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HOUSE BILL 1132

43RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1997

INTRODUCED BY

M MICHAEL OLGUIN

AN ACT

RELATING TO PUBLIC POST-SECONDARY EDUCATION; PROVIDING  
AUTHORIZATION FOR THE CREATION OF NEW FOUR-YEAR COLLEGES AND  
UNIVERSITIES; REQUIRING COMPLIANCE WITH THE BRANCH COMMUNITY  
COLLEGE ACT BY EXISTING INSTITUTIONS IN ESTABLISHING ANY TYPE OF  
BRANCH COLLEGE; AUTHORIZING CREATION OF LEARNING CENTERS;  
SPECIFYING POWERS AND DUTIES; AUTHORIZING LOCAL TAX LEVY UPON  
APPROVAL OF VOTERS; ENACTING SECTIONS OF THE NMSA 1978.

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

Section 1. [NEW MATERIAL] FINDING. --The legislature finds  
that the state currently has six four-year colleges and  
universities established by the constitution of New Mexico with  
powers to create branches of their institutions. The  
legislature also finds that proliferation of post-secondary  
four-year educational institutions should be under the control

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1 of the legislature.

2 Section 2. [NEW MATERIAL] ESTABLISHMENT OR CREATION OF A  
3 FOUR-YEAR COLLEGE. --The creation or establishment of any new  
4 public four-year college or university is expressly prohibited  
5 except by statutory authorization.

6 Section 3. A new Section 21-14-1.1 NMSA 1978 is enacted to  
7 read:

8 "21-14-1.1. [NEW MATERIAL] SHORT TITLE. -- Chapter 21,  
9 Article 14 NMSA 1978 may be cited as the "Branch College Act". "

10 Section 4. A new Section 21-14-2.2 NMSA 1978 is enacted to  
11 read:

12 "21-14-2.2. [NEW MATERIAL] COMPLIANCE WITH PROCEDURES FOR  
13 CREATION OF BRANCH COMMUNITY COLLEGES. --An existing public four-  
14 year post-secondary educational institution desiring to  
15 establish any type of branch college shall comply with those  
16 procedures required by the Branch Community College Act for  
17 establishing two-year community colleges. "

18 Section 5. [NEW MATERIAL] AUTHORITY TO REVIEW AND  
19 APPROVE. --The commission on higher education has authority to  
20 review and approve proposals to establish any form of new post-  
21 secondary educational institution or center.

22 Section 6. [NEW MATERIAL] SHORT TITLE. --Sections 6  
23 through 14 of this act may be cited as the "Learning Center  
24 Act".

25 Section 7. [NEW MATERIAL] DEFINITION. --As used in the

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1 Learning Center Act:

2 A. "commission" means the commission on higher  
3 education; and

4 B. "learning center" means an entity created  
5 pursuant to the provisions of the Learning Center Act to broker  
6 post-secondary educational services to the district of the  
7 learning center by providing programs leading to degrees or  
8 certificates but that cannot directly employ instructors and  
9 that is governed by a community-based board.

10 Section 8. [NEW MATERIAL] COMPOSITION OF DISTRICT FOR A  
11 LEARNING CENTER. -- The district of a learning center shall  
12 comprise and be concurrent with the territorial areas of one or  
13 more existing public school districts in one or more counties,  
14 other than that area comprising another post-secondary education  
15 district. The territorial area encompassed by any proposed  
16 district for a learning center shall in all cases be contiguous.

17 Section 9. [NEW MATERIAL] CREATION OF LEARNING CENTERS  
18 AUTHORIZED--PETITION. -- A learning center as provided in the  
19 Learning Center Act may be created by the filing of a petition  
20 with the commission signed by registered qualified electors  
21 resident in each school district comprising the district of the  
22 proposed learning center, in a number equal to or in excess of  
23 ten percent of the votes cast for governor in the last preceding  
24 general election in each school district of the proposed  
25 district of the learning center. For the purpose of determining

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1 the vote cast in the school district for governor in the last  
2 preceding general election, any portion of a voting division  
3 within any affected school district shall be construed to be  
4 wholly within the proposed district of the learning center.

5 Section 10. [NEW MATERIAL] COMMISSION--FEASIBILITY  
6 STUDY.--

7 A. The petition calling for the formation and  
8 organization of the proposed learning center shall be filed with  
9 the commission. The commission, upon determining that the  
10 requisite signatures have been obtained on the petition, shall  
11 cause a feasibility study to be made of the proposed learning  
12 center. The commission shall adopt policies and procedures for  
13 the conduct of feasibility studies on the formation of learning  
14 centers.

