

By: Senator(s) Smith, Polk, Watson

To: Education

SENATE BILL NO. 2409

1 AN ACT TO CODIFY SECTION 37-6-17, MISSISSIPPI CODE OF 1972,
2 TO ENACT THE "NONPARTISAN SCHOOL BOARD ELECTION ACT"; TO PROVIDE
3 THAT BEGINNING WITH THE NOVEMBER 2016 GENERAL ELECTION, THE
4 MEMBERS OF THE COUNTY BOARDS OF EDUCATION, TRUSTEES OF MUNICIPAL
5 SEPARATE SCHOOL DISTRICTS, THE TRUSTEES OF CONSOLIDATED SCHOOL
6 DISTRICTS AND THE TRUSTEES FROM THE SPECIAL MUNICIPAL SEPARATE
7 SCHOOL DISTRICTS SHALL BE ELECTED IN A NONPARTISAN ELECTION
8 CONCURRENT WITH THE FEDERAL ELECTION FOR THE PRESIDENT OF THE
9 UNITED STATES; TO PROVIDE THAT THE TERMS OF OFFICE OF ALL SCHOOL
10 BOARD MEMBERS SHALL BE FOUR YEARS; TO PROVIDE FOR NOMINATING
11 PETITIONS TO RUN FOR THE OFFICE OF ELECTED SCHOOL BOARD MEMBERS
12 AND A UNIFORM NUMBER OF SIGNATURES ON SAID PETITIONS OF
13 NOMINATION; TO PROVIDE THE PROCEDURE FOR FILLING VACANCIES IN THE
14 OFFICE OF ELECTED SCHOOL BOARD MEMBERS; TO AMEND SECTIONS 37-5-1,
15 37-5-3, 37-5-7, 37-5-9, 37-5-18, 37-5-19, 37-7-203, 37-7-207,
16 37-7-221, 37-7-223, 37-7-225, 37-7-227, 37-7-229 AND 37-7-703,
17 MISSISSIPPI CODE OF 1972, IN CONFORMITY THERETO; TO REPEAL
18 SECTIONS 37-7-204, 37-7-209, 37-7-211, 37-7-213, 37-7-215,
19 37-7-217 AND 37-7-219, MISSISSIPPI CODE OF 1972, WHICH PROVIDE
20 CERTAIN METHODS FOR ELECTING TRUSTEES OF MUNICIPAL SEPARATE SCHOOL
21 DISTRICTS FROM ADDED TERRITORY; TO REPEAL SECTIONS 37-7-705,
22 37-7-707, 37-7-709, 37-7-711, 37-7-713, 37-7-715 AND 37-7-717,
23 MISSISSIPPI CODE OF 1972, WHICH PROVIDE CERTAIN METHODS FOR
24 SELECTING TRUSTEES OF SPECIAL MUNICIPAL SEPARATE SCHOOL DISTRICTS;
25 TO AMEND SECTIONS 37-9-13, 37-9-25 AND 37-5-61, MISSISSIPPI CODE
26 OF 1972, TO PROVIDE FOR THE APPOINTMENT OF ALL SUPERINTENDENTS OF
27 SCHOOLS FROM AND AFTER JANUARY 1, 2016; TO AUTHORIZE A REFERENDUM
28 ON THE QUESTION OF RETAINING THE OFFICE OF ELECTED COUNTY
29 SUPERINTENDENT OF EDUCATION IN COUNTIES PURSUANT TO PETITION PRIOR
30 TO JANUARY 1, 2015; TO REPEAL EFFECTIVE JANUARY 1, 2016, SECTIONS
31 37-5-61, 37-5-63, 37-5-65, 37-5-67, 37-5-69, 37-5-71 AND 37-5-75,
32 MISSISSIPPI CODE OF 1972, WHICH PROVIDE FOR CHANGING THE POSITION
33 OF COUNTY SUPERINTENDENT OF EDUCATION TO AN APPOINTED OFFICE
34 PURSUANT TO PETITION AND REFERENDUM, PROVIDE FOR THE



