

1 SENATE BILL 17

2 **55TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2021**

3 INTRODUCED BY

4 Mimi Stewart

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10 AN ACT

11 RELATING TO PUBLIC EDUCATION; ENACTING THE FAMILY INCOME INDEX  
12 ACT; REQUIRING CALCULATION OF A FAMILY INCOME INDEX AND  
13 PROVIDING FOR FUNDING DISTRIBUTIONS TO SCHOOL DISTRICTS THROUGH  
14 THAT INDEX; ESTABLISHING USES FOR THOSE DISTRIBUTIONS;  
15 REQUIRING INFORMATION-SHARING AGREEMENTS; PROVIDING  
16 CONFIDENTIALITY EXCEPTIONS.

17  
18 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

19 SECTION 1. A new section of the Public School Code is  
20 enacted to read:

21 "[NEW MATERIAL] SHORT TITLE.--Sections 1 through 6 of this  
22 act may be cited as the "Family Income Index Act".

23 SECTION 2. A new section of the Public School Code is  
24 enacted to read:

25 "[NEW MATERIAL] DEFINITIONS.--As used in the Family Income  
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1 Index Act:

2 A. "above average income" means a household income  
3 of two hundred twenty-five percent or a higher percentage of  
4 the federal poverty level;

5 B. "extremely low income" means a household income  
6 of up to seventy-five percent of the federal poverty level;

7 C. "low income" means a household income of at  
8 least one hundred thirty percent but less than one hundred  
9 eighty-five percent of the federal poverty level;

10 D. "moderate income" means a household income of at  
11 least one hundred eighty-five percent but less than two hundred  
12 twenty-five percent of the federal poverty level;

13 E. "school district" includes a state-chartered  
14 charter school; and

15 F. "very low income" means a household income  
16 greater than seventy-five percent but less than one hundred  
17 thirty percent of the federal poverty level."

18 SECTION 3. A new section of the Public School Code is  
19 enacted to read:

20 "[NEW MATERIAL] FAMILY INCOME INDEX--CALCULATION--  
21 INFORMATION-SHARING AGREEMENTS.--

22 A. The department shall calculate a family income  
23 index for each public school.

24 B. The department shall obtain the following  
25 information to the extent necessary for the purposes of

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1 calculating the household income of each public school student:

2 (1) from the taxation and revenue department,  
3 return information that includes the reported adjusted gross  
4 incomes, modified gross incomes, personal identifying  
5 information, household sizes and names of claimed dependents of  
6 taxpayers; and

7 (2) from the human services department, income  
8 information and personal identifying information maintained by  
9 the income support division and the medical assistance division  
10 of the human services department.

11 C. The taxation and revenue department and the  
12 human services department shall enter into information-sharing  
13 agreements with the department to provide the information  
14 requested by the department pursuant to Subsection B of this  
15 section.

16 D. Pursuant to Subsection E of this section, the  
17 department shall calculate the percentage of student households  
18 for each public school in each of the following income  
19 categories using information obtained pursuant to Subsection B  
20 of this section and census tract information:

- 21 (1) extremely low income;  
22 (2) very low income;  
23 (3) low income;  
24 (4) moderate income; and  
25 (5) above average income.

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1           E. The number of students from each public school  
2 in each category shall be divided by the public school's total  
3 enrollment to determine the percentage of students in each  
4 category. The family income index for each public school is as  
5 follows:

6                   (1) for fiscal year 2022, the percentage of  
7 the public school's students in the extremely low and very low  
8 income categories during the preceding fiscal year;

9                   (2) for fiscal year 2023, the average of the  
10 percentages of the public school's students in the extremely  
11 low and very low income categories during the immediately  
12 preceding two fiscal years; and

13                   (3) for fiscal year 2024 and each subsequent  
14 fiscal year, the average of the percentages of the public  
15 school's students in the extremely low and very low income  
16 categories during the immediately preceding three fiscal years.

17           F. The department shall rank all public schools in  
18 the state from lowest family income index to highest family  
19 income index by October 31 of each year.

20           G. The department shall provide the percentage of  
21 students at each public school in each income category to the  
22 legislative education study committee and the legislative  
23 finance committee by November 15 of each year."

24           **SECTION 4.** A new section of the Public School Code is  
25 enacted to read:

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1           "[NEW MATERIAL] THRESHOLD FOR FUNDING DISTRIBUTION--  
2 DISTRIBUTION OF FAMILY INCOME INDEX FUNDS.--

3           A. Each year, to determine the number of public  
4 schools that are eligible for family income index funding  
5 through distributions to their respective school districts, the  
6 department shall:

7                       (1) identify the school districts that have  
8 public schools within the fifty percent of the public schools  
9 on the department's ranked list pursuant to Subsection F of  
10 Section 3 of the Family Income Index Act with the highest  
11 family income indices; and

12                      (2) multiply the total number of public  
13 schools within each of the school districts that are identified  
14 in Paragraph (1) of this subsection by one-tenth, and if the  
15 product:

16                               (a) is less than one, the product shall  
17 be rounded to one; and

18                               (b) is more than one, the product shall  
19 be rounded to the nearest whole number.

