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HOUSE BILL 249

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

INTRODUCED BY

MIMI STEWART

FOR THE COURTS, CORRECTIONS AND CRIMINAL JUSTICE COMMITTEE

AN ACT

RELATING TO GAME AND FISH; INCREASING CRIMINAL AND CIVIL  
PENALTIES FOR VIOLATION OF GAME AND FISH LAWS AND REGULATIONS;  
AMENDING SECTIONS OF THE NMSA 1978.

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

Section 1. Section 17-2-10 NMSA 1978 (being Laws 1931,  
Chapter 117, Section 7, as amended) is amended to read:

"17-2-10. VIOLATION OF GAME AND FISH LAWS OR REGULATIONS--  
PENALTIES. --

A. Any person violating any of the provisions of  
Chapter 17 NMSA 1978 or any regulations adopted by the state  
game commission [~~which~~] that relate to the time, extent, means  
or manner that game animals, birds or fish may be hunted, taken,  
captured, killed, possessed, sold, purchased or shipped is  
guilty of a misdemeanor and upon conviction may be sentenced to

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1 imprisonment in the county jail for a term not to exceed six  
2 months [~~and~~]. In addition, the person shall be sentenced to the  
3 payment of a fine in accordance with the following schedule:

4 (1) for illegally taking, attempting to take,  
5 killing, capturing or possessing of each deer, antelope,  
6 javelina, bear or cougar during a closed season, a fine of four  
7 hundred dollars (\$400);

8 (2) for illegally taking, attempting to take,  
9 killing, capturing or possessing of each elk, bighorn sheep,  
10 oryx, ibex or Barbary sheep, a fine of one thousand dollars  
11 (\$1,000);

12 (3) for hunting big game without a proper and  
13 valid license, lawfully procured, a fine of one hundred dollars  
14 (\$100);

15 (4) for exceeding the bag limit of any big game  
16 species, a fine of four hundred dollars (\$400);

17 (5) for attempting to exceed the bag limit of  
18 any big game species by the hunting of any big game animal after  
19 having tagged a similar big game species, a fine of two hundred  
20 dollars (\$200);

21 (6) for signing a false statement to procure a  
22 resident hunting or fishing license when the applicant is  
23 residing in another state at the time of application for a  
24 license, a fine of four hundred dollars (\$400);

25 (7) for using a hunting or fishing license

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1 issued to another person, a fine of one hundred dollars (\$100);

2 (8) for a violation of Section 17-2-31 NMSA  
3 1978, a fine of three hundred dollars (\$300); and

4 (9) [~~to sell, offer~~] for selling, offering for  
5 sale, [~~offer~~] offering to purchase or [~~purchase~~] purchasing any  
6 big game animal, unless otherwise provided by Chapter 17 NMSA  
7 1978, a fine of one thousand dollars (\$1,000).

8 B. Notwithstanding the provisions of Section  
9 31-18-13 NMSA 1978, a person convicted a second time for  
10 violating any of the provisions of Chapter 17 NMSA 1978 or any  
11 regulations adopted by the state game commission that relate to  
12 the time, extent, means or manner that game animals, birds or  
13 fish may be hunted, taken, captured, killed, possessed, sold,  
14 purchased or shipped is guilty of a misdemeanor and upon  
15 conviction shall be sentenced to imprisonment in the county jail  
16 for a term of not less than thirty days, which shall not be  
17 suspended or deferred, and not more than six months. In  
18 addition, the person shall be sentenced to the payment of a fine  
19 in accordance with the following schedule:

20 (1) for illegally taking, attempting to take,  
21 killing, capturing or possessing of each deer, antelope,  
22 javelina, bear or cougar during a closed season, a fine of eight  
23 hundred dollars (\$800);

24 (2) for illegally taking, attempting to take,  
25 killing, capturing or possessing of each elk, bighorn sheep,