35 REESTABLISHMENT OF THE OFFICE AS AN ELECTIVE OFFICE, AUTHORIZE THE
36 APPOINTMENT OF THE COUNTY SUPERINTENDENT OF EDUCATION IN CERTAIN
37 COUNTIES, PROVIDE FOR THE SELECTION AND QUALIFICATIONS OF ELECTED
38 SUPERINTENDENTS IN CERTAIN COUNTIES, PROVIDE FOR THE FILLING OF
39 VACANCIES IN THE OFFICE OF ELECTED COUNTY SUPERINTENDENT OF
40 EDUCATION, AND SECTION 37-9-12, MISSISSIPPI CODE OF 1972, WHICH
41 PROVIDES FOR A REFERENDUM ON THE QUESTION OF RETAINING THE
42 ELECTIVE METHOD OF CHOOSING THE COUNTY SUPERINTENDENT OF
43 EDUCATION; AND FOR RELATED PURPOSES.

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

45 **SECTION 1.** The following shall be codified as Section
46 37-6-17, Mississippi Code of 1972:

47 37-6-17. (1) This section shall be known as the
48 "Nonpartisan School Board Election Act." For purposes of this
49 section, the term "school board member" shall mean and include
50 members of the county boards of education, trustees of municipal
51 separate school districts, trustees of consolidated school
52 districts and line consolidated school districts, and trustees of
53 special municipal separate school districts.

54 (2) On Tuesday after the first Monday in November 2016, and
55 every four (4) years thereafter and concurrently with the federal
56 election for the President of the United States, there shall be
57 held a nonpartisan election for all local school board members,
58 including members of the county boards of education, trustees of
59 municipal separate school districts, trustees of consolidated
60 school districts and trustees of special municipal separate school
61 districts as provided under this section and applicable law. The
62 laws regulating the time and manner of conducting general
63 elections shall, except as otherwise provided in this section,
64 apply to and govern elections of school board members and trustees



65 of the applicable school districts. A school board member is a
66 nonpartisan office.

67 (3) All incumbent school board members holding office on the
68 effective date of this act shall continue holding their respective
69 offices. The term of office of all incumbent school board members
70 holding office within a school district on the effective date of
71 this act shall expire on January 1, 2017, but any such incumbent
72 may qualify to run for a subsequent four-year term under the
73 provisions of this section.

74 (4) In order for a person to be eligible to hold the office
75 of school board member or the office of trustee of any school
76 district, such person must be a bona fide resident and a qualified
77 elector of the territory that the person is representing on the
78 school board or board of trustees, and in the case of a school
79 district lying in two (2) or more counties, such person must be a
80 resident and a qualified elector of the territory entitled to such
81 representation on the board as provided in Section 37-7-201.

82 (5) The name of any qualified elector who is a candidate for
83 the county board of education, municipal school district board of
84 trustees, consolidated school district board of trustees or
85 special municipal school district board of trustees or elected
86 added territory member of a municipal separate school district
87 shall be placed on the ballot used in the general election for
88 President of the United States by the county election
89 commissioners, provided that the candidate files with the county



90 election commissioners, not more than ninety (90) days and not
91 less than sixty (60) days prior to the date of such general
92 election, a petition of nomination signed by not less than fifty
93 (50) qualified electors of the county residing within the
94 appropriate school board district, as provided in Section 37-5-9,
95 as the case may be. Where there are less than one hundred (100)
96 qualified electors in said area represented by the trustee, it
97 shall only be required that said petition of nomination be signed
98 by at least twenty percent (20%) of the qualified electors in said
99 area. The petition shall contain an affidavit certifying that all
100 signatures are the personal signatures of each person whose name
101 appears on the petition and that each person is a qualified
102 elector. The candidate who receives a majority of the votes cast
103 in the election shall be declared elected. If no candidate
104 receives a majority of the votes cast in the district, then the
105 two (2) candidates who receive the highest number of votes cast in
106 the district shall have their names submitted as candidates in a
107 runoff election three (3) weeks after the date of the general
108 election, and the candidate who receives a majority of the votes
109 cast in the district in the runoff election shall be declared
110 elected. If after the time for candidates to file the petition
111 and affidavit provided for herein, there should be only one (1)
112 person to qualify for the office of trustee, then no election or
113 notice of election shall be necessary and such person shall, if
114 otherwise qualified, be declared elected without opposition.



