

House Engrossed Senate Bill

**FILED**  
**KEN BENNETT**  
**SECRETARY OF STATE**

State of Arizona  
Senate  
Forty-ninth Legislature  
Second Regular Session  
2010

CHAPTER 243

# SENATE BILL 1195

AN ACT

AMENDING SECTION 27-251, ARIZONA REVISED STATUTES; REPEALING SECTIONS 37-107 AND 37-108, ARIZONA REVISED STATUTES; AMENDING TITLE 37, CHAPTER 1, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING A NEW SECTION 37-107; AMENDING SECTIONS 37-109, 37-110, 37-132, 37-205, 37-239, 37-241, 37-258, 37-260, 37-281.02, 37-285, 37-313, 37-314, 37-604 AND 37-615, ARIZONA REVISED STATUTES; RELATING TO THE STATE LAND DEPARTMENT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 27-251, Arizona Revised Statutes, is amended to  
3 read:

4 27-251. Application for mineral exploration permit

5 A. Any natural person over eighteen years of age and any other person  
6 qualified to transact business in this state may apply to the state land  
7 commissioner for a mineral exploration permit on the state land in one or  
8 more of the rectangular subdivisions of twenty acres, more or less, or lots,  
9 in any one section of the public land survey. Such application shall be in  
10 writing and signed by the applicant, or an authorized agent or attorney for  
11 the applicant, and shall contain the name and address of the applicant, a  
12 description according to the public land survey of the state land for which  
13 the applicant seeks a mineral exploration permit, and such other information  
14 as the commissioner may prescribe by rule. The application shall be filed  
15 with the state land department and shall be accompanied by payment to the  
16 department of a filing fee as prescribed by ~~section 37-108~~ PURSUANT TO  
17 SECTION 37-107. Each application meeting the requirements of this section  
18 shall be stamped by the department with the time and date it is filed with  
19 the department. The application shall have priority over any other  
20 application for a mineral exploration permit involving the same state land  
21 which may be filed with the department subsequent to such time and date, and  
22 such land shall be deemed withdrawn as long as the application is pending.

23 B. Not less than thirty days nor more than forty-five days from the  
24 filing of the application with the department, provided there is no prior  
25 application for a mineral exploration permit involving the same state land  
26 then pending before the department, or if such prior application is then  
27 pending but is subsequently cancelled, not more than thirty days after it is  
28 cancelled, the department shall mail to the applicant at the address shown on  
29 the application a written notice designating the state land that is described  
30 in the application and that, at the time the application was filed with the  
31 department, was open to application, the amount of rental required to be paid  
32 for the mineral exploration permit as herein provided, and whether a bond  
33 will be required under the provisions of section 27-255 as a condition to  
34 issuance of such permit. If, within thirty days after the mailing of such  
35 notice, the applicant pays to the department as rental for the permit the  
36 amount of two dollars per acre for each acre of state land designated in the  
37 notice and files with the department the bond, if any, required under section  
38 27-255, and if the commissioner finds that issuing the permit is in the best  
39 interest of the trust, the commissioner shall issue to the applicant a  
40 mineral exploration permit for the state land designated in the notice. The  
41 commissioner may deny the application for any of the following reasons:

- 42 1. The application was not made in good faith.  
43 2. The proposed exploration or possible future mining activities would  
44 not be the highest and best use of the trust lands.

1           3. The value and income potential of surrounding trust lands would be  
2 adversely affected and the benefit from proposed exploration and future  
3 mining activity cannot reasonably be expected to be greater than the  
4 diminished value to those surrounding trust lands.

5           4. The proposed operations would violate applicable state or federal  
6 law.

7           5. The commissioner determines that the proposed exploration  
8 activities or possible future mining activities will create a liability to  
9 the state greater than the income from the proposed operations.

10          C. During the period such mineral exploration permit is in effect no  
11 person except the permittee and the authorized agents and employees of the  
12 permittee shall be entitled to explore for minerals on the state land covered  
13 by the permit. If the applicant fails to make the payment or furnish the  
14 bond within the period of thirty days, the application shall be deemed  
15 cancelled and of no further effect.

16          Sec. 2. Repeal

17          Sections 37-107 and 37-108, Arizona Revised Statutes, are repealed.

18          Sec. 3. Title 37, chapter 1, article 1, Arizona Revised Statutes, is  
19 amended by adding a new section 37-107, to read:

20          37-107. Fees; accounts

21          A. THE COMMISSIONER SHALL PRESCRIBE BY RULE APPLICATION, PERMIT,  
22 TRANSACTION, APPRAISAL, SERVICE, FILING AND DOCUMENT FEES FOR TRANSACTIONS  
23 RELATED TO THE SELLING, LEASING, ANNEXATION, CONVEYANCE, EXCHANGE,  
24 RIGHT-OF-WAY AND USE OF STATE LANDS OR PRODUCTS OF STATE LANDS MANAGED BY THE  
25 DEPARTMENT. BEFORE ADOPTING ANY RULE SETTING OR CHANGING A FEE UNDER THIS  
26 SECTION, THE COMMISSIONER MUST SUBMIT THE PROPOSED FEE AMOUNT TO THE JOINT  
27 LEGISLATIVE BUDGET COMMITTEE FOR REVIEW. THE COMMISSIONER SHALL DEPOSIT THE  
28 REVENUES DERIVED FROM THE FEES IN THE TRUST LAND MANAGEMENT FUND PURSUANT TO  
29 SECTION 37-527.

30          B. THE COMMISSIONER MAY ESTABLISH SELLING AND ADMINISTRATIVE FEES,  
31 WHICH MAY INCLUDE:

32           1. UP TO THREE PER CENT OF THE CONSIDERATION PAID FOR ALL LANDS AND  
33 IMPROVEMENTS SOLD OR LONG-TERM LEASED.

34           2. ZONING APPLICATION FEES PAID BY THE DEPARTMENT TO REZONE LAND.

35           3. LEGAL ADVERTISING EXPENSES REQUIRED BY LAW AND PAID BY THE  
36 DEPARTMENT.

37          C. THE REVENUES DERIVED FROM THE FEES ESTABLISHED PURSUANT TO  
38 SUBSECTION B OF THIS SECTION SHALL BE DEPOSITED AS FOLLOWS:

39           1. THE REVENUES DERIVED FROM THE FEES COLLECTED PURSUANT TO SUBSECTION  
40 B, PARAGRAPH 1 OF THIS SECTION, LESS ANY AMOUNTS PAID AS BROKERAGE FEES  
41 PURSUANT TO SECTION 37-132, SUBSECTION B, PARAGRAPH 2, SHALL BE DEPOSITED IN  
42 THE TRUST LAND MANAGEMENT FUND PURSUANT TO SECTION 37-527.

43           2. THE MONIES COLLECTED PURSUANT TO SUBSECTION B, PARAGRAPH 2 OF THIS  
44 SECTION AS ACTUAL COSTS OF ZONING APPLICATION FEES PAID BY THE DEPARTMENT TO  
45 REZONE LANDS SHALL BE DEPOSITED IN A SEPARATE ACCOUNT OF THE STATE LAND

1 DEPARTMENT FUND DESIGNATED AS THE ZONING APPLICATION FEE ACCOUNT. MONIES IN  
2 THE ACCOUNT SHALL BE USED TO PAY ZONING APPLICATION FEES IF DEVELOPING LANDS  
3 REQUIRE REZONING BY THE JURISDICTION IN WHICH THE LANDS ARE LOCATED. THE  
4 COMMISSIONER SHALL ADMINISTER THE ACCOUNT.

