

By: Representative Carpenter

To: Education

HOUSE BILL NO. 1633

1 AN ACT TO AMEND SECTION 37-7-307, MISSISSIPPI CODE OF 1972,
 2 TO ALLOW THE DONATION OF LEAVE TO EMPLOYEES OF A SCHOOL DISTRICT
 3 WHO ARE IN A HIGH-RISK PREGNANCY, SUFFER A MISCARRIAGE OR
 4 EXPERIENCING POSTPARTUM RECOVERY, AND WHO HAS EXHAUSTED ALL
 5 AVAILABLE LEAVE; TO AUTHORIZE THE SPOUSE OF A EMPLOYEE EMPLOYED BY
 6 THE SAME SCHOOL DISTRICT EXPERIENCING A CATASTROPHIC INJURY OR
 7 ILLNESS, HIGH-RISK PREGNANCY, SUFFER A MISCARRIAGE OR EXPERIENCING
 8 POSTPARTUM RECOVERY WITHOUT OBJECTION FROM THE EMPLOYING SCHOOL
 9 BOARD; AND FOR RELATED PURPOSES.

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

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

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

18 (2) The school board of a school district shall establish by
 19 rules and regulations a policy of sick leave with pay for licensed
 20 employees and teacher assistants employed in the school district,



21 and such policy shall include the following minimum provisions for
22 sick and emergency leave with pay:

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

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

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



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

62 (3) (a) Beginning with the school year 1983-1984, each
63 licensed employee at the beginning of each school year shall be
64 credited with a minimum personal leave allowance, with pay, of two
65 (2) days for absences caused by personal reasons during that
66 school year. Effective for the 2010-2011 and 2011-2012 school
67 years, licensed employees shall be credited with an additional
68 one-half (1/2) day of personal leave for every day the licensed
69 employee is furloughed without pay as provided in Section
70 37-7-308. Except as otherwise provided in paragraph (b) of this



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

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



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

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

107 (iii) 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, the employee has been summoned to appear for jury
111 duty or as a witness in court.

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

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



121 stepchild, grandparent or sibling, including a stepbrother or
122 stepsister.

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

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



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

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

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

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

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



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

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

184 (8) The school board may further adopt rules and regulations
185 which will reasonably implement such leave policies for all other
186 nonlicensed and hourly paid school employees as the board deems
187 appropriate. Effective for the 2010-2011 and 2011-2012 school
188 years, nonlicensed employees shall be credited with an additional
189 one-half (1/2) day of personal leave for every day the nonlicensed
190 employee is furloughed without pay as provided in Section
191 37-7-308.

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



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



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

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

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

239 (iii) "High-risk pregnancy" involves increased
240 health risks for the pregnant person, fetus or both, which
241 requires close monitoring, as verified by a licensed physician,
242 obstetrician or gynecologist, which further incapacitates the
243 employee from work, and forces the employee to exhaust all leave



244 time earned by that employee, resulting in the loss of
245 compensation from the local school district for the employee.

246 (iv) "Miscarriage" means the natural loss of a
247 fetus before twenty (20) weeks of gestation.

248 (v) "Postpartum recovery" means the first six (6)
249 weeks after the delivery of a baby. However, if a cesarean
250 section is performed, postpartum recovery shall be extended to
251 eight (8) weeks after delivery.

252 (b) Any school district employee may donate a portion
253 of his or her unused accumulated personal leave or sick leave to
254 another employee of the same school district who is suffering from
255 a catastrophic injury or illness, high-risk pregnancy, miscarriage
256 or experiencing postpartum recovery, or who has a member of his or
257 her immediate family suffering from a catastrophic injury or
258 illness, high-risk pregnancy or miscarriage, in accordance with
259 the following:

260 (i) The employee donating the leave (the "donor
261 employee") shall designate the employee who is to receive the
262 leave (the "recipient employee") and the amount of unused
263 accumulated personal leave and sick leave that is to be donated,
264 and shall notify the school district superintendent or his
265 designee of his or her designation.

266 (ii) The maximum amount of unused accumulated
267 personal leave that an employee may donate to any other employee
268 may not exceed a number of days that would leave the donor



269 employee with fewer than seven (7) days of personal leave
270 remaining, and the maximum amount of unused accumulated sick leave
271 that an employee may donate to any other employee may not exceed
272 fifty percent (50%) of the unused accumulated sick leave of the
273 donor employee.

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

279 (iv) Before an employee may receive donated leave,
280 he or she must provide the school district superintendent or his
281 designee with a physician's statement that states that the illness
282 meets the * * * criteria established under this subsection, the
283 beginning date of the catastrophic injury or illness, high-risk
284 pregnancy, miscarriage or experiencing postpartum recovery, a
285 description of the injury or illness or high-risk pregnancy
286 diagnosis, and a prognosis for recovery and the anticipated date
287 that the recipient employee will be able to return to work.

288 (v) Before an employee may receive donated leave,
289 the superintendent of education of the school district shall
290 appoint a review committee to approve or disapprove the said
291 donations of leave, including the determination that the illness
292 is catastrophic within the meaning of this subsection.



293 (vi) If the total amount of leave that is donated
294 to any employee is not used by the recipient employee, the whole
295 days of donated leave shall be returned to the donor employees on
296 a pro rata basis, based on the ratio of the number of days of
297 leave donated by each donor employee to the total number of days
298 of leave donated by all donor employees.

299 (vii) Donated leave shall not be used in lieu of
300 disability retirement.

301 (c) If the employee donating the leave (the "donor
302 employee") is the spouse of an employee of the same school
303 district who is suffering from a catastrophic injury or illness,
304 high-risk pregnancy, miscarriage or experiencing postpartum
305 recovery, the donor employee shall, without objection from the
306 employing school board, designate his or her spouse, as the
307 recipient employee of the donated leave in accordance with the
308 requirements of paragraph (b) of this subsection, notwithstanding
309 subparagraph (v).

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

313 **SECTION 2.** This act shall take effect and be in force from
314 and after July 1, 2024.

