

By: Senator(s) Tollison

To: Fees, Salaries and Administration

SENATE BILL NO. 2811

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 STATE EMPLOYEES SUFFERING FROM, OR HAVING  
5 AN IMMEDIATE FAMILY MEMBER SUFFERING FROM, A CATASTROPHIC INJURY  
6 OR ILLNESS; TO AMEND SECTION 25-3-91, MISSISSIPPI CODE OF 1972, IN  
7 CONFORMITY TO THE PROVISIONS OF THIS ACT; AND FOR RELATED  
8 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 an injury or  
14 illness of an employee or a member of an employee's immediate  
15 family which totally incapacitates the employee from work, as  
16 verified by a licensed physician, and forces the employee to  
17 exhaust all leave time earned by that employee, resulting in the  
18 loss of compensation from the state to the employee. Conditions  
19 that are short term in nature, including, but not limited to,  
20 common illnesses such as influenza and the measles, and common  
21 injuries, are not catastrophic. Chronic illnesses or injuries,  
22 such as cancer or major surgery, which result in intermittent  
23 absences from work and which are long term in nature and require  
24 long recuperation periods may be considered catastrophic.

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

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

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

31           (2) Any employee may donate a portion of his or her earned  
32 personal leave or major medical leave to another employee who is  
33 suffering from a catastrophic injury or illness or to another  
34 employee who has a member of his or her immediate family who is  
35 suffering from a catastrophic injury or illness, in accordance  
36 with the following:

37           (a) The donor employee shall designate the recipient  
38 employee and the amount of earned personal leave or major medical  
39 leave, or both, which is to be donated and shall notify the donor  
40 employee's appointing authority or supervisor of his or her  
41 designation. The donor employee's appointing authority or  
42 supervisor then shall notify the recipient employee's appointing  
43 authority or supervisor of the amount of leave which has been  
44 donated by the donor employee to the recipient employee.

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

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

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

57           (e) Before an employee may receive donated leave, he or  
58 she must provide his or her appointing authority or supervisor  
59 with a physician's statement that states the beginning date of the  
60 catastrophic injury or illness, a description of the injury or

61 illness, a prognosis for recovery and the anticipated date that  
62 the recipient employee will be able to return to work.

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

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

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

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

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

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

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

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

100       \* \* \*

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

105           (c) "Workday" shall mean a day as defined in Section  
106 25-1-98.

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

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

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