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2013-2014 #104 – Amended

APR 04 2014

Colorado Secretary of State

SWARD 2:58 P.M.

Proposed Constitutional Amendment for the State of Colorado  
To Establish a Publicly Owned State Bank  
To be Numbered as Article X, Section 22

Be it Enacted by the People of the State of Colorado:

**SECTION 1.** In the constitution of the state of Colorado, add section 22 to Article X as follows:

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**Section 22. State-owned bank. Statement of intent.** (1)(a) THE STATE OF COLORADO DESIRES TO ESTABLISH A STATE-OWNED BANK IN ORDER TO STRENGTHEN ITS ECONOMY AND PROTECT IT FROM THE CYCLICAL UPS AND DOWNS CAUSED BY THE PRIVATE BANKS AND FINANCIERS WHO THAT CONTROL MONEY CREATION AND CREDIT REGULATION PROCESSES IN THE UNITED STATES, AS WELL AS TO RESTORE SERVICES THAT WERE LOST DURING THESE CYCLES.

(b) MANY OF THE ORIGINAL THIRTEEN COLONIES OF THE UNITED STATES AND THE CURRENT STATE OF NORTH DAKOTA, AS WELL AS MANY NATIONS WORLDWIDE, HAVE SHOWN THAT TRUE AND SUSTAINED PROSPERITY COMES IN LARGE PART FROM PUBLIC MONEYS CREATED AND MANAGED IN THE PUBLIC INTEREST.

(c) THE SOLE PURPOSE OF THIS AMENDMENT IS TO ESTABLISH A PUBLICLY OWNED STATE BANK THAT EFFECTIVELY PROMOTES THE GENERAL WELFARE OF THE CITIZENS OF THE STATE OF COLORADO, AS DEFINED IN SUBSECTION (4) OF THIS SECTION.

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~~(2) Effective date. THE EFFECTIVE DATE OF THIS SECTION SHALL BE JANUARY 1, 2015.~~

**(23) Term Definitions, AS USED IN THIS SECTION:**

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(a) "ALL PROVISIONS OF THIS SECTION 22 OF ARTICLE X ARE SELF-EXECUTING AND SEVERABLE AND SUPERSEDE CONFLICTING STATE CONSTITUTIONAL, STATE STATUTORY, STATE CHARTERED, OR OTHER STATE OR LOCAL PROVISIONS." MEANS ANY AMENDMENT TO THE CONSTITUTION OF THE STATE OF COLORADO OR COLORADO LAW THAT CONFLICTS WITH OR RESTRICTS THE EXECUTION OF THIS AMENDMENT TO THE CONSTITUTION OF THE STATE OF COLORADO, THE SOLE PURPOSE OF WHICH IS TO ESTABLISH A PUBLICLY OWNED STATE BANK THAT EFFECTIVELY PROMOTES THE GENERAL WELFARE OF THE CITIZENS OF THE STATE OF COLORADO, AS DEFINED IN SUBSECTION (3) OF THIS SECTION.

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(b) "SOUND BANKING PRACTICES" MEANS PRACTICES GENERALLY FOLLOWED BY PUBLIC NON-PROFIT BANKS, SUCH AS THE BANK OF NORTH DAKOTA, THAT ARE OPERATED IN THE PUBLIC INTEREST, AS OPPOSED TO THE SPECULATIVE AND FRAUDULENT PRACTICES OF PRIVATE FOR-PROFIT BANKS, WHICH ARE OPERATED PRINCIPALLY IN THE INTERESTS OF A SMALL GROUP OF FINANCIERS. FOR EXAMPLE, SOUND BANKING PRACTICES INCLUDE, BUT ARE NOT LIMITED TO, THE AVOIDANCE OF INVESTMENTS IN SPECULATIVE INSTRUMENTS SUCH AS DERIVATIVES, CREDIT DEFAULT SWAPS, INTEREST RATE SWAPS, COMMODITIES FUTURES, AND MORTGAGE BACKED SECURITIES.

