

SENATE BILL 2497

By Gresham

AN ACT to amend Tennessee Code Annotated, Title 49,  
relative to the Course Access Program Act.

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

SECTION 1. Tennessee Code Annotated, Title 49, is amended by adding SECTIONS 2 through 12 as a new chapter.

SECTION 2. This chapter shall be known and may be cited as the "Course Access Program Act."

SECTION 3. As used in this chapter:

(1) "Course access catalog" means the web site developed by the department that:

(A) Provides a listing of all courses authorized and available to students in the state;

(B) Details information about the courses to inform student enrollment decisions; and

(C) Allows students to enroll in courses;

(2) "Course access program" means the program created by this chapter;

(3) "Course provider":

(A) Means an entity authorized by the department to offer individual courses in person or online; and

(B) Includes:

(i) Online education providers;

(ii) Public or private elementary and secondary education institutions;

- (iii) Education service agencies;
  - (iv) Postsecondary education institutions; and
  - (v) Vocational or technical course providers;
- (4) "Department" means the department of education;
- (5) "Eligible funded student" means any eligible participating student who is currently enrolled in a public school, including a public charter school;
- (6) "Eligible participating student" means any kindergarten through grade 12 (K-12) student who resides in this state; and
- (7) "Open format" means an educational platform that is independent, machine readable, and made available to the public without restrictions that would impede the re-use of that information.

#### SECTION 4.

(a) Beginning in the 2017-2018 school year, an eligible participating student may enroll in course access program courses, as determined by the LEA.

(b) An eligible funded student may enroll in no more than two (2) state course access program courses that are made available by the program, unless additional courses are approved by the LEA where the student is enrolled.

(c) Notwithstanding subsection (b), a school may individually approve eligible funded students to take more than two (2) course access program courses.

(d)

(1) The families of eligible funded students and other eligible participating students may elect to enroll in additional courses exceeding the two-course limitation in subsection (b).

(2) Students described in subdivision (d)(1) shall be responsible for paying the department or LEA the required tuition and fees for all courses exceeding the two-course limitation in subsection (b).

(e)

(1) LEAs with students enrolled in the course access program may review the courses in which the student is enrolled to ensure the courses are academically appropriate, logistically feasible, keep the student on track for graduation, and do not extend a student beyond a full-time course load.

(2) An LEA may reject a student's course enrollment request if the course enrollment for the student does not comply with subdivision (e)(1).

(f) LEAs shall inform students and families of the students and families' right to appeal, in writing, to the department for all denials of course enrollment pursuant to subsection (e). Within seven (7) calendar days of the receipt by the department of the appeal, the department shall conduct a hearing in which a final decision shall be made on the student's course enrollment and whether requested courses meet the requirements of subsection (e).

#### SECTION 5.

(a) The department shall:

(1) Establish an authorization process for course providers that allow the course providers to submit new courses at least one (1) time each academic school year;

(2) Authorize, no later than ninety (90) calendar days from initial submission date, all course providers that:

(A) Meet the criteria established under Section 6; and

(B) Provide courses that offer the instructional rigor and scope required under Section 6; and

(3) Provide, no later than ninety (90) calendar days from initial submission date, a written explanation to a course provider that is denied.

(b) If a course provider is denied authorization, the provider may re-apply the following academic school year.

(c) The department shall promulgate rules in which the department authorizes course providers pursuant to this section, including all deadlines and guidelines applicable to the submission and authorization process for providers. The department shall include on its web site home page a link to the rules on the web site of the secretary of state.

(d) If the department determines that there are insufficient funds available to evaluate and authorize course providers, the department may charge the course provider a fee to be determined by the department. The department shall establish and publish a fee schedule for purposes of this subsection (d). The fee schedule shall be subject to an annual review and approval by the comptroller of the treasury.

#### SECTION 6.

(a) To be authorized as a course provider pursuant to this chapter, a provider shall:

(1) Be subject to all federal and state laws and constitutional provisions prohibiting discrimination on the basis of disability, race, creed, color, national origin, religion, ancestry, or need for special education services;

(2) Comply with all applicable state and federal student data privacy provisions, including, but not limited to, title 49, chapter 1, part 7, and the Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. § 1232g);

(3) Provide an assurance that all online information and resources for online or blended courses are fully accessible for students of all abilities, except as provided in subdivision (a)(3)(E), including that:

(A) All courses submitted for approval are reviewed to ensure the courses meet legal accessibility standards;

(B) The provider has created and promulgated an accessibility online learning policy;

(C) The provider has designated a 504 coordinator, a grievance policy, and annual notifications;

(D) The provider has policies and activities to ensure its organizational and course web sites meet accessibility requirements; and

(E) The provider has no gateway exam or test where a specific score is required to participate in course access program courses beyond completion of prerequisite coursework or demonstrated mastery of prerequisite material;

