

By: Senator(s) Harden

To: Education

SENATE BILL NO. 2199

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. No payment for unused accumulated leave may be made  
101 to either a licensed or nonlicensed employee at termination or  
102 separation from service for any purpose other than for the purpose  
103 of retirement.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

216 **SECTION 2.** This act shall take effect and be in force from  
217 and after July 1, 2005.