

1 SENATE BILL 212

2 **56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023**

3 INTRODUCED BY

4 Harold Pope

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10 AN ACT

11 RELATING TO MILITARY SERVICE; AMENDING SECTIONS OF THE NMSA
12 1978 TO ADD SPACE FORCE TO THE DEFINITIONS OF "ARMED FORCES"
13 AND "UNIFORMED SERVICES" THAT INVOLVE PROGRAMS AND SERVICES FOR
14 WHICH MEMBERS OF THE ARMED FORCES OF THE UNITED STATES ARE
15 ELIGIBLE.

16
17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

18 SECTION 1. Section 1-1-5.4 NMSA 1978 (being Laws 2015,
19 Chapter 145, Section 3) is amended to read:

20 "1-1-5.4. UNIFORMED-SERVICE VOTER.--As used in the
21 Election Code, "uniformed-service voter" means an individual
22 who is a United States citizen, whose voting residence is in
23 this state, who otherwise satisfies this state's voter
24 eligibility requirements and who is:

25 A. a member of the active or reserve components of

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1 the army, navy, air force, space force, marine corps or coast
2 guard of the United States who is on active duty and who by
3 reason of that active duty is absent from the state;

4 B. a member of the merchant marine, the
5 commissioned corps of the public health service, the astronaut
6 program of the national aeronautics and space administration or
7 the commissioned corps of the national oceanic and atmospheric
8 administration of the United States and who by reason of that
9 service is absent from the state;

10 C. a member on activated status of the national
11 guard or state militia and who by reason of that active duty is
12 absent from the member's county of residence; or

13 D. a spouse or dependent of a member referred to in
14 Subsection A, B or C of this section and who, by reason of
15 active duty or service of the member, is absent from the state;
16 provided the spouse or dependent is an individual recognized as
17 a spouse or dependent by the entity under which the member is
18 serving."

19 SECTION 2. Section 11-8B-1 NMSA 1978 (being Laws 2010,
20 Chapter 41, Section 1) is amended to read:

21 "11-8B-1. INTERSTATE COMPACT ON EDUCATIONAL OPPORTUNITY
22 FOR MILITARY CHILDREN--ENTERED INTO.--The "Interstate Compact
23 on Educational Opportunity for Military Children" is enacted
24 into law and entered into with all other jurisdictions legally
25 joining therein in the form substantially as follows:

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1 "INTERSTATE COMPACT ON EDUCATIONAL OPPORTUNITY FOR MILITARY
2 CHILDREN
3 ARTICLE 1
4 PURPOSE

5 It is the purpose of the Interstate Compact on Educational
6 Opportunity for Military Children to remove barriers to
7 educational success imposed on children of military families
8 because of frequent moves and deployment of their parents by:

9 A. facilitating the timely enrollment of children
10 of military families and ensuring that they are not placed at a
11 disadvantage due to difficulty in the transfer of education
12 records from the previous school district or variations in
13 entrance and age requirements;

14 B. facilitating the student placement process
15 through which children of military families are not
16 disadvantaged by variations in attendance requirements,
17 scheduling, sequencing, grading, course content or assessment;

18 C. facilitating the qualification and eligibility
19 for enrollment, educational programs and participation in
20 extracurricular, academic, athletic and social activities;

21 D. facilitating the on-time graduation of children
22 of military families;

23 E. providing for the promulgation and enforcement
24 of administrative rules implementing the provisions of that
25 compact;

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1 F. providing for the uniform collection and sharing
2 of information between and among member states, schools and
3 military families under that compact;

4 G. promoting coordination between that compact and
5 other compacts affecting military children; and

6 H. promoting flexibility and cooperation between
7 the educational system, parents and the student in order to
8 achieve educational success for the student.

9 ARTICLE 2

10 DEFINITIONS

11 As used in the Interstate Compact on Educational
12 Opportunity for Military Children:

13 A. "active duty" means full-time duty status in the
14 active uniformed service of the United States, including
15 members of the national guard and reserve on active duty orders
16 pursuant to 10 U.S.C. [~~Sections~~] Chapters 1209 and 1211;

17 B. "children of military families" means school-
18 aged children enrolled in kindergarten through twelfth grade in
19 the household of an active duty member;

20 C. "compact commissioner" means the voting
21 representative of each compacting state appointed pursuant to
22 Article 8 of the Interstate Compact on Educational Opportunity
23 for Military Children;

24 D. "deployment" means the period one month prior to
25 the service members' departures from their home stations on

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1 military orders through six months after return to their home
2 stations;

3 E. "education records" means records, files and
4 data that are directly related to a student and maintained by a
5 school or local education agency, including records
6 encompassing all the material kept in a student's cumulative
7 folder such as general identifying data, records of attendance
8 and of academic work completed, records of achievement and
9 results of evaluative tests, health data, disciplinary status,
10 test protocols and individualized education programs;

11 F. "extracurricular activity" means a voluntary
12 activity sponsored by a school or local education agency or an
13 organization sanctioned by a local education agency.

14 "Extracurricular activity" includes preparation for and
15 involvement in public performances, contests, athletic
16 competitions, demonstrations, displays and club activities;

17 G. "interstate commission" means the interstate
18 commission on educational opportunity for military children
19 that is created under Article 9 of the Interstate Compact on
20 Educational Opportunity for Military Children;

21 H. "local education agency" means a public
22 authority legally constituted by the state as an administrative
23 agency to provide control of and direction for kindergarten
24 through twelfth grade public educational institutions;

25 I. "member state" means a state that has enacted

1 the Interstate Compact on Educational Opportunity for Military
2 Children;

3 J. "military installation" means a base, camp,
4 post, station, yard, center or homeport facility for any ship
5 or other activity under the jurisdiction of the United States
6 department of defense, including any leased facility, that is
7 located within any of the several states, the District of
8 Columbia, the commonwealth of Puerto Rico, the United States
9 Virgin Islands, Guam, American Samoa, the Northern Marianas
10 Islands and any other United States territory. The term does
11 not include any facility used primarily for civil works, rivers
12 and harbors projects or flood control projects;

13 K. "non-member state" means a state that has not
14 enacted the Interstate Compact on Educational Opportunity for
15 Military Children;

16 L. "receiving state" means the state to which a
17 child of a military family is sent or brought or caused to be
18 sent or brought;

19 M. "rule" means a written statement by the
20 interstate commission promulgated pursuant to Article 12 of the
21 Interstate Compact on Educational Opportunity for Military
22 Children that is of general applicability, implements,
23 interprets or prescribes a policy or provision of that compact
24 or an organizational, procedural or practice requirement of the
25 interstate commission and includes the amendment, repeal or

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1 suspension of an existing rule;

2 N. "sending state" means the state from which a
3 child of a military family is sent or brought or caused to be
4 sent or brought;

5 O. "state" means a state of the United States, the
6 District of Columbia, the commonwealth of Puerto Rico, the
7 United States Virgin Islands, Guam, American Samoa, the
8 Northern Marianas Islands and any other United States
9 territory;

10 P. "student" means the child of a military family
11 for whom the local education agency receives public funding and
12 who is formally enrolled in kindergarten through twelfth grade;

13 Q. "transition" means:

14 (1) the formal and physical process of
15 transferring from school to school; or

16 (2) the period of time in which a student
17 moves from one school in the sending state to another school in
18 the receiving state;

19 R. "uniformed services" means the army, navy, air
20 force, space force, marine corps, coast guard and the
21 commissioned corps of the national oceanic and atmospheric
22 administration and United States public health service; and

23 S. "veteran" means a person who served in the
24 uniformed services and who was discharged or released from the
25 uniformed services under conditions other than dishonorable.

