

By: Ford

To: Fees and Salaries of
Public Officers

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 344

1 AN ACT TO REENACT SECTIONS 25-3-93 AND 25-3-95, MISSISSIPPI
2 CODE OF 1972, WHICH ALLOW STATE EMPLOYEES TO DONATE PERSONAL LEAVE
3 TO OTHER EMPLOYEES WITH A CATASTROPHIC ILLNESS OR INJURY; TO AMEND
4 REENACTED SECTIONS 25-3-93 AND 25-3-95, MISSISSIPPI CODE OF 1972,
5 TO ESTABLISH THE MAXIMUM AMOUNT OF DONATED LEAVE WHICH MAY BE USED
6 BY RECIPIENTS AND TO EXTEND THE REPEALER ON THE DONATED LEAVE
7 POLICY; AND FOR RELATED PURPOSES.

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

9 SECTION 1. Section 25-3-93, Mississippi Code of 1972, is
10 reenacted and amended as follows:[BD1]

11 25-3-93. (1) (a) Except as provided in subsection (1)(b),
12 all employees and appointed officers of the State of Mississippi,
13 who are employees as defined in Section 25-3-91, shall be allowed
14 credit for personal leave computed as follows:

15	Continuous	Accrual Rate	Accrual Rate
16	Service	(Monthly)	(Annually)
17	1 month to 3 years	12 hours per month	18 days per year
18	37 months to 8 years	14 hours per month	21 days per year
19	97 months to 15 years	16 hours per month	24 days per year
20	Over 15 years	18 hours per month	27 days per year

21 However, employees who were hired prior to July 1, 1984, who
22 have continuous service of more than five (5) years but not more
23 than eight (8) years shall accrue fifteen (15) hours of personal

24 leave each month.

25 (b) Temporary employees who work less than a full
26 workweek and part-time employees shall be allowed credit for
27 personal leave computed on a pro rata basis. Faculty members
28 employed by the eight (8) public universities on a nine-month
29 contract, temporary employees of the public universities who work
30 less than twenty (20) hours per week for a period of less than
31 five (5) months during a fiscal year, and recipients of full-time
32 educational leave, while on such leave, shall not be eligible for
33 personal leave.

34 (2) For the purpose of computing credit for personal leave,
35 each appointed officer or employee shall be considered to work not
36 more than five (5) days each week. Leaves of absence granted by
37 the appointing authority for one (1) year or less shall be
38 permitted without forfeiting previously accumulated continuous
39 service. The provisions of this section shall not apply to
40 military leaves of absence. The time for taking personal leave,
41 except when such leave is taken due to an illness, shall be
42 determined by the appointing authority of which such employees are
43 employed.

44 (3) For the purpose of Sections 25-3-91 through 25-3-99, the
45 earned personal leave of each employee shall be credited monthly
46 after the completion of each calendar month of service, and the
47 appointing authority shall not increase the amount of personal
48 leave to an employee's credit. It shall be unlawful for an
49 appointing authority to grant personal leave in an amount greater
50 than was earned and accumulated by the officer or employee.

51 (4) Employees are encouraged to use earned personal leave.
52 Personal leave may be used for vacations and personal business as
53 scheduled by the appointing authority and shall be used for
54 illnesses of the employee requiring absences of one (1) day or

55 less. Accrued personal or compensatory leave shall be used for
56 the first day of an employee's illness requiring his absence of
57 more than one (1) day. Accrued personal or compensatory leave may
58 also be used for an illness in the employee's immediate family as
59 defined in Section 25-3-95. There shall be no limit to the
60 accumulation of personal leave. Upon termination of employment
61 each employee shall be paid for not more than thirty (30) days of
62 accumulated personal leave. Unused personal leave in excess of
63 thirty (30) days shall be counted as creditable service for the
64 purposes of the retirement system as provided in Sections
65 25-11-103 and 25-13-5.

66 (5) Any officer of the Mississippi Highway Safety Patrol who
67 is injured by wound or accident in the line of duty shall not be
68 required to use earned personal leave during the period of
69 recovery from such injury.

70 (6) Any employee may donate a portion of his or her earned
71 personal leave to another employee who is suffering from a
72 catastrophic injury or illness, or to another employee who has a
73 member of his or her immediate family who is suffering from a
74 catastrophic injury or illness, in accordance with subsection (8)
75 of Section 25-3-95.

