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OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE
EIGHTIETH LEGISLATURE
REGULAR SESSION, 2012

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ENROLLED

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 371

**(BY SENATORS KESSLER (MR. PRESIDENT) AND HALL,
BY REQUEST OF THE EXECUTIVE)**

[PASSED MARCH 16, 2012; IN EFFECT FROM PASSAGE.]

SB371

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(BY SENATORS KESSLER (MR. PRESIDENT) AND HALL,
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[Passed March 16, 2012; in effect from passage.]

AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-5B-12, relating to allowing flexibility within county school systems; authorizing the State Board of Education to select a county school system to serve as a school system collaborative innovation zone; giving McDowell County first opportunity to submit application; specifying effect of change in school system approval status; requiring the State Board of Education to promulgate rules and emergency rules; providing the procedure and criteria for application and selection as a school system collaborative innovation zone; requiring development of school system collaborative innovation zone plan; setting forth potential innovations; requiring public town hall meetings; requiring meeting to review input from town hall meetings and develop plan; requiring meeting to educate employees about the plan and to allow examination and discussion of plan; requiring vote to determine level of school employee support; authorizing a designated school system to submit requests for exceptions from county and state board rules, policies and

interpretations; permitting exceptions from statutes subject to legislative approval; prohibiting certain exceptions; allowing revision and resubmission of approved plan; setting forth duration of designation; requiring annual performance reviews and reports; permitting the posting of certain teaching vacancies in accordance with certain procedures and approval; and for a school system collaborative innovation zone and to the extent applicable, including any land and infrastructure needs in the land use master plan, authorizing an area health association to work with county board in addressing health, wellness and fitness needs and authorizing an area institution of higher education to work with the county board to address certain challenges.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new section, designated §18-5B-12, to read as follows:

ARTICLE 5B. SCHOOL INNOVATION ZONES ACT.

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

1 (a) The Legislature makes the following findings and
2 expressions of legislative intent:

3 (1) The Legislature created a performance-based accredi-
4 tation system in 1988 and has amended these provisions
5 several times, significantly in 1998 to set forth a process for
6 improving education consisting of four elements: (i) High
7 quality education standards; (ii) an assessment of the
8 performance and progress of schools and school systems in
9 achieving these standards with a primary focus on student
10 learning; (iii) holding schools and school systems account-
11 able for performance and progress to provide assurances that
12 a thorough and efficient education is being provided; and (iv)

13 a process for targeting resources strategically to improve
14 teaching and learning. These provisions include a process for
15 the state board to declare a state of emergency and intervene
16 in the operation of a school system when its educational
17 program does not meet the standards and it fails to imple-
18 ment an improvement plan or meet the plan's deadlines and
19 improve within a reasonable time. Since the inception of
20 these provisions, the state board has declared a state of
21 emergency in nine county school systems and intervened,
22 including delegating decision-making authority to the state
23 superintendent or his or her designee for system operations.
24 Of these nine school systems, three improved sufficiently
25 over a period of time for the state of emergency to be re-
26 scinded, the longest of which took ten years and six months.
27 Of the six systems remaining under state board intervention,
28 although most are fairly recent, one school system has been
29 under state intervention for more than ten years and its
30 improvement is progressing slowly;

31 (2) School systems do not exist in a vacuum and external
32 circumstances and events can have a significant impact on
33 them and the students they serve, as well as on the system's
34 capacity to deliver the thorough and efficient education to
35 which those students are entitled. For example, the
36 McDowell County school system which in the 1950's at its
37 height of employment in coal production had a total popula-
38 tion of about 100,000 residents, faced much different chal-
39 lenges than it does today with that county's total population
40 now at 22,113 based on the 2010 census. This school system
41 has lost nearly 70% of its enrollment in the past 30 years,
42 declining from 11,715 students in 1981-82 to 3,535 in 2011-
43 12. Along with the steep decline in the historical bedrock of
44 employment in the county in the coal industry and the large
45 number of middle class workers and services it supported,
46 including housing, utilities and medical care, the county's
47 rugged mountainous topography contributes to its vulnera-
48 bility to natural disasters such as the devastating floods in
49 2001 and 2002 that swept away many homes and much of the
50 infrastructure along the creek beds throughout the county.
51 This topography also significantly limits the amount of land

52 suitable for development and transportation networks, and
53 makes planning for future economic development alterna-
54 tives difficult. The social and economic byproducts of these
55 external circumstances and events leave a school system
56 with many atypical challenges for addressing the needs of its
57 students and making the improvements in performance and
58 progress needed to assure a thorough and efficient education;

