SENATE BILL NO. 2314

AN ACT TO AMEND SECTION 37-7-307, MISSISSIPPI CODE OF 1972, TO ALLOW TEACHERS TO ACCUMULATE PERSONAL LEAVE UP TO FIVE DAYS; AND FOR RELATED PURPOSES.

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

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

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

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

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

(b) Any unused portion of the total sick leave allowance shall be carried over to the next school year and credited to such licensed employee if the licensed employee remains employed in the same school district. In the event any public school licensed employee transfers from one public school district in Mississippi to another, any unused portion of the
total sick leave allowance credited to such licensed employee shall be credited to such licensed employee in the computation of unused leave for retirement purposes under Section 25-11-109.

Accumulation of sick leave allowed under this section shall be unlimited.

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

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

(3) Beginning with the school year 1983-1984, each licensed employee at the beginning of each school year shall be credited with a minimum personal leave allowance, with pay, of five (5) days for absences caused by personal reasons during that school year. Such personal leave shall not be taken on the first day of the school term, the last day of the school term, on a day previous to a holiday or a day after a holiday. Personal leave may be used for professional purposes, including absences caused by attendance of such licensed employee at a seminar, class, training program, professional association or other functions designed for educators. No deduction from the pay of such licensed employee may be made because of absence of such licensed
employee caused by personal reasons until after all personal leave
allowance credited to such licensed employee has been used. However, the superintendent of a school district, in his
discretion, may allow a licensed employee personal leave in
addition to any minimum personal leave allowance, under the
condition that there shall be deducted from the salary of such
licensed employee the actual amount of any compensation paid to
any person as a substitute, necessitated because of the absence of
the licensed employee.

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

(5) Upon retirement from employment, each licensed and
nonlicensed employee shall be paid for not more than thirty (30)
days of unused accumulated leave earned while employed by the
school district in which the employee is last employed. Such
payment for licensed employees shall be made by the school
district at a rate equal to the amount paid to substitute teachers
and for nonlicensed employees, the payment shall be made by the
school district at a rate equal to the federal minimum wage. The
payment shall be treated in the same manner for retirement
purposes as a lump-sum payment for personal leave as provided in
Section 25-11-103(e). Any remaining lawfully credited unused
leave, for which payment has not been made, shall be certified to
the Public Employees' Retirement System in the same manner and
subject to the same limitations as otherwise provided by law for
unused leave.

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

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

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

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

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

(7) School boards may include in their budgets provisions
for the payment of substitute teachers, necessitated because of
the absence of regular licensed employees. All such substitute
teachers shall be paid wholly from district funds other than
minimum education program funds, except as otherwise provided for
long-term substitute teachers in Section 37-19-20. Such school
boards, in their discretion, also may pay, from district funds
other than minimum education program funds, the whole or any part
of the salaries of licensed employees granted leaves for the purpose of special studies or training.

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

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

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

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

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

(i) The employee donating the leave (the "donor employee") shall designate the employee who is to receive the leave (the "recipient employee") and the amount of unused accumulated personal leave and sick leave that is to be donated, and shall notify the school district superintendent or his designee of his or her designation.

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

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

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

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

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

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