

By: Senator(s) Tollison

To: Education

SENATE BILL NO. 2199
(As Passed the Senate)

1 AN ACT TO AMEND SECTIONS 37-9-13, 37-9-25 AND 37-5-61,
2 MISSISSIPPI CODE OF 1972, TO PROVIDE FOR THE APPOINTMENT OF ALL
3 SUPERINTENDENTS OF SCHOOLS FROM AND AFTER JANUARY 1, 2016; TO
4 AUTHORIZE A REFERENDUM ON THE QUESTION OF RETAINING THE OFFICE OF
5 ELECTED COUNTY SUPERINTENDENT OF EDUCATION IN COUNTIES PURSUANT TO
6 PETITION PRIOR TO JANUARY 1, 2015; TO REPEAL EFFECTIVE JANUARY 1,
7 2016, SECTIONS 37-5-61, 37-5-63, 37-5-65, 37-5-67, 37-5-69,
8 37-5-71 AND 37-5-75, MISSISSIPPI CODE OF 1972, WHICH PROVIDE FOR
9 CHANGING THE POSITION OF COUNTY SUPERINTENDENT OF EDUCATION TO AN
10 APPOINTED OFFICE PURSUANT TO PETITION AND REFERENDUM, PROVIDE FOR
11 THE REESTABLISHMENT OF THE OFFICE AS AN ELECTIVE OFFICE, AUTHORIZE
12 THE APPOINTMENT OF THE COUNTY SUPERINTENDENT OF EDUCATION IN
13 CERTAIN COUNTIES, PROVIDE FOR THE SELECTION AND QUALIFICATIONS OF
14 ELECTED SUPERINTENDENTS IN CERTAIN COUNTIES, PROVIDE FOR THE
15 FILLING OF VACANCIES IN THE OFFICE OF ELECTED COUNTY
16 SUPERINTENDENT OF EDUCATION, AND SECTION 37-9-12, MISSISSIPPI CODE
17 OF 1972, WHICH PROVIDES FOR A REFERENDUM ON THE QUESTION OF
18 RETAINING THE ELECTIVE METHOD OF CHOOSING THE COUNTY
19 SUPERINTENDENT OF EDUCATION; AND FOR RELATED PURPOSES.

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

21 **SECTION 1.** Section 37-9-13, Mississippi Code of 1972, is
22 amended as follows:

23 37-9-13. (1) Each school district shall have a
24 superintendent of schools, selected in the manner provided by law.
25 No person shall be eligible to the office of superintendent of
26 schools unless such person shall hold a valid administrator's



27 license issued by the State Department of Education and shall have
28 had not less than four (4) years of classroom or administrative
29 experience.

30 (2) From and after January 1, 2016, in all public school
31 districts, the local school board shall appoint the superintendent
32 of schools of such district unless the electors in the county have
33 voted to retain the office of elected county superintendent of
34 education as provided in subsection (3) of this section. At the
35 expiration of the term of any county superintendent of education
36 elected at the November 2011 general election, the county
37 superintendent of education of said county shall not be elected
38 but shall thereafter be appointed by the local school board in the
39 manner provided in Section 37-9-25, unless the electors in the
40 county have voted to retain the office of elected county
41 superintendent of education pursuant to referendum as provided in
42 subsection (3) of this section. The superintendent of schools
43 shall have the general powers and duties to administer the schools
44 within his district as prescribed in Section 37-9-14 et seq.,
45 Mississippi Code of 1972.

46 (3) If a petition signed by not less than twenty percent
47 (20%) or one thousand five hundred (1,500), whichever is less, of
48 the registered, qualified electors of such county, exclusive of
49 the municipal separate school district boundaries, is filed with
50 the county board of education requesting that a referendum be
51 called on the question of changing from the elective method of



52 selecting the county superintendent of education to the appointive
53 method, then the county board of education shall adopt, not later
54 than the next regular meeting, a resolution calling a referendum
55 to be called and held within the county school district boundaries
56 upon the question. The referendum shall be scheduled the first
57 Tuesday after the first Monday in November 2013 or 2014 that
58 occurs more than sixty (60) days after the date such petition is
59 filed with the board. When a referendum has been called, notice
60 of the referendum shall be published at least five (5) days per
61 week, unless the only newspaper published in the county school
62 district is published less than five (5) days per week, for at
63 least three (3) consecutive weeks, in at least one (1) newspaper
64 published in the county school district. The notice shall be no
65 less than one-fourth (1/4) page in size, and the type used shall
66 be no smaller than eighteen (18) point and surrounded by a
67 one-fourth-inch solid black border. The notice may not be placed
68 in that portion of the newspaper where legal notices and
69 classified advertisements appear. The first publication of the
70 notice shall be made not less than twenty-one (21) days before the
71 date fixed for the referendum, and the last publication shall be
72 made not more than seven (7) days before that date. If no
73 newspaper is published in the county school district, then the
74 notice shall be published in a newspaper having a general
75 circulation in the county school district. The referendum shall
76 be held, as far as is practicable, in the same manner as other



