**55:09:04:14.  Donation of leave -- Recipient requirements.** An employee may receive donated vested leave if the following requirements are met:

 (1)  The employee is employed in a permanent position for at least one year and is eligible for the accumulation of leave under SDCL 3-6C-4 and 3-6C-7;

 (2)  The employee has been certified by a physician as:

 (a)  Terminally ill and unable to return to work; or

 (b)  Suffering from life-threatening illness or injury which prevents the employee from working for at least 90 consecutive days;

 (3)  The employee has made a written request for and obtained the approval of the commissioner to receive donated vested leave;

 (4)  The employee has applied for any other public disability programs for which the employee may be eligible including any benefits available through Social Security or the South Dakota Retirement System; and

 (5)  The employee has exhausted all of the employee's leave benefits.

 Donated leave benefits cease after 2,080 hours of donated leave have been used by an employee who is terminally ill, after 1,040 hours of donated leave have been used by an employee who is suffering from a life-threatening illness or injury, if other public disability benefits have been approved, if the employee recovers from the terminal illness or life-threatening illness or injury, or upon the death of the recipient employee. The rate of payment of donated leave is the recipient's current base pay. Sick and vacation leave may not be accrued by a recipient employee on donated leave.

 For every four hours of sick leave donated by an employee, the recipient employee receives one hour of sick leave. For every one hour of vacation leave donated by an employee, the recipient employee receives one hour of vacation leave.

 **Source:** 39 SDR 99, effective December 3, 2012.

 **General Authority:** SDCL 3-6C-13, 3-6C-15, 3-6C-18.

 **Law Implemented:** SDCL 3-6C-13, 3-6C-15, 3-6C-18.