

PROPOSITION 105

OFFICIAL TITLE

HOUSE CONCURRENT RESOLUTION 2045

PROPOSING AN AMENDMENT TO THE CONSTITUTION OF ARIZONA; AMENDING ARTICLE X, SECTIONS 3 AND 4, CONSTITUTION OF ARIZONA; AMENDING ARTICLE X, CONSTITUTION OF ARIZONA, BY ADDING SECTIONS 4.1, 4.2 AND 4.3; RELATING TO STATE TRUST LANDS; PROVIDING FOR CONDITIONAL REPEAL AND CONDITIONAL ENACTMENT.

TEXT OF PROPOSED AMENDMENT

Whereas, the purpose of this proposition is to preserve the mission of the state land trust by ensuring and increasing the economic value of the trust for the benefit of public schools and the other beneficiaries through prudent planning while providing opportunities for conservation consistent with the mission of the state land trust.

Therefore

Be it resolved by the House of Representatives of the State of Arizona, the Senate concurring:

1. Article X, section 3, Constitution of Arizona, is proposed to be amended as follows if approved by the voters and on proclamation of the Governor:

3. ~~Mortgage or other encumbrance; sale or lease at public auction~~

Section 3. A. No mortgage or other encumbrance of the said lands, or any part thereof, shall be valid in favor of any person or for any purpose or under any circumstances whatsoever.

B. Said lands shall not be sold or leased, in whole or in part, except to the highest and best bidder at a public auction to be held at the county seat of the county wherein the lands to be affected, or the major portion thereof, shall lie. ~~Notice of which public THE auction shall first have been duly given by advertisement, which shall set forth the nature, time and place of the transaction to be had, with a full description of the lands to be offered. and THE NOTICE SHALL be:~~

1. POSTED ON THE OFFICIAL WEB SITE FOR AT LEAST THIRTY FIVE DAYS BEFORE THE AUCTION.

2. Published AT LEAST once each week for not less than ~~ten~~ FIVE successive weeks BEFORE THE AUCTION in a newspaper of general circulation published regularly at the state capital, ~~and in that~~ A newspaper of like GENERAL circulation which shall then be regularly published ~~nearest to the location~~ IN THE VICINITY of the lands so offered. ~~nor shall any~~

C. NO sale or contract for the sale of any timber or other natural product of such lands MAY be made, save at the place, in the manner, and after the notice by publication provided for sales and leases of the lands themselves.

D. Nothing ~~herein~~ IN THIS SECTION, or elsewhere in THIS article ~~X contained~~, shall prevent:

1. The leasing of any of the lands referred to in this article in such manner as the legislature may prescribe, for grazing, agricultural, commercial and home-site purposes, for a term of ten years or less, without advertisement OR AUCTION. ;

2. The leasing of any of said lands, in such manner as the legislature may prescribe, whether or not also leased for grazing and agricultural purposes, for mineral purposes, other than for the exploration, development, and production of oil, gas and other hydrocarbon substances, for a term of twenty years or

less, without advertisement, ~~or~~ AUCTION. ;

3. The leasing of any of said lands, whether or not also leased for other purposes, for the exploration, development, and production of oil, gas and other hydrocarbon substances on, in or under said lands for an initial term of twenty ~~(20)~~ years or less and as long thereafter as oil, gas or other hydrocarbon substance may be procured therefrom in paying quantities, the leases to be made in any manner, with or without advertisement, bidding, ~~or~~ appraisal, and under such terms and provisions, as the legislature may prescribe, the terms and provisions to include a reservation of a royalty to the state of not less than twelve and one-half per cent of production.

4. GRANTING PUBLIC RIGHTS-OF-WAY AND EASEMENTS TO A FEDERAL, STATE OR LOCAL GOVERNMENTAL ENTITY WITHOUT ADVERTISEMENT OR AUCTION IN A MANNER PRESCRIBED BY LAW.

5. THE DISPOSITION WITHOUT ADVERTISEMENT OR AUCTION OF LANDS THAT ARE DESIGNATED AS SUITABLE FOR CONSERVATION IN A PLAN PREPARED AND APPROVED PURSUANT TO SECTION 4.1 OF THIS ARTICLE.

6. THE DISPOSITION WITHOUT ADVERTISEMENT OR AUCTION OF CONSERVATION LANDS AS PROVIDED BY SECTION 4.2 OR 4.3 OF THIS ARTICLE.

2. Article X, section 4, Constitution of Arizona, is proposed to be amended as follows if approved by the voters and on proclamation of the Governor:

4. ~~Sale or other disposal; appraisal; consideration and value~~

Section 4. A. All lands, ~~lease-holds~~ LEASEHOLDS, timber, ~~and~~ other products of land, before being offered, shall be appraised at their true value. ~~and~~ EXCEPT AS PROVIDED IN THIS ARTICLE, no sale or other disposal thereof shall be made:

1. For a consideration less than the value so ascertained. ~~nor~~

2. In any case less than the minimum price hereinafter fixed. ~~nor~~

3. Upon credit unless accompanied by ample security. ~~and~~

B. The legal title shall not be deemed to have passed until the consideration shall have been paid.

C. RIGHTS-OF-WAY FOR PUBLIC ROADWAYS THAT WERE ESTABLISHED OR MAINTAINED BEFORE JANUARY 1, 1968 AND USED OR MAINTAINED SINCE JANUARY 1, 1968 SHALL BE GRANTED WITHOUT FURTHER CONSIDERATION IN A MANNER PRESCRIBED BY LAW.

