

By: Representative Eads

To: Fees and Salaries of
Public Officers

HOUSE BILL NO. 483

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 EMPLOYEES WITHIN THE SAME AGENCY OR
5 INSTITUTION WHO ARE SUFFERING FROM, OR HAVE AN IMMEDIATE FAMILY
6 MEMBER SUFFERING FROM, A CATASTROPHIC INJURY OR ILLNESS; TO AMEND
7 SECTIONS 25-3-91, 25-3-93 AND 25-3-95, MISSISSIPPI CODE OF 1972,
8 IN CONFORMITY TO THE PROVISIONS OF THIS ACT; AND FOR RELATED
9 PURPOSES.

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

11 **SECTION 1.** (1) For purposes of this section, the following
12 words and phrases have the meanings ascribed in this subsection
13 unless the context clearly indicates otherwise:

14 (a) "Catastrophic injury or illness" means a life
15 threatening injury or illness of an employee or a member of an
16 employee's immediate family which totally incapacitates the
17 employee from work, as verified by a licensed physician, and
18 forces the employee to exhaust all leave time earned by that
19 employee, resulting in the loss of compensation from the state to
20 the employee. Conditions that are short term in nature,
21 including, but not limited to, common illnesses such as influenza
22 and the measles, and common injuries, are not catastrophic.
23 Chronic illnesses or injuries, such as cancer or major surgery,
24 which result in intermittent absences from work and which are long
25 term in nature and require long recuperation periods may be
26 considered catastrophic.

27 (b) "Donor employee" means the state employee who is
28 donating leave to another state employee.

29 (c) "Immediate family" means spouse, parent,
30 stepparent, sibling, child or stepchild.



31 (d) "Recipient employee" means the state employee who
32 is designated by the donor employee to receive donated leave.

33 (2) Any employee may donate a portion of his or her earned
34 personal leave or major medical leave to another employee within
35 the same agency (as defined in Section 25-9-107), institution of
36 higher learning or community or junior college who is suffering
37 from a catastrophic injury or illness or who has a member of his
38 or her immediate family who is suffering from a catastrophic
39 injury or illness, in accordance with the following:

40 (a) The donor employee shall designate the recipient
41 employee and the amount of earned personal leave or major medical
42 leave, or both, that is to be donated, and shall notify the
43 appointing authority or supervisor of his or her designation.

44 (b) The maximum amount of earned personal leave that an
45 employee may donate to any other employee may not exceed a number
46 of days that would leave the donor employee with fewer than seven
47 (7) days of personal leave. The maximum amount of earned major
48 medical leave that an employee may donate to any other employee
49 may not exceed fifty percent (50%) of the earned major medical
50 leave of the donor employee.

51 (c) An employee may donate earned personal leave or
52 major medical leave only in increments of eight-hour days.

53 (d) An employee must have exhausted all of his or her
54 earned personal leave and major medical leave before he or she may
55 be eligible to receive any leave donated by another employee.

56 (e) Before an employee may receive donated leave, he or
57 she must provide his or her appointing authority or supervisor
58 with a physician's statement that states the beginning date of the
59 catastrophic injury or illness, a description of the injury or
60 illness, a prognosis for recovery and the anticipated date that
61 the recipient employee will be able to return to work.

62 (f) If an employee is aggrieved by the decision of his
63 or her appointing authority that the employee is not eligible to



64 receive donated leave because the injury or illness of the
65 employee or member of the employee's immediate family is not, in
66 the appointing authority's determination, a catastrophic injury or
67 illness, the employee may appeal the decision to the employee
68 appeals board.

69 (g) The maximum period of time that an employee may use
70 donated leave without resuming work at his or her place of
71 employment is one (1) calendar year, which year commences on the
72 first day that the recipient employee uses donated leave. Donated
73 leave that is not used because a recipient employee has used the
74 maximum amount of donated leave authorized under this paragraph
75 will be returned to the donor employees in the manner provided
76 under paragraph (h) of this subsection.

77 (h) If the total amount of leave that is donated to any
78 employee is not used by the recipient employee, the donated leave
79 must be returned to the donor employees on a pro rata basis, based
80 on the ratio of the number of days of leave donated by each donor
81 employee to the total number of days of leave donated by all donor
82 employees.

83 (i) The intentional failure or neglect of any
84 appointing authority or supervisor of any employee to properly
85 deduct an employee's donation of leave to another employee from
86 the donor employee's earned personal leave or major medical leave
87 constitutes just cause for the dismissal of the appointing
88 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 ascribed in
95 this section, unless the context clearly requires otherwise:



96 (a) "Appointing authority" means such person, agency or
97 authority authorized by law to employ individuals in state
98 government, but shall not include the Board of Directors of the
99 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" means 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.