115 (6) The names of candidates for school board election which
116 appear on the ballot at the general election for President of the
117 United States shall be grouped together on a separate portion of
118 the ballot, clearly identified as nonpartisan school board member
119 elections. The names for school board members shall be listed in
120 alphabetical order on any ballot and no reference to political
121 party affiliation shall appear on any ballot with respect to any
122 nonpartisan school board member or candidate.

123 (7) At any election for school board members, all qualified
124 electors, regardless of party affiliation or lack thereof,
125 residing with the appropriate school board election district shall
126 be qualified to vote for candidates for school board members.

127 (8) Vacancies in the membership of the county board of
128 education, municipal school district board of trustees,
129 consolidated school district board of trustees, or special
130 municipal separate school district board of trustees shall be
131 filled by appointment, within sixty (60) days after the vacancy
132 occurs, by the remaining members of the applicable school board.
133 Said appointee shall be selected from the qualified electors of
134 the district in which the vacancy occurs, and shall serve until
135 the first Monday of January next succeeding the next general
136 election, at which general election a member shall be elected to
137 fill the remainder of the unexpired term in the same manner and
138 with the same qualifications applicable to the election of a
139 member for the full term as provided in Section 37-6-17. In the



140 event the school district is under conservatorship and no members
141 of the applicable school board remain in office, the Governor
142 shall call a special election to fill the vacancies and said
143 election will be conducted by the county or municipal election
144 commission, as the case may be. In the event the vacancy occurs
145 more than five (5) months prior to the next general election and
146 the remaining members of the applicable school board are unable to
147 agree upon an individual to be appointed, any two (2) of the
148 remaining members may certify such disagreement to the county or
149 municipal election commission, as the case may be. Upon the
150 receipt of such a certificate by the county or municipal election
151 commission, or any member thereof, the commission shall hold a
152 special election to fill the vacancy, which said election, notice
153 thereof and ballot shall be controlled by the laws concerning
154 special elections to fill vacancies in county or municipal
155 offices. The person elected at such a special election shall
156 serve for the remainder of the unexpired term.

157 **SECTION 2.** Section 37-5-1, Mississippi Code of 1972, is
158 amended as follows:

159 37-5-1. (1) There is hereby established a county board of
160 education in each county of the State of Mississippi. Said county
161 board of education shall consist of five (5) members, one (1) of
162 which, subject to the further provisions of this chapter and
163 except as is otherwise provided in Section 37-5-1(2), shall be
164 elected by the qualified electors of each board of education



165 district of the county, at the general election for President of
166 the United States as provided in Section 37-6-17. Except as is
167 otherwise provided in Section 37-5-3, each member so elected shall
168 be a resident and qualified elector of the district from which he
169 is elected.

170 (2) The county board of education shall apportion the county
171 school district into five (5) single member board of education
172 districts. The county board of education shall place upon its
173 minutes the boundaries determined for the new five (5) board of
174 education districts. The board of education of said county shall
175 thereafter publish the same in some newspaper of general
176 circulation within said county for at least three (3) consecutive
177 weeks and after having given notice of publication and recording
178 the same upon the minutes of the board of education of said
179 county, said new district lines will thereafter be effective. The
180 board of education of said county shall reapportion the board of
181 education districts in accordance with the procedure described
182 herein for the original apportionment of districts as soon as
183 practicable after the results of the 2000 decennial census are
184 published and as soon as practicable after every decennial census
185 thereafter.

186 (3) In counties where the office of "administrative
187 superintendent" as defined in Section 37-6-3, Mississippi Code of
188 1972, has been abolished, there shall be no county board of
189 education.



190 **SECTION 3.** Section 37-5-3, Mississippi Code of 1972, is
191 amended as follows:

192 37-5-3. No person who is a resident of the territory
193 embraced within a municipal separate school district or a special
194 municipal separate school district shall be eligible to be a
195 member of the county board of education. Qualified electors
196 residing within a municipal separate school district or special
197 municipal separate school district shall not be eligible to vote
198 or participate in the election of members of the county board of
199 education provided under Section 37-6-17.

200 The provisions of this section shall be applicable in the
201 case of a special municipal separate school district and a line
202 consolidated school district of which another county is the home
203 county which together occupy all of the territory of a supervisors
204 district of the county.

