To: Fees and Salaries of Public Officers

MISSISSIPPI LEGISLATURE REGULAR SESSION 2003

By: Representative Eads

HOUSE BILL NO. 483

1 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 HAVE AN IMMEDIATE FAMILY MEMBER SUFFERING FROM, A CATASTROPHIC INJURY OR ILLNESS; TO AMEND SECTIONS 25-3-91, 25-3-93 AND 25-3-95, 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, that 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 that 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 that 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) 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 will 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 must 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 constitutes 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 ascribed in this section, unless the context clearly requires otherwise:
(a) "Appointing authority" means 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" means 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. Section 25-3-93, Mississippi Code of 1972, is amended as follows:

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

<table>
<thead>
<tr>
<th>Continuous Service</th>
<th>Accrual Rate</th>
<th>Accrual Rate</th>
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</thead>
<tbody>
<tr>
<td>1 month to 3 years</td>
<td>12 hours per month</td>
<td>18 days per year</td>
</tr>
<tr>
<td>37 months to 8 years</td>
<td>14 hours per month</td>
<td>21 days per year</td>
</tr>
<tr>
<td>97 months to 15 years</td>
<td>16 hours per month</td>
<td>24 days per year</td>
</tr>
<tr>
<td>Over 15 years</td>
<td>18 hours per month</td>
<td>27 days per year</td>
</tr>
</tbody>
</table>

However, employees who were hired prior to July 1, 1984, who have continuous service of more than five (5) years but not more than eight (8) years shall accrue fifteen (15) hours of personal leave each month.
(b) Temporary employees who work less than a full workweek and part-time employees shall be allowed credit for personal leave computed on a pro rata basis. Faculty members employed by the eight (8) public universities on a nine-month contract, temporary employees of the public universities who work less than twenty (20) hours per week for a period of less than five (5) months during a fiscal year, and recipients of full-time educational leave, while on such leave, shall not be eligible for personal leave.

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

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

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

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

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SECTION 4. Section 25-3-95, Mississippi Code of 1972, is amended as follows:

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

<table>
<thead>
<tr>
<th>Continuous Service</th>
<th>Accrual Rate (Monthly)</th>
<th>Accrual Rate (Annually)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 month to 3 years</td>
<td>8 hours per month</td>
<td>12 days per year</td>
</tr>
<tr>
<td>37 months to 8 years</td>
<td>7 hours per month</td>
<td>10.5 days per year</td>
</tr>
<tr>
<td>97 months to 15 years</td>
<td>6 hours per month</td>
<td>9 days per year</td>
</tr>
<tr>
<td>Over 15 years</td>
<td>5 hours per month</td>
<td>7.5 days per year</td>
</tr>
</tbody>
</table>

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

<table>
<thead>
<tr>
<th>Continuous Service</th>
<th>Accrual Rate (Per Month)</th>
<th>Accrual Rate (Per Academic Year)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 month to 3 years</td>
<td>13-1/3 hours per month</td>
<td>15 days per academic year</td>
</tr>
</tbody>
</table>
Part-time employees shall accrue major medical leave on a pro rata basis. There shall be no maximum limit to major medical leave accumulation. All unused major medical leave shall be counted as creditable service for the purposes of the retirement system as provided in Sections 25-11-103 and 25-13-5.

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

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

(4) Employees and appointed officers of the State of Mississippi having unused, accumulated sick leave or annual leave earned prior to July 1, 1984, shall be credited with major medical leave and personal leave as follows: All unused annual leave shall be credited as personal leave. Unused sick leave shall be divided between major medical leave and personal leave at rates determined by the employee's sick leave balance on June 30, 1984. The rates of conversion shall be as follows:

<table>
<thead>
<tr>
<th>Sick Leave Balance as of June 30, 1984</th>
<th>Percentage Converted to Personal Leave</th>
<th>Percentage Converted to Major Medical Leave</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 - 200 hours</td>
<td>20%</td>
<td>80%</td>
</tr>
<tr>
<td>201 - 400 hours</td>
<td>25%</td>
<td>75%</td>
</tr>
<tr>
<td>401 - 600 hours</td>
<td>30%</td>
<td>70%</td>
</tr>
<tr>
<td>601 or more hours</td>
<td>35%</td>
<td>65%</td>
</tr>
</tbody>
</table>

(5) Upon retirement from active employment each faculty member of the state-supported public universities who is employed on a nine-month basis shall receive credit and be paid for not more than thirty (30) days of unused major medical leave for service as a state employee. Unused major medical leave in excess of thirty (30) days shall be counted as creditable service for the purposes of the retirement system as provided in Sections 25-11-103 and 25-13-5.
(6) Any officer of the Mississippi Highway Safety Patrol who is injured by wound or accident in the line of duty shall not be required to use earned major medical leave during the period of recovery from such injury.

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

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SECTION 5. This act shall take effect and be in force from and after July 1, 2003.