

By: Representative Watson

To: Education;
Appropriations

HOUSE BILL NO. 1187

1 AN ACT TO AMEND SECTION 37-7-307, MISSISSIPPI CODE OF 1972,
2 TO REVISE THE DETERMINATION OF THE ANNUAL CONVERSION OF UNUSED
3 VACATION OR PERSONAL LEAVE TO SICK LEAVE FOR LICENSED OR
4 UNLICENSED SCHOOL EMPLOYEES AND TO RECOGNIZE LEAVE ACCUMULATED
5 UNDER PREVIOUS POLICY; 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. No payment for unused accumulated leave may be made
103 to either a licensed or nonlicensed employee at termination or
104 separation from service for any purpose other than for the purpose
105 of retirement.

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

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

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

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

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

127 by this section in the discretion of the school board of each
128 school district.

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

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

142 (9) Vacation leave granted to either licensed or nonlicensed
143 employees shall be synonymous with personal leave. Unused
144 vacation or personal leave accumulated by licensed employees in
145 excess of the maximum five (5) days which may be carried over from
146 one (1) year to the next may be converted to sick leave. The
147 annual conversion of unused vacation or personal leave to sick
148 days for licensed or unlicensed employees shall not exceed the
149 allowable number of personal leave days as provided in Section
150 25-3-93. The annual total number of converted unused vacation
151 and/or personal days added to the annual unused sick days for any
152 employee shall not exceed the combined allowable number of days
153 per year provided in Sections 25-3-93 and 25-3-95. Local school
154 board policies that provide for vacation, personal and sick leave
155 for employees shall not exceed the provisions for leave as
156 provided in Sections 25-3-93 and 25-3-95. Any personal or
157 vacation leave previously converted to sick leave under a lawfully
158 adopted policy before May 1, 2004, or such personal or vacation
159 leave accumulated and available for use prior to May 1, 2004,

160 under a lawfully adopted policy but converted to sick leave after
161 May 1, 2004, shall be recognized as accrued leave by the local
162 school district and available for use by the employee. The leave
163 converted under a lawfully adopted policy prior to May 1, 2004, or
164 such personal and vacation leave accumulated and available for use
165 as of May 1, 2004, which was subsequently converted to sick leave
166 may be certified to the Public Employees' Retirement System upon
167 termination of employment and any such leave previously converted
168 and certified to the Public Employees' Retirement System shall be
169 recognized.

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

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

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

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

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

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

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

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

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

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

224 leave donated by each donor employee to the total number of days
225 of leave donated by all donor employees.

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

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