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ARTICLE 3

APPLICABILITY

A. Except as otherwise provided in Subsection B of this article, the Interstate Compact on Educational Opportunity for Military Children shall apply to the children of:

(1) active duty members of the uniformed services, including members of the national guard and reserve on active duty orders pursuant to 10 U.S.C. [~~Sections~~] Chapters 1209 and 1211;

(2) members or veterans of the uniformed services who are severely injured and medically discharged or retired for a period of one year after medical discharge or retirement; and

(3) members of the uniformed services who die on active duty or as a result of injuries sustained while on active duty and extending for a period of one year after death.

B. The provisions of the Interstate Compact on Educational Opportunity for Military Children shall only apply to local education agencies.

C. The provisions of the Interstate Compact on Educational Opportunity for Military Children shall not apply to the children of:

(1) inactive members of the national guard and military reserves;

(2) members of the uniformed services now

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1 retired, except as provided in Subsection A of this article;
2 (3) veterans of the uniformed services, except
3 as provided in Subsection A of this article; and
4 (4) other United States department of defense
5 personnel and other federal agency civilian and contract
6 employees not defined as active duty members of the uniformed
7 services.

8 ARTICLE 4

9 EDUCATIONAL RECORDS AND ENROLLMENT

10 A. In the event that official education records
11 cannot be released to the parents for the purpose of transfer,
12 the custodian of the records in the sending state shall prepare
13 and furnish to the parent a complete set of unofficial
14 education records containing uniform information as determined
15 by the interstate commission. Upon receipt of the unofficial
16 education records by a school in the receiving state, the
17 school shall enroll and appropriately place the student based
18 on the information provided in the unofficial records, pending
19 validation by the official records, as quickly as possible.

20 B. Simultaneous with the enrollment and conditional
21 placement of the student, the school in the receiving state
22 shall request the student's official education record from the
23 school in the sending state. Upon receipt of this request, the
24 school in the sending state shall process and furnish the
25 official education records to the school in the receiving state

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1 within ten days or within such time as is reasonably determined
2 under the rules promulgated by the interstate commission.

3 C. Compacting states shall give thirty days from
4 the date of enrollment or within such time as is reasonably
5 determined under the rules promulgated by the interstate
6 commission for students to obtain any immunizations required by
7 the receiving state. For a series of immunizations, initial
8 vaccinations must be obtained within thirty days or within such
9 time as is reasonably determined under the rules promulgated by
10 the interstate commission.

11 D. Students shall be allowed to continue their
12 enrollment at a grade level in the receiving state commensurate
13 with their grade level, including kindergarten, from a local
14 education agency in the sending state at the time of
15 transition, regardless of age. A student that has
16 satisfactorily completed the prerequisite grade level in the
17 local education agency in the sending state shall be eligible
18 for enrollment in the next highest grade level in the receiving
19 state, regardless of age. A student transferring after the
20 start of the school year in the receiving state shall enter the
21 school in the receiving state on the student's validated level
22 from an accredited school in the sending state.

23 ARTICLE 5

24 PLACEMENT AND ATTENDANCE

25 A. When a student transfers before or during the

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1 school year, the receiving state school shall initially honor
2 placement of the student in educational courses based on the
3 student's enrollment in the sending state school or educational
4 assessments conducted at the school in the sending state if the
5 courses are offered. Course placement includes honors,
6 international baccalaureate, advanced placement, vocational,
7 technical and career pathways courses. Continuing the
8 student's academic program from the previous school and
9 promoting placement in academically and career-challenging
10 courses should be paramount when considering placement. This
11 subsection does not preclude the school in the receiving state
12 from performing subsequent evaluations to ensure appropriate
13 placement and continued enrollment of the student in the
14 courses.

15 B. The receiving state school shall initially honor
16 placement of the student in educational programs based on
17 current educational assessments conducted at the school in the
18 sending state or participation or placement in like programs in
19 the sending state. Such programs include gifted and talented
20 programs and English as a second language. This subsection
21 does not preclude the school in the receiving state from
22 performing subsequent evaluations to ensure appropriate
23 placement of the student.

24 C. In compliance with the federal requirements of
25 the Individuals with Disabilities Education Act, 20 U.S.C.

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1 Section 1400 et seq., the receiving state shall initially
2 provide comparable services to a student with disabilities
3 based on the student's current individualized education
4 program. In compliance with the requirements of Section 504 of
5 the Rehabilitation Act of 1973, 29 U.S.C. Section 794, and with
6 Title II of the Americans with Disabilities Act of 1990, 42
7 U.S.C. Sections 12131-12165, the receiving state shall make
8 reasonable accommodations and modifications to address the
9 needs of incoming students with disabilities, subject to an
10 existing 504 or Title II plan, to provide the student with
11 equal access to education. This subsection does not preclude
12 the school in the receiving state from performing subsequent
13 evaluations to ensure appropriate placement of the student.

14 D. Local education agency administrative officials
15 shall have flexibility in waiving course or program
16 prerequisites or other preconditions for placement in courses
17 or programs offered under the jurisdiction of the local
18 education agency.

19 E. A student whose parent or legal guardian is an
20 active duty member of the uniformed services and has been
21 called to duty for, is on leave from or has immediately
22 returned from deployment to a combat zone or combat support
23 posting shall be granted additional excused absences, at the
24 discretion of the local education agency superintendent, to
25 visit with the student's parent or legal guardian.

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ARTICLE 6

ELIGIBILITY

A. Special power of attorney, relative to the guardianship of a child of a military family and executed under applicable law, shall be sufficient for the purposes of enrollment and all other actions requiring parental participation and consent.

B. A local education agency shall be prohibited from charging local tuition to a military child who is in transition and is placed in the care of a noncustodial parent or other person standing in loco parentis who lives in a jurisdiction other than that of the custodial parent.

C. A military child who is in transition and is placed in the care of a noncustodial parent or other person standing in loco parentis who lives in a jurisdiction other than that of the custodial parent may continue to attend the school in which the child was enrolled while residing with the custodial parent.

D. State and local education agencies shall facilitate the opportunity for transitioning military children's inclusion in extracurricular activities, regardless of application deadlines, to the extent they are otherwise qualified.

ARTICLE 7

GRADUATION

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1 In order to facilitate the on-time graduation of children
2 of military families, states and local education agencies shall
3 incorporate the following procedures:

4 A. local education agency administrative officials
5 shall waive specific courses required for graduation if similar
6 course work has been satisfactorily completed in another local
7 education agency or shall provide reasonable justification for
8 denial. If a waiver is not granted to a student who would
9 qualify to graduate from the sending school, the local
10 education agency shall provide an alternative means of
11 acquiring required coursework so that graduation may occur on
12 time;

13 B. receiving states shall accept exit or end-of-
14 course exams required for graduation from the sending state,
15 national norm-referenced achievement tests or alternative
16 testing in lieu of testing requirements for graduation in the
17 receiving state. In the event the alternatives in this
18 subsection and Subsection A of this article cannot be
19 accommodated by the receiving state for a student transferring
20 in the student's senior year, then the provisions of Subsection
21 C of this article shall apply; and

22 C. if a military student transferring at the
23 beginning of or during the military student's senior year is
24 ineligible to graduate from the receiving local education
25 agency after all alternatives have been considered, the sending

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1 and receiving local education agencies shall ensure the receipt
2 of a diploma from the sending local education agency if the
3 student meets the graduation requirements of the sending local
4 education agency. In the event that one of the states in
5 question is not a member of the Interstate Compact on
6 Educational Opportunity for Military Children, the member state
7 shall use best efforts to facilitate the on-time graduation of
8 the student in accordance with Subsections A and B of this
9 article.

