

1 COMMITTEE SUBSTITUTE

2 FOR

3 **Senate Bill No. 371**

4 (By Senators Kessler (Mr. President) and Hall,

5 By Request of the Executive)

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7 [Originating in the Committee on Education;
8 reported February 17, 2012.]

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13 A BILL to amend the Code of West Virginia, 1931, as amended, by
14 adding thereto a new section, designated §18-5B-3a, relating
15 to allowing flexibility within county school systems;
16 authorizing the State Board of Education to select a county
17 school system to serve as a county innovation zone pilot
18 project; giving McDowell County first opportunity to submit
19 application; authorizing the State Board of Education to
20 promulgate rules and emergency rules; providing the procedure
21 and criteria for application and selection as a county
22 innovation zone; requiring the development of county
23 innovation zone plans and setting forth their contents;
24 requiring meeting to develop plan; requiring meeting to

1 educate employees about the plan; requiring vote to determine
2 level of school employee support; requiring a public meeting
3 to obtain feedback; permitting exceptions from county and
4 state board rules, policies and interpretations; permitting
5 exceptions from statutes subject to legislative approval;
6 allowing revision and resubmission of approved plan; requiring
7 annual performance reviews and reports; permitting the posting
8 of certain teaching vacancies; and including, for an
9 innovation zone and to the extent applicable, any land and
10 infrastructure needs in the land use master plan and
11 authorizing Tug River Health Association, Inc. to work with
12 county board in addressing health, wellness and fitness needs.

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

14 That the Code of West Virginia, 1931, as amended, be amended
15 by adding thereto a new section, designated §18-5B-3a, to read as
16 follows:

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

18 **§18-5B-3a. County innovation zone pilot project; requirements to**
19 **qualify; application for designation; required plans**
20 **for county innovation zones; plan approval; waiver**
21 **of statutes, policies, rules or interpretations;**
22 **progress reviews and annual reports; teacher**
23 **vacancies, job postings and approval.**

24 (a) The Legislature finds that:

1 (1) Choosing one county school system under a declared state
2 of emergency due to nonapproval status to designate as an
3 innovation zone as a temporary pilot would allow the testing of
4 innovations that could be replicated in other school systems facing
5 similar circumstances across the state, nation and world;

6 (2) Many counties under a declared state of emergency face
7 problems outside of their education systems that have an indirect
8 but large impact on student achievement. These problems can
9 include poverty; drug and alcohol abuse; inadequate housing;
10 inadequate transportation systems; health-, wellness- and fitness-
11 related issues; and others;

12 (3) Numerous studies have shown an association between a young
13 person's health status and his or her ability to succeed in
14 educational settings;

15 (4) McDowell County is unique and should be given the first
16 opportunity to use innovative solutions to improve its education
17 system when the totality of the following circumstances are
18 considered:

19 (A) McDowell County has been under a declared state of
20 emergency by the state board due to nonapproval status longer than
21 any other county;

22 (B) McDowell County has ranked last in education in West
23 Virginia for most of the past decade;

24 (C) The population of McDowell County has fallen from around

1 one hundred twenty thousand in 1965 to twenty-two thousand today;

2 (D) McDowell County is the eighth poorest county in the United
3 States;

4 (E) McDowell County leads the nation in overdose deaths from
5 narcotic pain medications;

6 (F) Seventy-two percent of students in McDowell County live in
7 a household without gainful employment;

8 (G) At least forty-six percent of McDowell County students do
9 not live with their biological parents;

10 (H) McDowell County ranks second-worst in the state in infant
11 mortality, child deaths and teenage birth rate;

12 (I) McDowell County consistently performs poorly in measures
13 of health and well being when compared to other counties in the
14 State and Nation;

15 (J) Multiple interventions and projects have been implemented
16 in the past without significant impacts on health markers; and

17 (K) McDowell County has a chronic shortage of good roads,
18 public transportation, housing, Internet bandwidth, recreation
19 centers and health clinics.

