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STATE OF TENNESSEE

PUBLIC CHAPTER NO. 1

FIRST EXTRAORDINARY SESSION

HOUSE BILL NO. 4

By Representatives Lamberth, Gant, White, Moody, Cepicky, Haston, Ragan, Littleton, Bricken, Helton, Rudder, Williams, Boyd, Terry, Garrett, Gillespie, Eldridge, Faison, Sherrell, Smith, Hall, Zachary, Kumar, Sparks

Substituted for: Senate Bill No. 2

By Senators Johnson, Kelsey, Haile, Powers, Reeves, Rose

AN ACT to amend Tennessee Code Annotated, Title 49, Chapter 6, relative to the Tennessee Learning Loss Remediation and Student Acceleration Act.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 49, Chapter 6, is amended by adding the following as a new part:

49-6-1501. Short title. This part is known and may be cited as the "Tennessee Learning Loss Remediation and Student Acceleration Act."

49-6-1502. Definitions. As used in this part, unless the context otherwise requires:

(1) "After-school learning mini-camp" means an after-school educational program, as part of the learning loss remediation and student acceleration program, that is designed to remediate student learning loss and support student academic needs using an educational approach to learning that uses science, technology, reading, engineering, the arts, and mathematics (STREAM) as access points for guiding student inquiry, dialogue, and critical thinking. An after-school learning mini-camp must provide, at a minimum, the following:

(A) One (1) hour of in-person educational instruction provided at least four (4) days per week by a licensed teacher. If a licensed teacher is not available to provide the instruction, then the instruction may be provided by a Tennessee accelerating literacy and learning corps member. The educational instruction must be designed to engage students in STREAM instruction, activities, and learning;

(B) At least one (1) snack per student per day;

(C) Stipends to teachers, tutors, and staff providing educational services to students in the after-school learning mini-camp; and

(D) A state-adopted benchmark assessment administered:

(i) To students in person as a pre-test at the beginning of the after-school learning mini-camp each school year; and

(ii) To students in person as a post-test at the end of the after-school learning mini-camp each school year, the results of which must be submitted to the department;

(2) "Department" means the department of education;

(3) "Learning loss" means the loss of academic knowledge or skills previously acquired or a pause in academic advancement, most commonly due to extended time away from school or in-person instruction;

(4) "Learning loss bridge camp" means a four-week educational program conducted each year before the beginning of the school year, as part of the learning loss remediation and student acceleration program, that is designed to support student academic needs and remediate student learning loss. A learning loss bridge camp must provide, at a minimum, the following:

(A) Four (4) combined hours of in-person daily instruction, intervention, and supplemental supports in reading and math, provided five (5) days per week. Each LEA or participating public charter school conducting a learning loss bridge camp shall determine the number of minutes of instruction, intervention, and supplement supports per subject; provided, that all students must receive at least one (1) hour of instruction in reading and one (1) hour of instruction in math per day. Instruction, intervention, and supplemental supports in reading and math must be provided by a teacher licensed and endorsed to teach the subjects and grades served, using instructional materials adopted by the state board of education or provided by the department. If a teacher licensed and endorsed to teach the subjects and grades served is not available to provide the instruction, intervention, and supplemental supports, then the instruction, intervention, and supplemental supports may be provided by a candidate enrolled in an educator preparation program, or a person with a college degree who has successfully completed a learning loss and remediation and student acceleration program preparation course, using instructional materials adopted by the state board of education or provided by the department;

(B) One (1) hour of response to instruction and intervention (RTI²) services per day, provided in person five (5) days per week pursuant to Tennessee's response to instruction and intervention framework manual;

(C) One (1) hour of physical activity per day, provided five (5) days per week;

(D) Lunch and at least one (1) snack or breakfast per day, provided to each student five (5) days per week;

(E) Stipends to teachers, tutors, and staff providing educational services to students in the learning loss bridge camp; and

(F) A state-adopted benchmark assessment administered:

(i) To students in person as a pre-test at the beginning of the learning loss bridge camp each year; and

(ii) To students in person as a post-test at the end of the learning loss bridge camp each year, the results of which must be submitted to the department;

(5) "Learning loss remediation and student acceleration program" means a program established and administered by the department to aid LEAs and public charter schools in remediating learning loss by facilitating the provision of educational services to students in person outside of the regular school day, including through after-school learning mini-camps, learning loss bridge camps, and summer learning camps;

(6) "Priority student" means:

(A) For purposes of an after-school learning mini-camp:

(i) A student who completed third or fourth grade in the immediately preceding school year and scored below proficient in math or English language arts on the student's most recent Tennessee comprehensive assessment program (TCAP) test;

(ii) A student who completed kindergarten, first, or second grade in the immediately preceding school year and attends a school in which fewer than fifty percent (50%) of the students in grades three through five (3-5) scored proficient in math or English language arts on the most recently administered TCAP test;

(iii) A student who completed kindergarten, first, second, third, or fourth grade in the immediately preceding school year and is eligible for temporary assistance for needy families (TANF); or

(iv) A student who completed kindergarten, first, second, or third grade in the immediately preceding school year and scored below proficient in math or English language arts on the student's most recent state-adopted benchmark assessment, Tennessee universal math screener, Tennessee universal reading screener, universal reading screener, or, for after-school learning mini-camps conducted in the 2021-2022 school year, response to instruction and intervention (RTI²) screener;

(B) For purposes of a learning loss bridge camp:

(i) A student who will be entering the sixth, seventh, or eighth grade in the 2021-2022 or 2022-2023 school year who scored below proficient in math or English language arts on the student's most recent TCAP test or state-adopted benchmark assessment; or

(ii) A student who will be entering the fourth, fifth, sixth, seventh, or eighth grade in the 2023-2024 school year, or in a subsequent school year, who scored below proficient in math or English language arts on the student's most recent TCAP test or state-adopted benchmark assessment; and

(C) For purposes of a summer learning camp, a student who:

(i) Completed third or fourth grade in the immediately preceding school year and scored below proficient in math or English language arts on the student's most recent TCAP test;

(ii) Completed kindergarten, first, or second grade in the immediately preceding school year and attends a public school or public charter school in which fewer than fifty percent (50%) of students in grades three through five (3-5) scored proficient in math or English language arts on the most recently administered TCAP test;

(iii) Completed kindergarten, first, second, third, or fourth grade in the immediately preceding school year and is eligible for temporary assistance for needy families (TANF); or

(iv) Completed kindergarten, first, second, or third grade in the immediately preceding school year and scored below proficient in math or English language arts on the student's most recent state-adopted benchmark assessment, Tennessee universal math screener, Tennessee universal reading screener, universal reading screener, or, for summer learning camps conducted in the summer immediately following the 2020-2021 school year, response to instruction and intervention (RTI²) screener;

(7) "State-adopted benchmark assessment" means an assessment created under the innovative benchmark assessment pilot program established under § 49-6-1508;

(8) "Stipend" means:

(A) The compensation provided to teachers for providing educational services to students in:

(i) After-school learning mini-camps, learning loss bridge camps, or summer learning camps based on factors such as the teacher's level of overall effectiveness score or other performance data; ability to support student populations with unique needs; or license or endorsement to teach a hard-to staff-subject area; and

(ii) Learning loss bridge camps or summer learning camps based on a differentiated stipend plan developed by the department that provides teachers with at least one thousand dollars ($1,000) per week in compensation, but no more than twenty-five percent (25%) above the weekly compensation rate of the highest salary step for teachers in the LEA's salary schedule; and

(i) Factors such as the teacher's level of overall effectiveness score or other performance data; ability to support student populations with unique needs; or license or endorsement to teach a hard-to staff-subject area; and