10 ARTICLE 8

11 STATE COORDINATION

12 A. Each member state shall, through the creation of
13 a state council or use of an existing body or board, provide
14 for the coordination among its agencies of government, local
15 education agencies and military installations concerning the
16 state's participation in and compliance with the Interstate
17 Compact on Educational Opportunity for Military Children and
18 interstate commission activities. While each member state may
19 determine the membership of its own state council, its
20 membership must include: the secretary of public education,
21 the superintendent of a school district with a high
22 concentration of military children, one representative from a
23 military installation, one representative from the executive
24 branch of government and other offices and stakeholder groups
25 the state council deems appropriate. A member state that does

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1 not have a school district deemed to contain a high
2 concentration of military children may appoint a superintendent
3 from another school district to represent local education
4 agencies on the state council.

5 B. The state council of each member state shall
6 appoint or designate a military family education liaison to
7 assist military families and the state in facilitating the
8 implementation of the Interstate Compact on Educational
9 Opportunity for Military Children.

10 C. The compact commissioner responsible for the
11 administration and management of the state's participation in
12 the Interstate Compact on Educational Opportunity for Military
13 Children shall be appointed by the governor or as otherwise
14 determined by each member state.

15 D. The compact commissioner and the military family
16 education liaison designated in this article shall be ex-
17 officio nonvoting members of the state council, unless either
18 is already a full voting member of the state council.

19 ARTICLE 9

20 INTERSTATE COMMISSION ON EDUCATIONAL OPPORTUNITY FOR MILITARY 21 CHILDREN

22 The member states hereby create the "interstate commission
23 on educational opportunity for military children". The
24 activities of the interstate commission are the formation of
25 public policy and are a discretionary state function. The

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1 interstate commission shall:

2 A. be a body corporate and joint agency of the
3 member states and shall have all the responsibilities, powers
4 and duties set forth in the Interstate Compact on Educational
5 Opportunity for Military Children and such additional powers as
6 may be conferred upon it by a subsequent concurrent action of
7 the respective legislatures of the member states in accordance
8 with the terms of that compact;

9 B. consist of one voting representative from each
10 member state who shall be that state's compact commissioner.

11 (1) Each member state represented at a meeting
12 of the interstate commission is entitled to one vote.

13 (2) A majority of the total member states
14 shall constitute a quorum for the transaction of business,
15 unless a larger quorum is required by the bylaws of the
16 interstate commission.

17 (3) A representative shall not delegate a vote
18 to another member state. In the event the compact commissioner
19 is unable to attend a meeting of the interstate commission, the
20 governor or state council may delegate voting authority to
21 another person from the person's state for a specified meeting.

22 (4) The bylaws may provide for meetings of the
23 interstate commission to be conducted by telecommunication or
24 electronic communication;

25 C. consist of ex-officio nonvoting representatives

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1 who are members of interested organizations. The ex-officio
2 members, as defined in the bylaws, may include members of the
3 representative organizations of military family advocates,
4 local education agency officials, parent and teacher groups,
5 the United States department of defense, the education
6 commission of the states, the interstate agreement on
7 qualification of educational personnel and other interstate
8 compacts affecting the education of children of military
9 members;

10 D. meet at least once each calendar year. The
11 chair may call additional meetings and, upon the request of a
12 simple majority of the member states, shall call additional
13 meetings;

14 E. establish an executive committee whose members
15 shall include the officers of the interstate commission and
16 such other members of the interstate commission as determined
17 by the bylaws. Members of the executive committee shall serve
18 a one-year term. Members of the executive committee shall be
19 entitled to one vote each. The executive committee shall have
20 the power to act on behalf of the interstate commission, with
21 the exception of rulemaking, during periods when the interstate
22 commission is not in session. The executive committee shall
23 oversee the day-to-day activities of the administration of the
24 compact, including enforcement and compliance with the
25 provisions of the compact, its bylaws and rules and other such

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1 duties as deemed necessary. The United States department of
2 defense shall serve as an ex-officio nonvoting member of the
3 executive committee;

4 F. establish bylaws and rules that provide for
5 conditions and procedures under which the interstate commission
6 shall make its information and official records available to
7 the public for inspection or copying. The interstate
8 commission may exempt from disclosure information or official
9 records to the extent they would adversely affect personal
10 privacy rights or proprietary interests;

11 G. give public notice of all meetings and all
12 meetings shall be open to the public, except as set forth in
13 the rules or as otherwise provided in the Interstate Compact on
14 Educational Opportunity for Military Children. The interstate
15 commission and its committees may close a meeting, or a portion
16 of a meeting, if it determines by a two-thirds' vote that an
17 open meeting would be likely to:

18 (1) relate solely to the interstate
19 commission's internal personnel practices and procedures;

20 (2) disclose matters specifically exempted
21 from disclosure by federal and state statute;

22 (3) disclose trade secrets or commercial or
23 financial information that is privileged or confidential;

24 (4) involve accusing a person of a crime or
25 formally censuring a person;

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1 (5) disclose information of a personal nature
2 if the disclosure would constitute a clearly unwarranted
3 invasion of personal privacy;

4 (6) disclose investigative records compiled
5 for law enforcement purposes; or

6 (7) specifically relate to the interstate
7 commission's participation in a civil action or other legal
8 proceeding;

9 H. cause its legal counsel or designee to certify
10 that a meeting may be closed and shall reference each relevant
11 exemptible provision for any meeting, or portion of a meeting,
12 that is closed pursuant to this subsection. The interstate
13 commission shall keep minutes that shall fully and clearly
14 describe all matters discussed in a meeting and shall provide a
15 full and accurate summary of actions taken, and the reasons for
16 the actions, including a description of the views expressed and
17 the record of a roll call vote. All documents considered in
18 connection with an action shall be identified in the minutes.
19 All minutes and documents of a closed meeting shall remain
20 under seal, subject to release by a majority vote of the
21 interstate commission;

22 I. collect standardized data concerning the
23 educational transition of the children of military families
24 under the Interstate Compact on Educational Opportunity for
25 Military Children as directed through its rules, which shall

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1 specify the data to be collected, the means of collection and
2 data exchange and reporting requirements. The methods of data
3 collection, exchange and reporting shall, insofar as is
4 reasonably possible, conform to current technology and
5 coordinate its information functions with the appropriate
6 custodian of records as identified in the bylaws and rules; and

7 J. create a process that permits military
8 officials, education officials and parents to inform the
9 interstate commission if and when there are alleged violations
10 of the Interstate Compact on Educational Opportunity for
11 Military Children or its rules or when issues subject to the
12 jurisdiction of the compact or its rules are not addressed by
13 the state or local education agency. This subsection shall not
14 be construed to create a private right of action against the
15 interstate commission or any member state.

