MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION
SFN 2053 (2/85) 5M

GREAT SEAL
STATE OF NORTH DAKOTA

ROLL NUMBER

DESCRIPTION

2078

2007 SENATE FINANCE AND TAXATION

SB 2078

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. **SB 2078**

Senate Finance and Taxation Committee

☐ Check here for Conference Committee

Hearing Date: January 16, 2007

Recorder Job Number: # 1163

Committee Clerk Signature	Sharon Renfrow

Minutes:

Sen. Urlacher called the committee to order and opened the hearing on SB 2078.

Joe Becker: from the Tax Dept. appeared in support of the bill with written testimony. (See attached)

Sen. Cook: the family member must be at least 65 years of age?

Mr. Becker: That would be one condition and if that's the case the disability criteria is not required, so it's either or. Either 65 or older or you could have a disabled individual which would open it up to a child of any age.

Sen. Anderson: so if the person were in 3 different homes and each of them incurred $1500, they could each get a $1500 credit.

Mr. Becker: that's correct.

Sen. Triplett: Have you thought of about how you're going to determine medical expense and who's disabled or who's not?

Mr. Becker: As a practical matter, the language that we are proposing to put in for any disability is perhaps ask the tax payer to attest to this in some manner, written form, whether they need to consult with a physician or someone in Human Services to help us with that.

No Opposition. Closed the hearing.

Sen. Tollefson: made a **MOTION for DO PASS,** seconded by Sen. Horne.

7-0-0. Sen. Cook will carry the bill.

FISCAL NOTE

Requested by Legislative Council
12/27/2006

Bill/Resolution No.: SB 2078

1A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2005-2007 Biennium		2007-2009 Biennium		2009-2011 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

1B. **County, city, and school district fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

2005-2007 Biennium			2007-2009 Biennium			2009-2011 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

SB 2078 modifies language relative to the family care income tax credit. The changes help with administration of the credit, including defining and clarifying qualifying expenses. SB 2078 does not have a fiscal impact.

B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

Name:	Kathryn L. Strombeck	**Agency:**	Office of Tax Commissioner
Phone Number:	328-3402	**Date Prepared:**	01/15/2007

Date: 1-16-07

Roll Call Vote #: 1

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2078

Senate Finance & Tax Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken Do Pass

Motion Made By Sen. Tollefson Seconded By Sen. Horne

Senators	Yes	No	Senators	Yes	No
Sen. Urlacher	✓		Sen. Anderson	✓	
Sen. Tollefson	✓		Sen. Horne	✓	
Sen. Cook	✓		Sen. Triplett	✓	
Sen. Oehlke	✓				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Sen. Cook

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2078: Finance and Taxation Committee (Sen. Urlacher, Chairman) recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2078 was placed on the Eleventh order on the calendar.

2007 HOUSE FINANCE AND TAXATION

SB 2078

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2078

House Finance and Taxation Committee

☐ Check here for Conference Committee

Hearing Date: February 26, 2007

Recorder Job Number: 3802 & 3876

Committee Clerk Signature	Judy Beho ck

Minutes:

Representative Belter: We will open the hearing on SB 2078.

Donnita Wald, with ND Officers of State Tax Commissioner: See attached testimony, and attached proposed amendments. This is available in either the short form or the long form.

Representative Froseth: On page 3, each family member now of the total deduction is prorated between each family member that shares in that expense. Do you than double or multiply the total deductions that can be taken by that one family member?

Ms. Wald: Yes, they each pay up to the maximum amount that would qualify, and than they didn't have all income thresholds. You could see where a number of family members could qualify for 2,000, or tax payers could qualify for the 2000 dollar credit each.

Representative Froseth: So if you had 4 m3mbers prorating 4,000 dollar tax credit, now you could have 4 members each claiming the 2,000 dollar credit tax.

Ms Wald: Those expenses have to have an 8,000 dollar tax credit for them to each get 2,000. They may each qualify for the 2,000. They each contributed enough to qualify for that 2,000.

Representative Froseth: They can have a total of 8,000 instead of 4.

Representative Schmidt: What is the difference on line 15 on the first page? Define and change the name to Social Security Administration, to Federal Social Security Act. What is the difference between the two, or is there?

Ms. Wald: Yes, there is a big difference. The way the law currently is, you have to have a piece of paper from Social Security that says you are disabled under the Social Security Act. What we have found is there is many tax errors because of their income, who won't need to go to Social Security to get a determination of disability. If they still have a member who is disabled they say they would qualify as disabled. It is just because of the family's income. We don't meet Social Security administration to make an actual determination, you just have to meet the qualifications or those things that Social Security would look at when making a determination.

Representative Belter: We are than giving benefits that the federal government is not giving them?

Ms. Wald: For disability purposes, yes.

Representative Belter: how does this relate to 2215 that increases the credit. Was that the same area of law?

Ms. Wald: That is a dependent care tax. Those cover two different items.

Representative Belter: Are there any other questions? Any other testimony on 2078?

Kate McDonald, with ARC of FND: I just want to stand in support of the SB 2078.

Representative Belter: Any other support, opposition or neutral on SB 2078? Hearing none we will close the hearing on SB 2078.

Representative Belter: Take out SB 2078. That qualified care that again is more or less clean up language. What are you wished on 2078?

Representative Grande moves a do pass, seconded by **Representative Pinkerton.**

Representative Belter: Is there any discussion? Hearing none we will take the roll, with 10 yeas, 0 nays, and 4 absent. **Representative Froseth** will carry the bill to the floor.

