

SENATE BILL 790

By Johnson

AN ACT to amend Tennessee Code Annotated, Section 4-5-322; Title 49, Chapter 10 and Title 49, Chapter 50, relative to special education.

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

SECTION 1. Tennessee Code Annotated, Section 49-10-101, is amended by deleting the section and substituting instead the following:

(a) It is the policy of this state to provide, and to require LEAs to provide, as an integral part of free public education, special education and related services sufficient to meet the needs of children with disabilities in compliance with state and federal law.

(b) The state board of education is authorized to adopt rules and regulations to effectuate this chapter. The rules must be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

SECTION 2. Tennessee Code Annotated, Section 49-10-102, is amended by deleting the section and substituting instead the following:

As used in this chapter:

(1) "Child with a disability" or "children with disabilities" means a child or children with one (1) or more disabilities and a youth or youths between three (3) and twenty-one (21) years of age, both inclusive, who have been evaluated and determined to have a disability or disabilities in accordance with federal guidelines and regulations of the state board of education, and who, by reason thereof, need special education and related services. Any child with a disability who turns twenty-two (22) years of age between the commencement of the

school year and the conclusion of the school year, will continue to be a child with a disability for the remainder of that school year;

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

(3) "FAPE" means a free appropriate public education in compliance with the IDEA;

(4) "IDEA" means the Individuals with Disabilities Education Act (20 U.S.C. § 1400 et seq.);

(5) "Individualized education program team" or "IEP team" means a group of individuals described in 34 CFR § 300.321 that is responsible for developing, reviewing, or revising an individualized education program (IEP) for a child with a disability;

(6) "LEA" means a local education agency;

(7) "Related services" means:

(A) Transportation and developmental, corrective, and other supportive services required to assist a child with a disability to benefit from special education, including speech-language pathology and audiology services, interpreting services, psychological services, physical and occupational therapy, recreation, including therapeutic recreation, early identification and assessment of disabilities in children, counseling services, including rehabilitation counseling, orientation, and mobility services, and medical services for diagnostic or evaluation purposes;

(B) School health services and school nurse services, social work services in schools, and parent counseling and training; or

(C) Other services that may be approved by the state board of education; and

(8) "Special education" means specially designed instruction, at no cost to the parents, to meet the unique needs of a child with a disability, including

instruction conducted in the classroom, home, hospitals, institutions, and other settings, and instruction in physical education.

SECTION 3. Tennessee Code Annotated, Section 49-10-103, is amended by deleting the section and substituting instead the following:

(a) Every child with a disability is entitled to a FAPE.

(b) Each LEA is responsible for ensuring that every child with a disability receives special education and related services designed to meet the child's unique needs.

(c) A child with a disability must be educated in the least restrictive environment. Special classes, separate schooling, or other removals of a child with a disability from the regular educational environment must occur only when, and to the extent that, the student's IEP team determines that the nature or severity of the child's disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

SECTION 4. Tennessee Code Annotated, Section 49-10-104(b), is amended by deleting the language "the disabled" and substituting instead the language "children with disabilities".

SECTION 5. Tennessee Code Annotated, Section 49-10-104(c), is amended by deleting the subsection.

SECTION 6. Tennessee Code Annotated, Section 49-10-104(d), is amended by deleting the language ", in accordance with rules, regulations and directives currently in effect".

SECTION 7. Tennessee Code Annotated, Section 49-10-104, is amended by adding the following language as a new, appropriately designated subsection:

The department shall enforce the IDEA and the state's special education laws.

SECTION 8. Tennessee Code Annotated, Section 49-10-106, is amended by deleting the section and substituting instead the following:

The state board of education, in consultation with the department of education, is authorized to take necessary action in the area of special education to:

(1) Adopt standards or qualifications for teachers and other personnel providing instruction or other educational services to children with disabilities;

(2) Adopt the evaluation procedures and eligibility criteria for children with disabilities; and

(3) Cooperate with other state agencies, organizations, and institutions that are concerned with the health, education, and welfare of children with disabilities.

SECTION 9. Tennessee Code Annotated, Section 49-10-107, is amended by deleting the section and substituting instead the following:

(a) Nothing in this chapter prevents an LEA from providing special education or related services for children with disabilities by contracting with another LEA to provide services for children with disabilities from the other LEA.

(b) The LEA in which the child is enrolled shall continue to be responsible for ensuring that the child receives special education and related services in accordance with the IDEA and nothing in this chapter relieves the LEA from having to comply with the requirements of this chapter.

