

By: Representative Moore

To: Education;  
Apportionment and  
Elections

## HOUSE BILL NO. 161

1 AN ACT TO AMEND SECTION 37-5-7, MISSISSIPPI CODE OF 1972, TO  
2 PROVIDE THAT THE ELECTION OF MEMBERS OF THE COUNTY BOARDS OF  
3 EDUCATION SHALL BE HELD EVERY FOUR YEARS IN THE SAME MANNER AS  
4 ELECTIONS ARE HELD FOR OTHER COUNTY OFFICES; TO AMEND SECTION  
5 37-5-19, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT VACANCIES ON  
6 THE COUNTY BOARDS OF EDUCATION SHALL BE FILLED IN THE SAME MANNER  
7 AS PROVIDED FOR OTHER COUNTY OFFICES; TO AMEND SECTION 37-7-203,  
8 MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE TRUSTEES OF  
9 MUNICIPAL SEPARATE SCHOOL DISTRICTS SHALL BE ELECTED FROM SPECIAL  
10 TRUSTEE ELECTION DISTRICTS BY THE QUALIFIED ELECTORS OF THE  
11 DISTRICTS; TO PROVIDE THAT THE ELECTIONS SHALL BE HELD EVERY FOUR  
12 YEARS IN THE SAME MANNER AS ELECTIONS ARE HELD FOR OTHER MUNICIPAL  
13 OFFICERS; TO AMEND SECTION 37-7-703, MISSISSIPPI CODE OF 1972, TO  
14 PROVIDE THAT THE TRUSTEES OF SPECIAL MUNICIPAL SEPARATE SCHOOL  
15 DISTRICTS SHALL BE ELECTED IN THE SAME MANNER AS TRUSTEES OF  
16 MUNICIPAL SEPARATE SCHOOL DISTRICTS; TO AMEND SECTION 37-7-713,  
17 MISSISSIPPI CODE OF 1972, TO PROVIDE FOR THE ELECTION OF TRUSTEES  
18 OF SPECIAL MUNICIPAL SEPARATE SCHOOL DISTRICTS WHERE THE MAJORITY  
19 OF EDUCABLE CHILDREN OF THE DISTRICT RESIDE OUTSIDE THE CORPORATE  
20 LIMITS; TO AMEND SECTION 37-7-207, MISSISSIPPI CODE OF 1972, TO  
21 PROVIDE THAT TRUSTEES OF CONSOLIDATED AND LINE CONSOLIDATED SCHOOL  
22 DISTRICTS SHALL BE ELECTED FROM SPECIAL TRUSTEE ELECTION DISTRICTS  
23 BY THE QUALIFIED ELECTORS OF SUCH DISTRICT FOR FOUR-YEAR TERMS; TO  
24 AMEND SECTION 37-7-221, MISSISSIPPI CODE OF 1972, IN CONFORMITY  
25 THERETO; TO REPEAL SECTIONS 37-7-705 THROUGH 37-7-711, 37-7-715  
26 AND 37-7-717, MISSISSIPPI CODE OF 1972, WHICH PROVIDE CERTAIN  
27 METHODS FOR SELECTING TRUSTEES OF SPECIAL MUNICIPAL SEPARATE  
28 SCHOOL DISTRICTS; TO REPEAL SECTIONS 37-7-209 THROUGH 37-7-219,  
29 MISSISSIPPI CODE OF 1972, WHICH PROVIDE CERTAIN METHODS FOR  
30 ELECTING TRUSTEES OF MUNICIPAL SEPARATE SCHOOL DISTRICTS FROM  
31 ADDED TERRITORY; AND FOR RELATED PURPOSES.

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

33 SECTION 1. Section 37-5-7, Mississippi Code of 1972, is  
34 amended as follows:

35 37-5-7. (1) On the first Tuesday after the first Monday in  
36 November 2003 and every four (4) years thereafter, an election  
37 shall be held in each county in this state in the same manner and  
38 at the same time as general state and county elections are held  
39 and conducted, which election shall be held for the purpose of  
40 electing the county boards of education established under the

41 provisions of this chapter. \* \* \* All members of the county board  
42 of education as constituted in this section, shall take office on  
43 the first Monday of January following the date of their election  
44 and shall serve for a term of four (4) years. However, in order  
45 to provide for an orderly transition all members of the board  
46 whose terms expire after the first Monday of January 2003 shall  
47 continue to serve for the remainder of the unexpired term, at  
48 which time the vacancy shall be filled in the manner provided in  
49 Section 37-5-19.