3. Article X, Constitution of Arizona, is proposed to be amended by adding sections 4.1 and 4.2 as follows if approved by the voters and on proclamation of the Governor:

Spelling, grammar and punctuation were reproduced as submitted in the "for" and "against" arguments.

**4.1. Planning: definition**

SECTION 4.1. A. IN AN URBAN AREA, AS DEFINED IN SECTION 4.2 OF THIS ARTICLE, LAND HELD IN TRUST UNDER THIS ARTICLE MAY BE SUBJECT TO A PLAN FOR THE USE OF THE LAND FOR COMMERCIAL PURPOSES, PREPARED IN CONSULTATION WITH A COUNTY, CITY OR TOWN IN A MANNER PRESCRIBED BY LAW AND PURSUANT TO ORDINANCES, RULES AND REGULATIONS OF THE COUNTY, CITY OR TOWN IN WHICH THE LAND IS LOCATED, IF THOSE ORDINANCES, RULES AND REGULATIONS ARE NOT DISCRIMINATORY AS WRITTEN OR APPLIED TO THE LAND HELD IN TRUST AS COMPARED TO THE TREATMENT OF PRIVATELY OWNED LAND LOCATED IN THE COUNTY, CITY OR TOWN. IF THE PLAN PREPARED FOR THE USE OF THE LAND IS INCOMPATIBLE WITH THE PLAN PREPARED BY THE COUNTY, CITY OR TOWN, THE ELEMENTS OF THE PLANS THAT ARE IN DISPUTE ARE SUBJECT TO RESOLUTION IN A MANNER PRESCRIBED BY LAW.

B. THE PLAN MAY DESIGNATE MORE OF THE LAND AS SUITABLE FOR CONSERVATION THAN WOULD BE AUTHORIZED IN A NONDISCRIMINATORY PLAN, AND THE ADDITIONAL LAND IS SUBJECT TO DISPOSITION, IN A MANNER PRESCRIBED BY LAW, IF:

1. THE DISPOSITION WILL BRING BENEFIT TO OTHER LAND THAT IS HELD IN TRUST AND SUBJECT TO THE PLAN. THE TRUE VALUE OF THE ADDITIONAL LAND DESIGNATED AS SUITABLE FOR CONSERVATION IS THE DIFFERENCE, IF ANY, BETWEEN THE VALUE OF ALL THE LAND THAT IS SUBJECT TO THE PLAN ASSUMING A NONDISCRIMINATORY PLAN AND THE VALUE OF ALL THE LAND THAT IS SUBJECT TO THE PLAN DESIGNATING THE ADDITIONAL LAND AS SUITABLE FOR CONSERVATION, AS DETERMINED BY APPRAISAL. THE AGGREGATE MARKET VALUATION OF ALL LAND THAT IS HELD IN TRUST AND SUBJECT TO THE PLAN MUST NOT BE DIMINISHED DUE TO THE DESIGNATION AND DISPOSITION OF THE LAND AS SUITABLE FOR CONSERVATION.

2. THE ADDITIONAL LAND DESIGNATED AS SUITABLE FOR CONSERVATION IS DISPOSED OF TO THE COUNTY, CITY OR TOWN ON THE COMPLETION OF THE APPRAISAL FOR CONSIDERATION OF NOT LESS THAN THE DETERMINED TRUE VALUE, WHICH MAY BE PROVIDED IN THE FORM OF MONETARY CONSIDERATION OR NONMONETARY CONSIDERATION, OR BOTH, IN A MANNER PRESCRIBED BY LAW.

3. THE PLAN IS THE SUBJECT OF AN AGREEMENT WITH THE COUNTY, CITY OR TOWN THAT ESTABLISHES THE COMMERCIAL PURPOSES OF THE LAND THAT IS NOT DESIGNATED AS SUITABLE FOR CONSERVATION.

4. ALL LAND THAT IS DESIGNATED AS SUITABLE FOR CONSERVATION IS HELD IN TRUST FOR THE SAME PUBLIC BENEFICIARY.

5. IT IS A PERMANENT CONDITION OF ANY DISPOSITION OF LAND DESIGNATED AS SUITABLE FOR CONSERVATION PURSUANT TO THIS SEC-

TION THAT THE LAND WILL BE:

(a) RESTRICTED AGAINST DEVELOPMENT, AS DEFINED IN SECTION 4.2 OF THIS ARTICLE.

(b) MANAGED AND USED IN A MANNER CONSISTENT WITH CONSERVATION, AS DEFINED IN SECTION 4.2 OF THIS ARTICLE.

(c) SUBJECT TO REASONABLE PUBLIC ACCESS.

C. FOR THE PURPOSES OF THIS SECTION, "COMMERCIAL PURPOSES" MEANS THE USE OF THE LAND FOR ANY PURPOSE OTHER THAN AGRICULTURAL OR GRAZING PURPOSES.

