

SENATE, No. 394

STATE OF NEW JERSEY 219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Senator LORETTA WEINBERG

District 37 (Bergen)

Senator KRISTIN M. CORRADO

District 40 (Bergen, Essex, Morris and Passaic)

Co-Sponsored by:

Senator Brown

SYNOPSIS

Provides gross income tax credit for certain expenses paid or incurred for care and support of qualifying senior family member; designated as Caregiver's Assistance Act.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 **AN ACT** providing a gross income tax credit for certain expenses
2 paid or incurred for the care and support of a qualifying senior
3 family member and designated as the Caregiver's Assistance
4 Act, supplementing chapter 4 of Title 54A of the New Jersey
5 Statutes.

6
7 **BE IT ENACTED** *by the Senate and General Assembly of the State*
8 *of New Jersey:*

9
10 1. a. A qualified caregiver having gross income for the taxable
11 year not in excess of \$100,000, or not in excess of \$50,000 if
12 married or a civil union partner filing separately or if unmarried,
13 not a partner in a civil union, and not filing or eligible to file as
14 head of household or as a surviving spouse for federal income tax
15 purposes, shall be allowed a credit against the tax otherwise due for
16 the taxable year under the "New Jersey Gross Income Tax Act,"
17 N.J.S.54A:1-1 et seq., in an amount equal to 22.5 percent of the
18 qualified care expenses paid or incurred by the qualified caregiver
19 during the taxable year for the care and support of a qualifying
20 senior family member that are not in excess of \$3,000.

21 b. If two or more qualified caregivers maintain residency at the
22 same permanent place of abode in this State and each qualified
23 caregiver is allowed a credit in accordance with subsection a. of this
24 section for the same qualifying senior family member, the total
25 amount of the credit allowed shall be allocated in equal amounts
26 between or among each of the qualified caregivers unless the
27 qualified caregivers submit an agreement in writing to the director
28 establishing a different allocation.

29 c. If a qualified caregiver is allowed a credit in accordance
30 with subsection a. of this section and, during the same taxable year,
31 is allowed a dependent deduction in accordance with paragraph 2 of
32 subsection (b) of N.J.S.54A:3-1 for the qualifying senior family
33 member whose care and support is the basis for the credit allowed
34 in accordance with subsection a. of this section, the qualified
35 caregiver shall be allowed to claim both the deduction and the
36 credit in determining the tax otherwise due for the taxable year
37 under N.J.S.54A:1-1 et seq.

38 d. If the credit allowed in accordance with subsection a. of this
39 section, together with any other payments and any other credits,
40 deductions, and adjustments allowed by law, reduces the tax
41 liability otherwise due for the taxable year under N.J.S.54A:1-1 et
42 seq. to zero, the amount of the credit remaining shall be paid to the
43 taxpayer as a refund of an overpayment of tax in accordance with
44 N.J.S.54A:9-7; provided however, that subsection (f) of that
45 section, concerning the allowance of interest, shall not apply.

46 e. The credit for a qualified caregiver who is allowed a credit
47 in accordance with subsection a. of this section but who, in
48 accordance with N.J.S.54A:2-4, is not subject to tax, shall be

1 applied for annually on an application as shall be made available by
2 the director, to be filed with the director on or before the date for
3 filing annual gross income tax returns. The director shall determine
4 the form and manner by which a qualified caregiver who is allowed
5 a credit in accordance with subsection a. of this section shall apply
6 for a refund of an overpayment of tax, and the time of the refund of
7 the overpayment of tax.

8 f. As used in this section:

9 “Qualified care expenses” means expenses paid or incurred by a
10 qualified caregiver for the purchase, lease, or rental of tangible
11 personal property and services that are necessary to allow a
12 qualifying senior family member to be maintained within or at the
13 qualified caregiver’s permanent place of abode in this State, which
14 property and services are provided to or for the benefit of the
15 qualifying senior family member or to assist the qualified caregiver
16 in providing care and support to the qualifying senior family
17 member or are provided by an organization or an individual who is
18 not a relative of the qualified caregiver or the qualifying senior
19 family member. “Qualified care expenses” shall include, but shall
20 not be limited to, expenses paid or incurred by a qualified caregiver
21 for the purchase, lease, or rental of home health agency services,
22 adult day care, companionship services, personal care attendant
23 services, homemaker services, respite care, health care equipment
24 and supplies, home modification services, services necessary to
25 provide care and support to a qualifying senior family member in
26 connection with two or more daily living activities, or assistive
27 devices. “Qualified care expenses” shall not include expenses paid
28 or incurred by a qualified caregiver that are reimbursed by
29 insurance or by a program administered by the State or federal
30 government.

31 “Qualified caregiver” means a resident taxpayer or a resident
32 individual of this State who provides care and support to a
33 qualifying senior family member.

