

SB 208-FN - AS INTRODUCED

2017 SESSION

17-0973

10/05

SENATE BILL            ***208-FN***

AN ACT                establishing a working families property tax refund program.

SPONSORS:            Sen. Feltes, Dist 15; Sen. Hennessey, Dist 5; Sen. Soucy, Dist 18; Sen. Woodburn,  
Dist 1; Rep. LeBrun, Hills. 32

COMMITTEE:          Ways and Means

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ANALYSIS

This bill establishes a working families property tax refund program for a portion of state education property taxes paid by taxpayers who claimed the federal child and dependent care tax credit pursuant to Internal Revenue Code Section 21. The refunds are paid from the education trust fund.

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Explanation:          Matter added to current law appears in ***bold italics***.  
Matter removed from current law appears ~~[in brackets and struck through]~~  
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Seventeen*

AN ACT                    establishing a working families property tax refund program.

*Be it Enacted by the Senate and House of Representatives in General Court convened:*

1            1 New Subdivision; Working Families Property Tax Refund Program. Amend RSA 198 by  
2 inserting after section 62 the following new subdivision:

3                                    Working Families Property Tax Refund Program

4            198:63 Definitions. In this subdivision:

5            I. "Commissioner" means the commissioner of the department of revenue administration.

6            II. "Homestead" means the dwelling owned by a claimant or, in the case of a multi-unit  
7 dwelling, the portion of the dwelling which is owned and used as the claimant's principal place of  
8 residence and the claimant's domicile for purposes of RSA 654:1. "Homestead" shall not include  
9 land and buildings taxed under RSA 79-A or land and buildings or the portion of land and buildings  
10 rented or used for commercial or industrial purposes. In this paragraph, the term "owned"  
11 includes:

12                    (a) A vendee in possession under a land contract;

13                    (b) One or more joint tenants or tenants in common; or

14                    (c) A person who has equitable title, or the beneficial interest for life in the homestead.

15            III. "Working families property tax refund" means a refund of state education property  
16 taxes paid by taxpayers who receive the federal child and dependent care tax credit pursuant to  
17 Internal Revenue Code Section 21, equal to the lesser of:

18                    (a) Fifty percent of the claimant's federal child and dependent care tax credit provided  
19 by Internal Revenue Code Section 21; or

20                    (b) The total amount of the state education property tax paid by the claimant  
21 attributable to that portion of such property that qualifies as the claimant's homestead less any  
22 property tax relief provided by RSA 198:57.

23            198:64 Working Families Property Tax Refund; Procedures.

24            I. Pursuant to the provisions of this subdivision, eligible claimants shall be granted a  
25 refund following the effective date of this subdivision.

26            II. Residents shall apply to the department of revenue administration for the working  
27 families property tax refund.

28            III. An eligible claimant is a person who:

29                    (a) Owns a homestead or interest in a homestead subject to the state education property  
30 tax;

31                    (b) Resided in such homestead on April 1 of the year for which the claim is made, except

**SB 208-FN - AS INTRODUCED**  
**- Page 2 -**

1 such persons as are on active duty in the United States armed forces or are temporarily away from  
2 such homestead but maintain the homestead as a primary domicile;

3 IV. If a homestead is owned by 2 or more persons as joint tenants or tenants in common,  
4 the working families property tax refund applies to the state education property tax attributable to  
5 the proportionate share of the homestead that reflects the ownership percentage of the claimant.

6 V.(a) Completed applications for the working families property tax refund shall be filed  
7 with the department of revenue administration between May 1 and June 30 following the due date  
8 of the final tax bill as defined in RSA 76:1-a for state education property taxes.

9 (b) The commissioner may accept late filed, but complete, applications filed on or before  
10 November 1, under the following circumstances:

11 (1) The claimant satisfies the commissioner that the claimant was prevented from  
12 timely filing the application due to accident, mistake or misfortune, or

13 (2) The claimant or other adult member of the household requested an extension of  
14 time to file his or her federal income tax return.

15 VI. Each claimant shall provide a copy of his or her federal income tax return for the  
16 corresponding tax period.

17 198:65 Rulemaking; Forms; Notice.

18 I. The commissioner shall adopt rules, under RSA 541-A, relative to the administration of  
19 the working families property tax refund program.

