innovation Zone school established by a state institution of higher education by the county board and by the WVBE.

1.2. Authority. -- West Virginia Constitution, Article XII, §2, and W.Va. Code §§18-2-5, 18-5B-1, 18-5B-2, 18-5B-3, 18-5B-4, 18-5B-5, 18-5B-6, 18-5B-7, 18-5B-8 and 18-5B-9.

1.3. Filing Date. -- September 24, 2009

1.4. Effective Date. -- October 26, 2009

1.5. Repeal of Former Rule. -- None. This is a new rule.

§126-75-2. Purpose.

2.1. The purpose of this WVBE policy is to provide guidelines for implementation of education Innovation Zones to improve educational performance in a manner that provides greater flexibility from policy and law for principals and teachers to meet the needs of a diverse population of students. This WVBE policy will create the opportunity for information regarding the effects of specific innovative educational strategies on student achievement; and to provide more public school accountability for student achievement as measured by the state assessment programs and local assessment processes identified by the schools.

§126-75-3. Essential Conditions for Eligibility for Innovation Zone Designation.

3.1. The Innovation Zone application must include evidence of a significant contribution to preparing students for 21st century learning.

3.1.1. In determining the Innovation Zone focus, the school staff must determine what must be changed or improved to better prepare students with the knowledge and skills necessary for success in life and work in the 21st century.

3.1.2. The school staff must be able to defend their selection of the Innovation Zone focus based on the particular demographics and/or needs of their students and be consistent with West Virginia's Global 21 vision.

3.2. The Innovation Zone application must provide documentation of a critical mass of support and significant capacity for replication and scalability.

3.2.1. The proposed innovation must be derived from the creative vision of the local school staff.

3.2.2. The proposed innovation must have the support and documented commitment to ensuring the success of the proposal from at least eighty percent of the faculty in a vote taken in accordance with W.Va. Code §18-5B-6.

3.2.3. The proposed innovation must provide documentation of support from parents, students, the county board of education, the local school improvement council and school business partners.

3.2.4. The Innovation Zone proposal must engage students, parents and appropriate community members using two-way communication strategies that inform the innovation implementation process.

3.3. The Innovation Zone application must provide evidence of teacher collaboration and shared leadership.

3.3.1. The Innovation Zone proposal must identify any organizational barriers that would impede Innovation Zone implementation, and outline a process for addressing these barriers.

3.3.2. The Innovation Zone proposal must also include effective means of enhancing teacher leadership throughout the process.

3.4. The Innovation Zone application must include a component of teacher professional growth.

3.4.1. The Innovation Zone proposal must include job-embedded professional development that is on-going throughout the initiative.

3.4.2. The professional development may be delivered in a variety of ways, including the implementation of professional learning communities.

3.4.3. Professional development activities must relate to the desired innovation, and support the implementation processes selected for the Innovation Zone.

§126-75-4. Focus of Innovation Zones.

4.1. Innovation Zone applications may include in the project design, but not be limited to, the following 21st century curriculum and instructional components and processes:

4.1.1. 21st century curriculum components such as rigor and relevance in any content and integration of the 21st century skills (Thinking and Problem-Solving; Information/Communication Processing; Personal and Workplace Productivity Skills; Creativity and Innovation Skills; Student Self-Direction.)

4.1.2. 21st century instructional processes such as: Standards-Based Instruction; Problem-Based Learning; Contextual Learning; Performance Assessments; Classroom Assessments for Learning; Professional Learning Communities/Collaborative Teams; Technology Integration; Teacher-Facilitated/Student-Directed Learning.

4.2. Innovation Zone applications may also include in the project design:

4.2.1. Strategies that ensure that each student is prepared fully at each grade level from early childhood through intermediate grade levels, including additional intervention strategies at grade levels three and eight to reinforce the preparation of students who are not prepared fully for promotion; or an emphasis in the secondary grade levels on ensuring that each student is prepared fully for college or other post-secondary education.

4.2.2. Strategies that allow academically advanced students to pursue academic learning above grade level or not available through the normal curriculum at the school.

§126-75-5. Education Innovation Zone Guidelines and Application Process.

5.1. Innovation Zone application must follow the WVBE application timelines, as well as all application regulations indicated in law and policy; secure the necessary support and include all the components outlined in the official WVBE application and guidance documents that may be obtained from the WVDE.

5.2. The application process will consist of two phases, each of which shall include documentation of approval by eighty percent of the eligible employees affected by the Innovation Zone proposal, in accordance with §126-75-6.

5.2.1. In phase one, applicants must submit a WVBE Innovation Zone application seeking to be designated as an Innovation Zone. The application shall include a project design that meets the essential conditions outlined in §126-75-3 in this rule; is focused on one or more of the areas of focus outlined in §126-75-4; and that meets the requirements in §126-75-5.1 - 5.5.4.

5.2.2. Interviews followed by site visits as needed will be conducted in phase one to assess the degree of technical assistance needed to complete the objectives, outcomes, timelines, persons responsible and budget details for successful implementation of the Innovation Zone plan and to determine eligibility for the Innovation Zone planning grant.

5.2.3. Approval for designation as an Innovation Zone in phase one will include a planning grant awarded to assist with the study and research of the innovation strategy. Funding for the planning grant will be on a pro-rata basis with grants awarded, to the extent practicable, across geographic areas of the state, programmatic levels and in proportion to the number of teachers impacted by the innovation strategy.

5.2.4. In phase two, the applicants from phase one who receive designation as an Innovation Zone by the WVBE and State Superintendent based on the evaluation criteria listed in §126-75-7, will receive technical assistance and support from the WVDE to develop an implementation plan for their Innovation Zone project design.

5.2.5. The Innovation Zone implementation plan must fully describe the objectives, outcomes, timelines, persons responsible and budget necessary to implement the project design of the application submitted in phase one, and receive the approval of the WVBE Innovation Zone Selection Committee outlined in §126-75-9.

5.2.6. Innovation Zone planning grants shall be used to study and prepare for the innovation strategy and to develop a plan for implementation of the strategy. The Innovation Zone implementation plan shall be submitted for a eighty percent approval vote of all eligible affected teachers, and all other requirements outlined in §126-75-6 of this policy.

5.3. An Innovation Zone may request exception for any state or county policy, rule, statute, or interpretation except from an assessment program administered by the West Virginia Department of Education; any provision of law or policy required by the No Child Left Behind Act of 2001, Public Law No. 107-110 or other federal law; W.Va. Code §§18A-2-7; 18A-4-7A, 18A-4-7B, 18A-4-8 and 18A-4-8B, except as provided in W.Va. Code §18-5B-8 described in §126-75-5 of this rule; or any other information the state board requires.

5.4. The WVBE shall consider applicants for designation as an Innovation Zone in the following order: (1) A school and groups of schools; (2) a group of schools seeking designation across the same subdivision or department of the schools; and (3) a school seeking designation of a subdivision or a department.

5.5. In phase one the Innovation Zone application process, successful applicants will receive designation as an Innovation Zone based on the potential to meet the WVBE Innovation Zone evaluation criteria outlined in section §126-75-7 of this policy and following submission of a preliminary plan using the WVBE Innovation Zone application form to the WVBE Innovation Zone Selection Committee.

5.5.1. The WVBE Innovation Zone Selection Committee will make a recommendation to the WVBE for applicants who have the potential to meet the WVBE eligibility criteria identified

in section §126-75-7 of this policy for designation as an Innovation Zone based on interviews and site visits by WVDE staff and the WVBE Innovation Zone Selection Committee.

5.5.2. The WVBE and State Superintendent shall notify applicants of their decision within sixty days of receipt of the Innovation Zone application.