16 ARTICLE 10

17 POWERS AND DUTIES OF THE INTERSTATE COMMISSION

18 The interstate commission may:

19 A. provide for dispute resolution among member
20 states;

21 B. promulgate rules and take all necessary actions
22 to effect the goals, purposes and obligations as enumerated in
23 the Interstate Compact on Educational Opportunity for Military
24 Children. The rules shall be binding in the compact states to
25 the extent and in the manner provided in that compact;

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1 C. issue, upon request of a member state, advisory
2 opinions concerning the meaning or interpretation of the
3 interstate compact and its bylaws, rules and actions;

4 D. enforce compliance with the compact provisions,
5 the rules promulgated by the interstate commission and the
6 bylaws, using all necessary and proper means, including the use
7 of judicial process;

8 E. establish and maintain offices that shall be
9 located within one or more of the member states;

10 F. purchase and maintain insurance and bonds;

11 G. borrow, accept, hire or contract for services of
12 personnel;

13 H. establish and appoint committees, including an
14 executive committee as required by Subsection E of Article 9 of
15 the Interstate Compact on Educational Opportunity for Military
16 Children, that shall have the power to act on behalf of the
17 interstate commission in carrying out its powers and duties
18 under that compact;

19 I. elect or appoint officers, attorneys, employees,
20 agents or consultants and fix their compensation, define their
21 duties and determine their qualifications;

22 J. establish the interstate commission's personnel
23 policies and programs relating to conflicts of interest, rates
24 of compensation and qualifications of personnel;

25 K. accept donations and grants of money, equipment,

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1 supplies, materials and services and receive, use and dispose
2 of them;

3 L. lease, purchase, accept contributions or
4 donations of, or otherwise own, hold, improve or use, any
5 property, real, personal or mixed;

6 M. sell, convey, mortgage, pledge, lease, exchange,
7 abandon or otherwise dispose of any property, real, personal or
8 mixed;

9 N. establish a budget and make expenditures;

10 O. adopt a seal and bylaws governing the management
11 and operation of the interstate commission;

12 P. report annually to the legislatures, governors,
13 judiciaries and state councils of the member states concerning
14 the activities of the interstate commission during the
15 preceding year. The reports shall also include any
16 recommendations that may have been adopted by the interstate
17 commission;

18 Q. coordinate education, training and public
19 awareness regarding the Interstate Compact on Educational
20 Opportunity for Military Children, its implementation and
21 operation for officials and parents involved in such activity;

22 R. establish uniform standards for the reporting,
23 collecting and exchanging of data;

24 S. maintain corporate books and records in
25 accordance with the bylaws;

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1 (5) establishing the titles and
2 responsibilities of the officers and staff of the interstate
3 commission;

4 (6) providing a mechanism for concluding the
5 operations of the interstate commission and the return of
6 surplus funds that may exist upon the termination of that
7 compact after paying and reserving all of its debts and
8 obligations; and

9 (7) providing start-up rules for initial
10 administration of the Interstate Compact on Educational
11 Opportunity for Military Children.

12 B. The interstate commission shall, by a majority
13 of the members, elect annually from among its members a chair,
14 a vice chair and a treasurer, each of whom shall have such
15 authority and duties as may be specified in the bylaws. The
16 chair or, in the chair's absence or disability, the vice chair
17 shall preside at all meetings of the interstate commission.
18 The officers so elected shall serve without compensation or
19 remuneration from the interstate commission, provided that,
20 subject to the availability of budgeted funds, the officers
21 shall be reimbursed for ordinary and necessary costs and
22 expenses incurred by them in the performance of their
23 responsibilities as officers of the interstate commission.

24 C. The executive committee shall have such
25 authority and duties as may be set forth in the bylaws,

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1 including:

2 (1) managing the affairs of the interstate
3 commission in a manner consistent with the bylaws and purposes
4 of the interstate commission;

5 (2) overseeing an organizational structure
6 within, and appropriate procedures for, the interstate
7 commission to provide for the creation of rules, operating
8 procedures and administrative and technical support functions;
9 and

10 (3) planning, implementing and coordinating
11 communications and activities with other state, federal and
12 local government organizations in order to advance the goals of
13 the interstate commission.

14 D. The executive committee may, subject to the
15 approval of the interstate commission, appoint or retain an
16 executive director for such period, upon such terms and
17 conditions and for such compensation as the interstate
18 commission may deem appropriate. The executive director shall
19 serve as secretary to the interstate commission but shall not
20 be a member of the interstate commission. The executive
21 director shall hire and supervise such other persons as may be
22 authorized by the interstate commission.

23 E. The interstate commission shall defend the
24 executive director and its employees and, subject to the
25 approval of the attorney general or other appropriate legal

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1 counsel of the member state represented by an interstate
2 commission representative, shall defend the interstate
3 commission representative in any civil action seeking to impose
4 liability arising out of an actual or alleged act, error or
5 omission that occurred within the scope of interstate
6 commission employment, duties or responsibilities or that the
7 defendant had a reasonable basis for believing occurred within
8 the scope of interstate commission employment, duties or
9 responsibilities, provided that the actual or alleged act,
10 error or omission did not result from intentional or willful
11 and wanton misconduct on the part of the person.

12 ARTICLE 12

13 RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION

14 A. The interstate commission shall promulgate
15 reasonable rules in order to effectively and efficiently
16 achieve the purposes of the Interstate Compact on Educational
17 Opportunity for Military Children. If the interstate
18 commission exercises its rulemaking authority in a manner that
19 is beyond the scope of the purposes of that compact, or the
20 powers granted under that compact, then such an action by the
21 interstate commission shall be invalid and have no force or
22 effect.

23 B. Rules shall be made pursuant to a rulemaking
24 process that substantially conforms to the "Model State
25 Administrative Procedure Act" (1981), Uniform Laws Annotated,
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1 Vol. 15, p.1 (2000) as amended, as may be appropriate to the
2 operations of the interstate commission.

3 C. Not later than thirty days after the date a rule
4 is promulgated, any person may file a petition for judicial
5 review of the rule, provided that the filing of the petition
6 shall not stay or otherwise prevent the rule from becoming
7 effective unless the court finds that the petitioner has a
8 substantial likelihood of success. The court shall give
9 deference to the actions of the interstate commission
10 consistent with applicable law and shall not find the rule to
11 be unlawful if the rule represents a reasonable exercise of the
12 interstate commission's authority.

13 D. If a majority of the legislatures of the
14 compacting states rejects a rule by enactment of a statute or
15 resolution in the same manner used to adopt the Interstate
16 Compact on Educational Opportunity for Military Children, then
17 the rule shall have no further force and effect in any
18 compacting state.

19 ARTICLE 13

20 OVERSIGHT, ENFORCEMENT AND DISPUTE RESOLUTION

21 A. All courts shall take judicial notice of the
22 Interstate Compact on Educational Opportunity for Military
23 Children and the rules promulgated under that compact in any
24 judicial or administrative proceeding in a member state
25 pertaining to the subject matter of that compact that may

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1 affect the powers, responsibilities or actions of the
2 interstate commission.

3 B. The interstate commission shall be entitled to
4 receive all service of process in any proceeding provided in
5 Subsection A of this article and shall have standing to
6 intervene in the proceeding for all purposes.

7 C. If the interstate commission determines that a
8 member state has defaulted in the performance of its
9 obligations or responsibilities under the Interstate Compact on
10 Educational Opportunity for Military Children or the bylaws or
11 promulgated rules, the interstate commission shall:

12 (1) provide written notice to the defaulting
13 state and other member states of the nature of the default, the
14 means of curing the default and any action taken by the
15 interstate commission. The interstate commission shall specify
16 the means by which the defaulting state shall cure its default;
17 and

18 (2) provide remedial training and specific
19 technical assistance regarding the default.

