

Minutes of the Telephonic Meeting of the
Arizona Game and Fish Commission
Tuesday, April 23, 2009 – 2:00 p.m.
Arizona Game and Fish Department
5000 W. Carefree Highway
Phoenix, Arizona 85086

PRESENT: (Commission)

(Director's Staff)

Via telephone:

Chairman Robert D. Hernbrode
Vice-Chair Jennifer L. Martin
Commissioner Robert R. Woodhouse
Commissioner Norman W. Freeman
Commissioner Jack F. Husted

In person:

Director Larry D. Voyles
Deputy Director Gary R. Hovatter
Deputy Director Bob Broscheid
Assistant Attorney General Shelley Cutts
Assistant Attorney General Jim Odenkirk

Chairman Hernbrode called the meeting to order and requested that Director Voyles conduct roll call. All Commissioners confirmed they were present via telephone. There were several Department staff members present and one member of the public. This meeting followed an agenda dated April 22, 2009.

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1. State and Federal Legislation

Presenter: Anthony Guiles, Legislative Liaison

Mr. Guiles briefed the Commission on the status of HB 2157: Wildlife; Aquatic Invasive Species and provided the Commission with a copy of the Kavanagh Floor Amendment (attached to these minutes). The new wording allows the Watercraft Licensing Fund to be used for Aquatic Invasive Species. Others involved in this legislation including the Salt River Project, Arizona Public Service, the Water Users Association and the City of Phoenix have approved the new language.

Motion: Martin moved and Freeman seconded THAT THE COMMISSION VOTE TO SUPPORT THE SUBSTITUTE KAVANAGH FLOOR AMENDMENT DATED APRIL 17, 2009 AND TIME STAMPED AT 4:21 PM.

Vote: Unanimous

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2. Commission Consideration of Restoration of License Privileges for Mr. Alex McMillan, a resident of Phoenix Arizona

Presenter: Gene Elms, Law Enforcement Branch Chief

On June 22, 2007 the Commission voted to revoke Mr. Alex McMillan's license privileges for five years. On April 17, 2009, Mr. Alex McMillan requested that the Commission restore his

license privileges. Mr. McMillan was concerned, due to a serious illness, about being able to spend time with his family in the outdoors hunting and fishing. Mr. McMillan has paid his civil assessment and has completed the Hunter Education course.

Mr. McMillan was not present.

Chairman Hernbrode stated for the record that he spoke to Mr. McMillan that morning and confirmed Mr. McMillan's illness, and that there were no ulterior motives other than for Mr. McMillan to spend time hunting and fishing with his family while he was still able.

The Commission discussed the seriousness of the incident for which Mr. McMillan's license was revoked and whether his license should be reinstated for both hunting and fishing or just for fishing.

Mr. McMillan does not need a hunting license in order to accompany his children or grandchildren on their hunts. Also discussed were Mr. McMillan's efforts to do the right thing since the incident including his request to the Commission for reinstatement.

Motion: Freeman moved and Martin seconded THAT THE COMMISSION VOTE TO REINSTATE THE LICENSE PRIVILEGES FOR MR. ALEX MCMILLAN TO HUNT AND FISH.

Commissioner Woodhouse commented that he had no issues with reinstating for fishing only, but not for hunting.

Vote: Aye - Hernbrode, Martin, Freeman
Nay - Woodhouse, Husted
Passed 3 to 2

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3. Call to the Public

There were no requests to speak to the Commission.

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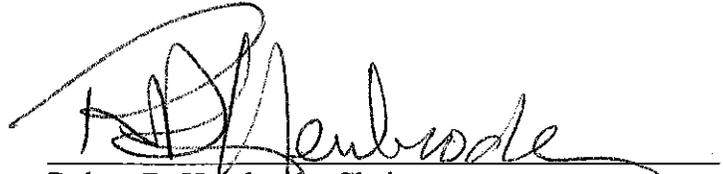
Motion: Woodhouse moved and Martin seconded THAT THE COMMISSION VOTE TO ADJOURN THIS MEETING.

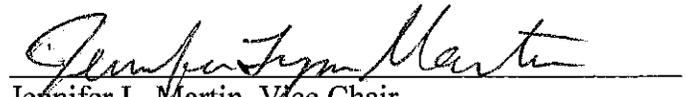
Vote: Unanimous

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Meeting adjourned at 2:35 p.m.

