

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

HOUSE MEMORIAL 2

50TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2012

INTRODUCED BY

Dennis J. Kintigh

A MEMORIAL

REQUESTING THE NEW MEXICO SUPREME COURT TO CHANGE THE CURRENT RULES BARRING ADMISSION FOR LAWYERS EXCEPT BY BAR EXAMINATION AND TO ADOPT THE AMERICAN BAR ASSOCIATION'S MODEL RULE ON ADMISSION BY MOTION FOR LAWYERS WHO HAVE ENGAGED IN THE PRACTICE OF LAW FIVE OUT OF THE LAST SEVEN YEARS AND MET CHARACTER AND FITNESS STANDARDS.

WHEREAS, the state of New Mexico is one of only eleven jurisdictions in the United States that has not adopted any admission-by-motion procedure and requires experienced and competent lawyers to take a bar examination to gain admission to the state bar; and

WHEREAS, the original rationale for requiring a bar examination was as a procedure for admitting new law school graduates and not for testing experienced lawyers who have 2

underscoring material = new
~~[bracketed material] = delete~~

underscored material = new
~~[bracketed material] = delete~~

1 already taken and passed one or more bar examinations involving
2 almost identical tests; and

3 WHEREAS, every surrounding state, including most recently
4 the state of Arizona, has adopted rules that allow lawyers from
5 other jurisdictions to be admitted by motion; and

6 WHEREAS, while the state of New Mexico does not allow
7 lawyers to be admitted in the state without a bar examination,
8 it does not impose the same requirement for other professions
9 such as doctors, other medical professionals and certified
10 public accountants; and

11 WHEREAS, the American bar association has commented in its
12 commission on ethics that the effect of requiring attorneys
13 already licensed and experienced in legal practice to take
14 another bar exam is an "erection of an excessive barrier" that
15 is "lengthy, expensive and burdensome"; and

16 WHEREAS, while reciprocity was not necessarily needed when
17 the rules were originally promulgated because people maintained
18 law offices in a single jurisdiction over their entire careers,
19 geographic mobility and the increasing demands of clients, both
20 businesses and individuals, that are relocating and expanding
21 their need for multistate services require that lawyers and law
22 practices be flexible enough to accommodate the reality of an
23 increasingly "flat" world. States that do not adapt to this
24 new reality lose potential businesses that otherwise may have
25 moved to the state, or they lose businesses that leave the

.187831.1

underscoring material = new
~~[bracketed material] = delete~~

1 state for other jurisdictions with more favorable legal and
2 economic climates; and

3 WHEREAS, while states like New Mexico provide reasoning
4 for their rules that relate to the state's legitimate need to
5 regulate lawyers who may decide not to practice in the state or
6 that out-of-state lawyers may have insufficient knowledge of
7 state laws and procedures, there is no evidence from the forty
8 jurisdictions that allow admission by motion that such concerns
9 have any basis; and

10 WHEREAS, experienced attorneys who have practiced in New
11 Mexico for many years and who may for personal or financial
12 reasons need to find legal employment in other states find
13 themselves dealing with a burdensome and unnecessary
14 requirement to take a bar exam in another state because of
15 rules that prohibit them from admission by motion; and

16 WHEREAS, the New Mexico board of bar commissioners
17 recommended a form of admission by motion to the New Mexico
18 supreme court in 2007, but that recommendation was opposed by
19 the New Mexico board of bar examiners during the same year; and

20 WHEREAS, in a June 2011 poll conducted by the state bar of
21 New Mexico through research and polling, incorporated,
22 distributed to all members of the state bar of New Mexico,
23 seventy-seven percent of members say they support reciprocal
24 licensing for New Mexico lawyers with other states and seventy-
25 six percent support a rule change in favor of reciprocity; and

.187831.1