34 “Qualifying senior family member” means an individual who:

35 is 60 years of age or older and a relative of the qualified
36 caregiver;

37 resides with the qualified caregiver at the qualified caregiver’s
38 permanent place of abode in this State for not less than six months
39 of the taxable year; and

40 has gross income for the taxable year not in excess of \$20,000,
41 or not in excess of \$13,000 if married or a civil union partner filing
42 separately or if unmarried, not a partner in a civil union, and not
43 filing or eligible to file as head of household or as a surviving
44 spouse for federal income tax purposes.

45 A “qualifying senior family member” shall include an individual
46 who meets the qualifications enumerated in this definition of a
47 qualifying senior family member but who occupies a separate room
48 or rooms within or located on the same property as the qualified

1 caregiver's permanent place of abode in this State, including a
2 separate room or rooms that comprise a self-contained living
3 arrangement commonly referred to as a secondary suite or mother-
4 in-law apartment. A "qualifying senior family member" shall not
5 include a tenant, subtenant, roomer, or boarder who pays rent or is
6 charged a fee for the occupancy of a room or rooms within or
7 located on the same property as the qualified caregiver's permanent
8 place of abode in this State.

9 "Relative" means an individual related by consanguinity within
10 the third degree as determined by the common law or an individual
11 related to a spouse or a partner to a civil union or domestic
12 partnership within the third degree as so determined, and includes
13 an individual in an adoptive relationship within the third degree.

14
15 2. This act shall take effect immediately and apply to taxable
16 years beginning on or after January 1 next following the date of
17 enactment.

20 STATEMENT

21
22 This bill, designated as the Caregiver's Assistance Act, provides
23 a gross income tax credit to qualified caregivers, including resident
24 taxpayers and resident individuals, who pay or incur qualified care
25 expenses for the care and support of a qualifying senior family
26 member residing with the caregiver at the caregiver's permanent
27 place of abode in this State.

28 The bill provides that to be allowed a credit qualified caregivers
29 who pay or incur qualified care expenses must have gross income
30 that does not exceed an annual income limitation. The bill specifies
31 that qualified caregivers must have gross income that does not
32 exceed \$100,000, or does not exceed \$50,000 if married or a civil
33 union partner filing separately or if unmarried, not a partner in a
34 civil union, and not filing or eligible to file as head of household or
35 as a surviving spouse for federal income tax purposes, to be allowed
36 the credit.

37 The bill provides that the amount of the credit is equal to 22.5
38 percent of the qualified care expenses paid or incurred by the
39 qualified caregiver during the taxable year for the care and support
40 of a qualifying senior family member that are not in excess of
41 \$3,000. The bill's limitation on the amount of qualified care
42 expenses caps the maximum amount of each credit at \$675 per year.

43 The bill provides that if multiple qualified caregivers maintain
44 residency at the same place in this State and each caregiver is
45 allowed a credit for qualified care expenses of the same qualifying
46 senior family member, the credit allowed will be allocated in equal
47 amounts unless a different allocation is established by agreement.
48 The bill provides that the credit is in addition to the benefit of the

1 dependent deduction that may be received by the qualified caregiver
2 for claiming the qualifying senior family member as a dependent on
3 the caregiver's gross income tax return.

4 The bill provides that the credit is refundable: the amount of any
5 credit that reduces the qualified caregiver's tax liability to an
6 amount less than zero is required to be refunded to the caregiver as
7 an overpayment of tax. The bill provides that a qualified caregiver
8 is eligible to receive the benefits of the credit, even if the caregiver
9 has gross income below the statutory minimum subject to tax.

10 The bill defines a qualifying senior family member as an
11 individual who: (1) is 60 years of age or older and a relative of the
12 qualified caregiver, (2) resides with the qualified caregiver at the
13 qualified caregiver's permanent place of abode in this State for not
14 less than six months of the taxable year, and (3) has gross income
15 for the taxable year not in excess of \$20,000, or not in excess of
16 \$13,000 if married or a civil union partner filing separately or if
17 unmarried, not a partner in a civil union, and not filing or eligible to
18 file as head of household or as a surviving spouse for federal
19 income tax purposes. The bill generally defines qualified care
20 expenses as the expenses paid or incurred during the taxable year
21 for the purchase, lease, or rental of tangible personal property and
22 services that are necessary to allow the qualifying senior family
23 member to be maintained within or at the qualified caregiver's
24 permanent place of abode in this State.

25 The purpose of this bill is to recognize and provide financial
26 assistance to State residents who provide informal, uncompensated
27 care and support to elderly relatives. Family caregivers who provide
28 care and support to senior loved ones help meet a critical need of
29 the State's aging population by allowing elderly residents to remain
30 at home and in their communities for longer periods and by
31 reducing the overall strain on the State's existing health care and
32 long-term care service and support systems.

33 According to recent reports, the efforts of family caregivers
34 typically go unnoticed and often have significant impacts on the
35 emotional and financial health of those providing care. The credit
36 provided by the bill will alleviate a portion of the overall cost
37 associated with providing in-home care to elderly relatives, and
38 illuminate the critical role family caregivers play in supporting the
39 health and well-being of the State and its senior residents.