77 referendums and elections are held in the county. At the
78 referendum, all registered, qualified electors of the county
79 school district, exclusive of the municipal separate school
80 district boundaries, may vote. The ballots used at the referendum
81 shall have printed thereon a brief statement of the purpose of the
82 referendum and the words "FOR CHANGING FROM THE ELECTIVE TO THE
83 APPOINTIVE METHOD OF SELECTING THE COUNTY SUPERINTENDENT OF
84 EDUCATION," and "AGAINST CHANGING FROM THE ELECTIVE TO THE
85 APPOINTIVE METHOD OF SELECTING THE COUNTY SUPERINTENDENT OF
86 EDUCATION." The voter shall vote by placing a cross (X) or
87 checkmark (✓) opposite his choice on the proposition. If a
88 majority of the registered, qualified electors of the county
89 school district who vote in the referendum vote in favor of the
90 question, then the change in selection method shall be approved.
91 However, if a majority of the registered, qualified electors who
92 vote in the referendum vote against the question, the change in
93 selection method shall not be approved, and the county
94 superintendent of education of said county shall continue to be an
95 elected office.

96 **SECTION 2.** Section 37-9-25, Mississippi Code of 1972, is
97 amended as follows:

98 37-9-25. The school board shall have the power and
99 authority, in its discretion, to employ the superintendent, unless
100 such superintendent is elected pursuant to referendum under
101 Section 37-9-13(3), for not exceeding four (4) scholastic years



102 and the principals or licensed employees for not exceeding three
103 (3) scholastic years. In such case, contracts shall be entered
104 into with such superintendents, principals and licensed employees
105 for the number of years for which they have been employed. All
106 such contracts with licensed employees shall for the years after
107 the first year thereof be subject to the contingency that the
108 licensed employee may be released if, during the life of the
109 contract, the average daily attendance should decrease from that
110 existing during the previous year and thus necessitate a reduction
111 in the number of licensed employees during any year after the
112 first year of the contract. However, in all such cases the
113 licensed employee must be released before July 1 or at least
114 thirty (30) days prior to the beginning of the school term,
115 whichever date should occur earlier. The salary to be paid for
116 the years after the first year of such contract shall be subject
117 to revision, either upward or downward, in the event of an
118 increase or decrease in the funds available for the payment
119 thereof, but, unless such salary is revised prior to the beginning
120 of a school year, it shall remain for such school year at the
121 amount fixed in such contract. However, where school district
122 funds, other than minimum education program funds, are available
123 during the school year in excess of the amount anticipated at the
124 beginning of the school year the salary to be paid for such year
125 may be increased to the extent that such additional funds are
126 available and nothing herein shall be construed to prohibit same.



127 **SECTION 3.** Section 37-5-61, Mississippi Code of 1972, is
128 amended as follows:

129 **[In counties wherein the electors in the county have voted to**
130 **retain the office of elected county superintendent of education**
131 **pursuant to referendum as provided in Section 37-9-13(3), this**
132 **section shall read as follows:]**

133 37-5-61. (1) There shall be a county superintendent of
134 education in each county.

135 (2) Said superintendent shall serve as the executive
136 secretary of the county board of education, but shall have no vote
137 in the proceedings before the board and no voice in fixing the
138 policies thereof.

139 (3) In addition, said superintendent shall be the director
140 of all schools in the county outside the municipal separate school
141 districts.

142 (4) Said superintendent shall be elected at the same time
143 and in the same manner as other county officers are elected and
144 shall hold office for a term of four (4) years.

145 **[In counties where a referendum provided in Section**
146 **37-9-13(3) has not been approved, this section shall have no force**
147 **and effect.]**

148 **SECTION 4.** Effective January 1, 2016, Sections 37-5-61,
149 37-5-63, 37-5-65, 37-5-67, 37-5-69, 37-5-71 and 37-5-75,
150 Mississippi Code of 1972, which provide for changing the position
151 of county superintendent of education to an appointed office



152 pursuant to petition and referendum, provide for the
153 reestablishment of the office as an elective office, authorize the
154 appointment of the county superintendent of education in certain
155 counties, provide for the selection and qualifications of elected
156 superintendents in certain counties, provide for the filling of
157 vacancies in the office of elected county superintendent of
158 education, and Section 37-9-12, Mississippi Code of 1972, which
159 provides for a referendum on the question of retaining the
160 elective method of choosing the county superintendent of
161 education, is hereby repealed.

162 **SECTION 5.** The Attorney General of the State of Mississippi
163 shall submit this act, immediately upon approval by the Governor,
164 or upon approval by the Legislature subsequent to a veto, to the
165 Attorney General of the United States or to the United States
166 District Court for the District of Columbia in accordance with the
167 provisions of the Voting Rights Act of 1965, as amended and
168 extended.

169 **SECTION 6.** This act shall take effect and be in force from
170 and after the date it is effectuated under Section 5 of the Voting
171 Rights Act of 1965, as amended and extended