50 (2) On the first Tuesday after the first Monday in November,  
51 in any year in which any county shall elect to utilize the  
52 authority contained in Section 37-5-1(2), an election shall be  
53 held in each such county in this state for the purpose of electing  
54 the county boards of education in the counties. At the election  
55 the members of the \* \* \* county board of education from Districts  
56 One and Two shall be elected for a term of four (4) years, the  
57 members from Districts Three and Four shall be elected for a term  
58 of four (4) years, and the member from District Five shall be  
59 elected for a term of two (2) years. Thereafter, members shall be  
60 elected at general elections as vacancies occur for terms of four  
61 (4) years each. All members of the county board of education  
62 shall take office on the first Monday of January following the  
63 date of their election.

64 SECTION 2. Section 37-5-19, Mississippi Code of 1972, is  
65 amended as follows:

66 37-5-19. Vacancies in the membership of the county board of  
67 education shall be filled by appointment, within sixty (60) days  
68 after the vacancy occurs, by the remaining members of the county  
69 board of education. The appointee shall be selected from the  
70 qualified electors of the district in which the vacancy occurs.  
71 The president of the board shall certify to the Secretary of State  
72 the fact of the appointment, and the person so appointed shall be  
73 commissioned by the Governor. If the unexpired term is longer  
74 than six (6) months, the appointee shall serve until a successor  
75 is elected as provided in House Bill No. \_\_\_\_\_, 1999 Regular  
76 Session. If the vacancy occurs more than ninety (90) days before  
77 the general election in a year in which an election would normally

78 be held for that office as provided by law, the person appointed  
79 shall serve the unexpired portion of the term. The vacancies  
80 shall be filled for the unexpired term by the qualified electors  
81 at the next regular special election day occurring more than  
82 ninety (90) days after the occurrence of the vacancy. The  
83 president of the county board of education, within ten (10) days  
84 after the occurrence of the vacancy, shall make an order in  
85 writing, directed to the commissioners of election, commanding an  
86 election to be held on the next regular special election day to  
87 fill the vacancy. The election commissioners shall require each  
88 candidate to qualify at least sixty (60) days before the date of  
89 the election, shall give a certificate of election to the person  
90 elected and shall return to the Secretary of State a copy of the  
91 order of holding the election that shows the results of the  
92 election and that is certified by the president of the county  
93 board of education. The election must be held in the same manner  
94 provided for other county and county district office vacancies in  
95 Section 23-15-833. The Governor shall commission the person  
96 elected.

97 However, where only one (1) person has qualified with the  
98 commissioners of election to be a candidate within the time  
99 provided by law, the commissioners of election shall certify to  
100 the county board of education that there is but one (1) candidate.  
101 The county board of education shall dispense with the election and  
102 shall appoint the candidate so certified to fill the unexpired  
103 term. The president of the board shall certify to the Secretary  
104 of State the candidate appointed to serve in the office, and that  
105 candidate shall be commissioned by the Governor. If no person has  
106 qualified at least sixty (60) days before the election, the  
107 commissioners of election shall certify that fact to the county  
108 board of education which shall dispense with the election and fill  
109 the vacancy by appointment. The president of the county board of  
110 education shall certify to the Secretary of State the fact of the

111 appointment, and the Governor shall commission the person elected.

112 SECTION 3. Section 37-7-203, Mississippi Code of 1972, is  
113 amended as follows:

114 37-7-203. (1) The boards of trustees of all municipal  
115 separate school districts created under the provisions of Article  
116 3 of this chapter and all special municipal separate school  
117 districts created under Article 13 of this chapter, either with or  
118 without added territory, shall consist of five (5) members. On  
119 the first Tuesday after the first Monday in June 2001, and every  
120 four (4) years thereafter, an election shall be held in each  
121 municipal separate school district and special municipal separate  
122 school district in this state, in the same manner and at the same  
123 time as the regular municipal elections are held, for the purpose  
124 of electing the members of the boards of trustees established  
125 under this article. All members of the boards of trustees as  
126 constituted in House Bill No. \_\_\_\_\_, 1999 Regular Session, shall  
127 take office on the first Monday of July following the date of  
128 their election and shall serve for a term of four (4) years. The  
129 five (5) members of the board of trustees of the school district  
130 shall be elected from special trustee election districts by the  
131 qualified electors of the districts, as provided in this section.  
132 The governing authorities of the municipality shall apportion the  
133 municipal separate school district or special municipal separate  
134 school district, including added territory, into five (5) special  
135 trustee election districts as nearly equal as possible according  
136 to population, incumbency and other factors pronounced by the  
137 courts before House Bill No. \_\_\_\_\_, 1999 Regular Session. The  
138 municipal governing authority shall place upon its minutes the  
139 boundaries determined for the new five (5) trustee election  
140 districts. The municipal governing authority shall thereafter  
141 publish the same in a newspaper of general circulation within the  
142 school district for at least three (3) consecutive weeks. After  
143 having given notice of publication and recording the same upon the