205 **SECTION 4.** Section 37-5-7, Mississippi Code of 1972, is
206 amended as follows:

207 37-5-7. (1) On the first Tuesday after the first Monday in
208 May, 1954, an election shall be held in each county in this state
209 in the same manner as general state and county elections are held
210 and conducted, which election shall be held for the purpose of
211 electing the county boards of education established under the
212 provisions of this chapter. At such election, the members of the
213 said board from Supervisors Districts One and Two shall be elected
214 for the term expiring on the first Monday of January 1957; members



215 of the board from Supervisors Districts Three and Four shall be
216 elected for a term expiring on the first Monday of January 1959;
217 and the member of the board from Supervisors District Five shall
218 be elected for a term expiring on the first Monday of January
219 1955. Except as otherwise provided in subsection (* * *3), all
220 subsequent members of the board shall be elected for a term of six
221 (6) years at the regular general election held on the first Monday
222 in November next preceding the expiration of the term of office of
223 the respective member or members of such board. All members of
224 the county board of education as herein constituted, shall take
225 office on the first Monday of January following the date of their
226 election.

227 (2) On the first Tuesday after the first Monday in
228 November * * * 2016, and every four (4) years thereafter, an
229 election shall be held in each such county in this state for the
230 purpose of electing the county boards of education in such
231 counties as provided in Section 37-6-17. * * *

232 (3) All members of the county board of education shall be
233 elected for a term of four (4) years and shall take office on the
234 first Monday of January following the date of their election.

235 **SECTION 5.** Section 37-5-9, Mississippi Code of 1972, is
236 amended as follows:

237 37-5-9. As specifically provided in Section 37-6-17, the
238 name of any qualified elector who is a candidate for the county



239 board of education shall be placed on the ballot used in the
240 general elections by the county election commissioners. * * *

241 * * *

242 In no case shall any qualified elector residing within a
243 municipal separate school district or special municipal separate
244 school district be eligible to sign a petition of nomination for
245 any candidate for the county board of education under any of the
246 provisions of this section.

247 **SECTION 6.** Section 37-5-18, Mississippi Code of 1972, is
248 amended as follows:

249 37-5-18. In any county bordering on the Mississippi Sound
250 and having therein at least four (4) municipal separate school
251 districts, each member of the county board of education
252 established by Section 37-5-1 for such county shall be elected
253 from and shall be a resident and qualified elector in a special
254 district determined in the following manner:

255 The board of education of such a county shall apportion the
256 county into five (5) board of education districts in the territory
257 outside the municipal separate school districts and these board of
258 education districts shall be divided as nearly equal as possible
259 according to population, incumbency and other factors heretofore
260 pronounced by the courts. The board of education shall place upon
261 its minutes the boundaries determined for the new five (5) board
262 of education districts. The board of education of said county
263 shall thereafter publish the same in some newspaper of general



264 circulation within said county for at least three (3) consecutive
265 weeks and after having given notice of publication and recording
266 the same upon the minutes of the board of education of said
267 county, said new district lines will thereafter be effective.
268 The members of the county board of education of the county
269 described in this section shall be elected in the manner provided
270 in Section 37-6-17.

271 * * *

272 **SECTION 7.** Section 37-5-19, Mississippi Code of 1972, is
273 amended as follows:

274 37-5-19. Vacancies in the membership of the county board of
275 education shall be filled * * * in the manner provided in Section
276 37-6-17(8).

277 **SECTION 8.** Section 37-7-203, Mississippi Code of 1972, is
278 amended as follows:

279 37-7-203. (1) * * * The boards of trustees of all municipal
280 separate school districts created under this chapter, either with
281 or without added territory, shall consist of five (5)
282 members. * * * On the first Tuesday after the first Monday in
283 November 2016, and every four (4) years thereafter, an election
284 shall be held in each municipal separate school district in this
285 state, in the same manner and at the same time as the federal
286 election for President of the United States is held as provided in
287 Section 37-6-17, for the purpose of electing the members of the
288 boards of trustees established under the provisions of this