20 D. If the defaulting state fails to cure the
21 default, the defaulting state shall be terminated from the
22 Interstate Compact on Educational Opportunity for Military
23 Children upon an affirmative vote of a majority of the member
24 states, and all rights, privileges and benefits conferred by
25 that compact shall be terminated from the effective date of

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1 termination. A cure of the default does not relieve the
2 offending state of obligations or liabilities incurred during
3 the period of the default.

4 E. Suspension or termination of membership in the
5 Interstate Compact on Educational Opportunity for Military
6 Children shall be imposed only after all other means of
7 securing compliance have been exhausted. Notice of intent to
8 suspend or terminate shall be given by the interstate
9 commission to the governor, the majority and minority leaders
10 of the defaulting state's legislature and each of the member
11 states.

12 F. The state that has been suspended or terminated
13 is responsible for all assessments, obligations and liabilities
14 incurred through the effective date of suspension or
15 termination, including obligations the performance of which
16 extends beyond the effective date of suspension or termination.

17 G. The interstate commission shall not bear any
18 costs relating to any state that has been found to be in
19 default or that has been suspended or terminated from the
20 Interstate Compact on Educational Opportunity for Military
21 Children unless otherwise mutually agreed upon in writing
22 between the interstate commission and the defaulting state.

23 H. The defaulting state may appeal the action of
24 the interstate commission by petitioning the United States
25 district court for the District of Columbia or the federal

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1 district where the interstate commission has its principal
2 offices.

3 I. The interstate commission shall attempt, upon
4 the request of a member state, to resolve disputes that are
5 subject to the Interstate Compact on Educational Opportunity
6 for Military Children and that may arise among member states
7 and between member and non-member states.

8 J. The interstate commission shall promulgate a
9 rule providing for both mediation and dispute resolution for
10 disputes as appropriate.

11 K. The interstate commission, in the reasonable
12 exercise of its discretion, shall enforce the provisions and
13 rules of the Interstate Compact on Educational Opportunity for
14 Military Children.

15 L. The interstate commission may, by majority vote
16 of the members, initiate legal action to enforce compliance
17 with the provisions of the Interstate Compact on Educational
18 Opportunity for Military Children and its promulgated rules and
19 bylaws against a member state in default. The venue for the
20 action shall be consistent with the determination in other
21 interstate compacts to which the state of New Mexico is a
22 member under the laws of the state of New Mexico.

23 M. The remedies in the Interstate Compact on
24 Educational Opportunity for Military Children shall not be the
25 exclusive remedies of the interstate commission. The

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1 interstate commission may avail itself of any other remedies
2 available under state law or under the regulation of a
3 profession.

4 ARTICLE 14

5 FINANCING OF THE INTERSTATE COMMISSION

6 A. The interstate commission shall pay or provide
7 for the payment of the reasonable expenses of its
8 establishment, organization and ongoing activities.

9 B. The interstate commission may levy on and
10 collect an annual assessment from each member state to cover
11 the cost of the operations and activities of the interstate
12 commission and its staff that must be in a total amount
13 sufficient to cover the interstate commission's annual budget
14 as approved each year. The aggregate annual assessment amount
15 shall be allocated based upon a formula to be determined by the
16 interstate commission, which shall promulgate a rule binding
17 upon all member states.

18 C. The interstate commission shall not incur
19 obligations of any kind prior to securing the funds adequate to
20 meet the obligations; nor shall the interstate commission
21 pledge the credit of any of the member states, except by and
22 with the authority of the member state.

23 D. The interstate commission shall keep accurate
24 accounts of all receipts and disbursements. The receipts and
25 disbursements of the interstate commission shall be subject to

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1 the audit and accounting procedures established under its
2 bylaws. However, all receipts and disbursements of funds
3 handled by the interstate commission shall be audited yearly by
4 a certified or licensed public accountant, and the report of
5 the audit shall be included in and become part of the annual
6 report of the interstate commission.

7 ARTICLE 15

8 MEMBER STATES, EFFECTIVE DATE AND AMENDMENT

9 A. Any state is eligible to become a member state.

10 B. The Interstate Compact on Educational

11 Opportunity for Military Children shall become effective and
12 binding upon legislative enactment of that compact into law by
13 no less than ten of the states. The effective date shall be no
14 earlier than December 1, 2007. Thereafter, it shall become
15 effective and binding as to any other member state upon
16 enactment of that compact into law by that state. The
17 governors of non-member states or their designees shall be
18 invited to participate in the activities of the interstate
19 commission on a nonvoting basis prior to adoption of that
20 compact by all states.

21 C. The interstate commission may propose amendments
22 to the Interstate Compact on Educational Opportunity for
23 Military Children for enactment by the member states. No
24 amendment shall become effective and binding upon the
25 interstate commission and the member states unless and until it

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1 is enacted into law by unanimous consent of the member states.

2 ARTICLE 16

3 WITHDRAWAL AND DISSOLUTION

4 A. Once effective, the Interstate Compact on
5 Educational Opportunity for Military Children shall continue in
6 force and remain binding upon each and every member state,
7 provided that a member state may withdraw from that compact by
8 specifically repealing the statute that enacted that compact
9 into law.

10 B. Withdrawal from the Interstate Compact on
11 Educational Opportunity for Military Children shall be by the
12 enactment of a statute repealing that compact.

13 C. The withdrawing state shall immediately notify
14 the chair of the interstate commission in writing upon the
15 introduction of legislation repealing the Interstate Compact on
16 Educational Opportunity for Military Children in the
17 withdrawing state. The interstate commission shall notify the
18 other member states of the withdrawing state's intent to
19 withdraw within sixty days of its receipt of the notice.

20 D. The withdrawing state is responsible for all
21 assessments, obligations and liabilities incurred on its behalf
22 through the effective date of withdrawal, including obligations
23 the performance of which extends beyond the effective date of
24 withdrawal.

25 E. Reinstatement following withdrawal of a member

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1 state shall occur upon the withdrawing state reenacting the
2 Interstate Compact on Educational Opportunity for Military
3 Children or upon such later date as determined by the
4 interstate commission.

5 F. The Interstate Compact on Educational
6 Opportunity for Military Children shall dissolve effective upon
7 the date of the withdrawal or default of the member state that
8 reduces the membership in that compact to one member state.

9 G. Upon the dissolution of the Interstate Compact
10 on Educational Opportunity for Military Children, the compact
11 becomes null and void and shall be of no further force or
12 effect, and the business and affairs of the interstate
13 commission shall be concluded, and surplus funds shall be
14 distributed in accordance with the bylaws.

15 ARTICLE 17

16 SEVERABILITY AND CONSTRUCTION

17 A. The provisions of the Interstate Compact on
18 Educational Opportunity for Military Children shall be
19 severable, and if any phrase, clause, sentence or provision is
20 deemed unenforceable, the remaining provisions of that compact
21 shall be enforceable.

22 B. The provisions of the Interstate Compact on
23 Educational Opportunity for Military Children shall be
24 liberally construed to effectuate its purposes.

25 C. Nothing in the Interstate Compact on Educational

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1 Opportunity for Military Children shall be construed to
2 prohibit the applicability of other interstate compacts to
3 which the states are members.

4 ARTICLE 18

5 BINDING EFFECT OF COMPACT AND OTHER LAWS

6 A. Nothing in the Interstate Compact on Educational
7 Opportunity for Military Children prevents the enforcement of
8 any other law of a member state.

