HCR 2001

Introduced by
Representatives Kaiser: Bolick, Dunn, Nguyen, Payne, Pingerelli, Wilmeth,
Senator Gowan

A CONCURRENT RESOLUTION

PROPOSING AN AMENDMENT TO THE CONSTITUTION OF ARIZONA; AMENDING ARTICLE II, SECTION 36, CONSTITUTION OF ARIZONA; AMENDING ARTICLE XI, SECTION 7, CONSTITUTION OF ARIZONA; AMENDING ARTICLE XI, CONSTITUTION OF ARIZONA, BY ADDING SECTION 12; RELATING TO EDUCATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)
Be it resolved by the House of Representatives of the State of Arizona, the Senate concurring:

1. **Short title**
   This act may be cited as the "Stop Critical Race Theory and Racial Discrimination in Schools and Other Public Institutions Act".

2. **Purpose**
   The people of this state find and declare the following:
   1. Slavery, legal racial discrimination and racism are so inconsistent with the founding principles of the United States that Americans fought a civil war to eliminate the first, waged long-standing political campaigns to eradicate the second and have made the third unacceptable in the court of public opinion.
   2. Racially discriminatory ideologies and practices such as that known as "critical race theory" directly contradict the principles of the Fourteenth Amendment of the United States Constitution, the Civil Rights Act of 1964 and the Constitution of Arizona by inflaming divisions on the basis of race and ethnicity.
   3. By advocating for differential treatment of individuals on the basis of race and ethnicity, promoting the assumption that reverse racism is necessary or advancing the idea that an individual should be first and foremost reduced to one's demographic identity, the aforementioned ideologies and practices deny the constitutional guarantee of equal protection of the law and the promise of the Declaration of Independence holding that all men are created equal.
   4. The ordinary meaning of terms such as "anti-racist" and "diversity, equity and inclusion" have been supplanted and distorted by proponents of an ideology that actively groups, segregates, discriminates or otherwise advocates for differential treatment among individuals based on racial and ethnic characteristics.
   5. It is unacceptable for state-run, taxpayer-supported institutions to teach or implement racially discriminatory ideologies or practices or to require students or employees to endorse racial discrimination or participate in activities promoting it.

3. Article II, section 36, Constitution of Arizona, is proposed to be amended as follows if approved by the voters and on proclamation of the Governor:

   36. **Preferential treatment or discrimination prohibited; exceptions; definitions**
   Section 36. A. This state shall not grant preferential treatment to or discriminate against any individual or group
on the basis of race, sex, color, ethnicity or national origin
in the operation of public employment, public education or
public contracting.

B. This section does not:

1. Prohibit bona fide qualifications based on sex that
are reasonably necessary to the normal operation of public
employment, public education or public contracting.

2. Prohibit action that must be taken to establish or
maintain eligibility for any federal program, if ineligibility
would result in a loss of federal monies to this state.

— SUBJECT TO THE FOLLOWING:

(a) ANY ACTION THAT WOULD OTHERWISE BE PROHIBITED,
INCLUDING IMPLEMENTING AN AFFIRMATIVE ACTION POLICY, AND THAT
IS TAKEN IN ACCORDANCE WITH FEDERAL REQUIREMENTS PURSUANT TO
THIS PARAGRAPH SHALL BE LIMITED TO OUTREACH, ADVERTISING OR
COMMUNICATION EFFORTS.

(b) THIS STATE MAY NOT UNDER ANY CIRCUMSTANCE
DISADVANTAGE OR TREAT DIFFERENTLY ON THE BASIS OF RACE OR
ETHNICITY ANY INDIVIDUAL FROM AMONG ANY POOL OF APPLICANTS,
STUDENTS, EMPLOYEES OR CONTRACT RECIPIENTS WHEN MAKING A
HIRING, CONTRACTING, PROMOTION OR ADMISSION DECISION.

(c) A PUBLIC EDUCATIONAL INSTITUTION MAY NOT IMPLEMENT
ANY DISCIPLINARY POLICY OR DISCIPLINARY ACTION THAT TREATS AN
INDIVIDUAL STUDENT OR GROUP OF STUDENTS DIFFERENTLY ON ACCOUNT
OF RACE OR ETHNICITY.

(d) ACCESS TO SERVICES, FACILITIES OR GROUNDS OF ANY
PUBLIC EDUCATIONAL INSTITUTION IN THIS STATE MAY NOT BE
CONDITIONED ON THE RACE OR ETHNICITY OF ANY INDIVIDUAL OR
GROUP OF INDIVIDUALS.

