

By: Representative Moore

To: Education; Apportionment
and Elections

HOUSE BILL NO. 493

1 AN ACT TO AMEND SECTION 37-5-7, MISSISSIPPI CODE OF 1972, TO
 2 PROVIDE FOR THE ELECTION OF MEMBERS OF THE COUNTY BOARDS OF
 3 EDUCATION AT THE SAME TIME AS THE PRESIDENTIAL ELECTION AND TO
 4 ESTABLISH A TERM OF FOUR YEARS FOR THAT OFFICE; TO AMEND SECTION
 5 37-7-207, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR THE ELECTION OF
 6 MEMBERS OF THE BOARDS OF TRUSTEES OF CONSOLIDATED SCHOOL DISTRICTS
 7 AND LINE CONSOLIDATED SCHOOL DISTRICTS IN THE SAME MANNER AND AT
 8 THE SAME TIME AS THE PRESIDENTIAL ELECTION AND TO ESTABLISH A TERM
 9 OF FOUR YEARS FOR THOSE OFFICES; TO AMEND SECTION 37-7-713,
 10 MISSISSIPPI CODE OF 1972, TO PROVIDE FOR THE ELECTION OF MEMBERS
 11 OF THE BOARDS OF TRUSTEES OF CERTAIN SPECIAL MUNICIPAL SEPARATE
 12 SCHOOL DISTRICTS IN THE SAME MANNER AND AT THE SAME TIME AS THE
 13 PRESIDENTIAL ELECTION AND TO ESTABLISH A TERM OF FOUR YEARS FOR
 14 THAT OFFICE; TO REPEAL SECTIONS 37-7-221, 37-7-223, 37-7-227 AND
 15 37-7-229, MISSISSIPPI CODE OF 1972, WHICH PROVIDE CERTAIN METHODS
 16 FOR ELECTING TRUSTEES OF CONSOLIDATED AND LINE CONSOLIDATED SCHOOL
 17 DISTRICTS; TO REPEAL SECTIONS 37-7-705, 37-7-707, 37-7-709,
 18 37-7-711, 37-7-715 AND 37-7-717, MISSISSIPPI CODE OF 1972, WHICH
 19 PROVIDE CERTAIN METHODS FOR SELECTING TRUSTEES OF SPECIAL
 20 MUNICIPAL SEPARATE SCHOOL DISTRICTS; AND FOR RELATED PURPOSES.

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

22 **SECTION 1.** Section 37-5-7, Mississippi Code of 1972, is
 23 amended as follows:

24 37-5-7. (1) On the first Tuesday after the first Monday in
 25 November 2008 and every four (4) years thereafter, an election
 26 shall be held in each county in this state in the same manner and
 27 at the same time as the presidential election is held and
 28 conducted, * * * for the purpose of electing the county boards of
 29 education established under the provisions of this chapter. * * *
 30 All members of the county board of education * * * shall take
 31 office on the first Monday of January following the date of their
 32 election and shall serve for a term of four (4) years. However,
 33 in order to provide for an orderly transition, the term of each
 34 member of the board serving on the date that House Bill No. _____,
 35 2006 Regular Session, becomes effective that otherwise would
 36 expire after the first Monday in January 2009, shall expire on the

37 first Monday of January 2009. Each member of the board whose term
38 expires after the first Monday of January 2006 but before the
39 first Monday of January 2006 shall continue to serve for the
40 remainder of the unexpired term, at which time the vacancy shall
41 be filled in the manner provided in Section 37-5-19.

42 (2) On the first Tuesday after the first Monday in November
43 2008 and every four (4) years thereafter, in any * * * county
44 electing to utilize the authority contained in Section 37-5-1(2),
45 an election shall be held in the same manner and at the same time
46 as the presidential election is held and conducted, for the
47 purpose of electing the county board of education in that
48 county. * * * All members of the county board of education shall
49 take office on the first Monday of January following the date of
50 their election and shall serve for a term of four (4) years.
51 However, in order to provide for an orderly transition, the term
52 of each member of the board serving on the date that House Bill
53 No. _____, 2006 Regular Session, becomes effective that otherwise
54 would expire after the first Monday in January 2009, shall expire
55 on the first Monday of January 2009. Each member of the board
56 whose term expires after the first Monday of January 2006 but
57 before the first Monday of January 2009 shall continue to serve
58 for the remainder of the unexpired term, at which time the vacancy
59 shall be filled in the manner provided in Section 37-5-19.