144 minutes of the municipal governing authority, the new district  
145 lines shall be effective. All incumbent trustees holding office  
146 at the time of the creation of the trustee election districts  
147 shall continue holding their respective offices, regardless of  
148 where they reside in the school district, for the remainder of the  
149 term of office to which they have been selected before House Bill  
150 No. \_\_\_\_\_, 1999 Regular Session, and their successors shall be  
151 elected from the new trustee election districts constituted in  
152 this section in the manner provided for in this section.

153       (2) Vacancies in the membership of the board of trustees of  
154 any municipal separate school district or special municipal  
155 separate school district shall be filled by appointment within  
156 sixty (60) days after the vacancy occurs by the governing  
157 authorities of the municipality. The appointee shall be selected  
158 from the qualified electors of the district in which the vacancy  
159 occurs. The president of the municipal governing authority shall  
160 certify to the Secretary of State the fact of the appointment, and  
161 the person appointed shall be commissioned by the Governor. If  
162 the unexpired term is longer than six (6) months, the appointee  
163 shall serve until a successor is elected as provided in this  
164 section. If the vacancy occurs more than ninety (90) days before  
165 the general election in a year in which an election would normally  
166 be held for that office as provided by law, the person appointed  
167 shall serve the unexpired portion of the term. The vacancies  
168 shall be filled for the unexpired term by the qualified electors  
169 at the next regular special election day occurring more than  
170 ninety (90) days after the occurrence of the vacancy. The  
171 president of the municipal governing authority, within ten (10)  
172 days after the happening of the vacancy, shall make an order in  
173 writing directed to the commissioners of election, commanding an  
174 election to be held on the next regular special election day to  
175 fill the vacancy. The election commissioners shall require each  
176 candidate to qualify at least sixty (60) days before the date of

177 the election, shall give a certificate of election to the person  
178 elected, and shall return to the Secretary of State a copy of the  
179 order of holding the election showing the results thereof,  
180 certified by the president of the municipal governing authority.  
181 The election shall be held in the same manner provided for other  
182 municipal office vacancies. The Governor shall commission the  
183 person elected.

184 However, where only one (1) person has qualified with the  
185 commissioners of election to be a candidate within the time  
186 provided by law, the commissioners of election shall certify to  
187 the municipal governing authority that there is but one (1)  
188 candidate. The municipal governing authority shall dispense with  
189 the election and shall appoint the candidate that is certified to  
190 fill the unexpired term. The president of the municipal governing  
191 authority shall certify to the Secretary of State the candidate  
192 that is appointed to serve in the office, and the Governor shall  
193 commission that candidate. If no person has qualified at least  
194 sixty (60) days before the date of the election, the commissioners  
195 of election shall certify that fact to the municipal governing  
196 authority which shall dispense with the election and fill the  
197 vacancy by appointment. The president of the municipal governing  
198 authority shall certify to the Secretary of State the fact of the  
199 appointment, and the Governor shall commission the person  
200 appointed.

201 SECTION 4. Section 37-7-703, Mississippi Code of 1972, is  
202 amended as follows:

203 37-7-703. Except as otherwise provided in Section 37-7-713,  
204 in all \* \* \* special municipal separate school districts that  
205 embrace the entire county in which, according to the latest  
206 available federal census, a majority of the inhabitants of the  
207 county reside within the corporate limits of the municipality, the  
208 board of trustees of the special municipal separate school  
209 district shall be elected in the manner provided by subsection (1)

210 of Section 37-7-203, and all of the provisions thereof shall be  
211 fully applicable in all respects to the selection and constitution  
212 of board of trustees.

