



State of Tennessee

PUBLIC CHAPTER NO. 3

FIRST EXTRAORDINARY SESSION

SENATE BILL NO. 3

By Johnson, Haile, Watson, Powers, Reeves, Rose

Substituted for: House Bill No. 2

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

AN ACT to amend Tennessee Code Annotated, Title 49, Chapter 1; Title 49, Chapter 5 and Title 49, Chapter 6, relative to literacy.

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

SECTION 1. Tennessee Code Annotated, Section 49-1-901, is amended by deleting "Tennessee Literacy Initiative Act of 1999" and substituting "Tennessee Literacy Success Act".

SECTION 2. Tennessee Code Annotated, Section 49-1-902, is amended by designating the existing language as subsection (b) and adding the following as a new subsection (a):

(a) The general assembly finds and declares that:

- (1) A literate society is essential to maintaining a free society;
- (2) There is a need to improve literacy rates across the state;
- (3) In 2019, Tennessee's third grade English language arts proficiency rate was thirty-six and nine-tenths percent (36.9%);
- (4) In 2019, Tennessee's eighth grade English language arts proficiency rate was twenty-seven and one-tenth percent (27.1%); and
- (5) In 2019, Tennessee ranked thirty-first in the nation in fourth grade reading proficiency and thirtieth in eighth grade reading proficiency.

SECTION 3. Tennessee Code Annotated, Title 49, Chapter 1, Part 9, is amended by adding the following new sections:

49-1-903.

As used in this part:

- (1) "Department" means the department of education;
- (2) "Educator preparation provider" means an entity approved by the state board that is responsible for managing, operating, or coordinating programs for the preparation and licensure of teachers, school leaders, and other school personnel;
- (3) "Foundational literacy skills" means phonemic awareness, phonics, fluency, vocabulary, and comprehension;
- (4) "Foundational literacy skills instruction" means an evidence-based method of teaching students to read that includes phonemic awareness, phonics, fluency, vocabulary, and comprehension that enables students to develop the reading skills required to meet Tennessee's academic standards;

(5) "Foundational literacy skills plan" means a proposal that details how an LEA or public charter school plans to provide foundational literacy skills instruction to students and reading interventions and supports, which may include interventions provided pursuant to Tennessee's response to instruction and intervention framework manual, to students identified as having a significant reading deficiency;

(6) "Home literacy report" means a report provided to a student's parent by the LEA or public charter school describing the student's progress in foundational literacy skills;

(7) "Parent" means a child's parent or guardian; a person who has custody of the child; or a person designated as the child's caregiver with the power of attorney for the care of the minor child pursuant to the Power of Attorney for Care of a Minor Child Act, compiled in title 34, chapter 6, part 3, who is authorized to enroll the child in public school pursuant to § 49-6-3001;

(8) "Significant reading deficiency" means:

(A) For students in kindergarten through grade three (K-3), that a student's score on a universal reading screener is within the range of scores determined by the department to demonstrate a lack of proficiency in foundational literacy skills; and

(B) For students in grades four (4) or five (5), that a student scored below proficient in English language arts on the Tennessee comprehensive assessment program (TCAP) test most recently administered to the student;

(9) "State board" means the state board of education;

(10) "Tennessee universal reading screener" means the universal reading screener provided by the department; and

(11) "Universal reading screener" means a uniform tool that screens and monitors a student's progress in foundational literacy skills.

49-1-905.

(a) Each LEA and public charter school shall provide:

(1) Foundational literacy skills instruction to students in kindergarten through grade three (K-3). Foundational literacy skills instruction must be the LEA's primary form of instructional programming in English language arts; and

(2) Reading interventions and supports designed to improve a student's foundational literacy skills to each student identified as having a significant reading deficiency. An LEA or public charter school may comply with this subdivision (a)(2) by providing the interventions identified in Tennessee's response to instruction and intervention (RTI²) framework manual.

(b)(1) To ensure that all textbooks and instructional materials used to teach students to read are based on foundational literacy skills instruction, each LEA and public charter school shall adopt and use English language arts textbooks and instructional materials from the list approved for adoption by the state board pursuant to § 49-6-2202, unless a waiver is granted to the LEA or public charter school pursuant to § 49-6-2206.

(2) LEAs and public charter schools using English language arts textbooks or instructional materials from the list approved for adoption by the state board in 2019, or that received a waiver pursuant to § 49-6-2206 to use English language arts textbooks or instructional materials that were not included on the list approved for adoption in 2019, are not required to adopt or purchase additional English language arts textbooks or instructional materials to comply with subdivision (b)(1).