60 **SECTION 2.** Section 37-7-207, Mississippi Code of 1972, is
61 amended as follows:

62 37-7-207. (1) All school districts reconstituted or created
63 under the provisions of Article 3 of this chapter, and which lie
64 wholly within one (1) county, but not including municipal separate
65 and countywide districts, shall be governed by a board of five (5)
66 trustees. The first board of trustees of such districts shall be
67 appointed by the county board of education, and the original
68 appointments shall be so made that one (1) trustee shall be
69 appointed to serve until the first Saturday of March following

70 such appointments, one (1) for one (1) year longer, one (1) for
71 two (2) years longer, one (1) for three (3) years longer, and one
72 (1) for four (4) years longer. After such original appointments,
73 the trustees of such school districts shall be elected by the
74 qualified electors of such school districts in the manner provided
75 for in this section and Section 37-7-225, with each trustee to be
76 elected for a term of four (4) years. The five (5) members of the
77 board of trustees of such consolidated school district shall be
78 elected from special trustee election districts by the qualified
79 electors thereof, as herein provided. The board of trustees of
80 any such consolidated school district shall apportion the
81 consolidated school district into five (5) special trustee
82 election districts. The board of trustees of such school district
83 shall place upon its minutes the boundaries determined for the new
84 five (5) trustee election districts. The board of trustees shall
85 thereafter publish the same in a newspaper of general circulation
86 within said school district for at least three (3) consecutive
87 weeks; and after having given notice of publication and recording
88 the same upon the minutes of the board of trustees, said new
89 district lines shall thereafter be effective.

90 On the first Tuesday after the first Monday in November 2008
91 and every four (4) years thereafter, in each consolidated school
92 district * * * an election shall be held in the same manner and at
93 the same time as the presidential election is held and conducted,
94 for the purpose of electing the board of trustees of such
95 district. At the election, the members of the * * * board * * *
96 shall be elected for a term of four (4) years. However, in order
97 to provide for an orderly transition, the term of each member of
98 the board serving on the date that House Bill No. _____, 2006
99 Regular Session, becomes effective that otherwise would expire
100 after the first Monday in January 2009, shall expire on the first
101 Monday of January 2009. Each member of the board whose term
102 expires after the first Monday of January 2006 but before the

103 first Monday of January 2009 shall continue to serve for the
104 remainder of the unexpired term, at which time the vacancy shall
105 be filled in the manner provided in this paragraph. All members
106 of the * * * board of trustees shall take office on the first
107 Monday of January following the date of their election. All
108 vacancies which may occur during a term shall be filled by
109 appointment of the consolidated school district trustees, but the
110 person so appointed shall serve only until the next general
111 election following such appointment, at which time a person shall
112 be elected for the remainder of the unexpired term at the same
113 time and in the same manner as a trustee is elected for the full
114 term then expiring. The person so elected to the unexpired term
115 shall take office immediately. Said appointee shall be selected
116 from the qualified electors of the district in which the vacancy
117 occurs.

118 (2) All school districts reconstituted and created under the
119 provisions of Article 1 of this chapter, which embrace territory
120 in two (2) or more counties, but not including municipal separate
121 school districts, shall be governed by a board of five (5)
122 trustees. In making the original appointments, the several county
123 boards of education shall appoint the trustee or trustees to which
124 the territory in such county is entitled, and, by agreement
125 between the county boards concerned, one (1) person shall be
126 appointed to serve until the first Saturday of March following,
127 one (1) for one (1) year longer, one (1) for two (2) years longer,
128 one (1) for three (3) years longer and one (1) for four (4) years
129 longer. Thereafter, such trustees shall be elected in the manner
130 provided for in this section and Section 37-7-225, for a term of
131 four (4) years. The five (5) members of the board of trustees of
132 such line consolidated school district shall be elected from
133 special trustee election districts by the qualified electors
134 thereof, as herein provided. The existing board of trustees of
135 such line consolidated school district shall apportion the line