76 This subsection shall stand repealed from and after July 1,
77 2001.

78 SECTION 2. Section 25-3-95, Mississippi Code of 1972, is
79 reenacted and amended as follows:[BD2]

80 25-3-95. (1) All employees and appointed officers of the
81 State of Mississippi, except temporary employees of the public
82 universities who work less than twenty (20) hours per week for a

83 period of less than five (5) months during a fiscal year and
 84 recipients of full-time educational leave, while on such leave,
 85 shall accrue credits for major medical leave as follows:

86	Continuous	Accrual Rate	Accrual Rate
87	Service	(Monthly)	(Annually)
88	1 month to 3 years	8 hours per month	12 days per year
89	37 months to 8 years	7 hours per month	10.5 days per year
90	97 months to 15 years	6 hours per month	9 days per year
91	Over 15 years	5 hours per month	7.5 days per year

92 Faculty members employed by the eight (8) public universities
 93 on a nine-month contract shall accrue credit for major medical
 94 leave as follows:

95	Continuous	Accrual Rate	Accrual Rate
96	Service	(Per Month)	(Per Academic Year)
97	1 month to 3 years	13-1/3 hours per month	15 days per
98			academic year
99	37 months to 8 years	14-1/5 hours per month	16 days per
100			academic year
101	97 months to 15 years	15-2/5 hours per month	17 days per
102			academic year
103	Over 15 years	16 hours per month	18 days per
104			academic year

105 Part-time employees shall accrue major medical leave on a pro
 106 rata basis. There shall be no maximum limit to major medical
 107 leave accumulation. All unused major medical leave shall be
 108 counted as creditable service for the purposes of the retirement
 109 system as provided in Sections 25-11-103 and 25-13-5.

110 (2) Major medical leave may be used for the illness or

111 injury of an employee or member of the employee's immediate family
112 as defined in subsection (3) of this section, only after the
113 employee has used one (1) day of accrued personal or compensatory
114 leave for each absence due to illness, or leave without pay if the
115 employee has no accrued personal or compensatory leave. Provided
116 that faculty members employed by the eight (8) public universities
117 on a nine-month basis may use major medical leave for the first
118 day of absence due to illness. However, major medical leave may
119 be used, without prior use of personal leave, to cover regularly
120 scheduled visits to a doctor's office or a hospital for the
121 continuing treatment of a chronic disease, as certified in advance
122 by a physician. For the purposes of this section, "physician"
123 means a doctor of medicine, osteopathy, dental medicine, podiatry
124 or chiropractic. For each absence due to illness of thirty-two
125 (32) consecutive working hours (combined personal leave and major
126 medical leave) major medical leave shall be authorized only when
127 certified by their attending physician.

128 (3) An employee may use up to three (3) days of earned major
129 medical leave for each occurrence of death in the immediate family
130 requiring the employee's absence from work. No qualifying time or
131 use of personal leave will be required prior to use of major
132 medical leave for this purpose. For the purpose of this
133 subsection (3), the immediate family is defined as spouse, parent,
134 stepparent, sibling, child, stepchild, grandchild, grandparent,
135 son- or daughter-in-law, mother- or father-in-law or brother- or
136 sister-in-law. Child means a biological, adopted or foster child,
137 or a child for whom the individual stands or stood in loco
138 parentis.

139 (4) Employees and appointed officers of the State of
140 Mississippi having unused, accumulated sick leave or annual leave
141 earned prior to July 1, 1984, shall be credited with major medical
142 leave and personal leave as follows: All unused annual leave
143 shall be credited as personal leave.

144 Unused sick leave shall be divided between major medical
145 leave and personal leave at rates determined by the employee's
146 sick leave balance on June 30, 1984. The rates of conversion
147 shall be as follows:

148 Sick Leave	Percentage	Percentage
149 Balance as of	Converted to	Converted to
150 June 30, 1984	Personal Leave	Major Medical Leave
151 1 - 200 hours	20%	80%
152 201 - 400 hours	25%	75%
153 401 - 600 hours	30%	70%
154 601 or more hours	35%	65%

155 (5) Upon retirement from active employment each faculty
156 member of the state-supported public universities who is employed
157 on a nine-month basis shall receive credit and be paid for not
158 more than thirty (30) days of unused major medical leave for
159 service as a state employee. Unused major medical leave in excess
160 of thirty (30) days shall be counted as creditable service for the
161 purposes of the retirement system as provided in Sections
162 25-11-103 and 25-13-5.

163 (6) Any officer of the Mississippi Highway Safety Patrol who
164 is injured by wound or accident in the line of duty shall not be
165 required to use earned major medical leave during the period of
166 recovery from such injury.

