HOUSE BILL NO. 1385

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

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

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

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

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

(c) "Immediate family" means spouse, parent, stepparent, sibling, child or stepchild.
(d) "Recipient employee" means the state employee who is designated by the donor employee to receive donated leave.

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

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

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

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

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

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

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

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

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

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

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

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

25-3-91. For purposes of Sections 25-3-91 through 25-3-99,
the following words and terms shall have the meaning described
herein, unless the context requires otherwise:
(a) "Appointing authority" shall mean such person, agency or authority authorized by law to employ individuals in state government, but shall not include the Board of Directors of the Mississippi Industries for the Blind.

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

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

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

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

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