(e) TO UPHOLD THE CONSTITUTION OF THE UNITED STATES AS
THE SUPREME LAW OF THE LAND, THIS STATE DEEMS ANY REQUIREMENT
THAT THIS STATE PRACTICE RACIAL DISCRIMINATION OTHER THAN AS
PRESCRIBED IN SUBDIVISION (a) OF THIS PARAGRAPHS TO BE
INCONSISTENT WITH THE FOURTEENTH AMENDMENT OF THE CONSTITUTION
OF THE UNITED STATES AND SUBJECT TO THE PROHIBITIONS
ESTABLISHED UNDER SECTION 3, SUBSECTION C OF THIS ARTICLE.

3. Invalidate any court order or consent decree that is
in force as of the effective date of this section.

C. The remedies available for a violation of this
section are the same, regardless of the injured party's race,
sex, color, ethnicity or national origin, as are otherwise
available for a violation of the existing antidiscrimination
laws of this state.
D. THE LEGISLATURE SHALL PRESCRIBE A PENALTY FOR ANY WILFUL VIOLATION OF THIS SECTION.

E. This section or any amendment to this section applies only to actions that are taken after the effective date of this section or the respective amendment to this section.

F. This section is self-executing.

G. For the purposes of this section:

1. "PUBLIC EDUCATIONAL INSTITUTION" INCLUDES ALL OF THE FOLLOWING:
   (a) A SCHOOL DISTRICT.
   (b) A SCHOOL THAT IS OPERATED BY A SCHOOL DISTRICT.
   (c) A CHARTER SCHOOL.
   (d) THE DEPARTMENT OF EDUCATION.
   (e) THE STATE BOARD OF EDUCATION.
   (f) THE ARIZONA STATE SCHOOLS FOR THE DEAF AND THE BLIND.
   (g) THE STATE BOARD FOR CHARTER SCHOOLS.
   (h) A UNIVERSITY UNDER THE JURISDICTION OF THE ARIZONA BOARD OF REGENTS.
   (i) A COMMUNITY COLLEGE DISTRICT THAT IS ESTABLISHED PURSUANT TO THE ARIZONA REVISED STATUTES AND THAT IS A POLITICAL SUBDIVISION OF THIS STATE.
   (j) ANY COMMUNITY COLLEGE WITHIN A COMMUNITY COLLEGE DISTRICT DESCRIBED IN SUBDIVISION (i) OF THIS PARAGRAPH.

2. "State" includes this state, a city, town or county, a public university, including the university of Arizona, Arizona state university and northern Arizona university, a community college district, a school district, a special district or any other political subdivision in this state.

4. Article XI, section 7, Constitution of Arizona, is proposed to be amended as follows if approved by the voters and on proclamation of the Governor:

7. Sectarian instruction; religious or political test or qualification; definitions

   Section 7. A. Sectarian instruction shall NOT be imparted in any school or state educational institution that may be established under this Constitution, and A religious or political test or qualification shall ever NOT be required as a condition of admission into, OR PROMOTION WITHIN, any public educational institution of the state, as teacher, EMPLOYEE, student, or pupil; but the liberty of conscience hereby secured shall not be so construed as to justify practices or conduct inconsistent with the good order, peace, morality, or safety of the state, or with the rights of others.
B. THE LEGISLATURE SHALL PRESCRIBE A PENALTY FOR ANY WILFUL VIOLATION OF THIS SECTION.

