

SUPREME COURT, STATE OF COLORADO

2 East 14th Avenue
Denver, Colorado 80203

ORIGINAL PROCEEDING PURSUANT TO
C.R.S. § 1-40-107(2)

Petitioner:

Don Childears, Objector,

v.

Respondents:

Earl Staelin and Robert Bows, Proponents,

v.

Title Board:

Suzanne Staiert, Jason Gelender, and Daniel Domenico

FILED IN THE
SUPREME COURT

MAY - 1 2012

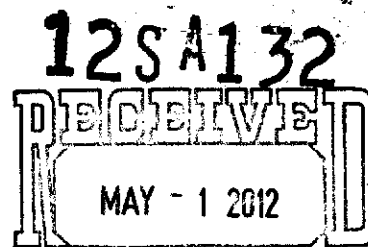
OF THE STATE OF COLORADO
Christopher T. Ryan, Clerk

▲ COURT USE ONLY ▲

Attorneys for Petitioner:

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Michael D. Hoke, #41034
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Case Number:



CLERK
COLORADO SUPREME COURT

**PETITION FOR REVIEW OF FINAL ACTION OF THE TITLE
SETTING BOARD CONCERNING PROPOSED INITIATIVES
2011-2012 NOS. 94 & 95**

Pursuant to section 1-40-107(2), Don Childears, though undersigned counsel, respectfully petitions this court to review the title, ballot title, and submission clause set by the Ballot Title Setting Board for Proposed Initiatives 2011-2012 #94 and #95 (the "Initiatives").

I. ACTION OF THE TITLE BOARD

The Title Board conducted its initial public hearing and set the titles for the Initiatives on April 18, 2012. Petitioner subsequently filed timely Motions for Rehearing on April 25, 2012. The Title Board considered the motions at its April 26, 2012 hearing and rejected Petitioner's challenges and denied each motion. Petitioner now seeks review of the Ballot Title Setting Board's actions under C.R.S. section 1-40-107(2).

II. ISSUES PRESENTED FOR REVIEW

- A. One of the proponents was absent from the April 26, 2012 hearing of the Title Board when Initiative #94 was discussed, and both proponents were absent from the portion of the April 26, 2012 hearing when Initiative #95 was discussed. Did the Title Board lack jurisdiction to set a title for the Initiatives under C.R.S. § 1-40-106(4)(a)?
- B. Both Initiatives contained numerous "whereas" clauses above the "be it enacted" clause. Did the Title Board lack jurisdiction to set titles for the Initiatives because the measures failed to comply with Article V, § 1(8) of the Colorado Constitution and C.R.S. § 1-40-105(4)?
- C. The proponents of the Initiatives made changes to the underlying measures after the review and comment hearing that were substantive but not in direct response to questions or comments posed at that hearing. Did the Title Board err in determining that it had jurisdiction

to review the Initiatives and set titles?

- D. The Initiatives each contain multiple separate subjects that bear no necessary or proper connection to each other. Did the Title Board err in approving the Initiatives under Colorado's single-subject requirement?
- E. Did the Title Board err in setting ballot titles for the Initiatives that fail to disclose major provisions of the measures and are otherwise vague and misleading?

III. SUPPORTING DOCUMENTATION

As required by section 1-40-107(2), attached is a certified copy of the petition with the title and submission clause of the proposed measure, a certified copy of the Motions for Rehearing, and final action by the Title Board.

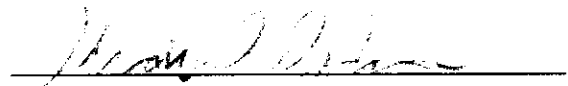
IV. RELIEF REQUESTED

Petitioner respectfully requests that the court reverse the Title Board's denial of the Motions for Rehearing and find that the Title Board lacked jurisdiction to hear these measures and set titles for the Initiatives.

Alternatively, Petitioner requests that the court reverse the Title Board's findings that the Initiatives each contain a single subject and find that the titles set by the board are misleading and vague.

Respectfully submitted this 1st day of May, 2012.

BROWNSTEIN HYATT FARBER SCHRECK LLP



Jason R. Dunn

Michael D. Hoke

Brownstein Hyatt Farber Schreck LLP

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Attorneys for Don Childears

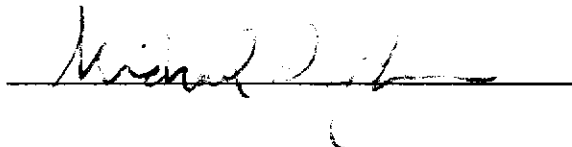
CERTIFICATE OF SERVICE

I hereby certify that on May 1, 2012, a true and correct copy of this
PETITION FOR REVIEW was delivered via U.S. Mail to the following:

Earl Staelin
1873 S. Bellaire St., Suite 1401
Denver, CO 80202
Phone: 303.512.1123
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Proponent

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Phone: 303.413.9977
Proponent

Maurice G. Knaizer, Esq.
Office of the Colorado Attorney General
1525 Sherman Street, 7th Floor
Denver, CO 80203
Attorney for the Title Board





STATE OF COLORADO

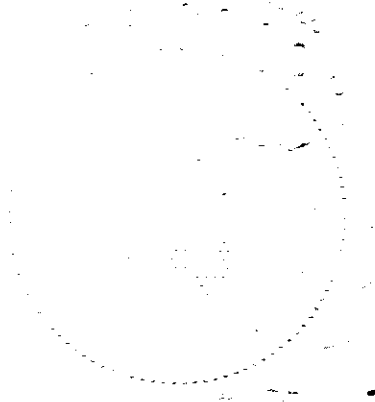
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STATE

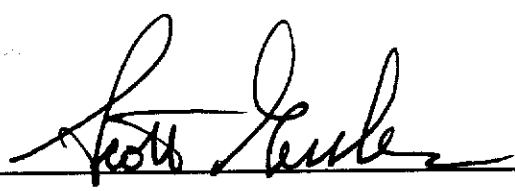
CERTIFICATE

I, **SCOTT GESSLER**, Secretary of State of the State of Colorado, do hereby certify that:

the attached are true and exact copies of the filed text, motion for rehearing, titles, and the rulings thereon of the Title Board on Proposed Initiative "2011-2012 #94 'Establishment of Banks Owned by Political Subdivisions'".....

