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AN ACT  
RELATING TO HIGHER EDUCATION; CREATING THE INTERSTATE  
DISTANCE EDUCATION ACT; AUTHORIZING THE HIGHER EDUCATION  
DEPARTMENT TO CONDUCT THE INTERSTATE DISTANCE EDUCATION  
PROGRAM; EXEMPTING FROM THE OUT-OF-STATE PROPRIETARY SCHOOL  
ACT COURSES PROVIDED UNDER THE INTERSTATE DISTANCE EDUCATION  
ACT; MAKING A TECHNICAL CORRECTION IN SECTION 21-1-26.1  
NMSA 1978 (BEING LAWS 1980, CHAPTER 145, SECTION 2, AS  
AMENDED).

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

SECTION 1. A new section of Chapter 21 NMSA 1978 is  
enacted to read:

"SHORT TITLE.--Sections 1 through 6 of this act may be  
cited as the "Interstate Distance Education Act"."

SECTION 2. A new section of Chapter 21 NMSA 1978 is  
enacted to read:

"DEFINITIONS.--As used in the Interstate Distance  
Education Act:

A. "accreditation" means the status of public  
recognition that an accrediting agency recognized by the  
United States department of education pursuant to Title 4  
of the federal Higher Education Act of 1965 grants to an  
institution or educational program that meets the  
department's established requirements;

1           B. "complaint" means a formal written assertion  
2 that a provision of an agreement pursuant to Subsection B of  
3 Section 3 of the Interstate Distance Education Act is being  
4 or has been violated;

5           C. "department" means the higher education  
6 department;

7           D. "distance education" means instruction offered  
8 online or through correspondence or interactive video or  
9 other means enabling a student in one state to receive  
10 instruction from a higher education provider in another  
11 state;

12           E. "higher education" means education or training  
13 beyond secondary education;

14           F. "operate" means providing instruction,  
15 marketing, recruiting, tutoring, field experiences and other  
16 services for students in support of offering distance  
17 education;

18           G. "physical presence" means the ongoing  
19 occupation of a physical location in the state for, or the  
20 ongoing maintenance of an administrative office to support,  
21 the provision of higher education instruction;

22           H. "post-secondary educational institution"  
23 includes public post-secondary educational institutions and  
24 private post-secondary educational institutions;

25           I. "private post-secondary educational

1 institution" means an educational institution that:

2 (1) operates in the state under the  
3 provisions of the Post-Secondary Educational Institution Act;

4 (2) has a physical presence in the state;  
5 and

6 (3) is not a public post-secondary  
7 educational institution;

8 J. "public post-secondary educational institution"  
9 means:

10 (1) a branch community college of a state  
11 educational institution established pursuant to Chapter 21,  
12 Article 13 NMSA 1978;

13 (2) a community college or technical and  
14 vocational institute established pursuant to Chapter 21,  
15 Article 16 NMSA 1978; and

16 (3) eastern New Mexico university, western  
17 New Mexico university, New Mexico highlands university,  
18 northern New Mexico college, the university of New Mexico,  
19 New Mexico state university or the New Mexico institute of  
20 mining and technology, New Mexico Military Institute; and

21 K. "state authorization reciprocity agreement"  
22 means an agreement, developed by the national council for  
23 state authorization reciprocity agreements, that provides  
24 uniform standards and parameters for the interstate provision  
25 of post-secondary distance education courses and programs."

1 SECTION 3. A new section of Chapter 21 NMSA 1978 is  
2 enacted to read:

3 "INTERSTATE DISTANCE EDUCATION PROGRAM--AGREEMENT.--

4 A. The department shall establish a program for  
5 facilitating:

6 (1) the receipt of distance education by  
7 students in the state; and

8 (2) the provision of distance education by  
9 participating post-secondary educational institutions to  
10 students in other states.

11 B. In furtherance of the provisions of Subsection  
12 A of this section, the department may enter into:

13 (1) an agreement for the western interstate  
14 commission for higher education to administer and the state  
15 to participate in a state authorization reciprocity  
16 agreement; or

17 (2) a reciprocal agreement with another  
18 state for the:

19 (a) receipt by students in the state of  
20 distance education from the other state's institutions that  
21 provide higher education instruction and are approved for  
22 participation in the reciprocal agreement by the appropriate  
23 agency of the other state; and

24 (b) provision of distance education by  
25 participating post-secondary educational institutions to

1 students in the other state.