(ii) A differentiated stipend plan developed by the department that provides teachers with at least one thousand dollars ($1,000) per week in compensation, but no more than twenty-five percent (25%) above the weekly compensation rate of the highest salary step for teachers in the LEA's salary schedule; and

(B) The compensation provided to tutors and staff for providing educational services to students in after-school learning mini-camps, learning loss bridge camps, and summer learning camps, as determined by the respective local board of education or governing body of a participating public charter school;

(9) "Summer learning camp" means a six-week summer educational program, as part of the learning loss remediation and student acceleration program, that is designed to support student academic needs and remediate student learning loss. A summer learning camp must provide, at a minimum, the following:

(A) Four (4) combined hours of in-person daily instruction, intervention, and supplemental supports in reading and math, provided five (5) days per week. Each LEA or participating public charter school conducting a summer learning camp shall determine the number of minutes of instruction, intervention, and supplement supports per subject; provided, that all students must receive at least one (1) hour of instruction in reading and one (1) hour of instruction in math per day. Instruction, intervention, and supplemental supports in reading and math must be provided by a teacher licensed and endorsed to teach the subjects and grades served, using instructional materials adopted by the state board of education or provided by the department. If a teacher licensed and endorsed to teach the subjects and grades served is not available to provide the instruction, intervention, and supplemental supports, then the instruction, intervention, and supplemental supports may be provided by a candidate enrolled in an educator preparation program, or a person with a college degree who has successfully completed a learning loss and remediation and student acceleration program preparation course, using instructional materials adopted by the state board of education or provided by the department;

(B) One (1) hour of RTI² services per day, provided in person five (5) days per week pursuant to Tennessee's response to instruction and intervention framework manual;

(C) One (1) hour of physical activity per day, provided five (5) days per week;

(D) Lunch and at least one (1) snack or breakfast per day, provided to each student five (5) days per week;

(E) Stipends to teachers, tutors, and staff providing educational services to students in the summer learning camp; and

(F) A state-adopted benchmark assessment administered:

(i) To students in person as a pre-test at the beginning of the summer learning camp each year; and

(ii) To students in person as a post-test at the end of the summer learning camp each year, the results of which must be submitted to the department;

(10) "Tennessee universal math screener" means the uniform tool that screens and monitors a student's progress toward proficiency in math that is provided to LEAs and public charter schools by the department as part of the innovative benchmark assessment pilot program;

(11) "Tennessee universal reading screener" means the universal reading screener that is provided to LEAs and public charter schools by the department as part of the innovative benchmark assessment pilot program; and

(12) "Universal reading screener" means a uniform tool that screens and monitors a student's progress towards phonemic awareness, phonics, fluency, vocabulary, and comprehension.

49-6-1503. The learning loss remediation and student acceleration program.

(a) The department shall establish and administer a learning loss remediation and student acceleration program by:

(1) Determining program requirements and a procedure for allocating funding to each LEA and participating public charter school for conducting after-school learning mini-camps and summer learning camps. LEAs and participating public charter schools are only required to conduct summer learning camps and after-school learning mini-campsin the summers immediately following the 2020-2021 and 2021-2022 school years;

(2) Determining program requirements and a procedure for allocating funding to each LEA and participating public charter school for conducting learning loss bridge camps, which must be conducted annually beginning in the summer of 2021;

(3) Providing training, technical assistance, and guidance to LEAs and participating public charter schools conducting after-school learning mini-camps, learning loss bridge camps, and summer learning camps;

(4) Implementing a learning loss remediation and student acceleration program preparation course to train and certify individuals who do not possess a teaching license to provide educational instruction as part of after-school learning mini-camps, learning loss bridge camps, and summer learning camps;

(5) Implementing a two-week summer professional development program on reading instruction for educators teaching English language arts or reading at no cost to LEAs or public charter schools; and

(6) Establishing a process for LEAs or participating public charter schools to apply to the commissioner of education for a waiver of the one (1) or more of the minimum requirements outlined in § 49-6-1502(1)(A), (4)(A)-(C), and (9)(A)-(C) related to the hours, weeks, and days of in-person instruction, intervention, supplemental supports, and physical activity mandated for after-school learning mini-camps, learning loss bridge camps, and summer learning camps.