**4.2. Conservation lands: definitions**

SECTION 4.2. A. IN AN URBAN AREA, LANDS THAT, PURSUANT TO LAW, WERE CLASSIFIED AS SUITABLE FOR CONSERVATION PURPOSES BEFORE JANUARY 1, 2005 MAY BE CONVEYED AS CONSERVATION LANDS WITHOUT ADVERTISEMENT OR AUCTION TO THE CITY, TOWN OR COUNTY IN WHICH THEY ARE LOCATED, BUT ONLY IF COMPENSATION IS PROVIDED TO THE RESPECTIVE PERMANENT FUND IN A MANNER PRESCRIBED BY LAW. ANY DISPUTE ARISING UNDER THIS SUBSECTION IS SUBJECT TO RESOLUTION IN A MANNER PRESCRIBED BY LAW.

B. THE LEGISLATURE SHALL PRESCRIBE A PROCESS BY LAW FOR DESIGNATING FOR CONSERVATION PURPOSES LANDS IN AN URBAN AREA THAT WERE SUBMITTED BY APPROPRIATE APPLICATION FOR CLASSIFICATION AS SUITABLE FOR CONSERVATION PURPOSES AND WERE ASSIGNED A VALID FILE NUMBER PURSUANT TO LAW BEFORE JANUARY 1, 2005, BUT THAT WERE NOT CLASSIFIED AS SUITABLE FOR CONSERVATION PURPOSES. ALL LAND THAT IS DESIGNATED FOR CONSERVATION UNDER THIS SUBSECTION MUST BE HELD IN TRUST FOR THE SAME PUBLIC BENEFICIARY. THESE LANDS MAY BE CONVEYED WITHOUT ADVERTISEMENT OR AUCTION TO THE CITY, TOWN OR COUNTY IN WHICH THEY ARE LOCATED, BUT ONLY IF COMPENSATION IS PROVIDED TO THE RESPECTIVE PERMANENT FUND IN A MANNER PRESCRIBED BY LAW. ANY DISPUTE ARISING UNDER THIS SUBSECTION IS SUBJECT TO RESOLUTION IN A MANNER PRESCRIBED BY LAW. NOTWITHSTANDING ARTICLE IV, PART 2, SECTION 19, ANY DESIGNATION OF LANDS PURSUANT TO THIS SUBSECTION MUST BE APPROVED INDIVIDUALLY BY LAW. A LAW TO APPROVE THE DESIGNATION OF CONSERVATION LANDS PURSUANT TO THIS SUBSECTION IS SUBJECT TO THE POWER OF THE REFERENDUM AND IS NOT CONSIDERED TO BE IMMEDIATELY NECESSARY FOR THE PRESERVATION OF THE PUBLIC PEACE, HEALTH OR SAFETY OR FOR THE SUPPORT AND MAINTENANCE OF THE DEPARTMENTS OF STATE GOVERNMENT AND STATE INSTITUTIONS.

C. IT IS A PERMANENT CONDITION OF ANY CONVEYANCE OR DISPOSITION OF CONSERVATION LAND PURSUANT TO SUBSECTION A OR B OF THIS SECTION THAT THE LAND WILL BE:

1. RESTRICTED AGAINST DEVELOPMENT.

2. MANAGED AND USED IN A MANNER CONSISTENT WITH CONSERVATION.

3. SUBJECT TO REASONABLE PUBLIC ACCESS.

Spelling, grammar and punctuation were reproduced as submitted in the "for" and "against" arguments.

D. ANY CONVEYANCE OR OTHER DISPOSITION OF LANDS PURSUANT TO THIS SECTION IS SUBJECT TO THE RESERVATION THAT ALL OIL, GAS, OTHER HYDROCARBON SUBSTANCES, HELIUM OR OTHER SUBSTANCES OF A GASEOUS NATURE, GEOTHERMAL RESOURCES, COAL, METALS, MINERALS, FOSSILS, FERTILIZER OF EVERY DESCRIPTION, URANIUM, THORIUM OR ANY OTHER MATERIAL THAT IS OR MAY BE PECULIARLY ESSENTIAL TO THE PRODUCTION OF FISSIONABLE MATERIALS, WHETHER OR NOT OF COMMERCIAL VALUE, AND THE EXCLUSIVE RIGHT THERETO, ON, IN OR UNDER THE LAND, IS RESERVED IN AND RETAINED BY THE STATE, REGARDLESS OF THE CONVEYANCE AND THE ISSUANCE OF ANY EVIDENCE OF CONVEYANCE. A MINERAL RESERVATION UNDER THIS SUBSECTION SHALL NOT INCLUDE COMMON VARIETY MINERALS SUCH AS SAND, GRAVEL OR OTHER AGGREGATE, ROAD BASE MATERIAL, LIMESTONE OR GYPSUM.

E. NOTHING IN THIS SECTION PREVENTS THE CONTINUATION OR RENEWAL OF ANY LEASE, RIGHT-OF-WAY OR OTHER USE OF THE LAND THAT WAS IN EXISTENCE AS OF THE DATE OF CONVEYANCE OR DISPOSITION OF CONSERVATION LAND.