5.5.3. If the Innovation Zone application is disapproved, the WVBE and State Superintendent shall communicate the reasons for the disapproval to the applicant and make recommendations for improving the application.

5.5.4. The Innovation Zone applicant may amend and resubmit the initial application to the WVBE Innovation Zone Selection Committee.

5.6. In phase two of the Innovation Zone application process, the WVBE Innovation Zone Selection Committee and WVDE staff shall review Innovation Zone plans and approve those plans that fully describe the objectives, outcomes, timelines, persons responsible and budget necessary to implement the project design of the phase one application using a format and rubric provided by WVDE staff. The WVBE Innovation Zone Selection Committee shall recommend to the WVBE those applicants who have provided documentation of the study and research of the innovation strategy and who have a fully developed plan for implementation of the project design for the Innovation Zone.

5.6.1. The WVBE and State Superintendent shall notify Innovation Zone phase two applicants within sixty days of receipt of the plan, indicating that they may proceed with implementation of the Innovation Zone plan.

5.6.2. The notification in phase two of the application process will include WVDE technical assistance and support to assist with the implementation of the Innovation Zone plan.

5.6.3. If the Innovation Zone plan is disapproved in phase two, the WVBE and State Superintendent shall communicate the reasons for the disapproval to the applicant and make recommendations for improvement.

5.6.4. The Innovation Zone designee may amend and resubmit the application to the WVBE Innovation Zone Selection Committee.

5.7. If an Innovation Zone plan may not be implemented unless an exception to a statute is granted by the Legislature, the WVBE and State Superintendent may approve the plan upon the condition that the WVBE and State Superintendent submit the plan and a request for exception to a statute, along with supporting reasons, to the Legislative Oversight Committee on Education Accountability (LOCEA) who will review the plan and make a proposal to the Legislature.

5.8. A state institution of higher education may establish a new Innovation Zone school subject to the regulations provided in W.Va. Code §18-5B-9.

5.8.1. The school will be under the jurisdiction of the state institution of higher education.

5.8.2. The county board with jurisdiction over the school district in which the new school is planned to be located must approve the establishment of the new Innovation Zone school.

5.8.3. The state institution of higher education must enter into cooperative agreements with the county board or county boards whose students attend the new Innovation Zone school. The agreements shall include at least required reporting on student attendance, academic progress and any other matters relating to the administration, operation and support of the school agreed to by institution and the board or boards.

5.8.4. Students attending the school shall be enrolled in a school in their county of residence subject to the policies of the county. The students may participate in extracurricular and co-curricular activities at the county school in which they are enrolled and, subject to the cooperative agreement with the state institution of higher education, participate in curricular activities at the county school in which they are enrolled.

5.8.5. No funds provided to support the planning and implementation of school Innovation Zones pursuant to W.Va. Code §18-5B-9 may be used for a state institution of higher education to establish a new Innovation Zone school.

5.8.6. A school established in accordance with this section may not be funded with moneys appropriated by the Legislature to fund the Innovation Zone program or from state or county moneys that result from the school aid formula.

5.8.7. The process, timelines and selection criteria for a state institution of higher education to establish a new Innovation Zone school shall be the same as outlined in this rule for all applicants.

§126-75-6. Rights of Employees in an Innovation Zone.

6.1. An employee regularly employed at a school applying for or designated as an Innovation Zone whose job duties may be affected by implementation of the Innovation Zone or proposed plan may request a transfer to another school in the school district and the county board shall make every reasonable effort to accommodate the transfer.

6.2. If the Innovation Zone plan includes a job posting that exceeds the qualification provided in section seven-a, article four, chapter eighteen-a of W.Va. Code, teachers in the county must approve the job posting by a majority vote in accordance with W.Va. Code §18-5B-8.

6.3. During phases one and two of the application process an Innovation Zone plan shall be approved by eligible employees that are affected by the implementation of the Innovation Zone plan prior to submission of the plan to the county board of education in accordance with the regulations in W.Va. Code §18-5B-6:

6.3.1. An employee shall be eligible to vote in accordance with the provisions of this section if: (1) The employee is regularly employed at the school; and (2) the employee's primary job duties will be affected by the implementation of the Innovation Zone plan.

6.3.2. A panel consisting of the elected officers of the faculty senate of the school or schools, one representative of the service personnel employed at the school and three parent members appointed by the local school improvement council shall call the meeting required to vote on approval of the Innovation Zone designation and plan implementation.

6.3.3. The panel shall determine which employees are eligible to vote in accordance with the provisions in W.Va. Code §18-5B-6, and shall conduct the votes and certify the results to the principal, the county superintendent and the president of the county board.

6.3.4. The panel shall provide notice of the special meeting to all employees eligible to vote at least two weeks prior to the meeting and shall provide an absentee ballot to each employee eligible to vote who cannot attend the meeting to vote.

6.3.5. A secret ballot vote shall be conducted at a special meeting of all employees regularly employed at the school who are eligible to vote in accordance with this section to determine the level of employee commitment for approval of an Innovation Zone designation or plan.

6.3.6. At least eighty percent of the employees who are eligible to vote in accordance with this section must vote to apply for designation as an Innovation Zone and to approve the school's Innovation Zone plan.

6.3.7. Both the Innovation Zone application for designation (phase one) and the plan for implementation (phase two) shall be approved by vote by eighty percent of the affected school employees and documentation of the same shall be submitted to the county superintendent and board for review.

6.3.8. The county board shall within sixty days of receipt of the plan review the plan and with recommendations from the county superintendent report its support or concerns, or both, and return the plan and report to the school principal, faculty senate and local school improvement council.

6.3.9. In phase two, the county board shall be given an opportunity to present its concerns with the plan, if any, to the WVBE during its review.

§126-75-7. WVBE Evaluation Criteria for Designation as an Education Innovation Zone.

7.1. The level of staff commitment of those employees affected by the implementation of the Innovation Zone plan who are eligible to vote must be documented at eighty percent in support of the application, following all regulations in W.Va. Code §18-5B-6, including the use of a secret ballot during a special meeting.

7.2. Support from parents, students, the county board of education, the local school improvement council and school business partners must also be documented in accordance with W.Va. Code §18-5B-6.

7.3. The potential for an applicant to be successful as an Innovation Zone, as determined by meeting the essential conditions described in section §126-75-3 of this policy must be documented.

7.4. The quality of the Innovation Zone project design is reflected in goals, objectives and outcomes that are clearly specific and measurable, and up-to-date knowledge from research and practice.

7.5. The Innovation Zone proposal derives goals, objectives and outcomes from data analysis that includes, but is not limited to the needs assessment from the school's Five Year Strategic Plan and describes proposed innovative activities using processes that incorporate and build upon multiple research-based instructional strategies.

7.6. The Innovation Zone proposal reflects the capacity to manage and implement the proposed innovation.

7.7. The quality of the Innovation Zone evaluation design is reflected in the use of objective performance measures that are clearly related to the intended outcomes of the project and that will produce comparative quantitative and qualitative data.

7.8. The Innovation Zone proposal reflects the capacity to scaled to a statewide level and sustained beyond the initial funding period.

7.9. The Innovation Zone proposal meets the WVBE definition of innovation by breaking down existing patterns of mind and developing new ways of doing and seeing things, while allowing for differences in the degree of innovation from one school to another.

§126-75-8. WVBE Evaluation Criteria for Approval of Education Innovation Zone Plan Implementation.

8.1. Criteria for approval for Innovation Zone Plan implementation include a fully developed plan that describes the objectives, outcomes, timelines, persons responsible and budget necessary to implement the project design of the phase one application using a format and rubric provided by WVDE staff.

