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SUB 1 FOR AMEND No. 5 TO AMEND No. 1 PROPOSED TO

House Bill NO. 2

By Senator(s) Smith

1 **AMEND** by deleting lines 768 through 779 and inserting the
2 following after line 793:

3 **SECTION *.** (1) Except as provided in Section 41-105-15,
4 compensation for the noneconomic damages suffered by an injured
5 plaintiff in any civil action shall not exceed the amount of Five
6 Hundred Thousand Dollars (\$500,000.00).

7 (2) If liability is found, then the trier of fact, in
8 addition to other appropriate findings, shall make separate
9 findings specifying the total amount of noneconomic damages and
10 the total amount of actual economic damages for each separate
11 claimant in a manner that the court may apply the restrictions of
12 this section.

13 (3) The trier of fact shall not be advised of the
14 limitations imposed by this section.

15 (4) For the purposes of this section, the following words
16 and phrases shall have the meanings ascribed herein unless the
17 context clearly requires otherwise:

18 (a) "Noneconomic damages" means subjective,
19 nonpecuniary damages arising from death, pain, suffering,
20 inconvenience, physical impairment, disfigurement, mental anguish,
21 worry, emotional distress, loss of society and companionship, loss
22 of consortium, bystander injury, injury to reputation,
23 humiliation, loss of the enjoyment of life, hedonic damages, other

24 nonpecuniary damages, and any other theory of damages such as fear
25 of loss, illness or injury. The term "noneconomic damages" shall
26 not include punitive damages.

27 (b) "Actual economic damages" means objectively
28 verifiable pecuniary damages arising from medical expenses and
29 medical care, rehabilitation services, custodial care,
30 disabilities, loss of earnings and earning capacity, loss of
31 income, burial costs, loss of use of property, costs of repair of
32 replacement of property, costs of obtaining substitute domestic
33 services, loss of employment, loss of business or employment
34 opportunities, and other objectively verifiable monetary losses.

35 **FURTHER, AMEND the title to conform.**