

By: Senator(s) Tollison

To: Fees, Salaries and Administration

SENATE BILL NO. 2112

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 SECTIONS 25-3-91, 25-3-93 AND 25-3-95,  
7 MISSISSIPPI CODE OF 1972, IN CONFORMITY TO THE PROVISIONS OF THIS  
8 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 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, 2003, 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.** Section 25-3-93, Mississippi Code of 1972, is  
113 amended as follows:

114 25-3-93. (1) (a) Except as provided in subsection (1)(b),  
115 all employees and appointed officers of the State of Mississippi,  
116 who are employees as defined in Section 25-3-91, shall be allowed  
117 credit for personal leave computed as follows:

118 Continuous	Accrual Rate	Accrual Rate
119 Service	(Monthly)	(Annually)
120 1 month to 3 years	12 hours per month	18 days per year
121 37 months to 8 years	14 hours per month	21 days per year
122 97 months to 15 years	16 hours per month	24 days per year
123 Over 15 years	18 hours per month	27 days per year

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



128           (b) Temporary employees who work less than a full  
129 workweek and part-time employees shall be allowed credit for  
130 personal leave computed on a pro rata basis. Faculty members  
131 employed by the eight (8) public universities on a nine-month  
132 contract, temporary employees of the public universities who work  
133 less than twenty (20) hours per week for a period of less than  
134 five (5) months during a fiscal year, and recipients of full-time  
135 educational leave, while on such leave, shall not be eligible for  
136 personal leave.

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

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

154           (4) Employees are encouraged to use earned personal leave.  
155 Personal leave may be used for vacations and personal business as  
156 scheduled by the appointing authority and shall be used for  
157 illnesses of the employee requiring absences of one (1) day or  
158 less. Accrued personal or compensatory leave shall be used for  
159 the first day of an employee's illness requiring his absence of  
160 more than one (1) day. Accrued personal or compensatory leave may



161 also be used for an illness in the employee's immediate family as  
162 defined in Section 25-3-95. There shall be no limit to the  
163 accumulation of personal leave. Upon termination of employment  
164 each employee shall be paid for not more than thirty (30) days of  
165 accumulated personal leave. Unused personal leave in excess of  
166 thirty (30) days shall be counted as creditable service for the  
167 purposes of the retirement system as provided in Sections  
168 25-11-103 and 25-13-5.

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

173 \* \* \*

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

176 25-3-95. (1) All employees and appointed officers of the  
177 State of Mississippi, except temporary employees of the public  
178 universities who work less than twenty (20) hours per week for a  
179 period of less than five (5) months during a fiscal year and  
180 recipients of full-time educational leave, while on such leave,  
181 shall accrue credits for major medical leave as follows:

182	Continuous	Accrual Rate	Accrual Rate
183	Service	(Monthly)	(Annually)
184	1 month to 3 years	8 hours per month	12 days per year
185	37 months to 8 years	7 hours per month	10.5 days per year
186	97 months to 15 years	6 hours per month	9 days per year
187	Over 15 years	5 hours per month	7.5 days per year

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

191	Continuous	Accrual Rate	Accrual Rate
192	Service	(Per Month)	(Per Academic Year)
193	1 month to 3 years	13-1/3 hours per month	15 days per



194			academic year
195	37 months to 8 years	14-1/5 hours per month	16 days per
196			academic year
197	97 months to 15 years	15-2/5 hours per month	17 days per
198			academic year
199	Over 15 years	16 hours per month	18 days per
200			academic year

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

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

224       (3) An employee may use up to three (3) days of earned major  
225 medical leave for each occurrence of death in the immediate family  
226 requiring the employee's absence from work. No qualifying time or



227 use of personal leave will be required prior to use of major  
228 medical leave for this purpose. For the purpose of this  
229 subsection (3), the immediate family is defined as spouse, parent,  
230 stepparent, sibling, child, stepchild, grandchild, grandparent,  
231 son- or daughter-in-law, mother- or father-in-law or brother- or  
232 sister-in-law. Child means a biological, adopted or foster child,  
233 or a child for whom the individual stands or stood in loco  
234 parentis.

235 (4) Employees and appointed officers of the State of  
236 Mississippi having unused, accumulated sick leave or annual leave  
237 earned prior to July 1, 1984, shall be credited with major medical  
238 leave and personal leave as follows: All unused annual leave  
239 shall be credited as personal leave.

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

244 Sick Leave	Percentage	Percentage
245 Balance as of	Converted to	Converted to
246 June 30, 1984	Personal Leave	Major Medical Leave
247 1 - 200 hours	20%	80%
248 201 - 400 hours	25%	75%
249 401 - 600 hours	30%	70%
250 601 or more hours	35%	65%

251 (5) Upon retirement from active employment each faculty  
252 member of the state-supported public universities who is employed  
253 on a nine-month basis shall receive credit and be paid for not  
254 more than thirty (30) days of unused major medical leave for  
255 service as a state employee. Unused major medical leave in excess  
256 of thirty (30) days shall be counted as creditable service for the  
257 purposes of the retirement system as provided in Sections  
258 25-11-103 and 25-13-5.





259           (6) Any officer of the Mississippi Highway Safety Patrol who  
260 is injured by wound or accident in the line of duty shall not be  
261 required to use earned major medical leave during the period of  
262 recovery from such injury.

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

271           \* \* \*

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