8.2. The WVBE Innovation Zone Selection Committee shall recommend to the WVBE those applicants who have provided documentation of the study and research of the innovation strategy and who have a fully developed plan for implementation of the project design for the Innovation Zone and have met all requirements in sections §126-75-3 and §126-75-7 of this policy and W.Va. Code §18-5B-6.

§126-75-9. Progress Reviews and Annual Reports of Innovation Zones.

9.1. The WVBE shall review at least annually, the progress of the development or implementation of an Innovation Zone plan and provide an annual report on Innovation Zones and the progress of Innovation Zone plans to the Legislative Oversight Committee on Education Accountability.

9.2. If, following such a review, the WVBE determines that a designated Innovation Zone has not made adequate progress toward developing or implementing its plan, the WVBE shall submit a report to the Innovation Zone identifying its areas of concern.

9.3. The WVBE, and/or its designated committee, may conduct an additional review within six months of submitting a report identifying areas of concern.

9.4. If, following such additional review, the WVBE and/or its designated committee, determines that the designated Innovation Zone has not made adequate progress toward developing or implementing its Innovation Zone plan, the WVBE may revoke the designation as an Innovation Zone, or rescind approval if there has been approval for implementation of the Innovation Zone.

§126-75-10. WVBE Innovation Zone Selection Committee Membership and Responsibilities.

10.1. WVBE Innovation Zone Selection Committee membership shall consist of at least ten official members.

10.2. The WVBE Innovation Zone Selection Committee members shall include two WVBE members selected by the WVBE President; the State Superintendent of Schools and/or designee; one representative of each state teacher organization; jointly selected by the WVBE President and State Superintendent; one representative of an institution of higher education that has a state-approved educator preparation program; jointly selected by the WVBE President and State Superintendent; one county superintendent, one building principal and one teacher selected by the State Superintendent; one representative of a community/business organization; jointly selected by the WVBE President and State Superintendent; and WVDE staff as ex-officio/resource persons.

10.3. The WVBE Innovation Zone Selection Committee shall review Innovation Zone designation and implementation plan proposals, including WVDE staff recommendations based on a review of applications that meet the required criteria.

10.4. The WVBE Innovation Zone Selection Committee and/or designees shall conduct interviews and/or on-site visits for prospective Innovation Zone applicants to assure applicant eligibility.

10.5. The WVBE Innovation Zone Selection Committee shall recommend to the WVBE for approval those Innovation Zone applicants that meet the WVBE selection criteria.

§126-75-11. WVBE Innovation Zone Annual Review Committee Membership and Responsibilities.

11.1. The WVBE Innovation Zone Annual Review Committee shall consist of an appropriate number of WVBE Selection Committee members and WVBE staff members and will be responsible for completion of progress reviews for Innovation Zone development or implementation.

11.2. The WVBE Innovation Zone Annual Review Committee shall review the progress of the development or implementation of an Innovation Zone plan and provide a report to the WVBE.

11.3. If, following such a review, the WVBE Innovation Zone Annual Review Committee determines that a designated Innovation Zone has not made adequate progress toward developing or implementing its plan, the WVBE shall submit a report to the Innovation Zone identifying its areas of concern.

11.4. If, following such a review, the WVBE and/or its designated committee, determines that the designated Innovation Zone has not made adequate progress toward developing or implementing its Innovation Zone plan, the WVBE may revoke the designation as an Innovation Zone, or rescind approval if there has been approval for implementation of the Innovation Zone.

§126-75-12. Severability.

12.1. If any provision of this rule or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this rule.

APPENDIX A

**EDUCATION INNOVATION ZONES (POLICY 3236)
PROPOSED IMPLEMENTATION TIMELINE**

Timeline—Phase I	Process
August 13, 2009	Education Innovation Zones Policy approved by the WVBE to go out for 30-day public comment period.
September 24, 2009	Education Innovation Zones Policy approved by the WVBE (following comment period)
October 26, 2009	Education Innovation Zones Policy becomes effective.
October – December 2009	The WVBE announces that applications are being accepted for Innovation Zone “designation”. WVDE staff develops and disseminates information about innovation zones with emphasis that the proposal must be clearly discussed with/embraced by all those impacted.
December 2009	The WVBE accepts applications for designation as an Innovation Zone. Interviews and on-site visits conducted by WVBE selection committee to assess the degree of technical assistance to be rendered for completion of Innovation Zone plan by the designee.
December 29, 2010	Deadline for submission of applications for designation as an Innovation Zone.
January 2010	WVBE selection committee reviews applications and makes recommendations to State Superintendent and WVBE.
January 2010	WVBE Selection Committee make a recommendation to the full WVBE for sites to be designated as Innovation Zones and makes selections based upon WVBE selection criteria. WVBE will announce sites designated as Innovation Zones. (If the innovation Zone proposal requires a waiver of W.Va. Code, the WVBE and State Superintendent may approve the Innovation Zone proposal on the condition that the request must be submitted to and approved by LOCEA).
January 2010	Planning Grants are distributed to Innovation Zones
January - April 2010	“Innovation Zone Planning Period” study and research of the innovation strategy will take place in this time period.
Timeline—Phase II	Process
April 2010 - May 2010	Technical Assistance provided to approved sites for assistance in completing Innovation Zone Plan.
June 2010	Deadline for submission of Innovation Zone Plan to WVBE.
July 2010	The WVBE and State Superintendent review the Innovation Zone plans and determine those plans that are approved, based on WVBE criteria, and make recommendations for improving any other plans that do not fully meet approval criteria.
September 2010	Innovation Zones begin implementation of plan.
September 2011	Annual Review of Innovation Zone progress on their plan.
October – December 2011	WVDE will report to WVBE and WVBE will report to LOCEA.

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Policy 3236 – Education Innovation Zones

Type of Rule: Legislative Interpretive Procedural

Agency: WV Department of Education

Address: 1900 Kanawha Blvd., East

Building 6, Room 617

Charleston, WV 25305

Phone Number: 304 558-3199 Email: khuffman@access.k12.wv.us

Fiscal Note Summary

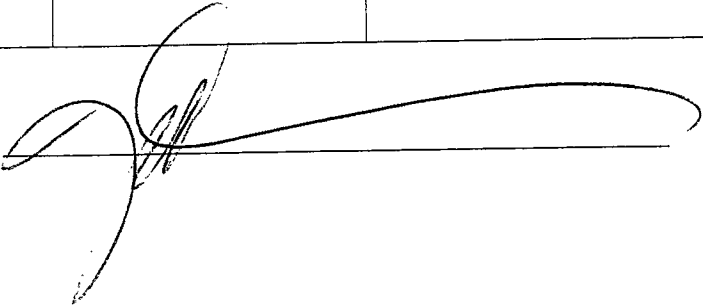
Summarize in a clear and concise manner what impact this measure will have on costs and revenues of state government.

This policy was written in response to legislation requiring the development of a policy to provide guidelines for implementation of education Innovation Zones. This legislation (H.B. 109) was approved and funded for implementation.

Fiscal Note Detail

Show over-all effect in Item 1 and 2 and, in Item 3, give an explanation of Breakdown by fiscal year, including long-range effect.

FISCAL YEAR			
Effect of Proposal	Current Increase/Decrease (use "-")	Next Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost			\$500,000.00
Personal Services			
Current Expenses			
Repairs & Alterations			
Assets			
Other			
2. Estimated Total Revenues			\$500,000.00

Rule Title: Education Innovation Zones 

Rule Title: Education Innovation Zones

3. **Explanation of above estimates (including long-range effect);**
Please include any increase or decrease in fees in your estimated total revenues.

