

By: Senator(s) Thames

To: Fees, Salaries and Administration

SENATE BILL NO. 2567

1 AN ACT TO AMEND SECTION 25-3-91, MISSISSIPPI CODE OF 1972, TO
2 REVISE THE DEFINITION OF THE TERM "EMPLOYEE" AS IT RELATES TO
3 PERSONAL AND MEDICAL LEAVE; TO AMEND SECTION 25-3-93, MISSISSIPPI
4 CODE OF 1972, TO DELETE THE PROVISION ALLOWING CREDIT FOR PERSONAL
5 LEAVE ON A PRO-RATA BASIS FOR TEMPORARY EMPLOYEES; TO AMEND
6 SECTION 25-3-95, MISSISSIPPI CODE OF 1972, TO DELETE THE PROVISION
7 ALLOWING CREDIT FOR MAJOR MEDICAL LEAVE ON A PRO-RATA BASIS FOR
8 TEMPORARY EMPLOYEES, AND TO DELETE THE REPEALER ON THE PROVISIONS
9 ALLOWING DONATION OF LEAVE; AND FOR RELATED PURPOSES.

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

11 **SECTION 1.** Section 25-3-91, Mississippi Code of 1972, is
12 amended as follows:

13 25-3-91. For purposes of Sections 25-3-91 through 25-3-99,
14 the following words and terms shall have the meaning described
15 herein, unless the context requires otherwise:

16 (a) "Appointing authority" shall mean such person,
17 agency or authority authorized by law to employ individuals in
18 state government, but shall not include the Board of Directors of
19 the Mississippi Industries for the Blind.

20 (b) "Catastrophic injury or illness" means a
21 life-threatening injury or illness of an employee or a member of
22 an employee's immediate family which totally incapacitates the
23 employee from work, as verified by a licensed physician, and
24 forces the employee to exhaust all leave time earned by that
25 employee, resulting in the loss of compensation from the state for
26 the employee. Conditions that are short-term in nature,
27 including, but not limited to, common illnesses such as influenza
28 and the measles, and common injuries, are not catastrophic.
29 Chronic illnesses or injuries, such as cancer or major surgery,
30 which result in intermittent absences from work and which are

31 long-term in nature and require long recuperation periods may be
32 considered catastrophic.

33 (c) "Employee" means a person appointed to a position
34 in the state service or nonstate service as defined in Section
35 25-9-107, for which he is compensated on a full-time * * *
36 basis * * *. For purposes of this article, an employee making
37 contributions to the Public Employee's Retirement System or the
38 Highway Safety Patrol Retirement System shall be considered a
39 full-time employee. However, in order for an employee to be
40 eligible to receive donated leave, the employee must meet the
41 requirements provided in Section 25-3-95(8).

42 (d) "Workday" shall mean a day as defined in Section
43 25-1-98.

44 (e) "Temporary employment" means the employment of a
45 person in a temporary or time-limited position not to exceed
46 twelve (12) months.

47 (f) "Part-time employment" means the employment of a
48 person in a part-time position.

49 **SECTION 2.** Section 25-3-93, Mississippi Code of 1972, is
50 amended as follows:

51 25-3-93. (1) (a) Except as provided in subsection (1)(b),
52 all employees and appointed officers of the State of Mississippi,
53 who are employees as defined in Section 25-3-91, shall be allowed
54 credit for personal leave computed as follows:

55 Continuous	Accrual Rate	Accrual Rate
56 Service	(Monthly)	(Annually)
57 1 month to 3 years	12 hours per month	18 days per year
58 37 months to 8 years	14 hours per month	21 days per year
59 97 months to 15 years	16 hours per month	24 days per year
60 Over 15 years	18 hours per month	27 days per year

61 However, employees who were hired prior to July 1, 1984, who
62 have continuous service of more than five (5) years but not more

63 than eight (8) years shall accrue fifteen (15) hours of personal
64 leave each month.

65 (b) Faculty members employed by the eight (8) public
66 universities on a nine-month contract * * * and recipients of a
67 leave of absence granted by the appointing authority for one (1)
68 year or less, while on such leave, shall not be eligible for
69 personal leave.

70 (2) For the purpose of computing credit for personal leave,
71 each appointed officer or employee shall be considered to work not
72 more than five (5) days each week. Leaves of absence granted by
73 the appointing authority for one (1) year or less shall be
74 permitted without forfeiting previously accumulated continuous
75 service. The provisions of this section shall not apply to
76 military leaves of absence. The time for taking personal leave,
77 except when such leave is taken due to an illness, shall be
78 determined by the appointing authority of which such employees are
79 employed.