F. THE DESIGNATION OR CONVEYANCE OF CONSERVATION LANDS DOES NOT CREATE OR IMPLY RESTRICTIONS ON THE USE OR MANAGEMENT OF ANY OTHER LAND.

G. FOR THE PURPOSES OF THIS SECTION:

1. "CONSERVATION" MEANS RESTRICTING THE USE OF THE LAND AGAINST DEVELOPMENT.
2. "DEVELOPMENT" MEANS BUILDINGS AND OTHER STRUCTURES FOR RESIDENTIAL, AGRICULTURAL, COMMERCIAL OR PUBLIC USE BUT DOES NOT INCLUDE BUILDINGS, STRUCTURES OR OTHER IMPROVEMENTS EXISTING BEFORE JANUARY 1, 2009 OR FENCES, PATHS, TRAILS, TRAILHEADS, ROADWAYS, UTILITY LINES AND ASSOCIATED FACILITIES, FLOOD CONTROL STRUCTURES AND IMPROVEMENTS, CANALS, DRAINAGE IMPROVEMENTS, WELLS, SIGNAGE, RANGE IMPROVEMENTS, HUNTING AND FISHING FACILITIES, COMMUNICATIONS FACILITIES, RESEARCH OR MONITORING STATIONS AND ASSOCIATED EQUIPMENT OR, IN ORDER TO FACILITATE REASONABLE PUBLIC ACCESS, HUNTING AND FISHING, PICNIC, CAMPING, PARKING, SECURITY, COMFORT, MAINTENANCE AND SIMILAR FACILITIES THAT ARE COMPATIBLE WITH CONSERVATION.
3. "URBAN AREA" MEANS:
  - (a) WITHIN OR ADJACENT TO THE EXTERIOR CORPORATE BOUNDARIES OF A CITY OR TOWN.
  - (b) WITHIN THREE MILES OUTSIDE THE CORPORATE BOUNDARY OF A CITY OR TOWN HAVING A POPULATION OF LESS THAN TEN THOUSAND PERSONS.
  - (c) WITHIN FIVE MILES OUTSIDE THE CORPORATE BOUNDARY OF A CITY OR TOWN HAVING A POPULATION OF TEN THOUSAND PERSONS OR MORE.
4. Article X, Constitution of Arizona, is proposed to be

amended by adding section 4.3 as follows if approved by the voters and on proclamation of the Governor:

4.3. Nonurban conservation lands; definitions

SECTION 4.3. A. THE LEGISLATURE SHALL PRESCRIBE A PROCESS BY LAW FOR DESIGNATING FOR CONSERVATION PURPOSES UP TO FOUR HUNDRED THOUSAND ACRES OF LAND THAT IS NOT LOCATED IN AN URBAN AREA. ALL LAND THAT IS DESIGNATED FOR CONSERVATION UNDER THIS SUBSECTION MUST BE HELD IN TRUST FOR THE SAME PUBLIC BENEFICIARY. THESE LANDS MAY BE CONVEYED WITHOUT ADVERTISEMENT, AUCTION OR CONSIDERATION TO THE COUNTY IN WHICH THEY ARE LOCATED. NOTWITHSTANDING ARTICLE IV, PART 2, SECTION 19, ANY DESIGNATION OF LANDS PURSUANT TO THIS SUBSECTION MUST BE APPROVED INDIVIDUALLY BY LAW. A LAW TO APPROVE THE DESIGNATION OF CONSERVATION LANDS PURSUANT TO THIS SUBSECTION IS SUBJECT TO THE POWER OF THE REFERENDUM AND IS NOT CONSIDERED TO BE IMMEDIATELY NECESSARY FOR THE PRESERVATION OF THE PUBLIC PEACE, HEALTH OR SAFETY OR FOR THE SUPPORT AND MAINTENANCE OF THE DEPARTMENTS OF STATE GOVERNMENT AND STATE INSTITUTIONS.

B. A PRIORITY FOR CONSIDERING THE DESIGNATION OF CONSERVATION LANDS UNDER SUBSECTION A OF THIS SECTION IS THE MAINTENANCE OF WILDLIFE MIGRATION CORRIDORS.

C. IT IS A PERMANENT CONDITION OF ANY CONVEYANCE OR DISPOSITION OF CONSERVATION LAND PURSUANT TO SUBSECTION A OF THIS SECTION THAT THE LAND WILL BE:

1. RESTRICTED AGAINST DEVELOPMENT.
2. MANAGED AND USED IN A MANNER CONSISTENT WITH CONSERVATION.

3. SUBJECT TO REASONABLE PUBLIC ACCESS.

D. ANY CONVEYANCE OR OTHER DISPOSITION OF LANDS PURSUANT TO THIS SECTION IS SUBJECT TO THE RESERVATION THAT ALL OIL, GAS, OTHER HYDROCARBON SUBSTANCES, HELIUM OR OTHER SUBSTANCES OF A GASEOUS NATURE, GEOTHERMAL RESOURCES, COAL, METALS, MINERALS, FOSSILS, FERTILIZER OF EVERY DESCRIPTION, URANIUM, THORIUM OR ANY OTHER MATERIAL THAT IS OR MAY BE PECULIARLY ESSENTIAL TO THE PRODUCTION OF FISSIONABLE MATERIALS, WHETHER OR NOT OF COMMERCIAL VALUE, AND THE EXCLUSIVE RIGHT THERETO, ON, IN OR UNDER THE LAND, IS RESERVED IN AND RETAINED BY THE STATE, REGARDLESS OF THE CONVEYANCE AND THE ISSUANCE OF ANY EVIDENCE OF CONVEYANCE. A MINERAL RESERVATION UNDER THIS SUBSECTION SHALL NOT INCLUDE COMMON VARIETY MINERALS SUCH AS SAND, GRAVEL OR OTHER AGGREGATE, ROAD BASE MATERIAL, LIMESTONE OR GYPSUM.