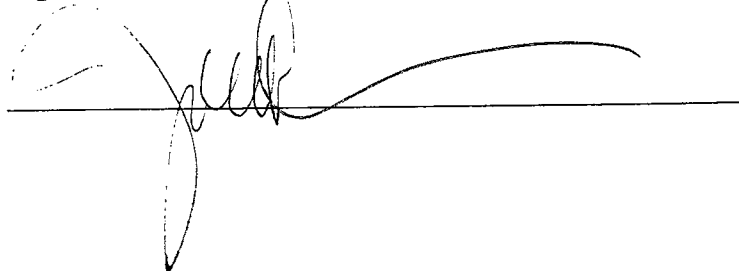
The legislatively-appropriated funds in the amount of \$500,000 are designated to fund the Innovation Zones program. WVBE Policy 3236 (Education Innovation Zones) has been written to provide guidelines for implementation of education Innovation Zones to improve educational performance in a manner that provides greater flexibility from policy and law for principals and teachers to meet the needs of diverse learners.

MEMORANDUM

Please identify any areas of vagueness, technical defects, reasons the proposed rule **would not** have a fiscal impact, and/or any special issues **not** captured elsewhere on this form.

N/A

Signature of Agency Head or Authorized Representative



Date

8-3-09

**Policy 3236 - Education Innovation Zones
Comment Log Summary**

An abbreviated summary of the major comments, action taken and rationale for the action appears below:

Comment/Issue	Action Taken	Rationale
Regulatory nature of the policy	Language was included in the initial version of WVBE Policy 3236 to provide the maximum possible opportunities for innovation, where not prohibited by law.	Although language of WVBE Policy 3236 must reflect the requirements in law, flexibility in policy language was included to the maximum extent possible.
Multiple layers of review and approval in the application process	Language was included in the initial version of WVBE Policy 3236 to provide the maximum possible opportunities for a flexible and streamlined process, where not prohibited by law.	The current language of WVBE Policy 3236 includes assurances that both the application and plan for implementation of the innovation have the support and commitment of a critical mass of education stakeholders.
Allow parents, community members, teachers, etc., to be Innovation Zone applicants	No change was made in WVBE Policy 3236.	Both W. Va. Code §18-5B-1 and WVBE Policy 3236, Section 1.1 specify those who may be applicants as "...schools, groups of schools and departments or subdivisions of a school or schools."
Eligibility of higher education institutions for state funding as Innovation Zones	No change was made in WVBE Policy 3236.	W. Va. Code §18-5B-9 and WVBE Policy 3236, Sections 5.7.5 and 5.7.6 prohibit the use of any funds appropriated by the WV Legislature for Innovation Zones or money resulting from the school aid formula to be used by an institution of higher education desiring to implement an Innovation Zone school.
Requirement for Innovation Zone applicants to use "best practice research" may be prohibitive	No change was made in WVBE Policy 3236.	There are many current best practices and strategies already supported by education research that may be appropriate to serve as the foundation for an Innovation Zone.
Need for longer time period to review innovation strategies	No change was made in WVBE Policy 3236.	The annual report to both WVBE and LOCEA are requirements in W. Va. Code §18-5B-1 through 9.
Clarification of the specific composition of the Innovation Zone selection Committee and the appointment process	WVBE Policy 3236 was revised in Sections 10.1 and 10.2 to include language specifying that the selection committee will consist of at least ten official members, a	Revisions were necessary to clarify the specific committee membership as well as who is responsible to select each member.

	<p>composition of the membership, along with language stating which members are jointly selected by the WVBE President and the State Superintendent.</p>	
<p>Short timeline for the application submission</p>	<p>WVBE Policy 3236, Appendix A, includes a timeline that was revised to reflect a special WVBE meeting scheduled on September 23, 2009 for Policy 3236 approval and an earlier Policy 3236 effective date of October 26, 2009.</p>	<p>The WVBE and WVDE sought to revise the timeline to allow an earlier approval of WVBE Policy 3236 and to expedite the process.</p>
<p>Minor edits and clarification of language</p>	<p>Edits were made to correct typographical errors</p>	<p>Corrections were made in policy language to complete a sentence and make other minor grammatical corrections.</p>

WVBE POLICY 3236: EDUCATION INNOVATION ZONES

COMMENT LOG

DATE	INDIVIDUAL ORGANIZATION	COMMENTS	ACTION/ TYPE	RATIONALE
08-17	<p>Tim McClung tim_mcclung@wellsfargois.com 200 27th St Apt. B Charleston, WV 25304</p>	<p>It seems that in any organization, but more so within the public sector arena, it is common practice to create a lengthy regulatory process around doing things differently. While one might want "innovation" to be able to flourish, we usually regulate innovation more than we do the other 99% of the operation. We assume that "what is" is acceptable but "what is new" must be looked at very carefully...skeptically in many cases from the rest of the current operation.</p> <p>The process appears to</p>	NA/-	<p>While language in WVBE Policy 3236 (Education Innovation Zones), reflects the requirements in education law (W.Va. Code §18-5B-1 through §18-5B-9) every effort has been made to provide the opportunity for "innovations to be able to flourish" without prohibitive regulations and within the spirit and intent of the law, such as in Sections 2.1 and 5.3 of the policy.</p>
§126-75 -1 General				
WVBE Policy 3236 and the corresponding legislation in W. Va.				

	<p>be quite bureaucratic with multiple layers of review and approval. Perhaps one aspect of innovation to consider in West Virginia is to develop less regulatory methods of encouraging innovation.</p> <p>A better approach I believe would be to state which laws must be followed i.e. health and safety, licensure of teachers, special ed., audits, financial management, tuition free, no teaching of religion, etc...and then state that everything else is waived.</p>		<p>Code §18-5B-1 through §18-5B-9 is based on extensive school improvement literature substantiating the success of schools in which there is a collaborative and distributed approach to leadership and broad stakeholder support for a creative and innovative educational strategy.</p> <p>The current language of WVBE Policy 3236 includes assurances that both the innovation zone application and plan for implementation of the-innovation zone have the support and commitment of a critical mass of education stakeholders, including teachers, parents, students, the county board of education, the local school improvement council and school business partners, to ensure cohesiveness and unity of purpose, as stated in Sections 3.2, 3.1.2, 3.2.2, 3.2.4, 3.2.5, and 3.3.</p> <p>W. Va. Code §18-5B-4(B) and WVBE Policy 3236 require the applicant to state which laws and policies are barriers to the implementation of their innovation zone plan. WVDE Policy 3236 guidance documents identify those laws/policies that may not be waived. Both the existing WVBE policy waiver process (outlined in §18-5A-3 and WVBE Policy 2445.44) and WVBE Policy 3236 Innovation Zone application process encourage schools/districts to request exceptions to county/state board rules, policies and interpretations. Upon approval of an innovation zone plan by the state board and state superintendent, all exceptions to county and state board rules, policies and interpretations listed within the plan are granted.</p>
08-17	<p>Tim McClung tim_mcclung@wellsfargois.com 200 27th St Apt. B Charleston, WV 25304</p>	<p>The bill appears to be more of a "law/rule waiver bill" than an innovations bill. "Innovation" may not always include</p>	<p>§126-75-2 Purpose</p> <p>NA/°</p> <p>Neither the innovation zone legislation nor WVBE Policy 3236 mandates the inclusion of "waivers" from laws in the proposed innovation application. However, both law and policy indicate that the proposal 'may' request exception to law, as stated in Section 5.3. The intent of the West Virginia Legislature and the WVBE is to</p>