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1 oryx, ibex or Barbary sheep, a fine of two thousand dollars  
2 (\$2,000);

3 (3) for hunting big game without a proper and  
4 valid license, lawfully procured, a fine of seven hundred fifty  
5 dollars (\$750);

6 (4) for exceeding the bag limit of any big game  
7 species, a fine of eight hundred dollars (\$800);

8 (5) for attempting to exceed the bag limit of  
9 any big game species by the hunting of any big game animal after  
10 having tagged a similar big game species, a fine of seven  
11 hundred fifty dollars (\$750);

12 (6) for signing a false statement to procure a  
13 resident hunting or fishing license when the applicant is  
14 residing in another state at the time of application for a  
15 license, a fine of eight hundred dollars (\$800);

16 (7) for using a hunting or fishing license  
17 issued to another person, a fine of seven hundred fifty dollars  
18 (\$750);

19 (8) for a violation of Section 17-2-31 NMSA  
20 1978, a fine of seven hundred fifty dollars (\$750); and

21 (9) for selling, offering for sale, offering to  
22 purchase or purchasing any big game animal, unless otherwise  
23 provided by Chapter 17 NMSA 1978, a fine of two thousand dollars  
24 (\$2,000).

25 C. Notwithstanding the provisions of Section

. 113177.3

1 31-18-13 NMSA 1978, a person convicted a third or subsequent  
2 time for violating any of the provisions of Chapter 17 NMSA 1978  
3 or any regulations adopted by the state game commission that  
4 relate to the time, extent, means or manner that game animals,  
5 birds or fish may be hunted, taken, captured, killed, possessed,  
6 sold, purchased or shipped is guilty of a misdemeanor and upon  
7 conviction shall be sentenced to imprisonment in the county jail  
8 for a term of not less than ninety days, which shall not be  
9 suspended or deferred, and not more than three hundred sixty-  
10 four days. In addition, the person shall be sentenced to the  
11 payment of a fine in accordance with the following schedule:

12 (1) for illegally taking, attempting to take,  
13 killing, capturing or possessing of each deer, antelope,  
14 javelina, bear or cougar during a closed season, a fine of one  
15 thousand two hundred dollars (\$1,200);

16 (2) for illegally taking, attempting to take,  
17 killing, capturing or possessing of each elk, bighorn sheep,  
18 oryx, ibex or Barbary sheep, a fine of three thousand dollars  
19 (\$3,000);

20 (3) for hunting big game without a proper and  
21 valid license, lawfully procured, a fine of one thousand dollars  
22 (\$1,000);

23 (4) for exceeding the bag limit of any big game  
24 species, a fine of one thousand two hundred dollars (\$1,200);

25 (5) for attempting to exceed the bag limit of

Underscored material = new  
[bracketed material] = delete

1 any big game species by the hunting of any big game animal after  
2 having tagged a similar big game species, a fine of one thousand  
3 dollars (\$1,000):

4 (6) for signing a false statement to procure a  
5 resident hunting or fishing license when the applicant is  
6 residing in another state at the time of application for a  
7 license, a fine of one thousand two hundred dollars (\$1,200):

8 (7) for using a hunting or fishing license  
9 issued to another person, a fine of one thousand dollars  
10 (\$1,000):

11 (8) for a violation of Section 17-2-31 NMSA  
12 1978, a fine of one thousand dollars (\$1,000); and

13 (9) for selling, offering for sale, offering to  
14 purchase or purchasing any big game animal, unless otherwise  
15 provided by Chapter 17 NMSA 1978, a fine of three thousand  
16 dollars (\$3,000).

