

By: Senator(s) Harden

To: Fees, Salaries and Administration

SENATE BILL NO. 2241

1 AN ACT TO AMEND SECTION 37-7-307, MISSISSIPPI CODE OF 1972,  
2 TO PROVIDE THAT SCHOOL DISTRICTS SHALL RETURN UNUSED DONATED  
3 CATASTROPHIC LEAVE TO THE DONOR EMPLOYEE IN ACCORDANCE WITH SCHOOL  
4 BOARD POLICY; AND FOR RELATED PURPOSES.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

212 (vi) Donated leave shall not be used in lieu of  
213 disability retirement.

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