9 B. All lawful actions of the interstate commission,
10 including all rules and bylaws promulgated by the interstate
11 commission, are binding upon the member states.

12 C. All agreements between the interstate commission
13 and the member states are binding in accordance with their
14 terms.

15 D. In the event any provision of the Interstate
16 Compact on Educational Opportunity for Military Children
17 exceeds the constitutional limits imposed on the legislature of
18 any member state, such provision shall be ineffective to the
19 extent of the conflict with the constitutional provision in
20 question in that member state."."

21 SECTION 3. Section 21-1-4.5 NMSA 1978 (being Laws 2005,
22 Chapter 168, Section 1, as amended) is amended to read:

23 "21-1-4.5. RESIDENT TUITION FOR VETERANS OF THE ARMED
24 FORCES OF THE UNITED STATES AND FAMILIES OF MEMBERS OF THE
25 ARMED FORCES.--

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1 A. A veteran of the armed forces of the United
2 States shall be deemed an in-state resident for purposes of
3 determining tuition and fees at all state institutions of
4 higher learning, provided that the veteran is eligible for
5 veterans' education benefits under federal law. In order for a
6 veteran who is not a resident of New Mexico to receive in-state
7 tuition rates, the veteran shall use the veteran's federal
8 educational benefits at a state public post-secondary
9 institution.

10 B. A spouse or child of an active member of the
11 armed forces who is assigned to duty in New Mexico shall be
12 deemed an in-state resident for purposes of determining tuition
13 and fees at all state institutions of higher learning.

14 C. A spouse or child of an active member of the
15 armed forces who is assigned to duty elsewhere immediately
16 following assignment to duty in New Mexico shall be deemed an
17 in-state resident for purposes of determining tuition and fees
18 at all state institutions of higher learning as long as the
19 spouse or child resides continuously in New Mexico.

20 D. A spouse or child of an active member of the
21 armed forces who dies or is killed shall be deemed an in-state
22 resident for purposes of determining tuition and fees at all
23 state institutions of higher learning if the spouse or child
24 becomes a resident of New Mexico within sixty days of the date
25 of death.

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1 E. A veteran of the armed forces who pays tuition
2 and fees at the rate provided for New Mexico residents under
3 this section is entitled to pay tuition and fees at the rate
4 provided for New Mexico residents in any subsequent term or
5 semester while the veteran is enrolled in a degree or
6 certificate program.

7 F. If an active member of the armed forces is
8 stationed outside New Mexico and the member's spouse or child
9 establishes residence in New Mexico and files with a state
10 institution of higher learning at which the spouse or child
11 plans to register a letter of intent to establish and continue
12 residing in New Mexico, the spouse or child shall be deemed an
13 in-state resident for purposes of determining tuition and fees
14 at that state institution of higher learning without regard to
15 length of time that the spouse or child has resided in the
16 state.

17 G. A spouse or child of an active member of the
18 armed forces who pays tuition and fees at the rate provided for
19 New Mexico residents under this section is entitled to pay
20 tuition and fees at the rate provided for New Mexico residents
21 in any subsequent term or semester while the person is
22 continuously enrolled in the same degree or certificate
23 program. For purposes of this subsection, a person is not
24 required to enroll in a summer term to remain continuously
25 enrolled in a degree or certificate program. A person's

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1 eligibility to pay tuition and fees at the rate provided for
2 New Mexico residents under this subsection does not terminate
3 because the person is no longer a child or spouse of a member
4 of the armed forces.

5 H. A spouse or child of a veteran of the armed
6 forces is entitled to pay tuition and fees at the rate provided
7 for New Mexico residents; provided that the spouse or child is
8 eligible for benefits pursuant to the federal Post-9/11
9 Veterans Educational Assistance Act of 2008 or any other
10 federal law authorizing educational benefits for a veteran and
11 the dependents of a veteran.

12 I. As used in this section, "armed forces" means
13 the United States army, navy, air force, space force, marine
14 corps or coast guard.

15 J. As used in this section, "veteran" means a
16 person who:

17 (1) was regularly enlisted, drafted, inducted
18 or commissioned in the:

19 (a) armed forces of the United States
20 and was accepted for and assigned to active duty in the armed
21 forces of the United States;

22 (b) army reserve, navy reserve, marine
23 corps reserve, air force reserve, space force reserve, coast
24 guard reserve, army national guard or air national guard and
25 was accepted for and assigned to duty for a minimum of six

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1 continuous years; or

2 (c) United States public health service
3 commissioned corps or the national oceanic and atmospheric
4 administration commissioned officer corps and served in the
5 capacity of a commissioned officer while on active duty in
6 defense of the United States; and

7 (2) was not separated from such service under
8 circumstances amounting to dishonorable discharge."

9 SECTION 4. Section 40-10D-2 NMSA 1978 (being Laws 2014,
10 Chapter 4, Section 2) is amended to read:

11 "40-10D-2. DEFINITIONS.--As used in the Deployed Parents
12 Custody and Visitation Act:

13 A. "adult" means an individual who has attained
14 eighteen years of age or is an emancipated minor;

15 B. "caretaking authority" means the right to live
16 with and care for a child on a day-to-day basis. "Caretaking
17 authority" includes physical custody, parenting time, right to
18 access and visitation;

19 C. "child" means:

20 (1) an unemancipated individual who has not
21 attained eighteen years of age; or

22 (2) an adult son or daughter by birth or
23 adoption, or under law of this state other than the Deployed
24 Parents Custody and Visitation Act, who is the subject of a
25 court order concerning custodial responsibility;

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1 D. "court" means a tribunal, including an
2 administrative agency, authorized under law of this state other
3 than the Deployed Parents Custody and Visitation Act, to make,
4 enforce or modify a decision regarding custodial
5 responsibility;

6 E. "custodial responsibility" includes all powers
7 and duties relating to caretaking authority and decision-making
8 authority for a child. "Custodial responsibility" includes
9 physical custody, legal custody, parenting time, right to
10 access, visitation and authority to grant limited contact with
11 a child;

12 F. "decision-making authority" means the power to
13 make important decisions regarding a child, including decisions
14 regarding the child's education, religious training, health
15 care, extracurricular activities and travel. "Decision-making
16 authority" does not include the power to make decisions that
17 necessarily accompany a grant of caretaking authority;

18 G. "deploying parent" means a service member who is
19 deployed or has been notified of impending deployment and is:

20 (1) a parent of a child under law of this
21 state other than the Deployed Parents Custody and Visitation
22 Act; or

23 (2) an individual who has custodial
24 responsibility for a child under law of this state other than
25 the Deployed Parents Custody and Visitation Act;

1 H. "deployment" means the movement or mobilization
2 of a service member for more than ninety days but less than
3 eighteen months pursuant to uniformed service orders that:

- 4 (1) are designated as unaccompanied;
5 (2) do not authorize dependent travel; or
6 (3) otherwise do not permit the movement of
7 family members to the location to which the service member is
8 deployed;

9 I. "family member" means a sibling, aunt, uncle,
10 cousin, stepparent or grandparent of a child or an individual
11 recognized to be in a familial relationship with a child under
12 law of this state other than the Deployed Parents Custody and
13 Visitation Act;

14 J. "limited contact" means the authority of a
15 nonparent to visit a child for a limited time. "Limited
16 contact" includes authority to take the child to a place other
17 than the residence of the child;