(3) Notwithstanding subdivision (b)(2), all English language arts textbooks and instructional materials must be aligned to Tennessee's academic standards no later than January 1, 2023. The office of the comptroller of the treasury shall conduct a review of the English language arts textbooks and instructional materials adopted for use by each LEA and public charter school to ensure compliance with this subdivision (b)(3). The comptroller, or the comptroller's designee, shall submit a report detailing

the findings of the review to the education committees of the senate and house of representatives no later than May 1, 2023.

(c)(1) Each LEA and public charter school shall annually administer a universal reading screener to each student in kindergarten through grade three (K-3) during each of the three (3) administration windows established by the department.

(2) An LEA or public charter school may choose to administer:

(A) The Tennessee universal reading screener provided by the department or a universal reading screener approved by the state board to comply with subdivision (c)(1); and

(B) A universal reading screener to pre-kindergarten students.

(3) The department shall provide the Tennessee universal reading screener at no cost to LEAs or public charter schools. The Tennessee universal reading screener:

(A) Must be appropriate for students in pre-kindergarten through grade three (pre-K-3); and

(B) May be used by LEAs and public charter schools to comply with the dyslexia screening requirements established in § 49-1-229 and with the universal screening requirements established in Tennessee's RTI² framework manual.

(4) The department shall determine the reading proficiency level scores required for the Tennessee universal reading screener and each universal reading screener approved by the state board.

(5) The results of universal reading screeners administered to students shall not be used to assign accountability determinations for an LEA or school.

(6) Each LEA and public charter school shall submit the results of each universal reading screener administered to students to the department. All student information must be maintained in accordance with the Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. § 1232g), § 10-7-504, and all other applicable state and federal privacy laws.

(d) Immediately upon determining that a student in kindergarten through grade three (K-3) has a significant reading deficiency, based on the results of the universal reading screener most recently administered to the student, the LEA or public charter school shall notify the student's parent in writing that the student has been identified to have a significant reading deficiency, and shall provide the student's parent with:

(1) Information about the importance of a student being able to read proficiently at the end of the third-grade level;

(2) Reading intervention activities that the parent may use with the parent's student at home to improve reading proficiency; and

(3) Information about the specific reading interventions and supports that the LEA or public charter school recommends for the student, which may include the interventions provided by the LEA or public charter school pursuant to Tennessee's RTI² framework manual.

(e) An LEA or public charter school shall provide at least one (1) home literacy report:

(1) After each administration of a universal reading screener to a student in any of the grades kindergarten through three (K-3) identified as having a significant reading deficiency; and

(2) Each school year for a student in grade four (4) or five (5) identified as having a significant reading deficiency.

(f) To demonstrate the effective implementation of foundational literacy skills instruction under this section, each LEA and public charter school shall develop, and submit to the department for approval, a foundational literacy skills plan for students in kindergarten through grade five (K-5). LEAs and public charter schools have flexibility and autonomy in

developing a foundational literacy skills plan, but each foundational literacy skills plan must include, at a minimum:

(1) The amount of daily time devoted to foundational literacy skills instruction and a description of how the instructional time is utilized;

(2) The English language arts textbooks and instructional materials adopted by the LEA or public charter school pursuant to subsection (b);

(3) The universal reading screener selected by the LEA or public charter school for administration to students to comply with subsection (c);

(4) A description of the reading interventions and supports available to students with a significant reading deficiency for purposes of subdivision (d)(3);

(5) How the LEA or public charter school intends to notify and engage parents in the parent's student's literacy progress pursuant to subsections (d) and (e); and

(6) How the LEA or public charter school will provide professional development in foundational literacy skills instruction to teachers in any of the grades kindergarten through five (K-5).

(g)(1) No later than June 1, 2021, each LEA and public charter school shall submit a foundational literacy skills plan to the department for approval. Each LEA and public charter school shall submit a revised foundational literacy skills plan to the department for approval no later than July 1, 2024, and triennially thereafter.

(2) Notwithstanding subdivision (g)(1), an LEA or public charter school shall not be required to submit a revised foundational literacy skills plan if, on the date on which the foundational literacy skills plan or the revised foundational literacy skills plan is due under subdivision (g)(1), the LEA's or public charter school's Tennessee Value-Added Assessment System (TVAAS) data meets the following criteria:

(A) The LEA's or public charter school's district-wide student growth data for fourth grade English language arts for the two (2) Tennessee comprehensive assessment program (TCAP) test administrations immediately preceding the date on which the foundational literacy skills plan or the revised foundational literacy skills plan is due under subdivision (g)(1) reflects an attainment level of "above expectations" or "significantly above expectations"; and

(B) The LEA's or public charter school's student growth data for each individual student subgroup, as defined in Tennessee's Every Student Succeeds Act (ESSA) plan established pursuant to the Every Student Succeeds Act (20 U.S.C. § 6301 et seq.) and § 49-1-602, for fourth grade English language arts for the two (2) TCAP test administrations immediately preceding the date on which the foundational literacy skills plan or the revised foundational literacy skills plan is due under subdivision (g)(1) reflects an attainment level of "above expectations" or "significantly above expectations."