<p>encourage and support innovative practices through law and policy, as well as provide funding for the thoughtful planning and study of an innovative educational strategy.</p> <p>Existing WVBE policy waiver process (outlined in §18-5A-3 and WVBE Policy 2445.44) provides the opportunity to request an exemption to policy.</p>								<p>A great deal of consideration has been given to the importance of staff commitment and the 80 percent approval vote required. It is important to note that the required approval by 80 percent of the staff refers to the staff "affected" by the proposed innovation as outlined in Section 7.1.</p>
		<p>"waivers" from laws. The logical comment to that would likely be that folks should then just do it! But creating new schools sometimes requires an impetus...a push...with planning and start-up resources.</p> <p>Also, apparently the state board does not currently have the authority to grant waivers from their rules? A better approach I believe would be to have the legislature state which laws must be followed i.e. health and safety, licensure of teachers, special ed., audits, financial management, tuition free, no teaching of religion, etc...and then state that everything else is waived.</p>						<p>NA/°</p>
<p>§126-75-3 Essential Conditions for Eligibility for Innovation Zone Designation</p>								
<p>08-17</p>	<p>Tim McClung tim_mcclung@wellsfargois.com 200 27th St Apt. B Charleston, WV 25304</p>	<p>Having staff committed to the learning model is crucial. But getting 80 percent of staff to agree to an innovation model</p>						

	<p>The language of WVBE Policy 3236, Section 6.1, provides an option for employees whose job duties may be affected by the Innovation Zone or proposed school plan to request a transfer to another school with the county board making every effort to accommodate the request.</p>
<p>is highly unlikely. Perhaps having this level of approval might be one option but another one would be to permit a group of teachers to be able to create an Innovation Zone at a different site...perhaps in a rented facility....or an on-line school...or a school within a school. With this option, only the teachers that wanted to work in that Innovation Zone would be selected to do so.</p>	
<p>§126-75-4 Focus of Innovation Zones</p>	
<p>08-17</p> <p>Tim McClung tim_mcclung@wellsfargois.com 200 27th St Apt. B Charleston, WV 25304</p>	<p>H.B. 109 Section 18-5B-4(a)(2)(iii) specifically states that section seven, article two and sections seven-a, seven-b, eight and eight-b, article four, chapter eighteen of this code, except as provided in section eight of this article cannot be waived. These sections pertain to laws that govern school personnel. It does not permit freedom to hire and excess their staff or hire staff that best fit the needs of the school, regardless of their current status(a member of the district or not).</p> <p>Section 5.3 of Policy 3236 Education Innovation Zones restates the above section of code.</p> <p>Section 5.3: An Innovation Zone may request exception for any state or county policy, rule, statute, or interpretation except from an assessment program administered by the West Virginia Department of Education; any provision of law or policy required by the No Child Left Behind Act of 2001, Public Law No. 107-110 or other federal law; W.Va. Code §§18A-2-7;</p>
	<p>NA/°</p>
	<p>1. Staffing: schools have the freedom to hire and excess their staff in order to create a unified school community.</p> <p>This includes:</p> <ul style="list-style-type: none"> • Deciding on staffing patterns which best meet the academic, social, and emotional needs of students • Hiring staff that best fit the needs of the school,

	<p>regardless of their current status (member of the district or not, although every teacher hired becomes a member of the local teachers union)</p> <ul style="list-style-type: none"> Excessing staff (into the district pool) that do not fulfill the needs of the school. 		<p>18A-4-7A, 18A-4-7B, 18A-4-8 and 18A-4-8B, except as provided in W. Va. Code §18-5B-8 described in §126-75-5 of this rule; or any other information the state board requires.</p> <p>See Rationale above.</p>
	<p>2. Budget: schools have a lump sum per pupil budget in which the school has total discretion to spend in the manner that provides the best programs and services to students and their families.</p> <p>This includes:</p> <ul style="list-style-type: none"> A lump sum per pupil budget, the sum of which is equal to other schools within that grade span The district has moved toward 	<p>NA/°</p>	<p>Policy 3236, Education Innovation Zones nor W. Va. Code §18-5B-1 through §18-5B-9, Education Innovation Zones contain language related school finance, except for W. Va. Code §18-5B-9 and WVBE Policy 3236, Sections 5.8.5 and 5.8.6 both prohibit the use of any funds appropriated by the WV Legislature for innovation zones or money resulting from the school aid formula to be used by an institution of higher education desiring to implement an innovation zone school.</p> <p>See Rationale above.</p> <p>See Rationale above.</p>

itemizing all central office costs, and allows schools to choose to purchase identified discretionary district services or to not purchase them and include them in the school's lump sum per pupil budget.

3. Curriculum and Assessment:
schools have the freedom to structure their curriculum and assessment practices to best meet students' learning needs. While acknowledging that all schools are expected to administer any state- and district-required test, these schools are given the flexibility to best determine the school-based curriculum and assessment practices that will prepare students for

NA/°

Policy 3236 contains Section 5.3 specifically states that an assessment program cannot be waived.
Section 5.3: An Innovation Zone may request exception for any state or county policy, rule, statute, or interpretation except from an assessment program administered by the West Virginia Department of Education; any provision of law or policy required by the No Child Left Behind Act of 2001, Public Law No. 107-110 or other federal law; W.Va. Code §18A-2-7; §18A-4-7A, §18A-4-7B, §18A-4-8 and §18A-4-8B, except as provided in W.Va. Code §18-5B-8 described in §126-75-5 of this rule; or any other information the state board requires.

<p>state and district assessments.</p> <p>This includes:</p> <ul style="list-style-type: none"> Schools are freed from local district curriculum requirements Graduation requirements are set by the school, not by the district, with an emphasis on competency-based, performance-based assessment Schools are freed from required district professional development 	<p>The waiver process embedded in Policy 3236 does not exclude requests for waivers regarding curriculum. Assessments practices that do not exclude state and district requirements are the pervue of the school and the individual teacher currently in practice. The Local School Improvement Council may currently request a waiver from district curriculum requirements.</p> <p>A waiver request for exemption from graduation requirements can be submitted by the LSIC of the school. A county may also request an exemption.</p>
<p>4. Governance and Policies: schools have the freedom to create their own governance structure that has increased decision making powers over budget</p>	<p>With a mutual agreement, schools may be free from district professional development.</p> <p>Policy 3236 does not contain language regarding governance and school finance, but does contain language in Section 5.3 regarding personnel laws that cannot be waived.</p> <p>West Virginia Code §18-5A-2 establishes local school improvement councils and states the parameters of their work which includes the opportunity to work with the local Board of Education to address issues at the school level.</p>
<p>NA/°</p>	

approval, principal selection and firing, and programs and policies, while being mindful of state requirements on school councils.

This includes:

- The school's site council takes on increased governing responsibilities, including the following: principal Selection, supervision, and firing, with final approval by the superintendent in all cases; budget approval; and setting of school policies
- The school has flexibility to be freed from all district policies, and set its own policies that the school community feels will best help students to be

West Virginia Code §18-5A-2(i) Local School Improvement Councils (i) The local school improvement council shall meet at least annually with the county board, in accordance with the provisions in section fourteen, article five of this chapter. At this annual meeting, the local school improvement council chair, or another member designated by the chair, shall be prepared to address any matters as may be requested by the county board as specified in the meeting agenda provided to the council and may further provide any other information, comments or suggestions the local school improvement council wishes to bring to the county board's attention. Anything presented under this subsection shall be submitted to the county board in writing.

West Virginia Code §18-5-4 Policies to Promote School Board Effectiveness: Section (1) Establishing direct links between the county board and its local school improvement councils and between the county board and its faculty senates for the purpose of enabling the county board to receive information, comments and suggestions directly from the councils and faculty senates regarding the broad guidelines for oversight procedures, standards of accountability and planning for future needs as required by this section.

