

SENATE FINANCE COMMITTEE SUBSTITUTE FOR  
SENATE BILL 343

51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013

AN ACT

RELATING TO TAXATION; CREATING THE OPIOID TREATMENT INCOME TAX  
CREDIT; PROVIDING A THREE-YEAR 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, who is an eligible health care practitioner and who  
has provided buprenorphine replacement therapy on or after  
January 1, 2014 and prior to January 1, 2017, may claim a  
credit in an amount not to exceed six thousand dollars (\$6,000)  
per year. The tax credit provided in this section may be

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underscored material = new  
[bracketed material] = delete

1 referred to as the "opioid treatment income tax credit".

2 B. The purpose of the opioid treatment income tax  
3 credit is to increase access to buprenorphine therapy for  
4 patients with an opioid dependence by encouraging physicians to  
5 become certified and administer buprenorphine for opioid  
6 addiction in an outpatient health care setting and to reduce  
7 the demand for the trade of unregulated or illegal drugs.

8 C. A taxpayer may claim the opioid treatment income  
9 tax credit for a taxable year in which the taxpayer becomes  
10 certified by the federal drug enforcement agency to provide  
11 buprenorphine replacement therapy and for which the taxpayer  
12 provides buprenorphine replacement therapy to an average  
13 minimum of eight patients per month for at least six months and  
14 for subsequent taxable years in which the taxpayer continues to  
15 provide buprenorphine replacement therapy to an average minimum  
16 of eight patients per month for twelve months. The taxpayer  
17 may claim the opioid treatment income tax credit in an amount  
18 of one thousand five hundred dollars (\$1,500) for providing  
19 buprenorphine replacement therapy to an average minimum of  
20 eight patients per month and may claim an additional one  
21 thousand five hundred dollars (\$1,500) for every additional  
22 average eight patients per month for whom the taxpayer provides  
23 buprenorphine replacement therapy, not to exceed a total of six  
24 thousand dollars (\$6,000) per year.

25 D. That portion of the opioid treatment income tax

1 credit approved by the department that exceeds a taxpayer's  
2 income tax liability in the taxable year in which the opioid  
3 treatment income tax credit is claimed shall not be refunded to  
4 the taxpayer. The opioid treatment income tax credit may be  
5 carried forward for three consecutive years. The tax credit  
6 shall not be transferred to another taxpayer.

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

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

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

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1 limited liability company. The total tax credit claimed by all  
2 members of the partnership or limited liability company shall  
3 not exceed the allowable tax credit pursuant to Subsection A of  
4 this section.

5 H. The board of pharmacy may adopt rules  
6 establishing procedures to certify a taxpayer for the purposes  
7 of obtaining an opioid treatment income tax credit. The rules  
8 shall ensure that a taxpayer claims the opioid treatment income  
9 tax credit in an amount proportional to the number of patients  
10 served on average per month pursuant to Subsection C of this  
11 section. In the case that the taxpayer is an eligible rural  
12 health care practitioner providing buprenorphine replacement  
13 therapy in an approved rural health care underserved area, the  
14 time required to provide those health care services may also be  
15 applied to the hours required to qualify for the rural health  
16 care practitioner tax credit. The board of pharmacy shall  
17 issue a dated certificate of eligibility containing the  
18 taxpayer's information, the amount of opioid treatment income  
19 tax credit for which the taxpayer is eligible, the number of  
20 patients provided with buprenorphine replacement therapy and  
21 any other information required by the taxation and revenue  
22 department. All certificates of eligibility issued pursuant to  
23 this subsection shall be sequentially numbered, and an account  
24 of all certificates issued or destroyed shall be maintained by  
25 the board of pharmacy. The taxation and revenue department

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1 shall audit the records of the opioid treatment income tax  
2 credit maintained by the board of pharmacy on a periodic basis  
3 to ensure effective administration of the opioid treatment  
4 income tax credit and compliance with the Tax Administration  
5 Act and with this section.

6 I. To claim an opioid treatment income tax credit,  
7 the taxpayer shall provide to the taxation and revenue  
8 department the certificate of eligibility issued by the board  
9 of pharmacy pursuant to this section to the taxpayer for the  
10 taxable year in which the opioid treatment income tax credit is  
11 claimed.

12 J. The department may allow a maximum annual  
13 aggregate of two million dollars (\$2,000,000) in opioid  
14 treatment income tax credits that may be claimed pursuant to  
15 the Income Tax Act. Applications for the opioid treatment  
16 income tax credit shall be considered in the order received by  
17 the department.

18 K. The department shall compile an annual report  
19 that includes the number of taxpayers approved by the  
20 department to receive an opioid treatment income tax credit.  
21 Notwithstanding any other section of law to the contrary, the  
22 department may disclose the number of applicants for the opioid  
23 treatment income tax credit, the amount of each tax credit  
24 approved, the number of patients served, the annual aggregate  
25 amount of tax credits allowed and information to aid in

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1 evaluating the effectiveness of the opioid treatment income tax  
2 credit to the interim revenue stabilization and tax policy  
3 committee.

4 L. An appropriate legislative committee shall  
5 review the effectiveness of the opioid treatment income tax  
6 credit in 2016.

7 M. As used in this section:

8 (1) "buprenorphine replacement therapy" means  
9 medical treatment for addiction to illegal opioids or  
10 prescription opioids using one of the two sublingual forms of  
11 the medication buprenorphine, either in combination with the  
12 medication naloxone or not in combination with the medication  
13 naloxone, depending on the appropriate medical indication based  
14 on the judgment of the prescribing eligible health care  
15 practitioner;

16 (2) "eligible health care practitioner" means  
17 a New Mexico physician licensed pursuant to the provisions of  
18 the Medical Practice Act or a New Mexico doctor of osteopathic  
19 medicine licensed pursuant to the provisions of Chapter 61,  
20 Article 10 NMSA 1978; and

21 (3) "opioid treatment" means medical treatment  
22 with the medication buprenorphine for a person with an  
23 addiction to illegal opioids or prescription opioids."

24 SECTION 2. APPLICABILITY.--The provisions of this act  
25 apply to taxable years beginning on or after January 1, 2014.

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