2 C. The department may terminate an agreement  
3 entered into pursuant to Subsection B of this section  
4 pursuant to the provisions of that agreement or department  
5 rule."

6 SECTION 4. A new section of Chapter 21 NMSA 1978 is  
7 enacted to read:

8 "PROGRAM PARTICIPATION BY POST-SECONDARY EDUCATIONAL  
9 INSTITUTIONS--QUALIFICATIONS.--

10 A. The department shall provide an application  
11 form to allow post-secondary educational institutions to  
12 apply to participate in the interstate distance education  
13 program.

14 B. The department shall establish qualifications  
15 that an applicant shall demonstrate for acceptance as a  
16 participating post-secondary educational institution. At a  
17 minimum, the department shall require an applicant to provide  
18 documentation showing:

19 (1) compliance with the interregional  
20 guidelines for the evaluation of distance education programs  
21 adopted by the council of regional accrediting commissions;

22 (2) current accreditation; and

23 (3) for private post-secondary educational  
24 institutions, a financial responsibility composite score of  
25 one and five-tenths or greater as assigned by the United

1 States department of education in its most recent fiscal year  
2 report.

3 C. An applicant accepted for participation in the  
4 interstate distance education program shall enter into a  
5 participation agreement with the department."

6 SECTION 5. A new section of Chapter 21 NMSA 1978 is  
7 enacted to read:

8 "MONITORING--COMPLAINT RESOLUTION--SANCTIONS.--

9 A. The department shall regularly monitor the  
10 compliance of participating post-secondary educational  
11 institutions with the Interstate Distance Education Act.

12 B. Upon the receipt of a complaint about a  
13 participating post-secondary educational institution, the  
14 department shall timely:

15 (1) monitor the resolution process and  
16 resolution by the post-secondary educational institution and  
17 document the resolution; or

18 (2) investigate the complaint, conduct or  
19 coordinate a resolution process appropriate for responding to  
20 the complaint and document the resolution.

21 C. The department may sanction a participating  
22 post-secondary educational institution that:

23 (1) fails to resolve a complaint or comply  
24 with the department's efforts to respond to a complaint  
25 pursuant to Subsection B of this section; or

1 (2) violates a provision of the Interstate  
2 Distance Education Act or an agreement pursuant to Section 3  
3 of that act.

4 D. Sanctions the department may impose include:

5 (1) requiring the payment of fees, fine or  
6 other monetary remedies; or

7 (2) the termination or nonrenewal of the  
8 participation agreement entered into pursuant to Subsection C  
9 of Section 4 of the Interstate Distance Education Act."

10 SECTION 6. A new section of Chapter 21 NMSA 1978 is  
11 enacted to read:

12 "RULES--REPORTING.--

13 A. The department shall publish rules for  
14 conducting the interstate distance education program.

15 B. By July 31, 2016 and each subsequent year, the  
16 department shall report to the legislative finance committee  
17 and the legislative education study committee on the  
18 interstate distance education program."

19 SECTION 7. Section 21-1-26.1 NMSA 1978 (being Laws  
20 1980, Chapter 145, Section 2, as amended) is amended to read:

21 "21-1-26.1. ADDITIONAL DUTIES.--In addition to the  
22 duties imposed upon the higher education department in  
23 Chapter 21 NMSA 1978, the department shall perform the same  
24 planning and budgeting functions for the university of  
25 New Mexico hospital as it performs for other post-secondary

1 educational institutions."

2 SECTION 8. Section 21-24-3 NMSA 1978 (being Laws 1971,  
3 Chapter 304, Section 3, as amended) is amended to read:

4 "21-24-3. EXCEPTIONS.--The Out-of-State Proprietary  
5 School Act does not apply to:

6 A. courses recognized by the public education  
7 department for the purpose of complying with the Compulsory  
8 School Attendance Law;

9 B. courses offered by an employer solely for the  
10 employer's employees;

11 C. courses offered by a nonprofit religious  
12 institution relating primarily to religion; and

13 D. courses offered under a participation agreement  
14 pursuant to the provisions of Subsection C of Section 4 of the  
15 Interstate Distance Education Act." \_\_\_\_\_

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