<p>successful. This includes policies such as promotion, graduation, attendance, and discipline policies</p>	<p>Local School Improvement Councils can currently request waivers of policies and laws.</p>
<p>5. School Calendar: schools have the freedom to set longer school days and calendar years for both students and faculty. In particular, research supports a correlation between faculty planning time spent on teaching and learning and increased student achievement. Scheduling which allows for summer and school year faculty planning time contributes to a more unified school community and educational program.</p> <p>This includes: Organizing the school schedule in ways that</p>	<p>NA/°</p> <p>The WVBE policy waiver process (outlined in §18-5A-3 and WVBE Policy 2445.44) are embedded in Policy 3236, Section 5.3: An Innovation Zone may request exception for any state or county policy, rule, statute, or interpretation except from an assessment program administered by the West Virginia Department of Education; any provision of law or policy required by the No Child Left Behind Act of 2001, Public Law No. 107-110 or other federal law; W.Va. Code §18A-2-7; §18A-4-7A, §18A-4-7B, §18A-4-8 and §18A-4-8B, except as provided in W.Va. Code §18-5B-8 described in §126-75-5 of this rule; or any other information the state board requires. §18-5B-9 (d) states: Upon approval of an innovation zone plan by the state board and state superintendent, all exceptions to county and state board rules, policies and interpretations listed within the plan are granted.</p> <p>The school curriculum team and local school improvement council can currently work with the principal to devise a schedule that reflects the identified needs of the students and</p>

staff of the school. Relief from district or state policy or code can be requested through the waiver process by the LSIC.

maximize learning time for students and planning time for faculty (e.g., longer days Monday through Thursday in order to have half-days for students on Fridays, enabling faculty to have a significant planning and professional development block every Friday afternoon)

§126-75-5 Education Innovation Zone Guidelines and Application Process

Both the legislation and WVBE Policy 3236, Section 5.4 specify the order for applicants to be considered as an innovation zone.

5.4. The WVBE shall consider applicants for designation as an Innovation Zone in the following order: (1) A school and groups of schools; (2) a group of schools seeking designation across the same subdivision or department of the schools; and (3) a school seeking designation of a subdivision or a department.

W. Va. Code §18-5B-9 and WVBE Policy 3236, Sections 5.8.5 and 5.8.6 prohibit the use of any funds appropriated by the WV Legislature for innovation zones or money resulting from the school aid formula to be used by an institution of higher education desiring to implement an innovation zone school.

NA/°

The Innovation Zones seem to suggest that only current sites...not new sites can be approved as Innovation Zones. Are parents, community members, teachers, etc. able to respond to the RFP to develop Innovation Zones? Having multiple options available is desirable.

Schools started by Higher Education Schools are eligible for state or county moneys that result from the

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08-17

		school aid formula. They are public schools outside the district system, just like charter schools.		
§126-75-6 Rights of Employees in an Innovation Zone				
08-17	Tim McClung tim_mcclung@wellsfargois.com 200 27th St Apt. B Charleston, WV 25304	Permit the Innovation Zone to select the teachers that will work at the site. While the bill does address teacher selection, it seems to suggest that the current teachers at the site that converts to an Innovation Zone will remain unless they opt out. Perhaps the reverse ought to be the case that only teachers that want to teach in that model will be able to do so.	NA/°	Both the legislation and WVBE Policy 3236, Section 6, address the rights of employees specifically providing a mechanism for those teachers who do not wish to teach in a designated innovation zone to be given the opportunity to transfer to another school.
§126-75-7 WVDE Evaluation Criteria for Designation as an Education Innovation Zone				
08-17	Tim McClung tim_mcclung@wellsfargois.com 200 27th St Apt. B Charleston, WV 25304	Suggest that the innovation not be required to have "best-practice research." Some innovation is more experimental...and as a result, a research-base does not exist. Clearly, some "best-practice research" is not well done...and should be avoided The point being	NA/°	There are many current best practices and strategies in education that are research-based which may serve as foundational knowledge base for an innovative proposal.

	that "best-practice" is what is now...and yesterday. Innovation includes what should happen tomorrow			
08-17	<p>§126-75-8 WVDE Evaluation Criteria for Approval of an Education Innovation Zone Plan Implementation</p>	<p>Tim McClung tim_mcclung@wellsfargois.com 200 27th St Apt. B Charleston, WV 25304</p>	<p>There needs to be room for real innovation. Which means: Letting schools and teachers try things. Which means, in turn, that we will all have to get comfortable with not-knowing, ahead, what the innovators will come up with.</p> <p>And that, of course, runs head-on into the argument from the research community that no change should be made unless it's 'evidence-based'. How can real innovation be 'evidence-based'?</p> <p>There's an argument that replication at least should be evidence-based. But this has to contend with the reality that students differ. Remember the distinction between "sustaining"</p>	<p>NA/°</p>
	<p>WVBE Policy 3236, Section 7.9 generally defines innovation as practices that "break down existing patterns of mind and develops new ways of doing and seeing things, while allowing for difference in the degree of innovation from one school to another..."</p> <p>It is not the intent of WVBE Policy 3236 to require rigorous evaluation against existing and traditional models. The evaluation criteria utilized in this process will be included in a rubric format which will allow innovation zones the freedom to re-think and re-invent innovations sufficient to prepare today's students to be successful in a global society.</p>			

innovation—the constant improvements that successful enterprises make in their products or services—and “disruptive” innovation in which a new and different product or business model bursts through from a competitor the established firm cannot emulate.

This highlights a critical problem with ‘innovation’. These disruptive innovations, the truly new models, are never high-quality at first. They appeal just to people not being served well by the mainstream offerings.

Rigorously evaluated against the existing and traditional model, real innovation would be rejected. At any given time most people are not ready for radical change. Progress would stop. As Joe Graba puts it, “Almost everyone wants schools to be better, but almost no one wants them to be different.”

		<p>It does seem that innovation has to involve trying things not tried before, pushing out the edges, breaking out of the institutional boxes of practices that hold people back and that fasten them to doing the same things in the same way day after day.</p>		
§126-75-9 Progress Reviews and Annual Reports of Innovation Zones				
<p>08-17</p>	<p>Tim McClung tim_mcclung@wellsfargois.com 200 27th St Apt. B Charleston WV 25304</p>	<p>An annual review is sound...but this should be in a larger context of a three to five year agreement for the Innovation Zone. The evaluation would be completed in the third year...but annual reports would be provided.</p> <p>An evaluation after one year will likely show little unless the evaluation is more of a process evaluation.</p> <p>One should not expect to see big jumps in student performance that quickly. Along that line,</p>	<p>NA/°</p>	<p>The purpose of the annual evaluation is to record the progress of the development or implementation of the Innovation Zone plan and provide an annual report on the progress of the plans to both the WVBE and the Legislative Oversight Committee on Education Accountability, as stated in Section 9.1 of WVBE Policy 3236.</p> <p>It is not the intent of WVBE Policy 3236 to require that innovations produce gains in student performance using traditional standardized assessment results in a short time period. The WVDE and WVBE strongly advocate for multiple</p>