17 ~~[B-]~~ D. Any person who is convicted of a violation  
18 of any regulations adopted by the state game commission [~~which~~  
19 that relate to the time, extent, means or manner that game  
20 animals, birds or fish may be hunted, taken, captured, killed,  
21 possessed, sold, purchased or shipped, or of a violation of any  
22 of the provisions of Chapter 17 NMSA 1978, for which a  
23 punishment is not set forth under [~~Subsection A of~~] this  
24 section, shall be fined not less than fifty dollars (\$50.00)  
25 [~~nor~~] or more than five hundred dollars (\$500) or imprisoned not

. 113177.3

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1 more than six months or both. "

2 Section 2. Section 17-2-26 NMSA 1978 (being Laws 1912,  
3 Chapter 85, Section 45, as amended) is amended to read:

4 "17-2-26. CIVIL LIABILITY. --

5 A. The director of the department of game and fish,  
6 or any other officer charged with enforcement of the laws  
7 relating to game and fish if so directed by the director, may  
8 bring a civil action in the name of the state against any person  
9 unlawfully wounding or killing, or unlawfully in possession of,  
10 any game quadruped, bird or fish, or part thereof, and recover  
11 judgment for the following minimum sums as damage for the  
12 taking, killing or injuring:

13	for each elk-----	<del>[\$200.00]</del>	<u>\$775.00</u>
14	for each deer-----	<del>[50.00]</del>	<u>550.00</u>
15	for each antelope-----	<del>[100.00]</del>	<u>550.00</u>
16	for each mountain sheep-----	<del>[200.00]</del>	<u>875.00</u>
17	<del>[for each mountain goat-----</del>	<del>200.00]</del>	
18	for each Barbary sheep-----	<del>[200.00]</del>	<u>300.00</u>
19	for each black bear-----	<del>[100.00]</del>	<u>550.00</u>
20	for each cougar-----	<del>[300.00]</del>	<u>550.00</u>
21	for each bison-----	[300.00]	<u>800.00</u>
22	for each ibex-----	<del>[300.00]</del>	<u>1,200.00</u>
23	<del>[for each kudu-----</del>	<del>300.00]</del>	
24	for each oryx-----	<del>[300.00]</del>	<u>1,575.00</u>
25	for each javelina-----	<del>[50.00]</del>	<u>200.00</u>

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1	for each beaver-----	[ <del>50.00</del> ]	<u>65.00</u>
2	for each bird-----	[ <del>10.00</del> ]	<u>50.00</u>
3	for each fish-----	[ <del>1.00</del> ]	<u>5.00</u>
4	<u>for each endangered species-----</u>		<u>1,000.00</u>
5	<u>for each raptor-----</u>		<u>200.00</u>
6	<u>for each turkey-----</u>		<u>150.00.</u>

7           B. No verdict or judgment recovered by the state in  
8 [the] an action shall be for less than the sum fixed in this  
9 section. The action for damages may be joined with an action  
10 for possession, and recovery may be had for the possession as  
11 well as the damages.

12           C. The pendency or determination of an action for  
13 damages or payment of a judgment, or the pendency or  
14 determination of a criminal prosecution for the same taking,  
15 wounding, killing or possession, is not a bar to the other, nor  
16 does either affect the right of seizure under any other  
17 provision of the laws relating to game and fish. "

18           Section 3. EFFECTIVE DATE. -- The effective date of the  
19 provisions of this act is July 1, 1997.



# State of New Mexico House of Representatives

FORTY-THIRD LEGISLATURE

FIRST SESSION, 1997

February 5, 1997

Mr. Speaker:

Your JUDICIARY COMMITTEE, to whom has been referred

HOUSE BILL 249

has had it under consideration and reports same with  
recommendation that it DO PASS, amended as follows:

1. On page 3, lines 8 and 9, strike "Notwithstanding the  
provisions of Section 31-18-13 NMSA 1978, a" and insert in lieu  
thereof "A".

2. On page 3, line 15, strike "shall" and insert in lieu  
thereof "may".

3. On page 3, lines 16 and 17, strike "less than thirty  
days, which shall not be suspended or deferred, and not more than  
six months" and insert in lieu thereof "more than three hundred  
sixty-four days".