E. NOTHING IN THIS SECTION PREVENTS THE CONTINUATION OR RENEWAL OF ANY LEASE, RIGHT-OF-WAY OR OTHER USE OF THE LAND THAT WAS IN EXISTENCE AS OF THE DATE OF CONVEYANCE OR DISPOSITION OF CONSERVA-

Spelling, grammar and punctuation were reproduced as submitted in the "for" and "against" arguments.

TION LAND.

F. THE DESIGNATION OR CONVEYANCE OF CONSERVATION LANDS DOES NOT CREATE OR IMPLY RESTRICTIONS ON THE USE OR MANAGEMENT OF ANY OTHER LAND.

G. FOR THE PURPOSES OF THIS SECTION:

1. "CONSERVATION" MEANS RESTRICTING THE USE OF THE LAND AGAINST DEVELOPMENT.

2. "DEVELOPMENT" MEANS BUILDINGS AND OTHER STRUCTURES FOR RESIDENTIAL, AGRICULTURAL, COMMERCIAL OR PUBLIC USE BUT DOES NOT INCLUDE BUILDINGS, STRUCTURES OR OTHER IMPROVEMENTS EXISTING BEFORE JANUARY 1, 2009 OR FENCES, PATHS, TRAILS, TRAILHEADS, ROADWAYS, UTILITY LINES AND ASSOCIATED FACILITIES, FLOOD CONTROL STRUCTURES AND IMPROVEMENTS, CANALS, DRAINAGE IMPROVEMENTS, WELLS, SIGNAGE, RANGE IMPROVEMENTS, HUNTING AND FISHING FACILITIES, COMMUNICATIONS FACILITIES, RESEARCH OR MONITORING STATIONS AND ASSOCIATED EQUIPMENT OR, IN ORDER TO FACILITATE REASONABLE PUBLIC ACCESS, HUNTING AND FISHING, PICNIC, CAMPING, PARKING, SECURITY, COMFORT, MAINTENANCE AND SIMILAR FACILITIES THAT ARE COMPATIBLE WITH CONSERVATION.

3. "URBAN AREA" MEANS:

(a) WITHIN OR ADJACENT TO THE EXTERIOR CORPORATE BOUNDARIES OF A CITY OR TOWN.

(b) WITHIN THREE MILES OUTSIDE THE CORPORATE BOUNDARY OF A CITY OR TOWN HAVING A POPULATION OF LESS THAN TEN THOUSAND PERSONS.

(c) WITHIN FIVE MILES OUTSIDE THE CORPORATE BOUNDARY OF A CITY OR TOWN HAVING A POPULATION OF TEN THOUSAND PERSONS OR

MORE.

5. Conditional repeal

Section 4 of this proposition is repealed if the initiative styled "Conserving Arizona's Future" and designated by the Secretary of State as C 03-2006 is approved by the voters at the general election held November 7, 2006 and becomes effective pursuant to article XXI, Constitution of Arizona.

6. Submission to voters: conditional enactment

A. The Secretary of State shall submit this proposition to the voters at the next general election as provided by article XXI, Constitution of Arizona.

B. Sections 1, 2 and 3 of this proposition are not effective unless on or before December 31, 2008, the Arizona-New Mexico Enabling Act (Act of June 20, 1910; 36 Stat. 557) is amended by Congress and signed into law to authorize the amendment of the Constitution of Arizona as proposed by sections 1 and 2 of this proposition. On or before December 31, 2008, the state land commissioner shall notify the director of the legislative council in writing whether or not this condition occurred and the date the enabling act was amended.

C. Section 4 of this proposition is not effective unless both of the following occur:

1. This proposition is approved and ratified by the voters pursuant to subsection A of this section and the conditional repeal described in section 5 of this proposition does not occur.

2. On or before December 31, 2008, the Arizona-New Mexico Enabling Act (Act of June 20, 1910; 36 Stat. 557) is amended by Congress and signed into law to authorize the amendment of the Constitution of Arizona as proposed by sections 1 and 2 of this proposition. On or before December 31, 2008, the state land commissioner shall notify the director of the legislative council in writing whether or not this condition occurred and the date the enabling act was amended.