Date: 2-26-07
Roll Call Vote #: 2078 B

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO.

House Finance & Tax Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken Do Pass

Motion Made By Rep. Grande Seconded By Rep. Pinkerton

Representatives	Yes	No
Chairman Belter	✓	
Vice Chairman Drovdal	✓	
Rep. Brandenburg		
Rep. Froseth	✓	
Rep. Grande	✓	
Rep. Headland	✓	
Rep. Owens	✓	
Rep. Weiler		
Rep. Wrangham	✓	

Representatives	Yes	No
Rep. Froelich		
Rep. Kelsh		
Rep. Pinkerton	✓	
Rep. Schmidt	✓	
Rep. Vig	✓	

Total (Yes) 10 No 0

Absent 4

Floor Assignment Rep. Froseth

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2078: Finance and Taxation Committee (Rep. Belter, Chairman) recommends **DO PASS** (10 YEAS, 0 NAYS, 4 ABSENT AND NOT VOTING). SB 2078 was placed on the Fourteenth order on the calendar.

2007 TESTIMONY

SB2078

Testimony—

Senate Finance and Taxation Committee

Senate Bill 2078

Same given to House

January 16, 2007

Prepared by Joseph Becker, Auditor III/Research Specialist
North Dakota Office of State Tax Commissioner
Phone: 328-3451
E-mail: jjbecker@state.nd.us

Good morning, Chairman Urlacher and Members of the Committee:

Introduction

For the record, my name is Joseph Becker, and I'm here on behalf of the North Dakota Office of State Tax Commissioner (Tax Department).

Senate Bill 2078 is an individual income tax bill. It proposes changes to the family member care income tax credit allowed to individuals on Form ND-1 (main method) and Form ND-2 (optional method).

Background

The family member care income tax credit was created in 1999 and is allowed to individuals who pay eligible expenses to keep a family member at home and out of a long-term care facility. The family member must be disabled or at least 65 years old. Certain income thresholds must also be met by both the taxpayer and the family member.

The tax credit ranges from 20 to 30 percent of the eligible expenses depending on the amount of the taxpayer's adjusted gross income, up to a maximum credit of $2,000 (or $4,000 for two or more family members). The otherwise allowable credit is phased out if the taxpayer's adjusted gross income exceeds certain thresholds.

Reason for bill

The reasons for this bill are to make a number of changes to simplify the eligibility requirements and the credit calculation, and to make it easier to administer.

One of the proposed changes is to the disability condition in the definition of a qualified family member. Current law requires the taxpayer to obtain an official determination of disability from the Social Security Administration (SSA). However, that agency will not (nor does it have any reason to) make a determination of disability if the taxpayer is not eligible for social security benefits because the taxpayer's income is too high. It is the Tax Department's understanding that this language was originally intended to provide a standard for disability, and not to limit the tax credit to those taxpayers who qualify for social security benefits. Therefore, this bill removes the language requiring an SSA determination and replaces it with language requiring only that the family member meet the SSA standards for a disability.

A second proposed change is to the definition of what expenses qualify for the tax credit. Current law provides for an "other expenses" category with the condition that they must be necessary to avoid placement of the family member in a long-term care facility. To say the least, this language has been very difficult to administer in a fair and consistent manner. What's the standard of measuring when someone needs to be placed in a long-term care facility, and what kinds of expense items are contemplated in this regard? This bill proposes to remedy this problem by defining "other expenses" as those medical expenses that are deductible for federal income tax purposes.

A third proposed change is to the provisions that set a ceiling on the amount of the credit. Current law limits the credit to $2,000 per qualifying family member in a tax year (or $4,000 for two or more qualifying family members). If more than one taxpayer pays qualifying expenses for the care of the same qualifying family member and all of the taxpayers claim the credit for their respective expenses, and the total of their respective credits exceeds the credit limit of $2,000 (or $4,000, if applicable), the law requires the maximum credit amount to be prorated among the different taxpayers claiming it. If this sounds complicated, it is just that, and it complicates both the calculation for taxpayers and the administration of the credit by the Tax Department. This bill proposes to remove the provision that requires the maximum credit to be prorated among taxpayers, making the maximum credit available to each taxpayer who cares for a qualifying family member based on that taxpayer's payment of qualifying expenses.

Explanation of bill

Now I'd like to walk you through the bill to point out where the proposed changes are located in the bill.

On **page 1, lines 14 through 16**, the definition of a qualifying family member is amended to remove the language requiring a determination by the Social Security Administration. In its place, new language is added providing that the disability condition is met if the family member's disability meets the criteria set out in the Social Security Act.

On **page 1, lines 19 and 23**, the definition of qualified expenses is amended to provide that "other expenses" mean medical expenses deductible for federal income tax purposes.

On **page 3, lines 10 through 16**, the language requiring the proration of the maximum credit amount among multiple taxpayers caring for the same qualifying family member is removed.

The proposed changes in this bill would be effective for the 2007 and subsequent tax years.

Fiscal impact

The changes made by this bill will not result in any fiscal impact. For your information, the following shows the usage of this credit since its creation in 1999:

Tax year	No. of returns	Credit amount
2000	11	$ 9,184.73
2001	18	15,708.36
2002	21	15,395.03
2003	19	16,732.09
2004	27	18,831.74
2005	16	11,669.50

Conclusion

The Tax Commissioner asks for your favorable consideration of Senate Bill 2078. If there are any questions from the Committee, Mr. Chairman, I'd be happy to address them.