5 3. THE MONIES COLLECTED UNDER SUBSECTION B, PARAGRAPH 3 OF THIS  
6 SECTION, SUBSECTION D OF THIS SECTION AND APPLICATION EVALUATION AND  
7 PROCESSING COSTS PURSUANT TO SECTION 37-205, SUBSECTION A SHALL BE DEPOSITED  
8 IN SEPARATE ACCOUNTS OF THE STATE LAND DEPARTMENT FUND TO BE USED TO PAY  
9 COSTS OF LEGAL ADVERTISING, COSTS OF APPRAISALS REQUIRED BY THE ENABLING ACT,  
10 BY THE CONSTITUTION OF ARIZONA OR BY STATUTE AND THE COSTS OF EVALUATING AND  
11 PROCESSING APPLICATIONS. THE COMMISSIONER SHALL ADMINISTER THE ACCOUNTS. ON  
12 NOTICE FROM THE COMMISSIONER, THE STATE TREASURER SHALL INVEST AND DIVEST  
13 MONIES IN THE STATE LAND DEPARTMENT FUND AS PROVIDED BY SECTION 35-313, AND  
14 MONIES EARNED FROM INVESTMENT SHALL BE CREDITED TO THE FUND.

15 D. THE COMMISSIONER MAY REQUIRE OR ALLOW PREPAYMENT FOR THE ESTIMATED  
16 COST OF AN APPRAISAL REQUIRED PURSUANT TO SECTION 27-234 AND THIS TITLE. THE  
17 COMMISSIONER SHALL DEPOSIT AND ADMINISTER PREPAYMENT MONIES AS PROVIDED BY  
18 SUBSECTION C, PARAGRAPH 3 OF THIS SECTION. THE COMMISSIONER SHALL USE MONIES  
19 ACCEPTED PURSUANT TO THIS SUBSECTION TO CONDUCT CONTRACT APPRAISALS. IF AN  
20 AUCTION IS HELD AND AN APPLICANT WHO HAS PREPAID THE ESTIMATED COST OF AN  
21 APPRAISAL OR PAID AN APPRAISAL FEE IS NOT THE SUCCESSFUL BIDDER, THE  
22 SUCCESSFUL BIDDER SHALL REIMBURSE THE APPLICANT EITHER FOR THE ACTUAL COST OF  
23 THE APPRAISAL OR FOR THE APPRAISAL FEE, WHICHEVER WAS PAID. IF THE  
24 COMMISSIONER PROCEEDS TO AUCTION ON THE COMMISSIONER'S INITIATIVE, THE  
25 SUCCESSFUL BIDDER AT AUCTION SHALL REIMBURSE THE DEPARTMENT FOR THE ACTUAL  
26 COST OF THE APPRAISAL, IF THERE WAS A CONTRACT APPRAISAL, OR PAY THE  
27 APPRAISAL FEE IF A CONTRACT APPRAISAL WAS NOT OBTAINED. NOTHING IN THIS  
28 SUBSECTION:

29 1. REQUIRES THE COMMISSIONER TO OFFER ANY LAND AT AUCTION OR FOR  
30 LEASE.

31 2. REQUIRES THE COMMISSIONER TO REIMBURSE AN APPLICANT IF THE LAND IS  
32 NOT AUCTIONED OR LEASED.

33 3. AFFECTS THE STATUS OF ANY OTHER APPLICATION PENDING AN APPRAISAL.

34 E. EXCEPT AS PROVIDED UNDER SECTION 37-205, FEES PAID UNDER THIS  
35 SECTION ARE NOT REFUNDABLE TO THE APPLICANT, REGARDLESS OF THE OUTCOME OF THE  
36 APPLICATION.

37 Sec. 4. Section 37-109, Arizona Revised Statutes, is amended to read:

38 37-109. Alternative payment methods

39 At the commissioner's sole discretion, the commissioner may accept fees  
40 imposed by ~~section 37-108~~ PURSUANT TO SECTION 37-107 by alternative payment  
41 methods, including credit and charge cards, pursuant to section 35-142,  
42 subsection I, debit cards and electronic funds transfers or other alternative  
43 payment methods, pursuant to section 35-315, but the department is not  
44 obligated to accept any payment using an alternative payment method.

1 Sec. 5. Section 37-110, Arizona Revised Statutes, is amended to read:

2 37-110. Due diligence fund; exemption; reversion

3 A. The due diligence fund is established. The commissioner ~~shall~~ MAY  
4 use the monies in the fund to pay the department's costs of evaluating and  
5 processing APPLICATIONS AND OTHERWISE PREPARING LANDS FOR sales, leases,  
6 rights-of-way or other use permits, ~~including cultural resource~~  
7 ~~investigations, legal land surveys, environmental assessments, economic~~  
8 ~~consulting and engineering, planning, legal and geological studies.~~

9 B. The fund consists of legislative appropriations and reimbursements  
10 to the department by winning bidders for the department's costs of advance  
11 due diligence investigations and analyses pursuant to subsection A of this  
12 section. Monies in the fund are subject to legislative appropriation.

13 C. The commissioner shall administer the fund. Monies in the fund are  
14 exempt from the provisions of section 35-190 relating to the lapsing of  
15 appropriations, except that all monies in the fund exceeding five hundred  
16 thousand dollars at any time revert to the state general fund.

17 Sec. 6. Section 37-132, Arizona Revised Statutes, is amended to read:

18 37-132. Powers and duties

19 A. The commissioner shall:

20 1. Exercise and perform all powers and duties vested in or imposed  
21 upon the department, and prescribe such rules as are necessary to discharge  
22 those duties.

23 2. Exercise the powers of surveyor-general except for the powers of  
24 the surveyor-general exercised by the treasurer as a member of the selection  
25 board pursuant to section 37-202.

26 3. Make long-range plans for the future use of state lands in  
27 cooperation with other state agencies, local planning authorities and  
28 political subdivisions.

29 4. Promote the infill and orderly development of state lands in areas  
30 beneficial to the trust and prevent urban sprawl or leapfrog development on  
31 state lands.

32 5. Classify and appraise all state lands, together with the  
33 improvements on state lands, for the purpose of sale, lease or grant of  
34 rights-of-way. The commissioner may impose such conditions and covenants and  
35 make such reservations in the sale of state lands as the commissioner deems  
36 to be in the best interest of the state trust. The provisions of this  
37 paragraph are subject to hearing procedures pursuant to title 41, chapter 6,  
38 article 10 and, except as provided in section 41-1092.08, subsection H, are  
39 subject to judicial review pursuant to title 12, chapter 7, article 6.

40 6. Have authority to lease for grazing, agricultural, homesite or  
41 other purposes, except commercial, all land owned or held in trust by the  
42 state.

43 7. Have authority to lease for commercial purposes and sell all land  
44 owned or held in trust by the state, but any such lease for commercial  
45 purposes or any such sale shall first be approved by the board of appeals.

1           8. Except as otherwise provided, determine all disputes, grievances or  
2 other questions pertaining to the administration of state lands.

3           9. Appoint deputies and other assistants and employees necessary to  
4 perform the duties of the department, assign their duties, and require of  
5 them such surety bonds as the commissioner deems proper. The compensation of  
6 the deputy, assistants or employees shall be as determined pursuant to  
7 section 38-611.

8           10. Make a written report to the governor annually, not later than  
9 September 1, disclosing in detail the activities of the department for the  
10 preceding fiscal year, and publish it for distribution. The report shall  
11 include an evaluation of auctions of state land leases held during the  
12 preceding fiscal year considering the advantages and disadvantages to the  
13 state trust of the existence and exercise of preferred rights to lease  
14 reclassified state land.

