

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005**

S

1

SENATE BILL 196

Short Title: Amend Tobacco Reserve Fund - 1. (Public)

Sponsors: Senators Garrou; Albertson, Apodaca, Atwater, Berger of Franklin, Berger of Rockingham, Boseman, Clodfelter, Dalton, Dorsett, Garwood, Hagan, Holloman, Horton, Hoyle, Jenkins, Kerr, Lucas, Malone, Nesbitt, Purcell, Rand, Snow, Soles, Stevens, Thomas, and Weinstein.

Referred to: Commerce.

February 23, 2005

A BILL TO BE ENTITLED

1 AN ACT TO AMEND THE TOBACCO RESERVE FUND TO PROMOTE THE
2 HEALTH AND WELLNESS OF THE STATE'S CITIZENS AND ECONOMIC
3 DEVELOPMENT.
4

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.** G.S. 66-291(b)(2) reads as rewritten:

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 such 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~~
15 ~~Adjustment)the Master Settlement Agreement payments, as~~
16 determined pursuant to Section IX(i) of that agreement, including after
17 final determination of all adjustments, that the manufacturer would
18 have been required to make on account of the units sold had it been a
19 participating manufacturer, the excess shall be released from escrow
20 and revert back to such tobacco product manufacturer; or".

21 **SECTION 2.** If this act, or any portion of the amendment made to
22 G.S. 66-291(b)(2) by this act, is held by a court of competent jurisdiction to be
23 unconstitutional, then G.S. 66-291(b)(2) shall be deemed to be repealed in its entirety.
24 If G.S. 66-291(b) shall thereafter be held by a court of competent jurisdiction to be
25 unconstitutional, then this act shall be repealed, and G.S. 66-291(b)(2) shall be restored
26 as if no amendments had been made by this act. Neither any judicial holding of

1 unconstitutionality nor the repeal of G.S. 66-291(b)(2) shall affect, impair, or invalidate
2 any other portion of Part 1 of Article 37 of Chapter 66 of the General Statutes or the
3 application of Part 1 of Article 37 of Chapter 66 of the General Statutes to any other
4 person or circumstance, and the remaining portions of Part 1 of Article 37 of Chapter 66
5 of the General Statutes shall at all times continue in full force and effect.

6 **SECTION 3.** This act becomes effective October 1, 2005.