(b)

(1) Each LEA shall participate in the learning loss remediation and student acceleration program by:

(A) Implementing and conducting after-school learning mini-camps and summer learning camps for students, including students enrolled in a public charter school located within the geographic boundaries of the LEA. LEAs are only required to conduct summer learning camps in the summers immediately following the 2020-2021 and 2021-2022 school years;

(B) Implementing and conducting learning loss bridge camps for students, including students enrolled in a public charter school located within the geographic boundaries of the LEA, annually beginning in the summer of 2021; and

(C) Subject to available funding, providing all priority students, including priority students enrolled in a public charter school located within the geographic boundaries of the LEA, the opportunity to enroll in an after-school learning mini-camp, learning loss bridge camp, or summer learning camp, and, subject to the availability of additional seats after an LEA conducts the initial enrollment period for priority students pursuant to § 49-6-1504(b), providing students, including students enrolled in a public charter school located within the geographic boundaries of the LEA, who are not priority students with the opportunity to enroll in an after-school learning mini-camp, learning loss bridge camp, or summer learning camp.

(2) Notwithstanding subdivisions (b)(1)(A) and (B), two (2) or more LEAs, public charter schools, or a combination of both may jointly establish an after-school learning mini-camp, learning loss bridge camp, or summer learning camp that may be attended by students enrolled in the respective LEA or public charter school, subject to the requirements of subdivision (b)(1)(C).

(3) An LEA or public charter school may send students to an after-school learning mini-camp, learning loss bridge camp, or summer learning camp located in the LEA or conducted by the participating public charter school, or that is located in another LEA or conducted by another participating public charter school, subject to the requirements of subdivision (b)(1)(C).

(4) Public charter schools may conduct after-school learning mini-camps, learning loss bridge camps, and summer learning camps for the public charter school's students, rather than enrolling the public charter school's students in the camps conducted by the LEA within the boundaries of which the public charter school is located. If a public charter school conducts after-school learning mini-camps, learning loss bridge camps, or summer learning camps, then the public charter school must do so in compliance with this part.

(c)

(1) Funding for after-school learning mini-camps, learning loss bridge camps, and summer learning camps may be used to:

(A) Develop and implement detailed instructional programming plans for after-school learning mini-camps, learning loss bridge camps, and summer learning camps using instructional materials adopted by the state board of education;

(B) Provide instructional and supervisory staff for after-school learning mini-camps, learning loss bridge camps, and summer learning camps;

(C) Establish and implement staffing plans that enable educators teaching English language arts or reading in after-school learning mini-camps, learning loss bridge camps, or summer learning camps to participate in the summer professional development program on reading instruction pursuant to subdivision (a)(5);

(D) Provide transportation for students attending after-school learning mini-camps, learning loss bridge camps, or summer learning camps;

(E) Provide meals, snacks, or breakfast for students attending after-school learning mini-camps, learning loss bridge camps, and summer learning camps;

(F) Provide facilities for conducting after-school learning mini-camps, learning loss bridge camps, and summer learning camps;

(G) Provide staff to administer the state-adopted benchmark assessments to satisfy the pre-test and post-test requirements of after-school learning mini-camps, learning loss bridge camps, and summer learning camps; and

(H) Provide stipends to teachers, tutors, and staff providing educational services to students in the after-school learning mini-camps, learning loss bridge camps, and summer learning camps.

(2) Funding for after-school learning mini-camps, learning loss bridge camps, and summer learning camps must supplement, but shall not supplant, existing funding for other educational programs conducted by the LEA or public charter school outside of the regular school day.

