

HOUSE BILL 1852

By Kane

AN ACT to amend Tennessee Code Annotated, Title 49, Chapter 1; Title 49, Chapter 2; Title 49, Chapter 5 and Title 49, Chapter 6, relative to physical education.

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

SECTION 1. Tennessee Code Annotated, Title 49, Chapter 6, Part 10, is amended by adding the following language as a new section:

(a) This act shall be known and may be cited as the "Governor's Three Star Physical Education and Literacy Program."

(b) As used in this section:

(1) "Commissioner" means the commissioner of education;

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

(3) "Evidence-based" means a program or practice that is governed by a program manual or protocol that specifies the nature, quality, and amount of service that constitutes the program based on scientific research using methods that meet high scientific standards, evaluated using either randomized controlled research designs, or quasi-experimental research designs with equivalent comparison groups. The effects of such programs must have demonstrated using two (2) or more separate client samples that the program improves client outcomes central to the purpose of the program;

(4) "FitnessGram" means an educational assessment program that is used to evaluate physical fitness for children;

(5) "Foundational motor skills" means skills, such as the run, leap, catch, and overhand throw, that form the building blocks which underpin the learning of more complicated sport and movement skills common to the community;

(6) "Office" means the office of coordinated school health;

(7) "Physical education and literacy" means:

(A) Mastering fundamental movement skills and fundamental sport skills that permit a child to evaluate the child's environment and make appropriate decisions;

(B) Allowing students to move confidently and with control in a wide range of physical activity situations;

(C) Participating, long term, in the physical activity and sport;

(D) Performing in the physical activity and sport to the best of one's ability; and

(E) Combining both participation and excellence in physical activity and sport;

(8) "Pilot program" or "program" means the Governor's Three Star Physical Education and Literacy Program;

(9) "Progressive Aerobic Cardiovascular Endurance Run test (PACER)":

(A) Means a multistage shuttle run designed to measure aerobic capacity, which is characterized by endurance, performance, and fitness; and

(B) Requires students to run as long as possible while keeping a specified pace that gets faster each minute; and

(10) "TAHPERD" means the Tennessee Association for Health, Physical Education, Recreation, and Dance.

(c) Beginning with the 2016-2017 school year, there is established a two-and-one-half-year pilot program to be operated by the office of coordinated school health, in

consultation with the department. The purpose of the program is to determine whether increasing physical education and literacy courses in a student's schedule to four (4) days of each school week for no less than thirty (30) minutes and no more than forty-five (45) minutes each day will:

(1) Increase student achievement data based on student growth data as represented by the Tennessee Value-Added Assessment System (TVAAS);

(2) Decrease incidents and reports of student discipline or behavior problems; and

(3) Increase student growth in foundational motor skills.

(d)

(1) The pilot program shall include eighteen (18) schools. The schools shall be divided into two (2) groups, as follows:

(A) The first group shall consist of nine (9) elementary schools, with three (3) schools to be chosen from each grand division of the state. This group of schools shall participate in the pilot program;

(B) The second group shall be made of nine (9) elementary schools, with three (3) schools to be chosen from each grand division of the state to serve as the control group. This group shall not participate in the pilot program. The schools chosen under this subdivision (d)(1)(B) shall not be the same as the schools chosen under subdivision (d)(1)(A).

(2) Only students in grades three (3), four (4), and five (5) shall participate in the program.

(3) The schools shall be selected so that the cost of the pilot program is no more than one million five hundred thousand dollars (\$1,500,000) for the duration of the pilot program. The office of coordinated school health may

provide additional financial incentives, above the initial ten thousand dollars (\$10,000) grant awarded pursuant to subdivision (e)(4)(A), to the schools chosen under subdivision (d)(1)(A) to implement the pilot program.

(e)

(1) The office of coordinated school health shall create and accept applications from all schools that meet the requirements of subsection (d).

(2) The schools shall be selected by the office of coordinated school health. In determining which schools are chosen for the pilot program, the office shall give priority to schools:

(A) With students in grades three (3), four (4), and five (5) with the highest body mass index (BMI);

(B) Identified as priority schools; and

(C) Without physical education programs.

(3)

(A) The application shall be completed and signed by the principal or the principal's designee and the physical education teacher of each school; provided, that if the school does not have a physical education teacher at the signing of the application, the principal may complete and sign the application, but within thirty (30) days of hiring a physical education teacher, the physical education teacher shall sign the application and submit it to the office of coordinated school health.

(B) The application shall state that the submission of an application indicates a commitment by the school, the administrators of the school, employees, and students to fully participate in the two-and-one-half-year pilot program.

(C)

(i) If a school is admitted to the pilot program and withdraws from the program or does not comply with the requirements of the program, then the school shall refund the ten thousand dollars (\$10,000) to the office of coordinated school health.