20 (b) The state board is authorized to choose one county school
21 system currently under a declared state of emergency by the state
22 board due to nonapproval status to participate in a pilot program
23 to test the effectiveness of allowing such county school systems to
24 be considered county innovation zones. Due to the reasons set

1 forth in subsection (a) of this section, the McDowell County Board
2 of Education shall be provided the first opportunity to submit a
3 county innovation zone application under this article. If the
4 McDowell County Board of Education has not submitted an application
5 by April 1, 2013, the state board may accept applications from
6 other county boards. This section terminates on July 1, 2016,
7 unless sooner terminated, continued or reestablished.

8 (c) The state board shall promulgate a rule, including an
9 emergency rule if necessary, in accordance with article three-b,
10 chapter twenty-nine-a of this code, to implement this section. The
11 rule shall include, but not be limited to, the following
12 provisions:

13 (1) The manner, time and process for the submission of a
14 county innovation zone application;

15 (2) The contents of the application, which must include a
16 general description of the innovations the county school district
17 seeks to institute;

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

21 (A) Support from teachers, staff, parents, students, the
22 county board of education, the local school improvement council and
23 school business partners; and

24 (B) The potential for an applicant to be successful in raising

1 student achievement as a county innovation zone; and

2 (4) Standards for the state board to review applications for
3 designation as a county innovation zone and to make determinations
4 on the designation of a county innovation zone pilot project.

5 (d) The state board shall review county innovation zone
6 applications in accordance with the standards adopted by the board
7 and shall determine whether to designate the applicant as a county
8 innovation zone. The state board shall notify an applicant of the
9 board's determination within thirty days of receipt of the
10 application.

11 (e) Prior to designation by the state board as a county
12 innovation zone, county school systems submitting applications
13 shall develop county innovation zone plans containing the following
14 information:

15 (1) A description of the programs, policies or initiatives the
16 county school system intends to implement as an innovative strategy
17 to improve student achievement if the plan is approved by the state
18 board;

19 (2) A description of the programs, policies and
20 interpretations, and all statutes, if any, identified as
21 prohibiting or constraining the implementation of the plan,
22 including an explanation of the specific exceptions to the rules,
23 policies and interpretations and statutes required for plan
24 implementation. A county school system may not request an exception

1 nor may an exception be granted from any of the following:

2 (A) An assessment program administered by the West Virginia
3 Department of Education;

4 (B) Any provision of law or policy required by the No Child
5 Left Behind Act of 2001, Public Law No. 107-110 or other federal
6 law; and

7 (C) Section seven, article two and sections seven-a, seven-b,
8 eight and eight-b, article four, chapter eighteen-a of this code,
9 except as provided in subsection (n) of this section; and

10 (3) Any other information the state board requires.

11 (f) The county innovation zone plan may include, but is not
12 limited to, the following proposals:

13 (1) Allowing increased collaborative site-based
14 decision-making powers over the budgeting for and spending on
15 programs and services for students;

16 (2) Allowing increased collaborative site-based
17 decision-making powers over teacher recruitment;

18 (3) Allowing a collaborative process which ensures
19 accountability and transparency to all stakeholders;

20 (4) Allowing a collaborative process which provides input and
21 demonstrative buy-in from education personnel regarding appropriate
22 professional development, supports, resources and working
23 conditions.

24 (5) Allowing a collaborative site-based process to reduce

1 certain requirements to allow staff to meet the school's mission;

2 (6) Allowing, through a collaborative site-based process,
3 flexibility to the school calendar to achieve the instructional day
4 goal provided by section forty-five, article five of this chapter;

5 (7) Allowing, through a collaborative site-based process,
6 flexibility to the alternative teacher certification provided in
7 section one-a, article three, chapter eighteen-a of this code; and

8 (8) Utilizing virtual school courses aligned with the Southern
9 Regional Education Board's Standards for Quality Online Courses.

