

By: Senator(s) Harden

To: Education

SENATE BILL NO. 2903

1 AN ACT TO AMEND SECTION 37-7-307, MISSISSIPPI CODE OF 1972,  
2 TO CLARIFY THAT SCHOOL DISTRICTS MAY PAY SUBSTITUTE TEACHERS FROM  
3 ANY AVAILABLE FUND OF THE DISTRICT; AND FOR RELATED PURPOSES.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

134 (8) The school board may further adopt rules and regulations  
135 which will reasonably implement such leave policies for all other  
136 nonlicensed and hourly paid school employees as the board deems  
137 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 available to that  
147 employee.

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

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

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

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

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

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

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

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

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

190 **SECTION 2.** This act shall take effect and be in force from  
191 and after July 1, 2004.