

By: Senator(s) Harden

To: Education;  
Appropriations

SENATE BILL NO. 2313  
(As Sent to Governor)

1 AN ACT TO AMEND SECTION 37-7-307, MISSISSIPPI CODE OF 1972,  
2 TO PROVIDE A MINIMUM SICK LEAVE ALLOWANCE FOR ASSISTANT TEACHERS,  
3 AND TO PROVIDE THAT ACCRUED SICK LEAVE FOR TEACHER ASSISTANTS  
4 SHALL BE UNLIMITED; TO ALLOW TEACHERS TO ACCUMULATE PERSONAL LEAVE  
5 FROM YEAR TO YEAR UP TO FIVE DAYS; AND FOR RELATED PURPOSES.

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

7 **SECTION 1.** Section 37-7-307, Mississippi Code of 1972, is  
8 amended as follows:

9 37-7-307. (1) For purposes of this section, the term  
10 "licensed employee" means any employee of a public school district  
11 required to hold a valid license by the Commission on Teacher and  
12 Administrator Education, Certification and Licensure and  
13 Development.

14 (2) The school board of a school district shall establish by  
15 rules and regulations a policy of sick leave with pay for licensed  
16 employees and teacher assistants employed in the school district,  
17 and such policy shall include the following minimum provisions for  
18 sick and emergency leave with pay:

19 (a) Each licensed employee and teacher assistant, at  
20 the beginning of each school year, shall be credited with a  
21 minimum sick leave allowance, with pay, of seven (7) days for  
22 absences caused by illness or physical disability of the employee  
23 during that school year.

24 (b) Any unused portion of the total sick leave  
25 allowance shall be carried over to the next school year and  
26 credited to such licensed employee and teacher assistant if the  
27 licensed employee or teacher assistant remains employed in the  
28 same school district. In the event any public school licensed



29 employee or teacher assistant transfers from one public school  
30 district in Mississippi to another, any unused portion of the  
31 total sick leave allowance credited to such licensed employee or  
32 teacher assistant shall be credited to such licensed employee or  
33 teacher assistant in the computation of unused leave for  
34 retirement purposes under Section 25-11-109. Accumulation of sick  
35 leave allowed under this section shall be unlimited.

36 (c) No deduction from the pay of such licensed employee  
37 or teacher assistant may be made because of absence of such  
38 licensed employee or teacher assistant caused by illness or  
39 physical disability of the licensed employee or teacher assistant  
40 until after all sick leave allowance credited to such licensed  
41 employee or teacher assistant has been used.

42 (d) For the first ten (10) days of absence of a  
43 licensed employee because of illness or physical disability, in  
44 any school year, in excess of the sick leave allowance credited to  
45 such licensed employee, there may be deducted from the pay of such  
46 licensed employee the established substitute amount of licensed  
47 employee compensation paid in that local school district,  
48 necessitated because of the absence of the licensed employee as a  
49 result of illness or physical disability. Thereafter, the regular  
50 pay of such absent licensed employee may be suspended and withheld  
51 in its entirety for any period of absence because of illness or  
52 physical disability during that school year.

53 (3) Beginning with the school year 1983-1984, each licensed  
54 employee at the beginning of each school year shall be credited  
55 with a minimum personal leave allowance, with pay, of two (2) days  
56 for absences caused by personal reasons during that school year.  
57 Such personal leave shall not be taken on the first day of the  
58 school term, the last day of the school term, on a day previous to  
59 a holiday or a day after a holiday. Personal leave may be used  
60 for professional purposes, including absences caused by attendance  
61 of such licensed employee at a seminar, class, training program,



62 professional association or other functions designed for  
63 educators. No deduction from the pay of such licensed employee  
64 may be made because of absence of such licensed employee caused by  
65 personal reasons until after all personal leave allowance credited  
66 to such licensed employee has been used. However, the  
67 superintendent of a school district, in his discretion, may allow  
68 a licensed employee personal leave in addition to any minimum  
69 personal leave allowance, under the condition that there shall be  
70 deducted from the salary of such licensed employee the actual  
71 amount of any compensation paid to any person as a substitute,  
72 necessitated because of the absence of the licensed employee. Any  
73 unused portion of the total personal leave allowance up to five  
74 (5) days shall be carried over to the next school year and  
75 credited to such licensed employee if the licensed employee  
76 remains employed in the same school district.

77 (4) Beginning with the school year 1992-1993, each licensed  
78 employee shall be credited with a professional leave allowance,  
79 with pay, for each day of absence caused by reason of such  
80 employee's statutorily required membership and attendance at a  
81 regular or special meeting held within the State of Mississippi of  
82 the State Board of Education, the Commission on Teacher and  
83 Administrator Education, Certification and Licensure and  
84 Development, the Commission on School Accreditation, the  
85 Mississippi Authority for Educational Television and the meetings  
86 of the state textbook rating committees.