		<p>the WVBE and the state board should understand that not all innovations will produce "gains" in the traditional areas measured by tests. For example, students "hope" for their future will likely not show-up on a math test...but it will be evident on a longitudinal study of what happens to students.</p>		<p>measures of assessment that evidence positive trends in student learning over time.</p>
<p>§126-75-10 WVDE Innovation Zone Selection Committee Membership and Responsibilities</p>				
<p>08-17</p>	<p>Tim McClung tim_mcclung@wellsfargois.com 200 27th St Apt. B Charleston WV 25304</p>	<p>Do you honestly think that a disruptive innovation will ever be approved by a majority of this committee? Please re-read the last chapter of Disrupting Class. This organizational structure disables the capacity to innovate.</p>	<p>NA/°</p>	<p>The composition of the WVBE Innovation Zone Selection Committee as outlined in Policy 3236 provides for a broad representation of education stakeholders to assure a selection process that is consistent with the spirit of the Innovation Zone essential conditions and the intent of this WVBE Policy 3236.</p>
<p>9-8-09</p>	<p>Heather Deskins General Legal Counsel WVDE Bldg. 6, Room 362 Charleston, WV 25305-0330</p>	<p>“Section 10.1 indicates that the committee shall have no more than ten members. Section 10.2 seems to indicate that there may be more than 10 members on the committee (i.e., Sections 10.2 states that</p>	<p>A/+</p>	<p>Revisions have been proposed for WVBE approval in Section 10.1. of the WVBE Policy 3236 to clarify the number of members that comprise the WVBE Innovation Zone Selection Committee. In addition, revisions have been proposed to Section 10.2. to provide language stating the composition of the selection committee membership, as well as to clarify the joint selection of committee members by the WVBE President and the State Superintendent.</p>

	<p>“members shall include, but not be limited to . . .”). This apparent discrepancy should be reconciled. If the committee is to be limited to a set number of members in Section 10.1, then Section 10.2. should include a set number of State Board members and a set number of representatives from teacher organizations. Also, in Section 10.2, the wording of the WVBE Policy 3236 needs to specify that the WVBE President and State Superintendent shall jointly appoint the representatives from state teacher organizations, the representative from an institution of higher education, and the representative of a community/business organization.</p>		

§126-75-11 WVBE Innovation Zone Annual Review Committee Membership and Responsibilities

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NA/°

Please refer to Section §126-75-9.

08-17

Please refer to responses in Section §126-75-9

	Apt. B Charleston WV 25304			
§126-75-12 Severability				
08-28	Shann Elkins Assistant Principal Sherman Elementary School Comfort, WV	The timeline for application submission seems tight. Many tasks and much planning will be required in a very limited time frame. During that timeframe we will have 2 holiday weeks. The Dec. 29 deadline is 1 week into Christmas break meaning the true deadline will be the week of Dec. 20. This shortens an already tight schedule. With Board review and approval with possible revisions. It seems a late Jan. deadline would be possible.	A/+	The rationale for the aggressive timeline for the innovation zone application process was to ensure that the funds for the planning grant for the schools designated as Innovation Zones would be distributed by January 2010 to allow the designated Innovation Zones to initiate the planning process immediately. In addition, the timeline was designed to allow an innovation zone applicant that required a waiver of law to have that waiver request submitted to LOCEA and the WV Legislature during the legislative session that begins after January. A revision has been proposed for WVBE approval to WVBE Policy 3236, Appendix A, timeline to reflect the scheduling of a special meeting of the WVBE on September 23, 2009 to allow earlier approval of WVBE Policy 3236 to expedite the process.

Renee Hodges

From: Nobody [nobody@wvde.state.wv.us]
Sent: Monday, August 17, 2009 3:38 PM
To: fibanez@wvde.state.wv.us; ahodges@access.k12.wv.us
Subject: Comment Received for Policy 3236 (2009-08-17 15:37:36)

Please save this email in a "Comments Received Online" folder.
Your folder will be a backup. All comments are saved in our database.
The Complete Comments Report from the database can be found here:
<http://129.71.2.32/r.html?id=5db76c1c8dd35f7c36c50fb74738ef9d>
This is an encrypted URL. Please Bookmark it.

Comment Received for Policy 3236

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Organization:
Email: tim_mcclung@wellsfargois.com
Title:
Address1: 200 27th St
Address2: Apt. B
City/State/Zip: Charleston, WV 25304
Role: Community Member
Posted: 2009-08-17 15:37:36
Posted from IP: 151.151.98.237

Comments for section 126-75 -1 General

It seems that in any organization, but more so within the public sector arena, it is common practice to create a lengthy regulatory process around doing things differently. While one might want "innovation" to be able to flourish, we usually regulate innovation more than we do the other 99% of the operation. We assume that "what is" is acceptable but "what is new" must be looked at very carefully...skeptically in many cases from the rest of the current operation.

The process appears to be quite bureaucratic with multiple layers of review and approval. Perhaps one aspect of innovation to consider in West Virginia is to develop less regulatory methods of encouraging innovation

A better approach I believe would be to state which laws must be followed i.e. health and safety, licensure of teachers, special ed, audits, financial management, tuition free, no teaching of religion, etc...and then state that everything else is waived

Comments for section 126-75-2 Purpose

The bill appears to be more of a "law/rule waiver bill" than an innovations bill. "innovation" may not always include "waivers" from laws. The logical comment to that would likely be that folks should then just do it! But creating new schools sometimes requires an impetus...a push...with planning and start-up resources.

Also, apparently the state board does not currently have the authority to grant waivers from their rules? A better approach I believe would be to have the legislature state which laws must be followed i.e. health and safety, licensure of teachers, special ed, audits, financial

management, tuition free, no teaching of religion, etc...and then state that everything else is waived.

Comments for section 126-75-3 Essential Conditions for Eligibility for Innovation Zone Designation

Having staff committed to the learning model is crucial. But getting 80 percent of staff to agree to an innovation model is highly unlikely. Perhaps having this level of approval might be one option but another one would be to permit a group of teachers to be able to create an Innovation Zone at a different site...perhaps in a rented facility...or an on-line school...or a school within a school. With this option, only the teachers that wanted to work in that Innovation Zone would be selected to do so.

Comments for section 126-75-4 Focus of Innovation Zones

-
1. Staffing: schools have the freedom to hire and excess their staff in order to create a unified school community. This includes:
 -  Deciding on staffing patterns which best meet the academic, social, and emotional needs of students
 -  Hiring staff that best fit the needs of the school, regardless of their current status (member of the district or not, although every teacher hired becomes a member of the local teachers union)
 -  Excessing staff (into the district pool) that do not fulfill the needs of the school
 2. Budget: schools have a lump sum per pupil budget in which the school has total discretion to spend in the manner that provides the best programs and services to students and their families. This includes:
 -  A lump sum per pupil budget, the sum of which is equal to other schools within that grade span
 -  The district has moved toward itemizing all central office costs, and allows schools to choose to purchase identified discretionary district services or to not purchase them and include them in the school's lump sum per pupil budget
 3. Curriculum and Assessment: schools have the freedom to structure their curriculum and assessment practices to best meet students' learning needs. While acknowledging that all schools are expected to administer any state- and district-required test, these schools are given the flexibility to best determine the school-based curriculum and assessment practices that will prepare students for state and district assessments. This includes:
 -  Schools are freed from local district curriculum requirements
 -  Graduation requirements are set by the school, not by the district, with an emphasis on competency-based, performance-based assessment.
 -  Schools are freed from required district professional development
 4. Governance and Policies: schools have the freedom to create their own governance structure that has increased decision making powers over budget approval, principal selection and firing, and programs and policies, while being mindful of state requirements on school councils. This includes:
 -  The school's site council takes on increased governing responsibilities, including the following: principal selection, supervision, and firing, with final approval by the superintendent in all cases; budget approval; and setting of school policies
 -  The school has flexibility to be freed from all district policies, and set its own policies that the school community feels will best help students to be successful. This includes policies such as promotion, graduation, attendance, and discipline policies
 5. School Calendar: schools have the freedom to set longer school days and calendar years for both students and faculty. In particular, research supports a correlation between faculty planning time spent on teaching and learning and increased student achievement. Scheduling which allows for summer and school year faculty planning time contributes to a more unified school community and educational program. This includes:

 Organizing the school schedule in ways that maximize learning time for students and planning time for faculty (e.g., longer days Monday through Thursday in order to have half-days for students on Fridays, enabling faculty to have a significant planning and professional development block every Friday afternoon).

