

**HOUSE BILL NO. 1305**

Introduced by

Representatives Keiser, Price

Senators Kilzer, J. Lee

1 A BILL for an Act to amend and reenact paragraph 2 of subdivision b of subsection 2 of section  
2 51-25-02 of the North Dakota Century Code, relating to release of escrow funds deposited by  
3 tobacco product manufacturers; and to provide a savings clause.

4 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

5 **SECTION 1. AMENDMENT.** Paragraph 2 of subdivision b of subsection 2 of section  
6 51-25-02 of the North Dakota Century Code is amended and reenacted as follows:

7 (2) To the extent that a tobacco product manufacturer establishes that the  
8 amount it was required to place into escrow on account of units sold in  
9 the state in a particular year was greater than ~~the state's allocable~~  
10 ~~share of the total payments that the manufacturer would have been~~  
11 ~~required to make in that year under the master settlement agreement~~  
12 ~~(as determined pursuant to section IX(i)(2) of the master settlement~~  
13 ~~agreement, and before any of the adjustments or offsets described in~~  
14 ~~section IX(i)(3) of that agreement other than the inflation adjustment)~~  
15 the master settlement agreement payments, as determined pursuant to  
16 section IX(i) of that agreement, including after final determination of all  
17 adjustments, that the manufacturer would have been required to make  
18 on account of such units sold had it been a participating manufacturer,  
19 the excess must be released from escrow and revert back to ~~the~~ such  
20 tobacco product manufacturer; or

21 **SECTION 2. SAVINGS CLAUSE.** If any portion of the amendment to paragraph 2 of  
22 subdivision b of subsection 2 of section 51-25-02 in section 1 of this Act is held by a court of  
23 competent jurisdiction to be unconstitutional, then paragraph 2 is deemed to be invalidated in its  
24 entirety. If subdivision b of subsection 2 of section 51-25-02 is thereafter held by a court of

1 competent jurisdiction to be unconstitutional, then section 1 of this Act is deemed invalidated,  
2 and paragraph 2 of subdivision b of subsection 2 of section 51-25-02 is restored as it existed on  
3 the day before the effective date of this Act. Neither any holding of unconstitutionality nor the  
4 invalidation of paragraph 2 of subdivision b of subsection 2 of section 51-25-02 affects, impairs,  
5 or invalidates any other portion of section 51-25-02 or the application of that section to any  
6 other person or circumstance and the remaining portions of section 51-25-02 at all times will  
7 continue in full force and effect.