15           11. Withdraw state land from surface or subsurface sales or lease  
16 applications if the commissioner deems it to be in the best interest of the  
17 trust. This closure of state lands to new applications for sale or lease  
18 does not affect the rights which existing lessees have under law for renewal  
19 of their leases and reimbursement for improvements.

20           B. The commissioner may:

21           1. Take evidence relating to, and may require of the various county  
22 officers information on, any matter that the commissioner has the power  
23 to investigate or determine.

24           2. Under such rules as the commissioner adopts, use private real  
25 estate brokers to assist in any sale or long-term lease of state land and  
26 pay, from fees collected under section ~~37-108~~ 37-107, subsection A- B,  
27 paragraph ~~10, subdivision (a)~~ 1, a commission to a broker that is licensed  
28 pursuant to title 32, chapter 20 and that provides the purchaser or lessee at  
29 auction. The purchaser or lessee at auction is not eligible to receive a  
30 commission pursuant to this subsection. A commission shall not be paid on a  
31 sale or a long-term lease if the purchaser or lessee is ~~another governmental~~  
32 ~~agency~~ A POLITICAL SUBDIVISION OF THIS STATE.

33           3. Require a permittee, lessee or grantee to post a surety bond or any  
34 form of collateral deemed sufficient by the commissioner for performance or  
35 restoration purposes. The commissioner shall use the proceeds of a bond or  
36 collateral only for the purposes determined at the time the bond or  
37 collateral is posted. For agricultural lessees, the commissioner may require  
38 collateral as follows:

39           (a) As security for payment of the annual assessments levied by the  
40 irrigation district in which the state land is located if the lessee has a  
41 history of late payments or defaults. The amount of the collateral required  
42 shall not exceed the annual assessment levied by the irrigation district.

43           (b) As security for payment of rent, if an extension of time for  
44 payment is requested or if the lessee has a history of late payments of rent.  
45 The collateral shall be submitted at the time any extension of time for

1 payment is requested. The amount of the collateral required shall not exceed  
2 the annual amount of rent for the land.

3 (c) A surety bond shall be required only if the commissioner  
4 determines that other forms of collateral are insufficient.

5 4. Withhold market and economic analyses, preliminary engineering,  
6 site and area studies and appraisals that are collected during the urban  
7 planning process from public viewing before they are submitted to local  
8 planning and zoning authorities.

9 5. Withhold from public inspection proprietary information received  
10 during lease negotiations. The proprietary information shall be released to  
11 public inspection unless the release may harm the competitive position of the  
12 applicant and the information could not have been obtained by other  
13 legitimate means.

14 6. Issue permits for short-term use of state land for specific  
15 purposes as prescribed by rule.

16 7. Contract with a third party to sell recreational permits. A third  
17 party under contract pursuant to this paragraph may assess a surcharge for  
18 its services as provided in the contract, in addition to the fees prescribed  
19 by PURSUANT TO section ~~37-108~~ 37-107.

20 8. Close urban lands to specific uses as prescribed by rule if  
21 necessary for dust abatement, to reduce a risk from hazardous environmental  
22 conditions that pose a risk to human health or safety or for remediation  
23 purposes.

24 9. Notwithstanding subsection A, paragraph 4 of this section,  
25 authorize, in the best interest of the trust, the extension of public  
26 services and facilities either:

27 (a) That are necessary to implement plans of the local governing body,  
28 including plans adopted or amended pursuant to section 9-461.06 or 11-824.

29 (b) Across state lands that are either:

30 (i) Classified as suitable for conservation pursuant to section  
31 37-312.

32 (ii) Sold or leased at auction for conservation purposes.

33 C. The commissioner or any deputy or employee of the department shall  
34 not have, own or acquire, directly or indirectly, any state lands or the  
35 products on any state lands, any interest in or to such lands or products, or  
36 improvements on leased state lands, or be interested in any state irrigation  
37 project affecting state lands.

38 Sec. 7. Section 37-205, Arizona Revised Statutes, is amended to read:  
39 37-205. Due diligence costs related to disposition of land

40 A. In addition to other fees required by this title, and instead of  
41 the department performing advance due diligence pursuant to section 37-110,  
42 subsection A, the commissioner may require or allow an applicant to advance  
43 or incur THE costs ~~for~~ OF THE DEPARTMENT'S evaluating and processing an  
44 application AND OTHERWISE PREPARING LAND for a sale, lease, right-of-way or  
45 other use permit; ~~including cultural resource investigations, legal land~~

1 ~~surveys, environmental assessments, economic consulting and engineering,~~  
2 ~~planning, legal or geological studies.~~ Monies that are advanced by the  
3 applicant to the department pursuant to this subsection shall be deposited  
4 ~~and administered by the commissioner as provided by section 37-108,~~  
5 ~~subsection B~~ IN A SEPARATE ACCOUNT OF THE STATE LAND DEPARTMENT FUND.

6 B. If the successful bidder at an auction is not the applicant, the  
7 successful bidder shall reimburse the applicant for fees and costs paid  
8 pursuant to this section in amounts and on terms the commissioner ~~or the~~  
9 ~~commissioner's designee~~ directs in the auction notice. After receiving the  
10 reimbursement amounts, the commissioner shall remit them to the applicant.

11 C. If an auction does not occur or a transaction is otherwise not  
12 completed as a result of a mistake or circumstances caused by the department,  
13 including issues arising out of concerns over title, misidentification of the  
14 parcel and factors affecting the commissioner's view of the timeliness or  
15 desirability of disposing of the parcel, then the commissioner, on the timely  
16 written request of an applicant, may reimburse or cause to be reimbursed to  
17 the applicant, on terms that the commissioner considers reasonable and  
18 appropriate, from monies of the department all or part of the costs paid  
19 pursuant to this section and application fees paid pursuant to section ~~37-108~~  
20 37-107. Reimbursement for costs paid pursuant to this section may only be  
21 for costs that the commissioner determines to represent an enhancement of  
22 knowledge about the parcel or that tangibly or intangibly enhance the value  
23 of the parcel. The commissioner may refuse any reimbursement request for any  
24 reason.

25 Sec. 8. Section 37-239, Arizona Revised Statutes, is amended to read:  
26 37-239. Participation contracts; planning and disposition  
27 proposals

28 A. The commissioner may enter into participation contracts and may  
29 charge a fee to an applicant to retain one or more consultants to assist in  
30 negotiating or preparing a participation contract. If the applicant is not  
31 the successful bidder, the commissioner shall refund the fee.

32 B. Before recommending any participation contract to the board of  
33 appeals, the commissioner shall consider and report on:

34 1. The methodology for determining any reimbursable infrastructure  
35 costs.

36 2. An analysis of the state trust revenue to be derived from the  
37 proposed participation contract.

38 3. The historical trends in land values in the area by types of  
39 proposed land uses.

40 4. An analysis of the financial feasibility of the planned  
41 development's proposed build-out schedule.

42 5. An evaluation of the potential economic risks and benefits to the  
43 trust arising from the participation contract.

1           6. An analysis of the economic and financial impact, and other factors  
2 determined by the commissioner, regarding alternative dispositions or no  
3 disposition of the lands.

4           C. Each participation contract shall:

5           1. Provide that subsequent sales or leases of state land that are  
6 subject to a participation contract shall be based on the criteria and the  
7 phasing and disposition plan included in the participation contract and the  
8 formula for determining the amount of revenue to the trust as a result of the  
9 subsequent sale or lease.