#### **ANALYSIS BY LEGISLATIVE COUNCIL**

In 1910, the United States Congress passed the Arizona-New Mexico Enabling Act, allowing Arizona to become a state. The Enabling Act granted Arizona 10.9 million acres of land, referred to as "state trust land", to be held in trust for the benefit of the named beneficiaries, primarily the public schools, as well as other public institutions (colleges, hospitals, prisons, etc.). Both the Enabling Act and the Arizona Constitution provide that the state can lease or sell trust land, and the natural products (timber, minerals, etc.) of the land, to the "highest and best bidder" at advertised public auction and lands and products offered for sale must be appraised at and sold for not less than "true value".

Proposition 105 would amend the Arizona Constitution to:

1. Allow trust land in urban areas that was classified or eligible for designation as suitable for conservation prior to 2005 to be conveyed to a county, city or town without advertisement or auction upon payment of compensation. Any lease, right-of-way or other use in existence may continue.
2. Require the legislature to create a method for designating up to 400,000 acres of trust land outside of urban areas for conservation purposes and conveying those lands without advertisement, auction or compensation to the county in which the land is located. Any lease, right-of-way or other use in existence may continue.
3. Generally provide that the newspaper advertising period for the public auction of trust lands be reduced from 10 consecutive weeks to 5 consecutive weeks, while adding a new requirement that the auction notice be posted on the State Land Department web site for at least 35 days prior to the auction.
4. Allow the granting of public rights-of-way on trust land to governmental entities without advertisement or auction.
5. Allow trust land to be leased without auction.
6. Require that rights-of-way for public roadways originating before 1968 shall be granted without requiring further payment.

Spelling, grammar and punctuation were reproduced as submitted in the "for" and "against" arguments.

7. Generally provide that any trust land designated as conservation land must be held in trust by a governmental entity, be restricted against "development" and be managed in a manner consistent with "conservation", but not required to be accessible to the public unless and until conveyed out of the state land trust, as those terms are defined in this proposal.
8. Require that any commercial land use planning for trust lands in an urban area be prepared in consultation with the county, city or town where the land is located, according to generally applicable regulations that apply equally to similar private property in the jurisdiction. The land use plan, however, may designate a greater portion of trust land as suitable for conservation, and that land may be conveyed to the county, city or town, without advertisement or auction, for money or other forms of value if:
  - a. The disposition of the conservation land brings benefit to other trust land subject to the plan.
  - b. The value of all of the trust land subject to the plan is not diminished.

Section 4 of Proposition 105, relating to nonurban conservation lands, does not become effective if Proposition 106 is enacted by the voters at the November, 2006 election. Proposition 105 does not become fully effective unless the United States Congress amends the Arizona-New Mexico Enabling Act prior to 2009 to authorize the changes contained in this proposal.

#### **ARGUMENTS "FOR" PROPOSITION 105**

HCR 2045 was created and vetted through a multi hearing and committee review process in the House and the Senate providing opportunities for those on both sides to present their comments.

HCR 2045 preserves the goal of providing the highest and best use and highest and best bid while providing for up to 500,000 acres of rural and urban conservation lands and preservation of game corridors.

HCR 2045 also provides for realistic planning procedures, preservation of existing rights-of-way and an assured process of achieving the highest and best return to the trustees including the largest trustees i.e. the children of our state and their education.

We are not in the business of subsidizing the development community through sale of lands on the basis of future revenues. HCR 2045 requires cash at the time of sale. I support 2045. If you care about educating our youth, you should too.

John Nelson, State Representative, District 12, Litchfield Park

The Arizona Farm Bureau supports proposition 105.

This is a reasonable and non-revolutionary approach to reform of our state trust land process, allowing for the designation of conservation lands, without sacrificing the financial and fiduciary obligations to the many beneficiaries of the trust.

It maintains the clear trustee responsibility of the state, without changing the criteria for management of the assets to the best and highest use. Lastly it does not foreclose options for lessees or the public with continued multiple uses of these lands for hunting, fishing, grazing, camping and other recreational activities.

**Vote YES ON 105 – it represents balanced and fair reform of state trust lands**

**Vote NO ON 106 – is a lemon**

Kevin Rogers, President, Arizona Farm Bureau,  
Mesa

James W. Klinker, Chief Administrative Officer,  
Arizona Farm Bureau, Mesa

*Paid for by "Arizona Farm Bureau"*

#### **Vote Yes on Proposition 105**

Proposition 105 is the only State Trust Land reform that will provide real benefits for Arizona's wildlife. It does so by stipulating that maintenance of Wildlife Migration Corridors must be given priority when establishing conservation lands in non-urban areas. It also ensures that conservation lands will be open for public access now and in the future.

Designation of wildlife habitat corridors on conservation lands is absolutely essential if we are going to protect precious wildlife habitat from encroachment and development in the rural areas of our state. Loss of antelope habitat and migration corridors is a perfect example as to why this reform is necessary.

It is also essential that conservation lands not only be set aside for their significant natural, cultural or historic asset, they should be set aside to protect the magnificent wildlife species that Arizona is known for and that we have come to enjoy, as sportsmen and women and outdoor enthusiasts.

Please join us in voting YES on Proposition 105. Including wildlife as a priority is a good step forward and one that we must support. Protect wildlife by supporting Proposition 105.

