

By: Representatives Young, Barnett (92nd)

To: Universities and Colleges

HOUSE BILL NO. 998  
(As Sent to Governor)

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 TO CODIFY SECTION 37-101-292, MISSISSIPPI CODE OF 1972, TO  
9 ESTABLISH A PAID EDUCATIONAL LEAVE PROGRAM FOR EMPLOYEES OF THE  
10 MISSISSIPPI DEPARTMENT OF TRANSPORTATION TO PURSUE UNDERGRADUATE  
11 OR GRADUATE DEGREES IN CIVIL ENGINEERING IN EXCHANGE FOR CONTINUED  
12 EMPLOYMENT AS PROFESSIONAL ENGINEERS IN THE DEPARTMENT; TO PROVIDE  
13 FOR LIQUIDATED DAMAGES AND LICENSE SUPPRESSION IN THE EVENT OF  
14 DEFAULT BY AN APPLICANT FOR SUCH PAID EDUCATIONAL LEAVE; AND FOR  
15 RELATED PURPOSES.

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

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

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

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

31 (3) (a) Within the limits of the funds available to a state  
32 health institution for such purpose, the institution may grant  
33 paid educational leave to those applicants deemed qualified



34 therefor, upon such terms and conditions as it may impose and as  
35 provided for in this section.

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

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

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

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

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

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

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



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

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

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

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

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



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

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

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

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

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

119 (4) (a) Any recipient who is granted paid educational leave  
120 by a state health institution shall be compensated by the  
121 institution during the time the recipient is in school, at the  
122 rate of pay received by a nurse's aide employed at the respective  
123 state health institution. All educational leave compensation  
124 received by the recipient while in school shall be considered  
125 earned conditioned upon the fulfillment of the terms and  
126 obligations of the educational leave contract and this section.  
127 However, no recipient of full-time educational leave shall accrue  
128 personal or major medical leave while the recipient is on paid  
129 educational leave. Recipients of paid educational leave shall be  
130 responsible for their individual costs of tuition and books.



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

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

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



163 (\$5,000.00) which may be reduced on a pro rata basis for each year  
164 served under such contract.

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

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

191 (v) The obligations of educational leave  
192 recipients under contracts entered into before July 1, 2002, shall  
193 remain unchanged. However, state health institutions may use the  
194 collection or license revocation provisions of this section to



195 collect money owed under all educational leave contracts,  
196 regardless of when those contracts were executed.

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

199 37-101-292. (1) Within the limits of the funds available to  
200 the Mississippi Department of Transportation for such purpose, the  
201 Executive Director of the Mississippi Department of Transportation  
202 may grant paid educational leave on a part-time or full-time basis  
203 and reimburse employees for educational expenses such as tuition,  
204 books and related fees to pursue junior or senior undergraduate  
205 level year coursework toward a Bachelor's Degree in Civil  
206 Engineering or graduate level coursework toward a Master's Degree  
207 in Civil Engineering to those applicants deemed qualified. It is  
208 the intent of the Legislature that such educational leave program  
209 shall be used as an incentive for employees to develop job-related  
210 skills and to develop employees for higher-level professional and  
211 management positions.

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

214 (a) Be working at the Mississippi Department of  
215 Transportation at the time of application;

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

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

223 (3) (a) Before being granted paid educational leave, each  
224 applicant shall enter into a contract with the Mississippi  
225 Department of Transportation, which shall be deemed a contract  
226 with the State of Mississippi, agreeing to the terms and  
227 conditions upon which the paid educational leave shall be granted



228 to him. The contract shall include such terms and provisions  
229 necessary to carry out the full purpose and intent of this  
230 section. The form of such contract shall be prepared and approved  
231 by the Attorney General of this state, and shall be signed by the  
232 Executive Director of the Mississippi Department of Transportation  
233 and the recipient. If the recipient is a minor, his minority  
234 disabilities shall be removed by a chancery court of competent  
235 jurisdiction before the contract is signed.

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

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

258 (d) Failure to meet the terms of an educational loan  
259 contract shall be grounds for revocation of the professional





260 license which was earned through the paid educational leave  
261 compensation granted under this section.

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

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

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

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

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

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

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

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



292           (4) (a) Any recipient who is granted paid educational leave  
293 by the Mississippi Department of Transportation shall be  
294 compensated by the institution during the time the recipient is in  
295 school, at the rate of pay received by the employee at the  
296 Mississippi Department of Transportation. All educational leave  
297 compensation received by the recipient while in school shall be  
298 considered earned conditioned upon the fulfillment of the terms  
299 and obligations of the educational leave contract and this  
300 section. However, no recipient of full-time educational leave  
301 shall accrue personal or major medical leave while the recipient  
302 is on paid educational leave.

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

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

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



325 reduced on a pro rata basis for each year served under such  
326 contract.

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

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

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

