

By: Representative Eads

To: Fees and Salaries of  
Public Officers

HOUSE BILL NO. 1385

1 AN ACT TO REESTABLISH A DONATED LEAVE POLICY FOR STATE  
2 EMPLOYEES; TO DEFINE CERTAIN TERMS USED UNDER THE POLICY; TO  
3 AUTHORIZE STATE EMPLOYEES TO DONATE MAJOR MEDICAL LEAVE AND  
4 PERSONAL LEAVE TO OTHER EMPLOYEES WITHIN THE SAME AGENCY OR  
5 INSTITUTION WHO ARE SUFFERING FROM, OR HAVING AN IMMEDIATE FAMILY  
6 MEMBER SUFFERING FROM, A CATASTROPHIC INJURY OR ILLNESS; TO AMEND  
7 SECTION 25-3-91, MISSISSIPPI CODE OF 1972, IN CONFORMITY TO THE  
8 PROVISIONS OF THIS ACT; AND FOR RELATED PURPOSES.

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

10 SECTION 1. (1) For purposes of this section, the following  
11 words and phrases have the meanings ascribed in this subsection  
12 unless the context clearly indicates otherwise:

13 (a) "Catastrophic injury or illness" means a life  
14 threatening injury or illness of an employee or a member of an  
15 employee's immediate family which totally incapacitates the  
16 employee from work, as verified by a licensed physician, and  
17 forces the employee to exhaust all leave time earned by that  
18 employee, resulting in the loss of compensation from the state to  
19 the employee. Conditions that are short term in nature,  
20 including, but not limited to, common illnesses such as influenza  
21 and the measles, and common injuries, are not catastrophic.  
22 Chronic illnesses or injuries, such as cancer or major surgery,  
23 which result in intermittent absences from work and which are long  
24 term in nature and require long recuperation periods may be  
25 considered catastrophic.

26 (b) "Donor employee" means the state employee who is  
27 donating leave to another state employee.

28 (c) "Immediate family" means spouse, parent,  
29 stepparent, sibling, child or stepchild.

30 (d) "Recipient employee" means the state employee who  
31 is designated by the donor employee to receive donated leave.

32 (2) Any employee may donate a portion of his or her earned  
33 personal leave or major medical leave to another employee within  
34 the same agency (as defined in Section 25-9-107), institution of  
35 higher learning or community or junior college who is suffering  
36 from a catastrophic injury or illness or who has a member of his  
37 or her immediate family who is suffering from a catastrophic  
38 injury or illness, in accordance with the following:

39 (a) The donor employee shall designate the recipient  
40 employee and the amount of earned personal leave or major medical  
41 leave, or both, which is to be donated and shall notify the  
42 appointing authority or supervisor of his or her designation.

43 (b) The maximum amount of earned personal leave which  
44 an employee may donate to any other employee may not exceed a  
45 number of days that would leave the donor employee with fewer than  
46 seven (7) days of personal leave. The maximum amount of earned  
47 major medical leave which an employee may donate to any other  
48 employee may not exceed fifty percent (50%) of the earned major  
49 medical leave of the donor employee.

50 (c) An employee may donate earned personal leave or  
51 major medical leave only in increments of eight-hour days.

52 (d) An employee must have exhausted all of his or her  
53 earned personal leave and major medical leave before he or she may  
54 be eligible to receive any leave donated by another employee.

55 (e) Before an employee may receive donated leave, he or  
56 she must provide his or her appointing authority or supervisor  
57 with a physician's statement that states the beginning date of the  
58 catastrophic injury or illness, a description of the injury or  
59 illness, a prognosis for recovery and the anticipated date that  
60 the recipient employee will be able to return to work.

61 (f) If an employee is aggrieved by the decision of his  
62 or her appointing authority that the employee is not eligible to

63 receive donated leave because the injury or illness of the  
64 employee or member of the employee's immediate family is not, in  
65 the appointing authority's determination, a catastrophic injury or  
66 illness, the employee may appeal the decision to the employee  
67 appeals board.

68 (g) Beginning on July 1, 2001, the maximum period of  
69 time that an employee may use donated leave without resuming work  
70 at his or her place of employment is one (1) calendar year, which  
71 year commences on the first day that the recipient employee uses  
72 donated leave. Donated leave that is not used because a recipient  
73 employee has used the maximum amount of donated leave authorized  
74 under this paragraph shall be returned to the donor employees in  
75 the manner provided under paragraph (h) of this subsection.

76 (h) If the total amount of leave that is donated to any  
77 employee is not used by the recipient employee, the donated leave  
78 shall be returned to the donor employees on a pro rata basis,  
79 based on the ratio of the number of days of leave donated by each  
80 donor employee to the total number of days of leave donated by all  
81 donor employees.

82 (i) The intentional failure or neglect of any  
83 appointing authority or supervisor of any employee to properly  
84 deduct an employee's donation of leave to another employee from  
85 the donor employee's earned personal leave or major medical leave  
86 shall constitute just cause for the dismissal of the appointing  
87 authority or supervisor.

88 (j) Donated leave may not be used in lieu of disability  
89 retirement.

90 SECTION 2. Section 25-3-91, Mississippi Code of 1972, is  
91 amended as follows:

92 25-3-91. For purposes of Sections 25-3-91 through 25-3-99,  
93 the following words and terms shall have the meaning described  
94 herein, unless the context requires otherwise:

95           (a) "Appointing authority" shall mean such person,  
96 agency or authority authorized by law to employ individuals in  
97 state government, but shall not include the Board of Directors of  
98 the Mississippi Industries for the Blind.

99       \* \* \*

100           **(b)** "Employee" means a person appointed to a position  
101 in the state service or nonstate service as defined in Section  
102 25-9-107, for which he is compensated on a full-time permanent or  
103 provisional basis, a temporary basis, or a part-time basis.

104           **(c)** "Workday" shall mean a day as defined in Section  
105 25-1-98.

106           **(d)** "Temporary employment" means the employment of a  
107 person in a temporary or time-limited position not to exceed  
108 twelve (12) months.

109           **(e)** "Part-time employment" means the employment of a  
110 person in a part-time position.

111       SECTION 3. This act shall take effect and be in force from  
112 and after July 1, 2001.