State of Tennessee

PUBLIC CHAPTER NO. 652

HOUSE BILL NO. 2818

By Representatives Lamberth, Gant, White, Hicks, Hazlewood, Moody, Cochran, Byrd, DeBerry, Dunn, Love, Zachary, Cepicky, Ragan, Griffey, Lafferty, Matthew Hill, Curtis Johnson, Halford, Marsh, Todd, Moon, Keisling, Reedy, Van Huss, Howell, Smith, Freeman, Wright, Gloria Johnson, Thompson, Williams, Weaver, Grills, Rudder, Tillis, Holt, Eldridge, Doggett, Calfee, Beck, Potts, Leatherwood, Littleton, Carter, Farmer, Bricken, Baum, Helton, Sherrell, Clemmons, Hall, Hurt, Hakeem, Miller, Parkinson, Windle, Jerry Sexton, Hawk, Kumar, Vaughan, Travis, Mitchell, Timothy Hill, Rudd, Holsclaw, Hulsey, Dixie, Hodges, Boyd, Haston, Hardaway, Daniel, Crawford, Ogles, Powell, Lamar, Chism, Sparks, Curcio, Faison, Mr. Speaker Sexton, Ramsey, Russell, Lynn, Powers, Terry

Substituted for: Senate Bill No. 2672

By Senators Johnson, Pody, Crowe, Bell, Dickerson, Gresham, Hensley, Kelsey, Massey, Rose, Stevens, Watson, White

AN ACT to amend Tennessee Code Annotated, Title 49, relative to education.

WHEREAS, on Tuesday, March 3, 2020, severe weather, including tornadoes and straight-line winds, ravaged Middle Tennessee, resulting in multiple fatalities and the destruction of homes, businesses, and schools; and

WHEREAS, two public schools in Wilson County, Stoner Creek Elementary School and West Wilson Middle School, were damaged beyond repair as a result of the severe weather, and three public schools in Davidson County, Robert Churchwell Museum Magnet Elementary School, Meigs Academic Magnet Middle School, and Lockeland Design Center Elementary were damaged as a result of the severe weather, with severe damage being sustained to Robert Churchwell Museum Magnet Elementary School and Meigs Academic Magnet Middle School; and

WHEREAS, on March 4, 2020, Governor Bill Lee issued Executive Order No. 13, declaring a state of disaster and state of emergency in Tennessee to provide relief to victims of the severe weather and tornadoes; and

WHEREAS, on March 12, 2020, Governor Bill Lee issued Executive Order No. 14, declaring a state of emergency in Tennessee to facilitate the treatment and containment of COVID-19, an infectious disease that threatens the health and safety of students and staff; and

WHEREAS, on March 16, 2020, Governor Bill Lee urged every school district in Tennessee to close as soon as practicable and to remain closed through March 31, 2020, to further mitigate the spread of COVID-19; and

WHEREAS, the health and safety risks to Tennesseans from COVID-19 are not yet fully understood and may necessitate school closures beyond March 31, 2020; and

WHEREAS, the General Assembly seeks to ensure that school districts, schools, teachers, and students are held harmless from testing requirements and accountability measures to provide some relief to Tennesseans during these difficult and uncertain times; now, therefore,

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

SECTION 1. Tennessee Code Annotated, Title 49, Chapter 6, Part 60, is amended by adding the following as a new section:

Tennessee comprehensive assessment program (TCAP) tests, which include, but are not limited to, TNReady assessments, English learner assessments, alternate TCAP assessments, and end-of-course examinations, shall not be required in the spring

of the 2019-2020 school year. This section does not prohibit an LEA or school from voluntarily administering TCAP tests to students in the 2019-2020 school year.

SECTION 2. Tennessee Code Annotated, Section 49-1-302(d)(2), is amended by adding the following as new subdivisions:

(F) Notwithstanding subdivisions (d)(2)(B)(ii) and (iii), for the 2019-2020, 2020-2021, and 2021-2022 school years, student growth evaluation composites generated by assessments administered in the 2019-2020 school year shall be excluded from the student growth measure of a teacher's evaluation, as specified in subdivision (d)(2)(B)(ii), unless including the composites results in a higher evaluation score for the teacher.

(G) Notwithstanding subdivision (d)(2)(B)(ix), the state shall not require teachers in non-tested grades and subjects to be evaluated using an alternative growth model for the 2019-2020 school year. This subdivision (d)(2)(G) does not prohibit an LEA from evaluating teachers in non-tested grades and subjects using an alternative growth model for the 2019-2020 school year. If an LEA chooses to evaluate its teachers in non-tested grades and subjects using an alternative growth model for the 2019-2020 school year, then a teacher's evaluation score using the alternative growth model shall only be used to evaluate the teacher if such use results in a higher evaluation score for the teacher.

