

PROPOSITION 105

OFFICIAL TITLE

AN INITIATIVE MEASURE

PROPOSING AMENDMENTS TO THE CONSTITUTION OF ARIZONA: AMENDING ARTICLE IV, PART 1, SECTION 1, SUBSECTION 6, CONSTITUTION OF ARIZONA, RELATING TO ATTEMPTS TO VETO, AMEND AND REPEAL MEASURES ENACTED BY INITIATIVE OR REFERENDUM AND TO APPROPRIATE OR DIVERT FUNDS CREATED OR ALLOCATED TO A SPECIFIC PURPOSE BY AN INITIATIVE OR REFERENDUM; AMENDING ARTICLE IV, PART 1, SECTION 1, SUBSECTION 14, CONSTITUTION OF ARIZONA, RELATING TO RESERVATION OF LEGISLATIVE POWER TO ADOPT MEASURES THAT SUPERSEDE MEASURES ADOPTED BY INITIATIVE OR REFERENDUM; AND AMENDING ARTICLE IV, PART 1, SECTION 1, SUBSECTION 15, CONSTITUTION OF ARIZONA, RELATING TO THE LEGISLATURE'S RIGHT TO REFER MEASURES TO THE PEOPLE AND RENUMBERING TO CONFORM.

TEXT OF PROPOSED AMENDMENTS

Be it enacted by the People of the State of Arizona:

The Constitution of Arizona is proposed to be amended as follows, by amending Article IV, Part 1, Section 1, subsections 6 and 14, and adding new subsection 15 and renumbering to conform, if approved by a majority of the votes cast thereon and on proclamation of the Governor:

Section 1. Article IV, Part 1, Section 1, Constitution of Arizona, is amended to read:

Part 1. INITIATIVE AND REFERENDUM

§ 1. **Legislative authority; initiative and referendum**

Section 2. (1) **Senate; house of representatives; reservation of power to people.** The legislative authority of the State shall be vested in the Legislature, consisting of a Senate and a House of Representatives, but the people reserve the power to propose laws and amendments to the Constitution and to enact or reject such laws and amendments at the polls, independently of the Legislature; and they also reserve, for use at their own option, the power to approve or reject at the polls any Act, or item, section, or part of any Act, of the Legislature.

(2) **Initiative power.** The first of these reserved powers is the Initiative. Under this power ten per centum of the qualified electors shall have the right to propose any measure, and fifteen per centum shall have the right to proposed any amendment to the Constitution.

(3) **Referendum power; emergency measures; effective date of acts** The second of these reserved powers is the Referendum. Under this power the Legislature, or five per centum of the qualified electors, may order the submission to the people at the polls of any measure, or item, section, or part of any

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measure, enacted by the Legislature, except laws immediately necessary for the preservation of the public peace, health, or safety, or for the support and maintenance of the departments of the State Government and State institutions; but to allow opportunity for Referendum Petitions, no Act passed by the Legislature shall be operative for ninety days after the close of the session of the Legislature enacting such measure, except such as require earlier operation to preserve the public peace, health, or safety, or to provide appropriations for the support and maintenance of the Departments of the State and of State institutions; provided, that no such emergency measure shall be considered passed by the Legislature unless it shall state in a separate section why it is necessary that it shall become immediately operative, and shall be approved by the affirmative votes of two-thirds of the members elected to each House of the Legislature, taken by roll call of ayes and nays, and also approved by the Governor; and should such measure be vetoed by the Governor, it shall not become a law unless it shall be approved by the votes of three-fourths of the members elected to each House of the Legislature, taken by roll call of ayes and nays.

(4) **Initiative and referendum petitions; filing.** All petitions submitted under the power of the Initiative shall be known as Initiative Petitions, and shall be filed with the Secretary of State not less than four months preceding the date of the election at which the measures so proposed are to be voted upon. All petitions submitted under the power of the Referendum shall be known as Referendum Petitions, and shall be filed with the Secretary of State not more than ninety days after the final adjournment of the session of the Legislature which shall have passed the measure to which the Referendum is applied. The filing of a Referendum Petition against any item, section, or part of any measure shall not prevent the remainder of such measure from becoming operative.

