

## Senate Amendments to House Bill No. 438

TO THE CLERK OF THE HOUSE:

THIS IS TO INFORM YOU THAT THE SENATE HAS ADOPTED THE AMENDMENTS SET OUT BELOW:

### AMENDMENT NO. 1

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

8           **SECTION 1.** Section 43-13-405, Mississippi Code of 1972, is  
9 amended as follows:

10           43-13-405. (1) In accordance with the purposes of this  
11 article, there is established in the State Treasury the Health  
12 Care Trust Fund, into which shall be deposited Two Hundred Eighty  
13 Million Dollars (\$280,000,000.00) of the funds received by the  
14 State of Mississippi as a result of the tobacco settlement as of  
15 the end of fiscal year 1999, and all tobacco settlement  
16 installment payments made in subsequent years for which the use or  
17 purpose for expenditure is not restricted by the terms of the  
18 settlement, except as otherwise provided in Section 43-13-407(2)  
19 and (3). All income from the investment of the funds in the  
20 Health Care Trust Fund shall be credited to the account of the  
21 Health Care Trust Fund. The funds in the Health Care Trust Fund  
22 at the end of a fiscal year shall not lapse into the State General  
23 Fund.

24           (2) The Health Care Trust Fund shall remain inviolate and  
25 shall never be expended, except as provided in this article. The  
26 Legislature shall appropriate from the Health Care Trust Fund such  
27 sums as are necessary to recoup any funds lost as a result of any  
28 of the following actions:

29           (a) The federal Centers for Medicare and Medicaid  
30 Services, or other agency of the federal government, is successful  
31 in recouping tobacco settlement funds from the State of  
32 Mississippi;

33 (b) The federal share of funds for the support of the  
34 Mississippi Medicaid Program is reduced directly or indirectly as  
35 a result of the tobacco settlement;

36 (c) Federal funding for any other program is reduced as  
37 a result of the tobacco settlement; or

38 (d) Tobacco cessation programs are mandated by the  
39 federal government or court order.

40 \* \* \* This section shall stand repealed on July 1, 2005.

41 **SECTION 2.** Section 43-13-407, Mississippi Code of 1972, is  
42 amended as follows:

43 43-13-407. (1) In accordance with the purposes of this  
44 article, there is established in the State Treasury the Health  
45 Care Expendable Fund, into which shall be transferred from the  
46 Health Care Trust Fund the following sums:

47 (a) In fiscal year 2000, Fifty Million Dollars  
48 (\$50,000,000.00);

49 (b) In fiscal year 2001, Fifty-five Million Dollars  
50 (\$55,000,000.00);

51 (c) In fiscal year 2002, Sixty Million Five Hundred  
52 Thousand Dollars (\$60,500,000.00);

53 (d) In fiscal year 2003, Sixty-six Million Five Hundred  
54 Fifty Thousand Dollars (\$66,550,000.00);

55 (e) In fiscal year 2004 and each subsequent fiscal  
56 year, a sum equal to the average annual amount of the income from  
57 the investment of the funds in the Health Care Trust Fund since  
58 July 1, 1999.

59 (2) In any fiscal year in which interest and dividends from  
60 the investment of the funds in the Health Care Trust Fund are not  
61 sufficient to fund the full amount of the annual transfer into the  
62 Health Care Expendable Fund as required in subsection (1) of this  
63 section, the State Treasurer shall transfer from tobacco  
64 settlement installment payments an amount that is sufficient to  
65 fully fund the amount of the annual transfer.

66 (3) (a) On March 6, 2002, the State Treasurer shall  
67 transfer the sum of Eighty-seven Million Dollars (\$87,000,000.00)

68 from the Health Care Trust Fund into the Health Care Expendable  
69 Fund. In addition, at the time the State of Mississippi receives  
70 the 2002 calendar year tobacco settlement installment payment, the  
71 State Treasurer shall deposit the full amount of that installment  
72 payment into the Health Care Expendable Fund, and at the time the  
73 State of Mississippi receives the 2003 calendar year tobacco  
74 settlement installment payment, the State Treasurer shall deposit  
75 the full amount of that installment payment into the Health Care  
76 Expendable Fund, and at the time the State of Mississippi receives  
77 the 2004 calendar year tobacco settlement installment payment, the  
78 State Treasurer shall deposit the full amount of that installment  
79 payment into the Health Care Expendable Fund.

80 (b) If during any fiscal year after March 6, 2002, the  
81 general fund revenues received by the state exceed the general  
82 fund revenues received during the previous fiscal year by more  
83 than five percent (5%), the Legislature shall repay to the Health  
84 Care Trust Fund one-third (1/3) of the amount of the general fund  
85 revenues that exceed the five percent (5%) growth in general fund  
86 revenues. The repayment required by this paragraph shall continue  
87 in each fiscal year in which there is more than five percent (5%)  
88 growth in general fund revenues, until the full amount of the  
89 funds that were transferred and deposited into the Health Care  
90 Expendable Fund under the provisions of paragraph (a) of this  
91 subsection have been repaid to the Health Care Trust Fund.

92 (4) All income from the investment of the funds in the  
93 Health Care Expendable Fund shall be credited to the account of  
94 the Health Care Expendable Fund. Any funds in the Health Care  
95 Expendable Fund at the end of a fiscal year shall not lapse into  
96 the State General Fund.

97 (5) The funds in the Health Care Expendable Fund shall be  
98 available for expenditure under specific appropriation by the  
99 Legislature beginning in fiscal year 2000, and shall be expended  
100 exclusively for health care purposes.

101 (6) Subsections (1), (2), (4) and (5) of this section shall  
102 stand repealed on July 1, 2005.

103           **SECTION 3.** This act shall take effect and be in force from  
104 and after its passage.

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

1           AN ACT TO AMEND SECTIONS 43-13-405 AND 43-13-407, MISSISSIPPI  
2 CODE OF 1972, TO EXTEND THE AUTOMATIC REPEALERS ON STATUTES  
3 CREATING THE TOBACCO LITIGATION HEALTH CARE PRINCIPAL FUND AND  
4 HEALTH CARE EXPENDABLE FUND, AND TO PROVIDE THAT THE ENTIRE 2004  
5 TOBACCO LITIGATION INSTALLMENT PAYMENT SHALL BE DEPOSITED INTO THE  
6 HEALTH CARE EXPENDABLE FUND; AND FOR RELATED PURPOSES.

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John O. Gilbert  
Secretary of the Senate