

**Fifty-ninth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 4, 2005**

HOUSE BILL NO. 1305
(Representatives Keiser, Price)
(Senators Kilzer, J. Lee)

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

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

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

SECTION 2. SAVINGS CLAUSE. If any portion of the amendment to paragraph 2 of subdivision b of subsection 2 of section 51-25-02 in section 1 of this Act is held by a court of competent jurisdiction to be unconstitutional, then paragraph 2 is deemed to be invalidated in its entirety. If subdivision b of subsection 2 of section 51-25-02 is thereafter held by a court of competent jurisdiction to be unconstitutional, then section 1 of this Act is deemed invalidated, and paragraph 2 of subdivision b of subsection 2 of section 51-25-02 is restored as it existed on the day before the effective date of this Act. Neither any holding of unconstitutionality nor the invalidation of paragraph 2 of subdivision b of subsection 2 of section 51-25-02 affects, impairs, or invalidates any other portion of section 51-25-02 or the application of that section to any other person or circumstance and the remaining portions of section 51-25-02 at all times will continue in full force and effect.

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Fifty-ninth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1305.

House Vote: Yeas 88 Nays 0 Absent 6

Senate Vote: Yeas 46 Nays 0 Absent 1

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 2005.

Approved at _____ M. on _____, 2005.

Governor

Filed in this office this _____ day of _____, 2005,

at _____ o'clock _____ M.

Secretary of State