

STATE OF OKLAHOMA

1st Session of the 59th Legislature (2023)

HOUSE BILL 1368

By: West (Tammy)

AS INTRODUCED

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 2357.801 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 or eligible family member's primary residence to permit the eligible family member to live in the residence and 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

1 family member in carrying out one or more activities
2 of daily living (ADL), and

3 c. other paid or incurred expenses by the family
4 caregiver that assist the family caregiver in
5 providing care to an eligible family member, such as
6 expenditures related to:

- 7 (1) hiring a home care aide,
- 8 (2) respite care,
- 9 (3) adult day care,
- 10 (4) personal care attendants,
- 11 (5) health care equipment, and
- 12 (6) technology.

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

15 Eligible expenditure shall not include the carrying out of general
16 household maintenance activities such as painting, plumbing,
17 electrical repairs, or exterior maintenance;

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

- 19 a. is sixty-two (62) years of age or older,
- 20 b. requires assistance with at least two activities of
- 21 daily living (ADL) as certified by a licensed health
- 22 care provider, as defined in paragraph 1 of Section
- 23 3090.2 of Title 63 of the Oklahoma Statutes,
- 24

1 c. qualifies as a dependent, spouse, parent, or other
2 relation by blood or marriage to the family caregiver,
3 and

4 d. lives in a private residential home and not in an
5 assisted living center, nursing facility, or
6 residential care home; and

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

8 a. providing care and support for an eligible family
9 member,

10 b. who has a federal adjusted gross income of less than
11 Fifty Thousand Dollars (\$50,000.00) for an individual
12 and less than One Hundred Thousand Dollars
13 (\$100,000.00) for a couple filing jointly, and

14 c. who has personally incurred uncompensated expenses
15 directly related to the care of an eligible family
16 member.

17 B. For taxable years beginning after December 31, 2023, there
18 shall be allowed a credit against the tax imposed pursuant to
19 Section 2355 of Title 68 of the Oklahoma Statutes in the amount of
20 fifty percent (50%) for eligible expenditures incurred by a family
21 caregiver for the care and support of an eligible family member.

22 C. The maximum allowable credit authorized by this section
23 shall be Two Thousand Dollars (\$2,000.00) unless the eligible family
24 member is a veteran or has a diagnosis of dementia in which case the

1 maximum allowable credit shall be Three Thousand Dollars
2 (\$3,000.00). If two or more family caregivers claim the tax credit
3 authorized by this section for the same eligible family member, the
4 maximum allowable credit shall be allocated in equal amounts between
5 each of the family caregivers.

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

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

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

SECTION 3. This act shall become effective January 1, 2024.

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