

**2014 Initiative for an Amendment to the Colorado Constitution
to establish a state-owned bank in Colorado**

#45

The amended draft with changes highlighted

by

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RECEIVED

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**ELECTIONS/LICENSING
SECRETARY OF STATE**

S.WARD

4:30 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:

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

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 CONTROL MONEY CREATION AND CREDIT REGULATION PROCESSES IN THE UNITED STATES.

(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.

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

(3) **Term definitions.**

(a) "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 SOLELY ON THE INTERESTS OF A SMALL GROUP OF FINANCIERS.

(b) "ADEQUATE 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 AMENDMENT SECTION.

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

(d) "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, ~~AS STATED IN SECTION (4) OF THE 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 ~~"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 FOR THE GENERAL WELFARE OF THE CITIZENS OF THE STATE OF COLORADO."~~

(4) **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 INCLUDE THE POWER TO ISSUE BONDS, IF DEEMED NECESSARY BY THE BOARD OF DIRECTORS OF THE BANK, FOR THE SOLE PURPOSE OF ESTABLISHING ADEQUATE 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 NOT BE REQUIRED TO JOIN THE FEDERAL DEPOSIT INSURANCE CORPORATION (FDIC). THE REVENUE AND INCOME OF THE BANK SHALL NOT BE LIMITED, NOR SHALL EXPENDITURES AND MANAGEMENT OF ITS REVENUE, INCOME, AND ASSETS BE RESTRICTED, EXCEPT UPON SOUND FINANCIAL AND PUBLIC POLICY CONSIDERATIONS. 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.

(5) **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 AMENDMENTSECTION, 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.

(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. 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. EXCEPT FOR THE INITIAL ELECTION AND ANY RUN-OFF ELECTIONS, EACH ELECTION HELD AFTER THE INITIAL ELECTION SHALL ALSO BE HELD ON THE FIRST TUESDAY IN NOVEMBER IN ODD-NUMBERED YEARS IN CONJUNCTION WITH THE GENERAL ELECTION.

(c) CANDIDATES MUST BE CITIZENS OF THE STATE OF COLORADO FOR AT LEAST FIVE YEARS BEFORE THEY CAN DECLARE THEIR CANDIDACY AND MUST BE RESIDENTS OF THEIR DISTRICT FOR TWO YEARS.

(d) TO BE INCLUDED ON THE BALLOT, CANDIDATES SHALL REGISTER WITH THE SECRETARY OF STATE'S OFFICE, WHICH SHALL PROVIDE AN AUTOMATED ONLINE PROCESS THAT INCLUDES THE OPPORTUNITY FOR EACH CANDIDATE TO LIST THEIR QUALIFICATIONS AND REASONS WHY THEY WANT TO SERVE.

(e) IN THE EVENT THAT NO CANDIDATE WITHIN A DISTRICT RECEIVES A MAJORITY OF VOTES FROM THAT DISTRICT, THE SECRETARY OF STATE SHALL ~~HOLD-SET~~ A RUN-OFF ELECTION BETWEEN THE TWO CANDIDATES RECEIVING THE MOST VOTES, WHICH SHALL BE HELD WITHIN THIRTY DAYS AFTER THE RESULT OF THE INITIAL ELECTION IS CERTIFIED.

(f) THE GENERAL ASSEMBLY SHALL APPROPRIATE FUNDS AS NECESSARY TO CONDUCT THE ELECTIONS PROVIDED FOR IN THIS SUBSECTION. THE SECRETARY OF STATE SHALL SET ALL ELECTIONS IN ACCORDANCE WITH THIS SUBSECTION. OFFICIALS SO DESIGNATED BY LAW SHALL CONDUCT ALL ELECTIONS SPECIFIED, IN ACCORDANCE WITH THIS SUBSECTION.

(g) THE BANK SHALL COMMENCE OPERATIONS JANUARY 1, 2016.