20           B. The number of eligible public schools within a  
21 school district identified in Paragraph (1) of Subsection A of  
22 this section for which funding may be allocated pursuant to  
23 this section is equal to the rounded product determined  
24 pursuant to Paragraph (2) of Subsection A of this section.

25 Each year, the public schools eligible for funding pursuant to  
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1 this section are those public schools within each school  
2 district that have the highest family income indices; provided  
3 that the funding shall be provided through distributions to  
4 their respective school districts.

5 C. Funding for an eligible public school identified  
6 pursuant to this section is limited to the greater of that  
7 public school's proportional share as determined pursuant to  
8 Subsection D of this section or twenty thousand dollars  
9 (\$20,000).

10 D. To determine the proportional share of funding  
11 that the department shall distribute to a school district for  
12 each public school that is eligible for funding pursuant to  
13 this section, the number of eligible students in each public  
14 school that is eligible for funding pursuant to this section  
15 shall be divided by the total number of eligible students at  
16 all public schools that are eligible for funding pursuant to  
17 this section. Each eligible public school's proportional share  
18 shall be multiplied by the total amount appropriated for  
19 distribution pursuant to the Family Income Index Act.

20 E. Notwithstanding Subsection A of this section,  
21 the legislature may establish a different percentage of public  
22 schools to be considered pursuant to Paragraphs (1) and (2) of  
23 Subsection A of this section.

24 F. Funding for a public school pursuant to the  
25 family income index shall be used exclusively at that public

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1 school for the interventions specified in Section 5 of the  
2 Family Income Index Act.

3 G. For the purposes of this section, "eligible  
4 students" means students with household incomes in the  
5 extremely low income or very low income categories."

6 SECTION 5. A new section of the Public School Code is  
7 enacted to read:

8 "[NEW MATERIAL] USES OF FAMILY INCOME INDEX  
9 DISTRIBUTIONS.--

10 A. A public school shall use funds distributed  
11 through the Family Income Index Act as follows:

12 (1) at least one-third for evidence-based,  
13 structured literacy interventions that have been shown to  
14 improve reading and writing achievement of students;

15 (2) at least one-third for evidence-based  
16 mathematics instruction and interventions, including  
17 educational programming intended to improve career and college  
18 readiness of at-risk students, dual or concurrent enrollment,  
19 and career and technical education; and

20 (3) no more than one-third on the following  
21 interventions:

22 (a) case management, tutoring and after-  
23 school and summer enrichment programs that are delivered by  
24 social workers, counselors, teachers or other professional  
25 staff;

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1 (b) culturally relevant professional and  
2 curriculum development, including those necessary to support  
3 language acquisition and bilingual and multicultural education;

4 (c) whole school interventions,  
5 including social and emotional learning programs, multi-layered  
6 systems of support, student nutrition programs, school-based  
7 health centers and community schools;

8 (d) instructional resources and  
9 materials; or

10 (e) services to engage and support  
11 parents and families in the education of students.

12 B. A school district shall use distributions  
13 received for allowable uses provided in Subsection A of this  
14 section to expand or improve services provided as part of a  
15 public school's existing academic program, but not to replace  
16 existing services."

17 SECTION 6. A new section of the Public School Code is  
18 enacted to read:

19 "[NEW MATERIAL] PUBLIC SCHOOL ELIGIBILITY--REPORTING.--

20 A. A school district is eligible for funding  
21 pursuant to the Family Income Index Act if the school district  
22 establishes, within its department-approved educational plan,  
23 interventions identified in Section 5 of the Family Income  
24 Index Act for each of its public schools that are eligible for  
25 a distribution pursuant to the Family Income Index Act. A

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1 school district that receives a distribution pursuant to the  
2 Family Income Index Act shall provide a report to the  
3 department by August 1 after each fiscal year in which it  
4 receives a distribution that includes a description of the  
5 services the school district has provided for each public  
6 school that received a distribution to improve the academic  
7 success of students. The report shall include a detailed  
8 description of how each public school has used the additional  
9 funding and the way in which the funding impacted student  
10 academic outcomes.

11 B. The department shall evaluate how each public  
12 school used its distribution and the way in which each  
13 distribution impacted student academic outcomes and report its  
14 findings and recommendations to the legislative finance  
15 committee and the legislative education study committee by  
16 October 15 of each year beginning in fiscal year 2022."