289 chapter. All members of the boards of trustees as herein
290 constituted shall take office on the first Monday of January
291 following the date of their election and shall serve for a term of
292 four (4) years. The five (5) members of the board of trustees of
293 such school district shall be elected from special trustee
294 election districts by the qualified electors thereof, as herein
295 provided. The board of trustees of such school district shall
296 apportion the municipal separate school district, including added
297 territory, into five (5) special trustee election districts as
298 nearly equal as possible according to population, incumbency and
299 other factors heretofore pronounced by the courts. The board of
300 trustees shall place upon its minutes the boundaries determined
301 for the new five (5) special trustee election districts. The
302 board of trustees shall thereafter publish the same in a newspaper
303 of general circulation within said school district for at least
304 three (3) consecutive weeks; and after having given notice of
305 publication and recording the same upon the minutes of the board
306 of trustees. All incumbent trustees holding office at the time of
307 the creation of such trustee election districts shall continue
308 holding their respective offices, provided they reside within the
309 new district, for the remainder of the term of office to which
310 they have heretofore been selected, and their successors shall be
311 elected from the new trustee election districts constituted herein
312 in the manner provided for in this section.

313 * * *



314 (2) * * * Vacancies in the membership of the board of
315 trustees of any municipal separate school district shall be filled
316 in the manner provided in Section 37-6-17(8).

317 * * *

318 **SECTION 9.** Section 37-7-207, Mississippi Code of 1972, is
319 amended as follows:

320 37-7-207. (1) All school districts reconstituted or created
321 under the provisions of Article 1 of this chapter, and which lie
322 wholly within one (1) county, but not including municipal separate
323 and countywide districts, shall be governed by a board of five (5)
324 trustees. The first board of trustees of such districts shall be
325 appointed by the county board of education, and the original
326 appointments shall be so made that one (1) trustee shall be
327 appointed to serve until the first Saturday of March following
328 such appointments, one (1) for one (1) year longer, one (1) for
329 two (2) years longer, one (1) for three (3) years longer, and one
330 (1) for four (4) years longer. * * * Provided, however, that
331 beginning with the November 2016 federal election for President of
332 the United States, the trustees of such school districts shall be
333 elected at the time and in the manner provided in Section 37-6-17
334 for terms of four (4) years. The five (5) members of the board of
335 trustees of such consolidated school district shall be elected
336 from special trustee election districts by the qualified electors
337 thereof, as herein provided. The board of trustees of any such
338 consolidated school district shall apportion the consolidated



339 school district into five (5) special trustee election districts.
340 The board of trustees of such school district shall place upon its
341 minutes the boundaries determined for the new five (5) trustee
342 election districts. The board of trustees shall thereafter
343 publish the same in a newspaper of general circulation within said
344 school district for at least three (3) consecutive weeks; and
345 after having given notice of publication and recording the same
346 upon the minutes of the board of trustees, said new district lines
347 shall thereafter be effective.

348 * * * All members of the said board of trustees shall take
349 office on the first Monday of January following the date of their
350 election. All vacancies which may occur during a term shall be
351 filled * * * in the manner provided in Section 37-6-17(8).

352 (2) All school districts reconstituted and created under the
353 provisions of Article 1 of this chapter, which embrace territory
354 in two (2) or more counties, but not including municipal separate
355 school districts, shall be governed by a board of five (5)
356 trustees. In making the original appointments, the several county
357 boards of education shall appoint the trustee or trustees to which
358 the territory in such county is entitled * * * by agreement
359 between the county boards concerned. * * * Provided, however,
360 that beginning with the November 2016 federal election for
361 President of the United States, the members of such line
362 consolidated school district board of trustees shall be elected at
363 the time and in the manner provided in Section 37-6-17 for terms