18 K. "nonparent" means an individual other than a
19 deploying parent or other parent;

20 L. "other parent" means an individual who, in
21 common with a deploying parent, is:

- 22 (1) a parent of a child under law of this
23 state other than the Deployed Parents Custody and Visitation
24 Act; or

- 25 (2) an individual who has custodial

1 responsibility for a child under law of this state other than
2 the Deployed Parents Custody and Visitation Act;

3 M. "record" means information that is inscribed on
4 a tangible medium or that is stored in an electronic or other
5 medium and is retrievable in perceivable form;

6 N. "return from deployment" means the conclusion of
7 a service member's deployment as specified in uniformed service
8 orders;

9 O. "service member" means a member of a uniformed
10 service;

11 P. "sign" means with present intent to authenticate
12 or adopt a record to:

13 (1) execute or adopt a tangible symbol; or

14 (2) attach to or logically associate with the
15 record an electronic symbol, sound or process;

16 Q. "state" means a state of the United States, the
17 District of Columbia, Puerto Rico, the United States Virgin
18 Islands or any territory or insular possession subject to the
19 jurisdiction of the United States; and

20 R. "uniformed service" means:

21 (1) active and reserve components of the army,
22 navy, air force, space force, marine corps or coast guard of
23 the United States;

24 (2) the United States merchant marine;

25 (3) the commissioned corps of the United

1 States public health service;

2 (4) the commissioned corps of the national
3 oceanic and atmospheric administration of the United States; or

4 (5) the national guard of a state."

5 SECTION 5. Section 45-1-201 NMSA 1978 (being Laws 1993,
6 Chapter 174, Section 4, as amended) is amended to read:

7 "45-1-201. DEFINITIONS.--

8 A. As used in the Uniform Probate Code, except as
9 provided in Subsection B of this section and unless the context
10 otherwise requires:

11 (1) "agent" includes an attorney-in-fact under
12 a durable or nondurable power of attorney, an individual
13 authorized to make decisions concerning another's health care
14 and an individual authorized to make decisions for another
15 under a natural death act;

16 (2) "application" means a written request to a
17 court for an order of informal probate or appointment pursuant
18 to Chapter 45, Article 3 NMSA 1978;

19 (3) "authenticated", with reference to copies,
20 means certified or exemplified;

21 (4) "beneficiary", as it relates to a trust
22 beneficiary, includes a person who has any present or future
23 interest, vested or contingent, and also includes the owner of
24 an interest by assignment or other transfer; as it relates to a
25 charitable trust, includes any person entitled to enforce the

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1 trust; as it relates to a "beneficiary of a beneficiary
2 designation", refers to a beneficiary of an insurance or
3 annuity policy, of an account with POD designation, of a
4 security registered in beneficiary form (TOD) or of a pension,
5 profit-sharing, retirement or similar benefit plan or other
6 nonprobate transfer at death; and, as it relates to a
7 "beneficiary designated in a governing instrument", includes a
8 grantee of a deed, a devisee, a trust beneficiary, a
9 beneficiary of a beneficiary designation, a donee, appointee or
10 taker in default of a power of appointment or a person in whose
11 favor a power of attorney or a power held in any individual,
12 fiduciary or representative capacity is exercised;

13 (5) "beneficiary designation" refers to a
14 governing instrument naming a beneficiary of an insurance or
15 annuity policy, of an account with POD designation, of a
16 security registered in beneficiary form (TOD) or of a pension,
17 profit-sharing, retirement or similar benefit plan or other
18 nonprobate transfer at death;

19 (6) "child" includes an individual entitled to
20 take as a child pursuant to the Uniform Probate Code by
21 intestate succession from the parent whose relationship is
22 involved and excludes a person who is only a stepchild, a
23 foster child, a grandchild or any more remote descendant;

24 (7) "claims", in respect to estates of
25 decedents and protected persons, includes liabilities of the

1 decedent or protected person, whether arising in contract, in
2 tort or otherwise and liabilities of the estate that arise at
3 or after the death of the decedent or after the appointment of
4 a conservator, including funeral expenses and expenses of
5 administration. "Claims" does not include estate or
6 inheritance taxes or demands or disputes regarding title of a
7 decedent, an incapacitated person or a minor protected person
8 to specific assets alleged to be included in the estate;

9 (8) "conservator" has the same meaning as set
10 forth in Section 45-5-101 NMSA 1978;

11 (9) "descendant" of an individual means all of
12 the individual's descendants of all generations, with the
13 relationship of parent and child at each generation being
14 determined by the definition of child and parent contained in
15 the Uniform Probate Code;

16 (10) "devise", when used as a noun, means a
17 testamentary disposition of real or personal property and, when
18 used as a verb, means to dispose of real or personal property
19 by will;

20 (11) "devisee" means a person designated in a
21 will to receive a devise. For the purposes of Chapter 45,
22 Article 3 NMSA 1978, in the case of a devise to an existing
23 trust or trustee or to a trustee or trust described by will,
24 the trust or trustee is the devisee and the beneficiaries are
25 not devisees;

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1 (12) "distributee" means a person who has
2 received property of a decedent from the decedent's personal
3 representative other than as a creditor or purchaser. A
4 testamentary trustee is a distributee only to the extent of
5 distributed assets or increment thereto remaining in the
6 testamentary trustee's hands. A beneficiary of a testamentary
7 trust to whom the trustee has distributed property received
8 from a personal representative is a distributee of the personal
9 representative. For the purposes of this paragraph,
10 "testamentary trustee" includes a trustee to whom assets are
11 transferred by will, to the extent of the devised assets;

12 (13) "electronic" means relating to technology
13 having electronic, digital, magnetic, wireless, optical,
14 electromagnetic or similar capabilities;

15 (14) "emancipated minor" means a person
16 sixteen years of age or older who:

17 (a) has entered into a valid marriage,
18 whether or not the marriage was terminated by dissolution;

19 (b) is a member of the active or reserve
20 components of the army, navy, air force, space force, marine
21 corps or coast guard of the United States who is on active duty
22 or a member of the national guard who is on activated status;
23 or

24 (c) has received a declaration of
25 emancipation pursuant to the Emancipation of Minors Act;

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1 (15) "estate" includes the property of the
2 decedent, trust or other person whose affairs are subject to
3 the Uniform Probate Code as the property was originally
4 constituted and as it exists from time to time during
5 administration;

6 (16) "exempt property" means that property of
7 a decedent's estate that is described in Sections 45-2-402 and
8 45-2-403 NMSA 1978;

9 (17) "fiduciary" includes a personal
10 representative, guardian, guardian ad litem, conservator and
11 trustee;

12 (18) "foreign personal representative" means a
13 personal representative appointed by another jurisdiction;

14 (19) "formal proceedings" means proceedings
15 conducted before a district judge with notice to interested
16 persons;

17 (20) "governing instrument" means a deed,
18 will, trust, insurance or annuity policy, account with POD
19 designation, security registered in beneficiary form (TOD),
20 transfer on death (TOD) deed, pension, profit-sharing,
21 retirement or similar benefit plan, instrument creating or
22 exercising a power of appointment or a power of attorney or a
23 dispositive, appointive or nominative instrument of a similar
24 type;

25 (21) "guardian" means a person who has

1 qualified to provide for the care, custody or control of the
2 person of a minor or incapacitated person pursuant to parental
3 or court appointment. "Guardian" includes a limited, emergency
4 and temporary guardian but not a guardian ad litem;