136 consolidated school district into five (5) special trustee
137 election districts. The board of trustees shall place upon its
138 minutes the boundaries determined for the new five (5) trustee
139 election districts. The board of trustees shall thereafter
140 publish the same in a newspaper of general circulation within said
141 school district for at least three (3) consecutive weeks; and
142 after having given notice of publication and recording the same
143 upon the minutes of the board of trustees, the new district lines
144 shall thereafter be effective. However, that in any line
145 consolidated school district encompassing two (2) or more counties
146 created pursuant to Laws, 1953, Extraordinary Session, Chapter 12,
147 Section 8, in which, as a condition precedent to the creation of
148 said district, each county belonging thereto was contractually
149 guaranteed to always have at least one (1) representative on said
150 board, in order that said condition precedent may be honored and
151 guaranteed, in any year in which the board of trustees of such
152 line consolidated school district does not have at least one (1)
153 member from each county or part thereof forming such district, the
154 board of trustees in such district shall be governed by a board of
155 a sufficient number of trustees to fulfill this guarantee, five
156 (5) of whom shall be elected from the five (5) special trustee
157 election districts which shall be as nearly equal as possible and
158 one (1) member trustee appointed at large from each county not
159 having representation on the elected board. In such cases, the
160 board of supervisors of each county shall make written agreement
161 to guarantee the manner of appointment of at least one (1)
162 representative from each county in the district, placing such
163 written agreement on the minutes of each board of supervisors in
164 each county.

165 On the first Tuesday after the first Monday in November 2008
166 and every four (4) years thereafter, in each line consolidated
167 school district * * * an election shall be held in the same manner
168 and at the same time as the presidential election is held and

169 conducted, for the purpose of electing the board of trustees of
170 such district. At the election, the members of the * * *
171 board * * * shall be elected for a term of four (4) years.
172 However, in order to provide for an orderly transition, the term
173 of each member of the board serving on the date that House Bill
174 No.____, 2006 Regular Session, becomes effective that otherwise
175 would expire after the first Monday in January 2009, shall expire
176 on the first Monday of January 2009. Each member of the board
177 whose term expires after the first Monday of January 2006 but
178 before the first Monday of January 2009 shall continue to serve
179 for the remainder of the unexpired term, at which time the vacancy
180 shall be filled in the manner provided in this paragraph. All
181 members of the * * * board of trustees shall take office on the
182 first Monday of January following the date of their election. In
183 all elections, the trustee elected shall be a resident and
184 qualified elector of the district entitled to the representation
185 upon the board, and he shall be elected only by the qualified
186 electors of such district. All vacancies which may occur during a
187 term of office shall be filled by appointment of the consolidated
188 line school district trustees, but the person so appointed shall
189 serve only until the next general election following such
190 appointment, at which time a person shall be elected for the
191 remainder of the unexpired term at the same time and in the same
192 manner as the trustee is elected for the full term then expiring.
193 The person so elected to the unexpired term shall take office
194 immediately.

195 **SECTION 3.** Section 37-7-713, Mississippi Code of 1972, is
196 amended as follows:

197 37-7-713. (1) In all special municipal separate school
198 districts where the district embraces less than the entire area of
199 the county and where the majority of the educable children of such
200 district reside outside the limits of the municipality, * * *
201 the * * * special municipal separate school district shall be

202 governed by a board of trustees consisting of five (5) members, to
203 be elected by the qualified electors of such municipal separate
204 school district * * * in the manner provided by this section.
205 On the first Tuesday after the first Monday in November 2008, and
206 every four (4) years thereafter, an election shall be held in each
207 special municipal separate school district as constituted in this
208 section, in the same manner and at the same time as the
209 presidential election is held and conducted, for the purpose of
210 electing the members of the boards of trustees established under
211 the provisions of this section. All members of the boards of
212 trustees as constituted in this section shall take office on the
213 first Monday of January following the date of their election and
214 shall serve for a term of four (4) years. The five (5) members of
215 the board of trustees shall be elected from trustee election
216 districts by the qualified electors of the district, as provided
217 in this section. The governing authorities of the municipality
218 shall apportion the special municipal separate school district
219 into five (5) special trustee election districts as nearly equal
220 as possible according to population, incumbency and other factors
221 pronounced by the courts before the effective date of House Bill
222 No. _____, 2006 Regular Session. The municipal governing
223 authorities shall place upon their minutes the boundaries
224 determined for the new five (5) trustee election districts. The
225 municipal governing authorities shall thereafter publish the same
226 in a newspaper having general circulation within the school
227 district for at least three (3) consecutive weeks; and after
228 having given notice of publication and recording the same upon the
229 minutes of the municipal governing authorities, the new district
230 lines shall be effective thereafter. The term of each incumbent
231 trustee serving on the date that House Bill No. _____, 2006 Regular
232 Session, becomes effective that otherwise would expire after the
233 first Monday of January 2009, shall expire on the first Monday of
234 January 2009. Each incumbent trustee whose term expires after the

