



OFFICE OF THE
ARIZONA STATE TREASURER



JEFF DEWIT
TREASURER

November 25, 2015

Michael Braun, Executive Director
Arizona Legislative Council
1700 West Washington Street
Suite 100
Phoenix, Arizona 85007

Re: Legislative Analysis of HCR 2001.

Dear Michael:

As you know, the Arizona State Treasurer has specified statutory duties regarding administration of the Arizona Permanent Land Endowment Trust Fund ("Trust"), which Congress created in the Enabling Act when Arizona was admitted as a state. Congress endowed the Trust with about 10 million acres of land for multiple purposes, the largest of which by dedicated acreage was by far support of Arizona's public schools. The Treasurer's duties regarding the Trust are found in part in the Enabling Act itself and in part in Article 10, section 7, of the Arizona Constitution. The Arizona Supreme Court has long held that the Enabling Act governs if the two are ever found to be in irreconcilable conflict with each other.

On October 30, 2015, the Arizona Legislature in special session passed House Concurrent Resolution 2001, which among other things proposed an amendment of Article 10, section 7, of the State Constitution to change the formula for annual distribution of funds from the Trust to its various beneficiaries. In the same special session, the Legislature also approved House Bill 2002, which set a deadline of December 4, 2015, for Legislative Council to prepare its impartial analysis of HRC 2001 and to deliver such analysis to the Secretary of State for inclusion in her publicity pamphlet.

Because Congress has the last say over any revisions of the Trust distribution formula that alter the amounts to be paid out yearly from the Trust, I have been concerned that HRC 2001 might be found to conflict with the Enabling Act. If so, I was further concerned that HRC 2001 might not go into effect unless and until accepted and authorized by Congress, even if approved at the scheduled May 17, 2016, special election.



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Accordingly, as authorized by law, I have engaged counsel to review, analyze, and provide an opinion on whether Congress's amendment of the Enabling Act is required for HRC 2001 to become effective if it passes at the special election. To that end, I enclose an opinion from David Cantelme and Aaron Brown regarding the interplay between the Enabling Act and HRC 2001, if the latter is approved by the voters at the upcoming election. As the opinion discloses, HRC 2001 does in fact alter the annual Trust distribution percentages from what Congress approved in 1999, and thus Congress's authorization of such revisions of the Trust is required for them to be effective. The opinion further finds that such effects should be included within Legislative Council's analysis, as Legislative Council did in the case of Proposition 102, which also made a change to annual Trust's payout and was presented to the voters at the 1998 general election.

I would be willing to meet or appear before Legislative Council to elaborate, or to have Mr. Cantelme or Mr. Brown do so, if you think either or both would be helpful.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Jeff DeWit".

Jeff DeWit,
Arizona State Treasurer