80 (3) For the purpose of Sections 25-3-91 through 25-3-99, the
81 earned personal leave of each employee shall be credited monthly
82 after the completion of each calendar month of service, and the
83 appointing authority shall not increase the amount of personal
84 leave to an employee's credit. It shall be unlawful for an
85 appointing authority to grant personal leave in an amount greater
86 than was earned and accumulated by the officer or employee.

87 (4) Employees are encouraged to use earned personal leave.
88 Personal leave may be used for vacations and personal business as
89 scheduled by the appointing authority and shall be used for
90 illnesses of the employee requiring absences of one (1) day or
91 less. Accrued personal or compensatory leave shall be used for
92 the first day of an employees illness requiring his absence of
93 more than one (1) day. Accrued personal or compensatory leave may
94 also be used for an illness in the employee's immediate family as
95 defined in Section 25-3-95. There shall be no limit to the

96 accumulation of personal leave. Upon termination of employment
97 each employee shall be paid for not more than thirty (30) days of
98 accumulated personal leave. Unused personal leave in excess of
99 thirty (30) days shall be counted as creditable service for the
100 purposes of the retirement system as provided in Sections
101 25-11-103 and 25-13-5.

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

106 (6) Any employee may donate a portion of his or her earned
107 personal leave to another employee who is suffering from a
108 catastrophic injury or illness, or to another employee who has a
109 member of his or her immediate family who is suffering from a
110 catastrophic injury or illness, in accordance with subsection (8)
111 of Section 25-3-95.

112 * * *

113 **SECTION 3.** Section 25-3-95, Mississippi Code of 1972, is
114 amended as follows:

115 25-3-95. (1) All employees and appointed officers of the
116 State of Mississippi, except * * * recipients of a leave of
117 absence granted by the appointing authority for one (1) year or
118 less, while on such leave, shall accrue credits for major medical
119 leave as follows:

120 Continuous	Accrual Rate	Accrual Rate
121 Service	(Monthly)	(Annually)
122 1 month to 3 years	8 hours per month	12 days per year
123 37 months to 8 years	7 hours per month	10.5 days per year
124 97 months to 15 years	6 hours per month	9 days per year
125 Over 15 years	5 hours per month	7.5 days per year

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

129	Continuous	Accrual Rate	Accrual Rate
130	Service	(Per Month)	(Per Academic Year)
131	1 month to 3 years	13-1/3 hours per month	15 days per
132			academic year
133	37 months to 8 years	14-1/5 hours per month	16 days per
134			academic year
135	97 months to 15 years	15-2/5 hours per month	17 days per
136			academic year
137	Over 15 years	16 hours per month	18 days per
138			academic year

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

144 (2) Major medical leave may be used for the illness or
145 injury of an employee or member of the employee's immediate family
146 as defined in subsection (3) of this section, only after the
147 employee has used one (1) day of accrued personal or compensatory
148 leave for each absence due to illness, or leave without pay if the
149 employee has no accrued personal or compensatory leave. Provided
150 that faculty members employed by the eight (8) public universities
151 on a nine-month basis may use major medical leave for the first
152 day of absence due to illness. However, major medical leave may
153 be used, without prior use of personal leave, to cover regularly
154 scheduled visits to a doctor's office or a hospital for the
155 continuing treatment of a chronic disease, as certified in advance
156 by a physician. For the purposes of this section, "physician"
157 means a doctor of medicine, osteopathy, dental medicine, podiatry
158 or chiropractic. For each absence due to illness of thirty-two
159 (32) consecutive working hours (combined personal leave and major
160 medical leave) major medical leave shall be authorized only when
161 certified by their attending physician.

162 (3) An employee may use up to three (3) days of earned major
 163 medical leave for each occurrence of death in the immediate family
 164 requiring the employee's absence from work. No qualifying time or
 165 use of personal leave will be required prior to use of major
 166 medical leave for this purpose. For the purpose of this
 167 subsection (3), the immediate family is defined as spouse, parent,
 168 stepparent, sibling, child, stepchild, grandchild, grandparent,
 169 son- or daughter-in-law, mother- or father-in-law or brother- or
 170 sister-in-law. Child means a biological, adopted or foster child,
 171 or a child for whom the individual stands or stood in loco
 172 parentis.

173 (4) Employees and appointed officers of the State of
 174 Mississippi having unused, accumulated sick leave or annual leave
 175 earned prior to July 1, 1984, shall be credited with major medical
 176 leave and personal leave as follows: All unused annual leave
 177 shall be credited as personal leave.

