

**ENROLLED BILL**

-- *Ways and Means/Budget and Taxation* --

Introduced by **The Speaker (By Request - Administration) and Delegates**

**Gordon, Aumann, Barkley, Bartlett, Boteler, Bronrott, Conroy, Cryor, C. Davis, Doory, Eckardt, Edwards, Elliott, Elmore, Feldman, Franchot, Goodwin, Gordon, Healey, Heller, Hixson, Hubbard, Kach, Kaiser, King, Kirk, Krebs, Kullen, Madaleno, Mandel, Montgomery, Morhaim, Murray, O'Donnell, Parker, Pugh, Ramirez, Shewell, Smigiel, Sossi, Stern, Stull, Taylor, Walkup, and Weldon Weldon, Anderson, Benson, Boschert, Bozman, Cadden, Cardin, Donoghue, Gilleland, Goldwater, Howard, Marriott, McKee, Myers, Patterson, Pendergrass, Petzold, Ross, and Trueschler**

Read and Examined by Proofreaders:

\_\_\_\_\_  
Proofreader.

\_\_\_\_\_  
Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this \_\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_ o'clock, \_\_\_\_\_ M.

\_\_\_\_\_  
Speaker.

CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 ~~Income Tax – Subtraction Modification for Long Term Care Provided by an~~  
3 ~~Eligible Caregiver~~  
4 Family Caregiver Assistance Program

5 FOR the purpose of ~~allowing a subtraction modification in a certain amount for~~  
6 ~~long term care provided by an eligible caregiver to certain individuals under~~  
7 ~~certain circumstances; establishing a Family Caregiver Assistance Program in~~  
8 ~~the Department of Aging; specifying the purpose of the Program; providing for the~~

1 funding of the Program; authorizing the Secretary of Aging to accept certain  
 2 moneys for certain purposes; establishing eligibility for the Program; authorizing  
 3 the Program to provide certain family caregivers with certain grants not to exceed  
 4 a certain amount per year; specifying the purposes for which a grant may be used;  
 5 requiring the Secretary to adopt certain regulations; requiring the Secretary to  
 6 work with the Department of Disabilities, the Department of Health and Mental  
 7 Hygiene, and the Maryland Caregivers Support Coordinating Council to promote  
 8 the Program to certain individuals; requiring the Secretary to report annually to  
 9 the Governor and the General Assembly; requiring the Department of Aging to  
 10 submit a certain report to the Governor and the General Assembly on or before a  
 11 certain date; providing that if the subtraction modification for long term care  
 12 exceeds Maryland taxable income under certain circumstances that the excess  
 13 may be carried forward for a certain number of years; defining certain terms;  
 14 providing for the application of this Act; and generally relating to a subtraction  
 15 modification for long term care provided by an eligible caregiver to certain  
 16 applicable individuals an assistance program for certain family caregivers.

17 ~~BY repealing and reenacting, without amendments,~~  
 18 ~~Article Tax General~~  
 19 ~~Section 10-208(a)~~  
 20 ~~Annotated Code of Maryland~~  
 21 ~~(2004 Replacement Volume and 2005 Supplement)~~

22 ~~BY adding to~~  
 23 ~~Article Tax General~~  
 24 ~~Section 10-208(q)~~  
 25 ~~Annotated Code of Maryland~~  
 26 ~~(2004 Replacement Volume and 2005 Supplement)~~

27 BY adding to  
 28 Article - 70B - Department of Aging  
 29 Section 45  
 30 Annotated Code of Maryland  
 31 (2003 Replacement Volume and 2005 Supplement)

32 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
 33 MARYLAND, That the Laws of Maryland read as follows:

34 **~~Article Tax General~~**

35 ~~10-208.~~

36 (a) ~~In addition to the modification under § 10-207 of this subtitle, the~~  
 37 ~~amounts under this section are subtracted from the federal adjusted gross income of~~  
 38 ~~a resident to determine Maryland adjusted gross income.~~

1     ~~(Q)   (1)   (4)~~     IN THIS SUBSECTION THE FOLLOWING WORDS HAVE THE  
2 MEANINGS INDICATED:

3                     ~~(II)~~     "APPLICABLE INDIVIDUAL" MEANS ANY INDIVIDUAL WHO IS AT  
4 LEAST 18 YEARS OLD AND HAS BEEN CERTIFIED BY A LICENSED PHYSICIAN IN THE  
5 STATE AS AN INDIVIDUAL WITH LONG TERM CARE NEEDS FOR AT LEAST 180  
6 CONSECUTIVE DAYS DURING THE TAXABLE YEAR.

7                     ~~(III)~~    "ELIGIBLE CAREGIVER" MEANS A TAXPAYER WHO IS THE:

8                             1.     APPLICABLE INDIVIDUAL'S SPOUSE; OR

9                             2.     INDIVIDUAL WHO CARES FOR AN APPLICABLE  
10 INDIVIDUAL AS A DEPENDENT WHO MEETS THE REQUIREMENTS OF PARAGRAPH (2)  
11 OF THIS SUBSECTION.

