AN ACT

RELATING TO COURTS; ENACTING THE UNIFORM CERTIFICATION OF QUESTIONS OF LAW ACT; ESTABLISHING PROCEDURES FOR CERTIFYING QUESTIONS OF LAW; REPEALING AND ENACTING SECTIONS OF THE NMSA 1978.

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

Section 1. SHORT TITLE.--This act may be cited as the "Uniform Certification of Questions of Law Act".

Section 2. DEFINITIONS.--As used in the Uniform Certification of Questions of Law Act:

A. "state" means a state of the United States, the District of Columbia, the commonwealth of Puerto Rico or any territory or insular possession subject to the jurisdiction of the United States; and

B. "tribe" means a tribe, band or village of Native

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1   Americans that is recognized by federal law or formally

2   acknowledged by a state.

3   Section 3.   POWER TO CERTIFY.--The supreme court or the

4   court of appeals of this state, on the motion of a party to

5   pending litigation or its own motion, may certify a question of

6   law to the highest court of another state, a tribe, Canada, a

7   Canadian province or territory, Mexico or a Mexican state if:

8   A.   the pending litigation involves a question to be

9   decided under the law of the other jurisdiction;

10   B.   the answer to the question may be determinative

11   of an issue in the pending litigation; and

12   C.   the question is one for which an answer is not

13   provided by a controlling appellate decision, constitutional

14   provision or statute of the other jurisdiction.

15   Section 4.   POWER TO ANSWER.--The supreme court of this

16   state may answer a question of law certified to it by a court of

17   the United States or by an appellate court of another state, a

18   tribe, Canada, a Canadian province or territory, Mexico or a

19   Mexican state if the answer may be determinative of an issue in

20   pending litigation in the certifying court and there is no

21   controlling appellate decision, constitutional provision or

22   statute of this state.

23   Section 5.   POWER TO REFORMULATE QUESTION.--The supreme

24   court of this state may reformulate a question of law certified

25   to it.

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1   Section 6.   CERTIFICATION ORDER--RECORD.--The court

2   certifying a question of law to the supreme court of this state

3   shall issue a certification order and forward it to the supreme

4   court of this state.   Before responding to a certified question,

5   the supreme court of this state may require the certifying court

6   to deliver all or part of its record to the supreme court of

7   this state.

8   Section 7.   CONTENTS OF CERTIFICATION ORDER.--

9   A.   A certification order must contain:

10   (1) the question of law to be answered;

11   (2) the facts relevant to the question, showing

12   fully the nature of the controversy out of which the question

13   arose;

14   (3) a statement acknowledging that the supreme

15   court of this state, acting as the receiving court, may

16   reformulate the question; and

17   (4) the names and addresses of counsel of record

18   and parties appearing without counsel.

19   B.   If the parties cannot agree upon a statement of

20   facts, the certifying court shall determine the relevant facts

21   and state them as part of its certification order.

22   Section 8.   NOTICE--RESPONSE.--The supreme court of this

23   state, acting as a receiving court, shall notify the certifying

24   court of acceptance or rejection of the question and, in

25   accordance with notions of comity and fairness, respond to an

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1   accepted certified question as soon as practicable.

2   Section 9.   PROCEDURES.--After the supreme court of this

3   state has accepted a certified question, proceedings are

4   governed by the rules and statutes governing briefs, arguments

5   and other appellate procedures.   Procedures for certification

6   from this state to a receiving court are those provided in the

7   rules and statutes of the receiving forum.

8   Section 10.   OPINION.--The supreme court of this state

9   shall state in a written opinion the law answering the certified

10   question and send a copy of the opinion to the certifying court,

11   counsel of record and parties appearing without counsel.

12   Section 11.   COST OF CERTIFICATION.--Fees and costs are the

13   same as in civil appeals docketed before the supreme court of

14   this state and must be equally divided between the parties,

15   unless otherwise ordered by the certifying court.

16   Section 12.   SEVERABILITY.--If any provision of the Uniform

17   Certification of Questions of Law Act or its application to any

18   person or circumstance is held invalid, the invalidity does not

19   affect other provisions or applications of that act that can be

20   given effect without the invalid provision or application, and

21   to this end the provisions of that act are severable.

22   Section 13.   UNIFORMITY OF APPLICATION AND CONSTRUCTION.--

23   The Uniform Certification of Questions of Law Act shall be

24   applied and construed to effectuate its general purpose to make

25   uniform law with respect to the subject of that act among states

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1   enacting it.

2   Section 14.   REPEAL.--Section 34-2-8 NMSA 1978 (being Laws

3   1975, Chapter 72, Section 1, as amended) is repealed.

4   Section 15.   EFFECTIVE DATE.--The effective date of the

5   provisions of this act is July 1, 1997.

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State of New Mexico

House of Representatives

FORTY-THIRD LEGISLATURE

FIRST SESSION, 1997

January 29, 1997

Mr. Speaker:

   Your **JUDICIARY COMMITTEE,** to whom has been referred

HOUSE BILL 89

has had it under consideration and reports same with
recommendation that it **DO PASS.**

Respectfully submitted,

_____

Thomas P. Foy, Chairman

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2   Adopted _____   Not Adopted _____

3
          (Chief Clerk)   (Chief Clerk)
4

5   Date _____

6

7   The roll call vote was_11_ For_0_ Against

8   Yes: 11

9   Excused: Luna, Sanchez

10 Absent: None

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12 M:\H0089

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