..... **IN TESTIMONY WHEREOF** I have unto set my hand
and affixed the Great Seal of the State of Colorado, at the
City of Denver this 30th day of April, 2012.





SECRETARY OF STATE

Ballot Title Setting Board

Proposed Initiative 2011-2012 #94¹

The title as designated and fixed by the Board is as follows:

An amendment to the Colorado Constitution concerning authorization for political subdivisions of the state to establish and operate banks, and, in connection therewith, allowing political subdivisions to establish and operate banks with the same power and authority of other banks; allowing political subdivisions to deposit all of their revenues, funds, and other assets into such banks and to self-insure deposits with all of their assets; specifying requirements for the governance of such banks, including capitalization requirements; and authorizing the general assembly to provide regulatory guidelines for the oversight of these public banks by the state banking board and the commissioner of financial services.

The ballot title and submission clause as designated and fixed by the Board is as follows:

Shall there be an amendment to the Colorado Constitution concerning authorization for political subdivisions of the state to establish and operate banks, and, in connection therewith, allowing political subdivisions to establish and operate banks with the same power and authority of other banks; allowing political subdivisions to deposit all of their revenues, funds, and other assets into such banks and to self-insure deposits with all of their assets; specifying requirements for the governance of such banks, including capitalization requirements; and authorizing the general assembly to provide regulatory guidelines for the oversight of these public banks by the state banking board and the commissioner of financial services?

*Hearing April 18, 2012:
Single subject approved; staff draft amended; titles set.
Hearing adjourned 7:07 p.m.*

*Rehearing April 26, 2012:
Motion for rehearing denied except to the extent that the Board made changes to the title.
Hearing adjourned 6:08 p.m.*

¹ Unofficially captioned “**Establishment of Banks Owned by Political Subdivisions**” by legislative staff for tracking purposes. This caption is not part of the titles set by the Board.

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ELECTIONS
SECRETARY OF STATE

COLORADO TITLE SETTING BOARD

IN THE MATTER OF THE TITLE AND BALLOT TITLE AND SUBMISSION CLAUSE
FOR INITIATIVE 2011-2012 #94

MOTION FOR REHEARING

On behalf of Don Childears, a registered elector of the State of Colorado, the undersigned counsel hereby submits this Motion for Rehearing on Initiative 2011-2012 #94 and as grounds therefore states as follows:

I. The Title Board lacks jurisdiction to set a title because the measure failed to comply with Article V, § 1(8) of the Colorado Constitution and C.R.S. § 1-40-105(4).

As expressed by the legislative staff during the Review and Comment hearing on April 6, 2012, and again by members of the Title Board on April 18, the inclusion in the measure of extensive language before the "Be it enacted" clause violates both the Constitution and statute, and is sufficient basis for returning the measure to legislative staff for a second Review and Comment hearing after the measure has been corrected.

II. The Title Board lacks jurisdiction to set a title because substantial changes were made to the measure after the review and comment hearing in violation of C.R.S. § 1-40-105(2).

Following the initial Review and Comment hearing on April 6, 2012, the proponents made a variety of changes to the measure, several of which were not in response to any questions or comments made by legislative staff, including:

(a) adding the phrase "at no interest" to new paragraph (1). This changes the requirement in the original draft that if a banks elects to loan money, it must do so "at interest". Under the amended version, the bank still has the discretion to loan money, but now also has the option of doing so at interest or at no interest; and

(b) changing the authority of a political subdivision to deposit public revenues and funds in its own bank "except as limited by the legally established purposes of the government of the political subdivision " to "except as expanded or limited by the General Assembly", thereby shifting the limiting authority from the political subdivision to the General Assembly and authorizing the General Assembly to also expand that political subdivision's authority to deposit public revenues and funds in its own bank.

III. The measure impermissibly contains at least five separate and distinct subjects in violation of the single-subject requirement.

While the primary purpose of authorizing certain political subdivisions of the state to establish and operate a bank, several other unrelated subjects are impermissibly woven into the measure, including:

- (a) amending Article X, § 20, of the Colorado Constitution (TABOR) by allowing political subdivisions to engage in multi-year fiscal obligations;
- (b) amending TABOR to no longer require a public vote to impose a tax increase should a bank fail and additional tax revenues be needed to cover the related losses;
- (c) voiding the Public Deposit Protection Act, C.R.S. § 11-10.5-101 through -112 and 11-47-101 through -120 (see question #5 of the review and comment memo); and
- (d) voiding or amending the prohibition in Article XI of the Colorado Constitution prohibiting a political subdivision from pledging its credit.

IV. The title as drafted contains an impermissible catch-phrase and fails to accurately describe important aspects of the measure.

- (a) the phrase "full faith and credit" is an impermissible catch-phrase that is likely to elicit public support for the measure without public understanding that such phrase also means the political subdivision is obligating the general treasuries of the entity to cover any losses due to a bank failure, which could be significant and require the entity to incur multi-year debt to cover such losses;
- (b) the title erroneously states that the measure "allows" a political subdivision to self-insure when self-insurance will be required and unavoidable under the measure;
- (c) the title fails to reflect that the measure will eliminate or supersede the Public Deposit Protection Act, C.R.S. § 11-10.5-101, et. seq.; and
- (d) the title fails to reflect that a bank may have substantial powers beyond those traditionally associated with accepting deposits and lending activity, such as to invest in real estate and to manage 401k and IRA assets.

Accordingly, the Objector respectfully requests that this matter be set for rehearing pursuant to C.R.S. § 1-40-107(1).

Respectfully submitted this 25th day of April, 2012.

A handwritten signature in black ink, appearing to read "Jason R. Dunn", is written over a horizontal line.

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Attorneys for Don Childears

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S. WARD
2:54 P.M.

