

By: Representatives Young, Barnett (92nd)

To: Universities and Colleges

HOUSE BILL NO. 998

1 AN ACT TO AMEND SECTION 37-101-291, MISSISSIPPI CODE OF 1972,
2 TO REDUCE THE PERIOD OF TIME THAT A HEALTH CARE PROFESSIONAL MUST
3 RENDER SERVICE IN A STATE HEALTH INSTITUTION IN EXCHANGE FOR PAID
4 EDUCATIONAL LEAVE, TO AUTHORIZE STATE HEALTH INSTITUTIONS TO
5 CONTRACT WITH COLLECTION AGENCIES AND BANKS FOR UNPAID BALANCES
6 UNDER THE PROGRAM OF PAID EDUCATIONAL LEAVE, AND TO AUTHORIZE THE
7 REVOCATION OF THE PROFESSIONAL LICENSE OF DEFAULTING PARTICIPANTS;
8 AND FOR RELATED PURPOSES.

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

10 **SECTION 1.** Section 37-101-291, Mississippi Code of 1972, is
11 amended as follows:

12 37-101-291. (1) In order to help alleviate the problem of
13 the shortage of health care professionals at the state health
14 institutions, there is * * * established a program of paid
15 educational leave for the study of such health care professions as
16 defined in Section 37-101-285 and licensed practical nursing by
17 any employee who works at a state health institution and who
18 declares an intention to work in such respective health care
19 occupation in the same state health institution in which the
20 employee was working when * * * granted educational leave, for a
21 minimum period of time after graduation.

22 (2) The paid educational leave program shall be administered
23 by the respective state health institutions.

24 (3) (a) Within the limits of the funds available to a state
25 health institution for such purpose, the institution may grant
26 paid educational leave to those applicants deemed qualified
27 therefor, upon such terms and conditions as it may impose and as
28 provided for in this section.

29 (b) In order to be eligible for paid educational leave,
30 an applicant must:



31 (i) Be working at a state health institution at
32 the time of application;

33 (ii) Attend any college or school approved and
34 designated by the state health institution; and

35 (iii) Agree to work in a health care profession as
36 defined in Section 37-101-285 or as a licensed practical nurse in
37 the same state health institution for a period of time equivalent
38 to the period of time for which the applicant receives paid
39 educational leave compensation, calculated to the nearest whole
40 month, but in no event less than two (2) years.

41 (c) (i) Before being granted paid educational leave,
42 each applicant shall enter into a contract with the state health
43 institution, which shall be deemed a contract with the State of
44 Mississippi, agreeing to the terms and conditions upon which the
45 paid educational leave shall be granted to him. The contract
46 shall include such terms and provisions necessary to carry out the
47 full purpose and intent of this section. The form of such
48 contract shall be prepared and approved by the Attorney General of
49 this state, and shall be signed by the executive director of the
50 respective state health institution and the recipient. If the
51 recipient is a minor, his minority disabilities shall be removed
52 by a chancery court of competent jurisdiction before the contract
53 is signed.

54 (ii) The state health institution shall have the
55 authority to cancel any contract made between it and any recipient
56 for paid educational leave upon such cause being deemed sufficient
57 by the executive director of such institution.

58 (iii) The state health institution is vested with
59 full and complete authority and power to sue in its own name any
60 recipient for any balance due the state on any such uncompleted
61 contract, which suit shall be filed and handled by the Attorney
62 General of the state. The state health institution may contract
63 with a collection agency or banking institution, subject to



64 approval by the Attorney General, for collection of any balance
65 due the state from any recipient. The State of Mississippi,
66 agencies of the state and the state health institution and its
67 employees are immune from any suit brought in law or equity for
68 actions taken by the collection agency or banking institution
69 incidental to or arising from their performance under the
70 contract. The state health institution, collection agency and
71 banking institution may negotiate for the payment of a sum that is
72 less than full payment in order to satisfy any balance the
73 recipient owes the state, subject to approval by the facility
74 director of the sponsoring facility within the state health
75 institution.

76 (iv) Failure to meet the terms of an educational
77 loan contract shall be grounds for revocation of the professional
78 license which was earned through the paid educational leave
79 compensation granted under this section.

80 (v) A finding * * * by the sponsoring agency of a
81 default by the recipient shall be a finding of unprofessional
82 conduct and therefore, a basis for the revocation of the
83 professional license which was obtained through the educational
84 leave program. The finding also will be grounds for revocation of
85 any license, as defined by Section 93-11-153.

86 (vi) Notice of pending default status shall be
87 mailed to the recipient at the last known address by the
88 sponsoring agency.

89 (vii) The sponsoring agency shall conduct a
90 hearing of pending default status, make a final determination, and
91 issue an Order of Default, if appropriate.

