

By: Representative Harness

To: Education

HOUSE BILL NO. 1163

1 AN ACT TO AMEND SECTION 37-16-4, MISSISSIPPI CODE OF 1972, TO
2 REQUIRE TESTING COMPANIES SELECTED AS VENDORS TO PROVIDE ACADEMIC
3 ASSESSMENTS IN COMPLIANCE WITH THE MISSISSIPPI STATEWIDE
4 ASSESSMENT SYSTEM TO BE HELD CIVILLY AND CRIMINALLY LIABLE FOR THE
5 MANIPULATION OF TEST SCORES; AND FOR RELATED PURPOSES.

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

7 **SECTION 1.** Section 37-16-4, Mississippi Code of 1972, is
8 amended as follows:

9 37-16-4. (1) It is unlawful for anyone knowingly and
10 willfully to do any of the following acts regarding mandatory
11 uniform tests administered to students as required by the State
12 Department of Education:

13 (a) Give examinees access to test questions prior to
14 testing;

15 (b) Copy or reproduce all or any portion of any secure
16 test booklet;

17 (c) Coach examinees during testing or alter or
18 interfere with examinees' responses in any way;

19 (d) Make answer keys available to examinees;



20 (e) Fail to account for all secure test materials
21 before, during and after testing;

22 (f) Participate in, direct, aid, counsel, assist in,
23 encourage or fail to report any of the acts prohibited in this
24 section.

25 (2) Any person violating any provisions of subsection (1) of
26 this section is guilty of a misdemeanor and upon conviction shall
27 be fined not more than One Thousand Dollars (\$1,000.00), or be
28 imprisoned for not more than ninety (90) days, or both. Upon
29 conviction, the State Board of Education may suspend or revoke the
30 administrative or teaching credentials, or both, of the person
31 convicted.

32 (3) Any person submitting a false certification to the State
33 Department of Education that each statewide test in a school was
34 administered in strict accordance with the Requirements of the
35 Mississippi Statewide Assessment System as adopted by the State
36 Board of Education, and with willful intent, is guilty of a felony
37 and upon conviction thereof shall be fined not more than Fifteen
38 Thousand Dollars (\$15,000.00), or be imprisoned for not more than
39 three (3) years, or both. Upon conviction, the State Board of
40 Education may suspend or revoke the administrative or teaching
41 credentials, or both, of the person convicted.

42 (4) The district attorney shall investigate allegations of
43 violations of this section, either on its own initiative following



44 a receipt of allegations, or at the request of a school district
45 or the State Department of Education.

46 (5) The district attorney shall furnish to the State
47 Superintendent of Education a report of the findings of any
48 investigation conducted pursuant to this section.

49 (6) The State Board of Education shall establish statistical
50 guidelines to examine the results of state mandated tests to
51 determine where there is evidence of testing irregularities
52 resulting in false or misleading results in the aggregate or
53 composite test scores of the class, grade, age group or school
54 district. When said irregularities are identified, the State
55 Superintendent of Education may order that any group of students
56 identified as being required to retake the test at state expense
57 under state supervision. The school district shall be given at
58 least thirty (30) days' notice before the next test administration
59 and shall comply with the order of the State Superintendent of
60 Education. The results from the second administration of the test
61 shall be final for all uses of that data.

62 (7) The State Board of Education, when conducting
63 procurement and soliciting requests for proposals (RFPs) for
64 vendors to serve as the state provider of assessments to
65 facilitate and construct assessments indicative of the educational
66 content required by the College and Career Readiness Standards to
67 be in compliance with the Mississippi Statewide Assessment System
68 created under the authority of this chapter, shall stipulate in



69 its advertisement that the selected vendor shall be held civilly
70 and criminally liable for any manipulation of results of test
71 scores. This stipulation shall then be incorporated into the
72 contractual agreement entered into by the board and the selected
73 vendor. Any occurrence of manipulation of scores in violation of
74 this section and the contractual agreement with willful intent to
75 falsify testing results, which affect a school's and school
76 district's accountability rating, is guilty of a felony and, upon
77 conviction thereof, shall be fined not more than One Hundred
78 Thousand Dollars (\$100,000.00), and all agents and employees of
79 the selected vendor who are determined by the court to be active
80 participants in the scoring manipulation may be imprisoned for not
81 more than three (3) years. Additionally, such violation shall
82 result in a cancellation of the contract between the board and
83 selected vendor, and the vendor shall be financially liable for
84 reimbursing the board all monies paid to said vendor under the
85 contract, less the actual amount incurred for developing,
86 producing and distributing the various assessments throughout
87 school districts in the state.

88 (* * *8) Nothing in this section may be construed to
89 prohibit or interfere with the responsibilities of the State Board
90 of Education or the State Department of Education in test
91 development or selection, test form construction, standard
92 setting, test scoring, and reporting, or any other related



93 activities which in the judgment of the State Superintendent of
94 Education are necessary and appropriate.

95 **SECTION 2.** This act shall take effect and be in force from
96 and after July 1, 2023.

