

*****Adopted*****

AMENDMENT No. 1 PROPOSED TO

House Bill NO. 998

By Senator(s) Committee

1 **AMEND** by inserting the following after line 189 and renumber
2 **succeeding section(s) accordingly:**

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

5 37-101-292. (1) Within the limits of the funds available to
6 the Mississippi Department of Transportation for such purpose, the
7 Executive Director of the Mississippi Department of Transportation
8 may grant paid educational leave on a part-time or full-time basis
9 and reimburse employees for educational expenses such as tuition,
10 books and related fees to pursue junior or senior undergraduate
11 level year coursework toward a Bachelor's Degree in Civil
12 Engineering or graduate level coursework toward a Master's Degree
13 in Civil Engineering to those applicants deemed qualified. It is
14 the intent of the Legislature that such educational leave program
15 shall be used as an incentive for employees to develop job-related
16 skills and to develop employees for higher-level professional and
17 management positions.

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

20 (a) Be working at the Mississippi Department of
21 Transportation at the time of application;

22 (b) Attend any college or school approved and
23 designated by the Mississippi Department of Transportation; and

24 (c) Agree to work as a civil engineer at the
25 Mississippi Department of Transportation for a period of time
26 equivalent to the period of time for which the applicant receives
27 paid educational leave compensation, calculated to the nearest
28 whole month, but in no event less than two (2) years.

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

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

46 (c) The Mississippi Department of Transportation is
47 vested with full and complete authority and power to sue in its
48 own name any recipient for any balance due the state on any such
49 uncompleted contract, which suit shall be filed and handled by the
50 Attorney General of the state. The Mississippi Department of
51 Transportation may contract with a collection agency or banking
52 institution, subject to approval by the Attorney General, for
53 collection of any balance due the state from any recipient. The
54 State of Mississippi, the Mississippi Department of Transportation
55 and its employees are immune from any suit brought in law or
56 equity for actions taken by the collection agency or banking
57 institution incidental to or arising from their performance under
58 the contract. The Mississippi Department of Transportation,

59 collection agency and banking institution may negotiate for the
60 payment of a sum that is less than full payment in order to
61 satisfy any balance the recipient owes the state, subject to
62 approval by the director of the sponsoring facility within the
63 Mississippi Department of Transportation.

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

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

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

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

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

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

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

93 (k) Rules and regulations governing hearing and other

94 applicable matters shall be promulgated by the sponsoring agency.

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

98 (4) (a) Any recipient who is granted paid educational leave
99 by the Mississippi Department of Transportation shall be
100 compensated by the institution during the time the recipient is in
101 school, at the rate of pay received by the employee at the
102 Mississippi Department of Transportation. All educational leave
103 compensation received by the recipient while in school shall be
104 considered earned conditioned upon the fulfillment of the terms
105 and obligations of the educational leave contract and this
106 section. However, no recipient of full-time educational leave
107 shall accrue personal or major medical leave while the recipient
108 is on paid educational leave.

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

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

119 (ii) If the recipient does not work as a civil
120 engineer at the Mississippi Department of Transportation for the
121 period required under subsection (2)(c) of this section, the
122 recipient shall be liable for repayment on demand of the remaining
123 portion of the compensation that the recipient was paid while on
124 paid educational leave which has not been unconditionally earned,
125 with interest accruing at ten percent (10%) per annum from the
126 recipient's date of graduation or the date that the recipient last
127 worked at the Mississippi Department of Transportation, whichever
128 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.

FURTHER, AMEND the title by inserting the following after the semicolon on line 7:

TO CODIFY SECTION 37-101-292, MISSISSIPPI CODE OF 1972, TO ESTABLISH A PAID EDUCATIONAL LEAVE PROGRAM FOR EMPLOYEES OF THE

164 MISSISSIPPI DEPARTMENT OF TRANSPORTATION TO PURSUE UNDERGRADUATE
165 OR GRADUATE DEGREES IN CIVIL ENGINEERING IN EXCHANGE FOR CONTINUED
166 EMPLOYMENT AS PROFESSIONAL ENGINEERS IN THE DEPARTMENT; TO PROVIDE
167 FOR LIQUIDATED DAMAGES AND LICENSE SUPPRESSION IN THE EVENT OF
168 DEFAULT BY AN APPLICANT FOR SUCH PAID EDUCATIONAL LEAVE;