92 (viii) Recipients may appear either personally or
93 by counsel, or both, and produce and cross-examine witnesses or
94 evidence in the recipient's behalf. The procedure of the hearing
95 shall not be bound by the Mississippi Rules of Civil Procedure and
96 Evidence.



97 (ix) If a recipient is found to be in default, a
98 copy of an Order of Default shall be forwarded to the appropriate
99 licensing agency.

100 (x) Appeals from a finding of default by the
101 sponsoring agency shall be to the Circuit Court of Hinds County.
102 Actions taken by a licensing entity in revoking a license when
103 required by this section are not actions from which an appeal may
104 be taken under the general licensing and disciplinary provisions
105 applicable to the licensing agency.

106 (xi) Rules and regulations governing hearing and
107 other applicable matters shall be promulgated by the sponsoring
108 agency.

109 (xii) A license which has been revoked pursuant to
110 this statute shall be reinstated upon a showing of proof that the
111 recipient is no longer in default.

112 (4) (a) Any recipient who is granted paid educational leave
113 by a state health institution shall be compensated by the
114 institution during the time the recipient is in school, at the
115 rate of pay received by a nurse's aide employed at the respective
116 state health institution. All educational leave compensation
117 received by the recipient while in school shall be considered
118 earned conditioned upon the fulfillment of the terms and
119 obligations of the educational leave contract and this section.

120 However, no recipient of full-time educational leave shall accrue
121 personal or major medical leave while the recipient is on paid
122 educational leave. Recipients of paid educational leave shall be
123 responsible for their individual costs of tuition and books.

124 (b) Paid educational leave shall be granted only upon
125 the following conditions:

126 (i) The recipient shall fulfill his or her
127 obligation under the contract with the State of Mississippi by
128 working as a professional in a health care profession defined in
129 Section 37-101-285 or as a licensed practical nurse in a state



130 health institution; a recipient sponsored by a health institution
131 under the supervision of the Mississippi Department of Mental
132 Health may fulfill his or her obligation under the contract with
133 the State of Mississippi at another health institution under the
134 supervision of the Mississippi Department of Mental Health with
135 prior written approval of the Director of the Department of Mental
136 Health institution with which he or she originally contracted for
137 educational leave. * * * The total compensation that the
138 recipient was paid while on educational leave shall be considered
139 as unconditionally earned on an annual pro rata basis for each
140 year of service rendered under the educational leave contract as a
141 health care professional in his respective state health
142 institution.

143 (ii) If the recipient does not work as a
144 professional in a health care profession as defined in Section
145 37-101-285 or as a licensed practical nurse in his respective
146 state health institution for the period required under subsection
147 (3)(b)(iii) of this section, the recipient shall be liable for
148 repayment on demand of the remaining portion of the compensation
149 that the recipient was paid while on paid educational leave which
150 has not been unconditionally earned, with interest accruing at ten
151 percent (10%) per annum from the recipient's date of graduation or
152 the date that the recipient last worked at that state health
153 institution, whichever is the later date. In addition, there
154 shall be included in any contract for paid educational leave a
155 provision for liquidated damages equal to Five Thousand Dollars
156 (\$5,000.00) which may be reduced on a pro rata basis for each year
157 served under such contract.

158 (iii) If any recipient fails or withdraws from
159 school at any time before completing his or her health care
160 training, the recipient shall be liable for repayment on demand of
161 the amount of the total compensation that the recipient was paid
162 while on paid educational leave, with interest accruing at ten



163 percent (10%) per annum from the date the recipient failed or
164 withdrew from school. However, the recipient shall not be liable
165 for liquidated damages, and if the recipient returns to work in
166 the same position * * * held in the same state health institution
167 prior to accepting educational leave, the recipient shall not be
168 liable for payment of any interest on the amount owed.

169 (iv) The issuance and renewal of the professional
170 license required to work in a health care profession as defined in
171 Section 37-101-285 for which the educational leave was granted
172 shall be contingent upon the repayment of the total compensation
173 that the recipient received while on paid educational leave. No
174 license shall be granted until a contract for repayment is
175 executed. No license shall be renewed without proof of an
176 existing contract which is not in default. Failure to meet the
177 terms of an educational loan contract shall be grounds for
178 revocation of the professional license which was earned through
179 the paid educational leave compensation granted under this
180 section. Any person who receives any amount of paid educational
181 leave compensation while in school and subsequently receives a
182 professional license shall be deemed to have earned the
183 professional license through paid educational leave.

184 (v) The obligations of educational leave
185 recipients under contracts entered into before July 1, 2002, shall
186 remain unchanged. However, state health institutions may use the
187 collection and license revocation provisions of this section to
188 collect money owed under all educational leave contracts,
189 regardless of when those contracts were executed.

190 **SECTION 2.** This act shall take effect and be in force from
191 and after July 1, 2002.