17 SECTION 7. Section 7-1-8.8 NMSA 1978 (being Laws 2019,  
18 Chapter 87, Section 2, as amended) is amended to read:

19 "7-1-8.8. INFORMATION THAT MAY BE REVEALED TO OTHER STATE  
20 AGENCIES.--An employee of the department may reveal to:

21 A. a committee of the legislature for a valid  
22 legislative purpose, return information concerning any tax or  
23 fee imposed pursuant to the Cigarette Tax Act;

24 B. the attorney general, return information  
25 acquired pursuant to the Cigarette Tax Act for purposes of

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1 Section 6-4-13 NMSA 1978 and the master settlement agreement  
2 defined in Section 6-4-12 NMSA 1978;

3 C. the commissioner of public lands, return  
4 information for use in auditing that pertains to rentals,  
5 royalties, fees and other payments due the state under land  
6 sale, land lease or other land use contracts;

7 D. the secretary of human services or the  
8 secretary's delegate under a written agreement with the  
9 department, the last known address with date of all names  
10 certified to the department as being absent parents of children  
11 receiving public financial assistance, but only for the purpose  
12 of enforcing the support liability of the absent parents by the  
13 child support enforcement division or any successor  
14 organizational unit;

15 E. the department of information technology, by  
16 electronic media, a database updated quarterly that contains  
17 the names, addresses, county of address and taxpayer  
18 identification numbers of New Mexico personal income tax  
19 filers, but only for the purpose of producing the random jury  
20 list for the selection of petit or grand jurors for the state  
21 courts pursuant to Section 38-5-3 NMSA 1978;

22 F. the state courts, the random jury lists produced  
23 by the department of information technology under Subsection E  
24 of this section;

25 G. the director of the New Mexico department of

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1 agriculture or the director's authorized representative, upon  
2 request of the director or representative, the names and  
3 addresses of all gasoline or special fuel distributors,  
4 wholesalers and retailers;

5 H. the public regulation commission, return  
6 information with respect to the Corporate Income and Franchise  
7 Tax Act required to enable the commission to carry out its  
8 duties;

9 I. the state racing commission, return information  
10 with respect to the state, municipal and county gross receipts  
11 taxes paid by racetracks;

12 J. the gaming control board, tax returns of license  
13 applicants and their affiliates as provided in Subsection E of  
14 Section 60-2E-14 NMSA 1978;

15 K. the director of the workers' compensation  
16 administration or to the director's representatives authorized  
17 for this purpose, return information to facilitate the  
18 identification of taxpayers that are delinquent or noncompliant  
19 in payment of fees required by Section 52-1-9.1 or 52-5-19 NMSA  
20 1978;

21 L. the secretary of workforce solutions or the  
22 secretary's delegate, return information for use in enforcement  
23 of unemployment insurance collections pursuant to the terms of  
24 a written reciprocal agreement entered into by the department  
25 with the secretary of workforce solutions for exchange of

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1 information;

2 M. the New Mexico finance authority, information  
3 with respect to the amount of municipal and county gross  
4 receipts taxes collected by municipalities and counties  
5 pursuant to any local option municipal or county gross receipts  
6 taxes imposed, and information with respect to the amount of  
7 governmental gross receipts taxes paid by every agency,  
8 institution, instrumentality or political subdivision of the  
9 state pursuant to Section 7-9-4.3 NMSA 1978;

10 N. the secretary of human services or the  
11 secretary's delegate; provided that a person who receives the  
12 confidential return information on behalf of the human services  
13 department shall not reveal the information and shall be  
14 subject to the penalties in Section 7-1-76 NMSA 1978 if the  
15 person fails to maintain the confidentiality required:

16 (1) that return information needed for reports  
17 required to be made to the federal government concerning the  
18 use of federal funds for low-income working families;

19 (2) the names and addresses of low-income  
20 taxpayers for the limited purpose of outreach to those  
21 taxpayers; provided that the human services department shall  
22 pay the department for expenses incurred by the department to  
23 derive the information requested by the human services  
24 department if the information requested is not readily  
25 available in reports for which the department's information

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1 systems are programmed; and

2 (3) return information required to administer  
3 the Health Care Quality Surcharge Act;

4 O. the superintendent of insurance, return  
5 information with respect to the premium tax and the health  
6 insurance premium surtax;

7 P. the secretary of finance and administration or  
8 the secretary's designee, return information concerning a  
9 credit pursuant to the Film Production Tax Credit Act;

10 Q. the secretary of economic development or the  
11 secretary's designee, return information concerning a credit  
12 pursuant to the Film Production Tax Credit Act;

13 R. the secretary of public safety or the  
14 secretary's designee, return information concerning the Weight  
15 Distance Tax Act;

16 S. the secretary of transportation or the  
17 secretary's designee, return information concerning the Weight  
18 Distance Tax Act;

19 T. the secretary of energy, minerals and natural  
20 resources or the secretary's designee, return information  
21 concerning tax credits or deductions for which eligibility is  
22 certified or otherwise determined by the secretary or the  
23 secretary's designee; ~~and~~

24 U. the secretary of environment or the secretary's  
25 designee, return information concerning tax credits for which

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1 eligibility is certified or otherwise determined by the  
2 secretary or the secretary's designee; and

3 V. the secretary of public education or the  
4 secretary's designee, return information required to calculate  
5 the household income of each public school student pursuant to  
6 Section 3 of the Family Income Index Act."

7 **SECTION 8. EFFECTIVE DATE.**--The effective date of the  
8 provisions of this act is July 1, 2021.

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