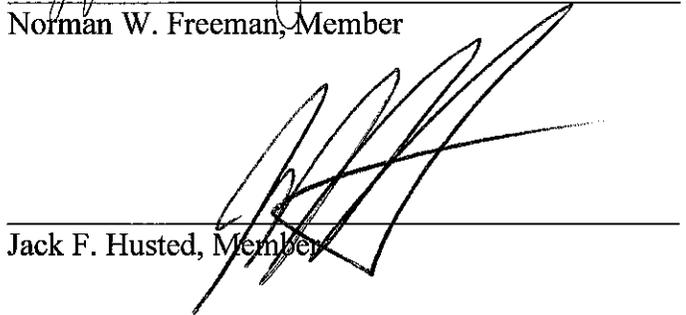
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Robert D. Hernbrode, Chair

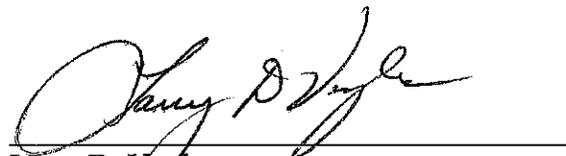

Jennifer L. Martin, Vice Chair

Robert R. Woodhouse, Member


Norman W. Freeman, Member


Jack F. Husted, Member

ATTEST:


Larry D. Voyles
Secretary and Director

REFERENCE TITLE: **wildlife; aquatic invasive species**

State of Arizona
House of Representatives
Forty-ninth Legislature
First Regular Session
2009

HB 2157

Introduced by
Representatives McLain, Goodale, Jones, Pancrazi, Senator Aguirre: Representatives Tobin,
Weiers JP, Senator Nelson

AN ACT

**AMENDING TITLE 17, CHAPTER 2, ARIZONA REVISED STATUTES, BY
ADDING ARTICLE 3.1; RELATING TO GAME AND FISH.**

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 17, chapter 2, Arizona Revised Statutes, is amended by adding article 3.1, to
3 read:

4 ARTICLE 3.1. AQUATIC INVASIVE SPECIES

5 **17-255. Definition of aquatic invasive species**

6 IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES, "AQUATIC
7 INVASIVE SPECIES":

8 1. MEANS ANY AQUATIC SPECIES THAT IS NOT NATIVE TO THE ECOSYSTEM
9 UNDER CONSIDERATION AND WHOSE INTRODUCTION OR PRESENCE IN THIS STATE MAY
10 CAUSE ECONOMIC OR ENVIRONMENTAL HARM OR HARM TO HUMAN HEALTH.

11 2. DOES NOT INCLUDE:

12 (a) ANY NONINDIGENOUS SPECIES LAWFULLY OR HISTORICALLY INTRODUCED
13 INTO THIS STATE FOR SPORT FISHING RECREATION.

14 (b) ANY SPECIES INTRODUCED INTO THIS STATE BY THE DEPARTMENT, BY
15 OTHER GOVERNMENTAL ENTITIES OR BY ANY PERSON PURSUANT TO THIS TITLE.

16 **17-255.01. Aquatic invasive species program; powers**

17 A. THE DIRECTOR MAY ESTABLISH AND MAINTAIN AN AQUATIC INVASIVE
18 SPECIES PROGRAM.

19 B. THE DIRECTOR MAY ISSUE ORDERS:

20 1. ESTABLISHING A LIST OF AQUATIC INVASIVE SPECIES FOR THIS STATE.

21 2. ESTABLISHING A LIST OF WATERS OR LOCATIONS WHERE AQUATIC INVASIVE
22 SPECIES ARE PRESENT AND TAKE STEPS NECESSARY TO ERADICATE, ABATE OR
23 PREVENT THE SPREAD OF AQUATIC INVASIVE SPECIES WITHIN OR FROM THOSE BODIES
24 OF WATER.

25 3. ESTABLISHING MANDATORY CONDITIONS AS PROVIDED IN SUBSECTION C ON
26 THE MOVEMENT OF WATERCRAFT, VEHICLES, CONVEYANCES OR OTHER EQUIPMENT
27 FROM WATERS OR LOCATIONS WHERE AQUATIC INVASIVE SPECIES ARE PRESENT TO
28 OTHER WATERS.