15 B. The commission shall approve the petition and  
16 call an election within the proposed district on the  
17 establishment of the learning center, if on the basis of the  
18 study, it finds that:

19 (1) there is substantial evidence of need for  
20 establishing the district that cannot be met by existing post-  
21 secondary institutions;

22 (2) the proposed learning center demonstrates a  
23 commitment to promoting innovation, collaboration and  
24 cooperation among institutions, government agencies, public  
25 schools, business and communities;

Underscored material = new  
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1 (3) the proposed learning center will be  
2 organized in a manner that will allow for rapid response to  
3 changing community needs and allow for the easy elimination of  
4 programs that are no longer necessary;

5 (4) the proposed learning center is the most  
6 efficient option for providing post-secondary education services  
7 to the community; and

8 (5) the community is ready and equipped to  
9 support the proposed learning center at a cost acceptable to the  
10 state.

11 Section 11. [NEW MATERIAL] NOTICE AND CONDUCT OF  
12 ELECTION. --

13 A. Upon formal written approval by the commission of  
14 the petition for the establishment of a learning center, the  
15 executive director of the commission shall set a date for an  
16 election within the school districts comprising the district of  
17 the learning center on the question of whether the proposed  
18 learning center shall be established and whether the resident  
19 qualified electors will approve the levy of an annual tax on all  
20 taxable property within the proposed district at a rate not to  
21 exceed two dollars (\$2.00) on each one thousand dollars (\$1,000)  
22 of net taxable value as that term is defined in the Property Tax  
23 Code. The proceeds from the tax shall be for the purpose of  
24 operating and maintaining the learning center. Only registered  
25 voters of the district of the proposed learning center shall

1 vote in the election.

2 B. The election pertaining to the approval of the  
3 creation of the learning center, including the question of  
4 levying the property tax, shall be submitted to the voters and  
5 voted upon as a separate question at a special election or at  
6 the next regular election in each of the school districts  
7 comprising the district of the proposed learning center. The  
8 elections shall be called, conducted and canvassed as provided  
9 in the School Election Law.

10 C. The local school boards of each school district  
11 in which the election is conducted shall certify the total  
12 number of the votes cast for and against the proposal to the  
13 commission.

14 D. In the event a majority of the votes in each  
15 school district within the boundaries of the proposed learning  
16 center is in favor of the proposed learning center and for the  
17 imposition of the tax levy and such votes are equal in number to  
18 at least fifteen percent of the total number of votes cast for  
19 governor in the last general election in which the office of  
20 governor was voted upon within those school districts, the  
21 learning center shall be declared established as comprised of  
22 those school districts so voting in favor.

23 E. In those school districts voting in the election  
24 where the majority of the votes did not approve the creation of  
25 the learning center, no election upon the future incorporation

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1 of that school district within the district of the learning  
2 center shall be held earlier than two years from the date of the  
3 election expressing disapproval.

4 Section 12. [NEW MATERIAL] LEARNING CENTER BOARD. --

5 A. Upon its declaration that the learning center has  
6 been established pursuant to the Learning Center Act, the  
7 executive director of the commission shall notify by registered  
8 mail all the boards of education of the local school districts  
9 comprising the learning center of the results and shall call a  
10 meeting of the members of the boards of education, which shall  
11 be held at a time and site within the district of the learning  
12 center not later than sixty days after the election. The  
13 executive director or his designee shall act as chairman pro  
14 tempore of the meeting and a majority of the members of the  
15 boards of education so notified shall constitute a quorum.

16 B. A majority of all board of education members  
17 present shall elect five persons as members of the learning  
18 center board. The persons elected shall be assigned position  
19 numbers one through five. The learning center board shall  
20 select from its members a chairman and secretary, who shall  
21 serve in those offices until the next regular learning center  
22 board election. Board members shall be over twenty-one years of  
23 age, qualified electors and residents of the district comprising  
24 the learning center.

25 C. The members of the board shall continue to serve

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1 until the first Tuesday in March of each odd-numbered year, at  
2 which time five board members shall be elected by the registered  
3 voters of the learning center district. The candidates shall  
4 file for and be elected to a particular position number. The  
5 candidate receiving the highest number of votes for a particular  
6 position shall be elected.

7 D. At the first learning center board meeting after  
8 the election, the five elected members shall draw lots for the  
9 following terms: one for a term of two years, two for terms of  
10 four years and two for terms of six years. Thereafter, board  
11 members shall be elected for terms of six years from April 1  
12 succeeding their elections. Any vacancies caused in any other  
13 manner than by the expiration of the term of office shall be  
14 filled by appointment by the remaining members of the board to  
15 fill a vacancy in office to serve until the next learning center  
16 board election, at which time candidates shall file for and be  
17 elected to fill the vacant position to serve the remainder of  
18 the unexpired term.