10          2. Prescribe rights and remedies in the case of default including  
11 rights to cure, forfeiture and other appropriate remedies.

12          D. This state's share of the revenues from the sale of land under a  
13 participation contract shall be deposited, pursuant to sections 35-146 and  
14 35-147, in the appropriate perpetual fund.

15          E. A participation contract may be offered on lands that do not have a  
16 development plan approved by the commissioner or on land that may require the  
17 successful bidder to further plan and zone property after the auction.  
18 Before auctioning a contract requiring planning and zoning, the commissioner  
19 may solicit planning and disposition proposals, through advertisement for at  
20 least five consecutive days in a newspaper of general circulation in the  
21 county in which the lands are located, or if there is no daily newspaper of  
22 general circulation in that county, the advertisement shall be published as  
23 many times within a thirty-day period as the newspaper is published but not  
24 more than five times. The commissioner may require information regarding the  
25 projected planning and zoning, the estimated costs of the planning and zoning  
26 and the financial feasibility of the proposal. The proposals shall also  
27 contain proposed participation payments. The commissioner may provide that  
28 some of the information that is contained in the proposals will remain  
29 confidential, if the information is proprietary, until the commissioner  
30 recommends a contract to the board of appeals. After the proposals are  
31 received, the commissioner may conduct preauction conferences regarding the  
32 proposals. The commissioner may then auction a participation contract that,  
33 at the commissioner's option, may incorporate information that was acquired  
34 through the proposal process. A participation contract that is entered into  
35 pursuant to this subsection shall:

36          1. Require the successful bidder to pay a nonrefundable down payment  
37 of at least two and one-half per cent of the minimum bid for the property,  
38 plus the required fees prescribed in PURSUANT TO section ~~37-108~~ 37-107 and,  
39 if the successful bidder did not pay the consultant fee pursuant to  
40 subsection A of this section, any fee charged pursuant to subsection A of  
41 this section, by cashier's check at the time of the auction. The down  
42 payment does not include participation payments.

43          2. Require an additional payment to be made within thirty days if the  
44 amount bid for the land exceeds the minimum bid, so that the total down  
45 payment, including the down payment paid on the date of the sale, will equal

1 the required percentage down payment of the total amount bid. The additional  
2 payment does not include participation payments.

3 3. Require the successful bidder to post within thirty days after the  
4 auction a surety bond or another form of collateral that the commissioner  
5 considers to be sufficient to cover the costs of the required planning and  
6 zoning.

7 4. Provide for the forfeiture of the contract and any accompanying  
8 certificate of purchase or lease if the successful bidder fails to provide  
9 the required collateral.

10 5. Describe the land to be planned and zoned, which may include land  
11 that is retained by the department and not auctioned with the contract.

12 6. Contain guidelines for expected planning and zoning and time frames  
13 for the planning and zoning consistent with the guidelines.

14 7. Provide for the forfeiture of the contract and any accompanying  
15 certificate of purchase or lease if the successful bidder fails to accomplish  
16 the planning and zoning within the prescribed time, unless extended in  
17 writing by the commissioner based on good cause shown.

18 8. Require at least ten per cent of the total purchase price to be  
19 paid by the time the planning and zoning are completed, unless extended in  
20 writing by the commissioner based on good cause shown.

21 9. Provide for absolute approval authority by the commissioner of any  
22 planning and zoning actions.

23 10. Deny the successful bidder the right to physically develop the  
24 property, including grading or leveling, until at least ten per cent of the  
25 purchase price has been paid.

26 11. Deny the issuance of partial patents for the property until at  
27 least ten per cent of the purchase price has been paid and the requirements  
28 of section 37-251 have been met.

29 12. Contain such other terms that the commissioner considers to be  
30 necessary or appropriate.

31 F. After it is accepted by the commissioner, a planning and zoning  
32 proposal submitted to the local governing body by the successful bidder shall  
33 be administered as a state general plan or development plan as appropriate,  
34 according to the procedures described in article 5.1 of this chapter.

35 Sec. 9. Section 37-241, Arizona Revised Statutes, is amended to read:

36 37-241. Terms of sale of state land; payment; interest rate

37 A. The terms of sale of state land are as follows:

38 1. At least ten per cent, but not more than twenty-five per cent, of  
39 the appraised value, as stated in the auction notice, which shall be applied  
40 to principal, together with the required fees prescribed by PURSUANT TO  
41 section ~~37-108~~ 37-107, shall be paid by cashier's check upon announcement of  
42 the successful bidder.

43 2. If the amount bid for the land exceeds the appraised value, further  
44 payment shall be made within thirty days so that the total amount paid  
45 including the amount paid on the date of sale shall equal the percentage of

1 the bid, as stated in the auction notice, which shall be allocated to  
2 principal, together with the required fees prescribed under section ~~37-108~~  
3 37-107.

4 B. Upon payment of the amounts provided in subsection A of this  
5 section, and upon compliance by the purchaser with the requirements of this  
6 article, and the payment of the fees under section ~~37-108~~ 37-107, a  
7 certificate of purchase shall issue as provided in section 37-244. On full  
8 payment for the entire tract of land sold within thirty days after the  
9 auction, the department shall issue a patent as provided in section 37-251.

10 C. If the purchaser fails to complete the payment of the percentage of  
11 the bid stated in the auction notice, together with the fees required by  
12 PURSUANT TO section ~~37-108~~ 37-107, or to enter into a contract of sale within  
13 the time provided in the certificate of purchase offered by the department:

14 1. The purchaser forfeits all amounts paid, including:

15 (a) All payments made on the purchase price, which shall be deemed to  
16 be rental for the land.

17 (b) All amounts paid under section ~~37-108~~ 37-107.

18 2. The commissioner may declare that the bid placed before the final  
19 bid accepted is the highest bid, and that bidder has five business days after  
20 notification by the department to pay by cashier's check all amounts due  
21 under this section and section ~~37-108~~ 37-107.

22 D. The balance of the purchase price is payable as follows:

23 1. The commissioner shall establish prior to the notice of sale the  
24 length of the term over which the balance shall be paid, and whether a  
25 variable or fixed interest rate is appropriate, or whether the entire balance  
26 without interest is due and payable within thirty days after the auction.  
27 This determination shall be based on the nature of the land being sold and  
28 general market conditions in effect at the time.

29 2. After establishing the length of the term and whether a fixed or  
30 variable rate is appropriate, the commissioner shall notify the state  
31 treasurer to establish the interest rate after consideration of local  
32 prevailing prime interest rates and mortgage rates and the maximum amount of  
33 interest set by statute by this state, if any.

34 3. If a variable rate is established, the interest rate charged a  
35 purchaser may vary from year to year. The department shall annually notify  
36 each purchaser of the interest rate specified by the state treasurer to be  
37 paid by the purchaser for the following year and the total amount of interest  
38 payable the following year with the purchaser's annual payment.

39 E. The commissioner shall establish prior to the notice of sale the  
40 length of the term over which the balance shall be paid. The term shall not  
41 exceed twenty-five years.

42 F. The length of term and interest rate and whether the rate is  
43 variable or fixed shall be considered terms of the sale to be included in the  
44 notice required by section 37-237.

1 G. The purchaser may discharge the entire debt at any time and be  
2 entitled to a patent for the land if the purchaser pays the entire purchase  
3 price, together with the applicable fees, and demonstrates that all terms and  
4 conditions of the certificate of purchase have been satisfied.