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FORTY-THIRD LEGISLATURE  
FIRST SESSION, 1997

HJC/HB 249

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4. On page 4, line 25 and page 5, line 1, strike  
"Notwithstanding the provisions of Section 31-18-13 NMSA 1978, a"  
and insert in lieu thereof "A".

5. On page 5, line 7, strike "shall" and insert in lieu  
thereof "may".

Respectfully submitted,

\_\_\_\_\_  
Thomas P. Foy, Chairman

Adopted \_\_\_\_\_

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

(Chief Clerk)

(Chief Clerk)

Date \_\_\_\_\_

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FORTY-THIRD LEGISLATURE  
FIRST SESSION, 1997

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The roll call vote was 13 For 0 Against

Yes: 13

Excused: None

Absent: None

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~~[bracketed material] = delete~~

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# State of New Mexico House of Representatives

FORTY-THIRD LEGISLATURE  
FIRST SESSION, 1997

February 26, 1997

Mr. Speaker:

Your APPROPRIATIONS AND FINANCE COMMITTEE, to  
whom has been referred

HOUSE BILL 249, as amended

has had it under consideration and reports same with  
recommendation that it DO PASS, amended as follows:

1. On page 7, line 1, strike the closing quotation mark.
2. On page 7, between lines 1 and 2, insert the following  
new subsection:  
"E. The provisions of this section shall not be  
interpreted to prevent, constrain or penalize a Native American  
for engaging in activities for religious purposes, as provided in  
Section 17-2-14 or 17-2-41 NMSA 1978."

3. On page 8, line 17, strike the closing quotation mark.

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

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4. On page 8, between lines 17 and 18, insert the following  
new subsection:

"D. The provisions of this section shall not be  
interpreted to prevent, constrain or penalize a Native American  
for engaging in activities for religious purposes, as provided in  
Section 17-2-14 or 17-2-41 NMSA 1978. "".

Respectfully submitted,

\_\_\_\_\_  
Max Coll, Chairman

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

(Chief Clerk)

(Chief Clerk)

Date \_\_\_\_\_

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FORTY-THIRD LEGISLATURE  
FIRST SESSION, 1997

HAF C/HB249

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The roll call vote was 13 For 0 Against

Yes: 13

Excused: Bird, Marquardt, Wallace, Watchman

Absent: None

. 117499. 1

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

1 FORTY-THIRD LEGISLATURE  
2 FIRST SESSION, 1997

HB 249/a

3  
4 March 15, 1997

5  
6 Mr. President:

7  
8 Your CONSERVATION COMMITTEE, to whom has been referred

9  
10 HOUSE BILL 249, as amended

11 has had it under consideration and reports same with  
12 recommendation that it DO PASS, amended as follows:

- 13
- 14 1. Strike House Judiciary Committee amendment 4.
  - 15
  - 16 2. On page 3, line 9, strike "second" and insert in lieu  
17 thereof "third".
  - 18
  - 19 3. On page 3, lines 22 and 23, strike "eight hundred dollars  
20 (\$800)" and insert in lieu thereof "six hundred dollars (\$600)".
  - 21
  - 22 4. On page 4, line 1, strike the first comma and insert in  
23 lieu thereof "or".
  - 24
  - 25 5. On page 4, line 1, strike "or Barbary sheep".
  6. On page 4, lines 1 and 2, strike "two thousand dollars  
(\$2,000)" and insert in lieu thereof "one thousand five hundred

. 113177.3

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

SCONC/HB 249

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dollars (\$1,500)".

7. On page 4, lines 4 and 5, strike "seven hundred fifty dollars (\$750)" and insert in lieu thereof "four hundred dollars (\$400)".

8. On page 4, line 7, strike "eight hundred dollars (\$800)" and insert in lieu thereof "six hundred dollars (\$600)".

9. On page 4, lines 10 and 11, strike "seven hundred fifty dollars (\$750)" and insert in lieu thereof "six hundred dollars (\$600)".