C. FOR THE PURPOSES OF THIS SECTION:

1. "POLITICAL TEST":
   (a) INCLUDES:
      (i) COMPELLING OR SOLICITING AN APPLICANT, TEACHER, EMPLOYEE, STUDENT OR PUPIL TO IDENTIFY A COMMITMENT TO OR MAKE A STATEMENT OF PERSONAL BELIEF IN SUPPORT OF ANY IDEOLOGY OR MOVEMENT THAT PROMOTES THE DIFFERENTIAL TREATMENT OF ANY INDIVIDUAL OR GROUP OF INDIVIDUALS BASED ON RACE OR ETHNICITY, INCLUDING ANY INITIATIVE OR FORMULATION OF DIVERSITY, EQUITY AND INCLUSION BEYOND UPHOLDING THE EQUAL PROTECTION OF THE LAWS GUARANTEED BY THE FOURTEENTH AMENDMENT OF THE UNITED STATES CONSTITUTION OR ANY THEORY OR PRACTICE THAT HOLDS THAT SYSTEMS OR INSTITUTIONS UPHOLDING THE EQUAL PROTECTION OF THE LAWS GUARANTEED BY THE FOURTEENTH AMENDMENT OF THE UNITED STATES CONSTITUTION ARE RACIST, OPPRESSIVE OR OTHERWISE UNJUST.
      (ii) GIVING PREFERABLE CONSIDERATION TO AN APPLICANT, TEACHER, EMPLOYEE, STUDENT OR PUPIL FOR OPINIONS EXPRESSED OR ACTIONS TAKEN IN SUPPORT OF ANOTHER INDIVIDUAL OR GROUP OF INDIVIDUALS, IN WHICH THE INSTITUTION'S CONSIDERATION IS BASED ON THE RACE OR ETHNICITY OF THOSE OTHER INDIVIDUALS.
   (b) DOES NOT INCLUDE FIDELITY TO, OR AN OATH OR EFFORT TAKEN TO UPHOLD, THIS CONSTITUTION OR THE CONSTITUTION OF THE UNITED STATES.

2. "PUBLIC EDUCATIONAL INSTITUTION" INCLUDES ALL OF THE FOLLOWING:
   (a) A SCHOOL DISTRICT.
   (b) A SCHOOL THAT IS OPERATED BY A SCHOOL DISTRICT.
   (c) A CHARTER SCHOOL.
   (d) THE DEPARTMENT OF EDUCATION.
   (e) THE STATE BOARD OF EDUCATION.
   (f) THE ARIZONA STATE SCHOOLS FOR THE DEAF AND THE BLIND.
   (g) THE STATE BOARD FOR CHARTER SCHOOLS.
   (h) A UNIVERSITY UNDER THE JURISDICTION OF THE ARIZONA BOARD OF REGENTS.
   (i) A COMMUNITY COLLEGE DISTRICT THAT IS ESTABLISHED PURSUANT TO THE ARIZONA REVISED STATUTES AND THAT IS A POLITICAL SUBDIVISION OF THIS STATE.
   (j) ANY COMMUNITY COLLEGE WITHIN A COMMUNITY COLLEGE DISTRICT DESCRIBED IN SUBDIVISION (i) OF THIS PARAGRAPH.
5. Article XI, Constitution of Arizona, is proposed to be amended by adding section 12 as follows if approved by the voters and on proclamation of the Governor:

12. **Prohibition on state-sponsored racial discrimination in public education; definitions**

**SECTION 12.** A. AN EMPLOYEE OR GOVERNING BOARD OR GOVERNING BODY MEMBER OF A PUBLIC INSTITUTION OF ELEMENTARY OR SECONDARY EDUCATION, PUBLIC UNIVERSITY OR COMMUNITY COLLEGE IN THIS STATE MAY NOT COMPEL OR REQUIRE ANY EMPLOYEE OR STUDENT TO ADOPT, AFFIRM, ENDORSE, ADHERE TO OR PROFESS AN IDEA CONTRARY TO TITLE VI OF THE CIVIL RIGHTS ACT OF 1964 (P.L. 88-352; 78 STAT. 241) AND ARTICLE II, SECTION 36 OF THIS CONSTITUTION, OR COMPEL ANY EMPLOYEE OR STUDENT TO PARTICIPATE IN A TRAINING OR ORIENTATION PROMOTING SUCH IDEAS, INCLUDING, BUT NOT LIMITED TO, ANY OF THE FOLLOWING:

