

By: Representatives Hines, Johnson, Paden,
Harness, Banks

To: Education

HOUSE BILL NO. 523

1 AN ACT TO AMEND SECTIONS 37-16-3 AND 37-16-9, MISSISSIPPI
2 CODE OF 1972, WHICH ARE PROVISIONS OF THE STATEWIDE TESTING
3 PROGRAM, TO REQUIRE THE UNIFORM BASIC SKILLS TESTS TO BE
4 ADMINISTERED IN THE PRIMARY SPOKEN LANGUAGE OF STUDENTS IDENTIFIED
5 AS ENGLISH LANGUAGE LEARNERS; TO REQUIRE THE STATE DEPARTMENT OF
6 EDUCATION TO TRANSLATE AND PRINT THE ASSESSMENTS IN THE
7 APPROPRIATE LANGUAGE FOR THE APPROPRIATE GRADE LEVELS; TO REQUIRE
8 THE DEPARTMENT TO PROVIDE SCHOOL DISTRICTS IN NEED WITH TESTING
9 OBSERVERS OR PROCTORS CAPABLE OF PROVIDING TRANSLATION ASSISTANCE
10 TO STUDENTS IDENTIFIED AS ENGLISH LANGUAGE LEARNERS; TO REQUIRE
11 SCHOOL DISTRICTS TO REQUEST THE NEED FOR TRANSLATION ASSISTANCE
12 WITHIN A REASONABLE PERIOD BEFORE THE ADMINISTRATION OF APPLICABLE
13 ASSESSMENTS; TO REQUIRE SCHOOL DISTRICTS TO REPORT TO THE
14 DEPARTMENT THE NUMBER OF, GRADES OF AND PRIMARY SPOKEN LANGUAGES
15 OF ALL ENGLISH LANGUAGE LEARNERS ENROLLED IN ITS SCHOOLS; TO BRING
16 FORWARD SECTION 37-16-5, MISSISSIPPI CODE OF 1972, FOR PURPOSES OF
17 POSSIBLE AMENDMENT; AND FOR RELATED PURPOSES.

18 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

19 **SECTION 1.** Section 37-16-3, Mississippi Code of 1972, is
20 amended as follows:

21 37-16-3. (1) The State Department of Education is directed
22 to implement a program of statewide assessment testing which shall
23 provide for the improvement of the operation and management of the
24 public schools. The statewide program shall be timed, as far as



25 possible, so as not to conflict with ongoing district assessment
26 programs. As part of the program, the department shall:

27 (a) Establish, with the approval of the State Board of
28 Education, minimum performance standards related to the goals for
29 education contained in the state's plan including, but not limited
30 to, basic skills in reading, writing and mathematics. The minimum
31 performance standards shall be approved by April 1 in each year
32 they are established.

33 (b) Conduct a uniform statewide testing program in
34 grades deemed appropriate in the public schools, including charter
35 schools, which shall include the administration of a
36 career-readiness assessment, such as, but not limited to, the ACT
37 WorkKeys Assessment, deemed appropriate by the Mississippi
38 Department of Education working in coordination with the Office of
39 Workforce Development, to any students electing to take the
40 assessment. Each individual school district shall determine
41 whether the assessment is administered in the tenth, eleventh or
42 twelfth grade. The program may test skill areas, basic skills and
43 high school course content.

44 (c) Monitor the results of the assessment program and,
45 at any time the composite student performance of a school or basic
46 program is found to be below the established minimum standards,
47 notify the district superintendent or the governing board of the
48 charter school, as the case may be, the school principal and the
49 school advisory committee or other existing parent group of the



50 situation within thirty (30) days of its determination. The
51 department shall further provide technical assistance to a school
52 district in the identification of the causes of this deficiency
53 and shall recommend courses of action for its correction.

54 (d) Provide technical assistance to the school
55 districts, when requested, in the development of student
56 performance standards in addition to the established minimum
57 statewide standards.

58 (e) Issue security procedure regulations providing for
59 the security and integrity of the tests that are administered
60 under the basic skills assessment program.

