

Senate Amendments to House Concurrent Resolution No. 114

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 resolving clause and inserting in lieu thereof the following:

81 That the following bill is hereby exempt from the timetable for
82 consideration of bills provided by Joint Rule No. 40, and that
83 consent is hereby given for further consideration of Senate Bill
84 No. 2763, 2004 Regular Session, entitled "AN ACT TO AMEND SECTION
85 1-11-3, MISSISSIPPI CODE OF 1972, TO REVISE THE VENUE IN GENERAL
86 CIVIL ACTIONS; TO AMEND SECTION 11-1-60, MISSISSIPPI CODE OF 1972,
87 TO PROVIDE LIMITATIONS ON NONECONOMIC DAMAGES IN ALL CIVIL
88 ACTIONS; TO AMEND SECTION 11-1-63, MISSISSIPPI CODE OF 1972, TO
89 PROVIDE THAT A PRODUCT SELLER OTHER THAN A MANUFACTURER SHALL NOT
90 BE LIABLE FOR A LATENT DEFECT IF THE SELLER IS A MERE CONDUIT WHO
91 PURCHASED THE PRODUCT FROM A REPUTABLE MANUFACTURER; TO AMEND
92 SECTION 11-1-65, MISSISSIPPI CODE OF 1972, TO PROHIBIT MULTIPLE
93 PUNITIVE DAMAGE AWARDS FOR THE SAME CONDUCT OF A DEFENDANT EXCEPT
94 IN CERTAIN CASES, TO PROHIBIT PUNITIVE DAMAGES AGAINST A DEFENDANT
95 FOR ANY REGULATED ACTIVITY CONDUCTED IN COMPLIANCE WITH FEDERAL
96 AND STATE REGULATIONS, AND TO REVISE THE MAXIMUM AMOUNT OF
97 PUNITIVE DAMAGE AWARDS; TO AMEND SECTION 11-1-66, MISSISSIPPI CODE
98 OF 1972, TO REVISE THE IMMUNITY OF PREMISES OWNERS FROM CIVIL
99 LIABILITY; TO AMEND SECTION 85-5-7, MISSISSIPPI CODE OF 1972, TO
100 REVISE THE LIMITATION OF JOINT AND SEVERAL LIABILITY FOR DAMAGES
101 CAUSED BY TWO OR MORE PERSONS; TO REPEAL SECTION 11-1-64,
102 MISSISSIPPI CODE OF 1972, WHICH PROVIDES THE PROCEDURE FOR
103 DISMISSING A DEFENDANT WHOSE LIABILITY IS BASED SOLELY ON HIS
104 STATUS AS A SELLER IN THE STREAM OF COMMERCE; TO AMEND SECTION
105 13-5-1, MISSISSIPPI CODE OF 1972, TO ELIMINATE CERTAIN JUROR
106 DISQUALIFICATIONS; TO AMEND SECTION 13-5-23, MISSISSIPPI CODE OF

107 1972, TO PROVIDE THAT JURORS CAN ONLY BE EXCUSED FROM SERVICE FOR
108 ILLNESS OR UNDUE HARDSHIP; TO CODIFY SECTION 13-5-24, MISSISSIPPI
109 CODE OF 1972, TO PROVIDE THAT JURORS CAN POSTPONE JURY SERVICE ONE
110 TIME ONLY; TO AMEND SECTION 13-5-25, MISSISSIPPI CODE OF 1972, TO
111 LIMIT THE FREQUENCY OF JURY SERVICE; TO AMEND SECTION 13-5-28,
112 MISSISSIPPI CODE OF 1972, TO REQUIRE NOTICE OF JURY SERVICE
113 EXEMPTION ENTITLEMENT TO BE INCLUDED IN JUROR SUMMONSES; TO AMEND
114 SECTION 13-5-34, MISSISSIPPI CODE OF 1972, TO REVISE THE
115 PUNISHMENT FOR FAILURE TO APPEAR FOR JURY SERVICE; TO CODIFY
116 SECTION 13-5-99, MISSISSIPPI CODE OF 1972, TO PROVIDE EMPLOYMENT
117 PROTECTIONS FOR JURORS; TO AMEND SECTION 25-7-61, MISSISSIPPI CODE
118 OF 1972, TO CREATE A LENGTHY TRIAL FUND; TO AMEND SECTION 33-1-5,
119 MISSISSIPPI CODE OF 1972, TO ELIMINATE CERTAIN JUROR EXEMPTIONS;
120 TO REPEAL SECTIONS 41-17-7 AND 47-5-55, MISSISSIPPI CODE OF 1972,
121 WHICH PROVIDE CERTAIN EXEMPTIONS FROM JURY SERVICE; TO PROVIDE
122 THAT ALL MALPRACTICE CLAIMS SHALL BE REVIEWED BY A MEDICAL REVIEW
123 PANEL; TO ALLOW PARTIES TO MUTUALLY AGREE TO OPT OUT OF THIS
124 REQUIREMENT; TO ESTABLISH THE MEMBERSHIP REVIEW PANEL; TO PROVIDE
125 WHAT EVIDENCE MAY BE CONSIDERED BY THE PANEL; TO PROVIDE THE FORM
126 OF THE DECISION; TO PROVIDE FOR PANELIST IMMUNITY AND
127 COMPENSATION; TO PROVIDE THAT THE LOSING PARTY SHALL PAY ATTORNEY
128 FEES TO THE PREVAILING PARTY UNDER CERTAIN CIRCUMSTANCES; AND FOR
129 RELATED PURPOSES."

