

1 SENATE BILL 343

2 **51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013**

3 INTRODUCED BY

4 Bill B. O'Neill

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10 AN ACT

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

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

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

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

19 A. A taxpayer who files an individual New Mexico
20 income tax return, who is not a dependent of another
21 individual, who is an eligible health care practitioner and who
22 has provided buprenorphine replacement therapy may claim a
23 credit in an amount not to exceed six thousand dollars (\$6,000)
24 per year. The credit provided in this section may be referred
25 to as the "opioid treatment income tax credit".

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

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

25 D. That portion of the opioid treatment income tax

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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 shall not
5 be carried forward or transferred to another taxpayer.

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

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

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

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1 members of the partnership or limited liability company shall
2 not exceed the allowable credit pursuant to Subsection A of
3 this section.

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

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

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

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

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

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1 the interim revenue stabilization and tax policy committee.

2 L. An appropriate legislative committee shall
3 review the effectiveness of the opioid treatment income tax
4 credit every six years beginning in 2019.

5 M. As used in this section, "eligible health care
6 practitioner" means:

7 (1) a physician licensed pursuant to the
8 Medical Practice Act; or

9 (2) an osteopathic physician licensed pursuant
10 to the provisions of Chapter 61, Article 10 NMSA 1978."

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