(bc) "SOUND FINANCIAL AND PUBLIC POLICY CONSIDERATIONS" MEANS CONSIDERATIONS FOCUSED ON THE PUBLIC INTEREST, SUCH AS THOSE ENUMERATED IN SUBSECTION (3), PARTICULARLY THOSE OF THE CITIZENS OF THE STATE OF COLORADO, SUCH AS THOSE ENUMERATED IN SUBSECTION (4) OF THIS SECTION.

(ed) "STATE PERSONNEL SYSTEM" REFERS TO THE SYSTEM ESTABLISHED UNDER SECTION 13 OF ARTICLE XII OF THE COLORADO CONSTITUTION.

(~~edb~~) "SUFFICIENT CAPITALIZATION OF THE BANK" MEANS MEETING THE RESERVE REQUIREMENTS NECESSARY TO CREATE LOANS THAT ENABLE THE STATE OF COLORADO TO MEET THE OBJECTIVES LISTED IN SUBSECTION (4) OF THIS SECTION.

~~(d) "ALL PROVISIONS OF THIS SUBSECTION ARE SELF-EXECUTING AND SEVERABLE AND SUPERSEDE CONFLICTING STATE CONSTITUTIONAL, STATE STATUTORY, STATE CHARTERED, OR OTHER STATE OR LOCAL PROVISIONS. ANY LIMITATIONS IMPOSED BY ANY STATE CONSTITUTIONAL, STATE STATUTORY, STATE CHARTERED, OR OTHER STATE OR LOCAL PROVISIONS" MEANS ANY AMENDMENT TO THE CONSTITUTION OF THE STATE OF COLORADO OR COLORADO LAW THAT CONFLICTS WITH OR RESTRICTS THE EXECUTION OF THIS AMENDMENT TO THE CONSTITUTION OF THE STATE OF COLORADO, THE SOLE PURPOSE OF WHICH IS TO ESTABLISH A PUBLICLY OWNED STATE BANK THAT EFFECTIVELY PROMOTES THE GENERAL WELFARE OF THE CITIZENS OF THE STATE OF COLORADO, AS DEFINED IN SUBSECTION (4) OF THIS SECTION.~~

**(34) Establishment of State-owned Bank.** THE STATE OF COLORADO HEREBY ESTABLISHES A BANK TO BE OWNED BY THE STATE OF COLORADO. THE BANK IS AUTHORIZED TO LEND MONEY AT INTEREST OR AT NO INTEREST; TO PROMOTE SUSTAINABLE DEVELOPMENT, COMMERCE, INDUSTRY, AND AGRICULTURE IN THE STATE; ~~AND~~ TO PROMOTE HOME OWNERSHIP, MAINTENANCE AND CONSTRUCTION OF NEEDED INFRASTRUCTURE, EDUCATION, PUBLIC HEALTH AND SAFETY; AND OTHER PURPOSES THAT SUPPORT THE GENERAL WELFARE OF THE CITIZENS OF THE STATE OF COLORADO. THE BANK ~~SHALL~~ ~~HAVE~~ ALL THE POWERS AND AUTHORITY OF OTHER BANKS CHARTERED BY THE STATE OF COLORADO. THIS ~~SHALL~~ ~~INCLUDES~~ THE POWER TO ISSUE BONDS, IF DEEMED NECESSARY BY THE BOARD OF DIRECTORS OF THE BANK, FOR THE SOLE PURPOSE OF ESTABLISHING SUFFICIENT CAPITALIZATION OF THE BANK. THE DEBTS AND OBLIGATIONS OF THE BANK ARE BACKED BY THE FULL FAITH AND CREDIT OF THE STATE OF COLORADO THAT ~~SHALL~~ ~~SERVE~~ AS SELF-INSURANCE FOR THE BANK; ~~WHICH SHALL~~ ~~THE BANK~~ ~~IS~~ NOT BE REQUIRED TO JOIN THE FEDERAL DEPOSIT INSURANCE CORPORATION (FDIC). THE REVENUE AND INCOME OF THE BANK ~~SHALL~~ ~~ARE~~ NOT ~~BE~~ LIMITED, NOR ~~SHALL~~ ~~ARE~~ EXPENDITURES AND MANAGEMENT OF ITS REVENUE, INCOME, AND ASSETS ~~BE~~ RESTRICTED, EXCEPT UPON SOUND FINANCIAL AND PUBLIC POLICY CONSIDERATIONS. ALL PROVISIONS OF THIS SUBSECTION ~~4~~ ARE SELF-EXECUTING AND SEVERABLE AND SUPERSEDE CONFLICTING STATE CONSTITUTIONAL, STATE STATUTORY, STATE CHARTERED, OR OTHER STATE OR LOCAL PROVISIONS.