(c) Agreements or contracts made pursuant to subsection (a) must be in writing and may include the provision of special education and related services, payment of reasonable costs of providing special education and related services, or other related costs.

(d) Any child provided special education or related services through an agreement made pursuant to subsection (a), and any parent or legal guardian of the child, retain all civil and other rights that the child would have if receiving special education or related services in the LEA where the child is enrolled. Any agreement or contract made pursuant to subsection (a) must contain a provision to that effect.

SECTION 10. Tennessee Code Annotated, Section 49-10-108, is amended by deleting the section and substituting instead the following:

(a) Every LEA shall identify, locate, and evaluate all children with disabilities, or who are suspected of having a disability, within its boundaries, ages three (3) through twenty-one (21), both inclusive, who need special education and related services, including all children with disabilities who are enrolled by their parents in private schools located within the boundaries of the LEA.

(b) A parent or legal guardian may request the LEA to conduct a full and individualized evaluation of the parent's or legal guardian's child to determine if the child has a disability and is eligible for special education services.

(c) The identification, location, and evaluation of children with disabilities must be conducted in accordance with the IDEA, the state's special education laws, and the state board of education's rules.

SECTION 11. Tennessee Code Annotated, Section 49-10-109, is amended by deleting the section and substituting instead the following:

(a)

(1) If an LEA is found by the commissioner of education to have failed to provide a FAPE to all children with disabilities who by law are entitled to receive a FAPE from the LEA, then the commissioner may withhold all or any portion of

the basic education program (BEP) funding for the LEA as, in the commissioner's judgment, is warranted.

(2) The denial of BEP funding under subdivision (a)(1) may continue until the failure to provide the required special education or related services is remedied.

(3) Whether or not the commissioner elects to withhold BEP funding pursuant to subdivision (a)(1), the commissioner shall ensure the provision of a FAPE, and may do so by providing the education directly.

(b) The commissioner shall not take action pursuant to subsection (a) until after providing a public hearing with due notice and preserved on a record that establishes the failure of the LEA to provide special education or related services of an adequate quantity and quality.

(c) Any costs incurred by the department in administering this section are direct charges against the LEA and must be paid by the LEA. If an LEA fails to make timely payment, then the department may make the payment and obtain reimbursement from the LEA through the appropriate judicial proceedings.

(d)

(1) When the commissioner is providing special education or related services pursuant to this section, it is the commissioner's purpose to assist the LEA in assuming or reassuming the LEA's full responsibilities for providing education for children with disabilities.

(2) No BEP funding for special education shall be given to an LEA during, or for, any period for which the LEA's provision of special education is being administered directly by the commissioner on behalf of the LEA pursuant to this section.

(3) The commissioner shall return responsibility for providing a FAPE to the LEA as soon as the commissioner finds that the LEA is willing and able to fulfill its responsibilities pursuant to law.

SECTION 12. Tennessee Code Annotated, Section 49-10-110, is amended by deleting the section.

SECTION 13. Tennessee Code Annotated, Section 49-10-111, is amended by deleting the section.

SECTION 14. Tennessee Code Annotated, Section 49-10-113, is amended by deleting the section and substituting instead the following:

(a) The state shall provide special education funds from the basic education program (BEP), in accordance with title 49, chapter 3, to LEAs and other entities entitled by the laws of this state to receive the funds for providing special education and related services to children with disabilities.

(b)

(1) Subject to the availability of federal funds, the department shall establish a process for LEAs to request reimbursement for high-cost children with disabilities.

(2) An LEA shall include qualifying services provided to children with disabilities in each public school in the LEA, including charter schools authorized by the LEA, in the LEA's annual request for high-cost reimbursement.

(3) An LEA shall provide to charter schools authorized by the LEA applicable high-cost reimbursement funds received by the LEA for any qualifying special education expenditures incurred directly by the charter school.

SECTION 15. Tennessee Code Annotated, Section 49-10-114, is amended by deleting the section and substituting instead the following:

(a) Special education and related services must be determined by the child's IEP team based on the individual needs of the child.

(b) An LEA attorney or a parent attorney shall not be a member of an IEP team.

(c) Except when a written explanation to the contrary is included, the individualized education program (IEP) of a child with disabilities must include:

(1) Pre-vocational assessments for students in kindergarten through grade six (K-6), inclusive, or students of comparable chronological age; and

(2) Age-appropriate transition assessments to include, at a minimum, education, training, and employment for students age fourteen (14) and older.