167 (7) For the purpose of Sections 25-3-91 through 25-3-99, the
168 earned major medical leave of each employee shall be credited
169 monthly after the completion of each calendar month, and the
170 appointing authority shall not increase the amount of major
171 medical leave to an employee's credit. It shall be unlawful for
172 an appointing authority to grant major medical leave in an amount
173 greater than was earned and accumulated by the officer or
174 employee.

175 (8) Any employee may donate a portion of his or her earned
176 personal leave or major medical leave to another employee who is
177 suffering from a catastrophic injury or illness, as defined in
178 Section 25-3-91, or to another employee who has a member of his or
179 her immediate family who is suffering from a catastrophic injury
180 or illness, in accordance with the following:

181 (a) The employee donating the leave (the "donor
182 employee") shall designate the employee who is to receive the
183 leave (the "recipient employee") and the amount of earned personal
184 leave and major medical leave that is to be donated, and shall
185 notify the donor employee's appointing authority or supervisor of
186 his or her designation. The donor employee's appointing authority
187 or supervisor then shall notify the recipient employee's
188 appointing authority or supervisor of the amount of leave that has
189 been donated by the donor employee to the recipient employee.

190 (b) The maximum amount of earned personal leave that an
191 employee may donate to any other employee may not exceed a number
192 of days that would leave the donor employee with fewer than seven
193 (7) days of personal leave left, and the maximum amount of earned
194 major medical leave that an employee may donate to any other

195 employee may not exceed fifty percent (50%) of the earned major
196 medical leave of the donor employee.

197 (c) An employee must have exhausted all of his or her
198 earned personal leave and major medical leave before he or she
199 will be eligible to receive any leave donated by another employee.

200 (d) Before an employee may receive donated leave, he or
201 she must provide his or her appointing authority or supervisor
202 with a physician's statement that states the beginning date of the
203 catastrophic injury or illness, a description of the injury or
204 illness, and a prognosis for recovery and the anticipated date
205 that the recipient employee will be able to return to work.

206 (e) If an employee is aggrieved by the decision of his
207 or her appointing authority that the employee is not eligible to
208 receive donated leave because the injury or illness of the
209 employee or member of the employee's immediate family is not, in
210 the appointing authority's determination, a catastrophic injury or
211 illness, the employee may appeal the decision to the employee
212 appeals board.

213 (f) Beginning on the effective date of House Bill No.
214 344, 2000 Regular Session, the maximum period of time that an
215 employee may use donated leave without resuming work at his or her
216 place of employment is one (1) calendar year, which year commences
217 on the first day that the recipient employee uses donated leave.
218 Any employee using donated leave on the effective date of House
219 Bill No. 344, 2000 Regular Session, who has been using donated
220 leave without resuming work at his or her place of employment for
221 a period of one (1) calendar year or greater and who has ninety
222 (90) or more days of unused donated leave to his or her credit may

223 continue to use donated leave until the employee has used ninety
224 (90) days of donated leave. If an employee using donated leave on
225 the effective date of House Bill No. 344, 2000 Regular Session,
226 has used donated leave without resuming work at his or her place
227 of employment for a period of less than one (1) calendar year and
228 the employee has unused donated leave to his or her credit, the
229 employee may continue to use donated leave until the first
230 anniversary of the date on which the employee began to
231 continuously use donated leave or until the employee has used
232 ninety (90) days of donated leave after the date on which House
233 Bill No. 344, 2000 Regular Session, becomes effective,
234 whichever occurs later. Donated leave that is not used because a
235 recipient employee has used the maximum amount of donated leave
236 authorized under this paragraph shall be returned to the donor
237 employees in the manner provided under paragraph (g) of this
238 subsection.

239 (g) If the total amount of leave that is donated to any
240 employee is not used by the recipient employee, the donated leave
241 shall be returned to the donor employees on a pro rata basis,
242 based on the ratio of the number of days of leave donated by each
243 donor employee to the total number of days of leave donated by all
244 donor employees.

245 (h) The failure of any appointing authority or
246 supervisor of any employee to properly deduct an employee's
247 donation of leave to another employee from the donor employee's
248 earned personal leave or major medical leave shall constitute just
249 cause for the dismissal of the appointing authority or supervisor.

250 (i) Donated leave shall not be used in lieu of

251 disability retirement.

252 (j) For the purposes of this subsection, "immediate
253 family" means spouse, parent, stepparent, sibling, child or
254 stepchild.

255 (k) This subsection shall stand repealed from and after
256 July 1, 2001.

257 SECTION 3. This act shall take effect and be in force from
258 and after its passage.