29 C. IF THE PRESENCE OF AN AQUATIC INVASIVE SPECIES IS SUSPECTED OR
30 DOCUMENTED IN THIS STATE, THE DIRECTOR OR AN AUTHORIZED EMPLOYEE OR
31 AGENT OF THE DEPARTMENT MAY TAKE ONE OR MORE OF THE FOLLOWING ACTIONS
32 TO ABATE OR ELIMINATE THE SPECIES:

33 1. AUTHORIZE AND ESTABLISH ~~CHECKPOINTS AND~~ LAWFUL INSPECTIONS OF
34 WATERCRAFT, VEHICLES, CONVEYANCES AND OTHER EQUIPMENT TO LOCATE THE
35 AQUATIC INVASIVE SPECIES.

36 2. ORDER ANY PERSON WITH AN AQUATIC INVASIVE SPECIES IN OR ON THE
37 PERSON'S WATERCRAFT, VEHICLE, CONVEYANCE OR OTHER EQUIPMENT TO
38 DECONTAMINATE THE WATERCRAFT, VEHICLE, CONVEYANCE OR EQUIPMENT IN A
39 MANNER PRESCRIBED BY RULE NOTWITHSTANDING SECTION 17-255.01, SUBSECTION C,
40 PARAGRAPH 3; MANDATORY ON-SITE DECONATMINATIONS SHALL NOT BE REQUIRED
41 WHERE ON-SITE CLEANING STATIONS CHARGE A FEE.

42 3. REQUIRE ANY PERSON WITH A WATERCRAFT, VEHICLE, CONVEYANCE OR
43 OTHER EQUIPMENT IN WATERS OR LOCATIONS WHERE AN AQUATIC INVASIVE SPECIES
44 IS PRESENT TO DECONTAMINATE THE PROPERTY BEFORE MOVING IT TO ANY OTHER
45 WATERS IN THIS STATE OR ANY OTHER LOCATION IN THIS STATE WHERE AQUATIC
46 INVASIVE SPECIES COULD THRIVE.

47 D. AN ORDER ISSUED UNDER SUBSECTION B OR C OF THIS SECTION IS EXEMPT
48 FROM TITLE 41, CHAPTER 6, ARTICLE 3, EXCEPT THAT THE DIRECTOR SHALL
49 PROMPTLY FILE A COPY OF THE ORDER WITH THE SECRETARY OF STATE FOR
50 PUBLICATION IN THE ARIZONA ADMINISTRATIVE REGISTER PURSUANT TO SECTION 41-
51 1013.

52 **17-255.02. Prohibitions**

53 EXCEPT AS AUTHORIZED BY THE COMMISSION, A PERSON SHALL NOT:

1 1. POSSESS, IMPORT, SHIP OR TRANSPORT INTO OR WITHIN THIS STATE, OR
2 CAUSE TO BE IMPORTED, SHIPPED OR TRANSPORTED INTO OR WITHIN THIS STATE, AN
3 AQUATIC INVASIVE SPECIES.

4 2. ~~NOTWITHSTANDING SECTION 17-255.05, SUBSECTION A, PARAGRAPH 4,~~
5 ~~RELEASE, PLACE OR PLANT, OR CAUSE TO BE RELEASED, PLACED OR PLANTED, AN~~
6 ~~AQUATIC INVASIVE SPECIES INTO WATERS IN THIS STATE OR INTO ANY WATER~~
7 ~~TREATMENT FACILITY, WATER SUPPLY OR WATER TRANSPORTATION FACILITY,~~
8 ~~DEVICE OR MECHANISM IN THIS STATE.~~

9 3. ~~TRANSPORT—IN—THIS—STATE~~ ~~NOTWITHSTANDING SECTION 17-255.05,~~
10 ~~SUBSECTION A, PARAGRAPH 4, PLACE IN ANY WATERS OF THIS STATE ANY EQUIPMENT,~~
11 ~~WATERCRAFT, VESSEL, VEHICLE OR CONVEYANCE THAT HAS BEEN IN ANY WATER OR~~
12 ~~LOCATION WHERE AQUATIC INVASIVE SPECIES ARE PRESENT WITHIN THIRTY DAYS~~
13 ~~BEFORE THE DATE OF TRANSPORTATION WITHOUT FIRST DECONTAMINATING THE~~
14 ~~EQUIPMENT, WATERCRAFT, VESSEL, VEHICLE OR CONVEYANCE.~~

15 4. SELL, PURCHASE, BARTER OR EXCHANGE IN THIS STATE AN AQUATIC
16 INVASIVE SPECIES.