10 (g) Prior to submitting a county innovation zone plan to the
11 state board:

12 (1) The county superintendent shall hold a meeting for the
13 purpose of developing the innovation zone plan. The meeting shall
14 include the principals employed within the county, employee
15 organization representatives, parents and other stakeholders;

16 (2) The county superintendent shall hold a meeting of all
17 regularly employed school employees for the purpose of educating
18 those employees about the plan;

19 (3) The county superintendent shall conduct a vote to
20 determine the level of school employee support for the innovation
21 zone plan. The county superintendent shall require all building
22 level administrators to distribute ballots to all regularly
23 employed school employees employed in their building. The building
24 level administrators shall ensure that all the employees are

1 allowed at least three days to return their ballot. The innovation
2 zone plan may not be submitted to the state board for approval and
3 the state board may not approve the innovation zone plan unless two
4 thirds of the school employees voting vote to approve the
5 innovation zone plan; and

6 (4) Prior to submitting a county innovation zone plan to the
7 state board, the applying county school system shall hold a public
8 meeting in the county seat of the county school system for purposes
9 of presenting the plan to, and obtaining feedback from, teachers,
10 staff, parents, students, the county board, the local school
11 improvement council, school business partners and other interested
12 parties. The applying county school system shall include a
13 detailed, inclusive report of the feedback obtained at the public
14 meeting as an appendix to its plan.

15 (h) Approval of a county innovation zone plan pursuant to this
16 section is at the sole discretion of the state board. Any approval
17 requirement not contained within this section does not apply.

18 (I) Except as provided in subsection (k) of this section, the
19 state board shall approve or disapprove the plan within thirty days
20 of receipt, subject to the following:

21 (1) No exceptions to county or state board rules, policies or
22 interpretations are granted unless the state board approves the
23 plan at least conditionally pursuant to subsections (j) and (k) of
24 this section; and

1 (2) If the plan is disapproved, the state board shall
2 communicate the reasons for the disapproval to the county school
3 system and shall make recommendations for approving the plan. The
4 county school system may amend the plan for resubmission.

5 (j) Upon approval of the county innovation zone plan by the
6 state board, all exceptions to county and state board rules,
7 policies and interpretations listed in the plan are granted.

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

19 (1) A county board designated as an innovation zone pursuant
20 to this section that has an approved innovation zone plan may
21 revise its plan and resubmit its plan to the state board for
22 approval after conducting the vote pursuant to subdivision (3),
23 subsection (g) of this section and complying with all other
24 applicable plan requirements set forth in this section except for

1 holding the public meeting required by subdivision (4), subsection
2 (g) of this section.

3 (m) The state board or its designated committee shall perform
4 annual performance reviews and provide annual reports in accordance
5 with section seven of this article.

6 (n) A county school system whose plan has been approved may
7 make a job posting for a teacher vacancy in accordance with the
8 procedures and approval provided by section eight of this article.

9 (o) For any county that is designated as an innovation zone
10 under the provisions of this section and to the extent the
11 following provisions are applicable:

12 (1) The county commission of the designated county shall
13 collaborate with the Office of Coalfield Community Development in
14 including any land and infrastructure needs in the land use master
15 plan provided for in section nine, article two-a, chapter five-b of
16 this code. These needs may include, but are not limited to,
17 advancement of public education, economic development, highway
18 development, recreational amenities and housing development; and

19 (2) Tug River Health Association, Inc. is authorized to work
20 with the county board to address the health, wellness and fitness
21 needs of students, parents, school personnel and all others in the
22 county. Tug River Health Association may partner with the Robert
23 C. Byrd Center for Rural Health and the Marshall University Medical
24 School in addressing these needs. In addressing the health,

1 wellness and fitness needs, the following should be considered:

2 (A) New evaluations of school-aged children are needed to
3 reassess their health status and direct further interventions;

4 (B) Prior to developing new assessment tools and initiating
5 programs, a comprehensive inventory of prior assessment tools and
6 programs is needed to determine their strengths and weaknesses.
7 This can direct further studies and interventions;

8 (C) New assessment tools should include objective markers of
9 disease as well as subjective opinions of individual health status
10 and barriers to health;

11 (D) Objective and subjective data should be linked at
12 individual and disease-specific levels;

13 (E) Disease-specific data may be used to address common
14 barriers to health as perceived by a specific population and tailor
15 interventions to these specific populations;

16 (F) The effectiveness of interventions should be assessed
17 using the same health status markers used to develop the
18 intervention;

19 (G) Interventions should use available technology that allows
20 individuals to track measures of health and provide assistance in
21 making informed decisions about their health;

22 (H) Assessments and interventions should be developed and
23 implemented using community-based participatory research models;
24 and

1 (I) Assessments and interventions should be multidisciplinary,
2 collaborative efforts with existing organizations and programs.