(5) **Effective date of initiative and referendum measures.** Any measure or amendment to the Constitution proposed under the Initiative, and any measure to which the Referendum is applied, shall be referred to a vote of the qualified electors, and shall become law when approved by a majority of the votes cast thereon and upon proclamation of the Governor, and not otherwise.

~~(6) Veto and repealing power~~ (6)(A) **VETO OF INITIATIVE OR REFERENDUM.** ~~The veto power of the Governor, or the power of the Legislature, to repeal or amend, shall not extend to initiative or referendum measures approved by a majority vote of the qualified electors.~~ THE VETO POWER OF THE GOVERNOR SHALL NOT EXTEND TO AN INITIATIVE MEASURE APPROVED BY A MAJORITY OF THE VOTES CAST THEREON OR TO A REFERENDUM MEASURE DECIDED BY A MAJORITY OF THE VOTES CAST THEREON.

(6) (B) **LEGISLATURE'S POWER TO REPEAL INITIATIVE OR REFERENDUM.** THE LEGISLATURE SHALL NOT HAVE THE POWER TO REPEAL AN INITIATIVE MEASURE APPROVED BY A MAJORITY OF THE VOTES CAST THEREON OR TO REPEAL A REFERENDUM MEASURE DECIDED BY A MAJORITY OF THE VOTES CAST THEREON.

(6) (C) **LEGISLATURE'S POWER TO AMEND INITIATIVE OR REFERENDUM.** THE LEGISLATURE SHALL NOT HAVE THE POWER TO AMEND AN INITIATIVE MEASURE APPROVED BY A MAJORITY

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OF THE VOTES CAST THEREON, OR TO AMEND A REFERENDUM MEASURE DECIDED BY A MAJORITY OF THE VOTES CAST THEREON, UNLESS THE AMENDING LEGISLATION FURTHERS THE PURPOSES OF SUCH MEASURE AND AT LEAST THREE-FOURTHS OF THE MEMBERS OF EACH HOUSE OF THE LEGISLATURE, BY A ROLL CALL OF AYES AND NAYS, VOTE TO AMEND SUCH MEASURE.

(6) (D) LEGISLATURE'S POWER TO APPROPRIATE OR DIVERT FUNDS CREATED BY INITIATIVE OR REFERENDUM. THE LEGISLATURE SHALL NOT HAVE THE POWER TO APPROPRIATE OR DIVERT FUNDS CREATED OR ALLOCATED TO A SPECIFIC PURPOSE BY AN INITIATIVE MEASURE APPROVED BY A MAJORITY OF THE VOTES CAST THEREON, OR BY A REFERENDUM MEASURE DECIDED BY A MAJORITY OF THE VOTES CAST THEREON, UNLESS THE APPROPRIATION OR DIVERSION OF FUNDS FURTHERS THE PURPOSES OF SUCH MEASURE AND AT LEAST THREE-FOURTHS OF THE MEMBERS OF EACH HOUSE OF THE LEGISLATURE, BY A ROLL CALL OF AYES AND NAYS, VOTE TO APPROPRIATE OR DIVERT SUCH FUNDS.

(7) Number of qualified electors. The whole number of votes cast for all candidates for Governor at the general election last preceding the filing of any Initiative or Referendum petition on a State or county measure shall be the basis on which the number of qualified electors required to sign such petition shall be computed.

(8) Local, city, town or county matters. The powers of the Initiative and the Referendum are hereby further reserved to the qualified electors of every incorporated city, town, and county as to all local, city, town, or county matters on which such incorporated cities, towns, and counties are or shall be empowered by general laws to legislate. Such incorporated cities, towns, and counties may prescribe the manner of exercising said powers within the restrictions of general laws. Under the power of the Initiative fifteen per centum of the qualified electors may propose measures on such local, city, town, or county matters, and ten per centum of the electors may propose the Referendum on legislation enacted within and by such city, town, or county. Until provided by general law, said cities and towns may prescribe the basis on which said percentages shall be computed.