1. THAT ONE RACE OR ETHNIC GROUP IS INHERENTLY MORALLY OR INTELLECTUALLY SUPERIOR TO ANOTHER RACE OR ETHNIC GROUP.
2. THAT AN INDIVIDUAL, BY VIRTUE OF THE INDIVIDUAL'S RACE OR ETHNICITY, IS INHERENTLY RACIST OR OPPRESSIVE, WHETHER CONSCIOUSLY OR UNCONSCIOUSLY.
3. THAT AN INDIVIDUAL SHOULD BE INVIDIAUSLY DISCRIMINATED AGAINST, OR RECEIVE ADVERSE TREATMENT SOLELY OR PARTLY BECAUSE OF, THE INDIVIDUAL'S RACE OR ETHNICITY.
4. THAT AN INDIVIDUAL'S MORAL CHARACTER IS DETERMINED BY THE INDIVIDUAL'S RACE OR ETHNICITY.
5. THAT AN INDIVIDUAL, BY VIRTUE OF THE INDIVIDUAL'S RACE OR ETHNICITY, IS SUBJECT TO BLAME OR JUDGMENT OR BEARS RESPONSIBILITY FOR ACTIONS COMMITTED BY OTHER MEMBERS OF THE SAME RACE OR ETHNIC GROUP.
6. THAT AN INDIVIDUAL SHOULD FEEL DISCOMFORT, GUILT, ANGUISH OR ANY OTHER FORM OF PSYCHOLOGICAL DISTRESS BECAUSE OF THE INDIVIDUAL'S RACE OR ETHNICITY.
7. THAT ACADEMIC ACHIEVEMENT, MERITOCRACY OR TRAITS SUCH AS A HARD WORK ETHIC, RATIONAL THINKING, OBJECTIVITY OR LITERACY ARE FEATURES OF RACISM OR OPPRESSION.

B. AN EMPLOYEE OF A PUBLIC INSTITUTION OF ELEMENTARY OR SECONDARY EDUCATION WHO IS ACTING IN THE COURSE OF THE EMPLOYEE'S OFFICIAL DUTIES MAY NOT USE THE EMPLOYEE'S POSITION OF AUTHORITY OVER STUDENTS OR OTHER EMPLOYEES TO PROMOTE OR ENDORSE THE TENETS DESCRIBED IN SUBSECTION A OF THIS SECTION, INCLUDING BY USING PUBLIC RESOURCES OR FACILITIES TO ENDORSE THE TENETS DESCRIBED IN SUBSECTION A OF THIS SECTION. THIS SUBSECTION DOES NOT PREVENT A TEACHER FROM IDENTIFYING AND DISCUSSING HISTORICAL MOVEMENTS, IDEOLOGIES OR INSTANCES OF RACIAL HATRED OR DISCRIMINATION, INCLUDING, BUT
NOT LIMITED TO, SLAVERY, INDIAN REMOVAL, THE HOLOCAUST OR JAPANESE-AMERICAN INTERNMENT.

C. UNLESS INCLUDED AS PART OF A FOR-CREDIT POSTSECONDARY COURSE TAUGHT BY A UNIVERSITY OR COMMUNITY COLLEGE FACULTY MEMBER, AN EMPLOYEE OF A PUBLIC UNIVERSITY OR COMMUNITY COLLEGE WHO IS ACTING IN THE COURSE OF THE EMPLOYEE'S OFFICIAL DUTIES MAY NOT USE THE EMPLOYEE'S POSITION OF AUTHORITY OVER STUDENTS OR OTHER EMPLOYEES TO PROMOTE OR ENDORSE THE TENETS DESCRIBED IN SUBSECTION A OF THIS SECTION, INCLUDING BY USING PUBLIC RESOURCES OR FACILITIES TO ENDORSE THE TENETS DESCRIBED IN SUBSECTION A OF THIS SECTION.

D. AN ATTORNEY ACTING ON BEHALF OF A PUBLIC INSTITUTION OF ELEMENTARY OR SECONDARY EDUCATION, A PUBLIC UNIVERSITY OR A COMMUNITY COLLEGE MAY REQUEST A LEGAL OPINION OF THE ATTORNEY GENERAL OR THE COUNTY ATTORNEY FOR THE COUNTY IN WHICH THE PUBLIC INSTITUTION OF ELEMENTARY OR SECONDARY EDUCATION, PUBLIC UNIVERSITY OR COMMUNITY COLLEGE IS LOCATED AS TO WHETHER A PROPOSED USE OF STATE RESOURCES WOULD VIOLATE THIS SECTION.

E. THE LEGISLATURE SHALL PRESCRIBE A PENALTY FOR ANY WILFUL VIOLATION OF THIS SECTION.

F. FOR THE PURPOSES OF THIS SECTION:

1. "COMMUNITY COLLEGE" MEANS ANY COMMUNITY COLLEGE WITHIN A COMMUNITY COLLEGE DISTRICT THAT IS ESTABLISHED PURSUANT TO THE ARIZONA REVISED STATUTES AND THAT IS A POLITICAL SUBDIVISION OF THIS STATE.


3. "PUBLIC UNIVERSITY" MEANS A UNIVERSITY UNDER THE JURISDICTION OF THE ARIZONA BOARD OF REGENTS.

6. **Severability**

If a provision of this act or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

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