20 II. The commissioner shall approve and provide forms relative to the administration of this  
21 subdivision, which shall include sections for information concerning the claimant, the claimant's  
22 household, the property for which the tax refund is sought, and such other information as is  
23 reasonably necessary to determine the accuracy of the claim.

24 III. The claimant shall certify that the claim is made in good faith and that the facts  
25 contained on the claim are true.

26 198:66 Penalties; Assessment of Erroneous Claims.

27 I. Any person who files a claim for the working families property tax refund under this  
28 subdivision with fraudulent intent and any person who assisted in the preparation or filing of the  
29 claim or supplied information upon which the claim was prepared shall be guilty of a misdemeanor.

30 II. The commissioner may audit any claim for relief filed under this subdivision to  
31 determine whether the claim has been granted erroneously. Any such audit shall commence within  
32 3 years after the claim has been granted. Any assessment made by the commissioner shall be  
33 subject to appeal in accordance with RSA 198:67, I.

34 III. The commissioner may assess and collect the amount of any working families property  
35 tax refund granted relative to a fraudulent or erroneously paid claim, including interest provided  
36 under RSA 21-J:28 and an additional penalty of 25 percent for the erroneous amount of such claim  
37 or an additional penalty of the greater of 25 percent or \$1,000 for a fraudulent claim.

38 198:67 Appeals.

I. Whenever the commissioner denies an application for the working families property tax refund, or after an audit, assesses an amount against the claimant, including interest and applicable penalties for an erroneously paid claim, the claimant may appeal in writing within 30 days of notice of such refusal or assessment to the board of tax and land appeals.

II. The board of tax and land appeals may reverse or affirm, in whole or in part, or modify the decision appealed from when there is an error of law or when the board finds the commissioner's action to be arbitrary or unreasonable.

198:68 Refund of Tax Claims. The department of revenue administration shall review a claim for the working families property tax refund filed with it and, if such claim is determined to be valid, shall certify such amount to the state treasurer within 120 days who shall pay such claims from funds in the education trust fund. Such sums are hereby appropriated and the governor is authorized to draw a warrant from the education trust fund to satisfy the state's obligation under this section. Such warrant for payment shall be issued regardless of the balance of funds available in the education trust fund. If the balance in the education trust fund, after the issuance of any such warrant, is less than zero, the commissioner of the department of revenue administration shall inform the fiscal committee and the governor and council of such balance. This reporting shall not in any way prohibit or delay the payment of valid claims. The department shall notify a claimant whose claim is rejected in whole or in part of such determination within 90 days of the department's receipt of the claim and all required documentation.

2 Reference Added; Education Trust Fund. Amend the introductory paragraph of RSA 198:39, I to read as follows:

I. The state treasurer shall establish an education trust fund in the treasury. Moneys in such fund shall not be used for any purpose other than to distribute adequate education grants to municipalities' school districts and to approved charter schools pursuant to RSA 198:42, to provide low and moderate income homeowners property tax relief under RSA 198:56-198:61, ***to provide working families property tax refunds under RSA 198:63-198:68***, and to fund kindergarten programs as may be determined by the general court. The state treasurer shall deposit into this fund immediately upon receipt:

3 Exemption; Purchase of Supplies. Amend RSA 21-I:18, I(l) to read as follows:

(l) Purchases of services from private contractors by the department of revenue administration with respect to the administration of low and moderate income homeowners property tax relief claims ***and working families property tax refund claims***.

4 Effective Date. This act shall take effect January 1, 2018.

**SB 208-FN- FISCAL NOTE  
AS INTRODUCED**

AN ACT establishing a working families property tax refund program.

**FISCAL IMPACT:**    ☒ State                    ☐ County                    ☐ Local                    ☐ None

STATE:	Estimated Increase / (Decrease)			
	FY 2018	FY 2019	FY 2020	FY 2021
<b>Appropriation</b>	\$0	\$0	\$0	\$0
<b>Revenue</b>	\$0	\$0	\$0	\$0
<b>Expenditures</b>	Indeterminable	Indeterminable	Indeterminable	Indeterminable
<b>Funding Source:</b>	<input checked="" type="checkbox"/> General	<input checked="" type="checkbox"/> Education	<input type="checkbox"/> Highway	<input type="checkbox"/> Other

The Judicial Branch was originally contacted on December 30, 2016, with followup on January 18, 2017 for a fiscal note worksheet, which the Branch has not provided as of January 27, 2017.

