

By: Senator(s) Thames

To: Fees, Salaries and Administration

COMMITTEE SUBSTITUTE  
FOR  
SENATE BILL NO. 2567

1 AN ACT TO AMEND SECTIONS 25-3-93 AND 25-3-95, MISSISSIPPI  
2 CODE OF 1972, TO PROVIDE THAT EMPLOYEES OF THE PUBLIC UNIVERSITIES  
3 WHO DO NOT CONTRIBUTE TO THE MISSISSIPPI PUBLIC EMPLOYEES'  
4 RETIREMENT SYSTEM OR THE STATE INSTITUTIONS OF HIGHER LEARNING  
5 OPTIONAL RETIREMENT PROGRAM SHALL NOT BE ELIGIBLE FOR PERSONAL AND  
6 MAJOR MEDICAL LEAVE, AND TO DELETE THE REPEALER ON THE PROVISIONS  
7 ALLOWING DONATION OF LEAVE; AND FOR RELATED PURPOSES.

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

9 **SECTION 1.** Section 25-3-93, Mississippi Code of 1972, is  
10 amended as follows:

11 25-3-93. (1) (a) Except as provided in subsection (1)(b),  
12 all employees and appointed officers of the State of Mississippi,  
13 who are employees as defined in Section 25-3-91, shall be allowed  
14 credit for personal leave computed as follows:

15	Continuous	Accrual Rate	Accrual Rate
16	Service	(Monthly)	(Annually)
17	1 month to 3 years	12 hours per month	18 days per year
18	37 months to 8 years	14 hours per month	21 days per year
19	97 months to 15 years	16 hours per month	24 days per year
20	Over 15 years	18 hours per month	27 days per year

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

25 (b) Temporary employees who work less than a full  
26 workweek and part-time employees shall be allowed credit for  
27 personal leave computed on a pro rata basis. Faculty members  
28 employed by the eight (8) public universities on a nine-month  
29 contract, and employees of the public universities who do not

30 contribute to the Mississippi Public Employees' Retirement System  
31 or the State Institutions of Higher Learning Optional Retirement  
32 Program, shall not be eligible for personal leave.

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

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

50 (4) Employees are encouraged to use earned personal leave.  
51 Personal leave may be used for vacations and personal business as  
52 scheduled by the appointing authority and shall be used for  
53 illnesses of the employee requiring absences of one (1) day or  
54 less. Accrued personal or compensatory leave shall be used for  
55 the first day of an employees illness requiring his absence of  
56 more than one (1) day. Accrued personal or compensatory leave may  
57 also be used for an illness in the employee's immediate family as  
58 defined in Section 25-3-95. There shall be no limit to the  
59 accumulation of personal leave. Upon termination of employment  
60 each employee shall be paid for not more than thirty (30) days of  
61 accumulated personal leave. Unused personal leave in excess of  
62 thirty (30) days shall be counted as creditable service for the

63 purposes of the retirement system as provided in Sections  
64 25-11-103 and 25-13-5.

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

69 (6) Any employee may donate a portion of his or her earned  
70 personal leave to another employee who is suffering from a  
71 catastrophic injury or illness, or to another employee who has a  
72 member of his or her immediate family who is suffering from a  
73 catastrophic injury or illness, in accordance with subsection (8)  
74 of Section 25-3-95.

75 \* \* \*

76 **SECTION 2.** Section 25-3-95, Mississippi Code of 1972, is  
77 amended as follows:

78 25-3-95. (1) All employees and appointed officers of the  
79 State of Mississippi, except employees of the public universities  
80 who do not contribute to the Mississippi Public Employees'  
81 Retirement System or the State Institutions of Higher Learning  
82 Optional Retirement Program, shall accrue credits for major  
83 medical leave as follows:

84 Continuous	Accrual Rate	Accrual Rate
85 Service	(Monthly)	(Annually)
86 1 month to 3 years	8 hours per month	12 days per year
87 37 months to 8 years	7 hours per month	10.5 days per year
88 97 months to 15 years	6 hours per month	9 days per year
89 Over 15 years	5 hours per month	7.5 days per year

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

93 Continuous	Accrual Rate	Accrual Rate
94 Service	(Per Month)	(Per Academic Year)
95 1 month to 3 years	13-1/3 hours per month	15 days per

96			academic year
97	37 months to 8 years	14-1/5 hours per month	16 days per
98			academic year
99	97 months to 15 years	15-2/5 hours per month	17 days per
100			academic year
101	Over 15 years	16 hours per month	18 days per
102			academic year

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

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

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

129 use of personal leave will be required prior to use of major  
130 medical leave for this purpose. For the purpose of this  
131 subsection (3), the immediate family is defined as spouse, parent,  
132 stepparent, sibling, child, stepchild, grandchild, grandparent,  
133 son- or daughter-in-law, mother- or father-in-law or brother- or  
134 sister-in-law. Child means a biological, adopted or foster child,  
135 or a child for whom the individual stands or stood in loco  
136 parentis.