10. On page 4, line 15, strike "eight hundred dollars (\$800)" and insert in lieu thereof "six hundred dollars (\$600)".

11. On page 4, lines 17 and 18, strike "seven hundred fifty dollars (\$750)" and insert in lieu thereof "two hundred fifty dollars (\$250)".

12. On page 4, line 20, strike "seven hundred fifty dollars (\$750)" and insert in lieu thereof "five hundred dollars (\$500)".

13. On page 4, lines 23 and 24, strike "two thousand dollars



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

SCONC/HB 249

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(\$2,000)" and insert in lieu thereof "one thousand five hundred dollars (\$1,500)".

14. On page 4, line 25, through page 6, line 16, strike Subsection C in its entirety.

15. Reletter the succeeding subsection accordingly.

16. On page 7, line 13, strike "\$775.00" and insert in lieu thereof "\$500.00".

17. On page 7, line 14, strike "550.00" and insert in lieu thereof "250.00".

18. On page 7, line 15, strike "550.00" and insert in lieu thereof "250.00".

19. On page 7, line 16, strike "875.00" and insert in lieu thereof "1,000.00".

20. On page 7, line 18, strike "300.00" and insert in lieu thereof "250.00".

21. On page 7, line 19, strike "550.00" and insert in lieu thereof "500.00".

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

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22. On page 7, line 20, strike "550.00" and insert in lieu thereof "500.00".

23. On page 7, line 21, strike "800.00" and insert in lieu thereof "600.00".

24. On page 7, line 22, strike "1,200.00" and insert in lieu thereof "1,000.00".

25. On page 7, line 24, strike "1,575.00" and insert in lieu thereof "1,000.00".

26. On page 7, line 25, strike "200.00" and insert in lieu thereof "100.00".

27. On page 8, line 2, strike "50.00" and insert in lieu thereof "20.00".

28. On page 8, line 4, strike "1,000.00" and insert in lieu thereof "500.00",

and thence referred to the JUDICIARY COMMITTEE.

Respectfully submitted,

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

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\_\_\_\_\_  
Michael S. Sanchez, Chairman

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

Date \_\_\_\_\_

The roll call vote was 8 For 2 Against

Yes: 8

No: Griego, Sanchez

Excused: None

Absent: None

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HB 249/a

6 March 18, 1997

7  
8 Mr. President:

9 Your JUDICIARY COMMITTEE, to whom has been referred  
10

11  
12 HOUSE BILL 249, as amended  
13

14  
15 has had it under consideration and reports same with  
16 recommendation that it DO PASS, amended as follows:

17 1. Strike Senate Conservation Committee Amendments 2, 14 and  
18 15.

19  
20 2. Strike House Appropriations and Finance Committee  
21 Amendments 1 through 4.

22  
23 3. On page 1, line 13, after "AMENDING" insert "AND  
24 ENACTING".

25 4. On page 7, line 1, strike the quotation mark and between  
lines 1 and 2 insert:"

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6 "E. The provisions of this section shall not be  
7 interpreted to prevent, constrain or penalize a Native American  
8 for engaging in activities for religious purposes, as provided in  
9 Section 17-2-14 or 17-2-41 NMSA 1978.

10 F. The provisions of this section shall not apply to a  
11 landowner or lessee, or employee of either of them, who kills an  
12 animal on private land, in which they have an ownership or  
13 leasehold interest, that is threatening human life or damaging or  
14 destroying property, including crops; provided, however, that the  
15 killing is reported to the department of game and fish within  
16 twenty-four hours and before the removal of the carcass of the  
17 animal killed; and provided further that all actions authorized in  
18 this subsection are carried out according to regulations of the  
19 department. "".

20 5. On page 8, line 17, strike the quotation mark.

