

By: Representative Yancey

To: Accountability,  
Efficiency, Transparency

HOUSE BILL NO. 985

1 AN ACT TO AMEND SECTION 25-3-95, MISSISSIPPI CODE OF 1972, TO  
2 AUTHORIZE STATE EMPLOYEES TO USE MAJOR MEDICAL LEAVE FOR THEIR  
3 MENTAL HEALTH CARE OR TREATMENT WITH A PSYCHIATRIST, PSYCHOLOGIST  
4 OR LICENSED PROFESSIONAL COUNSELOR, SUBJECT TO THE SAME PROVISIONS  
5 THAT APPLY TO THE USE OF MAJOR MEDICAL LEAVE AND PERSONAL LEAVE  
6 FOR THE ILLNESS OF EMPLOYEES; AND FOR RELATED PURPOSES.

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

8 **SECTION 1.** Section 25-3-95, Mississippi Code of 1972, is  
9 amended as follows:

10 25-3-95. (1) All employees and appointed officers of the  
11 State of Mississippi, except employees of the public universities  
12 who do not contribute to the Mississippi Public Employees'  
13 Retirement System or the State Institutions of Higher Learning  
14 Optional Retirement Program, shall accrue credits for major  
15 medical leave as follows:

16	Continuous	Accrual Rate	Accrual Rate
17	Service	(Monthly)	(Annually)
18	1 month to 3 years	8 hours per month	12 days per year
19	37 months to 8 years	7 hours per month	10.5 days per year
20	97 months to 15 years	6 hours per month	9 days per year



21 Over 15 years                      5 hours per month        7.5 days per year  
22        Faculty members employed by the eight (8) public universities  
23 on a nine-month contract shall accrue credit for major medical  
24 leave as follows:

25	Continuous	Accrual Rate	Accrual Rate
26	Service	(Per Month)	(Per Academic Year)
27	1 month to 3 years	13-1/3 hours per month	15 days per
28			academic year
29	37 months to 8 years	14-1/5 hours per month	16 days per
30			academic year
31	97 months to 15 years	15-2/5 hours per month	17 days per
32			academic year
33	Over 15 years	16 hours per month	18 days per
34			academic year

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

40        (2) (a) Major medical leave may be used for the illness or  
41 injury of an employee or member of the employee's immediate family  
42 as defined in subsection (3) of this section, only after the  
43 employee has used one (1) day of accrued personal or compensatory  
44 leave for each absence due to illness, or leave without pay if the  
45 employee has no accrued personal or compensatory leave; provided



46 that faculty members employed by the eight (8) public universities  
47 on a nine-month basis may use major medical leave for the first  
48 day of absence due to illness. However, major medical leave may  
49 be used, without prior use of personal leave, to cover regularly  
50 scheduled visits to a doctor's office or a hospital for the  
51 continuing treatment of a chronic disease, as certified in advance  
52 by a physician. For the purposes of this section, "physician"  
53 means a doctor of medicine, osteopathy, dental medicine, podiatry  
54 or chiropractic. For each absence due to illness of thirty-two  
55 (32) consecutive working hours (combined personal leave and major  
56 medical leave), major medical leave shall be authorized only when  
57 certified by their attending physician. Major medical leave also  
58 may be used by an employee for his or her mental health care or  
59 treatment with a psychiatrist, psychologist or licensed  
60 professional counselor, subject to the same provisions in this  
61 paragraph (a) and in Section 25-3-93(4) that apply to the use of  
62 major medical leave and personal leave for the illness of the  
63 employee.

64 (b) When an employee's absence is due to a work-related  
65 injury for which the employee is receiving temporary disability  
66 benefits under Section 71-3-17(b) or 71-3-21, the injured employee  
67 shall not use accrued personal and/or medical leave and receive  
68 workers' compensation benefits simultaneously if the combined  
69 receipt of both benefits results in the employee being paid, while  
70 absent due to the work-related injury, a total amount that exceeds



71 one hundred percent (100%) of his wages earned in state employment  
72 at the time of injury. In such cases, the injured employee may  
73 use only as much of his accrued personal and/or medical leave as  
74 necessary, which may be fewer than eight (8) hours of accrued  
75 personal and/or major medical leave in a day, to constitute the  
76 difference between the amount of temporary disability workers'  
77 compensation benefits received and one hundred percent (100%) of  
78 his wages earned at the time of injury in state employment. It is  
79 the intent of the Legislature that no state employee who is absent  
80 and disabled from work due to a work-related injury shall receive  
81 more than one hundred percent (100%) of his wages earned in state  
82 employment at the time of injury through the use of accrued  
83 personal and/or medical leave combined with temporary disability  
84 benefits under the Workers' Compensation Law. The procedure for  
85 implementing this paragraph (b) shall be as directed by the  
86 applicable appointing authority. The receipt or payment of  
87 benefits in compliance with this paragraph (b) shall be considered  
88 the employee's exclusive remedy against the employer in accordance  
89 with Section 71-3-9.

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



96 stepparent, sibling, child, stepchild, grandchild, grandparent,  
97 son- or daughter-in-law, mother- or father-in-law or brother- or  
98 sister-in-law. Child means a biological, adopted or foster child,  
99 or a child for whom the individual stands or stood in loco  
100 parentis.

101 (4) Employees and appointed officers of the State of  
102 Mississippi having unused, accumulated sick leave or annual leave  
103 earned prior to July 1, 1984, shall be credited with major medical  
104 leave and personal leave as follows: All unused annual leave  
105 shall be credited as personal leave.