(4) Demonstrate either:

(A) Prior evidence of delivering quality outcomes for students as demonstrated by completion rates, student growth, proficiency, or other quantifiable outcomes; or

(B) For a course provider applying to offer a subject or grade level for the first time, provide a detailed justification, in a manner determined by the department, of how its organization's subject matter, instructional, or technical expertise shall lead to successful outcomes for students;

(5) Ensure instructional and curricular quality through a detailed curriculum and student performance accountability plan that aligns with, and measures student attainment of, relevant state academic standards or other relevant standards in courses without state academic standards; and

(6) Provide assurances that the course provider shall electronically provide, in a manner and format determined by the department, a detailed student record of enrollment, performance, completion, and grading information to the school systems where eligible participating students are enrolled full time.

(b)

(1) The data in all approved course programs shall be published online in an open format that can be retrieved, downloaded, indexed, and searched by commonly used web search applications.

(2) All data in the approved course catalogs shall be owned by the department.

(c) Additional criteria developed by the department may be used to evaluate providers and may include nationally recognized third-party quality standards.

#### SECTION 7.

(a) The department shall establish a course review and approval process. The process may be implemented by the department or by an entity designated by the department.

(b) In order to be approved and added to the course access catalog, a course shall:

(1) Meet the instructional and academic rigor of a course that is provided in a traditional classroom setting;

(2) Be aligned to the state academic standards of the state board of education;

(3) Possess an assessment component for determining student proficiency, growth, and achievement pursuant to §§ 49-1-604 and 49-1-605; and

(4) Be designed and implemented consistently with criteria established by nationally recognized third-party quality standards.

(c) The department may negotiate changes in the proposal with the course provider, if the department determines that changes are necessary in order to authorize the course.

#### SECTION 8.

(a) The initial authorization of the course provider and approved courses shall be for a period of three (3) years.

(b) Providers shall annually report to the department, in such a manner as directed by the department, the following information:

(1) Student enrollment data;

(2) Student outcomes, growth measures when available, proficiency rates, and completion rates for each subject area and grade level;

(3) Student and parental feedback, in a manner prescribed by the department, on overall satisfaction and quality of the courses, including the availability of support from teachers; and

(4) Additional information the department deems necessary in evaluating course providers.

(c) After the second year of the initial authorization period, the department shall review the academic performance of the students enrolled in courses offered by the course provider to ensure the students are receiving curriculum aligned with the state standards and assessments as determined by the state board of education and meeting the requirements for graduation.

(d)

(1) If the performance of the students enrolled in courses offered by the course provider fails to meet the performance standards required by the department, the course provider shall be placed on probation. The department shall determine the terms of the probation.

(2) The course provider shall submit a plan for improvement to the department. If the department determines that the course provider met the department's goals during the probationary period, then the department shall return the provider to good standing as an approved course provider.

(3) If a course provider on probation fails to return to good standing during the probationary period, the department may revoke the course provider's status as an approved course provider.

(e) After the initial three-year authorization period and no later than April 1 of the year prior to the year in which the course provider's authorization expires, the course provider shall submit a renewal application to the department for an additional three-year period. The decision of the department to approve or deny the renewal application shall be based on whether the course provider is in good standing as an approved course provider.

(f) The department may exclude a course provided by an authorized provider at any time if the department determines that:

(1) The course is no longer adequately aligned with the state academic standards;

(2) The course no longer provides a detailed and quality curriculum and accountability plan; or



(3) The course fails to deliver outcomes as measured by course completion or student outcomes and performance on state or nationally accepted assessments.

SECTION 9. The department may enter into a reciprocity agreement with other states for the purpose of authorizing and approving high-quality providers and courses for the course access program and the operation of the course access catalog.

SECTION 10.

(a) The department shall:

(1) Publish the criteria required by Section 7 for courses offered through the course access program;

(2) Be responsible for creating the course access catalog; provided, however, that the department may enter into an agreement with other states or organizations to develop or operate one (1) or more aspects of the course access catalog and course access programs;

(3) Publish a link to the course access catalog in a prominent location on the department's web site that includes:

(A) A list of courses offered by authorized providers available through the course access program;

(B) A detailed description of the courses; and

(C) All available student completion and outcome data in a manner that protects student privacy in compliance with title 49, chapter 1, part 7, and the Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. § 1232g); and

(4) Establish and publish a timeframe or specific dates by which students may withdraw from a course provided through the course access program.

(b) The department shall maintain on its official web site in a prominent location an informed choice report. An informed choice report shall:

(1) Be updated within thirty (30) calendar days of the addition of authorized course providers;

(2) Describe each course offered through the course access program and include information such as course requirements and the school year calendar for the course, including any options for continued participation outside of the standard school year calendar;

(3) Include student and parental comments and feedback as reported by the course provider under Section 8; and

(4) Be published online in an open format that can be retrieved, downloaded, indexed, and searched by commonly used web search applications.

