

STATE OF OKLAHOMA

2nd Session of the 58th Legislature (2022)

SUBCOMMITTEE RECOMMENDATION

FOR

HOUSE BILL NO. 3371

By: West (Tammy)

SUBCOMMITTEE RECOMMENDATION

An Act relating to revenue and taxation; creating the Caring for Caregivers Act; defining terms; creating family caregiver tax credit; providing for maximum allowable credit; providing for multiple caregivers; providing for application of credit; creating annual credit caps; authorizing Oklahoma Tax Commission to promulgate rules; providing for noncodification; providing for codification; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law not to be codified in the Oklahoma Statutes reads as follows:

This act shall be known and may be cited as the "Caring for Caregivers Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2358.8 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. As used in this section:

1. "Activities of daily living (ADL)" shall include:

- a. ambulating, which is the extent of an individual's ability to move from one position to another and walk independently,
- b. feeding, which is the ability of an individual to feed oneself,
- c. dressing, which is the ability to select appropriate clothes and to put the clothes on without aid,
- d. personal hygiene, which is the ability to bathe and groom oneself and maintain dental hygiene and nail and hair care,
- e. continence, which is the ability to control bladder and bowel function, and
- f. toileting, which is the ability to get to and from the toilet without aid, using it appropriately, and cleaning oneself;

2. "Eligible expenditure" shall include:

- a. the improvement or alteration to the family caregiver's primary residence to permit the eligible family member to remain mobile, safe, and independent,
- b. 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

- 1 c. other paid or incurred expenses that assist the family
2 caregiver in providing care to an eligible family
3 member, such as expenditures related to:
- 4 (1) hiring a home care aide,
 - 5 (2) respite care,
 - 6 (3) adult day care,
 - 7 (4) personal care attendants,
 - 8 (5) health care equipment, and
 - 9 (6) technology.

10 The eligible expenditure must be directly related to assisting the
11 family caregiver in providing care to an eligible family member.

12 Eligible expenditure shall not include the carrying out of general
13 household maintenance activities such as painting, plumbing,
14 electrical repairs, or exterior maintenance;

15 3. "Eligible family member" shall mean an individual who:

- 16 a. is sixty-two (62) years of age or older,
- 17 b. requires assistance with at least two activities of
18 daily living (ADL) as certified by a licensed health
19 care provider, as defined in paragraph 1 of Section
20 3090.2 of Title 63 of the Oklahoma Statutes, and
- 21 c. qualifies as a dependent, spouse, parent, or other
22 relation by blood or marriage to the family caregiver;
23 and

24 4. "Family caregiver" shall mean an individual:

- a. providing care and support for an eligible family member,
- b. who has a federal adjusted gross income of less than Fifty Thousand Dollars (\$50,000.00) for an individual and less than One Hundred Thousand Dollars (\$100,000.00) for a couple filing jointly, and
- c. who has incurred uncompensated expenses directly related to the care of an eligible family member.

B. For taxable years beginning after December 31, 2022, there shall be allowed a credit against the tax imposed pursuant to Section 2355 of Title 68 of the Oklahoma Statutes in the amount of fifty percent (50%) for eligible expenditures incurred by a family caregiver for the care and support of an eligible family member.

C. The maximum allowable credit authorized by this section shall be Two Thousand Dollars (\$2,000.00) unless the eligible family member is a veteran or has a diagnosis of dementia in which case the maximum allowable credit shall be Three Thousand Dollars (\$3,000.00). If two or more family caregivers claim the tax credit authorized by this section for the same eligible family member, the maximum allowable credit shall be allocated in equal amounts between each of the family caregivers.

D. The credit authorized by this section may not be used to reduce the tax liability of the taxpayer to less than zero (0). The credit shall not be carried over.

1 E. The total credits authorized pursuant to this section for
2 all taxpayers shall not exceed One Million Five Hundred Thousand
3 Dollars (\$1,500,000.00) annually. In the event the total tax
4 credits authorized by this section exceed One Million Five Hundred
5 Thousand Dollars (\$1,500,000.00) annually in any calendar year, the
6 Tax Commission shall permit any excess over One Million Five Hundred
7 Thousand Dollars (\$1,500,000.00) annually, but shall factor such
8 excess into the percentage adjustment formula for subsequent years.
9 The Tax Commission shall annually calculate and publish by the first
10 day of the affected year a percentage by which the credits
11 authorized by this section shall be reduced so the total amount of
12 credits used to offset tax does not exceed One Million Five Hundred
13 Thousand Dollars (\$1,500,000.00) annually per year. The formula to
14 be used for the percentage adjustment shall be One Million Five
15 Hundred Thousand Dollars (\$1,500,000.00) annually divided by the
16 credits claimed in the second preceding year.

17 F. The Oklahoma Tax Commission shall promulgate rules necessary
18 to implement and administer the credit authorized by this section.

19 SECTION 3. This act shall become effective January 1, 2023.
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