

Sixtieth
Legislative Assembly
of North Dakota

SENATE BILL NO. 2078

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 Code,
2 relating to the family care income tax credit; and to provide an effective date.

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~~ is disabled
15 ~~by the social security administration as defined under title XVI of the federal Social~~
16 Security Act.
- 17 3. a. Qualified care expenses include payments by the taxpayer for home health
18 agency services, companionship services, personal care attendant services,
19 homemaker services, adult day care, respite care, ~~health care equipment and~~
20 ~~supplies, and other expenses for goods or services that are necessary to~~
21 ~~allow the qualifying family member to avoid placement in a long term care~~
22 ~~facility and which are~~ that are deductible medical expenses under the Internal
23 Revenue Code. A qualified care expense must be:

- (1) Provided to or for the benefit of the qualifying family member or to assist the taxpayer in caring for the qualifying family member;
 - (2) Provided by an organization or individual not related to the taxpayer or the qualifying family member; and
 - (3) Not compensated for by insurance or federal or state assistance programs.
 - b. For purposes of this subsection, "companionship services" means services that provide fellowship, care, and protection for individuals who, because of advanced age or physical or mental disabilities, cannot care for their own needs. Those services may include household work related to the care of the aged or disabled person, including meal preparation, bed making, washing of clothes, and other similar services, and may include the performance of general household work if that work does not exceed twenty percent of the total weekly hours worked. "Companionship services" does not include services relating to the care and protection of the aged or disabled which require and are performed by trained personnel, including a registered or practical nurse, and does not include services of individuals who provide care and protection for infants and young children who are not physically or mentally disabled.
4. The percentage amount of credit allowable under this section is:
- a. For a taxpayer whose taxable income does not exceed twenty-five thousand dollars, or thirty-five thousand dollars for a joint return, thirty percent of qualified elderly care expenses; or
 - b. For a taxpayer whose taxable income exceeds twenty-five thousand dollars, or thirty-five thousand dollars for a joint return, the greater of:
 - (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.

- 1 5. The dollar amount of credit allowable under this section is:
- 2 a. Reduced by one dollar for each dollar of the taxable income over fifty
- 3 thousand dollars for a taxpayer whose taxable income exceeds fifty thousand
- 4 dollars, or for a joint return, reduced by one dollar for each dollar of the
- 5 taxable income over seventy thousand dollars for taxpayers whose taxable
- 6 income exceeds seventy thousand dollars; and
- 7 b. Limited to two thousand dollars per qualifying family member in a taxable year
- 8 and to four thousand dollars total for two or more qualifying family members in
- 9 a taxable year; ~~and~~
- 10 ~~e. Prorated among multiple taxpayers who each contribute to qualified care~~
- 11 ~~expenses of the same qualified family member in a taxable year in the same~~
- 12 ~~proportion that their contributions bear to the total qualified care expenses~~
- 13 ~~paid by those taxpayers for that qualified family member. To the extent~~
- 14 ~~necessary to administer proration under this subdivision, the secrecy~~
- 15 ~~provisions of section 57-38-57 do not apply to disclosures necessary to advise~~
- 16 ~~taxpayers of how proration should have been computed.~~
- 17 6. A deduction or credit is not allowed under any other provision of this chapter with
- 18 respect to any amount for which a credit is allowed under this section. The credit
- 19 allowed under this section may not be claimed as a carryback or carryforward and
- 20 may not be refunded if the taxpayer has no tax liability.
- 21 7. In the case of a married individual filing a separate return, the percentage amount
- 22 of credit under subsection 4 and the dollar amount of credit under subsection 5 are
- 23 limited to one-half of the amounts indicated in those subsections.

24 **SECTION 2. EFFECTIVE DATE.** This Act is effective for taxable years beginning after

25 December 31, 2006.