213 SECTION 5. Section 37-7-713, Mississippi Code of 1972, is  
214 amended as follows:

215 37-7-713. In all special municipal separate school districts  
216 where the district embraces less than the entire area of the  
217 county and where the majority of the educable children of the  
218 district reside outside the limits of the municipality, \* \* \*  
219 the \* \* \* special municipal separate school district shall be  
220 governed by a board of trustees consisting of five members, to be  
221 elected by the qualified electors of the municipal separate school  
222 district from the district at large in the manner provided by  
223 Sections 37-7-223 through 37-7-229, and all duties imposed upon  
224 the county superintendent of education by these sections with  
225 reference to the elections shall be imposed upon and performed by  
226 the superintendent of the municipal separate school district.  
227 However, the first board of trustees of the special municipal  
228 separate school district shall be appointed in the following  
229 manner. The governing authorities of the municipality shall  
230 appoint three (3) trustees, and the appointments shall be made so  
231 that one (1) trustee shall be appointed to serve until the first  
232 Saturday of March following the appointment, one (1) for two (2)  
233 years longer, and one (1) for four (4) years longer. The board of  
234 education of the county shall appoint two (2) trustees, the  
235 appointments to be made so that one (1) trustee shall be appointed  
236 to serve until the first Saturday of March of the second year  
237 following the appointment, and one (1) trustee for two (2) years  
238 longer. After the original appointments the trustees of \* \* \* a  
239 special municipal separate school district shall be elected for a  
240 term of four (4) years, as \* \* \* provided in this section.  
241 All \* \* \* members of the board of trustees shall be residents and  
242 qualified electors of the school district. All vacancies which

243 may occur during a term of office shall be filled by appointment  
244 by the remaining members of the board of trustees, the appointee  
245 to have the same qualifications as other members of the board.  
246 The appointment shall be made within thirty (30) days after the  
247 vacancy occurs. The person \* \* \* appointed shall serve only until  
248 his successor shall have qualified. The successor to serve the  
249 remainder of the unexpired term shall be elected on the first  
250 Saturday of March next following the occurrence of the vacancy in  
251 the same manner as provided for by Sections 37-7-223 through  
252 37-7-229.

253 SECTION 6. Section 37-7-207, Mississippi Code of 1972, is  
254 amended as follows:

255 37-7-207. (1) All school districts reconstituted or created  
256 under the provisions of Article 3 of this chapter, and which lie  
257 wholly within one (1) county, but not including municipal separate  
258 and countywide districts, shall be governed by a board of five (5)  
259 trustees. The first board of trustees of such districts shall be  
260 appointed by the county board of education, and the original  
261 appointments shall be so made that one (1) trustee shall be  
262 appointed to serve until the first Saturday of March following the  
263 appointments, one (1) for one (1) year longer, one (1) for two (2)  
264 years longer, one (1) for three (3) years longer, and one (1) for  
265 four (4) years longer. After the original appointments, the  
266 trustees of the school districts shall be elected by the qualified  
267 electors of the school districts in the manner provided for in  
268 Sections 37-7-223 through 37-7-229 with each trustee to be elected  
269 for a term of four (4) years. The five (5) members of the board  
270 of trustees of the consolidated school district may be elected  
271 from special trustee election districts by the qualified electors  
272 thereof, as \* \* \* provided in this section. \* \* \* The board of  
273 supervisors of the county shall apportion the consolidated school  
274 district into five (5) special trustee election districts as  
275 nearly equal as possible according to population, incumbency and



276 other factors pronounced by the courts before House Bill No. \_\_\_\_\_,  
277 1999 Regular Session. The board of supervisors shall place upon  
278 its minutes the boundaries determined for the new five (5) trustee  
279 election districts. The board of supervisors shall thereafter  
280 publish the same in a newspaper of general circulation within the  
281 school district for at least three (3) consecutive weeks; and  
282 after having given notice of publication and recording the same  
283 upon the minutes of the board of supervisors, the new district  
284 lines shall \* \* \* be effective. All incumbent trustees holding  
285 office at the time of the creation of the trustee election  
286 districts shall continue holding their respective offices,  
287 regardless of where they reside in the school district, for the  
288 remainder of the term of office to which they have been selected  
289 before House Bill No. \_\_\_\_\_, 1999 Regular Session, and their  
290 successors shall be elected from the new trustee election  
291 districts constituted in this section by the qualified electors of  
292 the district for a term of four (4) years.