SECTION 16. Tennessee Code Annotated, Title 49, Chapter 10, Part 1, is amended by adding the following language as a new, appropriately designated section:

(a) Each LEA shall annually submit to the department, at a minimum, the following information in accordance with the department's guidelines:

(1) A census of children with disabilities showing the total number and distribution of children within the LEA's jurisdiction who are provided special education and related services;

(2) An assurance that IDEA funds will be used to supplement, and not to supplant, state and local funds, and will be expended only for the excess cost of providing special education and related services to children with disabilities;

(3) An assurance that, to the maximum extent appropriate, children with disabilities are educated with children without disabilities;

(4) A detailed budget and end of the year report of expenditures of all funds available to provide special education and related services; and

(5) An assurance that a FAPE is available to all children with disabilities between the ages of three (3) and twenty-one (21), inclusive, including children



who reach twenty-two (22) years of age during the school year and children who have been suspended or expelled for more than ten (10) school days in a school year.

(b) The department shall annually report on the department's website, at a minimum, the following information:

(1) The number and percentage of children with disabilities in this state;

(2) The number and percentage of children with disabilities, disaggregated by disability category;

(3) The participation and performance of children with disabilities on state assessments; and

(4) Other performance indicators for children with disabilities.

(c) The report created by the department of education pursuant to this section must exclude any personally identifiable information and must be created in accordance with the Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. § 1232g), § 10-7-504, and any other relevant state or federal privacy law.

SECTION 17. Tennessee Code Annotated, Title 49, Chapter 10, Part 1, is amended by adding the following language as a new, appropriately designated section:

(a) The department shall develop, and the state board of education shall adopt, rules and regulations permitting LEAs or charter schools to form special education cooperatives to provide special education and related services to children with disabilities within the boundaries of LEAs or charter schools participating in such a cooperative.

(b) The rules developed under this section must be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, and must include, at a minimum:

- (1) The process for establishing a cooperative;
- (2) Requirements for approval and monitoring of cooperatives;
- (3) Requirements for a written agreement between the parties participating in the cooperative;
- (4) Governance of the cooperative;
- (5) The manner of financing the cooperative;
- (6) Staffing requirements of the cooperative;
- (7) Specific procedures for the withdrawal of member LEAs or charter schools from the cooperative; and
- (8) Specific procedures for the termination of a cooperative.

(c) A child receiving special education or related services through a special education cooperative remain the responsibility of the LEA in which the child is enrolled, and nothing in this section relieves the LEA from having to comply with the requirements of this chapter.

SECTION 18. Tennessee Code Annotated, Title 49, Chapter 10, Part 2, is amended by deleting the part.

SECTION 19. Tennessee Code Annotated, Title 49, Chapter 10, Part 3, is amended by deleting the part.

SECTION 20. Tennessee Code Annotated, Title 49, Chapter 10, Part 4, is amended by deleting the part.

SECTION 21. Tennessee Code Annotated, Title 49, Chapter 10, Part 5, is amended by deleting the part.

SECTION 22. Tennessee Code Annotated, Section 49-10-601, is amended by deleting the section and substituting instead the following:

(a) The department shall establish, maintain, and implement procedural safeguards that meet the requirements of the IDEA related to the following:

- (1) Independent educational evaluations;
- (2) Prior written notice;
- (3) Parental consent;
- (4) Access to and confidentiality of education records;
- (5) State complaint and dispute resolution procedures and forms;
- (6) The availability of mediation;
- (7) Procedures when disciplining children with disabilities;
- (8) Requirements for unilateral placement by parents of children in private schools at public expense;
- (9) Advocacy services; and
- (10) Free and low cost legal services.

(b) A copy of the procedural safeguards must be made available to the parents of a child with a disability one (1) time each school year; provided, however, that a copy must also be provided:

- (1) Upon initial referral or parent request for evaluation;
- (2) Upon receipt of the first state or due process complaint in a school year;
- (3) On the date on which the decision is made to make a removal that constitutes a change of placement of a child with a disability because of a violation of a code of student conduct; and
- (4) Upon request by a parent.

(c) The department shall maintain a current copy of the procedural safeguards on its website.

SECTION 23. Tennessee Code Annotated, Section 49-10-602, is amended by deleting the section and substituting instead the following:

Nothing in this chapter limits any right that any child or the child's parent or guardian may have to enforce the provision of any regular or special educational service. LEAs shall not delay the provision of education or related services to which a child is entitled.

