

By: Representatives Pierce, Scott, Clarke

To: Education

HOUSE BILL NO. 656

1 AN ACT TO AMEND SECTION 37-7-307, MISSISSIPPI CODE OF 1972,
2 TO CLARIFY THAT ASSISTANT TEACHERS RECEIVE THE SAME NUMBER OF
3 MINIMUM SICK LEAVE DAYS AS LICENSED TEACHERS; TO CLARIFY THE
4 DEFINITION OF "CATASTROPHIC INJURY OR ILLNESS" FOR TEACHER LEAVE
5 PURPOSES; 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, the meetings of
86 the state textbook rating committees or other meetings authorized
87 by local school board policy.

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

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

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

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

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

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

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

126 (7) School boards may include in their budgets provisions
127 for the payment of substitute employees, necessitated because of

128 the absence of regular licensed employees. All such substitute
129 employees shall be paid wholly from district funds, except as
130 otherwise provided for long-term substitute teachers in Section
131 37-19-20. Such school boards, in their discretion, also may pay,
132 from district funds other than adequate education program funds,
133 the whole or any part of the salaries of all employees granted
134 leaves for the 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 and hourly paid school employees as the board deems
138 appropriate.

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

142 (i) "Catastrophic injury or illness" means a
143 life-threatening injury or illness of an employee or a member of
144 an employee's immediate family that totally incapacitates the
145 employee from work, as verified by a licensed physician, and
146 forces the employee to exhaust all leave time earned by that
147 employee, resulting in the loss of compensation from the state for
148 the employee. Conditions that are short-term in nature,
149 including, but not limited to, common illnesses such as influenza
150 and the measles, and common injuries, are not catastrophic.
151 Chronic illnesses or injuries, such as cancer or major surgery,
152 that result in intermittent absences from work and that are
153 long-term in nature and require long recuperation periods may be
154 considered catastrophic.

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

157 (b) Any school district employee may donate a portion
158 of his or her unused accumulated personal leave or sick leave to
159 another employee of the same or another school district who is
160 suffering from a catastrophic injury or illness or who has a

161 member of his or her immediate family suffering from a
162 catastrophic injury or illness, in accordance with the following:

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

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

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

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

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

193 leave donated by each donor employee to the total number of days
194 of leave donated by all donor employees.

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

197 **SECTION 2.** This act shall take effect and be in force from
198 and after its passage.