(d) Each LEA's local board of education and each governing body of a participating public charter school shall ensure that the after-school learning mini-camps, learning loss bridge camps, and summer learning camps funded pursuant to this part operate in compliance with the same safety policies and procedures required of the LEA's and public charter school's regular school programs, as applicable, and ensure that each of the after-school learning mini-camps, learning loss bridge camps, and summer learning camps established under this part are subject to, and comply with:

(1) The criminal history records checks required pursuant to § 49-5-413;

(2) The maximum class size requirements under § 49-1-104; and

(3) Inspections and investigations by department representatives and representatives from other local and state authorities, including, but not limited to the state fire marshal, state and local health departments, law enforcement, and the department of children's services, during operating hours.

49-6-1504. Eligibility for programs.

(a)

(1) Priority students may participate in an after-school learning mini-camp, learning loss bridge camp, or summer learning camp. Priority students are not required to participate in an after-school learning mini-camp, learning loss bridge camp, or summer learning camp unless the local board of education or the governing body of a participating public charter school adopts a policy requiring priority students to participate.

(2) Each LEA and public charter school shall conduct an initial enrollment period of at least thirty (30) days during which time the parent or guardian of a priority student may enroll the parent's or guardian's student in an after-school learning mini-camp, learning loss bridge camp, or summer learning camp.

(b) If additional seats are available in an after-school learning mini-camp, learning loss bridge camp, or summer learning camp at the end of the LEA's or public charter school's initial enrollment period, then students who are not priority students may enroll in the LEA's or participating public charter school's after-school learning mini-camp, learning loss bridge camp, or summer learning camp appropriate for that student's grade level, but only if permitted sources of funding are used to fund the enrollment of such students.

49-6-1505. Public or non-profit community partnerships.

Upon approval by the department, LEAs and public charter schools may collaborate with public or non-profit community partners to implement and conduct after-school learning mini-camps, learning loss bridge camps, and summer learning camps.

49-6-1506. Funding.

The learning loss remediation and student acceleration program must be funded from the temporary assistance for needy families (TANF) program, the LEAP grant fund established by § 49-6-701, and any other funds appropriated by the general assembly.

49-6-1507. Tennessee accelerating literacy and learning corps.

(a) The Tennessee accelerating literacy and learning corps (TALLC) is established to develop and support a statewide network of high-quality tutors to assist LEAs, public charter schools, community partners, and parents in accelerating student learning and remediating student learning loss. The department shall administer the TALLC by developing:

(1) A statewide initiative to recruit high-quality tutors to become certified TALLC members;

(2) A program to provide initial training, certification, and ongoing professional development for TALLC members. The initial training and ongoing professional development for TALLC members developed by the department pursuant to this subdivision (a)(2) must include online training options; and

(3) Content that may be used by TALLC members when providing tutoring services to students.

(b) Subject to available funding, the department may provide TALLC grants to LEAs and public charter schools to increase the number of TALLC members that are available in a community to provide high-quality tutoring services to students.

49-6-1508. Innovative benchmark assessment pilot program. (a) The department shall establish, fund, and implement an innovative benchmark assessment pilot program to provide the Tennessee universal math screener, the Tennessee universal reading screener, and a series of state-adopted benchmark assessments to LEAs and public charter schools to allow teachers to more frequently measure student learning and address student learning loss. The results of the pilot program may be used to determine alternative ways to utilize real-time data to measure student proficiency and to inform instructional practices.

(b) LEAs and public charter schools may use the state-adopted benchmark assessments, the Tennessee universal math screener, the Tennessee universal reading screener, or a universal reading screener approved by the state board of education to measure the academic proficiency of students and to identify priority students for after-school learning mini-camps, learning loss bridge camps, and summer learning camps.

(c) The state-adopted benchmark assessments established under this pilot program must be administered as the pre-tests and post-tests required as part of after-school learning mini-camps, learning loss bridge camps, or summer learning camps.