SECTION 3. Tennessee Code Annotated, Section 49-6-105, is amended by adding the following as a new subsection:

(h)

(1) Notwithstanding subsection (e) or § 49-1-302(d)(2)(B)(ix), the state shall not require pre-kindergarten and kindergarten teachers employed in an LEA that receives pre-kindergarten program approval under §§ 49-6-103 - 49-6-110 to be evaluated using the pre-k/kindergarten growth portfolio model approved by the state board of education, or a comparable alternative measure of student growth approved by the state board of education and adopted by the LEA, for the 2019-2020 school year.

(2) This subsection (h) does not prohibit an LEA from evaluating pre-kindergarten and kindergarten teachers using the pre-k/kindergarten growth portfolio model approved by the state board of education, or a comparable alternative measure of student growth approved by the state board of education and adopted by the LEA, for the 2019-2020 school year.

(3) If an LEA chooses to evaluate its pre-kindergarten and kindergarten teachers, for the 2019-2020 school year, using the pre-k/kindergarten growth portfolio model approved by the state board of education, or a comparable alternative measure of student growth approved by the state board of education and adopted by the LEA, then a teacher's evaluation score using the pre-k/kindergarten growth portfolio model approved by the state board of education, or a comparable alternative measure of student growth approved by the state board of education and adopted by the LEA, shall only be used to evaluate the teacher if such use results in a higher evaluation score for the teacher.

SECTION 4. Tennessee Code Annotated, Section 49-1-617, is amended by adding the following as a new subsection:

(d) Notwithstanding subsection (a), scores on Tennessee comprehensive assessment program (TCAP) tests, which include, but are not limited to, TNReady assessments, English learner assessments, alternate TCAP assessments, and end-of-course examinations, administered in the 2019-2020 school year shall not comprise a percentage of a student's final grade for the spring semester in the subject areas of mathematics, English language arts, science, and social studies, unless including TCAP test scores results in a higher final grade for the student.

SECTION 5. Tennessee Code Annotated, Section 49-1-228, is amended by adding the following as a new subsection:

(f) Notwithstanding subsections (a)-(c), student performance and student growth data from the Tennessee comprehensive assessment program (TCAP) tests, which include, but are not limited to, TNReady assessments, English learner assessments, alternate TCAP assessments, and end-of-course examinations, administered in the 2019-2020 school year shall not be used to assign a letter grade to a school, unless the use results in a higher letter grade for the school.

SECTION 6. Tennessee Code Annotated, Section 49-1-602(a), is amended by adding the following as a new subdivision:

(5) Notwithstanding any provision of this part to the contrary, student performance and student growth data from Tennessee comprehensive assessment program (TCAP) tests, which include, but are not limited to, TNReady assessments, English learner assessments, alternate TCAP assessments, and end-of-course examinations, administered in the 2019-2020 school year shall not be used to identify a school as a priority school or to assign a school to the achievement school district.

SECTION 7. Tennessee Code Annotated, Section 49-6-408, is amended by adding the following as a new subsection:

(g) Notwithstanding subsection (f), for the 2019-2020 school year, a student is not required to take and pass the civics test required in this section to meet the social studies course credit requirements to earn a full diploma upon graduation from high school.

SECTION 8. Tennessee Code Annotated, Section 49-6-3004(a)(6), is amended by designating the existing language as subdivision (A) and adding the following as a new subdivision (B):

(B) Notwithstanding subdivisions (a)(1) and (a)(6)(A), the commissioner of education shall waive the requirement under subdivision (a)(1) of one hundred eighty (180) days of classroom instruction for the 2019-2020 school year. This subdivision (a)(6)(B) does not prohibit a school from continuing classroom instruction after being issued a waiver from the commissioner pursuant to this subdivision (a)(6)(B).

SECTION 9. Tennessee Code Annotated, Section 49-3-317(a), is amended by designating the existing language as subdivision (1) and adding the following as a new subdivision (2):

(2) Notwithstanding subdivision (a)(1), the suspension of the operation of schools in an LEA during the 2019-2020 school year shall not operate to deprive the LEA of state funds to which the LEA would be entitled if the LEA otherwise meets the requirements of law. This subdivision (a)(2) does not require an LEA to petition the state board of education for a determination of an epidemic, natural disaster, or for other justifiable cause before an LEA may receive state funds under this part. For purposes of this subdivision (a)(2), justifiable cause exists for the 2019-2020 school year.

