

By: Senator(s) Chaney, Wilemon, King,  
Jackson (11th), Walls, Butler, Frazier,  
Harden, Horhn, Thomas

To: Education;  
Appropriations

SENATE BILL NO. 2297  
(As Sent to Governor)

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 PROVIDE THAT A  
4 CERTAIN NUMBER OF VACATION LEAVE DAYS GRANTED TO EITHER LICENSED  
5 OR NONLICENSED EMPLOYEES MAY BE CONVERTED TO SICK LEAVE DAYS EACH  
6 YEAR; TO CLARIFY THE DEFINITION OF "CATASTROPHIC INJURY OR  
7 ILLNESS" FOR TEACHER LEAVE PURPOSES; AND FOR RELATED PURPOSES.

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

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

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

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

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

26 (b) Any unused portion of the total sick leave  
27 allowance shall be carried over to the next school year and  
28 credited to such licensed employee and teacher assistant if the  
29 licensed employee or teacher assistant remains employed in the

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

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

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

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

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

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

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

96 and for nonlicensed employees, the payment shall be made by the  
97 school district at a rate equal to the federal minimum wage. The  
98 payment shall be treated in the same manner for retirement  
99 purposes as a lump-sum payment for personal leave as provided in  
100 Section 25-11-103(e). Any remaining lawfully credited unused  
101 leave, for which payment has not been made, shall be certified to  
102 the Public Employees' Retirement System in the same manner and  
103 subject to the same limitations as otherwise provided by law for  
104 unused leave. No payment for unused accumulated leave may be made  
105 to either a licensed or nonlicensed employee at termination or  
106 separation from service for any purpose other than for the purpose  
107 of retirement.

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

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

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

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

127 (d) Enlarging, increasing or providing greater sick or  
128 personal leave allowances than the minimum standards established

129 by this section in the discretion of the school board of each  
130 school district.

131 (7) School boards may include in their budgets provisions  
132 for the payment of substitute employees, necessitated because of  
133 the absence of regular licensed employees. All such substitute  
134 employees shall be paid wholly from district funds, except as  
135 otherwise provided for long-term substitute teachers in Section  
136 37-19-20. Such school boards, in their discretion, also may pay,  
137 from district funds other than adequate education program funds,  
138 the whole or any part of the salaries of all employees granted  
139 leaves for the purpose of special studies or training.

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

144 (9) Vacation leave granted to either licensed or nonlicensed  
145 employees shall be synonymous with personal leave. Unused  
146 vacation or personal leave accumulated by licensed employees in  
147 excess of the maximum five (5) days which may be carried over from  
148 one (1) year to the next may be converted to sick leave not to  
149 exceed the conversion of ten (10) days of personal or vacation  
150 leave days to sick days per year. In the case of unused vacation  
151 or personal leave accumulated by nonlicensed employees, no more  
152 than ten (10) days of unused personal or vacation leave may be  
153 converted to sick leave per year. Any personal or vacation leave  
154 previously converted to sick leave under a lawfully adopted policy  
155 before the effective date of Senate Bill No. 2297, 2004 Regular  
156 Session, shall be recognized as accrued leave by the local school  
157 district and available for use by the employee. The leave  
158 converted under a lawfully adopted policy may be certified to the  
159 Public Employees' Retirement System upon termination of employment  
160 and any such leave previously converted and certified to the  
161 Public Employees' Retirement System shall be recognized.

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

165                   (i) "Catastrophic injury or illness" means a  
166 life-threatening injury or illness of an employee or a member of  
167 an employee's immediate family that totally incapacitates the  
168 employee from work, as verified by a licensed physician, and  
169 forces the employee to exhaust all leave time earned by that  
170 employee, resulting in the loss of compensation from the state for  
171 the employee. Conditions that are short-term in nature,  
172 including, but not limited to, common illnesses such as influenza  
173 and the measles, and common injuries, are not catastrophic.  
174 Chronic illnesses or injuries, such as cancer or major surgery,  
175 that result in intermittent absences from work and that are  
176 long-term in nature and require long recuperation periods may be  
177 considered catastrophic.

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

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

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

192                   (ii) The maximum amount of unused accumulated  
193 personal leave that an employee may donate to any other employee  
194 may not exceed a number of days that would leave the donor

195 employee with fewer than seven (7) days of personal leave  
196 remaining, and the maximum amount of unused accumulated sick leave  
197 that an employee may donate to any other employee may not exceed  
198 fifty percent (50%) of the unused accumulated sick leave of the  
199 donor employee.

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

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

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

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

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