SECTION 24. Tennessee Code Annotated, Section 49-10-603, is amended by deleting the section.

SECTION 25. Tennessee Code Annotated, Section 49-10-604, is amended by deleting the section and substituting instead the following:

The department of education shall promptly investigate complaints alleging violations of the IDEA and the state's special education laws in the following manner:

(1) The department shall make a complaint form available on the department's website. The department shall also supply any individual with a written copy of the complaint form via the United States postal service upon request. The department shall facilitate the submission of complaint forms via the internet. If a complaint is filed via the internet, then the complaint is deemed to be signed so long as the name of the filer is indicated in the complaint.

Anonymous complaints cannot be accepted for investigative purposes;

(2) The department shall notify an LEA of a complaint filed against the LEA within five (5) calendar days of receiving the complaint. The notification must require the LEA to respond to the allegations contained in the complaint and to provide the department with any additional information requested by the department. The LEA must provide its response to the department no later than

fifteen (15) calendar days from the date of the notification, unless an extension is granted by the department;

(3) If the department determines that the LEA has committed a violation of state or federal special education laws or rules, then the department shall issue, within ten (10) calendar days, the department's findings that confirm the violation to the LEA and the person making the complaint. The written findings must require the LEA to take all corrective action required by the department that are contained in the written findings, which may include providing compensatory education if deemed appropriate by the department;

(4) The department shall require an LEA that has committed a violation of applicable law or rule to correct the violation within ten (10) calendar days, unless an extension is granted by the department;

(5) Any LEA receiving notice from the department that measures are required to correct a violation of applicable law or rule shall provide written notice of the completion of the corrective measures to the department and to the person making the complaint. The department shall determine whether the measures taken by the LEA resulted in compliance with the applicable law or rule, or both. The department shall provide written notice to the LEA of the department's determination within ten (10) calendar days; and

(6) Within thirty (30) calendar days after closing the investigation, the department shall publish all violations and determinations confirmed by the department on the department's official website. The publication must include the name of the LEA, a description of the violation, a citation of the law or rule determined to have been violated, the corrective measures proposed by the LEA, and the final determination of the department. The department shall publish

confirmed violations and determinations in a manner that protects the identity of the student.

SECTION 26. Tennessee Code Annotated, Section 49-10-605, is amended by adding the following language as new subsections (a) and (b) and redesignating the existing subsections accordingly:

(a) The department shall ensure that procedures are established and implemented to allow parties to resolve a dispute on matters related to a proposal or a refusal to initiate or change the identification, evaluation, or educational placement of a child with a disability, or the provision of a FAPE to the child, through a mediation process.

(b) In addition to the requirements set forth in the IDEA, the procedures must ensure that the mediation process:

(1) Is voluntary on the part of the parties;

(2) Is not used to deny or delay a parent's right to a due process hearing or to deny any other rights afforded under state or federal law; and

(3) Is conducted by a qualified and impartial mediator who is trained in effective mediation techniques.

SECTION 27. Tennessee Code Annotated, Section 49-10-606, is amended by deleting the language "school system" and substituting instead the language "LEA".

SECTION 28. Tennessee Code Annotated, Section 49-10-606, is amended by deleting the language "regular school business days" and substituting instead the language "school days".

SECTION 29. Tennessee Code Annotated, Section 49-10-606, is amended by adding the following language as a new subsection (c) and redesignating the existing subsections accordingly:

(c) All training in special education law for the administrative law judges provided for in this part must be approved by the administrative office of the courts in consultation with the department of education. The training must be paid for by the department of education.

SECTION 30. Tennessee Code Annotated, Section 49-10-607, is amended by deleting the section.

SECTION 31. Tennessee Code Annotated, Section 49-10-609, is amended by deleting the section.

SECTION 32. Tennessee Code Annotated, Section 49-10-610, is amended by deleting the section.

SECTION 33. Tennessee Code Annotated, Section 49-10-701, is amended by deleting the section.

SECTION 34. Tennessee Code Annotated, Section 49-10-702, is amended by deleting the section and substituting instead the following:

(a) The state shall establish and implement a statewide early intervention system to ensure that all infants and toddlers in the state, from birth through two (2) years of age, inclusive, with disabilities who may have a developmental delay or a diagnosed disability are identified and evaluated.