(3) Notwithstanding subdivision (g)(1), the department may require an LEA or public charter school to submit a revised foundational literacy skills plan more frequently than once every three (3) years if the LEA's or public charter school's TVAAS data meets the following criteria:

(A) The LEA's or public charter school's student growth data for any school in the district, or any set of schools in the district, as determined by the department, for fourth grade English language arts for the two (2) TCAP test administrations immediately preceding the date on which the foundational literacy skills plan or the revised foundational literacy skills plan is due under subdivision (g)(1) reflects an attainment level of a "significantly below expectations"; or

(B) The LEA's or public charter school's student growth data for each individual student subgroup, as defined in Tennessee's ESSA plan established pursuant to the Every Student Succeeds Act (20 U.S.C. § 6301 et seq.) and § 49-1-602, for fourth grade English language arts for the two (2) TCAP test administrations immediately preceding the date on which the foundational literacy skills plan or the revised foundational literacy skills plan is

due under subdivision (g)(1) reflects an attainment level of "below expectations" or "significantly below expectations."

(4)(A) Each LEA and public charter school shall post the LEA's or public charter school's department-approved foundational literacy skills plan on the LEA's or public charter school's website.

(B) The department shall post the foundational literacy skills plan approved for each LEA and public charter school on the department's website.

(5)(A) The state board, in consultation with the department, shall promulgate rules to establish additional guidelines and requirements for foundational literacy skills plans, consistent with this subsection (g). The rules must be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

(B) The state board, in consultation with the department, may promulgate emergency rules to establish additional guidelines and requirements for foundational literacy skills plans, consistent with this subsection (g), for the 2021-2022 school year. The state board shall submit any emergency rules promulgated pursuant to this subdivision (g)(5)(B) to the chair of the government operations committees of the senate and house of representatives at least twenty-four (24) hours prior to filing the rules with the secretary of state.

(6) The office of the comptroller of the treasury shall conduct a review of the foundational literacy skills plans submitted to the department for approval to ensure the plans comply with the requirements of subsection (f) and the rules promulgated by the state board. The comptroller, or the comptroller's designee, shall submit a report detailing the findings of the review, including, but not limited to, whether plans were initially approved or denied by the department, and the nature of any plan revisions or amendments required by the department for approval, to the chairs of the education committees of the senate and house of representatives no later than November 1, 2021, and by each November 1 thereafter.

(h) An LEA or public charter school shall not use instructional materials created to align with common core academic standards in implementing the requirements of this section.

49-1-906.

(a) The department shall develop at least one (1) professional development course on foundational literacy skills instruction that is available, at no cost, to teachers in kindergarten through grade five (K-5) that may be used by teachers to earn professional development points.

(b) By August 1, 2023, teachers in kindergarten through grade five (K-5) must complete at least one (1) professional development course on foundational literacy skills instruction approved by the department. Each LEA and public charter school shall approve professional development points, pursuant to the state board's educator licensure policies and rules, for at least one (1) department-approved literacy-based training completed by a teacher.

(c) By August 1, 2022, the department shall develop a foundational literacy skills instruction course and accompanying instructional materials that may be used by high school students participating in a teaching-as-a-profession career pathway developed or facilitated by the department.

49-1-908.

(a) By July 1, 2024, the department, in partnership with the state board and the Tennessee higher education commission, must provide a report to the chairs of the education committees of the senate and the house of representatives regarding the implementation of this act.

(b)(1) By December 31, 2021, for purposes of consolidating existing information for the general assembly, the department must conduct the following review:

(A) A landscape analysis of literacy in this state, including current practices, student achievement, instructional programming for students, and remediation services;

(B) A landscape analysis of literacy instruction, including instructional programming and pedagogical practices utilized by educator preparation providers; and

(C) A joint analysis, with the Tennessee higher education commission, regarding the affordability of educator preparation providers, including tuition affordability and net-tuition affordability for future educators and costs relative to educator preparation providers in other states; student loan and debt burdens of educator preparation provider graduates; financial barriers that may prevent postsecondary students and career changers from pursuing teaching as a profession; and the ability to reduce the costs of obtaining educator preparation and credentials.

(2) Educator preparation providers approved by the state board must participate in the review.

(3) By March 1, 2022, the results of the review must be reported to the state board and the chairs of the education committees of the senate and the house of representatives and posted on the department's website.

(4) In conducting the review, all student information must be maintained in accordance with the Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. § 1232g), § 10-7-504, and all other applicable state and federal privacy laws.

49-1-909.

