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SENATE BILL 544

**50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011**

INTRODUCED BY

Eric G. Griego

AN ACT

RELATING TO TAXATION; CREATING THE OPIOID TREATMENT INCOME TAX CREDIT; PROVIDING AN INCOME TAX CREDIT FOR CERTIFIED PHYSICIANS WHO TREAT OPIOID DEPENDENCE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. A new section of the Income Tax Act is enacted to read:

"[NEW MATERIAL] OPIOID TREATMENT INCOME TAX CREDIT.--

A. A taxpayer who files an individual New Mexico income tax return, who is not a dependent of another individual and who has provided, with the approval of the department of health, medication-assisted opioid addiction therapy with Schedule III, IV or V narcotic medications specifically approved by the United States food and drug administration health care services in New Mexico, may claim a credit in an

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1 amount not to exceed five thousand dollars (\$5,000) per year.  
2 The credit provided in this section may be referred to as the  
3 "opioid treatment income tax credit".

4 B. The purpose of the opioid treatment income tax  
5 credit is to increase access to medication-assisted opioid  
6 addiction therapy for patients with an opioid dependence by  
7 encouraging physicians to become certified and administer  
8 medication, such as buprenorphine, for opioid addiction in a  
9 primary health care setting and to reduce the demand for the  
10 trade of unregulated or illegal drugs.

11 C. A taxpayer may claim the opioid treatment income  
12 tax credit in the taxable year in which the taxpayer becomes  
13 certified to provide medication-assisted opioid addiction  
14 therapy to an average minimum of ten patients per month and in  
15 subsequent taxable years in which the taxpayer continues to  
16 provide medication-assisted opioid addiction therapy to an  
17 average minimum of ten patients per month. The taxpayer may  
18 claim the opioid treatment income tax credit in an amount of  
19 five hundred dollars (\$500) for providing medication-assisted  
20 opioid addiction therapy to an average minimum of ten patients  
21 per month and may claim an additional five hundred dollars  
22 (\$500) for every additional average ten patients per month for  
23 whom the taxpayer provides medication-assisted opioid addiction  
24 therapy, not to exceed a total of five thousand dollars  
25 (\$5,000) per year.

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1           D. That portion of the opioid treatment income tax  
2 credit approved by the taxation and revenue department that  
3 exceeds a taxpayer's income tax liability in the taxable year  
4 in which the opioid treatment income tax credit is claimed  
5 shall not be refunded to the taxpayer. The opioid treatment  
6 income tax credit shall not be carried forward or transferred  
7 to another taxpayer.

8           E. A taxpayer who claims and is granted approval  
9 for the opioid treatment income tax credit may apply for and be  
10 granted approval for the rural health care practitioner tax  
11 credit pursuant to Section 7-2-18.22 NMSA 1978. The rural  
12 health care practitioner tax credit shall be applied first and  
13 before the opioid treatment income tax credit. The opioid  
14 treatment income tax credit may be applied against remaining  
15 income tax liability, if any, after the rural health care  
16 practitioner tax credit has been applied against the income tax  
17 liability of the taxpayer.

18           F. A husband and wife filing separate returns for a  
19 taxable year for which they could have filed a joint return may  
20 each claim only one-half of the opioid treatment income tax  
21 credit that would have been claimed on a joint return.

22           G. A taxpayer who otherwise qualifies and claims an  
23 opioid treatment income tax credit in New Mexico that may be  
24 claimed by a partnership or limited liability company of which  
25 the taxpayer is a member may claim a credit only in the

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1 proportion to the taxpayer's interest in the partnership or  
2 limited liability company. The total credit claimed by all  
3 members of the partnership or limited liability company shall  
4 not exceed the allowable credit pursuant to Subsection A of  
5 this section.

6 H. The taxpayer shall be approved by the department  
7 of health to operate an opioid addiction treatment program and  
8 submit an application to the department of health that  
9 describes the taxpayer's practice and contains additional  
10 information that the department of health may require to  
11 determine the average number of patients per month for whom the  
12 taxpayer provided medication-assisted opioid addiction therapy.

13 I. The department of health shall adopt rules  
14 establishing procedures to certify a taxpayer for the purposes  
15 of obtaining an opioid treatment income tax credit. The rules  
16 shall ensure that a taxpayer claims the opioid treatment income  
17 tax credit in an amount proportional to the number of patients  
18 served on average per month pursuant to Subsection C of this  
19 section and that medication-assisted treatment for opioid  
20 addiction is administered in a primary health care setting. In  
21 the case that the taxpayer is an eligible rural health care  
22 practitioner providing medication-assisted opioid addiction  
23 therapy in an approved rural health care underserved area, the  
24 time required to provide those health care services may also be  
25 applied to the hours required to qualify for the rural health

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1 care practitioner tax credit. The department of health may, by  
2 rule, limit the specific medication required to be administered  
3 to qualify for an opioid treatment income tax credit. The  
4 department of health shall issue a dated certificate of  
5 eligibility containing the taxpayer's information, the amount  
6 of opioid treatment income tax credit for which taxpayer is  
7 eligible, the number of patients provided with medication-  
8 assisted opioid addiction therapy and any other information  
9 required by the taxation and revenue department. All  
10 certificates of eligibility issued pursuant to this subsection  
11 shall be sequentially numbered, and an account of all  
12 certificates issued or destroyed shall be maintained by the  
13 department of health. The taxation and revenue department  
14 shall audit the records of the opioid treatment income tax  
15 credit maintained by the department of health on a periodic  
16 basis to ensure effective administration of the opioid  
17 treatment income tax credit and compliance with the Tax  
18 Administration Act and with this section.

19 J. To claim an opioid treatment income tax credit,  
20 the taxpayer shall provide to the taxation and revenue  
21 department the certificate of eligibility issued by the  
22 department of health pursuant to this section to the taxpayer  
23 for the taxable year in which the opioid treatment income tax  
24 credit is claimed.

25 K. The taxation and revenue department may allow a

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1 maximum annual aggregate of two million dollars (\$2,000,000) in  
2 opioid treatment income tax credits that may be claimed  
3 pursuant to the Income Tax Act. Applications for the opioid  
4 treatment income tax credit shall be considered in the order  
5 received by the taxation and revenue department.

6 L. The taxation and revenue department shall  
7 compile an annual report that includes the number of taxpayers  
8 approved by the department to receive an opioid treatment  
9 income tax credit. Notwithstanding any other section of law to  
10 the contrary, the taxation and revenue department may disclose  
11 the number of applicants for the opioid treatment income tax  
12 credit, the amount of each credit approved, the number of  
13 patients served and any other information required by the  
14 legislature or the taxation and revenue department to aid in  
15 evaluating the effectiveness of the opioid treatment income tax  
16 credit.

17 M. An appropriate legislative committee shall  
18 review the effectiveness of the opioid treatment income tax  
19 credit every six years beginning in 2015."

20 SECTION 2. APPLICABILITY.--The provisions of this act  
21 shall apply to taxable years beginning on or after January 1,  
22 2012.