

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1269

Page 1, line 3, after the semicolon insert "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 the release of escrow funds deposited by tobacco product manufacturers; to provide for anti-severability; to provide an effective date;"

Page 1, after line 5, insert:

**"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 the units sold had it been a participating manufacturer, the excess must be released from escrow and revert back to the tobacco product manufacturer; or"

Page 1, underscore lines 8 through 10

Page 1, after line 10, insert:

**"SECTION 3. ANTI-SEVERABILITY - EFFECTIVE DATE.** If any portion of paragraph 2 of subdivision b of subsection 2 of section 51-25-02 as amended by this Act is held by a court of competent jurisdiction to be unconstitutional, then paragraph 2 of subdivision b of subsection 2 of section 51-25-02 is suspended. After suspension of paragraph 2 of subdivision b of subsection 2 of section 51-25-02, if any other provision of subdivision b of subsection 2 of section 51-25-02 is held by a court of competent jurisdiction to be unconstitutional, then paragraph 2 of subdivision b of subsection 2 of section 51-25-02 takes effect as it existed on January 1, 2003. Neither any holding of unconstitutionality nor the suspension of paragraph 2 of subdivision b of subsection 2 of section 51-25-02 affects or invalidates any other portion of section 51-25-02 or the application of the section to any person or circumstance, and the remaining portions of section 51-25-02 continue in effect."

Renumber accordingly