SECTION 10. Tennessee Code Annotated, Section 49-6-6001, is amended by adding the following as a new subsection:

(l) Notwithstanding subsection (b), for the 2019-2020 school year, public school students are not required to take an examination at grade eleven (11) to assess student readiness for postsecondary education.

SECTION 11. Tennessee Code Annotated, Section 49-6-6012, is amended by deleting the section and substituting instead the following:

(a) Notwithstanding any law to the contrary, no adverse action may be taken against any student, teacher, school, or LEA based, in whole or in part, on student achievement, student performance, or student growth data generated from:

(1) The 2017-2018 TNReady assessments; or

(2) The Tennessee comprehensive assessment program (TCAP) tests, which include, but are not limited to, TNReady assessments, English learner assessments, alternate TCAP assessments, and end-of-course examinations, administered in the 2019-2020 school year.

(b) As used in this section, "adverse action" includes, but is not limited to, employment termination decisions, adverse compensation decisions, the identification of a school as a priority school, the assignment of a school to the achievement school district, or an action taken in violation of § 49-1-228(f) or § 49-1-617(d).

SECTION 12. Tennessee Code Annotated, Title 49, Chapter 6, Part 3, is amended by adding the following as a new section:

(a) Notwithstanding § 49-1-201(d), upon application by an LEA for one (1) or more of the LEA's schools, and upon the approval of the state board of education, the commissioner of education shall waive a state board rule or statute that inhibits or hinders the LEA's ability to meet the LEA's goals or comply with the LEA's mission due solely to the outbreak of COVID-19 during the spring semester of the 2019-2020 school year.

(b) The commissioner shall not waive Section 1 of this act, § 49-1-302(d)(2)(F)-(G), § 49-6-105(h), § 49-1-617(d), § 49-1-228(f), § 49-1-602(a)(5), § 49-6-408(g), § 49-6-3004(a)(6)(B), § 49-3-317(a)(2), § 49-6-6001(l), § 49-6-6012, or any of the emergency rules promulgated by the state board of education to effectuate this act.

(c)

(1) The commissioner shall submit a report to the education committees of the senate and the house of representatives no later than February 28, 2021, on the implementation and use of this section.

(2) The report required under subdivision (c)(1) must identify the substance of each waiver request submitted to the commissioner; whether the LEA's request for a waiver was approved by the state board of education; and the effect of the waiver on the receiving LEA.

(3) The chairs of the education committees of the senate and the house of representatives may request interim reports from the commissioner on the implementation and use of this section before February 28, 2021.

(d) This section is repealed on March 1, 2021.

SECTION 13.

(a) The department of education shall promptly seek a waiver from the United States Department of Education, or seek to amend Tennessee's Every Student Succeeds Act (ESSA) Plan, as necessary and appropriate to implement this act.

(b) The state board of education shall promptly revise the high school graduation requirements for the 2019-2020 school year to ensure that high school seniors who were affected by school closures during the spring of the 2019-2020 school year do not fail to receive a high school diploma for which the student was on-track and otherwise eligible to receive on or before the effective date of this act.

(c) The state board of education shall consult with the department of education, Tennessee higher education commission, and public institutions of higher education to develop guidance, resources, and opportunities for high school students who were enrolled in dual credit or dual enrollment courses during the spring of the 2019-2020 school year, and who were adversely affected by school closures due to COVID-19.

(d) Notwithstanding Tennessee Code Annotated, Section 4-5-208(a):

(1) The state board of education may promulgate emergency rules as necessary to address any issues created by school closures due to the outbreak

of COVID-19 during the 2019-2020 school year. The rules must be promulgated according to the Uniform Administrative Procedures Act, compiled in title 4, chapter 5; and

(2) The Tennessee student assistance corporation and public institutions of higher education may promulgate emergency rules to protect the financial aid and credit opportunities for high school students who were enrolled in dual credit or dual enrollment courses during the spring of the 2019-2020 school year, and who were adversely affected by school closures due to COVID-19.

SECTION 14. This act shall take effect upon becoming a law, the public welfare requiring it.

HOUSE BILL NO. 2818

PASSED: March 19, 2020

CAMERON SEXTON, SPEAKER
HOUSE OF REPRESENTATIVES

RANDY MCNALLY
SPEAKER OF THE SENATE

APPROVED this 2nd day of April 2020

BILL LEE, GOVERNOR