17 17-255.03. Violations; civil penalties; classification; cost recovery

18 A. EXCEPT AS OTHERWISE PROVIDED BY THIS SECTION, A PERSON WHO
19 VIOLATES THIS ARTICLE IS SUBJECT TO A CIVIL PENALTY OF NOT MORE THAN ONE
20 THOUSAND DOLLARS.

21 B. A PERSON WHO KNOWINGLY VIOLATES SECTION 17-255.02, PARAGRAPH 2 OR 4
22 IS GUILTY OF A CLASS 6 FELONY. IN ADDITION, THE COMMISSION, OR ANY OFFICER
23 CHARGED WITH ENFORCING THIS ARTICLE IF DIRECTED BY THE COMMISSION, MAY
24 BRING A CIVIL ACTION IN THE NAME OF THIS STATE TO RECOVER DAMAGES AND
25 COSTS AGAINST A PERSON WHO VIOLATES SECTION 17-255.02, PARAGRAPH 2 OR 4.
26 DAMAGES AND COSTS RECOVERED PURSUANT TO THIS SUBSECTION SHALL BE
27 DEPOSITED IN THE ~~AQUATIC INVASIVE SPECIES GAME AND FISH FUND.~~

28 C. THE COURT SHALL ORDER A PERSON FOUND IN VIOLATION OF SECTION
29 17-255.01, SUBSECTION C, PARAGRAPH 2 TO PAY TO THIS STATE ALL COSTS INCURRED BY
30 THIS STATE TO DECONTAMINATE ANY WATERCRAFT, VEHICLE, CONVEYANCE OR
31 OTHER EQUIPMENT ON WHICH AQUATIC INVASIVE SPECIES WERE PRESENT ~~NOT TO~~
32 ~~EXCEED FIFTY DOLLARS.~~ MONIES PAID PURSUANT TO THIS SUBSECTION SHALL BE
33 DEPOSITED IN THE ~~AQUATIC INVASIVE SPECIES GAME AND FISH FUND.~~

34 D. THIS SECTION APPLIES REGARDLESS OF WHETHER THE DIRECTOR
35 ESTABLISHES AN AQUATIC INVASIVE SPECIES PROGRAM PURSUANT TO SECTION 17-
36 255.01.

37 17-255.04. Aquatic invasive species fund

38 ~~A. THE AQUATIC INVASIVE SPECIES FUND IS ESTABLISHED CONSISTING OF~~
39 ~~MONIES APPROPRIATED BY THE LEGISLATURE, INCLUDING APPROPRIATION OF~~
40 ~~OTHERWISE UNALLOCATED MONIES FROM THE WATERCRAFT LICENSING FUND,~~
41 ~~MONIES PAID AND RECOVERED FROM CIVIL ACTIONS UNDER THIS ARTICLE AND GIFTS,~~
42 ~~GRANTS AND OTHER CONTRIBUTIONS RECEIVED FOR THE PURPOSES OF ERADICATION,~~
43 ~~RAPID RESPONSE, MANAGEMENT AND EDUCATION EXPENSES UNDER THIS ARTICLE.~~

44 ~~B. THE COMMISSION SHALL ADMINISTER THE FUND. ON NOTICE FROM THE~~
45 ~~COMMISSION, THE STATE TREASURER SHALL INVEST AND DIVEST MONIES IN THE FUND~~
46 ~~AS PROVIDED BY SECTION 35-313, AND MONIES EARNED FROM INVESTMENT SHALL BE~~
47 ~~CREDITED TO THE FUND.~~

