

By: Thames

To: Fees, Salaries and Administration

SENATE BILL NO. 2804

1 AN ACT TO REENACT SECTIONS 25-3-93 AND 25-3-95, MISSISSIPPI
2 CODE OF 1972, WHICH ALLOW EMPLOYEES TO DONATE PERSONAL LEAVE TO
3 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 EXTEND THE REPEALER ON THE DONATED LEAVE POLICY; AND FOR
6 RELATED PURPOSES.

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

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

10 25-3-93. (1) (a) Except as provided in subsection (1)(b),
11 all employees and appointed officers of the State of Mississippi,
12 who are employees as defined in Section 25-3-91, shall be allowed
13 credit for personal leave computed as follows:

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

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

24 (b) Temporary employees who work less than a full
25 workweek and part-time employees shall be allowed credit for
26 personal leave computed on a pro rata basis. Faculty members
27 employed by the eight (8) public universities on a nine-month
28 contract, temporary employees of the public universities who work

29 less than twenty (20) hours per week for a period of less than
30 five (5) months during a fiscal year, and recipients of full-time
31 educational leave, while on such leave, shall not be eligible for
32 personal leave.

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

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

50 (4) Employees are encouraged to use earned personal leave.
51 Personal leave may be used for vacations and personal business as
52 scheduled by the appointing authority and shall be used for
53 illnesses of the employee requiring absences of one (1) day or
54 less. Accrued personal or compensatory leave shall be used for
55 the first day of an employee's illness requiring his absence of
56 more than one (1) day. Accrued personal or compensatory leave may
57 also be used for an illness in the employee's immediate family as
58 defined in Section 25-3-95. There shall be no limit to the
59 accumulation of personal leave. Upon termination of employment
60 each employee shall be paid for not more than thirty (30) days of
61 accumulated personal leave. Unused personal leave in excess of
62 thirty (30) days shall be counted as creditable service for the
63 purposes of the retirement system as provided in Sections
64 25-11-103 and 25-13-5.

65 (5) Any officer of the Mississippi Highway Safety Patrol who

66 is injured by wound or accident in the line of duty shall not be
67 required to use earned personal leave during the period of
68 recovery from such injury.

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

75 This subsection shall stand repealed from and after July 1,
76 2002.

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

79 25-3-95. (1) All employees and appointed officers of the
80 State of Mississippi, except temporary employees of the public
81 universities who work less than twenty (20) hours per week for a
82 period of less than five (5) months during a fiscal year and
83 recipients of full-time educational leave, while on such leave,
84 shall accrue credits for major medical leave as follows:

| 85 | Continuous | Accrual Rate | Accrual Rate |
|----|-----------------------|-------------------|--------------------|
| 86 | Service | (Monthly) | (Annually) |
| 87 | 1 month to 3 years | 8 hours per month | 12 days per year |
| 88 | 37 months to 8 years | 7 hours per month | 10.5 days per year |
| 89 | 97 months to 15 years | 6 hours per month | 9 days per year |
| 90 | Over 15 years | 5 hours per month | 7.5 days per year |

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

| 94 | Continuous | Accrual Rate | Accrual Rate |
|----|----------------------|------------------------|---------------------|
| 95 | Service | (Per Month) | (Per Academic Year) |
| 96 | 1 month to 3 years | 13-1/3 hours per month | 15 days per |
| 97 | | | academic year |
| 98 | 37 months to 8 years | 14-1/5 hours per month | 16 days per |

| | | |
|-----|-----------------------|---------------------------|
| 99 | | academic year |
| 100 | 97 months to 15 years | 15-2/5 hours per month |
| 101 | | 17 days per academic year |
| 102 | Over 15 years | 16 hours per month |
| 103 | | 18 days per academic year |

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

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

127 (3) An employee may use up to three (3) days of earned major
128 medical leave for each occurrence of death in the immediate family
129 requiring the employee's absence from work. No qualifying time or
130 use of personal leave will be required prior to use of major
131 medical leave for this purpose. For the purpose of this

132 subsection (3), the immediate family is defined as spouse, parent,
133 stepparent, sibling, child, stepchild, grandchild, grandparent,
134 son- or daughter-in-law, mother- or father-in-law or brother- or
135 sister-in-law. Child means a biological, adopted or foster child,
136 or a child for whom the individual stands or stood in loco
137 parentis.

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

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

| 147 Sick Leave | Percentage | Percentage |
|-----------------------|----------------|---------------------|
| 148 Balance as of | Converted to | Converted to |
| 149 June 30, 1984 | Personal Leave | Major Medical Leave |
| 150 1 - 200 hours | 20% | 80% |
| 151 201 - 400 hours | 25% | 75% |
| 152 401 - 600 hours | 30% | 70% |
| 153 601 or more hours | 35% | 65% |

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

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

165 recovery from such injury.

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

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

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

189 (b) The maximum amount of earned personal leave that an
190 employee may donate to any other employee may not exceed a number
191 of days that would leave the donor employee with fewer than seven
192 (7) days of personal leave left, and the maximum amount of earned
193 major medical leave that an employee may donate to any other
194 employee may not exceed fifty percent (50%) of the earned major
195 medical leave of the donor employee.

196 (c) An employee must have exhausted all of his or her
197 earned personal leave and major medical leave before he or she

198 will be eligible to receive any leave donated by another employee.

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

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

212 (f) If the total amount of leave that is donated to any
213 employee is not used by the recipient employee, the donated leave
214 shall be returned to the donor employees on a pro rata basis,
215 based on the ratio of the number of days of leave donated by each
216 donor employee to the total number of days of leave donated by all
217 donor employees.

218 (g) The failure of any appointing authority or
219 supervisor of any employee to properly deduct an employee's
220 donation of leave to another employee from the donor employee's
221 earned personal leave or major medical leave shall constitute just
222 cause for the dismissal of the appointing authority or supervisor.

223 (h) Donated leave shall not be used in lieu of
224 disability retirement.

225 (i) For the purposes of this subsection, "immediate
226 family" means spouse, parent, stepparent, sibling, child or
227 stepchild.

228 (j) This subsection shall stand repealed from and after
229 July 1, 2002.

230 SECTION 3. This act shall take effect and be in force from

231 and after July 1, 2000.