

By: Representative Fleming

To: Fees and Salaries of  
Public Officers;  
Appropriations

HOUSE BILL NO. 19

1 AN ACT TO AMEND SECTION 25-3-95, MISSISSIPPI CODE OF 1972, TO  
2 ALLOW STATE EMPLOYEES AND APPOINTED OFFICERS TO BE PAID FOR NOT  
3 MORE THAN 30 DAYS OF MAJOR MEDICAL LEAVE UPON TERMINATION OF  
4 EMPLOYMENT; AND FOR RELATED PURPOSES.

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

6 **SECTION 1.** Section 25-3-95, Mississippi Code of 1972, is  
7 amended as follows:

8 25-3-95. (1) All employees and appointed officers of the  
9 State of Mississippi, except temporary employees of the public  
10 universities who work less than twenty (20) hours per week for a  
11 period of less than five (5) months during a fiscal year and  
12 recipients of full-time educational leave, while on such leave,  
13 shall accrue credits for major medical leave as follows:

| 14 | Continuous            | Accrual Rate      | Accrual Rate       |
|----|-----------------------|-------------------|--------------------|
| 15 | Service               | (Monthly)         | (Annually)         |
| 16 | 1 month to 3 years    | 8 hours per month | 12 days per year   |
| 17 | 37 months to 8 years  | 7 hours per month | 10.5 days per year |
| 18 | 97 months to 15 years | 6 hours per month | 9 days per year    |
| 19 | Over 15 years         | 5 hours per month | 7.5 days per year  |

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

| 23 | Continuous           | Accrual Rate           | Accrual Rate        |
|----|----------------------|------------------------|---------------------|
| 24 | Service              | (Per Month)            | (Per Academic Year) |
| 25 | 1 month to 3 years   | 13-1/3 hours per month | 15 days per         |
| 26 |                      |                        | academic year       |
| 27 | 37 months to 8 years | 14-1/5 hours per month | 16 days per         |
| 28 |                      |                        | academic year       |

29 97 months to 15 years 15-2/5 hours per month 17 days per  
30 academic year  
31 Over 15 years 16 hours per month 18 days per  
32 academic year

33 Part-time employees shall accrue major medical leave on a pro  
34 rata basis. There shall be no maximum limit to major medical  
35 leave accumulation. Upon termination of employment, each employee  
36 shall be paid for not more than thirty (30) days of accumulated  
37 major medical leave. Unused major medical leave in excess of  
38 thirty (30) days shall be counted as creditable service for the  
39 purposes of the retirement system as provided in Sections  
40 25-11-103 and 25-13-5.

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

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

62 use of personal leave will be required prior to use of major  
63 medical leave for this purpose. For the purpose of this  
64 subsection (3), the immediate family is defined as spouse, parent,  
65 stepparent, sibling, child, stepchild, grandchild, grandparent,  
66 son- or daughter-in-law, mother- or father-in-law or brother- or  
67 sister-in-law. Child means a biological, adopted or foster child,  
68 or a child for whom the individual stands or stood in loco  
69 parentis.

70 (4) Employees and appointed officers of the State of  
71 Mississippi having unused, accumulated sick leave or annual leave  
72 earned prior to July 1, 1984, shall be credited with major medical  
73 leave and personal leave as follows: All unused annual leave  
74 shall be credited as personal leave.

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

| 79 Sick Leave        | Percentage     | Percentage          |
|----------------------|----------------|---------------------|
| 80 Balance as of     | Converted to   | Converted to        |
| 81 June 30, 1984     | Personal Leave | Major Medical Leave |
| 82 1 - 200 hours     | 20%            | 80%                 |
| 83 201 - 400 hours   | 25%            | 75%                 |
| 84 401 - 600 hours   | 30%            | 70%                 |
| 85 601 or more hours | 35%            | 65%                 |

86 (5) Upon retirement from active employment each faculty  
87 member of the state-supported public universities who is employed  
88 on a nine-month basis shall receive credit and be paid for not  
89 more than thirty (30) days of unused major medical leave for  
90 service as a state employee. Unused major medical leave in excess  
91 of thirty (30) days shall be counted as creditable service for the  
92 purposes of the retirement system as provided in Sections  
93 25-11-103 and 25-13-5.