(d) Beginning with the 2021-2022 school year, LEAs and public charter schools may authorize teachers in the non-tested grades pre-kindergarten through two (pre-K-2) to use the results of the Tennessee universal math screener, the Tennessee universal reading screener, or a universal reading screener approved by the state board of education, as described in subsection (b), as an alternative growth model for purposes of §§ 49-1-302(d)(2)(B)(ix) and 49-6-105(e) to generate individual growth scores for teachers pursuant to the evaluation guidelines developed by the department. The department shall not base the Tennessee universal math screener, the Tennessee universal reading screener, or a universal reading screener approved by the state board of education used to evaluate teachers pursuant to this subsection (d) on the pre-k/kindergarten portfolio growth model.

49-6-1509. Progress report.

(a) By September 1, 2021, and each September 1 thereafter, LEAs and participating public charter schools shall submit the results of all pre-tests and post-tests administered to the LEA's or participating public charter school's students as part of the after-school learning mini-camps, learning loss bridge camps, and summer learning camps to the department.

(b)

(1) The department shall develop a Tennessee Learning Loss Remediation and Student Acceleration Act progress report to provide information about the effectiveness of the learning loss remediation and student acceleration program to the governor and the general assembly.

(2) The progress report must include:

(A) A statewide summary and interpretation of the information provided by LEAs and public charter schools pursuant to subsection (a);

(B) A landscape analysis and summary of data indicating how the level of overall effectiveness score attained by a licensed teacher on the teacher's most-recent annual evaluation who is providing educational services to students in an after-school learning mini-camp, learning loss bridge camp, or summer learning camp affects the academic performance outcomes of students enrolled in the after-school learning mini-camp, learning loss bridge camp, or summer learning camp. The data reported pursuant to this subdivision (b)(2)(B) must be disaggregated by subject, grade level, and by the type of camp in which the teacher's services were provided; and

(C) Information identifying LEAs and public charter schools unable to adequately staff or conduct an after-school learning mini-camp, learning loss bridge camp, or summer learning camp in compliance with this part due to a natural disaster, the outbreak of a contagious illness, teacher shortages in a grade level or subject required for the respective camp, or other justifiable cause. The information provided pursuant to this subdivision (b)(2)(C) must describe the reason for why the LEA or public charter school was unable to adequately staff or conduct an after-school learning mini-camp, learning loss bridge camp, or summer learning camp in compliance with this part, disaggregated by subject, grade level, and by the type of camp that the LEA or public charter school was unable to adequately staff or conduct.

(3) The report must be submitted to the governor, the speaker of the senate, the speaker of the house of representatives, and the chairs of the education committees of the senate and house of representatives by November 1, 2021, and by each November 1 thereafter.

(c) The results of pre-tests and post-tests submitted to the department shall not be used to assign accountability determinations for any school or district.

49-6-1510. Procurement.

The department shall procure any good or service selected or approved by the department to effectuate this part competitively and in compliance with all state laws and administrative rules regarding the procurement of goods and services by state agencies, including §§ 12-3-101 – 12-3-104. The department shall submit all contracts for the procurement of any good or service selected or approved by the department to effectuate this part to the fiscal review committee of the general assembly for review according to the timelines and requirements established in § 4-56-107(b)(5)(A).

49-6-1511. Emergency rules.

(a) Notwithstanding §§ 4-5-208(a) and 49-6-6006, the state board of education shall promulgate emergency rules to amend the board's rules on the issuance of temporary permits pursuant to § 49-5-106, and the issuance of temporary endorsement exemptions pursuant to § 49-6-6006, to authorize the issuance of permits and endorsement exemptions for individuals to teach subjects for which a

Tennessee comprehensive assessment program (TCAP) end-of-course assessment is administered to alleviate teacher shortages that contribute to student learning loss.

(b) The temporary permits and endorsement exemptions authorized by the state board's emergency rules promulgated pursuant to this section expire upon the expiration of the emergency rules, as provided in § 4-5-208.

(c) The emergency rules promulgated by the state board pursuant to this section must comply with the Individuals with Disabilities Education Act (20 U.S.C. § 1400 et seq.) and the Every Student Succeeds Act (20 U.S.C. § 6301 et seq.).

