

By: Representative Hines

To: Education

HOUSE BILL NO. 193

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, 2024, and on  
213 alternate assessments, not later than July 1, 2025, 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, 2024.

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, 2024.