5 (22) "guardian ad litem" means a person
6 appointed by the district court to represent and protect the
7 interests of a minor or an incapacitated person in connection
8 with litigation or any other court proceeding;

9 (23) "heirs", except as controlled by Section
10 45-2-711 NMSA 1978, means persons, including the surviving
11 spouse and the state, who are entitled under the statutes of
12 intestate succession to the property of a decedent;

13 (24) "incapacitated person" means an
14 individual described in Section 45-5-101 NMSA 1978;

15 (25) "informal proceedings" means those
16 proceedings conducted without notice to interested persons
17 before the court for probate of a will or appointment of a
18 personal representative, except as provided for in Section
19 45-3-306 NMSA 1978;

20 (26) "interested person" includes heirs,
21 devisees, children, spouses, creditors, beneficiaries and any
22 others having a property right in or claim against a trust
23 estate or the estate of a decedent, a minor protected person or
24 an incapacitated person. "Interested person" also includes
25 persons having priority for appointment as personal

1 representatives and other fiduciaries representing interested
2 persons. The meaning as it relates to particular persons may
3 vary from time to time and shall be determined according to the
4 particular purposes of, and matter involved in, a proceeding;

5 (27) "issue" of an individual means the
6 individual's descendants;

7 (28) "lease" includes an oil, gas or other
8 mineral lease;

9 (29) "letters" includes letters testamentary,
10 letters of guardianship, letters of administration and letters
11 of conservatorship;

12 (30) "minor" means an unemancipated individual
13 who has not reached eighteen years of age;

14 (31) "mortgage" means any conveyance,
15 agreement or arrangement in which property is encumbered or
16 used as security;

17 (32) "nonresident decedent" means a decedent
18 who was domiciled in another jurisdiction at the time of death;

19 (33) "organization" means a corporation,
20 business trust, limited liability company, estate, trust,
21 partnership, joint venture, association, government or
22 governmental subdivision or agency or any other legal or
23 commercial entity;

24 (34) "parent" includes any person entitled to
25 take, or who would be entitled to take if the child died

1 without a will, as a parent pursuant to the Uniform Probate
2 Code by intestate succession from the child whose relationship
3 is in question and excludes any person who is only a
4 stepparent, foster parent or grandparent;

5 (35) "payor" means a trustee, insurer,
6 business entity, employer, government, governmental agency or
7 subdivision or any other person authorized or obligated by law
8 or a governing instrument to make payments;

9 (36) "person" means an individual or an
10 organization;

11 (37) "personal representative" includes
12 executor, administrator, successor personal representative,
13 special administrator and persons who perform substantially the
14 same function under the law governing their status. "General
15 personal representative" excludes special administrator;

16 (38) "petition" means a written motion or
17 other request to the district court for an order after notice;

18 (39) "proceeding" includes action at law and
19 suit in equity;

20 (40) "property" includes both real and
21 personal property or any right or interest therein and means
22 anything that may be the subject of ownership;

23 (41) "protected person" has the same meaning
24 as set forth in Section 45-5-101 NMSA 1978;

25 (42) "protective proceeding" means a

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1 conservatorship proceeding pursuant to Section 45-5-401 NMSA
2 1978;

3 (43) "record" means information that is
4 inscribed on a tangible medium or that is stored in an
5 electronic or other medium and is retrievable in perceivable
6 form;

7 (44) "security" includes any note, stock,
8 treasury stock, bond, debenture, evidence of indebtedness,
9 certificate of interest or participation in an oil, gas or
10 mining title or lease or in payments out of production under
11 such a title or lease, collateral trust certificate,
12 transferable share, voting trust certificate or, in general,
13 any interest or instrument commonly known as a security or any
14 certificate of interest or participation, any temporary or
15 interim certificate, receipt or certificate of deposit for or
16 any warrant or right to subscribe to or purchase any of the
17 foregoing;

18 (45) "settlement", in reference to a
19 decedent's estate, includes the full process of administration,
20 distribution and closing;

21 (46) "sign" means with present intent to
22 authenticate or adopt a record other than a will:

23 (a) to execute or adopt a tangible
24 symbol; or

25 (b) to attach to or logically associate

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1 with the record an electronic symbol, sound or process;

2 (47) "special administrator" means a personal
3 representative as described by Sections 45-3-614 through
4 45-3-618 NMSA 1978;

5 (48) "state" means a state of the United
6 States, the District of Columbia, the commonwealth of Puerto
7 Rico or any territory or insular possession subject to the
8 jurisdiction of the United States. "State" also includes any
9 Indian nation, tribe, pueblo or band located within the United
10 States and recognized by federal law or formally acknowledged
11 by a state of the United States;

12 (49) "successor personal representative" means
13 a personal representative, other than a special administrator,
14 who is appointed to succeed a previously appointed personal
15 representative;

16 (50) "successors" means persons, other than
17 creditors, who are entitled to property of a decedent under the
18 decedent's will or the Uniform Probate Code;

19 (51) "supervised administration" refers to the
20 proceedings described in Article 3, Part 5 of the Uniform
21 Probate Code;

22 (52) "survive" means that an individual has
23 neither predeceased an event, including the death of another
24 individual, nor is deemed to have predeceased an event pursuant
25 to Section 45-2-104 or 45-2-702 NMSA 1978. "Survive" includes

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1 its derivatives, such as "survives", "survived", "survivor" and
2 "surviving";

3 (53) "testacy proceeding" means a proceeding
4 to establish a will or determine intestacy;

5 (54) "testator" includes an individual of
6 either gender;

7 (55) "trust" includes an express trust,
8 private or charitable, with additions thereto, wherever and
9 however created. "Trust" also includes a trust created or
10 determined by judgment or decree under which the trust is to be
11 administered in the manner of an express trust. "Trust"
12 excludes other constructive trusts and excludes resulting
13 trusts, conservatorships, personal representatives, trust
14 accounts as defined in Article 6 of the Uniform Probate Code,
15 custodial arrangements, including those created under the
16 Uniform Transfers to Minors Act, business trusts providing for
17 certificates to be issued to beneficiaries, common trust funds,
18 voting trusts, security arrangements, liquidation trusts,
19 trusts for the primary purpose of paying debts, dividends,
20 interest, salaries, wages, profits, pensions or employee
21 benefits of any kind and any arrangement under which a person
22 is nominee or escrowee for another;

23 (56) "trustee" includes an original,
24 additional or successor trustee, whether or not appointed or
25 confirmed by court; and

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1 (57) "will" includes a codicil and any
2 testamentary instrument that merely appoints a personal
3 representative, revokes or revises another will, nominates a
4 guardian or expressly excludes or limits the right of an
5 individual or class to succeed to property of the decedent
6 passing by intestate succession. "Will" does not include a
7 holographic will.

8 B. The definitions in Subsection A of this section
9 are made subject to additional definitions contained in
10 subsequent articles that are applicable to specific articles,
11 parts or sections."

12 SECTION 6. Section 66-3-303 NMSA 1978 (being Laws 1978,
13 Chapter 35, Section 79) is amended to read:

14 "66-3-303. REGISTRATION BY MILITARY PERSONNEL.--Officers
15 and enlisted personnel of the United States army, navy, marine
16 corps, coast guard, space force and air force may operate their
17 personal passenger vehicles in this state subject to the
18 provisions of Section [~~64-3-301 NMSA 1953~~] 66-3-301 NMSA 1978."