(9) Form and contents of initiative and of referendum petitions; verification. Every Initiative or Referendum petition shall be addressed to the Secretary of State in the case of petitions for or on State measures, and to the clerk of the Board of Supervisors, city clerk, or corresponding officer in the case of petitions for or on county, city, or town measures; and shall contain the declaration of each petitioner, for himself, that he is a qualified elector of the State (and in the case of petitions for or on city, town, or county measures, of the city, town, or county affected), his post office address, the street and number, if any, of his residence, and the date on which he signed such petition. Each sheet containing petitioners' signatures shall be attached to a full and correct copy of the title and text of the measure so proposed to be initiated or referred to the people, and every sheet of every such petition containing signatures shall be verified by the affidavit of the person who circulated said sheet or petition, setting forth that

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each of the names on said sheet was signed in the presence of the affiant and that in the belief of the affiant each signer was a qualified elector of the State, or in the case of a city, town, or county measure, of the city, town, or county affected by the measure so proposed to be initiated or referred to the people.

(10) **Official ballot.** When any Initiative or Referendum petition or any measure referred to the people by the Legislature shall be filed, in accordance with this section, with the Secretary of State, he shall cause to be printed on the official ballot at the next regular general election the title and number of said measure, together with the words "Yes" and "No" in such manner that the electors may express at the polls their approval or disapproval of the measure.

(11) **Publication of measures.** The text of all measures to be submitted shall be published as proposed amendments to the Constitution are published, and in submitting such measures and proposed amendments the Secretary of State and all other officers shall be guided by the general law until legislation shall be especially provided therefor.

(12) **Conflicting measures or constitutional amendments.** If two or more conflicting measures or amendments to the Constitution shall be approved by the people at the same election, the measure or amendment receiving the greatest number of affirmative votes shall prevail in all particulars as to which there is conflict.

(13) **Canvass of votes; proclamation.** It shall be the duty of the Secretary of State, in the presence of the Governor and the Chief Justice of the Supreme Court, to canvass the votes for and against each such measure or proposed amendment to the Constitution within thirty days after the election, and upon the completion of the canvass the Governor shall forthwith issue a proclamation, giving the whole number of votes cast for and against each measure or proposed amendment, and declaring such measures or amendments as are approved by a majority of those voting thereon to be law.

(14) **Reservation of legislative power.** This section shall not be construed to deprive the Legislature of the right to enact any measure - EXCEPT THAT THE LEGISLATURE SHALL NOT HAVE THE POWER TO ADOPT ANY MEASURE THAT SUPERSEDES, IN WHOLE OR IN PART, ANY INITIATIVE MEASURE APPROVED BY A MAJORITY OF THE VOTES CAST THEREON OR ANY REFERENDUM MEASURE DECIDED BY A MAJORITY OF THE VOTES CAST THEREON UNLESS THE SUPERSEDING MEASURE FURTHERS THE PURPOSES OF THE INITIATIVE OR REFERENDUM MEASURE AND AT LEAST THREE-FOURTHS OF THE MEMBERS OF EACH HOUSE OF THE LEGISLATURE, BY A ROLL CALL OF AYES AND NAYS, VOTE TO SUPERSEDE SUCH INITIATIVE OR REFERENDUM MEASURE.

(15) **LEGISLATURE'S RIGHT TO REFER MEASURE TO THE PEOPLE.** NOTHING IN THIS SECTION SHALL BE CONSTRUED TO DEPRIVE OR LIMIT THE LEGISLATURE OF THE RIGHT TO ORDER THE SUBMISSION TO THE PEOPLE AT THE POLLS OF ANY MEASURE, ITEM, SECTION, OR PART OF ANY MEASURE.

~~(15)~~ (16) **Self-executing.** This section of the Constitution shall be, in all respects, self-executing.

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SECTION 2. SECTION 1 HEREOF SHALL APPLY RETROACTIVELY TO ALL INITIATIVE AND REFERENDUM MEASURES DECIDED BY THE VOTERS AT AND AFTER THE NOVEMBER 1998 GENERAL ELECTION.

ANALYSIS BY LEGISLATIVE COUNCIL (In Compliance With A.R.S. Section 19-124)

Proposition 105 would make a series of changes to the Arizona Constitution relating to initiative and referendum. Under current law, the State Legislature by a majority vote may subsequently amend or repeal any ballot measure that has been approved by the voters, except if that ballot measure was approved by a majority of the people who are registered to vote in this state, rather than by a majority of people who voted on the ballot measure.

