

**\*\*\*Adopted\*\*\***

**AMENDMENT No. 1 PROPOSED TO**

**Senate Bill NO. 2691**

**By Representative(s) Committee**

**Amend by striking all after the enacting clause and inserting  
in lieu thereof the following:**

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 or 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.

**Further, amend by striking the title in its entirety and  
inserting in lieu thereof the following:**

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.