

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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HOUSE BILL 591

Short Title: Refund \$145 Million of Food Tax.

(Public)

Sponsors: Representatives Luebke, Fitch (Cosponsors); Adams, Alexander, Allred, Arnold, Beall, Black, Blue, Boyd-McIntyre, Braswell, Cunningham, Dedmon, Earle, Easterling, Gamble, Goodwin, Grady, Hardaway, Hensley, Hightower, H. Hunter, Jeffus, McAllister, McCrary, Michaux, Miller, Mosley, Nesbitt, Oldham, Ramsey, Redwine, Saunders, Smith, Sutton, Tolson, Wainwright, Warwick, Womble, Wright, and Yongue.

Referred to: Finance.

March 24, 1997

A BILL TO BE ENTITLED

AN ACT TO REFUND TO THE PEOPLE OF NORTH CAROLINA A PORTION OF THE MONIES THEY PAID IN 1996 AS A SALES TAX ON GROCERIES.

Whereas, the Supreme Court of North Carolina in "Fulton Corporation v. Faulkner"(on remand) held that the intangibles tax on shares of stock formerly levied by G.S. 105-203 (repealed) was constitutional and legal once the invalid taxable percentage deduction was severed; and

Whereas, the sales tax on groceries, commonly known as the food tax, is assumed to be constitutional and legal; and

Whereas, refunds of the intangibles tax to those who paid under protest would be, as indicated by official Department of Revenue data, refunds primarily to citizens earning well above North Carolina's median income; and

Whereas, food tax refunds would go to all citizens, whether high, middle, or low-income; Now, therefore,

The General Assembly of North Carolina enacts:

1 Section 1. Division II of Article 4 of Chapter 105 of the General Statutes is
2 amended by adding a new section to read:

3 **"§ 105-151.27. Credit for sales tax paid on food.**

4 (a) Credit. – A taxpayer is allowed as a credit against the tax imposed by this
5 Division an amount equal to twenty dollars (\$20.00) times the number of personal
6 exemptions the taxpayer claims for the taxable year. A part-year resident who claims the
7 credit allowed by this section shall reduce the amount of the credit by multiplying it by
8 the fraction calculated under G.S. 105-134.5(b) or (c), as appropriate. The following
9 taxpayers may not claim the credit allowed by this section:

10 (1) A nonresident.

11 (2) An individual who received assistance under the Food Stamp Program,
12 7 U.S.C. § 51, for the entire taxable year.

13 (3) An individual who was an inpatient at a hospital facility, as defined in
14 G.S. 131E-16, for at least half the taxable year.

15 (4) An individual who was in jail or in other official detention for at least
16 half the taxable year.

17 (5) An individual who may be claimed as a dependent by another under
18 section 151(c)(1)(B) of the Code.

19 (b) Credit Refundable. – If the credit allowed by this section exceeds the amount
20 of tax imposed by this Division for the taxable year reduced by the sum of all credits
21 allowable, the Secretary shall refund the excess to the taxpayer. The refundable excess is
22 governed by the provisions governing a refund of an overpayment by the taxpayer of the
23 tax imposed in this Division. In computing the amount of tax against which multiple
24 credits are allowed, nonrefundable credits are subtracted before refundable credits."

25 Section 2. The Department of Revenue shall withhold from collections under
26 Division II of Article 4 of Chapter 105 of the General Statutes for the 1997-98 fiscal year
27 the amount necessary to reimburse it for its additional costs of printing, postage,
28 programming, and administration directly attributable to this act.

29 Section 3. This act is effective for taxable years beginning on or after January
30 1, 1997, and expires for taxable years beginning on or after January 1, 1998.