

1 SENATE BILL 446

2 **52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015**

3 INTRODUCED BY

4 John M. Sapien

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9  
10 AN ACT

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

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

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

22 "[NEW MATERIAL] SHORT TITLE.--Sections 1 through 6 of this  
23 act may be cited as the "Interstate Distance Education Act"."

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

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1           "[NEW MATERIAL] DEFINITIONS.--As used in the Interstate

2 Distance Education Act:

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

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

13           C. "department" means the higher education  
14 department;

15           D. "distance education" means instruction offered  
16 online or through correspondence or interactive video or other  
17 means enabling a student in one state to receive instruction  
18 from a higher education provider in another state;

19           E. "higher education" means education or training  
20 beyond secondary education;

21           F. "operate" means providing instruction,  
22 marketing, recruiting, tutoring, field experiences and other  
23 services for students in support of offering distance  
24 education;

25           G. "physical presence" means the ongoing occupation

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1 of a physical location in the state for, or the ongoing  
2 maintenance of an administrative office to support, the  
3 provision of higher education instruction;

4 H. "post-secondary educational institution"  
5 includes public post-secondary educational institutions and  
6 private post-secondary educational institutions;

7 I. "private post-secondary educational institution"  
8 means an educational institution that:

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

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

12 (3) is not a public post-secondary educational  
13 institution;

14 J. "public post-secondary educational institution"  
15 means:

16 (1) a branch community college of a state  
17 educational institution established pursuant to Chapter 21,  
18 Article 13 NMSA 1978;

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

22 (3) eastern New Mexico university, western New  
23 Mexico university, New Mexico highlands university, northern  
24 New Mexico college, the university of New Mexico, New Mexico  
25 state university or the New Mexico institute of mining and

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1 technology; and

2 K. "state authorization reciprocity agreement"  
3 means an agreement, developed by the national council for state  
4 authorization reciprocity agreements, that provides uniform  
5 standards and parameters for the interstate provision of post-  
6 secondary distance education courses and programs."

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

9 "[NEW MATERIAL] INTERSTATE DISTANCE EDUCATION PROGRAM--  
10 AGREEMENT.--

11 A. The department shall establish a program for  
12 facilitating:

13 (1) the receipt of distance education by  
14 students in the state; and

15 (2) the provision of distance education by  
16 participating post-secondary educational institutions to  
17 students in other states.

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

20 (1) an agreement for the western interstate  
21 commission for higher education to administer and the state to  
22 participate in a state authorization reciprocity agreement; or

23 (2) a reciprocal agreement with another state  
24 for the:

25 (a) receipt by students in the state of

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1 distance education from the other state's institutions that  
2 provide higher education instruction and are approved for  
3 participation in the reciprocal agreement by the appropriate  
4 agency of the other state; and

5 (b) provision of distance education by  
6 participating post-secondary educational institutions to  
7 students in the other state.

8 C. The department may terminate an agreement  
9 entered into pursuant to Subsection B of this section pursuant  
10 to the provisions of that agreement or department rule."

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

13 "[NEW MATERIAL] PROGRAM PARTICIPATION BY POST-SECONDARY  
14 EDUCATIONAL INSTITUTIONS--QUALIFICATIONS.--

15 A. The department shall provide an application form  
16 to allow post-secondary educational institutions to apply to  
17 participate in the interstate distance education program.

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

23 (1) compliance with the interregional  
24 guidelines for the evaluation of distance education programs  
25 adopted by the council of regional accrediting commissions;

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1 (2) current accreditation; and  
2 (3) for private post-secondary educational  
3 institutions, a financial responsibility composite score of one  
4 and five-tenths or greater as assigned by the United States  
5 department of education in its most recent fiscal year report.

6 C. An applicant accepted for participation in the  
7 interstate distance education program shall enter into a  
8 participation agreement with the department."

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

11 "NEW MATERIAL MONITORING--COMPLAINT RESOLUTION--  
12 SANCTIONS.--

13 A. The department shall regularly monitor the  
14 compliance of participating post-secondary educational  
15 institutions with the Interstate Distance Education Act.

16 B. Upon the receipt of a complaint about a  
17 participating post-secondary educational institution, the  
18 department shall timely:

19 (1) monitor the resolution process and  
20 resolution by the post-secondary educational institution and  
21 document the resolution; or

22 (2) investigate the complaint, conduct or  
23 coordinate a resolution process appropriate for responding to  
24 the complaint and document the resolution.

25 C. The department may sanction a participating

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1 post-secondary educational institution that:

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

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

8 D. Sanctions the department may impose include:

9 (1) requiring the payment of fees, fine or  
10 other monetary remedies; or

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

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

16 "[NEW MATERIAL] RULES--REPORTING.--

17 A. The department shall publish rules for  
18 conducting the interstate distance education program.

19 B. By July 31, 2016 and each subsequent year, the  
20 department shall report to the legislative finance committee  
21 and the legislative education study committee on the interstate  
22 distance education program."

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

25 "21-1-26.1. ADDITIONAL DUTIES.--In addition to the duties  
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1 imposed upon the higher education department [~~by the Post-~~  
2 ~~Secondary Educational Planning Act~~] in Chapter 21 NMSA 1978,  
3 the department shall perform the same planning and budgeting  
4 functions for the university of New Mexico hospital as it  
5 performs for other post-secondary educational institutions."

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

8 "21-24-3. EXCEPTIONS.--The Out-of-State Proprietary  
9 School Act does not apply to:

10 A. courses recognized by the [~~state board of~~]  
11 public education department for the purpose of complying with  
12 the Compulsory School Attendance Law;

13 B. courses offered by an employer solely for [~~his~~]  
14 the employer's employees; [~~and~~]

15 C. courses offered by a nonprofit religious  
16 institution relating primarily to religion; and

17 D. courses offered under a participation agreement  
18 pursuant to the provisions of Subsection C of Section 4 of the  
19 Interstate Distance Education Act."