

OKLAHOMA TAX COMMISSION

REVENUE IMPACT STATEMENT AND/OR ADMINISTRATIVE IMPACT STATEMENT SECOND REGULAR SESSION, FIFTY-EIGHTH OKLAHOMA LEGISLATURE

DATE OF IMPACT STATEMENT: March 14, 2022

BILL NUMBER: HB 3371 **STATUS AND DATE OF BILL:** Floor Substitute 3/07/22

AUTHORS: House West (Tammy), Talley and Lawson Senate Simpson

TAX TYPE (S): Income Tax **SUBJECT:** Credit

PROPOSAL: New Law

The Floor Substitute for HB 3371 proposes to enact the Caring for Caregivers Act and creates a new income tax credit for 50% of eligible expenditures incurred by a family caregiver for the care and support of an eligible family member, effective for taxable years beginning after December 31, 2022. The annual credit amount is limited to \$2,000, unless the eligible family member is a veteran or has a diagnosis of dementia, in which case, the maximum allowable credit is \$3,000. Total annual credits are limited to \$1.5 million.

EFFECTIVE DATE: January 1, 2023

REVENUE IMPACT:

Insert dollar amount (plus or minus) of the expected change in state revenues due to this proposed legislation.

FY 23: None.

FY 24: Unknown decrease in income tax revenue.

Mar. 14, 2022
DATE

Rick Miller
DIVISION DIRECTOR

bdf

3/14/2022
DATE

Huan Gong
HUAN GONG, ECONOMIST

3/18/2022
DATE

Joseph P. Boyce
FOR THE COMMISSION

The revenue impact provided herein is an estimate of the potential impact on the collection or apportionment of tax revenues affected by the proposed legislation. It is not intended to be an estimate of the overall fiscal impact on the state budget if the proposed legislation is enacted.

The Floor Substitute for HB 3371 proposes to enact the Caring for Caregivers Act and creates a new income tax credit for 50% of eligible expenditures incurred by a family caregiver for the care and support of an eligible family member, effective for taxable years beginning after December 31, 2022. The annual credit amount is limited to \$2,000, unless the eligible family member is a veteran or has a diagnosis of dementia, in which case, the maximum allowable credit is \$3,000. If two or more family caregivers claim the credit for the same eligible family member, the maximum allowable credit must be allocated in equal amounts among each family caregiver.

Total annual credits are limited to \$1.5 million. If total credits exceed \$1.5 million in any calendar year, the Oklahoma Tax Commission (OTC) will permit any excess over \$1.5 million but will factor such excess into the percentage adjustment formula for subsequent years. The OTC will annually calculate and publish by the first day of the affected year the percentage by which the credits will be reduced so the total annual amount of credits used to offset tax does not exceed \$1.5 million. The formula used for the percentage adjustment is \$1.5 million divided by the credits claimed in the second preceding year.¹

The following definitions are provided:

- “Activities of daily living (ADL)” include:
 - Ambulating, which is the extent of an individual's ability to move from one position to another and walk independently,
 - Feeding, which is the ability of an individual to feed oneself,
 - Dressing, which is the ability to select appropriate clothes and to put the clothes on without aid,
 - Personal hygiene, which is the ability to bathe and groom oneself and maintain dental hygiene and nail and hair care,
 - Continence, which is the ability to control bladder and bowel function, and
 - Toileting, which is the ability to get to and from the toilet without aid, using it appropriately, and cleaning oneself;
- “Eligible expenditure” includes:
 - The improvement or alteration to the family caregiver's primary residence to permit the eligible family member to remain mobile, safe, and independent,
 - The family caregiver's purchase or lease of equipment, including but not limited to durable medical equipment, that is necessary to assist an eligible family member in carrying out one or more activities of daily living (ADL), and
 - Other paid or incurred expenses that assist the family caregiver in providing care to an eligible family member, such as expenditures related to:
 - Hiring a home care aide,
 - Respite care,
 - Adult day care,
 - Personal care attendants,
 - Health care equipment, and
 - Technology.