2011-2012 #94 - Final

**ELECTIONS/LICENSING
SECRETARY OF STATE**

Proposed Constitutional Amendment for the State of Colorado
To Authorize the Establishment of Banks Owned by Political Subdivisions of the State
To Be Numbered as Article X, Section 22

WHEREAS, since 1919 the People of North Dakota have owned and benefited from the successful operation of the Bank of North Dakota, the specific purpose of which has been to provide an in-state repository for the holding, management and distribution of the fees and taxes collected from the operation of the government of North Dakota; and

WHEREAS, the Bank of North Dakota is limited in its scope and purpose to make funds available for state, city, and county government operations, to benefit the People and communities of North Dakota, and to provide correspondent banking services for chartered members; and

WHEREAS, the People of North Dakota have significantly benefited from the Bank of North Dakota which has paid the state treasurer more than three hundred twenty-five million dollars (\$325,000,000) from bank profits over the past ten years; and

WHEREAS, the Bank of North Dakota is attributed with being the cause for the North Dakota economy topping the list of state economies year after year, and with being the only State that has had a continuous budget surplus since before the financial crisis of 2008; and while the rest of America has been enduring a recession, the state of North Dakota has enjoyed the largest budget surplus in its history; and

WHEREAS, the Bank of North Dakota is attributed with being the cause why in 2011 the People of North Dakota saw almost five hundred million dollars (\$500,000,000) returned to them in income and property tax cuts and will enjoy a thirty percent (30%) decrease in tax liability when combining 2009-2011 tax cuts; and

WHEREAS, the Bank of North Dakota is attributed with being the cause why North Dakota has the lowest foreclosure rate, the lowest credit card default rate, and the lowest unemployment rate (3.3%) of any State in the nation; and

WHEREAS, banks in the state of Colorado are failing at a rate five times greater than banks in other parts of the United States; and

WHEREAS, small businesses in the state of Colorado have experienced great difficulties in obtaining necessary capital as a result of the recession that began in 2008 and which result from the monetary policies of the national banking system under the control of the Federal Reserve System; and

WHEREAS, most or all of the above advantages of a State-Owned Bank can also be realized by a city, county, or other political subdivision of the state of Colorado by establishing its own bank modeled on the State Bank of North Dakota;

, 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:

(1) **Authorization of Political Subdivisions to Establish Banks.** Any county, municipality, or political subdivision of the state may engage in banking or establish a bank, and may lend money at interest or at no interest to promote development and enterprise in the state and to promote any purpose authorized by the laws governing such political subdivision. Any such bank shall have the same powers and authority of other banks chartered by the State of Colorado, as well as the power and authority to deposit public revenues and funds in its own bank, except as expanded or limited by the General Assembly. The revenue, income, and assets of such a 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 section are self-executing and severable and supersede any conflicting state constitutional, state statutory, state chartered, or other state or local provisions.

(2) **Governance of Banks.**

(a) **Governance of Banks Established by Statutory Municipalities:** In the event a statutory municipality of the state establishes a bank, its board of directors shall consist of the mayor, the municipal attorney, and the chief financial officer of the municipality. The capitalization of such bank may include all revenues, funds, and other assets of the municipality that would normally be deposited or held in a financial institution or designated as collateral by a financial institution.

(b) **Governance of Banks Established by Statutory Counties:** In the event a statutory county of the state establishes a bank, its board of directors shall consist of a county commissioner designated by the county commission, the district attorney, and the chief financial officer of the county. The capitalization of such bank may include all revenues, funds, and other assets of the county that would normally be deposited or held in a financial institution or designated as collateral by a financial institution.

(c) **Governance of Banks Established by Home Rule Municipalities:** In the event a home rule municipality establishes a bank, its board of directors shall consist of at least three elected officials, to consist of the chief executive officer of said municipality (the mayor or equivalent) and two others to be determined by the enabling legislation.

(d) **Governance of Banks Established by Home Rule Counties:** In the event a home rule county establishes a bank, its board of directors shall consist of at least three elected officials, to be determined by the enabling legislation.

(e) **Governance of Banks Established by Political Subdivisions other than Cities and/or Counties:** In the event a political subdivision that is not a municipality or county establishes a bank, its board of directors shall consist of at least three elected officials, to be determined by the enabling legislation.

(f) **Governance of Banks Established by Political Subdivisions that are both a City and a County:** In the event a political subdivision that is both a city and a county establishes a bank, its board of directors shall consist of at least three elected officials, to be determined by the enabling legislation.

(3) **Capitalization of Banks Established by Any Political Subdivision:** Banks established

by statutory municipalities, statutory counties, home rule municipalities, home rule counties, political subdivisions of the state other than cities or counties, and political subdivisions that are both a city and a county may be capitalized by the same means available to, and subject to the same minimums prescribed for banks that are privately owned, owned by publicly held corporations, or chartered by this state or the United States. Such means may include bonds, tax revenues, funds, and other assets of the political subdivision that may be so designated for this purpose. Political subdivisions not meeting minimum capitalization requirements may deposit their revenues and funds in banks established by other political subdivisions of the state of Colorado and/or a bank established by the state of Colorado.

(4) **Insured Deposits of Banks Established by Any Political Subdivision:** Banks established by statutory municipalities, statutory counties, home rule municipalities, home rule counties, political subdivisions of the state other than cities or counties, and political subdivisions that are both a city and a county may forego FDIC insurance and self-insure their deposits, the debts and obligations of such banks being backed by the full faith and credit of the political subdivision.

(5) **Regulatory Oversight:** The General Assembly may provide guidelines enforced by the Colorado Banking Board and the Colorado Commissioner of Financial Services for the oversight of banks established by statutory municipalities, statutory counties, home rule municipalities, home rule counties, political subdivisions of the state other than cities or counties, and political subdivisions that are both a city and a county, including auditing requirements.

