

By: Representative Green

To: Appropriations

HOUSE BILL NO. 1277

1 AN ACT TO AMEND SECTION 25-3-95, MISSISSIPPI CODE OF 1972, TO
2 PROVIDE THAT DONATED LEAVE MAY BE RECEIVED FROM EMPLOYEES OF ANY
3 AGENCY WHO ARE IMMEDIATE FAMILY MEMBERS; TO REMOVE THE DATE OF
4 REPEAL; 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. All unused major medical leave shall be
36 counted as creditable service for the purposes of the retirement
37 system as provided in Sections 25-11-103 and 25-13-5.

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

56 (3) An employee may use up to three (3) days of earned major
57 medical leave for each occurrence of death in the immediate family
58 requiring the employee's absence from work. No qualifying time or
59 use of personal leave will be required prior to use of major
60 medical leave for this purpose. For the purpose of this
61 subsection (3), the immediate family is defined as spouse, parent,

62 stepparent, sibling, child, stepchild, grandchild, grandparent,
63 son- or daughter-in-law, mother- or father-in-law or brother- or
64 sister-in-law. Child means a biological, adopted or foster child,
65 or a child for whom the individual stands or stood in loco
66 parentis.

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

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

| 76 Sick Leave | Percentage | Percentage |
|----------------------|----------------|---------------------|
| 77 Balance as of | Converted to | Converted to |
| 78 June 30, 1984 | Personal Leave | Major Medical Leave |
| 79 1 - 200 hours | 20% | 80% |
| 80 201 - 400 hours | 25% | 75% |
| 81 401 - 600 hours | 30% | 70% |
| 82 601 or more hours | 35% | 65% |

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

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

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

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

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

118 (b) The maximum amount of earned personal leave that an
119 employee may donate to any other employee may not exceed a number
120 of days that would leave the donor employee with fewer than seven
121 (7) days of personal leave left, and the maximum amount of earned
122 major medical leave that an employee may donate to any other
123 employee may not exceed fifty percent (50%) of the earned major
124 medical leave of the donor employee. All donated leave shall be
125 in increments of not less than twenty-four (24) hours.

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

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

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

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

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

156 (h) The failure of any appointing authority or
157 supervisor of any employee to properly deduct an employee's
158 donation of leave to another employee from the donor employee's

159 earned personal leave or major medical leave shall constitute just
160 cause for the dismissal of the appointing authority or supervisor.

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

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

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

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

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

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

189 (m) Donated leave shall not be used in lieu of
190 disability retirement.

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

194 * * *

195 **SECTION 2.** This act shall take effect and be in force from
196 and after July 1, 2005.