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

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

106 (8) Any employee may donate a portion of his or her earned  
107 personal leave or major medical leave to another employee who is  
108 suffering from a catastrophic injury or illness, as defined in  
109 Section 25-3-91, or to another employee who has a member of his or  
110 her immediate family who is suffering from a catastrophic injury  
111 or illness, in accordance with the following:

112 (a) The employee donating the leave (the "donor  
113 employee") shall designate the employee who is to receive the  
114 leave (the "recipient employee") and the amount of earned personal  
115 leave and major medical leave that is to be donated, and shall  
116 notify the donor employee's appointing authority or supervisor of  
117 his or her designation. The donor employee's appointing authority  
118 or supervisor then shall notify the recipient employee's  
119 appointing authority or supervisor of the amount of leave that has  
120 been donated by the donor employee to the recipient employee.

121 (b) The maximum amount of earned personal leave that an  
122 employee may donate to any other employee may not exceed a number  
123 of days that would leave the donor employee with fewer than seven  
124 (7) days of personal leave left, and the maximum amount of earned  
125 major medical leave that an employee may donate to any other  
126 employee may not exceed fifty percent (50%) of the earned major

127 medical leave of the donor employee. All donated leave shall be  
128 in increments of not less than twenty-four (24) hours.

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

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

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

145 (f) Beginning on March 25, 2003, the maximum period of  
146 time that an employee may use donated leave without resuming work  
147 at his or her place of employment is ninety (90) days, which  
148 commences on the first day that the recipient employee uses  
149 donated leave. Donated leave that is not used because a recipient  
150 employee has used the maximum amount of donated leave authorized  
151 under this paragraph shall be returned to the donor employees in  
152 the manner provided under paragraph (g) of this subsection.

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

159           (h) The failure of any appointing authority or  
160 supervisor of any employee to properly deduct an employee's  
161 donation of leave to another employee from the donor employee's  
162 earned personal leave or major medical leave shall constitute just  
163 cause for the dismissal of the appointing authority or supervisor.

164           (i) No person through the use of coercion, threats or  
165 intimidation shall require or attempt to require any employee to  
166 donate his or her leave to another employee. Any person who  
167 alleges a violation of this paragraph shall report the violation  
168 to the executive head of the agency by whom he or she is employed  
169 or, if the alleged violator is the executive head of the agency,  
170 then the employee shall report the violation to the State  
171 Personnel Board. Any person found to have violated this paragraph  
172 shall be subject to removal from office or termination of  
173 employment.

174           (j) No employee can donate leave after tendering notice  
175 of separation for any reason or after termination.

176           (k) Recipient employees of agencies with more than five  
177 hundred (500) employees as of March 25, 2003, may receive donated  
178 leave only from donor employees within the same agency. A  
179 recipient employee in an agency with five hundred (500) or fewer  
180 employees as of March 25, 2003, may receive donated leave from any  
181 donor employee.

182           (l) In order for an employee to be eligible to receive  
183 donated leave, the employee must:

184                   (i) Have been employed for a total of at least  
185 twelve (12) months by the employer on the date on which the leave  
186 is donated; and

187                   (ii) Have been employed for at least one thousand  
188 two hundred fifty (1,250) hours of service with such employer  
189 during the previous twelve-month period from the date on which the  
190 leave is donated.

191                   (m) Donated leave shall not be used in lieu of  
192 disability retirement.

193                   (n) For the purposes of this subsection, "immediate  
194 family" means spouse, parent, stepparent, sibling, child or  
195 stepchild.

196                   (o) This subsection shall stand repealed from and after  
197 July 1, 2005.

198                   **SECTION 2.** This act shall take effect and be in force from  
199 and after July 1, 2004.