

By: Senator(s) Thames

To: Fees, Salaries and Administration

SENATE BILL NO. 2586

1 AN ACT TO AMEND SECTIONS 25-3-93 AND 25-3-95, MISSISSIPPI  
2 CODE OF 1972, TO DELETE THE REPEALER ON THE SECTIONS OF LAW WHICH  
3 REGULATE THE DONATION OF PERSONAL LEAVE BY PUBLIC OFFICERS AND  
4 EMPLOYEES; AND FOR RELATED PURPOSES.

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

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

8 25-3-93. (1) (a) Except as provided in subsection (1)(b),  
9 all employees and appointed officers of the State of Mississippi,  
10 who are employees as defined in Section 25-3-91, shall be allowed  
11 credit for personal leave computed as follows:

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

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

22 (b) Temporary employees who work less than a full  
23 workweek and part-time employees shall be allowed credit for  
24 personal leave computed on a pro rata basis. Faculty members  
25 employed by the eight (8) public universities on a nine-month  
26 contract, temporary employees of the public universities who work  
27 less than twenty (20) hours per week for a period of less than  
28 five (5) months during a fiscal year, and recipients of full-time

29 educational leave, while on such leave, shall not be eligible for  
30 personal leave.

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

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

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

61 purposes of the retirement system as provided in Sections  
62 25-11-103 and 25-13-5.

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

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

73 \* \* \*

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

76 25-3-95. (1) All employees and appointed officers of the  
77 State of Mississippi, except temporary employees of the public  
78 universities who work less than twenty (20) hours per week for a  
79 period of less than five (5) months during a fiscal year and  
80 recipients of full-time educational leave, while on such leave,  
81 shall accrue credits for major medical leave as follows:

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

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

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

94			academic year
95	37 months to 8 years	14-1/5 hours per month	16 days per
96			academic year
97	97 months to 15 years	15-2/5 hours per month	17 days per
98			academic year
99	Over 15 years	16 hours per month	18 days per
100			academic year

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



256                   (m) Donated leave shall not be used in lieu of  
257 disability retirement.

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

261       \* \* \*

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