59 (3) Among the findings, intent and purposes of this
60 article are that: (i) Allowing exceptions from certain statutes,
61 policies, rules and interpretations through the creation of
62 innovation zones will enable greater local control over the
63 important educational factors that impact student achieve-
64 ment and the delivery of educational services to improve
65 student learning; and (ii) Innovation zones will provide
66 greater flexibility and local control to meet the needs of a
67 diverse population of students. In addition, among the
68 findings of the Local Solution Dropout Prevention and
69 Recovery Innovation Zone Act as set forth in section eleven
70 of this article are findings that when educators, parents,
71 elected officials, business leaders, faith-based leaders,
72 human service personnel, judicial personnel and civic leaders
73 collectively work together they are often able to find innova-
74 tive solutions to address school and community problems.
75 Since the creation of this article, forty-five innovation zone
76 projects have been approved by the state board, nine of
77 which were Dropout Prevention and Recovery Innovation
78 Zone projects. Twenty-seven policy waivers and five statu-
79 tory waivers have been granted to enable implementation of
80 these projects. In one county, an innovation zone project was
81 expanded to all of the remaining schools in the county when
82 the schools used the Local School Improvement Council
83 waiver process to request and receive a statutory waiver to
84 implement a comprehensive new teacher induction process
85 county-wide. Collectively, these projects illustrate how local
86 schools, and in some cases school systems, have increased
87 their capacity by using the innovation zone process to
88 collaboratively plan and implement a variety of changes to
89 increase student engagement, develop more flexible sched-

90 ules, enhance student and teacher ownership of the learning
91 process and increase student achievement;

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

97 (5) Numerous studies have shown an association between
98 a young person's health status and his or her ability to
99 succeed in educational settings;

100 (6) McDowell County is unique and should be given the
101 first opportunity to use innovative solutions to improve its
102 education system when the totality of the circumstances set
103 forth in this subsection are considered. Other facts specifi-
104 cally applicable to McDowell County include the following:

105 (A) The McDowell County school system has been under
106 a continuous declared state of emergency by the state board
107 due to nonapproval status longer than any other county that
108 is currently under a declared state of emergency;

109 (B) The McDowell County school system is engaged in a
110 public-private partnership to begin addressing challenges
111 both within the school system and in the community at large;
112 and

113 (C) McDowell County has a chronic shortage of good
114 roads, public transportation, housing, Internet bandwidth,
115 recreation centers and health clinics;

116 (7) This section is intended as an additional tool for an
117 eligible school system in collaboration with community and
118 business partners to plan and implement new approaches to
119 improve the performance and progress of the students,
120 schools and system to achieve full approval at the earliest
121 possible date. It is further the intent of the Legislature that
122 the process for an eligible school system to apply for excep-
123 tions under this section should allow multiple opportunities
124 to apply for additional exceptions as the system moves

125 forward with its partners toward fulfillment of its improve-
126 ment goals; and

127 (8) In accordance with the intent of this section as an
128 additional tool for planning and implementing new ap-
129 proaches to improve the performance and progress of the
130 students, schools and school system to achieve full approval
131 at the earliest possible date, the state board shall rescind the
132 state of emergency and nonapproval status of a school system
133 designated as a school system collaborative innovation zone
134 as soon as the requisite conditions are met as provided in
135 section five, article two-e of this chapter, notwithstanding
136 the designation. If a school system that has been designated
137 as a school system collaborative innovation zone is subse-
138 quently issued a school system approval status that would
139 make it ineligible for the designation, the designation shall
140 remain in effect as provided in this section.

141 (b) The state board is authorized to choose one county
142 school system currently under a declared state of emergency
143 by the state board due to nonapproval status to participate
144 in a program to test the effectiveness of allowing such county
145 school systems to be considered school system collaborative
146 innovation zones. Due to the reasons set forth in subsection
147 (a) of this section, the McDowell County Board of Education
148 shall be provided the first opportunity to submit a school
149 system collaborative innovation zone application under this
150 article. If the McDowell County Board of Education has not
151 submitted an application by April 1, 2013 or less than fifty
152 percent cast ballots in an election to approve a school system
153 collaborative innovation zone plan, the state board may
154 accept applications from other county boards under a
155 declared state of emergency by the state board due to
156 nonapproval status.