Pete Cimellaro, Executive Director, Arizona  
Sportsmen for Wildlife, Phoenix

Floyd F. Green, Secretary/Treasurer, Arizona  
Sportsmen for Wildlife, Phoenix

*Paid for by "Arizona Sportsmen for Wildlife"*

**ARGUMENTS "AGAINST" PROPOSITION 105**

Anti-Statement – AEA Against HCR 2045

The Arizona Education Association represents over 35,000 teachers and education support professionals in nearly every school district across the state of Arizona. Public schools are the primary beneficiaries of any funding obtained from the sale or lease of state trust lands. We oppose this measure because we believe Arizona can do better for its children, its schools and its citizens.

This initiative conserves only 43,000 acres of land in urban areas, and even then it allows continued development until January of 2009. It grants millions of dollars in rights-of-way without any future payment to the Trust, and constitutionally provides for the renewal of grazing leases on nearly 8 million acres of trust land with little or no review. The measure fails to include a process for public or beneficiary oversight and vests the power to designate future lands for conservation solely in the hands of the Land Commissioner and the state legislature, should they even choose to do so.

As teachers and educators, we believe this initiative jeopardizes the long term health of the trust and the financial benefit to education. It fails to strike the critical balance needed between education and conservation in order to preserve our most cherished urban and rural lands AND financially benefit the Trust. We urge you to VOTE NO on Prop 105. Arizona can do better.

John H. Wright, III, President, Arizona  
Education Association, Phoenix

Andrew Morrill, Vice President, Arizona  
Education Association, Chandler

*Paid for by "Arizona Education Association"*

Vote NO on Second-Rate State Trust Land Reform Measure

HCR 2045 was crammed through the Legislature by special interest groups who do not want to see comprehensive state trust land reform accomplished. Rather than address the many problems which must be resolved through a genuine reform effort, HCR 2045 will continue the status quo and worse, undermine the efforts of the education and conservation communities in promoting genuine state trust land reform through the citizens' initiative process.

HCR 2045 contains no meaningful conservation of ecologically significant state trust lands, does not provide adequate tools for improving the planning and disposition process, and does not address the needs of the education community in providing for the chief beneficiary of state trust land revenues –Arizona's school children. Instead, it protects fewer acres and leaves control of development with the state rather than local communities where it belongs. HCR 2045 will simply give us more of the same poorly planned sprawl that already chokes this state.

After many years of hard work and negotiation with numerous stakeholders, a state trust land reform measure has been created and brought to the ballot through the citizens' initiative process. HCR 2045 is NOT it. Genuine state trust land reform through adoption of *The Conserving Arizona's Future* initiative will bring many positive benefits to Arizona residents as well as provide greater funding for our school children.

We urge Arizona voters not to be misled into believing that the needs of conservation, our public schools, or fast-growing communities are met by HCR 2045. Please vote NO on this second-rate scheme.

Anne Graham Bergin, President, Arizona  
League of Conservation Voters, Tucson

Jessica Catlin, Secretary, Arizona League of  
Conservation Voters, Phoenix

*Paid for by "Arizona League of Conservation Voters"*

Proposition 105 is not what it claims to be. It prevents the land department from maximizing the value of our state trust lands to benefit all of us. It will allow grazing leases on 8.4 million acres of the 9.2 million acres of state trust land -- for 26 cents an acre! This is the lowest return -by far- to our public schools of any other use of state trust lands. Our schools and other beneficiaries deserve better.

It will not protect Arizona's recreation and water resources around our state, like those near Saguaro National Park, the Grand Canyon, and 57 other areas our families enjoy. Proposition 105 will not help our local governments purchase land for open space.

Please vote NO on Proposition 105 and instead join me and the hundreds of thousands of citizens who signed a petition in support of Proposition 106, which will conserve open space, manage growth and protect school funds.

Sincerely,

Representative Olivia Cajero Bedford, Arizona State Legislature, Tucson

Please join the Sonoran Institute in Opposing Proposition 105.

An Arizona-based nonprofit, the Sonoran Institute promotes community decisions that respect the land and people of the West. We believe this is achieved through civil dialogue, broad-based partnerships, and cooperation.

The Sonoran Institute worked with a dedicated and diverse group of citizens from across the state representing the education, business, conservation, and ranching communities, as well as local governments, to create *Conserving Arizona's Future*, Proposition 106, the citizens' initiative for state trust land reform that is also on the ballot and should be supported.

**Spelling, grammar and punctuation were reproduced as submitted in the "for" and "against" arguments.**

We oppose Proposition 105 because it does not require the land department to plan cooperatively with cities and counties, ignores provisions for the improved management of trust funds for Arizona's schools, and limits up-front conservation of state trust lands to less than 10% of what the citizens' initiative proposes.

Proposition 105 does not provide a comprehensive proposal to protect school funds, manage growth, and conserve open space. It does not well serve the citizens of the great state of Arizona.

Vote NO on Proposition 105.

Luther Propst, Executive Director, Sonoran  
Institute, Tucson

Anna Price, Chair, Board of Directors, Sonoran  
Institute, Tucson

*Paid for by "Sonoran Institute"*

Arizonans Can't Afford Proposition 105.

This costly, short-sighted measure benefits only developers and a few grazing lease holders but does not benefit the majority of Arizonans who are concerned about unsustainable growth and protecting our state trust lands.

