

By: Senator(s) Simmons (13th), Norwood,
Jackson (11th), Tate, Simmons (12th)

To: Education;
Appropriations

SENATE BILL NO. 2678

1 AN ACT TO AMEND SECTION 37-7-307, MISSISSIPPI CODE OF 1972,
2 TO ALLOW NOT MORE THAN ONE LEAVE DAY PER SEMESTER AS AN EDUCATOR
3 MENTAL HEALTH DAY; 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, and of two (2) days for mental health,
22 not more than one (1) day per semester.

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 shall be deducted from the pay of
45 such licensed employee the established substitute amount of
46 licensed 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. In lieu of deducting
49 the established substitute amount from the pay of such licensed
50 employee, the policy may allow the licensed employee to receive
51 full pay for the first ten (10) days of absence because of illness
52 or physical disability, in any school year, in excess of the sick
53 leave allowance credited to such licensed employee. Thereafter,
54 the regular pay of such absent licensed employee shall be
55 suspended and withheld in its entirety for any period of absence
56 because of illness or physical disability during that school year.

57 (3) (a) Beginning with the school year 1983-1984, each
58 licensed employee at the beginning of each school year shall be
59 credited with a minimum personal leave allowance, with pay, of two
60 (2) days for absences caused by personal reasons during that
61 school year. Effective for the 2010-2011 and 2011-2012 school
62 years, licensed employees shall be credited with an additional
63 one-half (1/2) day of personal leave for every day the licensed
64 employee is furloughed without pay as provided in Section
65 37-7-308. Except as otherwise provided in paragraph (b) of this
66 subsection, such personal leave shall not be taken on the first
67 day of the school term, the last day of the school term, on a day
68 previous to a holiday or a day after a holiday. Personal leave



69 may be used for professional purposes, including absences caused
70 by attendance of such licensed employee at a seminar, class,
71 training program, professional association or other functions
72 designed for educators. No deduction from the pay of such
73 licensed employee may be made because of absence of such licensed
74 employee caused by personal reasons until after all personal leave
75 allowance credited to such licensed employee has been used.
76 However, the superintendent of a school district, in his
77 discretion, may allow a licensed employee personal leave in
78 addition to any minimum personal leave allowance, under the
79 condition that there shall be deducted from the salary of such
80 licensed employee the actual amount of any compensation paid to
81 any person as a substitute, necessitated because of the absence of
82 the licensed employee. Any unused portion of the total personal
83 leave allowance up to five (5) days shall be carried over to the
84 next school year and credited to such licensed employee if the
85 licensed employee remains employed in the same school district.
86 Any personal leave allowed for a furlough day shall not be carried
87 over to the next school year.

88 (b) Notwithstanding the restrictions on the use of
89 personal leave prescribed under paragraph (a) of this subsection,
90 a licensed employee may use personal leave as follows:

91 (i) Personal leave may be taken on the first day
92 of the school term, the last day of the school term, on a day
93 previous to a holiday or a day after a holiday if, on the



94 applicable day, an immediate family member of the employee is
95 being deployed for military service.

96 (ii) Personal leave may be taken on a day previous
97 to a holiday or a day after a holiday if an employee of a school
98 district has either a minimum of ten (10) years' experience as an
99 employee of that school district or a minimum of thirty (30) days
100 of unused accumulated leave that has been earned while employed in
101 that school district.

102 (iii) Personal leave may be taken on the first day
103 of the school term, the last day of the school term, on a day
104 previous to a holiday or a day after a holiday if, on the
105 applicable day, the employee has been summoned to appear for jury
106 duty or as a witness in court.

107 (iv) Personal leave may be taken on the first day
108 of the school term, the last day of the school term, on a day
109 previous to a holiday or a day after a holiday if, on the
110 applicable day, an immediate family member of the employee dies or
111 funeral services are held. Any day of the three (3) bereavement
112 days may be used at the discretion of the teacher, and are not
113 required to be taken in consecutive succession.

114 For the purpose of this subsection (3), the term "immediate
115 family member" means spouse, parent, stepparent, child or
116 stepchild, grandparent or sibling, including a stepbrother or
117 stepsister.



118 (4) Beginning with the school year 1992-1993, each licensed
119 employee shall be credited with a professional leave allowance,
120 with pay, for each day of absence caused by reason of such
121 employee's statutorily required membership and attendance at a
122 regular or special meeting held within the State of Mississippi of
123 the State Board of Education, the Commission on Teacher and
124 Administrator Education, Certification and Licensure and
125 Development, the Commission on School Accreditation, the
126 Mississippi Authority for Educational Television, the meetings of
127 the state textbook rating committees or other meetings authorized
128 by local school board policy.

129 (5) Upon retirement from employment, each licensed and
130 nonlicensed employee shall be paid for not more than thirty (30)
131 days of unused accumulated leave earned while employed by the
132 school district in which the employee is last employed. Such
133 payment for licensed employees shall be made by the school
134 district at a rate equal to the amount paid to substitute teachers
135 and for nonlicensed employees, the payment shall be made by the
136 school district at a rate equal to the federal minimum wage. The
137 payment shall be treated in the same manner for retirement
138 purposes as a lump-sum payment for personal leave as provided in
139 Section 25-11-103(f). Any remaining lawfully credited unused
140 leave, for which payment has not been made, shall be certified to
141 the Public Employees' Retirement System in the same manner and
142 subject to the same limitations as otherwise provided by law for



143 unused leave. No payment for unused accumulated leave may be made
144 to either a licensed or nonlicensed employee at termination or
145 separation from service for any purpose other than for the purpose
146 of retirement.