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**ELECTIONS/LICENSING
SECRETARY OF STATE**

Proposed Constitutional Amendment for the State of Colorado
To Authorize the Establishment of Banks Owned by Political Subdivisions of the State
To Be Numbered as Article X, Section 223

WHEREAS, since 1919 the People of North Dakota have owned and benefited from the successful operation of the Bank of North Dakota, the specific purpose of which has been to provide an in-state repository for the holding, management, and distribution of the fees and taxes collected from the operation of the government of North Dakota; and-

WHEREAS, the Bank of North Dakota is limited in its scope and purpose to: ~~administer bank charters and audits;~~ make funds available for state, city, and county government operations, to benefit the People and communities of North Dakota, and to provide correspondent banking services for chartered members; and

~~WHEREAS, the Bank of North Dakota is prohibited from competing in the private sector with privately-owned banks also operating in North Dakota under state or federal charter; and,~~

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WHEREAS, the People of North Dakota have significantly benefited from the Bank of North Dakota which has paid the state treasurer more than three hundred twenty-five million dollars (\$325,000,000) million from bank profits over the past ten years; and-

WHEREAS, the Bank of North Dakota is attributed with being the cause for the North Dakota economy topping the list of state economies year after year, and with being the only State that has had a continuous budget surplus since before the financial crisis of 2008; and while the rest of America has been enduring a recession, the state of North Dakota has enjoyed the largest budget surplus in its history; and

WHEREAS, the Bank of North Dakota is attributed with being the cause why in 2011 the People of North Dakota saw almost five hundred \$500-million dollars (\$500,000,000) returned to them in income and property tax cuts and will enjoy a thirty percent (30%) decrease in tax liability when combining 2009-2011 tax cuts; and

WHEREAS, the Bank of North Dakota is attributed with being the cause why North Dakota has the lowest foreclosure rate, the lowest credit card default rate, and the lowest unemployment rate (3.3%) of any State in the nation; and-

WHEREAS, banks in the state of Colorado are failing at a rate five times greater than banks in other parts of the United States; and-

WHEREAS, ~~Small~~ small businesses in the state of Colorado have experienced great difficulties in obtaining necessary capital as a result of the recession that began in 2008 and which result from the monetary policies of the national banking system under the control of the Federal Reserve System; and

WHEREAS, ~~Most~~ most or all of the above advantages of a State-Owned Bank can also be realized by a City, County, or other political subdivision of the state of Colorado by establishing its own bank modeled on the State Bank of North Dakota;

~~AND WHEREFORE, be it enacted by the People of the State of Colorado, as Article X, Section 22 of the Colorado Constitution:~~

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

(1) Authorization of Political Subdivisions to Establish Banks. Any county, municipality, or political subdivision of the state may engage in banking or establish a bank and may lend money at interest or at no interest to promote development and enterprise in the state and to promote any purpose authorized by the laws governing such political subdivision. Any such bank shall have the same powers and authority of other banks chartered by the State of Colorado, as well as the power and authority to deposit public revenues and funds in its own bank, except as expanded or limited by the ~~legally~~ General Assembly, established purposes of the government of the political subdivision. The revenue, income, and assets of such a 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 section are self-executing and severable and supersede any conflicting state constitutional, state statutory, ~~state chartered~~, or other state or local provisions.

(2) Governance of Banks.

(a) Governance of Banks Established by Statutory Municipalities: In the event a statutory municipality of the state establishes a bank, its board of directors shall consist of the ~~Mayor, the Municipal Attorney, and the chief financial officer of the municipality.~~ ~~Municipal Auditor.~~ The capitalization of such bank may include all revenues, funds, and other assets of the municipality that would normally be deposited or held in a financial institution or designated as collateral by a financial institution.

(b) Governance of Banks Established by Statutory Counties: In the event a statutory county of the state establishes a bank, its board of directors shall consist of ~~a the Chief County Commissioner designated by the county commission, the District Attorney, and the chief financial officer of the county.~~ ~~County Auditor.~~ The capitalization of such bank may include all revenues, funds, and other assets of the county that would normally be deposited or held in a financial institution or designated as collateral by a financial institution.

(c) Governance of Banks Established by Home Rule Municipalities: In the event a home rule municipality establishes a bank, its board of directors shall consist of at least three elected officials, to consist of the chief executive officer of said municipality (the mayor or equivalent) and two others to be determined by the enabling legislation.

(d) Governance of Banks Established by Home Rule Counties: In the event a home rule county establishes a bank, its board of directors shall consist of at least three elected officials, to be determined by the enabling legislation.

(e) Governance of Banks Established by Political Subdivisions other than Cities and/or Counties: In the event a political subdivision that is not a municipality or county establishes a bank, its board of directors shall consist of at least three elected officials, to be determined by the enabling legislation.

(f) Governance of Banks Established by Political Subdivisions that are both a City and a County: In the event a political subdivision that is both a city and a county establishes a bank, its board of directors shall consist of at least three elected officials, to be determined by the enabling

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(3) Capitalization of Banks Established by Any Political Subdivisions: Banks established by statutory municipalities, statutory counties, home rule municipalities, home rule counties, political subdivisions of the state other than cities and/or counties, and political subdivisions that are both a city and a county may be capitalized by the same means available to, and subject to the same minimums prescribed for banks that are privately owned, owned by publicly held corporations, or chartered by this state or the United States. Such means may include bonds, tax revenues, funds, and other assets of the political subdivision that may be so designated for this purpose. Political subdivisions not meeting minimum capitalization requirements may deposit their revenues and funds in banks established by other political subdivisions of the State of Colorado and/or a bank established by the State of Colorado.

(4) Insured Deposits of Banks Established by Any Political Subdivision: Banks established by statutory municipalities, statutory counties, home rule municipalities, home rule counties, political subdivisions of the state other than cities or counties, and political subdivisions that are both a city and a county may forego FDIC insurance and self-insure their deposits, the debts and obligations of such banks being backed by the full faith and credit of the political subdivision.

(5) Regulatory Oversight: The General Assembly may provide guidelines enforced by the Colorado Banking Board and the Colorado Commissioner of Financial Services for the oversight of banks established by statutory municipalities, statutory counties, home rule municipalities, home rule counties, political subdivisions of the state other than cities or counties, and political subdivisions that are both a city and a county, including auditing requirements.