The eligible expenditure must be directly related to assisting the family caregiver in providing care to an eligible family member. Eligible expenditure shall not include the carrying out of general household maintenance activities such as painting, plumbing, electrical repairs, or exterior maintenance;

- “Eligible family member” means an individual who:

¹ Because the formula to be used for the percentage adjustment is \$1.5 million divided by the credits claimed in the second preceding tax year, the credit limit is not enforceable until tax year 2025.

- Is 62 years of age or older,
- Requires assistance with at least two activities of daily living (ADL) as certified by a licensed health care provider, as defined in paragraph 1 of 63 O.S. § 3090.2, and
- Qualifies as a dependent, spouse, parent, or other relation by blood or marriage to the family caregiver;
- Lives in a private residential home and not in an assisted living center, nursing facility, or residential care home;
- “Family caregiver” means an individual:
 - Providing care and support for an eligible family member,
 - Who has a federal adjusted gross income of less than \$50,000 for an individual and less than \$100,000 for a couple filing jointly, and
 - Who has incurred uncompensated expenses directly related to the care of an eligible family member.

In its *2020 Older Americans Key Indicators of Well-Being* report, the Federal Interagency Forum on Aging Related Statistics (FIFARS) reported that approximately 3.1 million persons age 65 and over were Medicare beneficiaries who had dementia and were living in settings other than nursing homes during 2015.² It is estimated that approximately 36,334 (1.17%)³ of these persons were Oklahoma residents; however, the actual number of Oklahoma residents age 65 and over who have dementia and are living in a private residential home is unknown. If a \$3,000 credit was claimed for 50% of these persons, the resulting decrease in income tax revenue would be approximately \$54.5 million. The actual number of persons in Oklahoma who have dementia and who meet all the criteria to be considered eligible family members for the proposed credit is unknown.

Data published by the Chronic Conditions Data Warehouse further indicates approximately 5.5 million persons age 65 and over were enrolled in Medicare in the United States during 2019.⁴ This information and the percentages of Medicare beneficiaries age 65 and older who were reported by FIFARS as having limitations in activities of ADLs during 2015 were used to estimate the following:

Estimated Number of OK Medicare Enrollees with Limitations Performing 1 or More ADLs		
	<u>Rate</u>	<u># of Persons</u>
2017 Medicare Enrollees, Age 65 and Over		5,500,000
Limitations Performing 1-2 ADLs	16.3%	896,500
Limitations Performing 3-4 ADLs	4.9%	269,500
Limitations Performing 5-6 ADLs	2.9%	159,500
Est. Medicare Enrollees with Limitations Performing 1 or More ADLs		1,325,500
Est. OK Medicare Enrollees with Limitations Performing 1 or More ADLs	1.17%	15,508

If a \$2,000 credit was claimed for each of the estimated Oklahoma Medicare enrollees with limitations performing one or more ADLs, the resulting decrease in income tax revenue would be approximately \$31 million. The actual number of persons requiring assistance with at least two ADLs and who meet all the criteria to be considered eligible family members for the proposed credit is unknown.

Due to a scarcity of data, the actual number of persons who may be considered eligible family members and eligible caregivers for the proposed credit and the related eligible expenditure amounts are unknown. As a result, the expected revenue impact of this proposal is an unknown decrease in income tax collections, beginning for FY 24 when the 2023 tax returns are filed.

² See https://agingstats.gov/docs/LatestReport/OA20_508_10142020.pdf.

³ Based on U.S. Census Bureau data, an estimated 54.8 million people in the U.S. were 65 years or over during 2021, and an estimated 642,000 (1.17%) of these people lived in Oklahoma. See <https://www.census.gov/quickfacts/fact/table/US/PST045221> and <https://www.census.gov/quickfacts/OK>.

⁴ See <https://www2.cdwdata.org/web/guest/medicare-charts/medicare-enrollment-charts>.