(b) The early intervention system established under subsection (a) shall be a system of coordinated, comprehensive, and multidisciplinary interagency programs for infants and toddlers with developmental delays or disabilities and their families and must include all components prescribed by the IDEA.

SECTION 35. Tennessee Code Annotated, Title 49, Chapter 10, Part 8, is amended by deleting the part.

SECTION 36. Tennessee Code Annotated, Title 49, Chapter 10, Part 9, is amended by deleting the part.

SECTION 37. Tennessee Code Annotated, Section 49-10-1001, is amended by deleting the section.

SECTION 38. Tennessee Code Annotated, Section 49-50-1001, is amended by deleting the section and substituting instead the following:

(a)

(1) The commissioner of education may organize and supervise schools and classes according to the rules and standards established for the conduct of schools and classes of the public school system in this state in all institutions wholly or partly supported by this state that are not supervised by public school authorities.

(2) Schools and classes established in wholly state-owned institutions must be financed by the department of education.

(b) The state board of education shall direct the department of education to manage and control the Tennessee School for the Blind, Tennessee School for the Deaf, West Tennessee School for the Deaf, and Alvin C. York Agricultural Institute. The department of education may:

(1) Select and employ directors of schools, teachers, officers, and other employees for state special schools, including school counselors consistent with the requirements for LEAs set forth in § 49-6-303;

(2) Determine the salary and terms of employment for employees of state special schools;

(3) Recommend curricula for state special schools;

(4) Recommend to the state board of education for approval:



(A) Standards and policies for the minimum requirements for admission to, and discharge from, state special schools; and

(B) Rules to achieve for the school year a duty-free lunch period for all teachers, kindergarten through grade twelve (K-12), of at least the length of the student lunch period, during which time the teacher has no other assigned responsibilities;

(5) Receive donations of money, property, or securities from any source for the benefit of the institutions named in subsection (b), which funds it shall, in good faith, disburse in accordance with the conditions of the gifts. Subject to the terms and conditions of legislative appropriations therefore, the department shall have the power to purchase land, condemn land, erect buildings and equip the buildings for the schools on such terms as it may deem advisable and advantageous and to pay for the property out of funds appropriated or donated to or for the schools. The department shall be vested with title to property so purchased or acquired;

(6) Administer the Tennessee School for the Blind, the Tennessee School for the Deaf, the West Tennessee School for the Deaf, and the Alvin C. York Agricultural Institute and to exercise with respect to these schools all the powers conferred upon it by § 12-1-109;

(7) Approve the budgets of the Tennessee School for the Blind, the Tennessee School for the Deaf, the West Tennessee School for the Deaf, and the Alvin C. York Agricultural Institute; and

(8) Employ at the Tennessee School for the Blind, the Tennessee School for the Deaf, the West Tennessee School for the Deaf, and the Alvin C. York Agricultural Institute at least one (1) employee who is a certified cardiopulmonary

resuscitation (CPR) instructor. Such person shall be responsible for training other members of the school in CPR.

(c) For the purposes of this part:

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

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

(d) The state board of education shall promulgate rules providing employees of the Tennessee School for the Blind, the Tennessee School for the Deaf, the West Tennessee School for the Deaf, the Alvin C. York Agricultural Institute, and any other special school hereafter established, the right to appeal to the board decisions of the commissioner relative to adverse job actions. Rules must be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5. Appeals filed pursuant to the rules promulgated under this section are contested cases under title 4, chapter 5, part 3.

SECTION 39. Tennessee Code Annotated, Section 49-50-1002, is amended by deleting the section and substituting instead the following:

(a) The department of finance and administration shall prescribe the budgetary, accounting, and financial reporting procedures for the Tennessee School for the Blind, the Tennessee School for the Deaf, the West Tennessee School for the Deaf, and the Alvin C. York Agricultural Institute.

(b) The department of education is authorized to carry over a maximum of ten percent (10%) of the total appropriated funds for operation of the state special schools system. This shall not affect the next year's appropriation. The department of education is authorized to utilize a part of this budget for the purposes of securing and utilizing federal grants.

SECTION 40. Tennessee Code Annotated, Section 49-50-1003, is amended by deleting the section and substituting instead the following:

(a) The several appropriations of state funds annually made for the operation and maintenance of the Tennessee School for the Blind, the Tennessee School for the Deaf, the West Tennessee School for the Deaf, the Alvin C. York Agricultural Institute, and other special schools operated by the department of education as may hereafter be created shall be administered and expended under budgets approved by the department of education.