~~(5)~~ **(4) Governance of state bank: elected officials;** THE BOARD OF DIRECTORS OF THE BANK ~~SHALL~~ ~~CONSIST~~ OF FIVE MEMBERS WHO SHALL BE ELECTED AS FOLLOWS:

(a) THE STATE LEGISLATURE SHALL, IN A TIMELY FASHION NOT TO EXCEED THREE MONTHS FOLLOWING THE EFFECTIVE DATE OF THIS SECTION, DIVIDE THE STATE INTO FIVE DISTRICTS BY GROUPING THE STATE HOUSE DISTRICTS INTO FIVE CONTIGUOUS DISTRICTS OF ROUGHLY EQUAL POPULATION, WITH DUE RESPECT TO THE RURAL AND URBAN CHARACTERISTICS OF SAID DISTRICTS. THESE DISTRICTS SHALL BE REVISITED EVERY 10 YEARS THEREAFTER, WITH ADJUSTMENTS MADE ACCORDING TO THE SAME CONSIDERATIONS.

(b) THE INITIAL ELECTION SHALL BE HELD ON THE FIRST TUESDAY IN NOVEMBER, 2015, IN CONJUNCTION WITH THE GENERAL ELECTION, AND INCLUDE CANDIDATES FOR ALL FIVE DISTRICTS, TWO OF WHOM SHALL BE ELECTED FOR AN INITIAL TERM OF TWO YEARS AND THREE OF WHOM SHALL BE ELECTED FOR A TERM OF FOUR YEARS. THEREAFTER, THE TERMS OF ALL EACH MEMBERS SHALL BE FOR FOUR YEARS. TWO YEARS LATER, WHEN THE TWO YEAR TERMS EXPIRE, SAID TWO DISTRICTS SHALL ELECT MEMBERS TO TERMS OF FOUR YEARS. FOUR YEARS AFTER THE INITIAL VOTE, SAID THREE DISTRICTS SHALL ELECT MEMBERS FOR FOUR YEAR TERMS. THEREAFTER, ALL TERMS FOR ALL DISTRICTS SHALL BE FOR FOUR YEARS. EACH ELECTION HELD AFTER THE INITIAL ELECTION SHALL ALSO BE HELD

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SUBSTANTIAL EXPERIENCE IN BANKING. THE MANAGEMENT OF THE BANK SHALL BE RESPONSIBLE FOR THE DAY-TO-DAY OPERATIONS OF THE BANK, WHICH SHALL FOLLOW THE GENERAL OBJECTIVES SET FORTH BY THIS SECTION AND, SUBSEQUENTLY, BY THE BOARD OF DIRECTORS.

**(6) Rules and Regulations of State Bank.** FOLLOWING THE COMMENCEMENT OF OPERATIONS ON JANUARY 1, 2016, THE INITIAL MANAGEMENT OF THE BANK, CONSISTING OF THE TOP FIVE OPERATING OFFICIALS OF THE BANK, INCLUDING THE PRESIDENT APPOINTED BY THE BOARD OF DIRECTORS AND THOSE HIRED BY THE PRESIDENT UNDER THE PROTOCOLS OF THE STATE PERSONNEL SYSTEM, SHALL BE CHARGED WITH DRAFTING THE RULES AND REGULATIONS OF THE BANK, SUBJECT TO CONSIDERATION OF RECOMMENDATIONS BY THE ADVISORY BOARD AND APPROVAL OF THE BOARD OF DIRECTORS OF THE BANK.