130 BE IT FURTHER RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE
131 STATE OF MISSISSIPPI, THE SENATE CONCURRING THEREIN, That the
132 following bill is hereby exempt from the timetable for
133 consideration of bills provided by Joint Rule No. 40, and that
134 consent is hereby given for further consideration of House Bill
135 No. 1569, 2004 Regular Session, entitled "AN ACT TO AMEND SECTION
136 83-48-5, MISSISSIPPI CODE OF 1972, TO EXPAND THE MEDICAL
137 MALPRACTICE INSURANCE AVAILABILITY PLAN THAT IS ADMINISTERED BY
138 THE MISSISSIPPI TORT CLAIMS BOARD TO MAKE AVAILABLE PRIOR ACTS
139 EXTENDED REPORTING PERIOD COVERAGE TO ALL PARTICIPANTS OF THE PLAN
140 AT ADDITIONAL PREMIUM ASSESSMENTS FOR SUCH COVERAGE AND TO PAY ALL
141 MEDICAL MALPRACTICE INSURANCE PREMIUMS FOR CERTAIN RETIRED

142 PHYSICIANS WHO PROVIDE VOLUNTEER UNPAID HEALTH CARE SERVICES; TO
143 AMEND SECTION 11-46-1, MISSISSIPPI CODE OF 1972, TO REVISE THE
144 DEFINITION OF "EMPLOYEE" FOR PURPOSES OF LIMITED LIABILITY UNDER
145 THE TORT CLAIMS BOARD TO INCLUDE THOSE PHYSICIANS WHO PROVIDE
146 HEALTH CARE SERVICES TO MEDICAID RECIPIENTS, STATE AND SCHOOL
147 EMPLOYEES HEALTH INSURANCE PLAN PARTICIPANTS AND CHILDREN'S HEALTH
148 INSURANCE PROGRAM PARTICIPANTS IF AT LEAST THIRTY-FIVE PERCENT OF
149 THE PHYSICIAN'S PATIENTS ARE MEDICAID RECIPIENTS, OR NOT TO EXCEED
150 ONE HUNDRED TWENTY-FIVE PHYSICIANS; TO INCLUDE CERTAIN RETIRED
151 PHYSICIANS WHO PROVIDE VOLUNTEER UNPAID HEALTH CARE SERVICES TO
152 ANY PUBLIC ENTITY OR PRIVATE ENTITY; TO CREATE IN THE STATE
153 TREASURY A SPECIAL FUND TO THE CREDIT OF THE MISSISSIPPI TORT
154 CLAIMS BOARD WHICH SHALL BE COMPRISED OF ANY FUNDS MADE AVAILABLE
155 FOR THE FUND BY THE LEGISLATURE; TO PROVIDE THAT MONIES IN THE
156 SPECIAL FUND SHALL BE EXPENDED BY THE MISSISSIPPI TORT CLAIMS
157 BOARD TO PROVIDE ADDITIONAL FUNDS FOR PRIOR ACT COVERAGE FOR PLAN
158 PARTICIPANTS AND TO PAY THE MEDICAL MALPRACTICE PREMIUMS FOR THOSE
159 RETIRED PHYSICIANS DESCRIBED HEREIN; TO CREATE AN ADVISORY COUNCIL
160 TO ASSIST THE MISSISSIPPI TORT CLAIMS BOARD IN DETERMINING WHETHER
161 A PHYSICIAN MEETS THE PERCENTAGE REQUIREMENT NECESSARY TO QUALIFY
162 AS AN EMPLOYEE FOR LIMITED LIABILITY PURPOSES; TO PROVIDE RATES
163 FOR COPIES OF MEDICAL RECORDS THAT MAY BE CHARGED BY MEDICAL
164 PROVIDERS AND FACILITIES; AND FOR RELATED PURPOSES."

