

Fifty-fifth
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1471

Introduced by

Representatives Niemeier, Wardner, Jensen, Kerzman

Senators Andrist, DeMers

1 A BILL for an Act to create and enact a new section to chapter 57-38 and a new subsection to
2 section 57-38-30.3 of the North Dakota Century Code, relating to an individual or trust income
3 tax credit for expenses of caring for certain family members; and to provide an effective date.

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

5 **SECTION 1.** A new section to chapter 57-38 of the North Dakota Century Code is
6 created and enacted as follows:

7 **Credit for expenses of caring for certain family members.**

- 8 1. An individual is entitled to a credit against the tax imposed under section 57-38-29
9 or 57-38-30.3 in the amount of qualified care expenses under this section paid by
10 the individual for the care of a qualifying family member during the taxable year.
- 11 2. A qualifying family member is an individual who has taxable income of fifteen
12 thousand dollars or less or a married individual with taxable income of thirty
13 thousand dollars or less, including that of the individual's spouse, for the taxable
14 year. A qualifying family member must be related to the taxpayer by blood or
15 marriage and either sixty-five years of age or older or determined to be disabled by
16 the social security administration.
- 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:
- 23 (1) Provided to or for the benefit of the qualifying family member or to
24 assist the taxpayer in caring for the qualifying family member;

1 (2) Provided by an organization or individual not related to the taxpayer or
2 the qualifying family member; and

3 (3) Not compensated for by insurance or federal or state assistance
4 programs.

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

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

19 a. For a taxpayer whose taxable income does not exceed twenty-five thousand
20 dollars, thirty percent of qualified elderly care expenses; or

21 b. For a taxpayer whose taxable income exceeds twenty-five thousand dollars,
22 the greater of:

23 (1) Twenty percent of qualified elderly care expenses; or

24 (2) Thirty percent of qualified elderly care expenses, minus one percent of
25 those expenses for each two thousand dollars or fraction of two
26 thousand dollars by which the taxable income of the taxpayer for the
27 taxable year exceeds twenty-five thousand dollars.

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

29 a. Reduced by one dollar for each dollar of the taxable income over fifty
30 thousand dollars for a taxpayer whose taxable income exceeds fifty thousand
31 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.

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.

SECTION 2. A new subsection to section 57-38-30.3 of the North Dakota Century Code is created and enacted as follows:

A taxpayer filing a return under this section is entitled to the credit provided under section 1 of this Act.

SECTION 3. EFFECTIVE DATE. This Act is effective for taxable years beginning after December 31, 1996.