19 Section 13. [NEW MATERIAL] ELECTION OF BOARD MEMBERS. --  
20 Regular elections for members of a learning center board shall  
21 be called, conducted and canvassed in the same manner as regular  
22 elections of board members of community colleges.

23 Section 14. [NEW MATERIAL] BOARDS-- POWERS AND DUTIES. --

24 A. A learning center board may:

25 (1) fix tuition and fee rates for resident and

1 nonresident students of the learning center;

2 (2) accept gifts and bequests and may receive  
3 state support for capital projects or recurring operating costs;

4 (3) accept federal grants and other aid;

5 (4) purchase, hold, sell and rent property and  
6 equipment;

7 (5) employ, upon the president's  
8 recommendation, administrative personnel as deemed necessary for  
9 the operation, maintenance and administration of the learning  
10 center; and

11 (6) promote the general welfare of the learning  
12 center for the best interest of educational services to the  
13 people of the district.

14 B. The learning center board shall:

15 (1) determine financial and educational  
16 policies for the learning center;

17 (2) broker post-educational services to provide  
18 programs leading to degrees or certificates but not directly  
19 employ instructors for those programs;

20 (3) contract with regionally accredited in-  
21 state, out-of-state, public or private post-secondary education  
22 institutions to provide programs leading to degrees or  
23 certificates, but not to award those degrees or certificates  
24 directly; and

25 (4) provide for the management of the learning

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1 center and the execution of board policies by selecting a  
2 competent president for the learning center.

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HOUSE EDUCATION COMMITTEE SUBSTITUTE FOR  
HOUSE BILL 1132

43RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1997

AN ACT

RELATING TO PUBLIC POST-SECONDARY EDUCATION; PROHIBITING THE  
CREATION OF NEW FOUR-YEAR STATE EDUCATIONAL INSTITUTIONS;  
AMENDING CERTAIN SECTIONS OF THE BRANCH COMMUNITY COLLEGE LAWS  
TO AUTHORIZE CERTAIN INSTITUTIONS TO INITIATE THE ESTABLISHMENT  
OF BRANCH COMMUNITY COLLEGES; REQUESTING A STUDY; AMENDING AND  
ENACTING SECTIONS OF THE NMSA 1978.

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

Section 1. A new section of Chapter 21, Article 1 NMSA  
1978 is enacted to read:

"NEW MATERIAL LEGISLATIVE FINDINGS-- PROHIBITION. --

A. The legislature finds that the state currently  
has six four-year universities established by the constitution  
of New Mexico. The legislature has authorized these  
institutions to create branches of their institutions in

1 conjunction with local school districts. The legislature also  
2 finds that proliferation of four-year post-secondary educational  
3 institutions is not in the best interest of the state and shall  
4 not be funded by the legislature unless specifically authorized  
5 by law, but that state universities should be allowed to  
6 initiate the creation of branch community colleges.

7 B. Effective July 1, 1997, no new public four-year  
8 post-secondary educational institution shall be created or  
9 established except as specifically authorized by law. "

10 Section 2. Section 21-14-2 NMSA 1978 (being Laws 1963,  
11 Chapter 162, Section 2, as amended) is amended to read:

12 "21-14-2. ESTABLISHMENT AUTHORIZED-- BOARD METHOD-- PARENT  
13 INSTITUTION METHOD-- DETERMINATION OF NEED-- AGREEMENTS. --

14 A. A branch community college may be established in  
15 a school district upon the showing of need by the local board of  
16 education. A branch community college may be established to  
17 include more than one school district, in which instance the  
18 boards of education shall act as a single board and, if the  
19 branch community college is established, shall continue to act  
20 as a single board unless a successor board is established as  
21 provided in Section 21-14-2.1 NMSA 1978. As used in Chapter 21,  
22 Article 14 NMSA 1978, "board" means either the local school  
23 board [~~of education~~] or the combined local school boards [~~of~~  
24 ~~education~~] acting as a single board of the school district or  
25 the board of the branch community college elected pursuant to

1 Section 21-14-2.1 NMSA 1978.

2 B. A public post-secondary educational baccalaureate  
 3 degree-granting institution established in Article 12, Section 11  
 4 of the constitution of New Mexico may initiate the establishment of  
 5 a branch community college by contacting a local school board or a  
 6 number of local school boards and offer to serve as a parent  
 7 institution for a branch community college district created  
 8 pursuant to Chapter 21, Article 14 NMSA 1978.