21  
22 6. On page 8, between lines 17 and 18, insert:

23 "D. The provisions of this section shall not be  
24 interpreted to prevent, constrain or penalize a Native American  
25 for engaging in activities for religious purposes, as provided in  
Section 17-2-14 or 17-2-41 NMSA 1978.

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6 E. The provisions of this section shall not apply to a  
7 landowner or lessee, or employee of either of them, who kills an  
8 animal on private land, in which they have an ownership or  
9 leasehold interest, that is threatening human life or damaging or  
10 destroying property, including crops; provided, however, that the  
11 killing is reported to the department within twenty-four hours and  
12 before the removal of the carcass of the animal killed; and  
13 provided further that all actions authorized in this subsection  
14 are carried out according to regulations of the department."

15 Section 3. A new section of Chapter 17, Article 2 NMSA 1978  
16 is enacted to read:

17 "[NEW MATERIAL] LANDOWNER TAKING-- CONDITIONS-- DEPARTMENT  
18 RESPONSIBILITIES. --

19  
20 A. A landowner or lessee, or employee of either, may  
21 take or kill an animal on private land, in which they have an  
22 ownership or leasehold interest, including game animals and other  
23 quadrupeds, game birds and fowl, that presents an immediate threat  
24 to human life or an immediate threat of damage to property,  
25 including crops; provided, however, that the taking or killing is  
reported to the department of game and fish within twenty-four  
hours and before the removal of the carcass of the animal killed,  
in accordance with regulations adopted by the commission.

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6 B. A landowner or lessee, or employee of either, may  
7 take or kill animals on private land, in which they have an  
8 ownership or leasehold interest, including game animals and other  
9 quadrupeds, game birds and fowl, that present a threat to human  
10 life or damage to property, including crops, according to  
11 regulations adopted by the commission. The regulations shall:

12  
13 (1) provide a method for filing a complaint to the  
14 department by the landowner or lessee, or employee of either of  
15 them, of the existence of a depredation problem;

16 (2) provide for various departmental interventions,  
17 depending upon the type of animal and depredation;

18  
19 (3) require the department to offer at least three  
20 different interventions, if practical;

21  
22 (4) require the department to respond to the  
23 initial and any subsequent complaints within ten days with an  
24 intervention response to the complaint, and to carry out the  
25 intervention, if agreed upon between the department and the  
landowner, within five days of that agreement;

(5) permit the landowner or lessee to reject for

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6 good cause the interventions offered by the department;

7 (6) require a landowner or lessee to demonstrate  
8 that the property depredation is greater in value than the value  
9 of any wildlife-related income or fee collected by the landowner  
10 or lessee for permission to take or kill an animal of the same  
11 species, on the private property or portion of the private  
12 property identified in the complaint as the location where the  
13 depredation occurred; and

14 (7) permit the landowner, lessee or employee, when  
15 interventions by the department have not been successful and after  
16 one year from the date of the filing of the initial complaint, to  
17 kill or take an animal believed responsible for property  
18 depredation.

19  
20 C. For purposes of this section:

21 (1) "commission" means the state game commission;

22 (2) "department" means the department of game and  
23  
24 fish; and

25 (3) "intervention" means a solution proposed by the  
department to eliminate the depredation. "".



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5 7. Renumber the succeeding section accordingly and adjust all  
6 cross-references to correspond with these amendments.  
7

8  
9  
10  
11 Respectfully submitted,

12  
13 \_\_\_\_\_  
14 Fernando R. Macias, Chairman  
15  
16

17  
18 Adopted \_\_\_\_\_ Not Adopted \_\_\_\_\_

19 (Chief Clerk)

(Chief Clerk)

20  
21  
22 Date \_\_\_\_\_  
23  
24

25 The roll call vote was 5 For 0 Against

Yes: 5

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6 No: 0

7 Excused: Sanchez, Stockard, Vernon

8 Absent: None  
9  
10  
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Underscored material = new  
[bracketed material] = delete