364 of four (4) years. The five (5) members of the board of trustees
365 of such line consolidated school district shall be elected from
366 special trustee election districts by the qualified electors
367 thereof, as herein provided. The existing board of trustees of
368 such line consolidated school district shall apportion the line
369 consolidated school district into five (5) special trustee
370 election districts. The board of trustees shall place upon its
371 minutes the boundaries determined for the new five (5) trustee
372 election districts. The board of trustees shall thereafter
373 publish the same in a newspaper of general circulation within said
374 school district for at least three (3) consecutive weeks; and
375 after having given notice of publication and recording the same
376 upon the minutes of the board of trustees, said new district lines
377 shall thereafter be effective. Provided, however, that in any
378 line consolidated school district encompassing two (2) or more
379 counties created pursuant to Laws, 1953, Extraordinary Session,
380 Chapter 12, Section 8, in which, as a condition precedent to the
381 creation of said district, each county belonging thereto was
382 contractually guaranteed to always have at least one (1)
383 representative on said board, in order that said condition
384 precedent may be honored and guaranteed, in any year in which the
385 board of trustees of such line consolidated school district does
386 not have at least one (1) member from each county or part thereof
387 forming such district, the board of trustees in such district
388 shall be governed by a board of a sufficient number of trustees to



389 fulfill this guarantee, five (5) of whom shall be elected from the
390 five (5) special trustee election districts which shall be as
391 nearly equal as possible and one (1) member trustee appointed at
392 large from each county not having representation on the elected
393 board. In such cases, the board of supervisors of each county
394 shall make written agreement to guarantee the manner of
395 appointment of at least one (1) representative from each county in
396 the district, placing such written agreement on the minutes of
397 each board of supervisors in each county.

398 * * * All members of the said board of trustees shall take
399 office on the first Monday of January following the date of their
400 election. In all elections, the trustee elected shall be a
401 resident and qualified elector of the district entitled to the
402 representation upon the board, and he shall be elected only by the
403 qualified electors of such district in the manner provided in
404 Section 37-6-17. All vacancies which may occur during a term of
405 office shall be filled * * * in the manner provided in Section
406 37-16-7(8).

407 **SECTION 10.** Section 37-7-221, Mississippi Code of 1972, is
408 amended as follows:

409 37-7-221. The election of consolidated or consolidated line
410 school district trustees shall be held in the manner provided for
411 in * * * Section 37-6-17 rather than the method now provided by
412 Sections 37-7-209 through 37-7-219.



413 **SECTION 11.** Section 37-7-223, Mississippi Code of 1972, is
414 amended as follows:

415 37-7-223. All elections of consolidated or consolidated line
416 school district trustees shall be held * * * concurrently with the
417 federal election for President of the United States as provided in
418 Section 37-6-17.

419 **SECTION 12.** Section 37-7-225, Mississippi Code of 1972, is
420 amended as follows:

421 37-7-225. The county election commissioners shall place the
422 name of any person eligible to hold the office of trustee on the
423 ballot used in the election, provided that such candidate shall
424 have filed with the county registrar * * * a petition of
425 nomination signed by * * * qualified electors of the school
426 district in the manner provided in Section 37-6-17. * * *

427 * * *

428 **SECTION 13.** Section 37-7-227, Mississippi Code of 1972, is
429 amended as follows:

430 37-7-227. * * * The candidate who receives a majority of the
431 votes cast * * * shall be declared elected, and the person or
432 persons elected to a full term shall assume the duties of his
433 office on the first day of January of the year following such
434 election. * * * If no candidate receives a majority of the votes
435 cast at the election, a runoff shall be held in the same manner
436 three (3) weeks after the election between the two (2) candidates



437 receiving the highest number of votes upon the first ballot, as
438 specifically provided in Section 37-6-17.

439 * * *

440 **SECTION 14.** Section 37-7-229, Mississippi Code of 1972, is
441 amended as follows:

442 37-7-229. For the purpose of holding such election, it shall
443 be the duty of the county election commissioners to prepare from
444 the records in the office of the county registrar a list of the
445 qualified electors of the school district in which such election
446 is to be held who are eligible to participate in such election.
447 Such list shall be furnished to the election managers in each
448 precinct, together with the ballots and other election supplies.

449 In the event that any election precinct embraces parts of two
450 (2) or more school districts it shall be the duty of the county
451 election commissioners to prepare from the records in the office
452 of the county registrar separate lists of the qualified electors
453 of each school district who reside in said precinct and who are
454 eligible to participate in such election. Said election
455 commissioners shall furnish to the election managers in said
456 precinct separate ballots and separate ballot boxes and separate
457 voting lists for each school district.

458 For each day spent in carrying out the provisions of Sections
459 37-7-225 through 37-7-229 and Section 37-6-17, the county election
460 commissioners shall be paid at the rate prescribed by law.