Vote NO on Proposition 105.

Michael Finkelstein, Executive Director, Center  
for Biological Diversity, Tucson

Dr. Robin Silver, Board Chair, Center for  
Biological Diversity, Phoenix

*Paid for by "Center for Biological Diversity"*

**It is a question of trust.** Our State Lands have been set aside as a resource to provide for the continued benefit of public education. In 2005, revenue totaling more than eight million dollars was generated for the benefit of our public schools. Arizona's school children benefit from smart management of state trust lands.

Smart management includes adequate funding to run the State Land Department, planning tools that empower local communities to utilize State Trust Lands in their development planning, and a long term investment in what is best for education. Conserving state lands means conserving the financial resources of our state. Once they are gone, they are gone forever.

Who do you trust to lead this effort? We trust the Arizona Educator's Association, and the hundreds of thousands of citizens who signed petitions in favor of true state land reform, "Conserving Arizona's Future." In contrast, special interest groups and their lobbyists created HCR 2045, a bill to benefit the special interests that are already riding for free on state trust lands; a bill to preserve the status quo.

**We urge you to VOTE NO on Proposition 105.** It does not make an investment in education, nor does it serve to safeguard the clean air, water, and open spaces that benefit us all.

Sonja Macys, Executive Director, Tucson  
Audubon Society, Tucson

Christina McVie, Vice President and  
Conservation Chair, Board of Directors, Tucson  
Audubon Society, Tucson

*Paid for by "Tucson Audubon Society"*

**Please oppose Proposition 105.**

**Proposition 105** was referred to the ballot by the Arizona Legislature merely to counter the *Conserving Arizona's Future* Initiative. While the Sierra Club is neutral on the initiative, we do not think it is appropriate for the Legislature to try and confuse voters in order to defeat it. It should pass or fail based on its merits, not on voter confusion.

The first problem with Proposition 105 is that it is being sold as a conservation measure but actually conserves very little land, only 42,511 acres. To conserve any additional land under this proposition, the Legislature first has to establish a process and then has to approve each additional parcel. As this referendum says "up to 400,000 acres" and establishes no minimum conservation requirement, and considering the Arizona Legislature's general hostility to conservation, it is highly unlikely that very much in the way of additional land would ever be conserved.

The second problem is this measure does not adequately protect the lands it does identify for conservation. For example, these lands would still be open to mining activities. They would also be open to further development through 2009. Conservation lands are restricted against development after that, but development only precludes construction of buildings; it does not preclude the construction of roads, canals, power transmission lines, cell phone towers, fencing, trails, etc. Allowing that kind of development could hardly be considered "conserving" the land.

Clearly this proposition is not about conservation. It is about the Legislature continuing to interfere with citizen initiatives. We strongly urge you to oppose Proposition 105.

Ken Langton, Chair, Sierra Club-Grand Canyon  
Chapter, Tucson

Don Steuter, Conservation Chair, Sierra Club-  
Grand Canyon Chapter, Phoenix

*Paid for by "Sierra Club Grand Canyon Chapter"*

**BALLOT FORMAT**

**PROPOSITION 105**

PROPOSED AMENDMENT TO THE CONSTITUTION  
BY THE LEGISLATURE

**OFFICIAL TITLE**

HOUSE CONCURRENT RESOLUTION 2045  
PROPOSING AN AMENDMENT TO THE CONSTITUTION OF ARIZONA; AMENDING ARTICLE X, SECTIONS 3 AND 4, CONSTITUTION OF ARIZONA; AMENDING ARTICLE X, CONSTITUTION OF ARIZONA, BY ADDING SECTIONS 4.1, 4.2 AND 4.3; RELATING TO STATE TRUST LANDS; PROVIDING FOR CONDITIONAL REPEAL AND CONDITIONAL ENACTMENT.

**DESCRIPTIVE TITLE**

ALLOWS: GRANTING PUBLIC RIGHTS-OF-WAY AND SALE OF CONSERVATION TRUST LAND TO GOVERNMENTAL ENTITIES WITHOUT AUCTION, SALE OF CERTAIN URBAN LAND FOR CONSERVATION AND CONVEYANCE OF UP TO 400,000 ACRES OF NON-URBAN WITH LEGISLATIVE APPROVAL, LOCAL COORDINATION OF COMMERCIAL TRUST LAND USE; REQUIRES PUBLIC ACCESSIBILITY OF CONSERVATION TRUST LAND; RESTRICTS DEVELOPMENT.

**PROPOSITION 105**

A "yes" vote shall have the effect of allowing the conveyance for compensation of designated urban land and additional urban land as approved by the Legislature for conservation purposes, permitting the Legislature to designate up to 400,000 acres of non-urban trust land for conservation purposes for conveyance without compensation, allowing urban trust land to be conveyed for conservation without auction, reducing the advertising time for state trust land auctions, allowing rights-of-way of trust land to governmental entities without auction, requiring trust lands set aside for conservation be accessible to the public and restricted from development, and allowing local coordination of commercial trust land use.

YES

A "no" vote shall have the effect of retaining the current law regarding the sale and use of state trust land.

NO

**PROPOSITION 105**

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