

COMMITTEE SUBSTITUTE

FOR

## **Senate Bill No. 371**

(By Senators Kessler (Mr. President) and Hall,  
By Request of the Executive)

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

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

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

*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-3a, to read as follows:

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

**§18-5B-3a. County innovation zone pilot project; requirements to qualify; application for designation; required plans for county 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 finds that:

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

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

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

17 (4) McDowell County is unique and should be given the  
18 first opportunity to use innovative solutions to improve its  
19 education system when the totality of the following circum-  
20 stances are considered:

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

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

26 (C) The population of McDowell County has fallen from  
27 around one hundred twenty thousand in 1965 to twenty-two  
28 thousand today;

29 (D) McDowell County is the eighth poorest county in the  
30 United States;

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

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

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

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

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

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

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

48 (b) The state board is authorized to choose one county  
49 school system currently under a declared state of emergency  
50 by the state board due to nonapproval status to participate  
51 in a pilot program to test the effectiveness of allowing such  
52 county school systems to be considered county innovation  
53 zones. Due to the reasons set forth in subsection (a) of this  
54 section, the McDowell County Board of Education shall be  
55 provided the first opportunity to submit a county innovation  
56 zone application under this article. If the McDowell County  
57 Board of Education has not submitted an application by  
58 April 1, 2013, the state board may accept applications from  
59 other county boards. This section terminates on July 1, 2016,  
60 unless sooner terminated, continued or reestablished.

61 (c) The state board shall promulgate a rule, including an  
62 emergency rule if necessary, in accordance with article  
63 three-b, chapter twenty-nine-a of this code, to implement

64 this section. The rule shall include, but not be limited to, the  
65 following provisions:

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

68 (2) The contents of the application, which must include  
69 a general description of the innovations the county school  
70 district seeks to institute;

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

74 (A) Support from teachers, staff, parents, students, the  
75 county board of education, the local school improvement  
76 council and school business partners; and

77 (B) The potential for an applicant to be successful in  
78 raising student achievement as a county innovation zone;  
79 and

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

84 (d) The state board shall review county innovation zone  
85 applications in accordance with the standards adopted by

86 the board and shall determine whether to designate the  
87 applicant as a county innovation zone. The state board shall  
88 notify an applicant of the board's determination within  
89 thirty days of receipt of the application.

90 (e) Prior to designation by the state board as a county  
91 innovation zone, county school systems submitting applica-  
92 tions shall develop county innovation zone plans containing  
93 the following information:

94 (1) A description of the programs, policies or initiatives  
95 the county school system intends to implement as an innova-  
96 tive strategy to improve student achievement if the plan is  
97 approved by the state board;

98 (2) A description of the programs, policies and interpre-  
99 tations, and all statutes, if any, identified as prohibiting or  
100 constraining the implementation of the plan, including an  
101 explanation of the specific exceptions to the rules, policies  
102 and interpretations and statutes required for plan implemen-  
103 tation. A county school system may not request an exception  
104 nor may an exception be granted from any of the following:

105 (A) An assessment program administered by the West  
106 Virginia Department of Education;

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

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

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

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

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

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

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

124 (4) Allowing a collaborative process which provides  
125 input and demonstrative buy-in from education personnel  
126 regarding appropriate professional development, supports,  
127 resources and working conditions.



128 (5) Allowing a collaborative site-based process to reduce  
129 certain requirements to allow staff to meet the school's  
130 mission;

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

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

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

142 (g) Prior to submitting a county innovation zone plan to  
143 the state board:

144 (1) The county superintendent shall hold a meeting for  
145 the purpose of developing the innovation zone plan. The  
146 meeting shall include the principals employed within the  
147 county, employee organization representatives, parents and  
148 other stakeholders;

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

152 (3) The county superintendent shall conduct a vote to  
153 determine the level of school employee support for the  
154 innovation zone plan. The county superintendent shall  
155 require all building level administrators to distribute ballots  
156 to all regularly employed school employees employed in their  
157 building. The building level administrators shall ensure that  
158 all the employees are allowed at least three days to return  
159 their ballot. The innovation zone plan may not be submitted  
160 to the state board for approval and the state board may not  
161 approve the innovation zone plan unless two thirds of the  
162 school employees voting vote to approve the innovation zone  
163 plan; and