12                    ~~(IV)~~    "INDIVIDUAL WITH LONG TERM CARE NEEDS" MEANS AN  
13 INDIVIDUAL WHO IS:

14                            1.     UNABLE TO PERFORM WITHOUT SUBSTANTIAL  
15 ASSISTANCE FROM ANOTHER INDIVIDUAL AT LEAST THREE ACTIVITIES OF DAILY  
16 LIVING AS DEFINED IN § 7702B(C)(2)(B) OF THE INTERNAL REVENUE CODE; OR

17                            2.     UNABLE TO PERFORM WITHOUT SUBSTANTIAL  
18 ASSISTANCE FROM ANOTHER INDIVIDUAL AT LEAST ONE OF THE ACTIVITIES OF  
19 DAILY LIVING AS DEFINED IN § 7702B(C)(2)(B) OF THE INTERNAL REVENUE CODE AND  
20 WHO REQUIRES SUBSTANTIAL SUPERVISION TO PROTECT THE INDIVIDUAL FROM  
21 THREATS TO HEALTH AND SAFETY DUE TO SEVERE COGNITIVE IMPAIRMENT.

22                    ~~(2)~~     TO QUALIFY AS A DEPENDENT OF AN ELIGIBLE CAREGIVER, THE  
23 APPLICABLE INDIVIDUAL:

24                            ~~(1)~~     SHALL BE THE ELIGIBLE CAREGIVER'S PARENT, STEPPARENT,  
25 GRANDPARENT, CHILD, STEPCHILD, SIBLING, AUNT, UNCLE, SON IN LAW,  
26 DAUGHTER IN LAW, MOTHER IN LAW, FATHER IN LAW, OR A MEMBER OF THE  
27 HOUSEHOLD OF THE ELIGIBLE CAREGIVER FOR THE ENTIRE TAXABLE YEAR; AND

28                            ~~(II)~~    MAY NOT HAVE A FEDERAL ADJUSTED GROSS INCOME FOR THE  
29 TAXABLE YEAR THAT EXCEEDS \$10,000.

30                    ~~(3)~~     FOR AN INDIVIDUAL WHOSE FEDERAL ADJUSTED GROSS INCOME  
31 DOES NOT EXCEED \$150,000, THE SUBTRACTION UNDER SUBSECTION (A) OF THIS  
32 SECTION INCLUDES AN AMOUNT EQUAL TO \$1,000 FOR LONG TERM CARE PROVIDED  
33 BY AN ELIGIBLE CAREGIVER TO AN APPLICABLE INDIVIDUAL DURING THE TAXABLE  
34 YEAR.

Article 70B - Department of Aging

1

2 45.

3 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS  
4 INDICATED.

5 (2) "ADULT DEPENDENT" MEANS AN INDIVIDUAL WHO IS AT LEAST 18  
6 YEARS OLD AND IS THE SPOUSE, PARENT, STEPPARENT, GRANDPARENT, CHILD,  
7 STEPCHILD, SIBLING, AUNT, UNCLE, SON-IN-LAW, DAUGHTER-IN-LAW,  
8 MOTHER-IN-LAW, OR FATHER-IN-LAW OF A FAMILY CAREGIVER.

9 (3) "FAMILY CAREGIVER" MEANS AN INDIVIDUAL WHO CARES FOR AN  
10 ADULT DEPENDENT WHO IS AN INDIVIDUAL WITH LONG-TERM CARE NEEDS.

11 (4) "INDIVIDUAL WITH LONG-TERM CARE NEEDS" MEANS AN  
12 INDIVIDUAL WHO:

13 (I) IS UNABLE TO PERFORM WITHOUT SUBSTANTIAL ASSISTANCE  
14 FROM ANOTHER INDIVIDUAL AT LEAST THREE ACTIVITIES OF DAILY LIVING; OR

15 (II) IS UNABLE TO PERFORM WITHOUT SUBSTANTIAL ASSISTANCE  
16 FROM ANOTHER INDIVIDUAL AT LEAST ONE ACTIVITY OF DAILY LIVING AND  
17 REQUIRES SUBSTANTIAL SUPERVISION TO PROTECT THE INDIVIDUAL FROM  
18 THREATS TO HEALTH AND SAFETY DUE TO SEVERE COGNITIVE IMPAIRMENT.

19 (5) "PROGRAM" MEANS THE FAMILY CAREGIVER ASSISTANCE PROGRAM  
20 ESTABLISHED UNDER THIS SECTION.

21 (B) THERE IS A FAMILY CAREGIVER ASSISTANCE PROGRAM IN THE  
22 DEPARTMENT.

23 (C) THE PURPOSE OF THE PROGRAM IS TO PROVIDE GRANTS TO ELIGIBLE  
24 FAMILY CAREGIVERS TO SUPPLEMENT THE UNMET EXPENSES OF CARING FOR AN  
25 ADULT DEPENDENT.

26 (D) (1) FUNDING FOR THE PROGRAM SHALL BE AS PROVIDED IN THE STATE  
27 BUDGET.

28 (2) THE SECRETARY MAY ACCEPT MONEYS PROVIDED BY OTHER PUBLIC  
29 AND PRIVATE SOURCES, INCLUDING FEDERAL FUNDS, TO PROVIDE GRANTS UNDER  
30 THIS PROGRAM.