48 ~~C. MONIES IN THE FUND ARE:~~

49 ~~1. APPROPRIATED TO THE DEPARTMENT FOR THE PURPOSES OF THIS ARTICLE.~~

50 ~~2. EXEMPT FROM THE PROVISIONS OF SECTION 35-190 RELATING TO LAPSING OF~~
51 ~~APPROPRIATIONS.~~

52 NRRA COMMITTEE AMENDMENT--AMENDED

53 17-255.05. Applicability; no private right of action

1 **A. THIS ARTICLE DOES NOT APPLY TO:**

2 **1. THE OWNER OR OPERATOR OF ANY SYSTEM OF CANALS, LATERALS OR PIPES**
3 **AND ANY RELATED OR ANCILLARY FACILITIES, FIXED EQUIPMENT AND STRUCTURES**
4 **RELATED TO THE DELIVERY OF WATER AND ANY DISCHARGES FROM THE SYSTEM.**

5 **2. THE OWNER OR OPERATOR OF ANY WATER TREATMENT OR DISTRIBUTION**
6 **FACILITY SYSTEM AND ANY RELATED OR ANCILLARY FACILITIES, FIXED EQUIPMENT**
7 **AND STRUCTURES AND ANY DISCHARGES FROM THE SYSTEM.**

8 **3. THE OWNER OR OPERATOR OF ANY DRAINAGE, WASTEWATER COLLECTION,**
9 **TREATMENT OR DISPOSAL FACILITY SYSTEM AND ANY RELATED OR ANCILLARY**
10 **FACILITIES, FIXED EQUIPMENT AND STRUCTURES AND ANY DISCHARGES FROM THE**
11 **SYSTEM.**

12 **4. THE OWNER OR OPERATOR OF A PUBLIC OR PRIVATE AQUARIUM AND**
13 **EDUCATIONAL OR RESEARCH INSTITUTIONS HOLDING A PERMIT PURSUANT TO**
14 **SECTIONS 17-238 OR 17-306.**

15 **B. THIS ARTICLE DOES NOT CREATE ANY EXPRESS OR IMPLIED PRIVATE RIGHT**
16 **OF ACTION AND MAY BE ONLY ENFORCED BY THIS STATE.**

17 **C. THE DIRECTOR MAY CONSULT WITH THE ENTITIES LISTED IN THIS SECTION**
18 **TO ASSIST IN THE IMPLEMENTATION OF THE PROVISIONS OF THIS ARTICLE.**

19

Dear Arizona game and fish

All Commissioners I am righting you this letter to ask that of the board that you would hear my plea involving reinstating my fishing and hunting privileges I would be so grateful if you would grant me a rehearing involving this matter I am asking you at this time to hear my plea since I would like to have this time to teach my grandchildren about the outdoors that we so love as a family as well as spend some much needed time due to personal reasons beyond my control
thank you in advance for your time and consideration in this matter

respectfully

Alex Mcmillan



Forty-ninth Legislature
First Regular Session

Kavanagh
H.B. 2157

KAVANAGH FLOOR AMENDMENT

HOUSE OF REPRESENTATIVES AMENDMENTS TO H.B. 2157

I move the following SUBSTITUTE amendment to the NATURAL RESOURCES AND RURAL AFFAIRS Committee Amendment to HOUSE BILL 2157 (Reference to printed bill)

1 Page 1, between lines 1 and 2, insert:

2 "Section 1. Section 5-323, Arizona Revised Statutes, is amended to
3 read:

4 5-323. Disposition of fees

5 Each month monies received from the registration fees received under
6 this chapter for the numbering of watercraft shall be deposited, pursuant to
7 sections 35-146 and 35-147, in a fund designated as the watercraft
8 registration fee clearing account. Each month, on notification by the
department, the state treasurer shall distribute the monies in the clearing
10 account as follows:

11 1. All revenues collected from the registration fees collected
12 pursuant to section 5-321, subsection A, paragraphs 1 and 2 shall be
13 allocated as follows:

14 (a) Sixty-five per cent shall be deposited in a special fund to be
15 known as the watercraft licensing fund. The watercraft licensing fund is to
16 be used by the department for administering and enforcing this chapter, ~~and~~
17 providing an information and education program relating to boating and
18 boating safety AND ADMINISTERING ANY AQUATIC INVASIVE SPECIES PROGRAM
19 ESTABLISHED UNDER THIS TITLE OR TITLE 17. These monies are subject to
20 legislative appropriation.

21 (b) Thirty-five per cent of such revenues shall be further allocated
22 as follows:

23 (i) Fifteen per cent to the state lake improvement fund to be used as
24 prescribed by section 5-382.

25 (ii) Eighty-five per cent to the law enforcement and boating safety
fund to be used as prescribed by section 5-383.

