AN ACT TO AMEND SECTION 37-101-291, MISSISSIPPI CODE OF 1972, TO REDUCE THE PERIOD OF TIME THAT A HEALTH CARE PROFESSIONAL MUST RENDER SERVICE IN A STATE HEALTH INSTITUTION IN EXCHANGE FOR PAID EDUCATIONAL LEAVE, TO AUTHORIZE STATE HEALTH INSTITUTIONS TO CONTRACT WITH COLLECTION AGENCIES AND BANKS FOR UNPAID BALANCES UNDER THE PROGRAM OF PAID EDUCATIONAL LEAVE, AND TO AUTHORIZE THE REVOCATION OF THE PROFESSIONAL LICENSE OF DEFAULTING PARTICIPANTS; TO CODIFY SECTION 37-101-292, MISSISSIPPI CODE OF 1972, TO ESTABLISH A PAID EDUCATIONAL LEAVE PROGRAM FOR EMPLOYEES OF THE MISSISSIPPI DEPARTMENT OF TRANSPORTATION TO PURSUE UNDERGRADUATE OR GRADUATE DEGREES IN CIVIL ENGINEERING IN EXCHANGE FOR CONTINUED EMPLOYMENT AS PROFESSIONAL ENGINEERS IN THE DEPARTMENT; TO PROVIDE FOR LIQUIDATED DAMAGES AND LICENSE SUPPRESSION IN THE EVENT OF DEFAULT BY AN APPLICANT FOR SUCH PAID EDUCATIONAL LEAVE, AND FOR RELATED PURPOSES.

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

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

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

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

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

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

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

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

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

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

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

(iii) The state health institution is vested with full and complete authority and power to sue in its own name any

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recipient for any balance due the state on any such uncompleted contract, which suit shall be filed and handled by the Attorney General of the state. The state health institution may contract with a collection agency or banking institution, subject to approval by the Attorney General, for collection of any balance due the state from any recipient. The State of Mississippi, agencies of the state and the state health institution and its employees are immune from any suit brought in law or equity for actions taken by the collection agency or banking institution incidental to or arising from their performance under the contract. The state health institution, collection agency and banking institution may negotiate for the payment of a sum that is less than full payment in order to satisfy any balance the recipient owes the state, subject to approval by the facility director of the sponsoring facility within the state health institution.

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

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

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

(vii) The sponsoring agency shall conduct a hearing of pending default status, make a final determination, and issue an Order of Default, if appropriate.
(viii) Recipients may appear either personally or by counsel, or both, and produce and cross-examine witnesses or evidence in the recipient's behalf. The procedure of the hearing shall not be bound by the Mississippi Rules of Civil Procedure and Evidence.

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

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

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

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

4 (a) Any recipient who is granted paid educational leave by a state health institution shall be compensated by the institution during the time the recipient is in school, at the rate of pay received by a nurse's aide employed at the respective state health institution. All educational leave compensation received by the recipient while in school shall be considered earned conditioned upon the fulfillment of the terms and obligations of the educational leave contract and this section. However, no recipient of full-time educational leave shall accrue personal or major medical leave while the recipient is on paid educational leave. Recipients of paid educational leave shall be responsible for their individual costs of tuition and books.
(b) Paid educational leave shall be granted only upon the following conditions:

(i) The recipient shall fulfill his or her obligation under the contract with the State of Mississippi by working as a professional in a health care profession defined in Section 37-101-285 or as a licensed practical nurse in a state health institution; a recipient sponsored by a health institution under the supervision of the Mississippi Department of Mental Health may fulfill his or her obligation under the contract with the State of Mississippi at another health institution under the supervision of the Mississippi Department of Mental Health with prior written approval of the Director of the Department of Mental Health institution with which he or she originally contracted for educational leave. * * * The total compensation that the recipient was paid while on educational leave shall be considered as unconditionally earned on an annual pro rata basis for each year of service rendered under the educational leave contract as a health care professional in his respective state health institution.

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

(iii) If any recipient fails or withdraws from
school at any time before completing his or her health care
training, the recipient shall be liable for repayment on demand of
the amount of the total compensation that the recipient was paid
while on paid educational leave, with interest accruing at ten
percent (10%) per annum from the date the recipient failed or
withdrew from school. However, the recipient shall not be liable
for liquidated damages, and if the recipient returns to work in
the same position * * * held in the same state health institution
prior to accepting educational leave, the recipient shall not be
liable for payment of any interest on the amount owed.

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

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

SECTION 2. The following provision shall be codified as Section 37-101-292, Mississippi Code of 1972:

37-101-292. (1) Within the limits of the funds available to the Mississippi Department of Transportation for such purpose, the Executive Director of the Mississippi Department of Transportation may grant paid educational leave on a part-time or full-time basis and reimburse employees for educational expenses such as tuition, books and related fees to pursue junior or senior undergraduate level year coursework toward a Bachelor's Degree in Civil Engineering or graduate level coursework toward a Master's Degree in Civil Engineering to those applicants deemed qualified. It is the intent of the Legislature that such educational leave program shall be used as an incentive for employees to develop job-related skills and to develop employees for higher-level professional and management positions.