61 (f) In case of an allegation of a testing irregularity
62 that prompts a need for an investigation by the Department of
63 Education, the department may, in its discretion, take complete
64 control of the statewide test administration in a school district
65 or any part thereof, including, but not limited to, obtaining
66 control of the test booklets and answer documents. In the case of
67 any verified testing irregularity that jeopardized the security
68 and integrity of the test(s), validity or the accuracy of the test
69 results, the cost of the investigation and any other actual and
70 necessary costs related to the investigation paid by the
71 Department of Education shall be reimbursed by the local school
72 district from funds other than federal funds, Mississippi Adequate
73 Education Program funds, or any other state funds within six (6)



74 months from the date of notice by the department to the school
75 district to make reimbursement to the department.

76 (2) (a) Uniform basic skills tests shall be completed by
77 each student in the appropriate grade. These tests shall be
78 administered in such a manner as to preserve the integrity and
79 validity of the assessment. In the event of excused or unexcused
80 student absences, make-up tests shall be given. The school
81 superintendent of every school district in the state and the
82 principal of each charter school shall annually certify to the
83 State Department of Education that each student enrolled in the
84 appropriate grade has completed the required basic skills
85 assessment test for his or her grade in a valid test
86 administration.

87 (b) The State Department of Education shall ensure that
88 each student to whom the uniform basic skills test is administered
89 under the Mississippi Assessment Program is not disadvantaged in
90 the testing process. All students identified by their school
91 districts as English language learners shall be administered the
92 test which has been translated and printed in the students' native
93 or primary spoken language, except that all tests in English
94 language arts shall be administered in the English language. For
95 assessments administered to high school students, the translator
96 requirement shall only be applicable to those assessments which
97 are a part of the end-of-course subject area testing program. The
98 translated testing material shall consist of the method of



99 translation and assessment module approved by the State Department
100 of Education and made available to schools and school districts as
101 an appropriate accommodation for English language learners in the
102 assessment process. Each local school district shall make a
103 report to the department of the number and grades of students
104 whose secondary language is English, as well as those students'
105 native or primary spoken language. The department shall then make
106 every necessary effort to have the uniform basic skills tests
107 translated into the appropriate language prior to the
108 administration of the test. This section shall not apply to the
109 administration of the ACT.

110 (c) During each administration of any uniform basic
111 skills test under the Mississippi Assessment Program or as an
112 end-of-course subject area test, the department shall provide
113 school districts having need of translators with testing observers
114 or proctors capable of providing translation assistance to
115 students in specific languages, provided that the school submits a
116 request to the department for translation assistance within a
117 reasonable period before the administration of the assessments, by
118 specifying the language or languages in which students identified
119 as English language learners need translation, the number of
120 students in need of translation and the grade level of students in
121 need of translation. The translation assistance authorized under
122 this paragraph shall be made available to school districts having
123 one or more students who identify as English language learners.



124 (3) Within five (5) days of completing the administration of
125 a statewide test, the principal of the school where the test was
126 administered shall certify under oath to the State Department of
127 Education that the statewide test was administered in strict
128 accordance with the Requirements of the Mississippi Statewide
129 Assessment System as adopted by the State Board of Education. The
130 principal's sworn certification shall be set forth on a form
131 developed and approved by the Department of Education. If,
132 following the administration of a statewide test, the principal
133 has reason to believe that the test was not administered in strict
134 accordance with the Requirements of the Mississippi Statewide
135 Assessment System as adopted by the State Board of Education, the
136 principal shall submit a sworn certification to the Department of
137 Education setting forth all information known or believed by the
138 principal about all potential violations of the Requirements of
139 the Mississippi Statewide Assessment System as adopted by the
140 State Board of Education. The submission of false information or
141 false certification to the Department of Education by any licensed
142 educator may result in licensure disciplinary action pursuant to
143 Section 37-3-2 and criminal prosecution pursuant to Section
144 37-16-4.

