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Legislative Document

No. 296

H.P. 209

House of Representatives, February 3, 2021

An Act To Provide a Tax Credit for Family Caregivers

Received by the Clerk of the House on February 1, 2021. Referred to the Committee on Taxation pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

A handwritten signature in cursive script that reads "R B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative CLOUTIER of Lewiston.
Cosponsored by Senator BENNETT of Oxford and
Representatives: ARATA of New Gloucester, CONNOR of Lewiston, COREY of Windham,
HEPLER of Woolwich, OSHER of Orono, SACHS of Freeport, TERRY of Gorham, Senator:
CARNEY of Cumberland.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 22 MRSA §7308**, as amended by PL 2001, c. 487, §1, is repealed and the
3 following enacted in its place:

4 **§7308. Respite Care Fund**

5 **1. Respite Care Fund; purpose.** The Respite Care Fund, referred to in this section
6 as "the fund," is established in the department and administered by the department for the
7 purpose of providing short-term respite care for persons with Alzheimer's disease and other
8 dementias. This respite care may include short-term in-home care, nursing or residential
9 care facility stays, hospital or adult day care or home modifications. The department also
10 may use the fund to carry out the purposes of the National Family Caregiver Support
11 Program authorized under 42 United States Code, Chapter 35, Subchapter III, Part E.

12 **2. Family caregiver program; income tax credit; certification.** Beginning January
13 1, 2022, in addition to the purposes specified in subsection 1, the fund also may be used to
14 cover the costs of a family caregiver program including services to family caregivers and
15 the income tax credit provided in Title 36, section 5218-B for family caregivers providing
16 care to consumers determined eligible under this section in accordance with rules adopted
17 by the department. An eligible family caregiver may choose annually to receive either
18 services provided under the program or the family caregiver credit. If an eligible family
19 caregiver chooses to receive the family caregiver credit, the department, or its designee,
20 shall certify to the Department of Administrative and Financial Services, Maine Revenue
21 Services by January 15th each year beginning in 2022 that the family caregiver is eligible
22 for this credit.

23 **3. Annual expenditures capped.** Beginning on January 1, 2022, aggregate
24 expenditures under the fund, including transfers to the General Fund under Title 36, section
25 5218-B, subsection 4, may not exceed \$5,000,000 in any calendar year. This cap does not
26 include an amount of state revenue equal to the amount available to this fund in state fiscal
27 year 2019-20 and any federal revenue available to the fund. An administrative fee of up to
28 10% of this cap may be used for purposes established under this section.

29 **4. Stakeholder group; evaluation; reports.** The department shall convene a
30 stakeholder group no later than October 1, 2021 to assist in carrying out the purpose of this
31 section, evaluating the effect of the family caregiver program and contributing to the
32 content of the annual report under this subsection. The stakeholder group must include
33 representatives of area agencies on aging, consumers, family caregivers, providers of in-
34 home and community support services, nursing facilities, residential care services and
35 advocacy organizations for the elderly. The department shall submit an annual report no
36 later than January 1st of each year beginning in 2022 to the joint standing committees of
37 the Legislature having jurisdiction over health and human services matters and taxation
38 matters. The annual report must include the following:

39 A. An unduplicated count of individuals receiving respite care, assistive technology,
40 home modification and tax credits;

41 B. The amount of funds that were allocated for respite care, assistive technology, home
42 modification and tax credits;

1 C. The number of consumers and family caregivers on a waiting list for services under
2 this section and demographics of those individuals, including, but not limited to, age,
3 ethnicity, gender identity, income and county of residence;

4 D. Demographics of family caregivers and consumers served, including, but not
5 limited to, age, ethnicity, gender identity, income and county of residence;

6 E. The time between application and eligibility determination by the department or its
7 designee pursuant to subsection 2;

8 F. The time between application for and receipt of respite care;

9 G. An assessment of the extent to which the services provided under this section keep
10 consumers in their homes and delay a transfer to a higher level of institutional care;
11 and

12 H. Any recommendations for changes related to the adequacy of the fund or the scope
13 or type of services that it provides.

14 **5. Rulemaking.** The department shall adopt rules to implement this section. Rules
15 adopted pursuant to this subsection are routine technical rules as defined by Title 5, chapter
16 375, subchapter 2-A.

17 **Sec. 2. 36 MRSA §5218-B** is enacted to read:

18 **§5218-B. Family caregiver credit**

19 **1. Credit allowed.** For tax years beginning on or after January 1, 2022, a family
20 caregiver certified by the Department of Health and Human Services or its designee under
21 Title 22, section 7308, subsection 2 is allowed a refundable credit of \$2,000 against the
22 taxes otherwise due under this Part.

23 **2. Credit for part-year resident taxpayer.** For tax years beginning on or after
24 January 1, 2022, a family caregiver certified by the Department of Health and Human
25 Services or its designee under Title 22, section 7308, subsection 2 who is a part-year
26 resident taxpayer is allowed a refundable credit of \$2,000, multiplied by a ratio, the
27 numerator of which is the individual's income as modified by section 5122 for that portion
28 of the taxable year during which the individual was a resident plus the individual's income
29 from sources within this State, as determined under section 5142, for that portion of the
30 taxable year during which the individual was a nonresident and the denominator of which
31 is the individual's entire income, as modified by section 5122.

32 **3. Credit for nonresident taxpayer.** For tax years beginning on or after January 1,
33 2022, a family caregiver certified by the Department of Health and Human Services or its
34 designee under Title 22, section 7308, subsection 2 who is a nonresident taxpayer is
35 allowed a refundable credit of \$2,000, multiplied by the ratio of the individual's Maine
36 adjusted gross income to the individual's federal adjusted gross income as modified by
37 section 5122.

38 **4. Transfer of funds from the Respite Care Fund.** By August 1, 2022 and annually
39 thereafter, the assessor shall notify the State Controller of revenue loss attributable to
40 credits claimed under this section during the previous state fiscal year. The State Controller
41 shall transfer that amount from the Respite Care Fund established in Title 22, section 7308,
42 subsection 1 to the General Fund.

1

SUMMARY

2 This bill expands the role of the Department of Health and Human Services with
3 respect to the Respite Care Fund to include services for family caregivers. It provides a
4 refundable income tax credit of \$2,000 for certified family caregivers and permits eligible
5 family caregivers to choose to receive services or a tax credit. It requires the department,
6 by routine technical rulemaking, to prescribe the details of eligibility for family caregiver
7 services and the tax credit within the context of the Respite Care Fund and the National
8 Family Caregiver Support Program. The bill requires the department to establish a
9 stakeholder group to assist in carrying out the purposes of the family caregiver program,
10 evaluating the effect of the program and assisting with the compilation of an annual report.
11 The bill requires that revenue losses to the General Fund attributable to the family caregiver
12 income tax credit be reimbursed from the Respite Care Fund and provides that aggregate
13 expenditures under the Respite Care Fund may not exceed \$5,000,000 annually excluding
14 existing funds and federal revenue.