461 **SECTION 15.** Section 37-7-703, Mississippi Code of 1972, is
462 amended as follows:

463 37-7-703. In all such special municipal separate school
464 districts which embrace the entire county in which, according to
465 the latest available federal census, a majority of the inhabitants
466 of the county reside within the corporate limits of the
467 municipality, the board of trustees of such special municipal
468 separate school district shall be chosen and selected in the
469 manner provided by subsection (1) of Section 37-7-203 and Section
470 37-6-17, and all of the provisions thereof shall be fully
471 applicable in all respects to the selection and constitution of
472 such board of trustees. Provided, however, that the board of
473 trustees of any special municipal separate school district shall
474 have the authority to apportion the new trustee election districts
475 as provided in Section 37-7-203(1).

476 **SECTION 16.** Sections 37-7-204, 37-7-209, 37-7-211, 37-7-213,
477 37-7-215, 37-7-217 and 37-7-219, Mississippi Code of 1972, which
478 provide certain methods for electing trustees of municipal
479 separate school districts from added territory, are repealed.

480 **SECTION 17.** Sections 37-7-705, 37-7-707, 37-7-709, 37-7-711,
481 37-7-713, 37-7-715 and 37-7-717, Mississippi Code of 1972, which
482 provide certain methods for selecting trustees of special
483 municipal separate school districts, are repealed.

484 **SECTION 18.** Section 37-9-13, Mississippi Code of 1972, is
485 amended as follows:



486 37-9-13. (1) Each school district shall have a
487 superintendent of schools, selected in the manner provided by law.
488 No person shall be eligible to the office of superintendent of
489 schools unless such person shall hold a valid administrator's
490 license issued by the State Department of Education and shall have
491 had not less than four (4) years of classroom or administrative
492 experience.

493 (2) From and after January 1, 2016, in all public school
494 districts, the local school board shall appoint the superintendent
495 of schools of such district unless the electors in the county have
496 voted to retain the office of elected county superintendent of
497 education as provided in subsection (3) of this section. At the
498 expiration of the term of any county superintendent of education
499 elected at the November 2011 general election, the county
500 superintendent of education of said county shall not be elected
501 but shall thereafter be appointed by the local school board in the
502 manner provided in Section 37-9-25, unless the electors in the
503 county have voted to retain the office of elected county
504 superintendent of education pursuant to referendum as provided in
505 subsection (3) of this section. The superintendent of schools
506 shall have the general powers and duties to administer the schools
507 within his district as prescribed in Section 37-9-14 et seq.,
508 Mississippi Code of 1972.

509 (3) If a petition signed by not less than twenty percent
510 (20%) or one thousand five hundred (1,500), whichever is less, of



511 the registered, qualified electors of such county, exclusive of
512 the municipal separate school district boundaries, is filed with
513 the county board of education requesting that a referendum be
514 called on the question of changing from the elective method of
515 selecting the county superintendent of education to the appointive
516 method, then the county board of education shall adopt, not later
517 than the next regular meeting, a resolution calling a referendum
518 to be called and held within the county school district boundaries
519 upon the question. The referendum shall be scheduled the first
520 Tuesday after the first Monday in November 2014 that occurs more
521 than sixty (60) days after the date such petition is filed with
522 the board. When a referendum has been called, notice of the
523 referendum shall be published at least five (5) days per week,
524 unless the only newspaper published in the county school district
525 is published less than five (5) days per week, for at least three
526 (3) consecutive weeks, in at least one (1) newspaper published in
527 the county school district. The notice shall be no less than
528 one-fourth (1/4) page in size, and the type used shall be no
529 smaller than eighteen (18) point and surrounded by a
530 one-fourth-inch solid black border. The notice may not be placed
531 in that portion of the newspaper where legal notices and
532 classified advertisements appear. The first publication of the
533 notice shall be made not less than twenty-one (21) days before the
534 date fixed for the referendum, and the last publication shall be
535 made not more than seven (7) days before that date. If no