5 Sec. 10. Section 37-258, Arizona Revised Statutes, is amended to read:  
6 37-258. Sale of rights in dry riverbed

7 A. Upon receipt of the appraisal and when it is in the best interests  
8 of this state and of the trust, the commissioner may cause rights of the  
9 state in any dry riverbed on the land described in the application to be put  
10 up for sale to the highest bidder. This sale may include the state's  
11 interest in oil, gas, other hydrocarbon substances, helium or other  
12 substances of a gaseous nature, geothermal resources, coal, minerals, fossils  
13 and fertilizer of every name and description together with all uranium,  
14 thorium or other materials peculiarly essential to the production of  
15 fissionable materials.

16 B. The sale shall be held at the county seat of the county wherein the  
17 land was located immediately preceding the river movement which left the  
18 riverbed dry, and if such county cannot be determined by the commissioner,  
19 then the sale shall be held at the county seat of Maricopa county.

20 C. The sale is subject to all existing leases, covenants, conditions,  
21 restrictions, easements, encumbrances, rights and rights-of-way against the  
22 land described in the application. The state may sell its rights in an  
23 entire section in any one year. No sales shall be deemed to be agricultural  
24 land for purposes of section 37-234. At least ten per cent, but not more  
25 than twenty-five per cent, of the appraised value, as stated in the auction  
26 notice, which shall be applied to principal, together with the prescribed fee  
27 under section ~~37-108~~ 37-107 shall be paid by cashier's check upon  
28 announcement of the successful bidder. The balance of the purchase price  
29 shall be paid by cashier's check within thirty days of the date of the sale  
30 and no interest shall be charged. In other respects, the sale shall be  
31 conducted as specified in this article. The minimum price at the sale shall  
32 be the value of Arizona's interest in the land as determined by the preceding  
33 appraisal, including the increased value resulting from the development or  
34 improvements made by the applicant and ~~his~~ THE APPLICANT'S predecessors in  
35 interest.

36 D. If the applicant is not the purchaser ~~he shall be~~ THE APPLICANT IS  
37 entitled to receive from the proceeds of sale the amount of the increased  
38 value of the land, as determined by the appraisal, resulting from the  
39 development of or improvement of or on the land made by the applicant or ~~his~~  
40 THE APPLICANT'S predecessors in interest. If the applicant is the purchaser  
41 ~~he shall be~~ THE APPLICANT IS entitled to an offset against the purchase price  
42 in the amount of the increased value resulting from said developments and  
43 improvements. The payment for these improvements shall be made in the manner  
44 specified in sections 37-322 and 37-322.02, except that obtaining the prior  
45 approval of the state for making the development or improvement shall not be

1 a prerequisite to the applicant's recovery of the increased value of the land  
2 resulting therefrom and that the payment for the improvements may not be on  
3 installments.

4 Sec. 11. Section 37-260, Arizona Revised Statutes, is amended to read:

5 37-260. Selling and administrative expenses

6 Any application and any payment made to this state pursuant to sections  
7 37-257 and 37-258 shall be exempt from the provisions of section ~~37-108~~  
8 37-107. If the commissioner determines that an appraisal is required on the  
9 improvements, the purchaser of the land shall pay the actual cost of such  
10 appraisal.

11 Sec. 12. Section 37-281.02, Arizona Revised Statutes, is amended to  
12 read:

13 37-281.02. Leasing state lands for commercial purposes for more  
14 than ten years

15 A. All state lands are subject to lease as provided in this article  
16 for a term in excess of ten years, but not more than ninety-nine years, for  
17 commercial purposes to the highest and best bidder at public auction. The  
18 auction shall be conducted at the place, in the manner, and after the notice  
19 by publication provided for sales of such lands except as otherwise provided  
20 in this section. For commercial leases of state land more than three miles  
21 outside the boundaries of incorporated cities and towns having a population  
22 of ten thousand persons or less or more than five miles outside the  
23 boundaries of incorporated cities and towns having a population in excess of  
24 ten thousand persons, the department shall cooperate with the county or  
25 counties in which the land to be leased is located in considering the  
26 intended uses. The leases shall be granted in accordance with the  
27 Constitution of Arizona, state laws and the rules of the department.

28 B. If the department determines that leasing of the land is in the  
29 best interest of the state, the tract or tracts shall be offered for lease to  
30 the highest and best bidder.

31 C. Each offer for lease shall reserve the right in the department to  
32 reject any and all bids and to again offer the tract or tracts for lease if  
33 the bids received are not acceptable to the department.

34 D. Upon announcement of the successful bidder, the first year's annual  
35 rental shall be paid by cashier's check. The successful bidder shall also  
36 pay the cost of the publication and reasonable expenses of the sale, and such  
37 funds shall be subject to the provisions of ~~sections~~ SECTION 37-107 and  
38 ~~37-108~~. If there are bids exceeding the minimum bid accepted at the auction,  
39 the successful bidder has until 5:00 p.m. of the fifth business day following  
40 the date of the auction to deposit a cashier's check with the department for  
41 the amount exceeding the minimum bid for the first year's rent. The failure  
42 to pay the first year's rent at the time of the auction or to pay the amount  
43 exceeding the minimum bid by 5:00 p.m. on the fifth business day after the  
44 auction results in forfeiture of the lease and all monies paid. In the event  
45 of forfeiture the commissioner may declare that the bid placed before the

1 final bid accepted is the highest bid, and that bidder has five business days  
2 after notification by the department to pay by cashier's check all amounts  
3 due under this section and section ~~37-108~~ 37-107.

4 E. Before acceptance of any bid for a lease under this section, the  
5 department shall establish to its satisfaction the responsibility of the  
6 bidder.

7 F. Each lease shall be for a term in excess of ten years, but not more  
8 than ninety-nine years, as determined by the department, and shall provide  
9 for an annual rental of not less than the appraised fair market rental value  
10 of the land. The department shall establish a rental adjustment formula by  
11 which the rental provided for in the lease is subject to adjustment after  
12 periods of time specified in the lease. A period of time shall not exceed  
13 five years. The department shall include a rental adjustment formula in each  
14 lease. The rental for the first five-year period and the rental adjustment  
15 formula for that lease shall be established by the department prior to the  
16 call for bids. The department shall publish in the call for bids the rental  
17 for the first period and the rental adjustment formula for that lease.

18 G. A lease issued under this section may include an amortization  
19 schedule to be used to determine the value of improvements when the lease is  
20 terminated.

21 H. All provisions of this title applicable to state lands and the  
22 lease thereof, not in conflict with the provisions of this section, shall  
23 apply to leasing and leases issued under this section.

24 I. The department shall require an applicant to pay a deposit before  
25 beginning to process an application to lease state trust lands if the  
26 applicant did not bid at an auction where the applicant initiated the  
27 process. The deposit shall be based on the approximate first year rental  
28 plus administrative expenses and shall be deposited in a noninterest bearing  
29 account. Monies must be deposited at the time of filing an application or at  
30 a time determined by the commissioner. If the applicant is not the  
31 successful bidder at public auction, the department shall refund the deposit  
32 to the applicant. If the applicant is the successful bidder, the department  
33 shall apply the deposit to the rental price at auction. If there are no bids  
34 at the time of the auction, the department shall transfer the deposit made by  
35 the applicant to the appropriate trust beneficiary .