157 (c) The Legislature finds that an emergency exists and,
158 therefore, no later than April 16, 2012, the state board shall
159 promulgate an emergency rule in accordance with section
160 ten, article three-b, chapter twenty-nine-a of this code, to
161 implement the provisions of this section. The state board also
162 shall promulgate a legislative rule, in accordance with article

163 three-b, chapter twenty-nine-a of this code, to implement
164 this section. Both rules shall include, but not be limited to,
165 the following provisions:

166 (1) The manner, time and process for the submission of a
167 school system collaborative innovation zone application;

168 (2) The contents of the application, which must include
169 a general description of the innovations the county school
170 district seeks to institute;

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

174 (A) Support from teachers, staff, parents, students, the
175 county board of education, the local school improvement
176 council and school business partners; and

177 (B) The potential for an applicant to be successful in
178 raising student achievement as a school system collaborative
179 innovation zone; and

180 (4) Standards for the state board to review applications
181 for designation as a school system collaborative innovation
182 zone and to make determinations on the designation of a
183 school system collaborative innovation zone.

184 (d) The state board shall review school system collabora-
185 tive innovation zone applications in accordance with the
186 standards adopted by the board and shall determine whether
187 to designate the applicant as a school system collaborative
188 innovation zone. The state board shall notify an applicant of
189 the board's determination within thirty days of receipt of the
190 application.

191 (e) Prior to designation by the state board as a school
192 system collaborative innovation zone, county school systems
193 submitting applications shall develop school system collabo-
194 rative innovation zone plans. The school system collabora-
195 tive innovation zone plan may include, but is not limited to,
196 the following proposals:

197 (1) Allowing increased collaborative site-based deci-
198 sion-making powers over the budgeting for and spending on
199 programs and services for students;

200 (2) Allowing increased collaborative site-based deci-
201 sion-making powers over teacher recruitment;

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

204 (4) Allowing a collaborative process which provides
205 input and demonstrative buy-in from education personnel
206 regarding appropriate professional development, supports,
207 resources and working conditions.

208 (5) Allowing a collaborative site-based process to reduce
209 certain requirements to allow staff to meet the school's
210 mission;

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

214 (7) Utilizing virtual school courses aligned with the
215 Southern Regional Education Board's Standards for Quality
216 Online Courses; and

217 (8) Other innovation zone plans approved under the
218 provisions of this article and being implemented in other
219 schools and school systems throughout the state.

220 (f) Prior to submitting a school system collaborative
221 innovation zone plan to the state board:

222 (1) The school system in collaboration with its public-
223 private partnership shall conduct public town hall meetings
224 in at least two schools in the county for the purpose of
225 soliciting input from those in attendance on the challenges
226 affecting the quality of education in the county and the
227 potential strategies and priorities for addressing them. The
228 two meetings shall occur within ten days of each other;

229 (2) Within fifteen days after the last town hall meeting,
230 the county superintendent shall hold a meeting for the
231 purpose of reviewing the input gathered at the public town
232 hall meetings and developing the school system collaborative
233 innovation zone plan. The meeting shall include the princi-
234 pals employed within the county, the chairs of the faculty
235 senates of each school in the county, employee organization
236 representatives, a school service person from each work-site,
237 parents and other stakeholders;

238 (3) Within fifteen days after the meeting to develop the
239 school system collaborative innovation zone plan, the county
240 superintendent shall hold a meeting of all regularly em-
241 ployed school employees for the purpose of educating those
242 employees about the plan and for the purpose of providing
243 the employees an opportunity to examine and discuss the
244 school system collaborative innovation zone plan; and

245 (4) At the meeting required by subdivision (3) of this
246 subsection, the county superintendent shall direct that a vote
247 of all regularly employed school employees in the county be
248 conducted to determine the level of school employee support
249 for the school system collaborative innovation zone plan. The
250 vote shall be completed within fifteen days after the meeting
251 required by subdivision (3) of this subsection. The vote shall
252 be by secret ballot administered by the panels created in
253 subsection (c), section six of this article for each school and
254 shall be administered in accordance with that subsection.
255 For the vote to be valid, ballots must be cast by at least fifty
256 percent of all regularly employed school employees in the
257 county. The plan may not be submitted to the state board
258 and the state board may not designate the school system as
259 a school system collaborative innovation zone unless at least
260 two-thirds of the employees voting vote to submit the plan.

261 (g) Approval of a school system collaborative innovation
262 zone plan pursuant to this section is at the sole discretion of
263 the state board. Any approval requirement not contained
264 within this section does not apply.

265 (h) The plan is intended to serve as the basis for the
266 innovation zone activities of the school system and to
267 provide a vision for the school improvement goals it will
268 work to accomplish in collaboration with its school and
269 community partners. The plan is not intended as a limit on
270 the normal school improvement activities that all school
271 systems are expected to pursue, nor is the plan intended as
272 a restriction on the ability of the school system or its schools
273 to pursue other innovative strategies in accordance with the
274 other provisions of this article, specifically the designation
275 as a Local Solution Dropout Prevention and Recovery
276 Innovation Zone in accordance with section eleven of this
277 article.