293 \* \* \* All vacancies which may occur during a term shall be  
294 filled by appointment of the consolidated school district  
295 trustees, but the person \* \* \* appointed shall serve only until  
296 the next general election following the appointment, at which time  
297 a person shall be elected for the remainder of an unexpired  
298 four-year term at the same time and in the same manner as a  
299 trustee is elected for the full term then expiring. The  
300 person \* \* \* elected to the unexpired term shall take office  
301 immediately. The appointee shall be selected from the qualified  
302 electors of the district in which the vacancy occurs.

303 (2) All school districts reconstituted and created under the  
304 provisions of Article 3 of this chapter, which embrace territory  
305 in two (2) or more counties, but not including municipal separate  
306 school districts, shall be governed by a board of five (5)  
307 trustees. In making the original appointments, the several county  
308 boards of education shall appoint the trustee or trustees to which

309 the territory in the county is entitled, and, by agreement between  
310 the county boards concerned, one (1) person shall be appointed to  
311 serve until the first Saturday of March following the  
312 appointments, one (1) for one (1) year longer, one (1) for two (2)  
313 years longer, one (1) for three (3) years longer and one (1) for  
314 four (4) years longer. Thereafter, the trustees shall be elected  
315 as \* \* \* provided \* \* \* in Sections 37-7-223 through 37-7-229 for  
316 a term of four (4) years. The five (5) members of the board of  
317 trustees of the line consolidated school district may be elected  
318 from special trustee election districts by the qualified electors  
319 of the district, as \* \* \* provided in this section. \* \* \* The  
320 boards of supervisors of the counties shall apportion the line  
321 consolidated school district into five (5) special trustee  
322 election districts as nearly equal as possible according to  
323 population, incumbency and other factors pronounced by the courts  
324 before House Bill No. \_\_\_\_\_, 1999 Regular Session. The boards of  
325 supervisors shall place upon their minutes the boundaries  
326 determined for the new five (5) trustee election districts. The  
327 boards of supervisors shall thereafter publish the same in a  
328 newspaper of general circulation within the school district for at  
329 least three (3) consecutive weeks; and after having given notice  
330 of publication and recording the same upon the minutes of the  
331 boards of supervisors, the new district lines shall \* \* \* be  
332 effective. All incumbent trustees holding office at the time of  
333 the creation of the trustee election districts shall continue  
334 holding their respective offices, regardless of where they reside  
335 in the school district, for the remainder of the term of office to  
336 which they have been selected before House Bill No. \_\_\_\_\_, 1999  
337 Regular Session, and their successors shall be elected from the  
338 new trustee election districts constituted in House Bill No. \_\_\_\_\_,  
339 1999 Regular Session, for a term of four (4) years.

340 \* \* \* In all such elections, the trustee elected shall be a  
341 resident and qualified elector of the district entitled to the

342 representation upon the board, and he shall be elected only by the  
343 qualified electors of the district. All vacancies which may occur  
344 during a term of office shall be filled by appointment of the  
345 consolidated line school district trustees, but the person \* \* \*  
346 appointed shall serve only until the next general election  
347 following the appointment, at which time a person shall be elected  
348 for the remainder of an unexpired four-year term at the same time  
349 and in the same manner as the trustee is elected for the full term  
350 then expiring. The person \* \* \* elected to the unexpired term  
351 shall take office immediately.

352 SECTION 7. Section 37-7-221, Mississippi Code of 1972, is  
353 amended as follows:

354 37-7-221. The election of consolidated or consolidated line  
355 school district trustees shall be held in the manner provided for  
356 in Section 37-7-207.

357 SECTION 8. Sections 37-7-705, 37-7-707, 37-7-709, 37-7-711,  
358 37-7-715 and 37-7-717, Mississippi Code of 1972, which provide  
359 certain methods for selecting trustees of special municipal  
360 separate school districts, are repealed.

361 SECTION 9. Sections 37-7-209, 37-7-211, 37-7-213, 37-7-215,  
362 37-7-217 and 37-7-219, Mississippi Code of 1972, which provide  
363 certain methods for electing trustees of municipal separate school  
364 districts from added territory, are repealed.

365 SECTION 10. The Attorney General of the State of Mississippi  
366 shall submit this act, immediately upon approval by the Governor,  
367 or upon approval by the Legislature subsequent to a veto, to the  
368 Attorney General of the United States or to the United States  
369 District Court for the District of Columbia in accordance with the  
370 provisions of the Voting Rights Act of 1965, as amended and  
371 extended.

372 SECTION 11. This act shall take effect and be in force from  
373 and after the date it may be effectuated under Section 5 of the  
374 Voting Rights Act of 1965, as amended and extended.