House Amendments to H.B. 2157

1 2. All revenues collected from any additional registration fees
 2 collected pursuant to section 5-321, subsection C shall be paid to an account
 3 designated by a multi-county water conservation district established under
 4 title 48, chapter 22 to be used solely for the lower Colorado river
 5 multispecies conservation program and for no other purpose.

6 Renumber to conform

7 Page 1, line 22, after "PRESENT" insert "AND TAKE STEPS THAT ARE NECESSARY TO
 8 ERADICATE, ABATE OR PREVENT THE SPREAD OF AQUATIC INVASIVE SPECIES WITHIN OR
 9 FROM THOSE BODIES OF WATER"

10 Strike lines 23 and 24

11 Renumber to conform

12 Line 25, after "CONDITIONS" insert "AS PROVIDED IN SUBSECTION C OF THIS SECTION"

13 Line 32, strike "CHECKPOINTS AND"

14 Line 38, after the period insert "NOTWITHSTANDING PARAGRAPH 3 OF THIS
 15 SUBSECTION, MANDATORY ON-SITE DECONTAMINATION SHALL NOT BE REQUIRED AT A
 LOCATION WHERE AN ON-SITE CLEANING STATION CHARGES A FEE."

17 Page 2, line 8, after "2." insert "NOTWITHSTANDING SECTION 17-255.04, SUBSECTION A,
 18 PARAGRAPH 4,"

19 Line 12, strike "TRANSPORT IN THIS STATE" insert "NOTWITHSTANDING SECTION
 20 17-255.04, SUBSECTION A, PARAGRAPH 4, PLACE IN ANY WATERS OF THIS STATE"

21 Line 14, after "WITHIN" insert "THE PRECEDING"; after "DAYS" strike remainder of
 22 line

23 Lines 29 and 30, strike "AQUATIC INVASIVE SPECIES" insert "GAME AND FISH"

24 Line 32, after "COSTS" insert "NOT EXCEEDING FIFTY DOLLARS"

25 Lines 35 and 36, strike "AQUATIC INVASIVE SPECIES" insert "GAME AND FISH"

26 Strike lines 39 through 45

27 Strike page 3, insert:

28 "17-255.04. Applicability; no private right of action

29 A. THIS ARTICLE DOES NOT APPLY TO THE OWNER OR OPERATOR OF:

30 1. ANY SYSTEM OF CANALS, LATERALS OR PIPES, ANY RELATED OR ANCILLARY
 31 FACILITIES, FIXED EQUIPMENT AND STRUCTURES RELATED TO THE DELIVERY OF WATER
 32 AND ANY DISCHARGES FROM THE SYSTEM.

House Amendments to H.B. 2157

- 1 2. ANY WATER TREATMENT OR DISTRIBUTION FACILITY SYSTEM, ANY RELATED OR
- 2 ANCILLARY FACILITIES, FIXED EQUIPMENT AND STRUCTURES AND ANY DISCHARGES FROM
- 3 THE SYSTEM.
- 4 3. ANY DRAINAGE, WASTEWATER COLLECTION, TREATMENT OR DISPOSAL FACILITY
- 5 SYSTEM, ANY RELATED OR ANCILLARY FACILITIES, FIXED EQUIPMENT AND STRUCTURES
- 6 AND ANY DISCHARGES FROM THE SYSTEM.
- 7 4. A PUBLIC OR PRIVATE AQUARIUM AND EDUCATION OR RESEARCH INSTITUTION
- 8 HOLDING A PERMIT PURSUANT TO SECTION 17-238 OR 17-306.
- 9 B. THE DIRECTOR MAY CONSULT WITH THE ENTITIES LISTED IN SUBSECTION A
- 10 OF THIS SECTION TO ASSIST IN THE IMPLEMENTATION OF THIS ARTICLE.
- 11 C. THIS ARTICLE DOES NOT CREATE ANY EXPRESS OR IMPLIED PRIVATE RIGHT
- 12 OF ACTION AND MAY BE ONLY ENFORCED BY THIS STATE."
- 13
- 14 Amend title to conform

JOHN KAVANAGH

2157-f2-kavanagh
4/17/09
4:21 PM
H:jmb

2157jk1.doc *
04/15/2009
1:08 PM
C: dmt