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2011-2012 #94 - Original

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ELECTIONS/LICENSING
SECRETARY OF STATE

Proposed Constitutional Amendment for the State of Colorado
To Authorize the Establishment of Banks Owned by Political Subdivisions of the State
To Be Numbered as Article X, Section 23

WHEREAS, since 1919 the People of North Dakota have owned and benefited from the successful operation of the Bank of North Dakota, the specific purpose of which has been to provide an in-state repository for the holding, management and distribution of the fees and taxes collected from the operation of the government of North Dakota; and,

WHEREAS, the Bank of North Dakota is limited in its scope and purpose to: administer bank charters and audits, make funds available for state, city and county government operations, to benefit the People and communities of North Dakota, and to provide correspondent banking services for chartered members,

WHEREAS, the Bank of North Dakota is prohibited from competing in the private sector with privately-owned banks also operating in North Dakota under state or federal charter; and,

WHEREAS, the People of North Dakota have significantly benefited from the Bank of North Dakota which has paid the state treasurer more than \$325 million from bank profits over the past ten years; and,

WHEREAS, the Bank of North Dakota is attributed with being the cause for the North Dakota economy topping the list of state economies year after year, and with being the only State that has had a continuous budget surplus since before the financial crisis of 2008; and while the rest of America has been enduring a recession, the state of North Dakota has enjoyed the largest budget surplus in its history; and

WHEREAS, the Bank of North Dakota is attributed with being the cause why in 2011 the People of North Dakota saw almost \$500 million returned to them in income and property tax cuts and will enjoy a 30% decrease in tax liability when combining 2009-2011 tax cuts; and

WHEREAS, the Bank of North Dakota is attributed with being the cause why North Dakota has the lowest foreclosure rate, the lowest credit card default rate, and the lowest unemployment rate (3.3%) of any State in the nation; and,

WHEREAS, banks in the state of Colorado are failing at a rate five times greater than banks in other parts of the United States; and,

WHEREAS, Small businesses in the state of Colorado have experienced great difficulties in obtaining necessary capital as a result of the recession that began in 2008 and which result from the monetary policies of the national banking system under the control of the Federal Reserve System; and

WHEREAS, Most or all of the above advantages of a State-Owned Bank can also be realized by a City, County, or other political subdivision of the state of Colorado by establishing its own bank modeled on the State Bank of North Dakota;

NOW THEREFORE, be it enacted as Article X, Section 23 of the Colorado Constitution:

Any county, municipality, or political subdivision of the state may engage in banking or establish a bank, and may lend money at interest to promote development and enterprise in the state, to promote any purpose authorized by the laws governing such political subdivision. Any such bank shall have the same powers and authority of other banks chartered by the State of Colorado, except as limited by the legally established purposes of the government of the political subdivision. The revenue, income, and assets of such a 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 section are self-executing and severable and supersede any conflicting state constitutional, state statutory, charter, or other state or local provisions.

Governance of Banks Established by Statutory Municipalities: In the event a statutory municipality of the state establishes a bank, its board of directors shall consist of the Mayor, the Municipal Attorney, and the Municipal Auditor. The capitalization of such bank may include all revenues, funds, and other assets of the municipality that would normally be deposited or held in a financial institution or designated as collateral by a financial institution.

Governance of Banks Established by Statutory Counties: In the event a statutory county of the state establishes a bank, its board of directors shall consist of the Chief County Commissioner, the District Attorney, and the County Auditor. The capitalization of such bank may include all revenues, funds, and other assets of the county that would normally be deposited or held in a financial institution or designated as collateral by a financial institution.

Governance of Banks Established by Home Rule Municipalities: In the event a home rule municipality establishes a bank, its board of directors shall consist of at least three elected officials, to consist of the chief executive officer of said municipality (the mayor or equivalent) and two others to be determined by the enabling legislation.

Governance of Banks Established by Home Rule Counties: In the event a home rule county establishes a bank, its board of directors shall consist of at least three elected officials, to be determined by the enabling legislation.

Governance of Banks Established by Political Subdivisions other than Cities and/or Counties: In the event a political subdivision that is not a municipality or county establishes a bank, its board of directors shall consist of at least three elected officials, to be determined by the enabling legislation.

Governance of Banks Established by Political Subdivisions that are both a City and a County: In the event a political subdivision that is both a city and a county establishes a bank, its board of directors shall consist of at least three elected officials, to be determined by the enabling legislation.

Capitalization of Banks Established by any political subdivisions: Banks established by statutory municipalities, statutory counties, home rule municipalities, home rule counties, political subdivisions of the state other than cities and/or counties, and political subdivisions that are both a city and a county may be capitalized by the same means available to banks that are privately owned, owned by publicly held corporations, chartered by this state or the United States. Such means may include bonds, tax revenues, funds, and other assets of the political subdivision so designated for this purpose.



STATE OF COLORADO

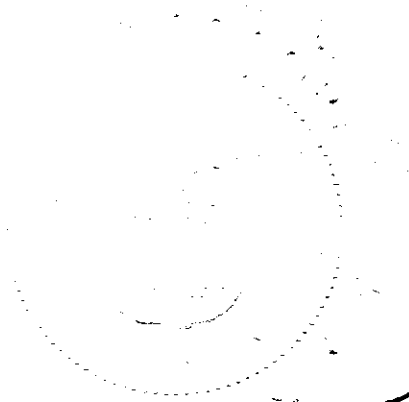
DEPARTMENT OF
STATE

CERTIFICATE

I, **SCOTT GESSLER**, Secretary of State of the State of Colorado, do hereby certify that:

the attached are true and exact copies of the filed text, motion for rehearing, titles, and the rulings thereon of the Title Board on Proposed Initiative "2011-2012 #95 'Establish a State-Owned Bank'".....

..... **IN TESTIMONY WHEREOF** I have unto set my hand
and affixed the Great Seal of the State of Colorado, at the
City of Denver this 30th day of April, 2012.



A handwritten signature in cursive script, reading "Scott Gessler", is written over a horizontal line.