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

1 A CONCURRENT RESOLUTION SUSPENDING THE DEADLINES FOR THE
2 PURPOSE OF THE FURTHER CONSIDERATION AND PASSAGE OF SENATE BILL
3 NO. 2763, 2004 REGULAR SESSION, ENTITLED "AN ACT TO AMEND SECTION
4 11-11-3, MISSISSIPPI CODE OF 1972, TO REVISE THE VENUE IN GENERAL
5 CIVIL ACTIONS; TO AMEND SECTION 11-1-60, MISSISSIPPI CODE OF 1972,
6 TO PROVIDE LIMITATIONS ON NONECONOMIC DAMAGES IN ALL CIVIL
7 ACTIONS; TO AMEND SECTION 11-1-63, MISSISSIPPI CODE OF 1972, TO
8 PROVIDE THAT A PRODUCT SELLER OTHER THAN A MANUFACTURER SHALL NOT
9 BE LIABLE FOR A LATENT DEFECT IF THE SELLER IS A MERE CONDUIT WHO
10 PURCHASED THE PRODUCT FROM A REPUTABLE MANUFACTURER; TO AMEND
11 SECTION 11-1-65, MISSISSIPPI CODE OF 1972, TO PROHIBIT MULTIPLE
12 PUNITIVE DAMAGE AWARDS FOR THE SAME CONDUCT OF A DEFENDANT EXCEPT
13 IN CERTAIN CASES, TO PROHIBIT PUNITIVE DAMAGES AGAINST A DEFENDANT
14 FOR ANY REGULATED ACTIVITY CONDUCTED IN COMPLIANCE WITH FEDERAL
15 AND STATE REGULATIONS, AND TO REVISE THE MAXIMUM AMOUNT OF
16 PUNITIVE DAMAGE AWARDS; TO AMEND SECTION 11-1-66, MISSISSIPPI CODE
17 OF 1972, TO REVISE THE IMMUNITY OF PREMISES OWNERS FROM CIVIL
18 LIABILITY; TO AMEND SECTION 85-5-7, MISSISSIPPI CODE OF 1972, TO

19 REVISE THE LIMITATION OF JOINT AND SEVERAL LIABILITY FOR DAMAGES
20 CAUSED BY TWO OR MORE PERSONS; TO REPEAL SECTION 11-1-64,
21 MISSISSIPPI CODE OF 1972, WHICH PROVIDES THE PROCEDURE FOR
22 DISMISSING A DEFENDANT WHOSE LIABILITY IS BASED SOLELY ON HIS
23 STATUS AS A SELLER IN THE STREAM OF COMMERCE; TO AMEND SECTION
24 13-5-1, MISSISSIPPI CODE OF 1972, TO ELIMINATE CERTAIN JUROR
25 DISQUALIFICATIONS; TO AMEND SECTION 13-5-23, MISSISSIPPI CODE OF
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27 ILLNESS OR UNDUE HARDSHIP; TO CODIFY SECTION 13-5-24, MISSISSIPPI
28 CODE OF 1972, TO PROVIDE THAT JURORS CAN POSTPONE JURY SERVICE ONE
29 TIME ONLY; TO AMEND SECTION 13-5-25, MISSISSIPPI CODE OF 1972, TO
30 LIMIT THE FREQUENCY OF JURY SERVICE; TO AMEND SECTION 13-5-28,
31 MISSISSIPPI CODE OF 1972, TO REQUIRE NOTICE OF JURY SERVICE
32 EXEMPTION ENTITLEMENT TO BE INCLUDED IN JUROR SUMMONSES; TO AMEND
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34 PUNISHMENT FOR FAILURE TO APPEAR FOR JURY SERVICE; TO CODIFY
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37 OF 1972, TO CREATE A LENGTHY TRIAL FUND; TO AMEND SECTION 33-1-5,
38 MISSISSIPPI CODE OF 1972, TO ELIMINATE CERTAIN JUROR EXEMPTIONS;
39 TO REPEAL SECTIONS 41-17-7 AND 47-5-55, MISSISSIPPI CODE OF 1972,
40 WHICH PROVIDE CERTAIN EXEMPTIONS FROM JURY SERVICE; TO PROVIDE
41 THAT ALL MALPRACTICE CLAIMS SHALL BE REVIEWED BY A MEDICAL REVIEW
42 PANEL; TO ALLOW PARTIES TO MUTUALLY AGREE TO OPT OUT OF THIS
43 REQUIREMENT; TO ESTABLISH THE MEMBERSHIP REVIEW PANEL; TO PROVIDE
44 WHAT EVIDENCE MAY BE CONSIDERED BY THE PANEL; TO PROVIDE THE FORM
45 OF THE DECISION; TO PROVIDE FOR PANELIST IMMUNITY AND
46 COMPENSATION; TO PROVIDE THAT THE LOSING PARTY SHALL PAY ATTORNEY
47 FEES TO THE PREVAILING PARTY UNDER CERTAIN CIRCUMSTANCES; AND FOR
48 RELATED PURPOSES." AND SUSPENDING THE DEADLINES FOR THE PURPOSE OF
49 THE FURTHER CONSIDERATION AND PASSAGE OF HOUSE BILL NO. 1569, 2004
50 REGULAR SESSION, ENTITLED "AN ACT TO AMEND SECTION 83-48-5,
51 MISSISSIPPI CODE OF 1972, TO EXPAND THE MEDICAL MALPRACTICE
52 INSURANCE AVAILABILITY PLAN THAT IS ADMINISTERED BY THE
53 MISSISSIPPI TORT CLAIMS BOARD TO MAKE AVAILABLE PRIOR ACTS
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79 PROVIDERS AND FACILITIES; AND FOR RELATED PURPOSES."

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John O. Gilbert
Secretary of the Senate