

By: Representative Flaggs

To: Education

HOUSE BILL NO. 48

1 AN ACT TO AMEND SECTION 37-7-307, MISSISSIPPI CODE OF 1972,
2 TO REQUIRE THE APPROVAL OF THE LOCAL SCHOOL BOARD BEFORE ANY
3 SCHOOL DISTRICT EMPLOYEE MAY DONATE A PORTION OF HIS UNUSED
4 ACCUMULATED PERSONAL LEAVE OR SICK LEAVE TO ANOTHER SCHOOL
5 DISTRICT EMPLOYEE; 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 employed in the school district, and such policy shall
17 include the following minimum provisions for sick and emergency
18 leave with pay:

19 (a) Each licensed employee, at the beginning of each
20 school year, shall be credited with a minimum sick leave
21 allowance, with pay, of seven (7) days for absences caused by
22 illness or physical disability of the employee during that school
23 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 if the licensed employee
27 remains employed in the same school district. In the event any
28 public school licensed employee 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
31 shall be credited to such licensed employee in the computation of
32 unused leave for retirement purposes under Section 25-11-109.
33 Accumulation of sick leave allowed under this section shall be
34 unlimited.

35 (c) No deduction from the pay of such licensed employee
36 may be made because of absence of such licensed employee caused by
37 illness or physical disability of the licensed employee until
38 after all sick leave allowance credited to such licensed employee
39 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. Personal leave may be used
58 for professional purposes, including absences caused by attendance
59 of such licensed employee at a seminar, class, training program,
60 professional association or other functions designed for
61 educators. No deduction from the pay of such licensed employee



62 may be made because of absence of such licensed employee caused by
63 personal reasons until after all personal leave allowance credited
64 to such licensed employee has been used. However, the
65 superintendent of a school district, in his discretion, may allow
66 a licensed employee personal leave in addition to any minimum
67 personal leave allowance, under the condition that there shall be
68 deducted from the salary of such licensed employee the actual
69 amount of any compensation paid to any person as a substitute,
70 necessitated because of the absence of the licensed employee.

71 (4) Beginning with the school year 1992-1993, each licensed
72 employee shall be credited with a professional leave allowance,
73 with pay, for each day of absence caused by reason of such
74 employee's statutorily required membership and attendance at a
75 regular or special meeting held within the State of Mississippi of
76 the State Board of Education, the Commission on Teacher and
77 Administrator Education, Certification and Licensure and
78 Development, the Commission on School Accreditation, the
79 Mississippi Authority for Educational Television and the meetings
80 of the state textbook rating committees.

81 (5) Upon retirement from employment, each licensed and
82 nonlicensed employee shall be paid for not more than thirty (30)
83 days of unused accumulated leave earned while employed by the
84 school district in which the employee is last employed. Such
85 payment for licensed employees shall be made by the school
86 district at a rate equal to the amount paid to substitute teachers
87 and for nonlicensed employees, the payment shall be made by the
88 school district at a rate equal to the federal minimum wage. The
89 payment shall be treated in the same manner for retirement
90 purposes as a lump sum payment for personal leave as provided in
91 Section 25-11-103(e). Any remaining lawfully credited unused
92 leave, for which payment has not been made, shall be certified to
93 the Public Employees' Retirement System in the same manner and



94 subject to the same limitations as otherwise provided by law for
95 unused leave.

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

100 (a) Requiring the absent licensed employee to furnish
101 the certificate of a physician or dentist or other medical
102 practitioner as to the illness of the absent licensed employee,
103 where the absence is for four (4) or more consecutive school days,
104 or for two (2) consecutive school days immediately preceding or
105 following a nonschool day;

106 (b) Providing penalties, by way of full deduction from
107 salary, or entry on the work record of the licensed employee, or
108 other appropriate penalties, for any materially false statement by
109 the licensed employee as to the cause of absence;

110 (c) Forfeiture of accumulated or future sick leave, if
111 the absence of the licensed employee is caused by optional dental
112 or medical treatment or surgery which could, without medical risk,
113 have been provided, furnished or performed at a time when school
114 was not in session;

115 (d) Enlarging, increasing or providing greater sick or
116 personal leave allowances than the minimum standards established
117 by this section in the discretion of the school board of each
118 school district.

119 (7) School boards may include in their budgets provisions
120 for the payment of substitute teachers, necessitated because of
121 the absence of regular licensed employees. All such substitute
122 teachers shall be paid wholly from district funds other than
123 minimum education program funds, except as otherwise provided for
124 long-term substitute teachers in Section 37-19-20. Such school
125 boards, in their discretion, also may pay, from district funds
126 other than minimum education program funds, the whole or any part



127 of the salaries of licensed employees granted leaves for the
128 purpose of special studies or training.

129 (8) The school board may further adopt rules and regulations
130 which will reasonably implement such leave policies for all other
131 nonlicensed school employees as the board deems appropriate.

132 (9) (a) For the purposes of this subsection, the following
133 words and phrases shall have the meaning ascribed in this
134 paragraph unless the context requires otherwise:

135 (i) "Catastrophic injury or illness" means a
136 severe condition or combination of conditions affecting the mental
137 or physical health of an employee or a member of an employee's
138 immediate family, including pregnancy, that requires the services
139 of a licensed physician for an extended period of time and that
140 forces the employee to exhaust all leave time accumulated by that
141 employee, thereby resulting in the loss of compensation from the
142 school district for the employee.

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

145 (b) Upon approval of the local school board, any school
146 district employee may donate a portion of his or her unused
147 accumulated personal leave or sick leave to another employee of
148 the same or another school district who is suffering from a
149 catastrophic injury or illness or who has a member of his or her
150 immediate family suffering from a catastrophic injury or illness,
151 in accordance with the following:

152 (i) The employee donating the leave (the "donor
153 employee") shall designate the employee who is to receive the
154 leave (the "recipient employee") and the amount of unused
155 accumulated personal leave and sick leave that is to be donated,
156 and, if such leave donation is approved by the local school board,
157 shall notify the school district superintendent or his designee of
158 his or her designation.



159 (ii) The maximum amount of unused accumulated
160 personal leave that an employee may donate to any other employee
161 may not exceed a number of days that would leave the donor
162 employee with fewer than seven (7) days of personal leave
163 remaining, and the maximum amount of unused accumulated sick leave
164 that an employee may donate to any other employee may not exceed
165 fifty percent (50%) of the unused accumulated sick leave of the
166 donor employee.

167 (iii) An employee must have exhausted all of his
168 or her accumulated personal leave and sick leave before he or she
169 will be eligible to receive any leave donated by another employee.
170 Eligibility for donated leave shall be based upon review and
171 approval by the donor employee's supervisor and the local school
172 board.

173 (iv) Before an employee may receive donated leave,
174 he or she must provide the school district superintendent or his
175 designee with a physician's statement that states the beginning
176 date of the catastrophic injury or illness, a description of the
177 injury or illness, and a prognosis for recovery and the
178 anticipated date that the recipient employee will be able to
179 return to work.

180 (v) If the total amount of leave that is donated
181 to any employee is not used by the recipient employee, the whole
182 days of donated leave shall be returned to the donor employees on
183 a pro rata basis, based on the ratio of the number of days of
184 leave donated by each donor employee to the total number of days
185 of leave donated by all donor employees.

186 (vi) Donated leave shall not be used in lieu of
187 disability retirement.

188 **SECTION 2.** This act shall take effect and be in force from
189 and after July 1, 2003.

