

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

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