Proposition 105 would make all of the following changes apply to any ballot measure that is approved by a majority of the people who voted on that ballot measure:

1. Prohibits the Governor from vetoing the approved measure.
2. Prohibits the State Legislature from ever repealing the approved measure or from amending an approved measure except as provided below.
3. Requires a three-fourths vote of the State Legislature to amend or supersede the approved measure and requires that the legislation "furthers the purposes" of the approved measure.
4. Requires a three-fourths vote of the State Legislature to appropriate or transfer funds that were designated to a specific purpose by the approved measure and requires that the appropriation or transfer of funds "furthers the purposes" of the approved measure.
5. Provides that the State Legislature is not limited in its right to refer any measure to the ballot.

This proposition would apply to any ballot measure that is approved by the voters on or after the November, 1998 election.

ARGUMENT "FOR" PROPOSITION 105

Yes on Proposition 105

There is nothing more essential to a democracy than having your vote count. That's how we distinguish real democracies like our own from other regimes who only go through the motions of voting, while determining the actual results in a back room.

Lately, this sort of back room manipulation of election results is exactly what the Arizona legislature has been doing to voter-approved ballot measures. A number of citizen measures dealing with campaign reform, health care, and the environment have been under assault by the politicians. Recently, the legislature repealed Proposition 200 only a few months after it had been approved.

The message is clear from the politicians: "we know better than you."

Let's send a message back in 1998 by approving the Voter Protection Act (Proposition 105). Proposition 105 will prohibit the Legislature from repealing citizen mea-

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sure approved by voters and prohibit the governor from vetoing ballot measures. Technical amendments would allowed for only if they further the purpose of the initiative and could be adopted only with a $\frac{3}{4}$ vote of the entire legislature.

We have seen a lot of scandals in Arizona politics over the last few years, but the legislature thwarting the will of the people seems to me the ultimate act of arrogance. Let put an end to this by voting Yes on Proposition 105.

Richard Mahoney
Former Secretary of State
Chairman, Voter Protection Alliance
Phoenix

ARGUMENT “FOR” PROPOSITION 105

YES 105

In Favor of the Voter Protection Alliance Act (11-C-98)

The will of the people is the most important element of our government. Once an election takes place, votes can't be thrown away just because a few politicians don't like the results of an election.

I believe Arizona voters are smart enough to know what they are voting for. I don't think the Legislature or the Governor should have the right to thwart or veto the will of the people. I urge you to vote Yes on the Voter Protection Act. It will preserve the will of the people in Arizona once and for all.

Joe Arpaio, Sheriff
Honorary Co-chair, Voter Protection Alliance
Phoenix

Paid for by Voter Protection Alliance; Richard Mahoney, Chairman

ARGUMENT “FOR” PROPOSITION 105

Yes on the Voter Protection Act (11-C-98)

The ultimate test of a democracy is whether a citizen's vote actually counts.

There is a disturbing trend in Arizona in which citizens pass initiatives by overwhelming margins, only to watch the legislature turn around within months and gut what the voters passed. This has occurred on numerous issues, including drug policy reform, health care, and the environment.

I don't agree with every initiative that has passed in Arizona, but I fundamentally believe that the politicians at the legislature have no right to thwart the mandate of voters. We must honor the will of the people.

The Voter Protection Act ensures that the Legislature cannot repeal an initiative or referendum approved by the voters. The Act prohibits the governor from vetoing an initiative or referendum approved by voters. It allows the legislature only to make strictly technical amendments to further the purpose of the measure with a $\frac{3}{4}$ super majority.

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So vote Yes on the Voter Protection Amendment. Let the will of the people stand.

Grant Woods
Arizona Attorney General
Phoenix

Paid for by Voter Protection Alliance; Richard Mahoney, Chairman

ARGUMENT “FOR” PROPOSITION 105

Yes on 105

This initiative is more than simple words placed on a ballot. This initiative provides protection for the will and voice of all walks of voters in the Great State of Arizona. The voting citizens of this State, have had a voice that is being continually ignored by State Elected Officials. To vote YES on 11C98 we enhance our voting power and shield the will of the people from any further Executive or Legislative manipulation. It prohibits our State Elected Officials from repealing future initiatives passed by the vote of the people. By Voting Yes on 11C98, it assures the strength and spirit of the Arizona Constitution remains in the power of the people. We indigenous and Native Arizona People demand our Elected Politicians to follow the will of the people of the Great State of Arizona.