87 (5) Upon retirement from employment, each licensed and  
88 nonlicensed employee shall be paid for not more than thirty (30)  
89 days of unused accumulated leave earned while employed by the  
90 school district in which the employee is last employed. Such  
91 payment for licensed employees shall be made by the school  
92 district at a rate equal to the amount paid to substitute teachers  
93 and for nonlicensed employees, the payment shall be made by the  
94 school district at a rate equal to the federal minimum wage. The



95 payment shall be treated in the same manner for retirement  
96 purposes as a lump-sum payment for personal leave as provided in  
97 Section 25-11-103(e). Any remaining lawfully credited unused  
98 leave, for which payment has not been made, shall be certified to  
99 the Public Employees' Retirement System in the same manner and  
100 subject to the same limitations as otherwise provided by law for  
101 unused leave.

102 (6) The school board may adopt rules and regulations which  
103 will reasonably aid to implement the policy of sick and personal  
104 leave, including, but not limited to, rules and regulations having  
105 the following general effect:

106 (a) Requiring the absent licensed employee to furnish  
107 the certificate of a physician or dentist or other medical  
108 practitioner as to the illness of the absent licensed employee,  
109 where the absence is for four (4) or more consecutive school days,  
110 or for two (2) consecutive school days immediately preceding or  
111 following a nonschool day;

112 (b) Providing penalties, by way of full deduction from  
113 salary, or entry on the work record of the licensed employee, or  
114 other appropriate penalties, for any materially false statement by  
115 the licensed employee as to the cause of absence;

116 (c) Forfeiture of accumulated or future sick leave, if  
117 the absence of the licensed employee is caused by optional dental  
118 or medical treatment or surgery which could, without medical risk,  
119 have been provided, furnished or performed at a time when school  
120 was not in session;

121 (d) Enlarging, increasing or providing greater sick or  
122 personal leave allowances than the minimum standards established  
123 by this section in the discretion of the school board of each  
124 school district.

125 (7) School boards may include in their budgets provisions  
126 for the payment of substitute teachers, necessitated because of  
127 the absence of regular licensed employees. All such substitute



128 teachers shall be paid wholly from district funds other than  
129 minimum education program funds, except as otherwise provided for  
130 long-term substitute teachers in Section 37-19-20. Such school  
131 boards, in their discretion, also may pay, from district funds  
132 other than minimum education program funds, the whole or any part  
133 of the salaries of licensed employees granted leaves for the  
134 purpose of special studies or training.

135 (8) The school board may further adopt rules and regulations  
136 which will reasonably implement such leave policies for all other  
137 nonlicensed school employees as the board deems appropriate.

138 (9) (a) For the purposes of this subsection, the following  
139 words and phrases shall have the meaning ascribed in this  
140 paragraph unless the context requires otherwise:

141 (i) "Catastrophic injury or illness" means a  
142 severe condition or combination of conditions affecting the mental  
143 or physical health of an employee or a member of an employee's  
144 immediate family, including pregnancy, that requires the services  
145 of a licensed physician for an extended period of time and that  
146 forces the employee to exhaust all leave time accumulated by that  
147 employee, thereby resulting in the loss of compensation from the  
148 school district for the employee.

149 (ii) "Immediate family" means spouse, parent,  
150 stepparent, sibling, child or stepchild.

151 (b) Any school district employee may donate a portion  
152 of his or her unused accumulated personal leave or sick leave to  
153 another employee of the same or another school district who is  
154 suffering from a catastrophic injury or illness or who has a  
155 member of his or her immediate family suffering from a  
156 catastrophic injury or illness, in accordance with the following:

157 (i) The employee donating the leave (the "donor  
158 employee") shall designate the employee who is to receive the  
159 leave (the "recipient employee") and the amount of unused  
160 accumulated personal leave and sick leave that is to be donated,



161 and shall notify the school district superintendent or his  
162 designee of his or her designation.

163 (ii) The maximum amount of unused accumulated  
164 personal leave that an employee may donate to any other employee  
165 may not exceed a number of days that would leave the donor  
166 employee with fewer than seven (7) days of personal leave  
167 remaining, and the maximum amount of unused accumulated sick leave  
168 that an employee may donate to any other employee may not exceed  
169 fifty percent (50%) of the unused accumulated sick leave of the  
170 donor employee.

171 (iii) An employee must have exhausted all of his  
172 or her accumulated personal leave and sick leave before he or she  
173 will be eligible to receive any leave donated by another employee.  
174 Eligibility for donated leave shall be based upon review and  
175 approval by the donor employee's supervisor.

176 (iv) Before an employee may receive donated leave,  
177 he or she must provide the school district superintendent or his  
178 designee with a physician's statement that states the beginning  
179 date of the catastrophic injury or illness, a description of the  
180 injury or illness, and a prognosis for recovery and the  
181 anticipated date that the recipient employee will be able to  
182 return to work.

183 (v) If the total amount of leave that is donated  
184 to any employee is not used by the recipient employee, the whole  
185 days of donated leave shall be returned to the donor employees on  
186 a pro rata basis, based on the ratio of the number of days of  
187 leave donated by each donor employee to the total number of days  
188 of leave donated by all donor employees.

189 (vi) Donated leave shall not be used in lieu of  
190 disability retirement.

191 **SECTION 2.** This act shall take effect and be in force from  
192 and after July 1, 2003.