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).

SECTION 4. Tennessee Code Annotated, Title 49, Chapter 5, Part 56, is amended by adding the following as a new section:

49-5-5619.

(a) By July 31, 2021:

(1) The department shall develop and submit to the state board for approval, foundational literacy skills standards for use by all educator preparation providers for the instruction of candidates seeking a license to teach students in kindergarten through grade three (K-3).

(2) The department shall develop and submit to the state board for approval, foundational literacy skills standards for use by educator preparation providers in instructional leadership specialty area programs for the instruction of candidates seeking an instructional leader license.

(3) The foundational literacy skills standards must include, at a minimum:

(A) How to effectively teach the foundational literacy skills of phonemic awareness, phonics, fluency, vocabulary, and comprehension;

(B) How to differentiate instruction for teaching students with advanced reading skills and students with significant reading deficiencies, as defined in § 49-1-903;

(C) Dyslexia identification and providing effective instruction for teaching students with dyslexia using appropriate scientific research and brain-based multisensory intervention methods and strategies consistent with § 49-6-3004(c)(1)(A);

(D) How to implement reading instruction using high-quality instructional materials;

(E) Behavior management, trauma-informed principles and practices for the classroom, and other developmentally appropriate supports to ensure that students can effectively access reading instruction; and

(F) How to administer universal reading screeners to students and use the resulting data to improve reading instruction for students.

(b) Beginning August 1, 2022, educator preparation providers must provide to candidates seeking licensure to teach students in kindergarten through grade three (K-3), as well as candidates seeking an instructional leader license, training on reading instruction focused primarily on the foundational literacy skills standards developed and approved in accordance with subsection (a).

(c)(1) Effective August 1, 2023, an applicable candidate must:

(A) Provide a certificate documenting the candidate's passage of a Tennessee reading instruction test developed or identified by the department and approved by the state board that tests the candidate's knowledge of foundational literacy skills instruction, as defined in § 49-1-903; or

(B) Provide evidence documenting the candidate's completion of a foundational literacy skills instruction course, as described in § 49-1-906, within the previous year.

(2) The department shall recommend to the state board for approval, the score that constitutes passage of the test described in subdivision (c)(1)(A).

(3) The department shall provide the test described in subdivision (c)(1)(A) at no cost to the candidate or educator preparation provider.

(4) As used in this subsection (c), "applicable candidate" means:

(A) A candidate seeking an initial teaching license or endorsement, or renewing a teaching license, that authorizes the candidate to teach students in kindergarten through grade three (K-3);

(B) A candidate seeking an initial instructional leader license, or renewing or advancing an instructional leader license;

(C) A candidate enrolled in a state-board-approved, post-baccalaureate educator preparation program who holds an initial license authorizing the candidate to teach students in kindergarten through grade three (K-3); who has demonstrated content knowledge in accordance with the state board's rules and policies; and who is seeking renewal or advancement of the initial teaching license;

(D) A candidate for an initial teaching license that authorizes the candidate to teach students in kindergarten through grade three (K-3) who possesses an active professional-level license in a state that has a reciprocal agreement with the state board pursuant to § 49-5-109, and who is seeking renewal or advancement of the initial teaching license;

(E) A candidate for an initial instructional leader license who possesses an active professional-level license in a state that has a reciprocal agreement with the state board pursuant to § 49-5-109, and who is seeking renewal or advancement of the initial instructional leader license; or

(F) A candidate seeking to renew a professional-level license that authorizes the candidate to teach students in kindergarten through grade three (K-3).

SECTION 5. Tennessee Code Annotated, Section 49-1-302(d)(2)(B), is amended by adding the following as a new subdivision:

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 reading screener or a universal reading screener

approved by the state board, as described in § 49-1-905(c), as an approved alternative growth model for purposes of § 49-6-105(e) and subdivision (d)(2)(B)(ix) to generate individual growth scores for teachers pursuant to the evaluation guidelines developed by the department. The department shall not base the Tennessee universal reading screener or a universal reading screener approved by the state board used to evaluate teachers pursuant to this subdivision (d)(2)(B)() on the pre-k/kindergarten portfolio growth model.

SECTION 6. The state board of education is authorized to promulgate rules, including emergency rules, to effectuate this act. The rules must be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

SECTION 7. This act takes effect upon becoming a law, the public welfare requiring it.

FIRST EXTRAORDINARY SESSION
ONE HUNDRED TWELFTH GENERAL ASSEMBLY

SENATE BILL NO. 3

PASSED: January 21, 2021


RANDY McNALLY
SPEAKER OF THE SENATE


CAMERON SEXTON, SPEAKER
HOUSE OF REPRESENTATIVES

APPROVED this 3rd day of Feb 2021


BILL LEE, GOVERNOR