

By: Senator(s) Harden

To: Education

SENATE BILL NO. 2297

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, unless on such days an  
58 immediate family member of the employee is being deployed for  
59 military service. Personal leave may be used for professional  
60 purposes, including absences caused by attendance of such licensed

61 employee at a seminar, class, training program, professional  
62 association or other functions designed for educators. No  
63 deduction from the pay of such licensed employee may be made  
64 because of absence of such licensed employee caused by personal  
65 reasons until after all personal leave allowance credited to such  
66 licensed employee has been used. However, the superintendent of a  
67 school district, in his discretion, may allow a licensed employee  
68 personal leave in addition to any minimum personal leave  
69 allowance, under the condition that there shall be deducted from  
70 the salary of such licensed employee the actual amount of any  
71 compensation paid to any person as a substitute, necessitated  
72 because of the absence of the licensed employee. Any unused  
73 portion of the total personal leave allowance up to five (5) days  
74 shall be carried over to the next school year and credited to such  
75 licensed employee if the licensed employee remains employed in the  
76 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 any legally available funds of  
133 the district \* \* \*, except as otherwise provided for long-term  
134 substitute teachers in Section 37-19-20. Such school boards, in  
135 their discretion, also may pay, from district funds other than  
136 adequate education program funds, the whole or any part of the  
137 salaries of all employees granted leaves for the purpose of  
138 special studies or training.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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