536 newspaper is published in the county school district, then the
537 notice shall be published in a newspaper having a general
538 circulation in the county school district. The referendum shall
539 be held, as far as is practicable, in the same manner as other
540 referendums and elections are held in the county. At the
541 referendum, all registered, qualified electors of the county
542 school district, exclusive of the municipal separate school
543 district boundaries, may vote. The ballots used at the referendum
544 shall have printed thereon a brief statement of the purpose of the
545 referendum and the words "FOR CHANGING FROM THE ELECTIVE TO THE
546 APPOINTIVE METHOD OF SELECTING THE COUNTY SUPERINTENDENT OF
547 EDUCATION," and "AGAINST CHANGING FROM THE ELECTIVE TO THE
548 APPOINTIVE METHOD OF SELECTING THE COUNTY SUPERINTENDENT OF
549 EDUCATION." The voter shall vote by placing a cross (X) or check
550 mark (✓) opposite his choice on the proposition. If a majority
551 of the registered, qualified electors of the county school
552 district who vote in the referendum vote in favor of the question,
553 then the change in selection method shall be approved. However,
554 if a majority of the registered, qualified electors who vote in
555 the referendum vote against the question, the change in selection
556 method shall not be approved, and the county superintendent of
557 education of said county shall continue to be an elected office.

558 **SECTION 19.** Section 37-9-25, Mississippi Code of 1972, is
559 amended as follows:



560 37-9-25. The school board shall have the power and
561 authority, in its discretion, to employ the superintendent, unless
562 such superintendent is elected pursuant to referendum under
563 Section 37-9-13(3), for not exceeding four (4) scholastic years
564 and the principals or licensed employees for not exceeding three
565 (3) scholastic years. In such case, contracts shall be entered
566 into with such superintendents, principals and licensed employees
567 for the number of years for which they have been employed. All
568 such contracts with licensed employees shall for the years after
569 the first year thereof be subject to the contingency that the
570 licensed employee may be released if, during the life of the
571 contract, the average daily attendance should decrease from that
572 existing during the previous year and thus necessitate a reduction
573 in the number of licensed employees during any year after the
574 first year of the contract. However, in all such cases the
575 licensed employee must be released before July 1 or at least
576 thirty (30) days prior to the beginning of the school term,
577 whichever date should occur earlier. The salary to be paid for
578 the years after the first year of such contract shall be subject
579 to revision, either upward or downward, in the event of an
580 increase or decrease in the funds available for the payment
581 thereof, but, unless such salary is revised prior to the beginning
582 of a school year, it shall remain for such school year at the
583 amount fixed in such contract. However, where school district
584 funds, other than minimum education program funds, are available



585 during the school year in excess of the amount anticipated at the
586 beginning of the school year the salary to be paid for such year
587 may be increased to the extent that such additional funds are
588 available and nothing herein shall be construed to prohibit same.

589 **SECTION 20.** Section 37-5-61, Mississippi Code of 1972, is
590 amended as follows:

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

595 37-5-61. (1) There shall be a county superintendent of
596 education in each county.

597 (2) Said superintendent shall serve as the executive
598 secretary of the county board of education, but shall have no vote
599 in the proceedings before the board and no voice in fixing the
600 policies thereof.

601 (3) In addition, said superintendent shall be the director
602 of all schools in the county school district which are outside the
603 municipal separate school districts.

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

607 **[In counties where a referendum provided in Section**
608 **37-9-13(3) has not been approved, this section shall have no force**
609 **and effect.]**



610 **SECTION 21.** Effective January 1, 2016, Sections 37-5-61,
611 37-5-63, 37-5-65, 37-5-67, 37-5-69, 37-5-71 and 37-5-75,
612 Mississippi Code of 1972, which provide for changing the position
613 of county superintendent of education to an appointed office
614 pursuant to petition and referendum, provide for the
615 reestablishment of the office as an elective office, authorize the
616 appointment of the county superintendent of education in certain
617 counties, provide for the selection and qualifications of elected
618 superintendents in certain counties, and provide for the filling
619 of vacancies in the office of elected county superintendent of
620 education; and Section 37-9-12, Mississippi Code of 1972, which
621 provides for a referendum on the question of retaining the
622 elective method of choosing the county superintendent of
623 education, is hereby repealed.

624 **SECTION 22.** This act shall take effect and be in force from
625 and after July 1, 2014.