Comments for section 126-75-5 Education Innovation Zone Guidelines and Application Process

The Innovation Zones seem to suggest that only current sites...not new sites can be approved as Innovation Zones. Are parents, community members, teachers, etc. able to respond to the RFP to develop Innovation Zones? Having multiple options available is desirable

Schools started by Higher Education Schools are eligible for state or county moneys that result from the school aid formula. They are public schools outside the district system, just like charter schools.

Comments for section 126-75-6 Rights of Employees in an Innovation Zone

permit the Innovation Zone to select the teachers that will work at the site. While the bill does address teacher selection, it seems to suggest that the current teachers at the site that converts to an Innovation Zone will remain unless they opt out. Perhaps the reverse ought to be the case that only teachers that want to teach in that model will be able to do so.

Comments for section 126-75-7 WVDE Evaluation Criteria for Designation as an Education Innovation Zone

suggest that the innovation not be required to have "best-practice research." Some innovation is more experimental...and as a result, a research-base does not exist. Clearly, some "best-practice research" is not well done...and should be avoided The point being that "best-practice" is what is now...and yesterday. Innovation includes what should happen tomorrow

Comments for section 126-75-8 WVDE Evaluation Criteria for Approval of an Education Innovation Zone Plan Implementation

There needs to be room for real innovation. Which means: Letting schools and teachers try things. Which means, in turn, that we will all have to get comfortable with not-knowing, ahead, what the innovators will come up with.

And that, of course, runs head-on into the argument from the research community that no change should be made unless it's 'evidence-based'. How can real innovation be 'evidence-based'?

There's an argument that replication at least should be evidence-based. But this has to contend with the reality that students differ. Remember the distinction between "sustaining" innovation—the constant improvements that successful enterprises make in their products or services—and "disruptive" innovation in which a new and different product or business model bursts through from a competitor the established firm cannot emulate.

This highlights a critical problem with 'innovation'. These disruptive innovations, the truly new models, are never high-quality at first. They appeal just to people not being served well by the mainstream offerings.

Rigorously evaluated against the existing and traditional model, real innovation would be rejected. At any given time most people are not ready for radical change. Progress would stop. As Joe Graba puts it, "Almost everyone wants schools to be better, but almost no one wants them to be different."

It does seem that innovation has to involve trying things not tried before, pushing on the edges, breaking out of the institutional boxes of practices that hold people back and that fasten them to doing the same things in the same way day after day.

Comments for section 126-75-9 Progress Reviews and Annual Reports of Innovation Zones

An annual review is sound...but this should be in a larger context of a three to five year agreement for the Innovation Zone. The evaluation would be completed in the third year...but annual reports would be provided.

An evaluation after one year will likely show little unless the evaluation is more of a process evaluation. One should not expect to see big jumps in student performance that quickly. Along that line, the WVBE and the state board should understand that not all innovations will produce "gains" in the traditional areas measured by tests. For example, students "hope" for their future will likely not show-up on a math test...but it will be evident on a longitudinal study of what happens to students

Comments for section 126-75-10 WVDE Innovation Zone Selection Committee Membership and Responsibilities

Do you honestly think that a disruptive innovation will ever be approved by a majority of this committee. Please re-read the last chapter of Disrupting Class. This organizational structure disables the capacity to innovate

Comments for section 126-75-11 WVBE Innovation Zone Annual Review Committee Membership and Responsibilities

Please refer to section 126-75-9

Comments for section 126-75-12 Severability

Renee Hodges

From: Nobody [nobody@wvde.state.wv.us]
Sent: Friday, August 28, 2009 12:28 PM
To: fibanez@wvde.state.wv.us; ahodges@access.k12.wv.us
Subject: Comment Received for Policy 3236 (2009-08-28 12:27:48)

Please save this email in a "Comments Received Online" folder.
Your folder will be a backup. All comments are saved in our database.
The Complete Comments Report from the database can be found here:
<http://129.71.2.32/r.html?id=5db76c1c8dd35f7c36c50fb74738ef9d>
This is an encrypted URL. Please Bookmark it.

Comment Received for Policy 3236

#####

Name: Shann Elkins
Organization: Sherman Elementary School
Email:
Title: Assistant Principal
Address1:
Address2:
City/State/Zip: Comfort, WV
Role: Principal
Posted: 2009-08-28 12:27:48
Posted from IP: 129.71.215.161

Comments for section 126-75 -1 General

Comments for section 126-75-2 Purpose

Comments for section 126-75-3 Essential Conditions for Eligibility for Innovation Zone Designation

Comments for section 126-75-4 Focus of Innovation Zones

Comments for section 126-75-5 Education Innovation Zone Guidelines and Application Process

Comments for section 126-75-6 Rights of Employees in an Innovation Zone

Comments for section 126-75-7 WVDE Evaluation Criteria for Designation as an Education Innovation Zone

Comments for section 126-75-8 WVDE Evaluation Criteria for Approval of an Education
Innovation Zone Plan Implementation

Comments for section 126-75-9 Progress Reviews and Annual Reports of Innovation Zones

Comments for section 126-75-10 WVDE Innovation Zone Selection Committee Membership and
Responsibilities

Comments for section 126-75-11 WVBE Innovation Zone Annual Review Committee Membership and
Responsibilities

Comments for section 126-75-12 Severability

The timeline for application submission seems tight. Many tasks and much planning will be required in a very limited time frame. During that timeframe we will have 2 holiday weeks. the Dec. 29 deadline is 1 week into Christmas break meaning the true deadline will be the week of Dec. 20. This shorten an already tight schedule. With Board review and approval with possible revisions. it seems a late Jan. deadline would be possible.

Renee Hodges

From: Donna Peduto [dpeduto@access.k12.wv.us]
Sent: Tuesday, September 08, 2009 12:19 PM
To: 'Heather Deskins'
Cc: 'Karen Huffman'; 'Renee Hodges'
Subject: RE: Public Comment Log

Thanks Heather.

Donna

From: Heather Deskins [mailto:hdeskins@access.k12.wv.us]
Sent: Tuesday, September 08, 2009 12:12 PM
To: 'Donna Peduto'
Subject: RE: Public Comment Log

That looks fine with me.
-HLD

From: Donna Peduto [mailto:dpeduto@access.k12.wv.us]
Sent: Tuesday, September 08, 2009 12:04 PM
To: hdeskins@access.k12.wv.us
Cc: 'Karen Huffman'; 'Renee Hodges'
Subject: Public Comment Log

Heather:

Marlene called me and let me know that you were fine with us posting your comment with your name in our Public Comment Log for Policy 3236: Education Innovation Zones.

This is the way I planned to post if it reads accurately to you:

"Section 10.1 indicates that the committee shall have no more than ten members. Section 10.2 seems to indicate that there may be more than 10 members on the committee (i.e., sections 10.2 states that "members shall include, but not be limited to . . ."). This apparent discrepancy should be reconciled. If the committee is to be limited to a set number of members in section 10.1, then section 10.2. should include a set number of State Board members and a set number of representatives from teacher organizations. Also, in section 10.2, the wording of the policy needs to specify that the WVBE President and State Superintendent shall jointly appoint the representatives from state teacher organizations, the representative from an institution of higher education, and the representative of a community/business organization. "

Please confirm the above language is how you would like it posted.

Thank you very much,
Donna