**(7) Initial Operation of Bank.** WITHIN THREE MONTHS AFTER THE EFFECTIVE DATE OF THIS SECTION 22 OF ARTICLE X, THE GENERAL ASSEMBLY SHALL APPROPRIATE FUNDS TO ENABLE THE BANK TO PURCHASE OR LEASE LAND, PHYSICAL STRUCTURES, AND FURNISHINGS SUFFICIENT FOR THE BANK TO BEGIN LENDING OPERATIONS. AFTER THE BOARD OF DIRECTORS IS ELECTED, A PRESIDENT IS HIRED, AND ADVISORY BOARD IS SELECTED, THE PRESIDENT OF THE BANK, AFTER CONSULTATION WITH THE ADVISORY BOARD, AND WITH THE APPROVAL OF THE BOARD OF DIRECTORS, SHALL PURCHASE OR LEASE THE LAND, PHYSICAL STRUCTURES, AND FURNISHINGS NECESSARY TO ENABLE THE BANK TO CONDUCT ITS BUSINESS. THE BANK SHALL ESTABLISH ITS OFFICES WITHIN THE STATE OF COLORADO.

**(78) Capitalization of State Bank.** THE CAPITALIZATION OF THE BANK MAY INCLUDE ANY PROCEEDS FROM TAXES AND OTHER REVENUES AND FUNDS OF THE STATE, INCLUDING OTHER FUNDS SUCH AS MAY BE COLLECTED CURRENTLY FOR THE STATE BY OTHER BANKS, THAT ARE NOT OTHERWISE OBLIGATED, OTHER DEPOSITS IN ADDITION TO THOSE FROM THE STATE AS PERMITTED BY SOUND BANKING PRACTICES, AND FUNDS GENERATED BY BONDS, ISSUED BY THE BANK AS A D/B/A OF THE STATE, IF DEEMED NECESSARY BY THE BOARD OF DIRECTORS OF THE BANK IN ORDER TO GENERATE SUFFICIENT CAPITALIZATION OF THE BANK, AS DEFINED IN SUBSECTION (3) OF THIS AMENDMENT, SUBJECT TO SOUND BANKING PRACTICES AND THE RULES AND REGULATIONS OF THE STATE BANK. SPECIFICALLY ALLOCATED FUNDS AND OTHER ASSETS OF THE STATE NORMALLY HELD BY FINANCIAL INSTITUTIONS SHALL BE DEPOSITED AND HELD BY THE STATE BANK, INCLUDING MONEYS HELD BY OTHER BANKS FOR THE STATE OF COLORADO PRIOR TO THE ESTABLISHMENT OF THE BANK, WHICH SHALL BE TRANSFERRED TO THE BANK WITHIN TEN WORKING DAYS AFTER THE BOARD OF DIRECTORS DECLARES THAT THE BANK IS READY TO BEGINS OPERATIONS RECEIVE THE TRANSFER OF FUNDS. THE OPERATIONS OF THE BANK TRANSFER OF FUNDS SHALL COMMENCE NO LATER THAN TWO YEARS FROM THE EFFECTIVE DATE OF THIS SECTION 22 OF ARTICLE X. THE BOARD OF DIRECTORS, UPON RECEIVING THE ADVICE AND RECOMMENDATIONS FROM THE MANAGEMENT OF THE BANK, SHALL DETERMINE THE MEANS FOR ADDITIONAL CAPITALIZATION AS REQUIRED TO MEET THE OBJECTIVES OF THE BANK AS SET FORTH IN THIS SECTION.

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**(892) Effective date.** THE EFFECTIVE DATE OF THIS SECTION SHALL BE JANUARY 1, 2015.