278 (i) The designation as a school system collaborative
279 innovation zone authorizes the school system to submit
280 requests as provided in subsection (j) of this section to the
281 state board for exceptions to statutes, policies, rules and
282 interpretations that are required to permit implementation
283 by the school system of the innovative strategies contem-
284 plated in its school system collaborative innovation zone
285 plan. The designation shall be for a period of five years,
286 during which the school system may submit multiple individ-
287 ual requests for exceptions to permit implementation of
288 different strategies contemplated in the plan as the strategies
289 are developed. Each request for an exception shall be
290 submitted and may be approved by the state board in
291 accordance with subsection (j) of this subsection.

292 (j) (1) A school system designated as a school system
293 collaborative innovation zone may request an exception to a
294 statute, policy, rule or interpretation by submitting an
295 application to the state board that contains the following
296 information:

297 (A) A description of the program or initiative the school
298 system intends to implement as an innovative strategy to
299 improve student achievement if the request is approved by
300 the state board;

301 (B) An explanation of the specific exception to a statute,
302 policy, rule or interpretation, in the singular or plural, that
303 the school system has identified as prohibiting or constrain-
304 ing the implementation of the program or initiative and why
305 the exception is necessary;

306 (C) An explanation of how the program or initiative
307 furthers the activities contemplated in the school system
308 collaborative innovation zone plan;

309 (D) A certification by the county superintendent that the
310 request for an exception was approved by a vote of the
311 eligible employees in accordance with the process for voting
312 as set forth in section six of this article, except that notwith-
313 standing subsection (d) of said section six, at least two-thirds
314 of the eligible employees voting must vote to request the
315 exception for it to be approved for submission to the state
316 board: *Provided*, That for the vote to be valid, ballots must
317 be cast by at least fifty percent of the eligible employees; and

318 (E) Any other information the state board requires as set
319 forth in its rule pursuant to subsection (c) of this section.

320 (2) The state board shall review the request in accor-
321 dance with the standards adopted by the board in its rule
322 and shall determine whether to approve or disapprove the
323 request. The approval or disapproval of a request is at the
324 sole discretion of the state board. Any approval requirement
325 not contained within this section does not apply.

326 (3) Except as provided in subdivision (5) of this subsec-
327 tion, the state board shall approve or disapprove the request
328 within thirty days of receipt, subject to the following:

329 (A) No exceptions to state board policies, rules or
330 interpretations are granted unless the state board approves
331 the request at least conditionally pursuant to subdivisions (2)
332 and (5) of this subsection; and

333 (B) If the request is disapproved, the state board shall
334 communicate its reasons for the disapproval to the school
335 system and shall make recommendations for improving the

336 request. The school system may amend and resubmit the
337 request.

338 (4) Upon approval of the request by the state board, all
339 of the exceptions to state board policies, rules and interpreta-
340 tations that were requested are granted; and

341 (5) If a request, or a part thereof, may not be imple-
342 mented unless an exception to a statute is granted by an Act
343 of the Legislature, the state board may approve the request,
344 or the part thereof, only upon the condition that the Legisla-
345 ture acts to grant the exception. If the state board approves
346 a request on that condition, the state board shall submit the
347 request for an exception to a statute, along with supporting
348 reasons, to the Legislative Oversight Commission of Educa-
349 tion Accountability. The commission shall review the request
350 and make a recommendation to the Legislature regarding the
351 exception requested.

352 (k) A school system collaborative innovation zone may
353 not request an exception nor may an exception be granted
354 from any of the following:

355 (A) A required statewide assessment program adminis-
356 tered by the West Virginia Department of Education;

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

360 (C) Sections two and seven, article two, chapter eighteen-
361 a of this code and sections seven-a, seven-b, eight and
362 eight-b, article four, chapter eighteen-a of this code, except
363 that a school system collaborative innovation zone may make
364 a job posting for a teacher vacancy in accordance with the
365 procedures and the approval by a vote of the teachers as
366 provided in section eight of this article.

367 (l) A county board designated as an school system
368 collaborative innovation zone pursuant to this section that
369 has an approved innovation zone plan may revise its plan
370 and resubmit its plan to the state board for approval after

371 conducting the vote pursuant to subdivision (4), subsection
372 (f) of this section and complying with all other applicable
373 plan requirements set forth in this section except for holding
374 the public town hall meetings required by subdivision (1),
375 subsection (f) of this section.

