

By: Senator(s) DeBar

To: Education

SENATE BILL NO. 2365

1 AN ACT TO AMEND SECTION 37-7-307, MISSISSIPPI CODE OF 1972,  
 2 TO PROVIDE THAT IN THE EVENT A PUBLIC SCHOOL TEACHER TRANSFERS  
 3 FROM ONE PUBLIC SCHOOL DISTRICT IN MISSISSIPPI TO ANOTHER, UP TO 5  
 4 DAYS OF THE UNUSED PORTION OF THE TOTAL SICK OR PERSONAL LEAVE  
 5 ALLOWANCE CREDITED TO SUCH TEACHER SHALL BE CREDITED IN THE  
 6 COMPUTATION OF UNUSED LEAVE; AND FOR RELATED PURPOSES.

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

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

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

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



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

25 (b) Any unused portion of the total sick leave  
26 allowance shall be carried over to the next school year and  
27 credited to such licensed employee and teacher assistant if the  
28 licensed employee or teacher assistant remains employed in the  
29 same school district. In the event any public school licensed  
30 employee or teacher assistant transfers from one public school  
31 district in Mississippi to another, any unused portion of the  
32 total sick leave allowance credited to such licensed employee or  
33 teacher assistant shall be credited to such licensed employee or  
34 teacher assistant in the computation of unused leave for  
35 retirement purposes under Section 25-11-109. Accumulation of sick  
36 leave allowed under this section shall be unlimited.

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

43 (d) For the first ten (10) days of absence of a  
44 licensed employee because of illness or physical disability, in



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

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



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

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



94 (i) Personal leave may be taken on the first day  
95 of the school term, the last day of the school term, on a day  
96 previous to a holiday or a day after a holiday if, on the  
97 applicable day, an immediate family member of the employee is  
98 being deployed for military service.

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

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

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

117 For the purpose of this subsection (3), the term "immediate  
118 family member" means spouse, parent, stepparent, child or



119 stepchild, grandparent or sibling, including a stepbrother or  
120 stepsister.

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

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



144 the Public Employees' Retirement System in the same manner and  
145 subject to the same limitations as otherwise provided by law for  
146 unused leave. No payment for unused accumulated leave may be made  
147 to either a licensed or nonlicensed employee at termination or  
148 separation from service for any purpose other than for the purpose  
149 of retirement.

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

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

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

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



169 (d) Enlarging, increasing or providing greater sick or  
170 personal leave allowances than the minimum standards established  
171 by this section in the discretion of the school board of each  
172 school district.

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

182 (8) The school board may further adopt rules and regulations  
183 which will reasonably implement such leave policies for all other  
184 nonlicensed and hourly paid school employees as the board deems  
185 appropriate. Effective for the 2010-2011 and 2011-2012 school  
186 years, nonlicensed employees shall be credited with an additional  
187 one-half (1/2) day of personal leave for every day the nonlicensed  
188 employee is furloughed without pay as provided in Section  
189 37-7-308.

190 (9) Vacation leave granted to either licensed or nonlicensed  
191 employees shall be synonymous with personal leave. Unused  
192 vacation or personal leave accumulated by licensed employees in  
193 excess of the maximum five (5) days which may be carried over from





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



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

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

234 (ii) "Immediate family" means spouse, parent,  
235 stepparent, sibling, child or stepchild, grandparent, stepbrother  
236 or stepsister.

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



243 (i) The employee donating the leave (the "donor  
244 employee") shall designate the employee who is to receive the  
245 leave (the "recipient employee") and the amount of unused  
246 accumulated personal leave and sick leave that is to be donated,  
247 and shall notify the school district superintendent or his  
248 designee of his or her designation.

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

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

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



268 and the anticipated date that the recipient employee will be able  
269 to return to work.

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

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

281 (vii) Donated leave shall not be used in lieu of  
282 disability retirement.

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

286 **SECTION 2.** This act shall take effect and be in force from  
287 and after July 1, 2023.

