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FISCAL IMPACT REPORT

02/08/13
ORIGINAL DATE 03/04/13
LAST UPDATED 03/08/13 **HB** _____

SPONSOR SFC _____

SHORT TITLE Opioid Treatment Income Tax Credit **SB** 343/SFCS

ANALYST Smith _____

REVENUE (dollars in thousands)

Estimated Revenue					Recurring or Nonrecurring	Fund Affected
FY13	FY14	FY15	FY16	FY17		
\$0.0		(\$405.0)	(\$421.0)	(\$437.0)	Recurring	General Fund

(Parenthesis () Indicate Revenue Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY13	FY14	FY15	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	\$0.0		\$60.0	\$103.0	Recurring	Taxation and Revenue Department

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Taxation and Revenue Department (TRD)

Department of Health (DOH)

SUMMARY

Synopsis of Bill

Senate Finance Committee substitute for Senate Bill 343 (SB 343) adds a new section to the Income Tax Act, which provides an income tax credit for certified physicians who treat opioid dependence. The credit is not to exceed six thousand dollars per year, and the Department may allow a maximum annual aggregate of two million dollars in opioid treatment income tax credit. The credit is nonrefundable and may be carried forward three years. The credit is effective from

January 1, 2014 to January 1, 2017.

The bill requires that a report be submitted to the interim Revenue Stabilization and Tax Policy Committee in 2016. The credit expires after January 1, 2017.

FISCAL IMPLICATIONS

Data from the Board of Pharmacy shows that more than 33 thousand prescriptions were written for buprenorphine replacement therapy during the first eight months of 2012. The TRD has converted this information into an estimate of roughly 4,100 patients annually. Assuming that 50 physicians would claim the credit (and therefore encounter the \$6 thousand cap quickly) yields an estimate of \$392 thousand for FY14.

This bill may be counter to the Legislative Finance Committee (LFC) tax policy principle of adequacy, efficiency and equity. Due to the increasing cost of tax expenditures revenues may be insufficient to cover growing recurring appropriations.

Estimating the cost of tax expenditures is difficult. Confidentiality requirements surrounding certain taxpayer information create uncertainty, and analysts must frequently interpret third-party data sources. The statutory criteria for a tax expenditure may be ambiguous, further complicating the initial cost estimate of the expenditure's fiscal impact. Once a tax expenditure has been approved, information constraints continue to create challenges in tracking the real costs (and benefits) of tax expenditures.

SIGNIFICANT ISSUES

The Department of Health (DOH) reports that in 2010, New Mexico had the second highest drug overdose death rate in the nation—mostly from illicit and prescription opioid drugs. In 2011, the age-adjusted drug overdose death rate for New Mexico was 25.9 deaths per 100,000 persons. From 1990 to 2011 the state's drug overdose death rate more than tripled.

Buprenorphine is a semi-synthetic opioid used to treat opioid addiction. Buprenorphine is a partial agonist that acts upon mu-receptors while serving as an antagonist on sigma- and kappa-receptors. Buprenorphine maintenance therapy attempts to reduce craving in opioid addicts, provide regularized and safe doses, and reduce overdose potential.

PERFORMANCE IMPLICATIONS

The LFC tax policy of accountability is met with the bill's requirement to report annually to an interim legislative committee regarding the data compiled from the reports from taxpayers taking the deduction and other information to determine whether the deduction is meeting its purpose.

ADMINISTRATIVE IMPLICATIONS

The TRD reports medium impact. Development of a claim form, instruction and process would be at a cost of \$3,000. The process will be manual, which will require an additional FTE to audit and track the credits, their application to the tax due, and coordinating with the rural job tax credit being claimed, prepare reports and monitor the maximum annual cap. Audit procedures need to be developed and the department employee and taxpayer's education is needed. In addition, there would be low impact (60 hours) on staffing resources of information systems team.

SB 343 would require the adoption of rules, the establishment of a new program to approve an opiate addiction treatment program, and the preparation and distribution of tax certificates. A model of a similar medical provider tax credit certification does exist within the DOH: the Office of Rural Health administers provider certification for the Rural Health Care Practitioner Tax Credit. Administration of an opiate treatment income tax credit program would require additional program resources to certify providers and administer the tax credit certification. The DOH would request authority to budget a minimum of five percent of the appropriated amount, as applicable to carry out the intent of the legislation, for the DOH administrative costs associated with administering and expending the appropriation. Such costs would be used for staff time, supplies, travel, and related administrative expenses.

TECHNICAL ISSUES

The TRD notes that the phrases “opiod treatment” and “buprenorphine replacement therapy” should be defined. This could significantly reduce the fiscal impact.

They also note that on Page 2, lines 21-24, a taxpayer shall claim a credit within one year following the end of the calendar year in which the therapy is provided. This implies that if they did not claim the credit within one year, then the credit would be lost, which seems to conflict with Section 7-2-12.1 which basically says that a taxpayer has three years from the end of the calendar year of the due date to claim credit and rebates consistent with Section 7-1-26.

This bill does not contain a sunset date. The LFC recommends adding a sunset date.

Does the bill meet the Legislative Finance Committee tax policy principles?

1. **Adequacy:** Revenue should be adequate to fund needed government services.
2. **Efficiency:** Tax base should be as broad as possible and avoid excess reliance on one tax.
3. **Equity:** Different taxpayers should be treated fairly.
4. **Simplicity:** Collection should be simple and easily understood.
5. **Accountability:** Preferences should be easy to monitor and evaluate

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