

Fifty-sixth  
Legislative Assembly  
of North Dakota

## ENGROSSED HOUSE BILL NO. 1474

Introduced by

Representatives Niemeier, Nichols, Kerzman

Senators DeMers, Wardner

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 income tax credit for expenses of caring for certain family members; and  
3 to provide an effective date.

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

5 **SECTION 1. AMENDMENT.** Section 57-38-01.20 of the 1997 Supplement to the North  
6 Dakota Century Code is amended and reenacted as follows:

7 **57-38-01.20. 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 twenty thousand dollars or less or a married individual with taxable income of ~~thirty~~  
13 thirty-five thousand dollars or less, including that of the individual's spouse, for the  
14 taxable year. A qualifying family member must be related to the taxpayer by blood  
15 or marriage and either sixty-five years of age or older or determined to be disabled  
16 by 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, or thirty-five thousand dollars for a joint return, thirty percent of  
21                                  qualified elderly care expenses; or
- 22                   b.    For a taxpayer whose taxable income exceeds twenty-five thousand dollars,  
23                                  or thirty-five thousand dollars for a joint return, the greater of:
- 24                                  (1)    Twenty percent of qualified elderly care expenses; or
- 25                                  (2)    Thirty percent of qualified elderly care expenses, minus one percent of  
26                                  those expenses for each two thousand dollars or fraction of two  
27                                  thousand dollars by which the taxable income of the taxpayer for the  
28                                  taxable year exceeds twenty-five thousand dollars, or thirty-five  
29                                  thousand dollars for a joint return.
- 30                  5.    The dollar amount of credit allowable under this section is:

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

23           **SECTION 2. EFFECTIVE DATE.** This Act is effective for taxable years beginning after  
24   December 31, 1998.