36 Sec. 13. Section 37-285, Arizona Revised Statutes, is amended to read:

37 37-285. Rental rates for grazing and other lands; grazing land  
38 valuation commission; reclassification and  
39 reappraisal; definitions

40 A. An agricultural, commercial or homesite lease shall provide for an  
41 annual rental of not less than the appraised rental value of the land, and  
42 never less than five cents per acre per year. The rental provided in such  
43 leases is subject to adjustment each year.

44 B. A grazing lease shall provide for an annual rental of the grazing  
45 land as computed under this section. All grazing land shall be classified

1 and appraised on the basis of its forage and annual carrying capacity,  
2 measured in animal unit months. The annual rental rate for grazing land  
3 shall be the amount determined by multiplying the number of animal unit  
4 months to be grazed on the lands by the true value rental rate per animal  
5 unit month as established by the commissioner. The rental rate per animal  
6 unit month is the rental rate determined by the commissioner based on the  
7 recommendations of the grazing land valuation commission under subsection E  
8 of this section.

9 C. Before September 1, 1994, and at other times the commissioner may  
10 propose, but not more frequently than every five years, the governor shall  
11 appoint a grazing land valuation commission consisting of five members  
12 appointed by the governor pursuant to section 38-211. The commission shall  
13 serve for a period of one year from the date the members assume office during  
14 which period the commission shall complete the appraisal. The commission  
15 shall consist of the following members, each of whom shall have experience in  
16 analyzing and valuing the use of forage on grazing land:

17 1. One member who is a professional appraiser and who is certified in  
18 this state.

19 2. One member who is a professor and who serves on the faculty of the  
20 college of agriculture at the university of Arizona.

21 3. One member who is a retired employee of a financial institution  
22 that is actively engaged in agricultural lending.

23 4. One member who primarily derives income from livestock grazing and  
24 who does not hold a state lease.

25 5. One member who is a conservationist and who represents a natural  
26 resource conservation district in this state.

27 D. Each member of the grazing land valuation commission shall receive  
28 compensation at the rate of one hundred dollars for each meeting. Each  
29 member of the commission shall receive reimbursement for expenses pursuant to  
30 title 38, chapter 4, article 2.

31 E. The grazing land valuation commission may employ a person who is  
32 experienced in analyzing and valuing the use of forage on grazing land and  
33 who, together with the members of the commission, shall gather the  
34 information that is necessary to prepare an appraisal to determine the true  
35 value of the use of forage on state grazing land and shall prepare this  
36 appraisal using both the market and income approaches. The appraisal report  
37 shall recommend a grazing fee that will equal the true value as recommended  
38 by the commission. The information and work products gathered in preparing  
39 the appraisal shall be available to the public. In determining the rental  
40 rate using the market approach the commission shall determine the typical  
41 lease of two years or more of private grazing land located in this state  
42 during normal years. The commission shall compare all factors that make up  
43 the bundle of rights and obligations in the typical private lease with the  
44 factors that make up the bundle of rights and obligations in the typical  
45 state lease. The commission shall document all adjustments, calculations and

1 assumptions made in reaching a conclusion of true rental value for the state  
2 land grazing fee and shall determine economic benefit, burden or value  
3 attributable to each of these factors. These factors shall include the  
4 following:

5 1. All services, equipment and water rights provided by the lessor or  
6 lessee.

7 2. All improvements typically constructed and maintained to facilitate  
8 or enhance the use of the land for livestock grazing, wildlife, hunting or  
9 recreation.

10 3. All management and protection services that are typically provided.

11 4. The tenure, right to renew, assignability, right to reimbursement  
12 for improvements, responsibility for property taxes, right of others to share  
13 in the use of the land and ability to control access by others.

14 5. The size, location, accessibility, condition and carrying capacity  
15 of the land being leased and all related costs.

16 F. The commissioner's decision under this section may be appealed by  
17 any affected lessee to the board of appeals pursuant to section 37-215, and,  
18 except as provided in section 41-1092.08, subsection H, the decision of the  
19 board of appeals may be appealed to the superior court pursuant to title 12,  
20 chapter 7, article 6.

21 G. The commissioner may make a reclassification or reappraisal, or  
22 both, at any time. If a reclassification or reappraisal, or both, is made  
23 pursuant to a request of a lessee, before expiration of the lease, the lessee  
24 LESSEE shall pay the A reclassification fee prescribed by PURSUANT TO section  
25 ~~37-108~~ 37-107 plus the actual expenses incurred in making a reappraisal.

26 H. The department may authorize nonuse for part or all of the grazing  
27 use upon request of the lessee at least sixty days prior to the beginning of  
28 the billing date. The rental fee shall be based on the animal unit months  
29 used, but the total rental fee for partial or full nonuse shall not be less  
30 than five cents per acre per year.

31 I. ~~IN~~ FOR THE PURPOSES OF this section:

32 1. "Animal unit" means one weaned beef animal over six months of age,  
33 or one horse, or five goats, or five sheep, or the equivalent.

34 2. "Animal unit month" means one animal unit grazing for one month.

35 Sec. 14. Section 37-313, Arizona Revised Statutes, is amended to read:

36 37-313. Conservation lease of trust lands suitable for  
37 conservation; definition

38 A. The commissioner may sell leases of trust land for conservation  
39 purposes to a qualifying lessee when it is in the best interest of the trust.  
40 The conservation lease may authorize the lessee to protect the conservation  
41 and open space value of the land in cooperation with other lessees of the  
42 land, consistent with the plan adopted under section 37-312. The  
43 commissioner retains the right to authorize other compatible uses of the  
44 land.

1           B. The term of the lease may be for less than ten years or for at  
2 least ten but not more than fifty years. The sale of any lease shall be:

3           1. At public auction.

4           2. Based on one independent appraisal and one independent review  
5 appraisal, both of which may be reviewed by the department, of the fair  
6 market value of the interest in the trust land that is being offered,  
7 including mineral, sand and gravel and oil and gas value.

8           3. Consistent with the requirements of the Constitution of Arizona,  
9 applicable provisions of this title and rules adopted by the commissioner.

10          C. If an existing lease is not renewed as a result of any action taken  
11 pursuant to this article and the conservation lessee and the existing lessee  
12 cannot agree on compensation, the commissioner shall determine the amount of  
13 reasonable compensation for damages sustained by the existing lessee after  
14 considering the following factors:

15          1. The actual use of the leased land.

16          2. The rentals paid during the term of the lease.

17          3. The actual amount of economic damage to the production unit caused  
18 by the failure to renew. In determining the amount of economic damage to the  
19 production unit, the commissioner shall not limit the scope of review to only  
20 that portion of the lands involved in the reclassification but shall take  
21 into consideration the impact of the loss of these lands on the overall  
22 production unit, including situations in which other leased or private lands  
23 are necessary and have been leased by the existing lessee for operation as a  
24 production unit.

25          4. Other factors that the commissioner or the existing lessee  
26 determine to be relevant.

27          D. The conservation lessee shall make payments for reimbursement or  
28 compensation, or both, as established in this section to the existing lessee  
29 at the time the lease is not renewed. This section does not prevent the  
30 payment for reimbursement or compensation, or both, from being made in  
31 installments if the former lessee and conservation lessee agree to  
32 installment payments.

33          E. If trust lands that are leased pursuant to this section are subject  
34 to a current planning permit under article 5.1 of this chapter, the  
35 succeeding lessee shall reimburse the holder of the permit as provided by  
36 section 37-338.

37          F. The department shall make application forms available for leases.  
38 The application form shall contain a statement under penalty of perjury that  
39 the person signing the application represents that the information in the  
40 application is complete and correct. A material false statement or omission  
41 of facts in the application is cause for canceling a conservation lease that  
42 was issued based on the application.

