

By: Senator(s) Harden

To: Education;
Appropriations

SENATE BILL NO. 2210

1 AN ACT TO AMEND SECTION 37-7-307, MISSISSIPPI CODE OF 1972,
2 TO AUTHORIZE LOCAL SCHOOL DISTRICTS TO MAKE A ONE-TIME PAYMENT TO
3 TEACHERS FOR UNUSED SICK LEAVE CREDITED DURING THE CURRENT SCHOOL
4 YEAR EQUAL TO THE SUBSTITUTE TEACHER'S RATE; AND FOR RELATED
5 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. In addition, the
53 local school board of the employing school district may, in its
54 discretion, pay a teacher a one-time payment for any unused sick
55 leave credited during the current school year at a rate equal to
56 the daily substitute teacher pay. Such payment shall not reduce
57 the accumulated leave of such teacher and shall not be subject to
58 the provisions of Section 37-19-7, which prohibits the reduction
59 of local salary supplements from the prior year. The school
60 district shall have the authority to make such payments from any
61 available funds.

62 (3) Beginning with the school year 1983-1984, each licensed
63 employee at the beginning of each school year shall be credited
64 with a minimum personal leave allowance, with pay, of two (2) days
65 for absences caused by personal reasons during that school year.
66 Such personal leave shall not be taken on the first day of the
67 school term, the last day of the school term, on a day previous to
68 a holiday or a day after a holiday. Personal leave may be used
69 for professional purposes, including absences caused by attendance
70 of such licensed employee at a seminar, class, training program,
71 professional association or other functions designed for
72 educators. No deduction from the pay of such licensed employee
73 may be made because of absence of such licensed employee caused by
74 personal reasons until after all personal leave allowance credited
75 to such licensed employee has been used. However, the
76 superintendent of a school district, in his discretion, may allow
77 a licensed employee personal leave in addition to any minimum
78 personal leave allowance, under the condition that there shall be
79 deducted from the salary of such licensed employee the actual
80 amount of any compensation paid to any person as a substitute,
81 necessitated because of the absence of the licensed employee. Any
82 unused portion of the total personal leave allowance up to five
83 (5) days shall be carried over to the next school year and
84 credited to such licensed employee if the licensed employee
85 remains employed in the same school district.

86 (4) Beginning with the school year 1992-1993, each licensed
87 employee shall be credited with a professional leave allowance,
88 with pay, for each day of absence caused by reason of such
89 employee's statutorily required membership and attendance at a
90 regular or special meeting held within the State of Mississippi of
91 the State Board of Education, the Commission on Teacher and
92 Administrator Education, Certification and Licensure and
93 Development, the Commission on School Accreditation, the
94 Mississippi Authority for Educational Television, the meetings of

95 the state textbook rating committees or other meetings authorized
96 by local school board policy.

97 (5) Upon retirement from employment, each licensed and
98 nonlicensed employee shall be paid for not more than thirty (30)
99 days of unused accumulated leave earned while employed by the
100 school district in which the employee is last employed. Such
101 payment for licensed employees shall be made by the school
102 district at a rate equal to the amount paid to substitute teachers
103 and for nonlicensed employees, the payment shall be made by the
104 school district at a rate equal to the federal minimum wage. The
105 payment shall be treated in the same manner for retirement
106 purposes as a lump-sum payment for personal leave as provided in
107 Section 25-11-103(e). Any remaining lawfully credited unused
108 leave, for which payment has not been made, shall be certified to
109 the Public Employees' Retirement System in the same manner and
110 subject to the same limitations as otherwise provided by law for
111 unused leave. No payment for unused accumulated leave may be made
112 to either a licensed or nonlicensed employee at termination or
113 separation from service for any purpose other than for the purpose
114 of retirement.

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

119 (a) Requiring the absent employee to furnish the
120 certificate of a physician or dentist or other medical
121 practitioner as to the illness of the absent licensed employee,
122 where the absence is for four (4) or more consecutive school days,
123 or for two (2) consecutive school days immediately preceding or
124 following a nonschool day;

125 (b) Providing penalties, by way of full deduction from
126 salary, or entry on the work record of the employee, or other

127 appropriate penalties, for any materially false statement by the
128 employee as to the cause of absence;

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

134 (d) Enlarging, increasing or providing greater sick or
135 personal leave allowances than the minimum standards established
136 by this section in the discretion of the school board of each
137 school district.

138 (7) School boards may include in their budgets provisions
139 for the payment of substitute employees, necessitated because of
140 the absence of regular licensed employees. All such substitute
141 employees shall be paid wholly from district funds, except as
142 otherwise provided for long-term substitute teachers in Section
143 37-19-20. Such school boards, in their discretion, also may pay,
144 from district funds other than adequate education program funds,
145 the whole or any part of the salaries of all employees granted
146 leaves for the purpose of special studies or training.

147 (8) The school board may further adopt rules and regulations
148 which will reasonably implement such leave policies for all other
149 nonlicensed and hourly paid school employees as the board deems
150 appropriate.

151 (9) Vacation leave granted to either licensed or nonlicensed
152 employees shall be synonymous with personal leave. Unused
153 vacation or personal leave accumulated by licensed employees in
154 excess of the maximum five (5) days which may be carried over from
155 one (1) year to the next may be converted to sick leave not to
156 exceed the conversion of ten (10) days of personal or vacation
157 leave days to sick days per year. In the case of unused vacation
158 or personal leave accumulated by nonlicensed employees, no more
159 than ten (10) days of unused personal or vacation leave may be

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

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

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

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

186 (b) Any school district employee may donate a portion
187 of his or her unused accumulated personal leave or sick leave to
188 another employee of the same or another school district who is
189 suffering from a catastrophic injury or illness or who has a
190 member of his or her immediate family suffering from a
191 catastrophic injury or illness, in accordance with the following:

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

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

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

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

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

224 (vi) Donated leave shall not be used in lieu of
225 disability retirement.

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