

By: Senator(s) Harden

To: Education;
Appropriations

SENATE BILL NO. 2274

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, unless on such days an
69 immediate family member of the employee is being deployed for
70 military service. Personal leave may be used for professional
71 purposes, including absences caused by attendance of such licensed
72 employee at a seminar, class, training program, professional
73 association or other functions designed for educators. No
74 deduction from the pay of such licensed employee may be made
75 because of absence of such licensed employee caused by personal
76 reasons until after all personal leave allowance credited to such
77 licensed employee has been used. However, the superintendent of a
78 school district, in his discretion, may allow a licensed employee
79 personal leave in addition to any minimum personal leave
80 allowance, under the condition that there shall be deducted from
81 the salary of such licensed employee the actual amount of any
82 compensation paid to any person as a substitute, necessitated
83 because of the absence of the licensed employee. Any unused
84 portion of the total personal leave allowance up to five (5) days
85 shall be carried over to the next school year and credited to such
86 licensed employee if the licensed employee remains employed in the
87 same school district.

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

95 Development, the Commission on School Accreditation, the
96 Mississippi Authority for Educational Television, the meetings of
97 the state textbook rating committees or other meetings authorized
98 by local school board policy.

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

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

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

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

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

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

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

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

153 (9) Vacation leave granted to either licensed or nonlicensed
154 employees shall be synonymous with personal leave. Unused
155 vacation or personal leave accumulated by licensed employees in
156 excess of the maximum five (5) days which may be carried over from
157 one year to the next may be converted to sick leave. The annual
158 conversion of unused vacation or personal leave to sick days for
159 licensed or unlicensed employees shall not exceed the allowable

160 number of personal leave days as provided in Section 25-3-93. The
161 annual total number of converted unused vacation and/or personal
162 days added to the annual unused sick days for any employee shall
163 not exceed the combined allowable number of days per year provided
164 in Sections 25-3-93 and 25-3-95. Local school board policies that
165 provide for vacation, personal and sick leave for employees shall
166 not exceed the provisions for leave as provided in Sections
167 25-3-93 and 25-3-95. Any personal or vacation leave previously
168 converted to sick leave under a lawfully adopted policy before May
169 1, 2004, or such personal or vacation leave accumulated and
170 available for use prior to May 1, 2004, under a lawfully adopted
171 policy but converted to sick leave after May 1, 2004, shall be
172 recognized as accrued leave by the local school district and
173 available for use by the employee. The leave converted under a
174 lawfully adopted policy prior to May 1, 2004, or such personal and
175 vacation leave accumulated and available for use as of May 1,
176 2004, which was subsequently converted to sick leave may be
177 certified to the Public Employees' Retirement System upon
178 termination of employment and any such leave previously converted
179 and certified to the Public Employees' Retirement System shall be
180 recognized.

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

184 (i) "Catastrophic injury or illness" means a
185 life-threatening injury or illness of an employee or a member of
186 an employee's immediate family that totally incapacitates the
187 employee from work, as verified by a licensed physician, and
188 forces the employee to exhaust all leave time earned by that
189 employee, resulting in the loss of compensation from the local
190 school district for the employee. Conditions that are short-term
191 in nature, including, but not limited to, common illnesses such as
192 influenza and the measles, and common injuries, are not

193 catastrophic. Chronic illnesses or injuries, such as cancer or
194 major surgery, that result in intermittent absences from work and
195 that are long-term in nature and require long recuperation periods
196 may be considered catastrophic.

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

199 (b) Any school district employee may donate a portion
200 of his or her unused accumulated personal leave or sick leave to
201 another employee of the same or another school district who is
202 suffering from a catastrophic injury or illness or who has a
203 member of his or her immediate family suffering from a
204 catastrophic injury or illness, in accordance with the following:

205 (i) The employee donating the leave (the "donor
206 employee") shall designate the employee who is to receive the
207 leave (the "recipient employee") and the amount of unused
208 accumulated personal leave and sick leave that is to be donated,
209 and shall notify the school district superintendent or his
210 designee of his or her designation.

211 (ii) The maximum amount of unused accumulated
212 personal leave that an employee may donate to any other employee
213 may not exceed a number of days that would leave the donor
214 employee with fewer than seven (7) days of personal leave
215 remaining, and the maximum amount of unused accumulated sick leave
216 that an employee may donate to any other employee may not exceed
217 fifty percent (50%) of the unused accumulated sick leave of the
218 donor employee.

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

224 (iv) Before an employee may receive donated leave,
225 he or she must provide the school district superintendent or his

226 designee with a physician's statement that states the beginning
227 date of the catastrophic injury or illness, a description of the
228 injury or illness, and a prognosis for recovery and the
229 anticipated date that the recipient employee will be able to
230 return to work.

231 (v) If the total amount of leave that is donated
232 to any employee is not used by the recipient employee, the whole
233 days of donated leave shall be returned to the donor employees on
234 a pro rata basis, based on the ratio of the number of days of
235 leave donated by each donor employee to the total number of days
236 of leave donated by all donor employees.

237 (vi) Donated leave shall not be used in lieu of
238 disability retirement.

239 **SECTION 2.** This act shall take effect and be in force from
240 and after July 1, 2006.