

REFERENCE TITLE: trust land exchanges; military preservation

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

# **SB 1410**

Introduced by  
Senator Nelson

AN ACT

AMENDING SECTION 37-604, ARIZONA REVISED STATUTES; RELATING TO STATE TRUST  
LAND EXCHANGES; PROVIDING FOR CONDITIONAL ENACTMENT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 37-604, Arizona Revised Statutes, is amended to  
3 read:

4 37-604. Exchange of state land; state trust land review  
5 committee; procedure; limitation and exceptions

6 A. THE STATE TRUST LAND REVIEW COMMITTEE IS ESTABLISHED FOR THE  
7 PURPOSE OF REVIEWING, EVALUATING AND COMMENTING ON PROPOSED EXCHANGES OF  
8 STATE TRUST LANDS PURSUANT TO THIS SECTION. THE COMMITTEE CONSISTS OF:

9 1. THREE MEMBERS OF THE SENATE, APPOINTED BY THE PRESIDENT OF THE  
10 SENATE, NO MORE THAN TWO OF WHOM MAY BELONG TO THE SAME POLITICAL PARTY.

11 2. THREE MEMBERS OF THE HOUSE OF REPRESENTATIVES, APPOINTED BY THE  
12 SPEAKER OF THE HOUSE OF REPRESENTATIVES, NO MORE THAN TWO OF WHOM MAY BELONG  
13 TO THE SAME POLITICAL PARTY.

14 3. THREE MEMBERS OF THE GENERAL PUBLIC, APPOINTED BY THE GOVERNOR, NO  
15 MORE THAN TWO OF WHOM MAY BELONG TO THE SAME POLITICAL PARTY AND NONE OF WHOM  
16 HAVE ANY PECUNIARY INTEREST IN STATE TRUST LAND OR ARE A LESSEE OR PERMITEE  
17 OF TRUST LAND OR A TRUST LAND BENEFICIARY.

18 ~~A. B. The state land department and selection board, STATE TRUST LAND~~  
19 ~~MAY BE EXCHANGED FOR OTHER PUBLIC LAND IN THIS STATE for proper management,~~  
20 ~~control, protection or public use of state lands, may exchange state lands~~  
21 ~~managed by the department for any other land within the state. The state~~  
22 ~~land department and selection board, OR to encourage compatible use of lands~~  
23 ~~near military airports, may exchange state lands managed by the department~~  
24 ~~for private lands near military airports. Exchanges may be made for land~~  
25 ~~owned or administered by other state agencies, counties, municipalities and~~  
26 ~~private parties OR THE UNITED STATES OR ITS AGENCIES. Exchanges with the~~  
27 ~~United States or its agencies shall be in conformance with section 37-722,~~  
28 ~~but the department shall also follow the procedures for notifying interested~~  
29 ~~parties AND REQUIREMENTS prescribed by ARTICLE X, SECTION 12, CONSTITUTION OF~~  
30 ~~ARIZONA, subsection C- D, paragraph 5- 7 of this section and the~~  
31 ~~classification procedures in section 37-212.~~

32 ~~B. C.~~ C. The department shall adopt rules governing the application and  
33 procedure for the exchange of state land. Such rules shall include the  
34 following requirements:

35 1. The application shall include:

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

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

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

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

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

44 2. Payment of the fee prescribed by section 37-108.

1           3. Such additional requirements as the department determines to be  
2 necessary. ~~Upon~~ ON completion of processing and analyzing the application,  
3 and on determining that the proposed exchange would benefit the applicable  
4 trust, the department shall notify and deliver a report containing details of  
5 the proposed exchange to members of the selection board. At the same time  
6 the department shall also notify and provide the report to the state  
7 legislators from the legislative districts in which the lands proposed to be  
8 exchanged are located.

9           ~~6.~~ D. Exchanges of state lands are subject to the following  
10 requirements:

11           1. THE COMMISSIONER SHALL SUBMIT A COPY OF THE APPLICATION TO THE  
12 STATE TRUST LAND REVIEW COMMITTEE. THE COMMITTEE SHALL:

13           (a) CONDUCT A REVIEW AND ANALYSIS OF THE PROPOSED EXCHANGE, INCLUDING  
14 AT LEAST TWO PUBLIC MEETINGS TO HEAR COMMENTS BY ALL INTERESTED PARTIES.

15           (b) REVIEW AND ANALYZE THE INFORMATION GENERATED PURSUANT TO THIS  
16 SUBSECTION REGARDING THE DETAILS OF THE EXCHANGE.

17           (c) WITHIN SIXTY DAYS AFTER RECEIVING THE APPLICATION, ISSUE A WRITTEN  
18 PUBLIC REPORT TO THE COMMISSIONER RECOMMENDING THAT THE EXCHANGE BE APPROVED  
19 OR DENIED BASED SOLELY ON THE MERITS OF THE PROPOSAL.

20           ~~1.~~ 2. The commissioner shall determine by at least two independent  
21 appraisals that the state lands being considered for exchange are of  
22 substantially equal value or of lesser value than the land offered by the  
23 applicant. ~~However, the commissioner may determine that rural lands being~~  
24 ~~exchanged to consolidate land ownership for management purposes require only~~  
25 ~~one independent appraisal.~~ The commissioner may require the applicant to pay  
26 the cost of appraisals.