9 [~~B.-~~] C. The duties of the board are to:

10 (1) initiate and conduct the survey provided for  
 11 in Subsection [~~E~~] D of this section;

12 (2) if the board has initiated the establishment  
 13 of the branch community college, select the parent institution;

14 (3) request approval of the branch community  
 15 college from the [~~board of educational finance~~] commission on  
 16 higher education;

17 (4) enter into written agreements with the board  
 18 of regents of the parent institution [~~selected~~], subject thereafter  
 19 to biennial review by all parties concerned and to the review and  
 20 commentary of the [~~board of educational finance~~] commission on  
 21 higher education;

22 (5) act in an advisory capacity to the board of  
 23 regents of the parent institution in all matters relating to the  
 24 conduct of the branch community college;

25 (6) approve an annual budget for the branch

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1 community college for recommendation to the board of regents of the  
2 parent institution;

3 (7) certify to the board of county commissioners  
4 the tax levy; and

5 (8) conduct the election for tax levies for the  
6 branch community college.

7 [~~C.~~] D. Upon evidence of a demand for a branch  
8 community college, the board shall cause a survey to be made. The  
9 [~~board of educational finance~~] commission on higher education shall  
10 develop criteria for the establishment of a branch community  
11 college, and no branch community college shall be established  
12 without the written authorization of the [~~board of educational~~  
13 ~~finance~~] commission.

14 [~~D.~~] E. If need is established, the board, in  
15 accordance with the [~~board of educational finance~~] commission on  
16 higher education criteria for initiating a branch community college  
17 program, shall consult with the board of regents of the higher  
18 education institution selected or proposing to be the parent  
19 institution, and, if the board and the board of regents agree to  
20 conduct a branch community college in the area, they shall transmit  
21 a proposal to establish a branch community college to the [~~board of~~  
22 ~~educational finance~~] commission. The [~~board of educational~~  
23 ~~finance~~] commission shall evaluate the need and shall notify the  
24 board and the board of regents of approval or disapproval of the  
25 proposal.

1           ~~[E-]~~ F. If the proposal is approved, the board and the  
2 board of regents of the parent institution shall enter into a  
3 written agreement, which shall include provisions for:

4                   (1) the higher education institution to have full  
5 authority and responsibility in relation to all academic matters;

6                   (2) the higher education institution to honor all  
7 credits earned by students as though they were earned on the parent  
8 campus;

9                   (3) the course of study and program offered;

10                  (4) the cooperative use of physical facilities  
11 and teaching staff;

12                  (5) consideration of applications of local  
13 qualified people before employing teachers of the local school  
14 system; and

15                  (6) the detailed agreement of financing and  
16 financial control of the branch community college.

17           ~~[F-]~~ G. The agreement shall be binding upon both the  
18 board and the board of regents of the parent institution; however,  
19 it may be terminated by mutual consent or it may be terminated by  
20 either board upon six months' notice. However, if the branch  
21 community college has outstanding bonds, either tax or revenue,  
22 neither the board nor the board of regents may terminate ~~[this]~~ the  
23 agreement until the outstanding bonds are retired, except as  
24 provided by Section 21-13-24.1 NMSA 1978. This provision shall  
25 apply to all agreements in existence between the branch community

1 college and the board of regents of the parent institution.

2           ~~[G.]~~ H. All taxes levied to pay for principal and  
3 interest on bonds of the branch community college shall be in  
4 addition to the taxes levied for operating, maintaining and  
5 providing facilities for the branch community college pursuant to  
6 Section 21-14-6 NMSA 1978 and shall not be limited by the tax  
7 limitation found in that section.

8           ~~[H.]~~ I. For the purpose of relating branch community  
9 colleges to existing laws, branch community college districts or  
10 branch community colleges shall not:

11                   (1) be considered a part of the uniform system of  
12 free public schools pursuant to Article 12, Section 1 and Article  
13 21, Section 4 of the constitution of New Mexico;

14                   (2) benefit from the permanent school fund and  
15 from the current school fund under Article 12, Sections 2 and 4 of  
16 the constitution of New Mexico;

17                   (3) be subject, except as it relates to technical  
18 and vocational education, to the control, management and direction  
19 of the state board of education under Article 12, Section 6 of the  
20 constitution of New Mexico; and

21                   (4) be considered school districts insofar as the  
22 restrictions of Article 9, Section 11 of the constitution of New  
23 Mexico are concerned.

