

By: Senator(s) Mettetal

To: Education

SENATE BILL NO. 2344

1 AN ACT TO AMEND SECTION 37-7-307, MISSISSIPPI CODE OF 1972,
2 TO ALLOW A LICENSED SCHOOL EMPLOYEE TO USE PERSONAL LEAVE ON THE
3 FIRST/LAST DAY OF A SCHOOL TERM AND THE DAY BEFORE/AFTER A
4 HOLIDAY, IF THE EMPLOYEE IS SUMMONED TO APPEAR FOR JURY DUTY OR AS
5 A WITNESS IN COURT ON SUCH DAYS; AND FOR RELATED 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.

53 (3) Beginning with the school year 1983-1984, each licensed
54 employee at the beginning of each school year shall be credited
55 with a minimum personal leave allowance, with pay, of two (2) days
56 for absences caused by personal reasons during that school year.
57 Such personal leave shall not be taken on the first day of the
58 school term, the last day of the school term, on a day previous to
59 a holiday or a day after a holiday, unless on such days the
60 employee has been summoned to appear for jury duty or as a witness
61 in court or an immediate family member of the employee is being

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

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

91 (5) Upon retirement from employment, each licensed and
92 nonlicensed employee shall be paid for not more than thirty (30)
93 days of unused accumulated leave earned while employed by the
94 school district in which the employee is last employed. Such

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

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

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

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

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

128 (d) Enlarging, increasing or providing greater sick or
129 personal leave allowances than the minimum standards established
130 by this section in the discretion of the school board of each
131 school district.

132 (7) School boards may include in their budgets provisions
133 for the payment of substitute employees, necessitated because of
134 the absence of regular licensed employees. All such substitute
135 employees shall be paid wholly from district funds, except as
136 otherwise provided for long-term substitute teachers in Section
137 37-19-20. Such school boards, in their discretion, also may pay,
138 from district funds other than adequate education program funds,
139 the whole or any part of the salaries of all employees granted
140 leaves for the purpose of special studies or training.

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

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

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

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

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

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

191 (b) Any school district employee may donate a portion
192 of his or her unused accumulated personal leave or sick leave to
193 another employee of the same or another school district who is

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

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

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

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

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

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

227 leave donated by each donor employee to the total number of days
228 of leave donated by all donor employees.

229 (vi) Donated leave shall not be used in lieu of
230 disability retirement.

231 **SECTION 2.** This act shall take effect and be in force from
232 and after July 1, 2007.