27           3. AT LEAST TWO INDEPENDENT ANALYSES OF THE PROPOSED EXCHANGE MUST BE  
28 CONDUCTED TO DETERMINE:

29           (a) THE INCOME TO THE TRUST FROM THE LANDS BEFORE THE EXCHANGE AND THE  
30 PROJECTED INCOME TO THE TRUST AFTER THE EXCHANGE.

31           (b) THE FISCAL IMPACT OF THE EXCHANGE ON EACH COUNTY, CITY OR TOWN AND  
32 SCHOOL DISTRICT IN WHICH ALL THE LANDS INVOLVED IN THE EXCHANGE ARE LOCATED.

33           (c) THE PHYSICAL, ECONOMIC AND NATURAL RESOURCE IMPACTS OF THE  
34 PROPOSED EXCHANGE ON THE SURROUNDING OR DIRECTLY ADJACENT COMMUNITIES AND THE  
35 IMPACTS ON LOCAL LAND USES AND LAND USE PLANS.

36           ~~2.~~ 4. No county or municipality may be permitted to select lands in  
37 another county or municipality.

38           ~~3.~~ 5. State lands known to contain oil, gases and other hydrocarbon  
39 substances, coal or stone, metals, minerals, fossils and fertilizer, in  
40 paying quantities, and state lands adjoining lands ~~upon~~ ON which there are  
41 producing oil or gas wells, or adjoining lands known to contain any of such  
42 substances in paying quantities shall not be exchanged. These prohibitions  
43 against exchange shall not prevent the exchange of lands where the state does  
44 not own such substances, minerals or metals in the lands to be considered for  
45 exchange.

1           ~~4.~~ 6. All state lands offered for trade pursuant to this section must  
2 be located in the same county as the lands offered to the state. ~~However,~~  
3 ~~lands in adjoining counties more than three miles outside the corporate~~  
4 ~~boundaries of incorporated cities and towns having a population of ten~~  
5 ~~thousand people or less and lands in adjoining counties but more than five~~  
6 ~~miles outside the corporate boundaries of incorporated cities and towns~~  
7 ~~having a population in excess of ten thousand people may be exchanged to~~  
8 ~~facilitate consolidating land ownership if the boards of supervisors of the~~  
9 ~~counties in which lands are to be exchanged give their prior approval.~~

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

15           ~~6.~~ 8. Before any state land may be considered for exchange under ~~the~~  
16 ~~provisions of~~ this article, the land shall be classified as suitable for such  
17 purposes in accordance with ~~the provisions of~~ section 37-212. Any person  
18 adversely affected by such classification may appeal from the decision as  
19 provided in section 37-215.

20           ~~7.~~ 9. The department shall publish notice of all proposed exchanges  
21 in the same manner and places as is required for the sale of state lands  
22 pursuant to section 37-237, except that the notice shall be published once  
23 each week for ~~four~~ SIX consecutive weeks. The notice shall contain a legal  
24 description of the properties involved and other pertinent terms and  
25 conditions of the exchange. The department shall also schedule ~~a~~ AT LEAST  
26 TWO public ~~hearing~~ HEARINGS on the exchange contemplated in the notice. ~~The~~  
27 ~~hearing shall be held at the county seat of the county in which the state~~  
28 ~~lands proposed to be exchanged are located or in the county in which the~~  
29 ~~majority of the state lands is located.~~ ONE HEARING MUST BE HELD AT THE  
30 STATE CAPITOL AND ANOTHER HEARING MUST BE HELD IN A LOCATION OF GENERAL  
31 ACCESSIBILITY IN THE PROXIMATE VICINITY OF THE STATE LANDS BEING EXCHANGED.  
32 ~~The hearing shall be held not less than fifteen days prior to the date of the~~  
33 ~~selection board's consideration of the proposed exchange, and~~ Any person may  
34 appear and protest the proposed exchange at that time.

35           10. AT LEAST FIFTEEN DAYS AFTER THE CONCLUSION OF THE LAST HEARING THE  
36 COMMISSIONER SHALL DETERMINE AND ANNOUNCE A FINDING WHETHER THE EXCHANGE IS  
37 IN THE BEST INTEREST OF THE TRUST AND TRANSMIT THE FINDING TO THE GOVERNOR,  
38 THE PRESIDENT OF THE SENATE AND THE SPEAKER OF THE HOUSE OF REPRESENTATIVES.

39           E. EACH EXCHANGE TRANSACTION MUST BE APPROVED BY THE QUALIFIED  
40 ELECTORS OF THIS STATE. THE LEGISLATURE MUST ORDER THE SUBMISSION OF THE  
41 EXCHANGE TO THE QUALIFIED ELECTORS BY CONCURRENT RESOLUTION IN THE FORM OF A  
42 REFERENDUM PURSUANT TO ARTICLE IV, PART 1, SECTION 1, CONSTITUTION OF  
43 ARIZONA, AT THE NEXT REGULAR GENERAL ELECTION. TO BE APPROVED, THE  
44 PROPOSITION MUST RECEIVE AN AFFIRMATIVE VOTE OF A MAJORITY OF THE QUALIFIED  
45 ELECTORS VOTING ON THE MEASURE.

1           ~~D.~~ F. Lands conveyed to the state under this article shall, ~~upon~~ ON  
2 acceptance of title and recording, be dedicated to the same purpose and  
3 administered under the same laws to which the lands conveyed were subject,  
4 but may be reclassified as provided in section 37-212.

5           Sec. 2. Conditional enactment

6           This act does not become effective unless the Constitution of Arizona  
7 is amended by vote of the people at the next general election to authorize  
8 exchanges of state trust land for other public lands.