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

110 Sick Leave	Percentage	Percentage
111 Balance as of	Converted to	Converted to
112 June 30, 1984	Personal Leave	Major Medical Leave
113 1 - 200 hours	20%	80%
114 201 - 400 hours	25%	75%
115 401 - 600 hours	30%	70%
116 601 or more hours	35%	65%

117 (5) Upon retirement from active employment, each faculty  
118 member of the state-supported public universities who is employed  
119 on a nine-month basis shall receive credit and be paid for not  
120 more than thirty (30) days of unused major medical leave for



121 service as a state employee. Unused major medical leave in excess  
122 of thirty (30) days shall be counted as creditable service for the  
123 purposes of the retirement system as provided in Sections  
124 25-11-103 and 25-13-5.

125 (6) Any state law enforcement officer who is injured by  
126 wound or accident in the line of duty shall not be required to use  
127 earned major medical leave during the period of recovery from such  
128 injury. As used in this subsection, the term "state law  
129 enforcement officer" means a person employed by a state agency  
130 who, as a condition of his or her employment, is required by law  
131 to complete a course of study at the Law Enforcement Officers  
132 Training Academy.

133 (7) For the purpose of Sections 25-3-91 through 25-3-99, the  
134 earned major medical leave of each employee shall be credited  
135 monthly after the completion of each calendar month, and the  
136 appointing authority shall not increase the amount of major  
137 medical leave to an employee's credit. It shall be unlawful for  
138 an appointing authority to grant major medical leave in an amount  
139 greater than was earned and accumulated by the officer or  
140 employee.

141 (8) Any employee may donate a portion of his or her earned  
142 personal leave or major medical leave to another employee who is  
143 suffering from a catastrophic injury or illness, as defined in  
144 Section 25-3-91, or to another employee who has a member of his or



145 her immediate family who is suffering from a catastrophic injury  
146 or illness, in accordance with the following:

147 (a) The employee donating the leave (the "donor  
148 employee") shall designate the employee who is to receive the  
149 leave (the "recipient employee") and the amount of earned personal  
150 leave and major medical leave that is to be donated, and shall  
151 notify the donor employee's appointing authority or supervisor of  
152 his or her designation. The donor employee's appointing authority  
153 or supervisor then shall notify the recipient employee's  
154 appointing authority or supervisor of the amount of leave that has  
155 been donated by the donor employee to the recipient employee.

156 (b) The maximum amount of earned personal leave that an  
157 employee may donate to any other employee may not exceed a number  
158 of days that would leave the donor employee with fewer than seven  
159 (7) days of personal leave left, and the maximum amount of earned  
160 major medical leave that an employee may donate to any other  
161 employee may not exceed fifty percent (50%) of the earned major  
162 medical leave of the donor employee. All donated leave shall be  
163 in increments of not less than twenty-four (24) hours.

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

167 (d) Before an employee may receive donated leave, he or  
168 she must provide his or her appointing authority or supervisor  
169 with a physician's statement that states the beginning date of the



170 catastrophic injury or illness, a description of the injury or  
171 illness, and a prognosis for recovery and the anticipated date  
172 that the recipient employee will be able to return to work.

173 (e) If an employee is aggrieved by the decision of his  
174 or her appointing authority that the employee is not eligible to  
175 receive donated leave because the injury or illness of the  
176 employee or member of the employee's immediate family is not, in  
177 the appointing authority's determination, a catastrophic injury or  
178 illness, the employee may appeal the decision to the employee  
179 appeals board.

180 (f) Beginning on March 25, 2003, the maximum period of  
181 time that an employee may use donated leave without resuming work  
182 at his or her place of employment is ninety (90) days, which  
183 commences on the first day that the recipient employee uses  
184 donated leave. Donated leave that is not used because a recipient  
185 employee has used the maximum amount of donated leave authorized  
186 under this paragraph shall be returned to the donor employees in  
187 the manner provided under paragraph (g) of this subsection.

188 (g) If the total amount of leave that is donated to any  
189 employee is not used by the recipient employee, the donated leave  
190 shall be returned to the donor employees on a pro rata basis,  
191 based on the ratio of the number of days of leave donated by each  
192 donor employee to the total number of days of leave donated by all  
193 donor employees.





194           (h) The failure of any appointing authority or  
195 supervisor of any employee to properly deduct an employee's  
196 donation of leave to another employee from the donor employee's  
197 earned personal leave or major medical leave shall constitute just  
198 cause for the dismissal of the appointing authority or supervisor.

199           (i) No person through the use of coercion, threats or  
200 intimidation shall require or attempt to require any employee to  
201 donate his or her leave to another employee. Any person who  
202 alleges a violation of this paragraph shall report the violation  
203 to the executive head of the agency by whom he or she is employed  
204 or, if the alleged violator is the executive head of the agency,  
205 then the employee shall report the violation to the State  
206 Personnel Board. Any person found to have violated this paragraph  
207 shall be subject to removal from office or termination of  
208 employment.

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

211           (k) Recipient employees of agencies with more than five  
212 hundred (500) employees as of March 25, 2003, may receive donated  
213 leave only from donor employees within the same agency. A  
214 recipient employee in an agency with five hundred (500) or fewer  
215 employees as of March 25, 2003, may receive donated leave from any  
216 donor employee.

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



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

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

226 (m) Donated leave shall not be used in lieu of  
227 disability retirement.

228 (n) For the purposes of this subsection, "immediate  
229 family" means spouse, parent, stepparent, sibling, child or  
230 stepchild.

231 (9) An employee may use up to six (6) weeks of earned major  
232 medical leave for the placement with the employee of a child for  
233 adoption or foster care and to care for the newly placed child  
234 within one (1) year of placement.

235 **SECTION 2.** This act shall take effect and be in force from  
236 and after July 1, 2024.