235 effective date of House Bill No. _____, 2006 Regular Session, but
236 before the first Monday of January 2009 shall continue to serve
237 for the remainder of the unexpired term, at which time the vacancy
238 shall be filled in the manner provided by subsection (2) of this
239 section.

240 (2) Vacancies in the membership of the board of trustees of
241 any special municipal separate school district as constituted in
242 this section shall be filled by appointment, within sixty (60)
243 days after the vacancy occurs, by the governing authorities of the
244 municipality. The appointee shall be selected from the qualified
245 electors of the district in which the vacancy occurs. The
246 president of the municipal governing authorities shall certify to
247 the Secretary of State the fact of the appointment, and the
248 Governor shall commission the person appointed. If the unexpired
249 term is longer than six (6) months, the appointee shall serve
250 until a successor is elected as provided in this section, unless
251 the vacancy occurs ninety (90) or fewer days before the general
252 election in a year in which an election would normally be held for
253 that office as provided by law, in which case the person appointed
254 shall serve the unexpired portion of the term. The vacancies
255 shall be filled for the unexpired term by the qualified electors
256 at the next regular special election day occurring more than
257 ninety (90) days after the occurrence of the vacancy. The
258 president of the municipal governing authorities, within ten (10)
259 days after the occurrence of the vacancy, shall make an order, in
260 writing, directed to the commissioners of election, directing an
261 election to be held on the next regular special election day to
262 fill the vacancy. The election commissioners shall require each
263 candidate to qualify at least sixty (60) days before the date of
264 the election, and shall give a certificate of election to the
265 person elected, and shall return to the Secretary of State a copy
266 of the order of holding the election and the results of the
267 election, certified by the president of the municipal governing

268 authorities. The Governor shall commission the person elected.
269 The election shall be held in the same manner provided for other
270 municipal office vacancies.

271 However, where only one (1) person has qualified with the
272 commissioners of election to be a candidate within the time
273 provided by law, the commissioners of election shall certify to
274 the municipal governing authorities that there is only one (1)
275 candidate. The municipal governing authorities shall dispense
276 with the election and shall appoint the certified candidate to
277 fill the unexpired term. The president of the municipal governing
278 authorities shall certify to the Secretary of State the candidate
279 so appointed to serve in the office and the Governor shall
280 commission the candidate. If no person has qualified at least
281 sixty (60) days before the date of the election, the commissioners
282 of election shall certify that fact to the municipal governing
283 authorities, which shall dispense with the election and fill the
284 vacancy by appointment. The president of the municipal governing
285 authorities shall certify to the Secretary of State the fact of
286 the appointment, and the Governor shall commission the appointed
287 person.

288 **SECTION 4.** Sections 37-7-221, 37-7-223, 37-7-227 and
289 37-7-229, Mississippi Code of 1972, which provide certain methods
290 for electing trustees of consolidated and line consolidated school
291 districts, are repealed.

292 **SECTION 5.** Sections 37-7-705, 37-7-707, 37-7-709, 37-7-711,
293 37-7-715 and 37-7-717, Mississippi Code of 1972, which provide
294 certain methods for selecting trustees of special municipal
295 separate school districts, are repealed.

296 **SECTION 6.** The Attorney General of the State of Mississippi
297 shall submit this act, immediately upon approval by the Governor,
298 or upon approval by the Legislature subsequent to a veto, to the
299 Attorney General of the United States or to the United States
300 District Court for the District of Columbia in accordance with the

301 provisions of the Voting Rights Act of 1965, as amended and
302 extended.

303 **SECTION 7.** This act shall take effect and be in force from
304 and after July 1, 2006, or the date it is effectuated under
305 Section 5 of the Voting Rights Act of 1965, as amended and
306 extended, whichever is later.