164 (4) Prior to submitting a county innovation zone plan to  
165 the state board, the applying county school system shall hold  
166 a public meeting in the county seat of the county school  
167 system for purposes of presenting the plan to, and obtaining  
168 feedback from, teachers, staff, parents, students, the county  
169 board, the local school improvement council, school business  
170 partners and other interested parties. The applying county

171 school system shall include a detailed, inclusive report of the  
172 feedback obtained at the public meeting as an appendix to  
173 its plan.

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

178 (i) Except as provided in subsection (k) of this section,  
179 the state board shall approve or disapprove the plan within  
180 thirty days of receipt, subject to the following:

181 (1) No exceptions to county or state board rules, policies  
182 or interpretations are granted unless the state board ap-  
183 proves the plan at least conditionally pursuant to subsections  
184 (j) and (k) of this section; and

185 (2) If the plan is disapproved, the state board shall  
186 communicate the reasons for the disapproval to the county  
187 school system and shall make recommendations for approv-  
188 ing the plan. The county school system may amend the plan  
189 for resubmission.

190 (j) Upon approval of the county innovation zone plan by  
191 the state board, all exceptions to county and state board

192 rules, policies and interpretations listed in the plan are  
193 granted.

194 (k) If a county innovation zone plan, or a part thereof,  
195 may not be implemented unless an exception to a statute is  
196 granted by an Act of the Legislature, the state board may  
197 approve the plan, or the part thereof, only upon the condition  
198 that the Legislature acts to grant the exception. If the state  
199 board approves a plan on that condition, the state board  
200 shall submit the plan with the request for an exception to a  
201 statute, along with supporting reasons, to the Legislative  
202 Oversight Commission on Education Accountability. The  
203 commission shall review the plan and exemption request and  
204 make a recommendation to the Legislature regarding the  
205 exemption requested.

206 (l) A county board designated as an innovation zone  
207 pursuant to this section that has an approved innovation  
208 zone plan may revise its plan and resubmit its plan to the  
209 state board for approval after conducting the vote pursuant  
210 to subdivision (3), subsection (g) of this section and comply-  
211 ing with all other applicable plan requirements set forth in  
212 this section except for holding the public meeting required  
213 by subdivision (4), subsection (g) of this section.

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

217 (n) A county school system whose plan has been ap-  
218 proved may make a job posting for a teacher vacancy in  
219 accordance with the procedures and approval provided by  
220 section eight of this article.

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

224 (1) The county commission of the designated county shall  
225 collaborate with the Office of Coalfield Community Develop-  
226 ment in including any land and infrastructure needs in the  
227 land use master plan provided for in section nine, article  
228 two-a, chapter five-b of this code. These needs may include,  
229 but are not limited to, advancement of public education,  
230 economic development, highway development, recreational  
231 amenities and housing development; and

232 (2) Tug River Health Association, Inc. is authorized to  
233 work with the county board to address the health, wellness  
234 and fitness needs of students, parents, school personnel and

235 all others in the county. Tug River Health Association may  
236 partner with the Robert C. Byrd Center for Rural Health and  
237 the Marshall University Medical School in addressing these  
238 needs. In addressing the health, wellness and fitness needs,  
239 the following should be considered:

240 (A) New evaluations of school-aged children are needed  
241 to reassess their health status and direct further interven-  
242 tions;

243 (B) Prior to developing new assessment tools and initiat-  
244 ing programs, a comprehensive inventory of prior assessment  
245 tools and programs is needed to determine their strengths  
246 and weaknesses. This can direct further studies and inter-  
247 ventions;

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

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

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

256 (F) The effectiveness of interventions should be assessed  
257 using the same health status markers used to develop the  
258 intervention;

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

262 (H) Assessments and interventions should be developed  
263 and implemented using community-based participatory  
264 research models; and

265 (I) Assessments and interventions should be multi-  
266 disciplinary, collaborative efforts with existing organizations  
267 and programs.