

BILL SUMMARY
2nd Session of the 58th Legislature

Bill No.:	HB 3371
Version:	FA1
Request Number:	11050
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Date:	3/14/2022
Impact:	TAX COMMISSION REVISION PENDING

Annual Cap of \$1,500,000
May Exceed Cap With Adjustment
in Subsequent Tax Year

Research Analysis

The floor substitute for HB 3371 creates an income tax credit for 50 percent of eligible expenditures incurred by a family caregiver for the support of an eligible family member. In order to be eligible, the family member must:

- Be at least 62 years old;
- Require assistance with at least two activities of daily living (ADL);
- Qualify as a dependent, spouse, parent, or other relation by blood or marriage to the family caregiver; and
- Live in a private residential home and not an assisted living center, nursing facility, or residential care home.

The tax credit may be claimed beginning tax year 2023 and is subject to a \$1.5 million annual cap. Taxpayers are limited to a \$2,000 credit per family member, or \$3,000 if the family member is a veteran or is diagnosed with dementia.

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Fiscal Analysis

The amendment provides certain clarifications related to family caregivers and place of residence for the eligible family member. The Tax Commission is reviewing the amendment with the intent of providing a revised estimate

Prior analysis provided by the Tax Commission:

The Committee Substitute for HB 3371 propose to enact the Caring for Caregivers Act and create 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 credit 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

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. 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.

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.

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>.

Other Considerations

As mentioned in the footnotes, the formula used for determination of a percentage adjustment is \$1.5 million divided by the credits claimed in the second preceding tax year. Because of the structure of the formula, the Tax Commission indicates the credit cap would be unenforceable until tax year 2025.

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