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

151 (a) Requiring the absent employee to furnish the
152 certificate of a physician or dentist or other medical
153 practitioner as to the illness of the absent licensed employee,
154 where the absence is for four (4) or more consecutive school days,
155 or for two (2) consecutive school days immediately preceding or
156 following a nonschool day;

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

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

166 (d) Enlarging, increasing or providing greater sick or
167 personal leave allowances than the minimum standards established



168 by this section in the discretion of the school board of each
169 school district.

170 (7) School boards may include in their budgets provisions
171 for the payment of substitute employees, necessitated because of
172 the absence of regular licensed employees. All such substitute
173 employees shall be paid wholly from district funds, except as
174 otherwise provided for long-term substitute teachers in Section
175 37-19-20. Such school boards, in their discretion, also may pay,
176 from district funds other than adequate education program funds,
177 the whole or any part of the salaries of all employees granted
178 leaves for the purpose of special studies or training.

179 (8) The school board may further adopt rules and regulations
180 which will reasonably implement such leave policies for all other
181 nonlicensed and hourly paid school employees as the board deems
182 appropriate. Effective for the 2010-2011 and 2011-2012 school
183 years, nonlicensed employees shall be credited with an additional
184 one-half (1/2) day of personal leave for every day the nonlicensed
185 employee is furloughed without pay as provided in Section
186 37-7-308.

187 (9) Vacation leave granted to either licensed or nonlicensed
188 employees shall be synonymous with personal leave. Unused
189 vacation or personal leave accumulated by licensed employees in
190 excess of the maximum five (5) days which may be carried over from
191 one year to the next may be converted to sick leave. The annual
192 conversion of unused vacation or personal leave to sick days for



193 licensed or unlicensed employees shall not exceed the allowable
194 number of personal leave days as provided in Section 25-3-93. The
195 annual total number of converted unused vacation and/or personal
196 days added to the annual unused sick days for any employee shall
197 not exceed the combined allowable number of days per year provided
198 in Sections 25-3-93 and 25-3-95. Local school board policies that
199 provide for vacation, personal and sick leave for employees shall
200 not exceed the provisions for leave as provided in Sections
201 25-3-93 and 25-3-95. Any personal or vacation leave previously
202 converted to sick leave under a lawfully adopted policy before May
203 1, 2004, or such personal or vacation leave accumulated and
204 available for use prior to May 1, 2004, under a lawfully adopted
205 policy but converted to sick leave after May 1, 2004, shall be
206 recognized as accrued leave by the local school district and
207 available for use by the employee. The leave converted under a
208 lawfully adopted policy prior to May 1, 2004, or such personal and
209 vacation leave accumulated and available for use as of May 1,
210 2004, which was subsequently converted to sick leave may be
211 certified to the Public Employees' Retirement System upon
212 termination of employment and any such leave previously converted
213 and certified to the Public Employees' Retirement System shall be
214 recognized.

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



218 (i) "Catastrophic injury or illness" means a
219 life-threatening injury or illness of an employee or a member of
220 an employee's immediate family that totally incapacitates the
221 employee from work, as verified by a licensed physician, and
222 forces the employee to exhaust all leave time earned by that
223 employee, resulting in the loss of compensation from the local
224 school district for the employee. Conditions that are short-term
225 in nature, including, but not limited to, common illnesses such as
226 influenza and the measles, and common injuries, are not
227 catastrophic. Chronic illnesses or injuries, such as cancer or
228 major surgery, that result in intermittent absences from work and
229 that are long-term in nature and require long recuperation periods
230 may be considered catastrophic.

231 (ii) "Immediate family" means spouse, parent,
232 stepparent, sibling, child or stepchild, grandparent, stepbrother
233 or stepsister.

234 (b) Any school district employee may donate a portion
235 of his or her unused accumulated personal leave or sick leave to
236 another employee of the same school district who is suffering from
237 a catastrophic injury or illness or who has a member of his or her
238 immediate family suffering from a catastrophic injury or illness,
239 in accordance with the following:

240 (i) The employee donating the leave (the "donor
241 employee") shall designate the employee who is to receive the
242 leave (the "recipient employee") and the amount of unused



243 accumulated personal leave and sick leave that is to be donated,
244 and shall notify the school district superintendent or his
245 designee of his or her designation.

246 (ii) The maximum amount of unused accumulated
247 personal leave that an employee may donate to any other employee
248 may not exceed a number of days that would leave the donor
249 employee with fewer than seven (7) days of personal leave
250 remaining, and the maximum amount of unused accumulated sick leave
251 that an employee may donate to any other employee may not exceed
252 fifty percent (50%) of the unused accumulated sick leave of the
253 donor employee.

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

259 (iv) Before an employee may receive donated leave,
260 he or she must provide the school district superintendent or his
261 designee with a physician's statement that states that the illness
262 meets the catastrophic criteria established under this section,
263 the beginning date of the catastrophic injury or illness, a
264 description of the injury or illness, and a prognosis for recovery
265 and the anticipated date that the recipient employee will be able
266 to return to work.



267 (v) Before an employee may receive donated leave,
268 the superintendent of education of the school district shall
269 appoint a review committee to approve or disapprove the said
270 donations of leave, including the determination that the illness
271 is catastrophic within the meaning of this section.

272 (vi) If the total amount of leave that is donated
273 to any employee is not used by the recipient employee, the whole
274 days of donated leave shall be returned to the donor employees on
275 a pro rata basis, based on the ratio of the number of days of
276 leave donated by each donor employee to the total number of days
277 of leave donated by all donor employees.

278 (vii) Donated leave shall not be used in lieu of
279 disability retirement.

280 (11) Effective January 1, 2020, the provisions of this
281 section shall be fully applicable to any licensed employee of the
282 Mississippi School of the Arts (MSA).

283 **SECTION 2.** This act shall take effect and be in force from
284 and after July 1, 2022.