(6) Governance of State Bank: Management, employees, and advisors: (a) THE BOARD OF DIRECTORS SHALL RECEIVE ADVISORY INPUT ON THE GENERAL DIRECTION OF THE BANK FROM A NINE-MEMBER BOARD OF ADVISORS WHOSE MEMBERS REPRESENT A BROAD CROSS-SECTION OF THE STATE, INCLUDING BUSINESS AND INDUSTRY, FARMING, TECHNOLOGY, FINANCE, SMALL BUSINESS, EDUCATION, LABOR, AND EMPLOYMENT, TO BE APPOINTED BY THE GOVERNOR, FOR STAGGERED TERMS OF FOUR YEARS EACH, EXCEPT FOR THE INITIAL APPOINTMENT WHICH SHALL PROVIDE FOUR-YEAR TERMS FOR FIVE MEMBERS AND TWO-YEAR TERMS FOR FOUR MEMBERS, SUBJECT TO CONFIRMATION BY A MAJORITY OF THE SENATE OF THE GENERAL ASSEMBLY OF THE STATE OF COLORADO. MEMBERS OF THE BOARD OF ADVISORS SHALL BE NOMINATED BY VARIOUS GROUPS WITHIN EACH AREA OF INTEREST IN A MANNER TO BE DETERMINED BY THE GENERAL ASSEMBLY.

(b) THE BOARD OF DIRECTORS SHALL ALSO RECEIVE REGULAR FINANCIAL REPORTS, NO LESS THAN ONCE A MONTH, FROM THE MANAGEMENT OF THE BANK. THE FINANCES OF THE BANK SHALL BE AUDITED ANNUALLY BY AN INDEPENDENT ACCOUNTING FIRM FREE FROM ANY CONFLICTS OF INTEREST WITH THE BANK OR STATE. ALL REPORTS AND THE AUDIT SHALL BE MADE PUBLIC WHEN THEY ARE RECEIVED BY THE BOARD.

(c) EXCEPT FOR THE PRESIDENT OF THE BANK, WHO SHALL BE APPOINTED BY THE BOARD OF DIRECTORS AND SERVE AT THEIR PLEASURE, THE MANAGEMENT AND EMPLOYEES OF THE BANK SHALL BE HIRED ACCORDING TO THE STANDARDS OF THE STATE PERSONNEL SYSTEM, WHICH SHALL ENDEAVOR TO HIRE THE BEST QUALIFIED PERSONS AND COMPENSATE THEM ACCORDINGLY BY SALARY. THE TITLES AND DUTIES OF THE REMAINING TOP FIVE OFFICIALS SHALL BE DETERMINED BY THE BOARD OF DIRECTORS. NO EMPLOYEES OF THE BANK SHALL RECEIVE COMPENSATION IN THE FORM OF COMMISSIONS AND BONUSES. THE PRESIDENT OF THE BANK MUST HAVE 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 ~~AMENDMENT SECTION~~ AND, SUBSEQUENTLY, BY THE BOARD OF DIRECTORS.

(7) 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.

(8) 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, AND FUNDS GENERATED BY BONDS, IF DEEMED NECESSARY BY THE BOARD OF DIRECTORS OF THE BANK IN ORDER TO GENERATE SUFFICIENT CAPITALIZATION OF THE BANK, AS NOTED 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 BANK BEGINS OPERATION. 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 ~~AMENDMENT SECTION~~.

(9) Transfer of funds from the state bank to the general fund of the state of Colorado. THE STATE BANK MAY TRANSFER FUNDS, FROM TIME TO TIME, TO THE GENERAL FUND OF THE STATE OF

COLORADO. SUCH AMOUNTS SHALL NOT BE SUBJECT TO OR COUNTED AGAINST ANY LIMITATIONS IMPOSED BY ANY STATE CONSTITUTIONAL, STATE STATUTORY, STATE CHARTERED, OR OTHER STATE OR LOCAL PROVISIONS. SUCH FUNDS MAY BE USED TO ENABLE THE STATE TO EXPAND, MAINTAIN, OR RESTORE ESSENTIAL SERVICES AND FACILITIES AND TO ENABLE THE STATE TO MAINTAIN A BALANCED BUDGET. SURPLUS FUNDS IN THE ACCOUNTS OF THE BANK SHALL NOT BE INCLUDED IN THE DETERMINATION OF A BALANCED BUDGET. SUCH FUNDS SHALL SERVE AS OPERATING CAPITAL FOR THE BANK, AT THE DISCRETION OF THE BOARD OF DIRECTORS AND MANAGEMENT OF THE BANK.