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

182 Sick Leave	Percentage	Percentage
183 Balance as of	Converted to	Converted to
184 June 30, 1984	Personal Leave	Major Medical Leave
185 1 - 200 hours	20%	80%
186 201 - 400 hours	25%	75%
187 401 - 600 hours	30%	70%
188 601 or more hours	35%	65%

189 (5) Upon retirement from active employment each faculty
 190 member of the state-supported public universities who is employed
 191 on a nine-month basis shall receive credit and be paid for not
 192 more than thirty (30) days of unused major medical leave for
 193 service as a state employee. Unused major medical leave in excess
 194 of thirty (30) days shall be counted as creditable service for the

195 purposes of the retirement system as provided in Sections
196 25-11-103 and 25-13-5.

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

201 (7) For the purpose of Sections 25-3-91 through 25-3-99, the
202 earned major medical leave of each employee shall be credited
203 monthly after the completion of each calendar month, and the
204 appointing authority shall not increase the amount of major
205 medical leave to an employee's credit. It shall be unlawful for
206 an appointing authority to grant major medical leave in an amount
207 greater than was earned and accumulated by the officer or
208 employee.

209 (8) Any employee may donate a portion of his or her earned
210 personal leave or major medical leave to another employee who is
211 suffering from a catastrophic injury or illness, as defined in
212 Section 25-3-91, or to another employee who has a member of his or
213 her immediate family who is suffering from a catastrophic injury
214 or illness, in accordance with the following:

215 (a) The employee donating the leave (the "donor
216 employee") shall designate the employee who is to receive the
217 leave (the "recipient employee") and the amount of earned personal
218 leave and major medical leave that is to be donated, and shall
219 notify the donor employee's appointing authority or supervisor of
220 his or her designation. The donor employee's appointing authority
221 or supervisor then shall notify the recipient employee's
222 appointing authority or supervisor of the amount of leave that has
223 been donated by the donor employee to the recipient employee.

224 (b) The maximum amount of earned personal leave that an
225 employee may donate to any other employee may not exceed a number
226 of days that would leave the donor employee with fewer than seven
227 (7) days of personal leave left, and the maximum amount of earned

228 major medical leave that an employee may donate to any other
229 employee may not exceed fifty percent (50%) of the earned major
230 medical leave of the donor employee. All donated leave shall be
231 in increments of not less than twenty-four (24) hours.

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

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

241 (e) If an employee is aggrieved by the decision of his
242 or her appointing authority that the employee is not eligible to
243 receive donated leave because the injury or illness of the
244 employee or member of the employee's immediate family is not, in
245 the appointing authority's determination, a catastrophic injury or
246 illness, the employee may appeal the decision to the employee
247 appeals board.

248 (f) Beginning on March 25, 2003, the maximum period of
249 time that an employee may use donated leave without resuming work
250 at his or her place of employment is ninety (90) days, which
251 commences on the first day that the recipient employee uses
252 donated leave. Donated leave that is not used because a recipient
253 employee has used the maximum amount of donated leave authorized
254 under this paragraph shall be returned to the donor employees in
255 the manner provided under paragraph (g) of this subsection.

256 (g) If the total amount of leave that is donated to any
257 employee is not used by the recipient employee, the donated leave
258 shall be returned to the donor employees on a pro rata basis,
259 based on the ratio of the number of days of leave donated by each

260 donor employee to the total number of days of leave donated by all
261 donor employees.

262 (h) The failure of any appointing authority or
263 supervisor of any employee to properly deduct an employee's
264 donation of leave to another employee from the donor employee's
265 earned personal leave or major medical leave shall constitute just
266 cause for the dismissal of the appointing authority or supervisor.

267 (i) No person through the use of coercion, threats or
268 intimidation shall require or attempt to require any employee to
269 donate his or her leave to another employee. Any person who
270 alleges a violation of this paragraph shall report the violation
271 to the executive head of the agency by whom he or she is employed
272 or, if the alleged violator is the executive head of the agency,
273 then the employee shall report the violation to the State
274 Personnel Board. Any person found to have violated this paragraph
275 shall be subject to removal from office or termination of
276 employment.

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

279 (k) Recipient employees of agencies with more than five
280 hundred (500) employees as of March 25, 2003, may receive donated
281 leave only from donor employees within the same agency. A
282 recipient employee in an agency with five hundred (500) or fewer
283 employees as of March 25, 2003, may receive donated leave from any
284 donor employee.

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

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

290 (ii) Have been employed for at least one thousand
291 two hundred fifty (1,250) hours of service with such employer

292 during the previous twelve-month period from the date on which the
293 leave is donated.

294 (m) Donated leave shall not be used in lieu of
295 disability retirement.

296 (n) For the purposes of this subsection, "immediate
297 family" means spouse, parent, stepparent, sibling, child or
298 stepchild.

299 * * *

300 **SECTION 4.** This act shall take effect and be in force from
301 and after July 1, 2005.