376 (m) The designation of a county school system as a school
377 system collaborative innovation zone shall be for a period of
378 five years. The state board, upon request of the school
379 system, may extend the designation for an additional two
380 years if the school system has outstanding items in its school
381 system collaborative innovation zone plan that it still wants
382 to pursue and only for the purpose of pursuing those out-
383 standing items. The expiration of the designation does not
384 negate any exceptions to statutes, policies, rules or interpre-
385 tations granted to the school system, unless and until
386 specifically revoked, repealed or modified by the state board
387 or by the Legislature, as applicable.

388 (n) The state board or its designated committee shall
389 perform annual performance reviews and provide annual
390 reports in accordance with section seven of this article.

391 (o) A county school system whose plan has been approved
392 may make a job posting for a teacher vacancy in accordance
393 with the procedures and approval provided by section eight
394 of this article.

395 (p) For any county that is designated as a school system
396 collaborative innovation zone under the provisions of this
397 section and to the extent the following provisions are
398 applicable:

399 (1) The county commission of the designated county shall
400 collaborate with the Office of Coalfield Community Develop-
401 ment in including any land and infrastructure needs in the
402 land use master plan provided for in section nine, article
403 two-a, chapter five-b of this code. These needs may include,
404 but are not limited to, advancement of public education,
405 economic development, highway development, recreational
406 amenities and housing development;

407 (2) An area health organization, such as Tug River Health
408 Association, Inc., is authorized to work with the county
409 board to address the health, wellness and fitness needs of
410 students, parents, school personnel and all others in the
411 county. Tug River Health Association may partner with the
412 Robert C. Byrd Center for Rural Health and the Marshall
413 University Medical School in addressing these needs. In
414 addressing the health, wellness and fitness needs, the
415 following should be considered:

416 (A) New evaluations of school-aged children are needed
417 to reassess their health status and direct further interven-
418 tions;

419 (B) Prior to developing new assessment tools and initiat-
420 ing programs, a comprehensive inventory of prior assessment
421 tools and programs is needed to determine their strengths
422 and weaknesses. This can direct further studies and inter-
423 ventions;

424 (C) New assessment tools should include objective
425 markers of disease as well as subjective opinions of individ-
426 ual health status and barriers to health;

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

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

432 (F) The effectiveness of interventions should be assessed
433 using the same health status markers used to develop the
434 intervention;

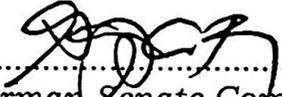
435 (G) Interventions should use available technology that
436 allows individuals to track measures of health and provide
437 assistance in making informed decisions about their health;

438 (H) Assessments and interventions should be developed
439 and implemented using community-based participatory
440 research models; and

441 (I) Assessments and interventions should be
442 multidisciplinary, collaborative efforts with existing organi-
443 zations and programs; and

444 (3) Area institutions of higher education, such as Concord
445 University and the June Harless Center at Marshall Univer-
446 sity, are authorized to work with the county board on
447 innovative strategies to address challenges facing the school
448 system and community, including but not limited to, the
449 areas of critical need and shortage in the teaching force,
450 educator professional development and improving the college
451 going rate. In addressing the areas of critical need shortage
452 in the teaching force, consideration should be given to the
453 implementation of an intensively supervised and mentored
454 teacher-in-residence program for prospective teachers
455 during their senior year in lieu of student teaching.

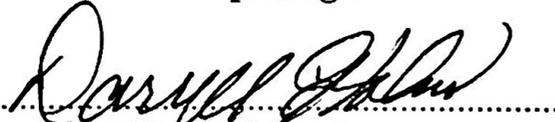
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.


.....
Chairman Senate Committee

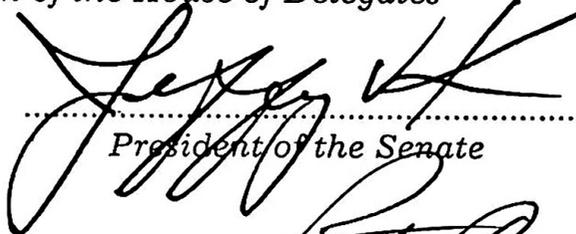

.....
Chairman House Committee

Originated in the Senate.

In effect from passage.


.....
Clerk of the Senate


.....
Clerk of the House of Delegates


.....
President of the Senate


.....
Speaker of the House of Delegates

The within *is approved* this the *2nd*
Day of *April*, 2012.


.....
Governor

PRESENTED TO THE GOVERNOR
PRESENTED TO THE GOVERNOR

MAR 9 2012

Time 8:40 AM
Time _____