145 **SECTION 2.** Section 37-16-9, Mississippi Code of 1972, is
146 amended as follows:

147 37-16-9. (1) (a) The state board shall, after a public
148 hearing and consideration, make provision for appropriate



149 accommodations for testing instruments and procedures for students
150 with identified handicaps or disabilities in order to ensure that
151 the results of the testing represent the student's achievement,
152 rather than reflecting the student's impaired sensory, manual,
153 speaking or psychological process skills, except when such skills
154 are the factors the test purports to measure.

155 (b) The state board shall, after a public hearing and
156 consideration, make provision for appropriate accommodations for
157 testing instruments and procedures for students identified as
158 English language learners in order to ensure that the results of
159 the testing represent the students' achievement in an equitable
160 manner. For purposes of this paragraph (b) appropriate
161 accommodations shall consist of:

162 (i) The testing materials being translated and
163 printed in the students' native or primary spoken language using
164 the method of translation and assessment module approved by the
165 State Department of Education and made available to schools and
166 school districts as an appropriate accommodation for English
167 language learners in the assessment process; and

168 (ii) The onsite presence of testing observers or
169 proctors capable of providing translation assistance in the native
170 or primary spoken language of students who are identified by the
171 school district as English language learners.

172 (2) The public hearing and consideration required hereunder
173 shall not be construed to amend or nullify the requirements of



174 security relating to the contents of examinations or assessment
175 instruments and related materials or data.

176 (3) Children with disabilities shall be included in general
177 statewide and district-wide assessments programs, with appropriate
178 accommodations, where necessary. As appropriate, the State
179 Department of Education and the local educational agency shall:

180 (a) Develop policies and procedures for the
181 participation of children with disabilities in alternate
182 assessments for those children who cannot participate in statewide
183 and district-wide assessment programs; and

184 (b) Develop and, beginning not later than July 1, 2000,
185 conduct those alternate assessments.

186 (4) The State Department of Education shall make available
187 to the public, and report to the public with the same frequency
188 and in the same detail as it reports on the assessment of
189 nondisabled children, the following:

190 (a) The number of children with disabilities
191 participating in regular assessments;

192 (b) The number of children participating in alternate
193 assessments;

194 (c) The performance of those children on regular
195 assessments, beginning not later than July 1, 1998, and on
196 alternate assessments, not later than July 1, 2000, if doing so
197 would be statistically sound and would not result in the



198 disclosure of performance results identifiable to individual
199 children; and

200 (d) Data relating to the performance of children with
201 disabilities shall be disaggregated for assessments conducted
202 after July 1, 1998.

203 (5) The State Department of Education shall make available
204 to the public, and report to the public with the same frequency
205 and in the same detail as it reports on the assessment of children
206 whose primary spoken language is English, the following:

207 (a) The number of children identified as English
208 language learners participating in regular assessments;

209 (b) The number of children identified as English
210 language learners participating in alternate assessments;

211 (c) The performance of those children on regular
212 assessments, beginning not later than July 1, 2023, and on
213 alternate assessments, not later than July 1, 2024, if doing so
214 would be statistically sound and would not result in the
215 disclosure of performance results identifiable to individual
216 children; and

217 (d) Data relating to the performance of children
218 identified as English language learners shall be disaggregated for
219 assessments conducted after July 1, 2023.

220 **SECTION 3.** Section 37-16-5, Mississippi Code of 1972, is
221 brought forward as follows:



222 37-16-5. The school board of every district in this state
223 shall periodically assess student performance and achievement in
224 each school. Such assessment programs shall be based upon local
225 goals and objectives which are compatible with the state's plan
226 for education and which supplement the minimum performance
227 standards approved by the State Board of Education. Data from
228 district assessment programs shall be provided to the State
229 Department of Education when such data is required in order to
230 evaluate specific instructional programs or processes or when the
231 data is needed for other research or evaluation projects. Each
232 district may provide acceptable, compatible district assessment
233 data to substitute for any assessment data needed at the state
234 level when the State Department of Education certifies that such
235 data is acceptable for the purposes of Section 37-16-3.

236 **SECTION 4.** This act shall take effect and be in force from
237 and after July 1, 2023.

