

By: Representative Pierce

To: Education;  
Appropriations

HOUSE BILL NO. 777

1 AN ACT TO AMEND SECTION 37-7-307, MISSISSIPPI CODE OF 1972,  
2 TO REVISE THE DETERMINATION OF THE ANNUAL CONVERSION OF UNUSED  
3 VACATION OR PERSONAL LEAVE TO SICK LEAVE FOR LICENSED OR  
4 UNLICENSED SCHOOL EMPLOYEES AND TO RECOGNIZE LEAVE ACCUMULATED  
5 UNDER PREVIOUS POLICY; 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. Personal leave may be used  
60 for professional purposes, including absences caused by attendance  
61 of such licensed employee at a seminar, class, training program,

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

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

88 (5) Upon retirement from employment, each licensed and  
89 nonlicensed employee shall be paid for not more than thirty (30)  
90 days of unused accumulated leave earned while employed by the  
91 school district in which the employee is last employed. Such  
92 payment for licensed employees shall be made by the school  
93 district at a rate equal to the amount paid to substitute teachers  
94 and for nonlicensed employees, the payment shall be made by the

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

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

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

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

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

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

127 by this section in the discretion of the school board of each  
128 school district.

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

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

142 (9) Vacation leave granted to either licensed or nonlicensed  
143 employees shall be synonymous with personal leave. Unused  
144 vacation or personal leave accumulated by licensed employees in  
145 excess of the maximum five (5) days which may be carried over from  
146 one (1) year to the next may be converted to sick leave. The  
147 annual conversion of unused vacation or personal leave to sick  
148 days for licensed or unlicensed employees shall not exceed the  
149 allowable number of personal leave days as provided in Section  
150 25-3-93. The annual total number of converted unused vacation  
151 and/or personal days added to the annual unused sick days for any  
152 employee shall not exceed the combined allowable number of days  
153 per year provided in Sections 25-3-93 and 25-3-95. Local school  
154 board policies that provide for vacation, personal and sick leave  
155 for employees shall not exceed the provisions for leave as  
156 provided in Sections 25-3-93 and 25-3-95. Any personal or  
157 vacation leave previously converted to sick leave under a lawfully  
158 adopted policy before May 1, 2004, or such personal or vacation  
159 leave accumulated and available for use prior to May 1, 2004,

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

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

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

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

188 (b) Any school district employee may donate a portion  
189 of his or her unused accumulated personal leave or sick leave to  
190 another employee of the same or another school district who is  
191 suffering from a catastrophic injury or illness or who has a

192 member of his or her immediate family suffering from a  
193 catastrophic injury or illness, in accordance with the following:

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

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

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

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

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

224 leave donated by each donor employee to the total number of days  
225 of leave donated by all donor employees.

226 (vi) Donated leave shall not be used in lieu of  
227 disability retirement.

228 **SECTION 2.** This act shall take effect and be in force from  
229 and after its passage.