Daniel L. Preston Jr.
Vice Chairman, San Xavier District
Tohono O’odham Nation
Tucson

Paid for by Voter Protection Alliance; Richard Mahoney, Chairman

ARGUMENT “AGAINST” PROPOSITION 105

Vote “NO” on Proposition 105

Proposition 105 is one of two propositions available to voters in this election intended to protect the laws we as citizens create through initiative and referendum from being undermined by subsequent actions of the State Legislature. Though probably well intentioned, **Proposition 105 is inferior to Proposition 104 in the following ways.**

Proposition 105:

- **Fails to protect existing initiated or referred law** --it applies only to measures decided “at and after the 1998 General Election”. Therefore, it offers no protection to The Heritage Fund, The Campaign Finance Reform Initiative, The Healthy Arizona Initiative, The State Lottery, The Tobacco Tax, or any of the other voter approved initiatives passed since statehood.
- **Requires a ¾ vote of the Legislature to amend initiated or referred law.** This provides too much power to the ¼ minority by allowing a small a number of legislators to prevent the enactment of good amendments to initiative law. Additionally, this magnifies the opportunity for individual legislators to act as “hold-outs” until other non-related concessions are made to gain their vote.

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- **Requires any amendment of initiated or referred law “further the purposes of” the original initiative or referendum.** The language “further the purposes of” is too open to interpretation and leaves all legislative amendments unnecessarily vulnerable to court challenges.
- **Requires a $\frac{3}{4}$ vote of the Legislature to appropriate initiative created funds even when such appropriation is in keeping with the directives of the initiative.** This is an unnecessary restriction which may in fact prevent or delay the implementation of successful initiatives.

For these reasons we urge you to **VOTE “NO” on PROPOSITION 105 and VOTE “YES” on PROPOSITION 104.**

Tony Cosentino
President
Valley Citizens League
Phoenix

Bart Turner
Executive Director
Valley Citizens League
Phoenix

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BALLOT FORMAT

PROPOSITION 105

**PROPOSED AMENDMENT TO THE CONSTITUTION
BY INITIATIVE PETITION**

OFFICIAL TITLE

PROPOSING AMENDMENTS TO THE CONSTITUTION OF ARIZONA: AMENDING ARTICLE IV, PART 1, SECTION 1, SUBSECTION 6, CONSTITUTION OF ARIZONA, RELATING TO ATTEMPTS TO VETO, AMEND AND REPEAL MEASURES ENACTED BY INITIATIVE OR REFERENDUM AND TO APPROPRIATE OR DIVERT FUNDS CREATED OR ALLOCATED TO A SPECIFIC PURPOSE BY AN INITIATIVE OR REFERENDUM; AMENDING ARTICLE IV, PART 1, SECTION 1, SUBSECTION 14, CONSTITUTION OF ARIZONA, RELATING TO RESERVATION OF LEGISLATIVE POWER TO ADOPT MEASURES THAT SUPERSEDE MEASURES ADOPTED BY INITIATIVE OR REFERENDUM; AND AMENDING ARTICLE IV, PART 1, SECTION 1, SUBSECTION 15, CONSTITUTION OF ARIZONA, RELATING TO THE LEGISLATURE'S RIGHT TO REFER MEASURES TO THE PEOPLE AND RENUMBERING TO CONFORM.

DESCRIPTIVE TITLE

AMENDING ARIZONA CONSTITUTION RELATING TO INITIATIVE AND REFERENDUM MEASURES; PROHIBITS GOVERNOR'S VETO; PROHIBITS LEGISLATIVE REPEAL; REQUIRES 3/4th VOTE TO AMEND MEASURE, TO SUPERSEDE MEASURE, OR TO TRANSFER FUNDS DESIGNATED BY THE MEASURE, AND ONLY IF EACH FURTHERS THE PURPOSE OF THE MEASURE.

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<p>A "yes" vote shall have the effect of placing certain limits on veto, amendment, repeal or transfer of funds approved by initiative or referendum, including prohibiting the Governor from vetoing initiative or referendum measures, prohibiting legislative repeal and requiring a 3/4th vote of the State Legislature to amend, to supersede a measure, or to transfer funds designated by an approved measure and only if the legislation furthers the purpose of the original measure.</p>	<p>YES <input type="checkbox"/></p>
<p>A "no" vote shall have the effect of retaining the current constitutional provisions for veto, amendment or repeal of initiatives and referenda.</p>	<p>NO <input type="checkbox"/></p>

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