137 (4) Employees and appointed officers of the State of  
138 Mississippi having unused, accumulated sick leave or annual leave  
139 earned prior to July 1, 1984, shall be credited with major medical  
140 leave and personal leave as follows: All unused annual leave  
141 shall be credited as personal leave.

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

146 Sick Leave	Percentage	Percentage
147 Balance as of	Converted to	Converted to
148 June 30, 1984	Personal Leave	Major Medical Leave
149 1 - 200 hours	20%	80%
150 201 - 400 hours	25%	75%
151 401 - 600 hours	30%	70%
152 601 or more hours	35%	65%

153 (5) Upon retirement from active employment each faculty  
154 member of the state-supported public universities who is employed  
155 on a nine-month basis shall receive credit and be paid for not  
156 more than thirty (30) days of unused major medical leave for  
157 service as a state employee. Unused major medical leave in excess  
158 of thirty (30) days shall be counted as creditable service for the  
159 purposes of the retirement system as provided in Sections  
160 25-11-103 and 25-13-5.

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

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

173           (8) Any employee may donate a portion of his or her earned  
174 personal leave or major medical leave to another employee who is  
175 suffering from a catastrophic injury or illness, as defined in  
176 Section 25-3-91, or to another employee who has a member of his or  
177 her immediate family who is suffering from a catastrophic injury  
178 or illness, in accordance with the following:

179                   (a) The employee donating the leave (the "donor  
180 employee") shall designate the employee who is to receive the  
181 leave (the "recipient employee") and the amount of earned personal  
182 leave and major medical leave that is to be donated, and shall  
183 notify the donor employee's appointing authority or supervisor of  
184 his or her designation. The donor employee's appointing authority  
185 or supervisor then shall notify the recipient employee's  
186 appointing authority or supervisor of the amount of leave that has  
187 been donated by the donor employee to the recipient employee.

188                   (b) The maximum amount of earned personal leave that an  
189 employee may donate to any other employee may not exceed a number  
190 of days that would leave the donor employee with fewer than seven  
191 (7) days of personal leave left, and the maximum amount of earned  
192 major medical leave that an employee may donate to any other  
193 employee may not exceed fifty percent (50%) of the earned major

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

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

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

205 (e) If an employee is aggrieved by the decision of his  
206 or her appointing authority that the employee is not eligible to  
207 receive donated leave because the injury or illness of the  
208 employee or member of the employee's immediate family is not, in  
209 the appointing authority's determination, a catastrophic injury or  
210 illness, the employee may appeal the decision to the employee  
211 appeals board.

212 (f) Beginning on March 25, 2003, the maximum period of  
213 time that an employee may use donated leave without resuming work  
214 at his or her place of employment is ninety (90) days, which  
215 commences on the first day that the recipient employee uses  
216 donated leave. Donated leave that is not used because a recipient  
217 employee has used the maximum amount of donated leave authorized  
218 under this paragraph shall be returned to the donor employees in  
219 the manner provided under paragraph (g) of this subsection.

220 (g) If the total amount of leave that is donated to any  
221 employee is not used by the recipient employee, the donated leave  
222 shall be returned to the donor employees on a pro rata basis,  
223 based on the ratio of the number of days of leave donated by each  
224 donor employee to the total number of days of leave donated by all  
225 donor employees.

226 (h) The failure of any appointing authority or  
227 supervisor of any employee to properly deduct an employee's  
228 donation of leave to another employee from the donor employee's  
229 earned personal leave or major medical leave shall constitute just  
230 cause for the dismissal of the appointing authority or supervisor.

231 (i) No person through the use of coercion, threats or  
232 intimidation shall require or attempt to require any employee to  
233 donate his or her leave to another employee. Any person who  
234 alleges a violation of this paragraph shall report the violation  
235 to the executive head of the agency by whom he or she is employed  
236 or, if the alleged violator is the executive head of the agency,  
237 then the employee shall report the violation to the State  
238 Personnel Board. Any person found to have violated this paragraph  
239 shall be subject to removal from office or termination of  
240 employment.

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

243 (k) Recipient employees of agencies with more than five  
244 hundred (500) employees as of March 25, 2003, may receive donated  
245 leave only from donor employees within the same agency. A  
246 recipient employee in an agency with five hundred (500) or fewer  
247 employees as of March 25, 2003, may receive donated leave from any  
248 donor employee.

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

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

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

258                   (m) Donated leave shall not be used in lieu of  
259 disability retirement.

260                   (n) For the purposes of this subsection, "immediate  
261 family" means spouse, parent, stepparent, sibling, child or  
262 stepchild.

263                   \* \* \*

264                   **SECTION 3.** This act shall take effect and be in force from  
265 and after July 1, 2005.