

Fifty-ninth
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1143

Introduced by

Finance and Taxation Committee

(At the request of the Tax Commissioner)

1 A BILL for an Act to amend and reenact section 57-38-01.20 of the North Dakota Century
2 Code, relating to the family member care tax credit.

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

4 **SECTION 1. AMENDMENT.** Section 57-38-01.20 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **57-38-01.20. Credit for expenses of caring for certain family members.**

- 7 1. An individual is entitled to a credit against the tax imposed under section 57-38-29
8 or 57-38-30.3 in the amount of qualified care expenses under this section paid by
9 the individual for the care of a qualifying family member during the taxable year.
- 10 2. A qualifying family member is an individual who has taxable income of twenty
11 thousand dollars or less or a married individual with taxable income of thirty-five
12 thousand dollars or less, including that of the individual's spouse, for the taxable
13 year. A qualifying family member must be related to the taxpayer by blood or
14 marriage and either sixty-five years of age or older or determined to be disabled by
15 the social security administration or certified by a licensed physician to meet the
16 qualifications of what constitutes disabled as applied by the social security
17 administration. The tax commissioner shall make available to claimants of the
18 credit under this section a form for certifications by licensed physicians under this
19 section, including a list of qualifications of what constitutes disabled as applied by
20 the social security administration.
- 21 3. a. Qualified care expenses include payments by the taxpayer for home health
22 agency services, companionship services, personal care attendant services,
23 homemaker services, adult day care, respite care, health care equipment and
24 supplies, and other expenses for goods or services that are certified by a

1 licensed physician as necessary to allow the qualifying family member to
2 avoid placement in a long-term care facility or other facility or institution as
3 defined in section 25-01.2-01 and which are:

- 4 (1) Provided to or for the benefit of the qualifying family member or to
5 assist the taxpayer in caring for the qualifying family member;
6 (2) Provided by an organization or individual not related to the taxpayer or
7 the qualifying family member; and
8 (3) Not compensated for by insurance or federal or state assistance
9 programs.

10 b. ~~For purposes of this subsection, "companionship~~ "Companionship services"
11 means services that provide fellowship, care, and protection for individuals
12 who, because of advanced age or physical or mental disabilities, cannot care
13 for their own needs. Those services may include household work related to
14 the care of the aged or disabled person, including meal preparation, bed
15 making, washing of clothes, and other similar services, and may include the
16 performance of general household work if that work does not exceed twenty
17 percent of the total weekly hours worked. "Companionship services" does not
18 include services relating to the care and protection of the aged or disabled
19 which require and are performed by trained personnel, including a registered
20 or practical nurse, and does not include services of individuals who provide
21 care and protection for infants and young children who are not physically or
22 mentally disabled.

23 c. "Licensed physician" means an individual licensed under the laws of this state
24 to practice medicine.

25 4. The percentage amount of credit allowable under this section is:

- 26 a. For a taxpayer whose taxable income does not exceed twenty-five thousand
27 dollars, or thirty-five thousand dollars for a joint return, thirty percent of
28 qualified ~~elderly~~ care expenses; or
29 b. For a taxpayer whose taxable income exceeds twenty-five thousand dollars,
30 or thirty-five thousand dollars for a joint return, the greater of:
31 (1) Twenty percent of qualified ~~elderly~~ care expenses; or

(2) Thirty percent of qualified ~~elderly~~ care expenses, minus one percent of those expenses for each two thousand dollars or fraction of two thousand dollars by which the taxable income of the taxpayer for the taxable year exceeds twenty-five thousand dollars, or thirty-five thousand dollars for a joint return.

5. The dollar amount of credit allowable under this section is:

- a. Reduced by one dollar for each dollar of the taxable income over fifty thousand dollars for a taxpayer whose taxable income exceeds fifty thousand dollars, or for a joint return, reduced by one dollar for each dollar of the taxable income over seventy thousand dollars for taxpayers whose taxable income exceeds seventy thousand dollars;
- b. Limited to two thousand dollars per qualifying family member in a taxable year and to four thousand dollars total for two or more qualifying family members in a taxable year; and
- c. Prorated among multiple taxpayers who each contribute to qualified care expenses of the same qualified family member in a taxable year in the same proportion that their contributions bear to the total qualified care expenses paid by those taxpayers for that qualified family member. To the extent necessary to administer proration under this subdivision, the secrecy provisions of section 57-38-57 do not apply to disclosures necessary to advise taxpayers of how proration should have been computed.

6. A deduction or credit is not allowed under any other provision of this chapter with respect to any amount for which a credit is allowed under this section. The credit allowed under this section may not be claimed as a carryback or carryforward and may not be refunded if the taxpayer has no tax liability.

7. In the case of a married individual filing a separate return, the percentage amount of credit under subsection 4 and the dollar amount of credit under subsection 5 are limited to one-half of the amounts indicated in those subsections.