(2) In order to be eligible for paid educational leave, reimbursement for education expenses or both, an applicant must:

(a) Be working at the Mississippi Department of Transportation at the time of application;
(b) Attend any college or school approved and designated by the Mississippi Department of Transportation; and
(c) Agree to work as a civil engineer at the Mississippi Department of Transportation for a period of time equivalent to the period of time for which the applicant receives paid educational leave compensation, calculated to the nearest whole month, but in no event less than two (2) years.

(3) (a) Before being granted paid educational leave, each applicant shall enter into a contract with the Mississippi Department of Transportation, which shall be deemed a contract with the State of Mississippi, agreeing to the terms and conditions upon which the paid educational leave shall be granted.
to him. The contract shall include such terms and provisions necessary to carry out the full purpose and intent of this section. The form of such contract shall be prepared and approved by the Attorney General of this state, and shall be signed by the Executive Director of the Mississippi Department of Transportation and the recipient. If the recipient is a minor, his minority disabilities shall be removed by a chancery court of competent jurisdiction before the contract is signed.

(b) The Mississippi Department of Transportation shall have the authority to cancel any contract made between it and any recipient for paid educational leave upon such cause being deemed sufficient by the executive director.

(c) The Mississippi Department of Transportation is vested with full and complete authority and power to sue in its own name any recipient for any balance due the state on any such uncompleted contract, which suit shall be filed and handled by the Attorney General of the state. The Mississippi Department of Transportation may contract with a collection agency or banking institution, subject to approval by the Attorney General, for collection of any balance due the state from any recipient. The State of Mississippi, the Mississippi Department of Transportation and its employees are immune from any suit brought in law or equity for actions taken by the collection agency or banking institution incidental to or arising from their performance under the contract. The Mississippi Department of Transportation, collection agency and banking institution may negotiate for the payment of a sum that is less than full payment in order to satisfy any balance the recipient owes the state, subject to approval by the director of the sponsoring facility within the Mississippi Department of Transportation.

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

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

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

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

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

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

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

(k) Rules and regulations governing hearing and other
applicable matters shall be promulgated by the sponsoring agency.

(l) A license which has been revoked pursuant to this
statute shall be reinstated upon a showing of proof that the
recipient is no longer in default.
(4) (a) Any recipient who is granted paid educational leave by the Mississippi Department of Transportation shall be compensated by the institution during the time the recipient is in school, at the rate of pay received by the employee at the Mississippi Department of Transportation. All educational leave compensation received by the recipient while in school shall be considered earned conditioned upon the fulfillment of the terms and obligations of the educational leave contract and this section. However, no recipient of full-time educational leave shall accrue personal or major medical leave while the recipient is on paid educational leave.

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

(i) The recipient shall fulfill his or her obligation under the contract with the State of Mississippi by working as a civil engineer at the Mississippi Department of Transportation. The total compensation that the recipient was paid while on educational leave shall be considered as unconditionally earned on an annual pro rata basis for each year of service rendered under the educational leave contract as a civil engineer at the Mississippi Department of Transportation.

(ii) If the recipient does not work as a civil engineer at the Mississippi Department of Transportation for the period required under subsection (2)(c) of this section, the recipient shall be liable for repayment on demand of the remaining portion of the compensation that the recipient was paid while on paid educational leave which has not been unconditionally earned, with interest accruing at ten percent (10%) per annum from the recipient's date of graduation or the date that the recipient last worked at the Mississippi Department of Transportation, whichever is the later date. In addition, there shall be included in any contract for paid educational leave a provision for liquidated damages equal to Five Thousand Dollars ($5,000.00) which may be
reduced on a pro rata basis for each year served under such contract.

(iii) If any recipient fails or withdraws from school at any time before completing his or her engineering education, the recipient shall be liable for repayment on demand of the amount of the total compensation that the recipient was paid while on paid educational leave, with interest accruing at ten percent (10%) per annum from the date the recipient failed or withdrew from school. However, the recipient shall not be liable for liquidated damages, and if the recipient returns to work in the same position held in the Mississippi Department of Transportation prior to accepting educational leave, the recipient shall not be liable for payment of any interest on the amount owed.

(iv) The issuance and renewal of the professional license required to work as a professional engineer for which the educational leave was granted shall be contingent upon the repayment of the total compensation that the recipient received while on paid educational leave. No license shall be granted until a contract for repayment is executed. No license shall be renewed without proof of an existing contract which is not in default. Failure to meet the terms of an educational loan contract shall be grounds for revocation of the professional license which was earned through the paid educational leave compensation granted under this section. Any person who receives any amount of paid educational leave compensation while in school and subsequently receives a professional license shall be deemed to have earned the professional license through paid educational leave.

SECTION 3. This act shall take effect and be in force from and after July 1, 2002.