**METHODOLOGY:**

This bill would amend RSA 198 by establishing a refund of a portion of the State Education Property Tax paid by New Hampshire taxpayers who received the Federal Child and Dependent Care tax credit pursuant to Internal Revenue Code Section 21. The refund would be equal to the lesser of 50% of the claimant's Federal Child and Dependent Care tax credit or the total amount of State Education Property tax paid by the claimant less any tax relief already provided by the Low and Moderate Income Homeowners Property Tax Relief program.

The Department of Revenue Administration would be responsible for administering the proposed refund. Completed applications for the refund would be filed with the Department between May 1<sup>st</sup> and June 30<sup>th</sup> following the due date of the final property tax bill for the State Education Property Tax. The Department would be responsible for reviewing the claim and certifying the amount to the state treasurer within 120 days if approved. Refunds would be paid to applicants from funds in the Education Trust Fund. In order to administer this bill, the Department would need to create an additional position that would be primarily responsible for reviewing refund applications. This position would be necessary once the bill becomes effective on July 1, 2017, and the Department assumes the salary and benefit cost of the position would total approximately \$53,000 in FY 2018, \$55,000 in FY 2019, \$58,000 in FY 2020, and \$61,000 in FY 2021. The Department would also need to create a new form, update systems and gain access to federal tax information before the implementation of the bill.

The Statewide Education Property Tax is locally retained. The proposed bill contemplates the payment of refunds from the Education Trust Fund. As a result, the Department interprets the proposed refund as an increased expense to the Education Trust Fund (as opposed to a decrease in revenues). The Department cannot calculate the exact measure of increased expense that would result from the proposed refund because the Department does not have access to data indicating what portion of NH homeowners qualify for the federal Child and Dependent Care Tax Relief program. The proposed bill states that the state refund would be equal to the lesser of 50% of claimant's Federal Child and Dependent Care tax credit or the total amount of state property tax paid by the claimant less any tax relief already provided by the Low and Moderate Income Homeowners Tax Relief program. According to the US Census Bureau, the average percentage of NH residents who were homeowners in 2014 was 69.6%. In 2014, the total amount of Child and Dependent Care Tax Relief that was claimed by NH taxpayers on their federal returns was \$16,061,000. Fifty percent of this amount would be \$8,030,500 which would be the hypothetical amount to be paid out to all recipients of Federal Child and Dependent Tax Relief if all recipients were homeowners. If 69.6% (rate of owner occupied housing in NH in 2014) is applied to the amount of federal Child and Dependent Care Tax Relief received by NH residents, the result is \$5,589,228 which would represent the maximum fiscal impact had the bill been in effect in 2014. This is assuming that none of the homeowners were receiving additional tax relief through the Low to Moderate Homeowners Property Tax Relief program and that homeowners and renters qualify for the federal Child and Dependent Care Tax Relief program at equivalent rates.

To the extent that property tax refunds under the proposed legislation would be limited in instances where the taxpayer also received relief through the Low to Moderate Homeowners Property Tax Relief program, or to the extent that recipients of the federal Child and Dependent Tax Relief program are disproportionately renters, the expenditure increase estimated above would be mitigated.

The Board of Tax and Land Appeals states any impact on their expenditures would involve the cost of processing and deciding any Work Families Property Tax Relief appeals that are filed. The exact fiscal impact cannot be determined at this time.

The Judicial Council states this bill contains an unspecified misdemeanor. An unspecified misdemeanor can be either class A or class B, with the presumption being a class B misdemeanor. If the misdemeanor is elevated to a class A misdemeanor and an individual is found to be indigent, there may be a cost to the Judicial Council..

Public Defender Program	Has contract with State to provide services.	Has contract with State to provide services.
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Contract Attorney – Misdemeanor	\$275/Case	\$275/Case*
Assigned Counsel – Misdemeanor	\$60/Hour up to \$1,400	\$60/Hour up to \$1,400
It should be noted that a person needs to be found indigent and have the potential of being incarcerated to be eligible for indigent defense services. The majority of indigent cases (approximately 85%) are handled by the public defender program, with the remaining cases going to contract attorneys (14%) or assigned counsel (1%).		

The New Hampshire Association of Counties state this bill will have no impact on county revenue or expenditures.

**AGENCIES CONTACTED:**

Department of Revenue Administration, Judicial Branch, Judicial Council, Board of Tax and Land Appeals, and New Hampshire Association of Counties