(c) The department shall submit a report by March 1, 2019, and annually thereafter, on the course access program and the participation of entities to the governor, the speaker of the senate, and the speaker of the house of representatives.

The report shall, at a minimum, include the following information:

(1) The annual number of unique students participating in courses authorized under this chapter and the total number of courses in which students are enrolled;

(2) The number of authorized course providers;

(3) The number of authorized courses and the number of students enrolled in each course;

(4) The number of courses available by subject and grade level;

(5) The number of students enrolled in courses by subject and grade level; and

(6) Student outcome data, including completion rates, student learning gains, assessments used to measure academic progress, as categorized by subject, grade level, and provider. This outcome data shall be published in a manner that protects student privacy.

(d) The department shall note any data that is not available, when the data shall become available, and include that data in future reports.

(e) The report and underlying data shall be published online in an open format that can be retrieved, downloaded, indexed, and searched by commonly used web search applications.

#### SECTION 11.

(a) An LEA shall:

(1) Provide written notice to students and parents on the availability of courses and the deadline or deadlines for students to enroll;

(2) Provide the information required in subdivision (a)(1) to the students and parents in at least two (2) of the following forms of communication:

(A) In community newsletters or flyers;

(B) An advertisement in a newspaper of general circulation in the county served by the LEA;

(C) An addendum included with student report cards; or

(D) Additional methods that shall not require the LEA to incur additional costs; and

(3) Publish information and eligibility guidelines on the LEA's web sites of public schools according to the availability of courses at a particular school's grade level.

(b) Each LEA shall establish policies and procedures to ensure that:

(1) Credits earned through the course provider shall appear on the eligible participating student's official transcript and shall count towards the requirements of any approval of a high school diploma awarded by a public school system; and

(2) Required state assessments shall be administered to all eligible participating students attending a public school even if a student is enrolled in a course access program course through an approved course provider.

(c) The performance data of students who are enrolled in a course pursuant to this chapter shall be counted as student achievement data pursuant to title 49, chapter 1, part 6.

(d) The board of education shall adopt rules necessary to implement this chapter, including, but not limited to, the requirements for school governing bodies or LEAs whose students enroll in courses offered by authorized course providers.

(e) Nothing in this chapter shall prevent an LEA from establishing its own online program or supplemental course offerings.

## SECTION 12.

(a) Tuition applicable to courses taken through an approved course provider shall be determined as follows:

(1) The course provider shall receive tuition for each eligible funded student at a fair and reasonable rate to be negotiated by the department and the approved course provider. The tuition shall include all required fees and course materials. The department and approved course provider may take into account prices for similar levels of service in surrounding jurisdictions. Course payments shall be made by the department on behalf of the LEA in which the eligible participating student resides to the approved course provider. LEAs may pay

reasonable transportation costs for students enrolled in course access program courses;

(2) The course provider shall receive payment from the department only for the courses in which an eligible funded student is enrolled. The remaining funds for each student shall remain with the LEA in which the student is enrolled full time;

(3) The course provider shall accept the amount specified in subdivision (a)(1) as total tuition and fees for the eligible funded student; and

(4) The course provider may charge tuition to any eligible participating student up to an amount determined by the course provider and department.

(b) Payment of tuition to all approved course providers shall be based upon the student's successful completion of the course and made as follows:

(1) Fifty percent (50%) percent of the amount of tuition to be paid or transferred to the course provider shall be transferred upon student enrollment in a course, and fifty percent (50%) shall be dependent upon student's successful completion of the course. Student success may initially be measured based on course completion, but the department shall create new measures of student success by the 2019-2020 school year for use in courses where externally validated measures are available. These measures of student outcomes, based on either proficiency or growth, shall include results from independent end-of-course exams, Advanced Placement exams, receipt of industry recognized credentials, receipt of credit from institutions of higher education, or other externally validated measures, as determined by the department; and

(2) If a student does not successfully complete a course according to the published course length in which the course provider has received the first

payment pursuant to subdivision (b)(1), the provider shall receive fifty percent (50%) of the tuition that is dependent upon student success as defined in subdivision (b)(1) only if the student completes and receives credit for the course within one (1) additional semester. Any remaining tuition shall be returned to the LEA where the student is enrolled full time.

SECTION 13. The state board of education 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 Tennessee Code Annotated, Title 4, Chapter 5.

SECTION 14. If any provision of this act or its application to any person or circumstance is held invalid, then such invalidity shall not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to that end the provisions of this act shall be severable.

SECTION 15. This act shall take effect upon becoming a law, the public welfare requiring it.