SECRETARY OF STATE

Ballot Title Setting Board

Proposed Initiative 2011-2012 #95¹

The title as designated and fixed by the Board is as follows:

An amendment to the Colorado constitution concerning the establishment of a bank owned and operated by the State of Colorado, and, in connection therewith, establishing a bank authorized to lend money for various specified purposes; prohibiting the bank from accepting deposits from any individual or private entity; backing the debts and obligations of the bank by all state assets; authorizing the bank to be capitalized with all state tax and other revenues and funds; specifying requirements for the oversight, governance, and management of the bank; specifying that bank revenue, income, and expenditures shall not be limited or restricted except for financial and public policy considerations; and authorizing the drafting of rules and regulations of the bank subject to approval by the advisory board of the bank, the board of directors of the bank, the Colorado general assembly, and the governor.

The ballot title and submission clause as designated and fixed by the Board is as follows:

Shall there be an amendment to the Colorado constitution concerning the establishment of a bank owned and operated by the State of Colorado, and, in connection therewith, establishing a bank authorized to lend money for various specified purposes; prohibiting the bank from accepting deposits from any individual or private entity; backing the debts and obligations of the bank by all state assets; authorizing the bank to be capitalized with all state tax and other revenues and funds; specifying requirements for the oversight, governance, and management of the bank; specifying that bank revenue, income, and expenditures shall not be limited or restricted except for financial and public policy considerations; and authorizing the drafting of rules and regulations of the bank subject to approval by the advisory board of the bank, the board of directors of the bank, the Colorado general assembly, and the governor?

*Hearing April 18, 2012:
Single subject approved; staff draft amended; titles set.
Hearing adjourned 8:07 p.m.*

¹ Unofficially captioned "**Establish a State-Owned Bank**" by legislative staff for tracking purposes. This caption is not part of the titles set by the Board.

Rehearing April 26, 2012:

Motion for rehearing denied except to the extent that the Board made changes to the title.

Hearing adjourned 6:47 p.m.

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APR 25 2012

ELECTIONS
SECRETARY OF STATE

Y:40

COLORADO TITLE SETTING BOARD



IN THE MATTER OF THE TITLE AND BALLOT TITLE AND SUBMISSION CLAUSE
FOR INITIATIVE 2011-2012 #95

MOTION FOR REHEARING

On behalf of Don Childears, a registered elector of the State of Colorado, the undersigned counsel hereby submits this Motion for Rehearing on Initiative 2011-2012 #95 and as grounds therefore states as follows:

I. The Title Board lacks jurisdiction to set a title because the measure failed to comply with Article V, § 1(8) of the Colorado Constitution and C.R.S. § 1-40-105(4).

As expressed by the legislative staff during the Review and Comment hearing on April 6, 2012, and again by members of the Title Board on April 18, the inclusion in the measure of extensive language before the "Be it enacted" clause violates both the Constitution and statute, and is sufficient basis for returning the measure to legislative staff for a second Review and Comment hearing after the measure has been corrected.

II. The Title Board lacks jurisdiction to set a title because substantial changes were made to the measure after the review and comment hearing in violation of C.R.S. § 1-40-105(2).

Following the initial Review and Comment hearing on April 6, 2012, the proponents made a variety of changes to the measure, several of which were not in response to any questions or comments made by legislative staff, including:

(a) adding the phrase "at no interest" to new paragraph (1). This changes the requirement in the original draft that if a banks elects to loan money, it must do so "at interest". Under the amended version, the bank still has the discretion to loan money, but now also has the option of doing so at interest or at no interest.

(b) changing the mandatory requirement that the capitalization of the bank "shall" include all tax and other revenues and funds of the state, to the permissive "may" include such sources.

III. The measure impermissibly contains multiple separate and distinct subjects in violation of the constitutional single-subject requirement.

While the primary purpose of the measure appears to be the establishment of a state-owned bank, several other unrelated subjects are impermissibly woven into the measure, including:

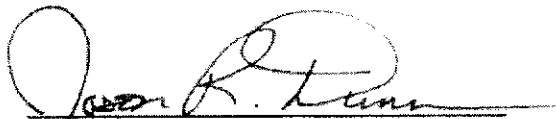
- (a) voiding the Public Deposit Protection Act, C.R.S. § 11-10.5-101 through -112 and 11-47-101 through -120 (see question #5 of the review and comment memo);
- (b) superseding Article X, § 20, of the Colorado Constitution (TABOR) to allow the state to retain excess revenue that would otherwise be in violation of the TABOR revenue limitations;
- (c) superseding TABOR by requiring the state to impose a tax increase should the state bank fail and additional funding be necessary to comply with the requirement that the full faith and credit of the state back the bank; and
- (c) voiding the prohibition in Article XI of the Colorado Constitution prohibiting the state from pledging public funds for private business.

IV. The title as drafted contains an impermissible catch-phrase and fails to accurately describe important aspects of the measure.

- (a) the phrase "full faith and credit" in the title is an impermissible catch-phrase that is likely to elicit public support for the measure without public understanding that such phrase also means that the state is obligating its general treasuries to cover any losses due to the bank failing, which could be significant and require the entity to incur multi-year debt to cover such losses;
- (b) the title fails to adequately describe that the state would be authorized to engage in the practice of banking;
- (c) the title fails to reflect that the measure will eliminate or supersede the Public Deposit Protection Act, C.R.S. § 11-10.5-101, et. seq.; and
- (d) the title fails to reflect that a bank may have substantial powers beyond those traditionally associated with accepting deposits and lending activity, such as to invest in real estate and to manage 401k and IRA assets.

Accordingly, the Objector respectfully requests that this matter be set for rehearing pursuant to C.R.S. § 1-40-107(1).

Respectfully submitted this 25th day of April, 2012.

A handwritten signature in black ink, appearing to read "Jason R. Dunn", written over a horizontal line.

