MISSISSIPPI LEGISLATURE REGULAR SESSION 2021

By: Representative Anderson (110th)

To: Education; Appropriations

HOUSE BILL NO. 739

AN ACT TO AMEND SECTIONS 37-16-3 AND 37-16-9, MISSISSIPPI CODE OF 1972, WHICH ARE PROVISIONS OF THE STATEWIDE TESTING PROGRAM, TO REQUIRE THE UNIFORM BASIC SKILLS TESTS TO BE ADMINISTERED IN THE PRIMARY SPOKEN LANGUAGE OF STUDENTS IDENTIFIED AS ENGLISH LANGUAGE LEARNERS; TO REQUIRE THE STATE DEPARTMENT OF EDUCATION TO TRANSLATE AND PRINT THE ASSESSMENTS IN THE APPROPRIATE LANGUAGE FOR THE APPROPRIATE GRADE LEVELS; TO REQUIRE SCHOOL DISTRICTS TO REPORT TO THE DEPARTMENT THE NUMBER OF, GRADES OF AND PRIMARY SPOKEN LANGUAGES OF ALL ENGLISH LANGUAGE LEARNERS ENROLLED IN ITS SCHOOLS; TO BRING FORWARD SECTION 37-16-5, MISSISSIPPI CODE OF 1972, FOR PURPOSES OF POSSIBLE AMNEDMENT; AND FOR RELATED PURPOSES.

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

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

37-16-3. (1) The State Department of Education is directed to implement a program of statewide assessment testing which shall provide for the improvement of the operation and management of the public schools. The statewide program shall be timed, as far as possible, so as not to conflict with ongoing district assessment programs. As part of the program, the department shall:

(a) Establish, with the approval of the State Board of Education, minimum performance standards related to the goals for

education contained in the state's plan including, but not limited to, basic skills in reading, writing and mathematics. The minimum performance standards shall be approved by April 1 in each year they are established.

(b) Conduct a uniform statewide testing program in grades deemed appropriate in the public schools, including charter schools. The program may test skill areas, basic skills and high school course content.

(c) Monitor the results of the assessment program and, at any time the composite student performance of a school or basic program is found to be below the established minimum standards, notify the district superintendent or the governing board of the charter school, as the case may be, the school principal and the school advisory committee or other existing parent group of the situation within thirty (30) days of its determination. The department shall further provide technical assistance to a school district in the identification of the causes of this deficiency and shall recommend courses of action for its correction.

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

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

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

(2) (a) Uniform basic skills tests shall be completed by each student in the appropriate grade. These tests shall be administered in such a manner as to preserve the integrity and validity of the assessment. In the event of excused or unexcused student absences, make-up tests shall be given. The school superintendent of every school district in the state and the principal of each charter school shall annually certify to the State Department of Education that each student enrolled in the appropriate grade has completed the required basic skills

assessment test for his or her grade in a valid test administration.

(b) The State Department of Education shall ensure that each student to whom the uniform basic skills test is administered under the Mississippi Assessment Program is not disadvantaged in the testing process. All students identified by their school districts as English language learners shall be administered the test which has been translated and printed in the students' native or primary spoken language, except that all tests in English language arts shall be administered in the English language. For assessments administered to high school students, the translator requirement shall only be applicable to those assessments which are a part of the end-of-course subject area testing program. The translated testing material shall consist of the method of translation and assessment module approved by the State Department of Education and made available to schools and school districts as an appropriate accommodation for English language learners in the assessment process. Each local school district shall make a report to the department of the number and grades of students' whose secondary language is English, as well as those students native or primary spoken language. The department shall then make every necessary effort to have the uniform basic skills tests translated into the appropriate language prior to the administration of the test. This section shall not apply to the administration of the ACT.

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

SECTION 2. Section 37-16-5, Mississippi Code of 1972, is brought forward as follows:

37-16-5. The school board of every district in this state shall periodically assess student performance and achievement in

each school. Such assessment programs shall be based upon local goals and objectives which are compatible with the state's plan for education and which supplement the minimum performance standards approved by the State Board of Education. Data from district assessment programs shall be provided to the State Department of Education when such data is required in order to evaluate specific instructional programs or processes or when the data is needed for other research or evaluation projects. Each district may provide acceptable, compatible district assessment data to substitute for any assessment data needed at the state level when the State Department of Education certifies that such data is acceptable for the purposes of Section 37-16-3.

SECTION 3. Section 37-16-9, Mississippi Code of 1972, is amended as follows:

37-16-9. (1) (a) The state board shall, after a public hearing and consideration, make provision for appropriate accommodations for testing instruments and procedures for students with identified handicaps or disabilities in order to ensure that the results of the testing represent the student's achievement, rather than reflecting the student's impaired sensory, manual, speaking or psychological process skills, except when such skills are the factors the test purports to measure.

(b) The state board shall, after a public hearing and consideration, make provision for appropriate accommodations for testing instruments and procedures for students identified as

English language learners in order to ensure that the results of the testing represent the student's achievement in an equitable manner. For purposes of this paragraph (b) appropriate accommodations shall consist of the testing materials being translated and printed in the students' native or primary spoken language using the method of translation and assessment module approved by the State Department of Education and made available to schools and school districts as an appropriate accommodation for English language learners in the assessment process.

(2) The public hearing and consideration required hereunder shall not be construed to amend or nullify the requirements of security relating to the contents of examinations or assessment instruments and related materials or data.

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

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

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

(4) The State Department of Education shall make available to the public, and report to the public with the same frequency

and in the same detail as it reports on the assessment of nondisabled children, the following:

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

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

(c) The performance of those children on regular assessments, beginning not later than July 1, 1998, and on alternate assessments, not later than July 1, 2000, if doing so would be statistically sound and would not result in the disclosure of performance results identifiable to individual children; and

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

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

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

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

(c) The performance of those children on regular assessments, beginning not later than July 1, 2021, and on

alternate assessments, not later than July 1, 2022, if doing so would be statistically sound and would not result in the disclosure of performance results identifiable to individual children; and

(d) Data relating to the performance of children identified as English language learners shall be disaggregated for assessments conducted after July 1, 2021.

SECTION 4. This act shall take effect and be in force from and after July 1, 2021.