(b) The schools referenced in subsection (a) may award scholarships for the school's graduates. The graduates must be selected by the respective director of schools under the approval of the commissioner.

(c) The department shall obligate and expend appropriations for the capital improvement of the state special schools.

(d) The salary schedules for teachers and other professional personnel in the state special schools must be reasonably comparable to those currently in effect in the LEAs where the respective institution is located, but the salaries must be paid solely out of the state appropriations made to the respective institutions.

SECTION 41. Tennessee Code Annotated, Title 49, Chapter 50, Part 10, is amended by adding the following language as a new, appropriately designated section:

(a) The school for the instruction of students who are blind or visually impaired in Nashville shall be a body corporate by the name of "Tennessee School for the Blind."

(b) The corporation has the right to:

(1) Sue in law or equity;

(2) Receive donations of money from any source for the benefit of the school;

(3) Take and hold property, real and personal, for its use and benefit as a school; and

(4) Have a seal and such corporate rights and powers as are necessary and proper to effect the end of its creation, the education of students who are blind or visually impaired.

(c) The land, buildings, and appurtenances used by the Tennessee School for the Blind are the property of this state.

(d) The commissioner may:

(1) Administer and manage the household and domestic affairs of the school;

(2) Implement policies and guidelines of the state board of education relative to the school; and

(3) Establish a work training program for adults who are blind or visually impaired.

(e) Any student three (3) through twenty-one (21) years of age, both inclusive, who is a resident of this state and who has a visual impairment, including either partial sight or blindness, even with correction, that adversely affects the student's educational performance is eligible for admission to the Tennessee School for the Blind.

(f) The director of schools for the Tennessee School for the Blind may admit eligible students who have been evaluated and referred by the student's individualized education program team, as defined by § 49-10-102, for services at the school as the most appropriate placement within the least restrictive environment.

(g) Students admitted to the Tennessee School for the Blind who are residents of this state shall not be charged tuition.

(h) The Tennessee School for the Blind is authorized to implement programs and install facilities for career and technical education.

SECTION 42. Tennessee Code Annotated, Title 49, Chapter 50, Part 10, is amended by adding the following language as a new, appropriately designated section:

(a) The state school for the education of students who are deaf or hearing impaired, located in the city of Knoxville, shall be a body corporate by the name of "Tennessee School for the Deaf." The state school for the education of students who are deaf or hearing impaired, located in the city of Jackson, shall be a body corporate by the name of "West Tennessee School for the Deaf."

(b) Each corporation has the right to:

(1) Sue in law or equity;

(2) Receive donations of money from any source for the benefit of the school;

(3) Take and hold property, real and personal, for its use and benefit as a school; and

(4) Have a seal and such corporate rights and powers as are necessary and proper to effect the end of its creation, the education of students who are deaf.

(c) The commissioner may:

(1) Administer and manage the household and domestic affairs of the schools; and

(2) Implement policies and guidelines of the state board of education relative to the schools.

(d) The land, buildings, and appurtenances used by the Tennessee School for the Deaf and the West Tennessee School for the Deaf are the property of this state.

(e) Any student three (3) through twenty-one (21) years of age, both inclusive, who is a resident of this state and who has a hearing impairment that adversely affects the student's educational performance is eligible for admission to the Tennessee School for the Deaf or the West Tennessee School for the Deaf.

(f) The director of schools for the Tennessee School for the Deaf and the West Tennessee School for the Deaf may admit eligible students who have been evaluated and referred by the student's individualized education program team, as defined by § 49-10-102, for services at the school as the most appropriate placement within the least restrictive environment.

(g) Students admitted to the Tennessee School for the Deaf or the West Tennessee School for the Deaf who are residents of this state shall not be charged tuition.

SECTION 43. Tennessee Code Annotated, Title 49, Chapter 50, Part 10, is amended by adding the following language as a new, appropriately designated section:

(a) This state, acting through the state board of education and the commissioner of education, shall establish, maintain, and operate a school in Madison County for the hearing impaired children of west Tennessee.

(b) There shall also be a branch school of the school for the deaf located in Davidson County in connection with the Tennessee School for the Blind.

SECTION 44. Tennessee Code Annotated, Section 4-5-322(b)(1)(B)(ii), is amended by deleting the language "§ 49-10-601" and substituting instead the language "§ 49-10-606".

SECTION 45. This act shall take effect upon becoming a law, the public welfare requiring it.