Jason R. Dunn

Michael D. Hoke

Brownstein Hyatt Farber Schreck, LLP

410 17th Street, #2200

Denver, Colorado 80202

(303) 223-1100

(303) 223-0914

jdunn@bhfs.com

Attorneys for Don Childears

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APR 06 2012

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ELECTIONS/LICENSING
SECRETARY OF STATES.WARD Proposed Constitutional Amendment for the State of Colorado
To Establish a State-Owned Bank
To be Numbered as Article X, Section 23

WHEREAS, since 1919 the People of North Dakota have owned and benefited from the successful operation of the Bank of North Dakota, the specific purpose of which has been to provide an in-state repository for the holding, management, and distribution of the fees and taxes collected from the operation of the government of North Dakota; and

WHEREAS, the Bank of North Dakota is limited in its scope and purpose to: make funds available for state, city, and county government operations, to benefit the People and communities of North Dakota, and to provide correspondent banking services for chartered members; and

WHEREAS, the People of North Dakota have significantly benefited from the Bank of North Dakota which has paid the state treasurer more than three hundred twenty-five (\$325,000,000) from bank profits over the past ten years; and

WHEREAS, the Bank of North Dakota is attributed with being the cause for the North Dakota economy topping the list of state economies year after year, and with being the only State that has had a continuous budget surplus since before the financial crisis of 2008; and while the rest of America has been enduring a recession, the state of North Dakota has enjoyed the largest budget surplus in its history; and

WHEREAS, the Bank of North Dakota is attributed with being the cause why in 2011 the People of North Dakota saw almost five hundred million (\$500,000,000) returned to them in income and property tax cuts and will enjoy a 30% decrease in tax liability when combining 2009-2011 tax cuts; and

WHEREAS, the Bank of North Dakota is attributed with being the cause why North Dakota has the lowest foreclosure rate, the lowest credit card default rate, and the lowest unemployment rate of any State (3.3%) in the nation; and

WHEREAS, banks in the state of Colorado are failing at a rate five times greater than banks in other parts of the United States; and

WHEREAS, small businesses in the state of Colorado have experienced great difficulties in obtaining necessary capital as a result of the recession that began in 2008 and which result from the monetary policies of the national banking system under the control of the Federal Reserve System; and

WHEREAS, the Bank of North Dakota consolidates the handling of all state funds, while in Colorado various economic development and home ownership programs have limited authority, which may be more efficient if consolidated within one agency;

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

In the constitution of the state of Colorado, add section 23 to Article X as follows:

(1) 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 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. THE BANK SHALL HAVE ALL THE POWERS AND AUTHORITY OF OTHER BANKS CHARTERED BY THE STATE OF COLORADO; EXCEPT THAT THE BANK WILL NOT TAKE DEPOSITS OF INDIVIDUAL CITIZENS, CORPORATIONS, AND OTHER PRIVATE LEGAL ENTITIES. THE DEBTS AND OBLIGATIONS OF THE BANK ARE BACKED BY THE FULL FAITH AND CREDIT OF THE STATE OF COLORADO. THE REVENUE AND INCOME OF SUCH A 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 SECTION ARE SELF-EXECUTING AND SEVERABLE AND SUPERSEDE CONFLICTING STATE CONSTITUTIONAL, STATE STATUTORY, STATE CHARTERED, OR OTHER STATE OR LOCAL PROVISIONS.

(2) GOVERNANCE OF STATE BANK: THE BOARD OF DIRECTORS OF THE BANK SHALL BE COMPRISED OF THE GOVERNOR, ATTORNEY GENERAL, AND AUDITOR OF THE STATE, PLUS FOUR OTHERS TO BE CHOSEN BY HOLDERS OF THE OFFICES FIRST MENTIONED ABOVE AND WHO REPRESENT COLORADO'S FINANCIAL, BUSINESS, AGRICULTURE, AND LABOR SECTORS. AT LEAST TWO OF THESE SEVEN MEMBERS MUST HAVE EXECUTIVE EXPERIENCE MANAGING BANKS, THE MAJORITY OF THE STOCK OF WHICH IS OWNED BY RESIDENTS OF THIS STATE. THE TERMS OF THE ADDITIONAL FOUR BOARD MEMBERS SHALL BE SET BY THE GENERAL ASSEMBLY. THE BOARD OF DIRECTORS SHALL RECEIVE 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, 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. THE TERMS OF THE ADDITIONAL FOUR MEMBERS OF THE BOARD OF ADVISORS SHALL BE SET BY THE GENERAL ASSEMBLY. 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. EXCEPT FOR THE PRESIDENT OF THE BANK, WHO SHALL BE APPOINTED BY THE BOARD OF DIRECTORS, 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. THE PERSON APPOINTED AS PRESIDENT 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 BY THE BOARD OF DIRECTORS.

(3) RULES AND REGULATIONS OF STATE BANK. AFTER PASSAGE OF THIS AMENDMENT, THE INITIAL MANAGEMENT OF THE BANK, CONSISTING OF THE TOP FIVE OFFICIALS OF THE BANK, SHALL BE CHARGED WITH DRAFTING THE RULES AND REGULATIONS OF THE BANK, SUBJECT TO APPROVAL BY ADVISORY BOARD, THE BOARD OF DIRECTORS OF THE BANK, AND THE COLORADO GENERAL ASSEMBLY AND SIGNED BY THE GOVERNOR, IN ACCORDANCE WITH THE RULES OF THE LEGISLATURE. PRIOR TO SUCH APPROVAL THE RULES AND REGULATIONS PROMULGATED BY THE SAID OFFICIALS SHALL BE EFFECTIVE.

(4) CAPITALIZATION OF STATE BANK: THE CAPITALIZATION OF THE BANK MAY INCLUDE ALL TAX AND OTHER REVENUES AND FUNDS OF THE STATE, SUBJECT TO SOUND BANKING PRACTICES. SPECIFICALLY ALLOCATED FUNDS AND OTHER ASSETS OF THE STATE NORMALLY HELD BY FINANCIAL INSTITUTIONS SHALL BE DEPOSITED AND HELD BY THE BANK.

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APR 06 2012

S. WARD

2:54 P.M.

