# SENATE, No. 2021

# STATE OF NEW JERSEY
## 220th LEGISLATURE

INTRODUCED MARCH 3, 2022

**Sponsored by:**
**Senator JAMES BEACH**
**District 6 (Burlington and Camden)**
**Senator RICHARD J. CODEY**
**District 27 (Essex and Morris)**

**Co-Sponsored by:**
**Senators Diegnan, Stanfield, Turner, Cunningham, Singer, Singleton, Zwicker, Gopal, Gill, Burgess and Madden**

**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**
As introduced.

**(Sponsorship Updated As Of: 1/26/2023)**

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

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

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

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

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

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

e. The credit for a qualified caregiver who is allowed a credit in accordance with subsection a. of this section but who, in accordance with N.J.S.54A:2-4, is not subject to tax, shall be applied for annually on an application as shall be made available by the director, to be filed with the director on or before the date for filing annual gross income tax returns. The director shall determine the form and manner by which a qualified caregiver who is allowed a credit in accordance with subsection a. of this section shall apply for a refund of an overpayment of tax, and the time of the refund of the overpayment of tax.

f. As used in this section:

"Qualified care expenses" means expenses paid or incurred by a qualified caregiver for the purchase, lease, or rental of tangible personal property and services that are necessary to allow a qualifying senior family member to be maintained within or at the qualified caregiver's permanent place of abode in this State, which property and services are provided to or for the benefit of the qualifying senior family member or to assist the qualified caregiver in providing care and support to the qualifying senior family member or are provided by an organization or an individual who is not a relative of the qualified caregiver or the qualifying senior family member. "Qualified care expenses" shall include, but shall not be limited to, expenses paid or incurred by a qualified caregiver for the purchase, lease, or rental of home health agency services, adult day care, companionship services, personal care attendant services, homemaker services, respite care, health care equipment and supplies, home modification services, services necessary to provide care and support to a qualifying senior family member in connection with two or more daily living activities, or assistive devices. "Qualified care expenses" shall not include expenses paid or incurred by a qualified caregiver that are reimbursed by insurance or by a program administered by the State or federal government.

"Qualified caregiver" means a resident taxpayer or a resident individual of this State who provides care and support to a qualifying senior family member.

"Qualifying senior family member" means an individual who:

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

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

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

A "qualifying senior family member" shall include an individual who meets the qualifications enumerated in this definition of a qualifying senior family member but who occupies a separate room or rooms within or located on the same property as the qualified caregiver’s permanent place of abode in this State, including a separate room or rooms that comprise a self-contained living arrangement commonly referred to as a secondary suite or mother-in-law apartment. A “qualifying senior family member” shall not include a tenant, subtenant, roomer, or boarder who pays rent or is charged a fee for the occupancy of a room or rooms within or located on the same property as the qualified caregiver’s permanent place of abode in this State.

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

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

STATEMENT

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

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

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

The bill provides that if multiple qualified caregivers maintain residency at the same place in this State and each caregiver is allowed a credit for qualified care expenses of the same qualifying senior family member, the credit allowed will be allocated in equal amounts unless a different allocation is established by agreement. The bill provides that the credit is in addition to the benefit of the dependent deduction that may be received by the qualified caregiver for claiming the qualifying senior family member as a dependent on the caregiver's gross income tax return.

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

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

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

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