43          G. At the time of application the applicant shall post a bond pursuant  
44 to section ~~37-108~~ 37-107. The bond is forfeit to this state if no bidder  
45 bids at the auction for the conservation lease.

1 H. The successful bidder shall pay the first year's annual rental and  
2 other costs pursuant to section 37-281.02, subsection D and section ~~37-108~~  
3 37-107.

4 I. If the applicant did not bid at a previous auction where the  
5 applicant initiated the process, the department shall require the applicant  
6 to pay a deposit pursuant to section 37-281.02, subsection I.

7 J. A lessee under a conservation lease shall not:

8 1. Use the lands for any purpose other than that for which the lease  
9 was issued.

10 2. Sublease the lands except to another qualifying lessee and on  
11 approval by the commissioner.

12 3. Inhibit or interfere with other existing leases.

13 K. A state land trust beneficiary may lease trust land under this  
14 section but may not make payments on the lease from monies that were received  
15 from the state trust.

16 L. For purposes of this section "qualifying lessee" includes:

17 1. The United States or an agency or instrumentality of the United  
18 States.

19 2. An agency of this state, including a state land trust beneficiary.

20 3. A county, city, town, school district, community college district  
21 or special taxing district or any of their agencies or instrumentalities.

22 4. An individual or a private organization or entity that is legally  
23 empowered to own or manage real property in this state.

24 Sec. 15. Section 37-314, Arizona Revised Statutes, is amended to read:

25 37-314. Conveyance of title to trust lands suitable for  
26 conservation purposes

27 A. The commissioner may sell or otherwise transfer title to trust  
28 lands suitable for conservation purposes when it is in the best interest of  
29 the trust.

30 B. A sale of trust land under this section shall be:

31 1. At public auction.

32 2. Based on one independent appraisal and one independent review  
33 appraisal, both of which may be reviewed by the department, of the fair  
34 market value of the trust land that is being offered. The appraisal shall  
35 not take into consideration the conditions or covenants which may be imposed  
36 under subsection C of this section in order to reduce the appraised value.

37 3. Consistent with the requirements of the Constitution of Arizona,  
38 applicable provisions of this title and rules adopted by the commissioner.

39 C. The terms of the sale may include the condition that the conveyance  
40 of title is subject to a covenant that runs with the land and that the land  
41 shall be used only for purposes that are consistent with the conservation of  
42 specifically named resources or public values.

43 D. The commissioner shall include the applicable conditions under  
44 subsection C of this section in any public notices relating to the sale under  
45 this section.

1 E. If the trust land is sold subject to a lease and the lease is  
2 canceled or modified due to a sale of land under this section and the  
3 purchaser and the existing lessee cannot agree on compensation, the  
4 commissioner shall determine the amount of reasonable compensation for  
5 damages sustained by the existing lessee after considering the following  
6 factors:

7 1. The time remaining in the term of the lease at the time that the  
8 lease is canceled or modified.

9 2. The actual use of the leased land.

10 3. The rentals paid during the term of the lease.

11 4. The actual amount of economic damage to the production unit caused  
12 by the cancellation or modification. In determining the amount of economic  
13 damage to the production unit, the commissioner shall not limit the scope of  
14 review to only that portion of the lands involved in the reclassification but  
15 shall take into consideration the impact of the loss of these lands on the  
16 overall production unit, including situations in which other leased or  
17 private lands are necessary and have been leased by the existing lessee for  
18 operation as a production unit.

19 5. Other factors that the commissioner or the existing lessee  
20 ~~determine~~ DETERMINES to be relevant.

21 F. The purchaser shall make payments for reimbursement or  
22 compensation, or both, as established in this section to the existing lessee  
23 at the time of sale. This section does not prevent the payment for  
24 reimbursement or compensation, or both, from being made in installments if  
25 the existing lessee and purchaser agree to installment payments.

26 G. If trust lands that are conveyed pursuant to this section are  
27 subject to a current planning permit under article 5.1 of this chapter, the  
28 transferee shall reimburse the holder of the permit as provided by section  
29 37-338.

30 H. At the time of application the applicant shall post a bond pursuant  
31 to section ~~37-108~~ 37-107. The bond is forfeit to this state if no bidder  
32 bids at the auction for the sale of the land.

33 Sec. 16. Section 37-604, Arizona Revised Statutes, is amended to read:

34 37-604. Exchange of state land; procedure; limitation and  
35 exceptions

36 A. The state land department and selection board, for proper  
37 management, control, protection or public use of state lands, may exchange  
38 state lands managed by the department for any other land within the state.  
39 The state land department and selection board, to encourage compatible use of  
40 lands near military airports, may exchange state lands managed by the  
41 department for private lands near military airports. Exchanges may be made  
42 for land owned or administered by other state agencies, counties,  
43 municipalities and private parties. Exchanges with the United States or its  
44 agencies shall be in conformance with section 37-722, but the department  
45 shall also follow the procedures for notifying interested parties prescribed

1 by subsection C, paragraph 5 of this section and the classification  
2 procedures in section 37-212.

3 B. The department shall adopt rules governing the application and  
4 procedure for the exchange of state land. Such rules shall include the  
5 following requirements:

6 1. The application shall include:

7 (a) The name, age and residence of the applicant.

8 (b) A legal description of all lands to be considered for exchange.

9 (c) A list of permanent improvements on the state lands to be  
10 considered for exchange.

11 (d) A list of the leasehold interest in the state land to be  
12 considered for exchange.

13 (e) Accompanying agreements, if any, with the leaseholder or owner of  
14 improvements on the state land to be considered for exchange.

15 2. Payment of the fee FEES prescribed by FOR THAT PURPOSE PURSUANT TO  
16 section ~~37-108~~ 37-107.

17 3. Such additional requirements as the department determines to be  
18 necessary. Upon completion of processing and analyzing the application, and  
19 on determining that the proposed exchange would benefit the applicable trust,  
20 the department shall notify and deliver a report containing details of the  
21 proposed exchange to members of the selection board. At the same time the  
22 department shall also notify and provide the report to the state legislators  
23 from the legislative districts in which the lands proposed to be exchanged  
24 are located.

25 C. Exchanges of state lands are subject to the following requirements:

26 1. The commissioner shall determine by at least two independent  
27 appraisals that the state lands being considered for exchange are of  
28 substantially equal value or of lesser value than the land offered by the  
29 applicant. However, the commissioner may determine that rural lands being  
30 exchanged to consolidate land ownership for management purposes require only  
31 one independent appraisal. The commissioner may require the applicant to pay  
32 the cost of appraisals.

33 2. No county or municipality may be permitted to select lands in  
34 another county or municipality.

35 3. State lands known to contain oil, gases and other hydrocarbon  
36 substances, coal or stone, metals, minerals, fossils and fertilizer, in  
37 paying quantities, and state lands adjoining lands upon which there are  
38 producing oil or gas wells, or adjoining lands known to contain any of such  
39 substances in paying quantities shall not be exchanged. These prohibitions  
40 against exchange shall not prevent the exchange of lands where the state does  
41 not own such substances, minerals or metals in the lands to be considered for  
42 exchange.

43 4. All state lands offered for trade pursuant to this section must be  
44 located in the same county as the lands offered to the state. However, lands  
45 in adjoining counties more than three miles outside the corporate boundaries

1 of incorporated cities and towns having a population of ten thousand people  
2 or less and lands in adjoining counties but more than five miles outside the  
3 corporate boundaries of incorporated cities and towns having a population in  
4 excess of ten thousand people may be exchanged to facilitate consolidating  
5 land ownership if the boards of supervisors of the counties in which lands  
6 are to be exchanged give their prior approval.