SECTION 2. Tennessee Code Annotated, Section 49-6-3115, is amended by deleting the section and substituting instead the following:

(a)

(1) Beginning with the 2022-2023 school year, a student in the third grade shall not be promoted to the next grade level unless the student is determined to be proficient in English language arts (ELA) based on the student's achieving a performance level rating of "on track" or "mastered" on the ELA portion of the student's most recent Tennessee comprehensive assessment program (TCAP) test.

(2) Notwithstanding subdivision (a)(1):

(A) A student who is not proficient in ELA, as determined by the student's achieving a performance level rating of "approaching" on the ELA portion of the student's most recent TCAP test may be promoted if:

(i) The student is an English language learner and has received less than two (2) years of ELA instruction;

(ii) The student was previously retained in any of the grades kindergarten through three (K-3);

(iii) The student is retested before the beginning the next school year and scores proficient in ELA;

(iv) The student attends a learning loss bridge camp before the beginning of the upcoming school year, maintains a ninety percent (90%) attendance rate at the camp, and the student's performance on the post-test administered to the student at the end of the learning loss bridge camp, as required under § 49-6-1502(4)(F), demonstrates adequate growth, as determined by the department; or

(v) The student is assigned a tutor through the Tennessee accelerating literacy and learning corps (TALLC) to provide the student with tutoring services for the entirety of the upcoming school year based on tutoring requirements established by the department; and

(B) A student who is not proficient in ELA, as determined by the student's achieving a performance level rating of "below" on the ELA portion of the student's most recent TCAP test may be promoted if:

(i) The student is an English language learner and has received less than two (2) years of ELA instruction;

(ii) The student was previously retained in any of the grades kindergarten through three (K-3);

(iii) The student retested before the beginning the next school year and scores proficient in ELA; or

(iv) The student attends a learning loss bridge camp before the beginning of the upcoming school year and maintains a ninety percent (90%) attendance rate at the camp, and is assigned a tutor through the TALLC to provide the student with tutoring services for the entirety of the upcoming school year based on tutoring requirements established by the department.

(3)

(A) A student who is promoted to the fourth grade pursuant to subdivision (a)(2)(A)(v) or (a)(2)(B)(iv), must show adequate growth on the fourth grade ELA portion of the TCAP test, as determined by the department, before the student may be promoted to the fifth grade.

(B) Notwithstanding subdivision (a)(3)(A), a student shall not be retained in the fourth grade more than once.

(b) Subject to available funding, and to the extent authorized by federal law, LEAs and public charter schools may use temporary assistance for needy families (TANF) program funds to cover up to fifty percent (50%) of the costs associated with providing tutoring services for students pursuant to subdivision (a)(2)(B)(iv).

(c)

(1) Subsection (a) does not supersede an LEA's or public charter school's obligation to comply with the Individuals with Disabilities Education Act (20 U.S.C. § 1400 et seq.) or Section 504 of the Rehabilitation Act (29 U.S.C. § 794).

(2) LEAs and public charter schools shall not retain a student based on the student's disability or suspected disability.

(d) The state board of education shall promulgate rules to establish an appeal process, to be administered by the department, for a student who is identified for retention in third grade pursuant to subdivision (a)(1) based on the student's achieving a performance level rating of "approaching" on the ELA portion of the student's most recent TCAP test. The rules must be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

SECTION 3. The headings to sections in this act are for reference purposes only and do not constitute a part of the law enacted by this act. However, the Tennessee Code Commission is requested to include the headings in any compilation or publication containing this act.

SECTION 4. The state board of education is authorized to promulgate rules, including emergency rules, to effectuate this part. The rules must be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

SECTION 5. Sections 1, 3, and 4 of this act take effect upon becoming a law, the public welfare requiring it. Section 2 of this act takes effect July 1, 2022, the public welfare requiring it.

PASSED: January 22, 2021

APPROVED this 3rd day of February 2021

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