24           ~~[I.]~~ J. All elections held pursuant to the branch  
25 community college laws shall be as follows:

1 (1) the board calling the election shall give  
 2 notice of the election in a newspaper of general circulation in the  
 3 branch community college district at least once a week for three  
 4 consecutive weeks, the last insertion to be not less than thirty  
 5 days prior to the proposed election;

6 (2) the election shall be conducted and canvassed  
 7 in the same manner as municipal school district elections unless  
 8 otherwise provided in the branch community college laws; and

9 (3) any person or corporation may institute in  
 10 the district court of any county in which the branch community  
 11 college district affected lies an action or suit to contest the  
 12 validity of any proceedings held under the branch community college  
 13 laws, but no such suit or action shall be maintained unless it is  
 14 instituted within ten days after the issuance by the proper  
 15 officials of a certificate or notification of the results of the  
 16 election and the canvassing of the election returns by the board.

17 [~~J-~~] K. The tax rolls of the school districts  
 18 comprising the branch community college district shall be adopted  
 19 as the tax rolls of the branch community college district.

20 L. A public post-secondary educational institution  
 21 established in Article 12, Section 11 of the constitution of New  
 22 Mexico desiring to initiate the establishment of a branch community  
 23 college shall comply with all procedures set forth in the Branch  
 24 Community College Act for establishing two-year community  
 25 colleges."

1           Section 3.   TEMPORARY PROVISION--STUDY.--The commission on  
2 higher education shall study the feasibility and benefit to the  
3 state of the creation or establishment of learning centers or  
4 similar educational entities operated for the purpose of brokering  
5 post-secondary educational services to communities in the state.  
6 The study should include the development of any criteria necessary  
7 for the establishment of learning centers or entities and  
8 appropriate establishment and operation procedures if such centers  
9 are created. The commission shall make its recommendations to the  
10 legislature and the governor before the second session of the  
11 forty-third legislature.

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**State of New Mexico**  
**House of Representatives**

**FORTY-THIRD LEGISLATURE**  
**FIRST SESSION, 1997**

**March 10, 1997**

**Mr. Speaker:**

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

**HOUSE BILL 1132**

**has had it under consideration and reports same with  
recommendation that it DO NOT PASS, but that**

**HOUSE EDUCATION COMMITTEE SUBSTITUTE FOR  
HOUSE BILL 1132**

**DO PASS, and thence referred to TAXATION AND REVENUE  
COMMITTEE.**

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FORTY-THIRD LEGISLATURE  
FIRST SESSION, 1997

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Respectfully submitted,

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Samuel F. Vigil, Chairman

Adopted \_\_\_\_\_ Not Adopted \_\_\_\_\_  
(Chief Clerk) (Chief Clerk)

Date \_\_\_\_\_

The roll call vote was 4 For 3 Against

Yes: 4

No: Trujillo, S. M Williams, Vigil

Excused: Gonzales, Mallory, McSherry, Nicely, Weeks, Wright

Absent: None

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**State of New Mexico  
House of Representatives**

**FORTY-THIRD LEGISLATURE  
FIRST SESSION, 1997**

**March 14, 1997**

**Mr. Speaker:**

**Your TAXATION AND REVENUE COMMITTEE, to whom has  
been referred**

**HOUSE EDUCATION COMMITTEE SUBSTITUTE  
FOR HOUSE BILL 1132**

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

**Respectfully submitted,**

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**Jerry W. Sandel, Chairman**

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FORTY-THIRD LEGISLATURE  
FIRST SESSION, 1997

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Adopted \_\_\_\_\_ Not Adopted \_\_\_\_\_  
(Chief Clerk) (Chief Clerk)

Date \_\_\_\_\_

The roll call vote was 10 For 2 Against

Yes: 10

Against: Russell, Stell

Excused: Sandoval

Absent: None

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FORTY-THIRD LEGISLATURE  
FIRST SESSION, 1997

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FORTY-THIRD LEGISLATURE  
FIRST SESSION, 1997

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March 18, 1997

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10 Mr. President:

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Your EDUCATION COMMITTEE, to whom has been referred

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HOUSE EDUCATION COMMITTEE SUBSTITUTE FOR  
HOUSE BILL 1132

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has had it under consideration and reports same with recommendation

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that it DO PASS.

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Respectfully submitted,

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\_\_\_\_\_  
Cynthia Nava, Chairman

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Adopted \_\_\_\_\_ Not Adopted \_\_\_\_\_

FORTY-THIRD LEGISLATURE  
FIRST SESSION, 1997

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1 HTRC/HB 1132

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(Chief Clerk)

(Chief Clerk)

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Date \_\_\_\_\_

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The roll call vote was 7 For 0 Against

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Yes: 7

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No: 0

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Excused: Duran, Garcia, Maloof

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Absent: None

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