7 5. Prior to public notice of a proposed exchange of state lands for  
8 other lands, the department and selection board shall give thirty days'  
9 notice in writing to other interested state agencies, counties,  
10 municipalities, and leaseholders on state lands that are or may be affected  
11 by the exchange.

12 6. Before any state land may be considered for exchange under the  
13 provisions of this article, the land shall be classified as suitable for such  
14 purposes in accordance with the provisions of section 37-212. Any person  
15 adversely affected by such classification may appeal from the decision as  
16 provided in section 37-215.

17 7. The department shall publish notice of all proposed exchanges in  
18 the same manner and places as is required for the sale of state lands  
19 pursuant to section 37-237, except that the notice shall be published once  
20 each week for four consecutive weeks. The notice shall contain a legal  
21 description of the properties involved and other pertinent terms and  
22 conditions of the exchange. The department shall also schedule a public  
23 hearing on the exchange contemplated in the notice. The hearing shall be  
24 held at the county seat of the county in which the state lands proposed to be  
25 exchanged are located or in the county in which the majority of the state  
26 lands is located. The hearing shall be held not less than fifteen days prior  
27 to the date of the selection board's consideration of the proposed exchange,  
28 and any person may appear and protest the proposed exchange at that time.

29 D. Lands conveyed to the state under this article shall, upon  
30 acceptance of title and recording, be dedicated to the same purpose and  
31 administered under the same laws to which the lands conveyed were subject,  
32 but may be reclassified as provided in section 37-212.

33 Sec. 17. Section 37-615, Arizona Revised Statutes, is amended to read:

34 37-615. Exchange of road rights-of-way on state land;  
35 procedure; limitation and exceptions

36 A. The state land department and selection board, for reasons of  
37 proper management, control, protection, or public use of state lands, may  
38 exchange road rights-of-way over state lands managed by the state land  
39 department for road rights-of-way over any other land within the state. The  
40 exchange may be made for road rights-of-way over land owned or held by the  
41 United States or an agency thereof, other state agencies, counties or  
42 municipalities and privately owned lands.

43 B. The state land department shall adopt rules governing the  
44 application and procedure for exchange of road rights-of-way over state  
45 land. Such rules shall include the following requirements:

- 1           1. The application shall include:
  - 2           (a) The name, age and residence of the applicant.
  - 3           (b) A description of all road rights-of-way sought to be exchanged.
  - 4           (c) A list of permanent improvements on the road rights-of-way to be  
5 exchanged.
  - 6           (d) Any leasehold interest in the land affected by the proposed  
7 exchange.
  - 8           (e) Accompanying agreements, if any, with the leaseholder or owner of  
9 improvements on the land affected by the proposed exchange.
- 10          2. Payment of ~~the fee~~ FEES prescribed by FOR THAT PURPOSE PURSUANT TO  
11 section ~~37-108~~ 37-107.
- 12          3. An application initiated by a private owner shall be accompanied by  
13 a deposit equal to the estimated cost of appraising the value of the road  
14 rights-of-way on any privately owned property to be exchanged.
- 15          4. Such additional requirements may be imposed as the state land  
16 department from time to time determines to be necessary.
- 17          C. The exchange of road rights-of-way over state lands shall be  
18 subject to the following requirements:
  - 19           1. All road rights-of-way exchanged shall be of substantially equal  
20 value.
  - 21           2. All road rights-of-way over state lands offered for trade pursuant  
22 to this section must be located in the same county as the road rights-of-way  
23 over lands offered to the state.
  - 24           3. Prior to any exchange of road rights-of-way over state lands for  
25 road rights-of-way over privately owned lands, the state land department and  
26 selection board shall give thirty days' notice in writing to other interested  
27 state agencies, counties, municipalities, and leaseholders on such lands that  
28 are or may be affected by the trade.
  - 29           4. Before any road rights-of-way over state land may be considered for  
30 exchange under the provisions of this article, the land shall be classified  
31 as suitable for such purposes in accordance with the provisions of section  
32 37-212.
  - 33           5. Any person adversely affected by such decision may appeal from the  
34 decision as provided in section 37-215.
- 35          D. Any person may, within ten days of the date of notice as provided  
36 herein, file a written protest of the exchange at the state land department  
37 offices at the state capitol upon forms provided by the state land  
38 department. Upon receipt of such a protest to a contemplated exchange  
39 pursuant to this section, the state land commissioner shall, not later than  
40 thirty days after receipt of the protest, hold a public hearing at the county  
41 seat of the county in which the state lands proposed to be exchanged are  
42 located to hear any and all matters properly subject to the proposed  
43 exchange. Notice of the public hearing shall be mailed to all protestants  
44 and published one time prior to the date of the hearing in a newspaper of  
45 general circulation in the county.

1           Sec. 18. Exemption from rule making

2           The state land commissioner is exempt from the rule making requirements  
3 of title 41, chapter 6, Arizona Revised Statutes, for one year after the  
4 effective date of this act for the purpose of prescribing and reestablishing,  
5 pursuant to section 37-107, subsection A, Arizona Revised Statutes, as added  
6 by this act, the amount of fees that were already in existence pursuant to  
7 prior law. For this purpose, the commissioner shall not increase the amount  
8 of any fee in existence under prior law. This section does not apply to any  
9 fee that was not in existence under prior law.

10           Sec. 19. Fiscal year 2010-2011 fee deposits

11           Notwithstanding section 37-107, subsection A and subsection C,  
12 paragraph 1, Arizona Revised Statutes, as added by this act, the first  
13 \$2,060,000 received by the state land department from fees established  
14 pursuant to those provisions shall not be deposited in the trust land  
15 management fund, but shall be transmitted to the state treasurer for deposit  
16 in the state general fund.

17           Sec. 20. Retroactivity

18           Section 37-107, Arizona Revised Statutes, as added by this act, and  
19 section 18 of this act apply retroactively to from and after June 30, 2010.

APPROVED BY THE GOVERNOR MAY 6, 2010.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 6, 2010.

Passed the House April 27, 20 10,

by the following vote: 48 Ayes,

11 Nays, 1 Not Voting

[Signature]  
Speaker of the House  
Pro Tempore  
[Signature]  
Chief Clerk of the House

Passed the Senate March 29, 20 10,

by the following vote: 25 Ayes,

5 Nays, 0 Not Voting

[Signature]  
President of the Senate  
[Signature]  
Secretary of the Senate

**EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR**

This Bill was received by the Governor this  
\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_,

at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Secretary to the Governor

Approved this \_\_\_\_\_ day of

\_\_\_\_\_, 20\_\_\_\_,

at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Governor of Arizona

**EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE**

This Bill was received by the Secretary of State  
this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_,

at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Secretary of State

**S.B. 1195**

SENATE CONCURS IN HOUSE  
AMENDMENTS AND FINAL PASSAGE

Passed the Senate April 28, 2010

by the following vote: 24 Ayes,

6 Nays, 0 Not Voting

Robert L. Burns  
President of the Senate

Chermin Bellenton  
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

This Bill received by the Governor this

29 day of April, 2010

at 9:40 o'clock A. M.

Michelle Bendke  
Secretary to the Governor

Approved this 6 day of

May, 2010

at 10:20 o'clock A. M.

Janice K. Brewer  
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this 6<sup>th</sup> day of May, 20 10

at 3:08 o'clock P. M.

Ken Blumett  
Secretary of State