31 (E) A FAMILY CAREGIVER IS ELIGIBLE FOR A GRANT FROM THE PROGRAM IF:

32 (1) THE FAMILY CAREGIVER RESIDES WITH AN ADULT DEPENDENT;

33 (2) THE ADULT DEPENDENT HAS BEEN CERTIFIED BY A LICENSED  
34 PHYSICIAN IN THE STATE AS AN INDIVIDUAL WITH LONG-TERM CARE NEEDS FOR AT  
35 LEAST 180 CONSECUTIVE DAYS DURING THE YEAR; AND

1           (3)     THE FAMILY CAREGIVER'S HOUSEHOLD INCOME IS 200% OR LESS OF  
2 THE STATE MEDIAN INCOME, AS ADJUSTED FOR FAMILY SIZE, IN ACCORDANCE WITH  
3 REGULATIONS ADOPTED BY THE DEPARTMENT.

4     (F)     (1)     THE PROGRAM MAY PROVIDE ELIGIBLE FAMILY CAREGIVERS WITH A  
5 GRANT OF UP TO \$500 PER HOUSEHOLD PER YEAR.

6           (2)     GRANTS MAY BE USED TO FUND GOODS AND SERVICES REQUIRED  
7 TO PROVIDE CARE FOR THE DEPENDENT ADULT INCLUDING DURABLE MEDICAL  
8 EQUIPMENT, MEDICAL BILLS, MEDICAL SUPPLIES, PRESCRIPTION OR  
9 OVER-THE-COUNTER MEDICATIONS, REPAIRS OR MODIFICATIONS TO THE HOME,  
10 AND RESPITE CARE FOR THE FAMILY CAREGIVER.

11     (G)     THE SECRETARY SHALL:

12           (1)     ADOPT REGULATIONS TO IMPLEMENT THE PROGRAM;

13           (2)     WORK IN COOPERATION WITH THE DEPARTMENT OF DISABILITIES,  
14 THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE, AND THE MARYLAND  
15 CAREGIVERS SUPPORT COORDINATING COUNCIL TO PROMOTE THE PROGRAM TO  
16 FAMILY CAREGIVERS THROUGHOUT THE STATE; AND

17           (3)     REPORT ANNUALLY TO THE GOVERNOR AND, SUBJECT TO § 2-1246  
18 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY ON:

19                   (I)     THE NUMBER OF GRANT REQUESTS RECEIVED;

20                   (II)    THE VALUE OF GRANTS PROVIDED TO FAMILY CAREGIVERS;

21                   (III)   THE PURPOSES FOR WHICH THE GRANTS WERE PROVIDED;

22 AND

23                   (IV)   THE NUMBER OF GRANT REQUESTS THAT THE PROGRAM WAS  
24 UNABLE TO FUND AND THE REASON WHY THESE REQUESTS WERE NOT FUNDED.

25     (H)     THE REGULATIONS REQUIRED TO BE ADOPTED UNDER SUBSECTION (G)  
26 OF THIS SECTION SHALL:

27           (1)     ENSURE THAT THE TOTAL AMOUNT OF FUNDING AVAILABLE FOR  
28 GRANTS UNDER THE PROGRAM BE ALLOCATED AMONG ALL COUNTIES AND  
29 BALTIMORE CITY BASED ON EACH COUNTY OR BALTIMORE CITY'S PROPORTION OF  
30 THE TOTAL STATE POPULATION AGED 18 AND OLDER; AND

31           (2)     PROVIDE THAT IF A COUNTY OR BALTIMORE CITY IS UNABLE TO USE  
32 ITS ALLOCATION, ANY UNSPENT FUNDS SHALL REVERT TO THE PROGRAM AND BE  
33 REDISTRIBUTED AMONG ALL COUNTIES AND BALTIMORE CITY.

34     SECTION 2. AND BE IT FURTHER ENACTED, That, on or before January 1,  
35 2007, the Department of Aging shall submit a report to the Governor and, subject to §  
36 2-1246 of the State Government Article, the General Assembly on the availability of

1 *federal or private funding to support this Program. This report shall include a plan for*  
2 *leveraging available federal or private funding beginning in fiscal year 2009.*

3           (4)     ~~IF THE SUBTRACTION ALLOWED UNDER PARAGRAPH (3) OF THIS~~  
4 ~~SUBSECTION EXCEEDS THE MARYLAND TAXABLE INCOME THAT IS COMPUTED~~  
5 ~~WITHOUT THE MODIFICATION ALLOWED UNDER THIS SUBSECTION AND THE~~  
6 ~~SUBTRACTION IS NOT USED FOR THE TAXABLE YEAR, THE EXCESS MAY BE CARRIED~~  
7 ~~OVER TO SUCCEEDING TAXABLE YEARS, NOT TO EXCEED 5 YEARS, UNTIL THE FULL~~  
8 ~~AMOUNT OF THE SUBTRACTION IS USED.~~

9     SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take  
10 effect July 1, 2006, and shall be applicable to all taxable years beginning after  
11 December 31, 2005.