(ii) If a school fails to refund the ten thousand dollars (\$10,000) to the office of coordinated school health within a time period determined by the office, then the commissioner may, in the commissioner's discretion, withhold a portion or all of the Tennessee BEP funds that the system is otherwise eligible to receive.

(4) Upon written notification from the office of coordinated school health of the school's selection in the pilot program, the school shall:

(A) Receive a grant from the department in the amount of ten thousand dollars (\$10,000) to ensure the school can properly create a physical education and literacy program in compliance with the requirements as set forth by the office of coordinated school health;

(B) Coordinate with the office of coordinated school health to receive the following information for each student participating in the program:

(i) Body mass index (BMI) rate;

(ii) Academic test scores and grades;

(iii) Parent and student survey which will examine the physical activity level that occurs in the student's home as well as the eating habits of the student outside of school;

(iv) Discipline records; and

(v) Student growth in foundational motor skills; and

(C) Ensure that the physical education teacher of the school shall participate in a training program to be coordinated by TAHPERD, in consultation with the office of coordinated school health, which shall be responsible for coordinating the training sessions and developing the physical education programs within each school. The training sessions may be conducted at the school's facilities or at a location selected by TAHPERD; provided, that the program ensure that during the training one (1) teacher and one (1) teacher's assistant from each school participating in the pilot program shall be entitled to:

(i) Per diem for attendance at the training; and

(ii) Reimbursement for travel and other necessary expenses incurred in the performance of official duties in accordance with the state comprehensive travel regulations as promulgated by the commissioner of finance and administration and approved by the attorney general and reporter.

(f)

(1) The office of coordinated school health shall create a position for a program coordinator to be staffed in the department who shall serve as the coordinator of the pilot program.

(2) The coordinator shall receive a contract for a minimum of one hundred eighty (180) days.

(3) The coordinator may hire additional staff to assist the coordinator in ensuring compliance by each of the schools selected for the program.

(4) The coordinator shall:

(A) Be responsible for compiling and analyzing the data of the students selected to be in the program in compliance with all state laws, including chapter 1, part 7 of this chapter, and federal laws, including the federal Family Educational Rights and Privacy Act (FERPA), codified in 20 U.S.C. § 1232g;

(B) Ensure that the results of the pilot program are evidenced based;

(C) Develop the curriculum and ensure that all of the curriculum is grade and age level appropriate;

(D) Conduct trainings each semester for the physical education teachers;

(E) Create benchmarks for each school based on the school's performance;

(F) Provide the schools, the physical education teacher, or students with in person, online or virtual support; and

(G) Oversee the entire pilot program to ensure compliance with all appropriate federal and state laws and any rules and regulations governing the program.

(g) The program coordinator shall assess the physical education and literacy level of each student who participates in the program. The coordinator shall create

assessments to be given to the students at the beginning and end of each school year. The coordinator may choose from a variety of programs and methods to assess the students, including, but not limited to the Progressive Aerobic Cardiovascular Endurance Run test (PACER) and FitnessGram.

(h) At the end of the two-and-one-half-year program, the office of coordinated school health shall examine all of the schools' results and the school with the most growth, based on the student's growth in academics, physical fitness, and the foundational skills of physical literacy, shall receive the governor's award. The governor's award shall consist of a plaque from the governor as well as additional grant money to maintain the physical education and literacy program at the school.

(i) All information collected and analyzed on students pursuant to this pilot program shall comply with the federal Family Educational Rights and Privacy Act (FERPA), codified in 20 U.S.C. § 1232g, title 49, chapter 1, part 7, and other relevant state and federal privacy laws.

(j)

(1) The office of research and education accountability (OREA) in the office of the comptroller of the treasury, with the assistance of the department of education, shall study the pilot program and shall report on the effectiveness of the program after the initial year of the program and at the conclusion of the pilot program. In its report at the conclusion of the pilot program, OREA shall make findings and conclusions as to whether the pilot program encouraged students to increase their physical education and literacy which correlated in an increase in student achievement data based on student growth data as represented by the Tennessee Value-Added Assessment System (TVAAS) and a decrease in discipline problems. OREA shall make recommendations as to the potential of



the pilot program for expansion statewide. OREA shall submit its initial report to the education committees of the senate and the house of representatives by November 1, 2018, and its final report to the education committee of the senate and the education committees of the house of representatives by November 1, 2020.

(2) If OREA, in consultation with the department, finds that the results of the pilot program are promising, but that more study needs to be done before a final recommendation is issued, then the department is authorized to continue the pilot program for an additional two (2) years, if funded.

SECTION 2. The office of coordinated school health is authorized to promulgate rules to effectuate the purposes of this act. The rules shall be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in Title 4, Chapter 5.

SECTION 3. For the purpose of promulgating rules, this act shall take effect upon becoming a law, the public welfare requiring it. For all other purposes, this act shall take effect July 1, 2016, the public welfare requiring it.