ELECTIONS/LICENSING
SECRETARY OF STATE

Proposed Constitutional Amendment for the State of Colorado
To Establish a State-Owned Bank
To be Numbered as Article X, Section ~~22~~23

WHEREAS, since 1919 the People of North Dakota have owned and benefited from the successful operation of the Bank of North Dakota, the specific purpose of which has been to provide an in-state repository for the holding, management, and distribution of the fees and taxes collected from the operation of the government of North Dakota; and;

WHEREAS, the Bank of North Dakota is limited in its scope and purpose to: ~~administer bank charters and audits~~, make funds available for state, city, and county government operations, to benefit the People and communities of North Dakota, and to provide correspondent banking services for chartered members; and;

WHEREAS, ~~the Bank of North Dakota is prohibited from competing in the private sector with privately-owned banks also operating in North Dakota under state or federal charter; and;~~

WHEREAS, the People of North Dakota have significantly benefited from the Bank of North Dakota which has paid the state treasurer ~~more than three hundred twenty-five (\$325,000,000) million~~ from bank profits over the past ten years; and;

WHEREAS, the Bank of North Dakota is attributed with being the cause for the North Dakota economy topping the list of state economies year after year, and with being the only State that has had a continuous budget surplus since before the financial crisis of 2008; and while the rest of America has been enduring a recession, the state of North Dakota has enjoyed the largest budget surplus in its history; and

WHEREAS, the Bank of North Dakota is attributed with being the cause why in 2011 the People of North Dakota saw almost ~~five hundred \$500-million (\$500,000,000)~~ returned to them in income and property tax cuts and will enjoy a 30% decrease in tax liability when combining 2009-2011 tax cuts; and

WHEREAS, the Bank of North Dakota is attributed with being the cause why North Dakota has the lowest foreclosure rate, the lowest credit card default rate, and the lowest unemployment rate of any State (3.3%) in the nation; and;

WHEREAS, banks in the state of Colorado are failing at a rate five times greater than banks in other parts of the United States; and;

WHEREAS, ~~small-small~~ small businesses in the state of Colorado have experienced great difficulties in obtaining necessary capital as a result of the recession that began in 2008 and which result from the monetary policies of the national banking system under the control of the Federal Reserve System; and

WHEREAS, ~~The~~ the Bank of North Dakota consolidates the handling of all state funds, while in Colorado various economic development and home ownership programs have limited authority, which may be more efficient if consolidated within one agency;

~~THEREFORE, b~~Be it enacted by the People of the State of Colorado: as Article X, Section 22 of the Colorado Constitution:

In the constitution of the state of Colorado, add section 23 to Article X as follows:

(1) 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 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 ~~ITS THE~~ CITIZENS OF THE STATE OF COLORADO. THE BANK SHALL HAVE ALL THE POWERS AND AUTHORITY OF OTHER BANKS CHARTERED BY THE ~~STATE~~ STATE OF COLORADO; EXCEPT THAT THE BANK WILL NOT TAKE DEPOSITS OF INDIVIDUAL CITIZENS, CORPORATIONS, AND OTHER PRIVATE LEGAL ENTITIES. THE DEBTS AND OBLIGATIONS OF THE BANK ARE BACKED BY THE FULL FAITH AND CREDIT OF THE STATE OF COLORADO. THE REVENUE AND INCOME OF SUCH A 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 SECTION ARE SELF-EXECUTING AND SEVERABLE AND SUPERSEDE CONFLICTING STATE CONSTITUTIONAL, STATE STATUTORY, ~~STATE~~ CHARTERED, OR OTHER STATE OR LOCAL PROVISIONS.

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AADVISORY BBOARD, THE BBOARD OF DIRECTORS OF THE BBRANK, AND THE COLORADO GENERAL ASSEMBLY AND SIGNED BY THE GOVERNOR, IN ACCORDANCE WITH THE RULES OF THE LEGISLATURE. PRIOR TO SUCH APPROVAL THE RULES AND REGULATIONS PROMULGATED BY THE SAID OFFICIALS SHALL BE EFFECTIVE.

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2011-2012 #95 – Original

APR 06 2012

**ELECTIONS/LICENSING
SECRETARY OF STATE**

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

WHEREAS, since 1919 the People of North Dakota have owned and benefited from the successful operation of the Bank of North Dakota, the specific purpose of which has been to provide an in-state repository for the holding, management and distribution of the fees and taxes collected from the operation of the government of North Dakota; and,

WHEREAS, the Bank of North Dakota is limited in its scope and purpose to: administer bank charters and audits, make funds available for state, city and county government operations, to benefit the People and communities of North Dakota, and to provide correspondent banking services for chartered members,

WHEREAS, the Bank of North Dakota is prohibited from competing in the private sector with privately-owned banks also operating in North Dakota under state or federal charter; and,

WHEREAS, the People of North Dakota have significantly benefited from the Bank of North Dakota which has paid the state treasurer more than \$325 million from bank profits over the past ten years; and,

WHEREAS, the Bank of North Dakota is attributed with being the cause for the North Dakota economy topping the list of state economies year after year, and with being the only State that has had a continuous budget surplus since before the financial crisis of 2008; and while the rest of America has been enduring a recession, the state of North Dakota has enjoyed the largest budget surplus in its history; and

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WHEREAS, The bank of North Dakota consolidates the handling of all state funds, while in Colorado various economic development and home ownership programs have limited authority, which may be more efficient if consolidated within one agency;

THEREFORE, be it enacted as Article X, Section 22 of the Colorado Constitution:

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 to promote development, commerce, industry, and agriculture in the state, to promote home ownership, maintenance and construction of needed infrastructure, education, public health, safety, and other purposes for the general welfare of its citizens. The bank shall have all the powers and authority of other banks chartered by the State of Colorado, except that the bank will not take deposits of individual citizens, corporations, and other legal entities. The revenue and income of such a 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 section are self-executing and severable and supersede conflicting state constitutional, state statutory, charter, or other state or local provisions.

Governance of State Bank: The board of directors of the bank shall be comprised of the Governor, Attorney General, and Auditor of the state, plus four others to be chosen by holders of the offices first mentioned above and should represent Colorado's financial, business, agriculture, and labor sectors. At least two of these seven members must have executive experience managing banks, the majority of the stock of which is owned by residents of this state. The board of directors shall receive 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, subject to confirmation by a majority of the Senate of the State of Colorado. Members of the board of advisors shall be nominated by various groups within each area of interest. 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. Except for the President of the bank, who shall be appointed by the board of directors, the management of the bank shall be hired according to the standards of the State Civil Service System, which shall endeavor to hire the best qualified persons and compensate them accordingly. The person appointed as president 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 by the board of directors.

After passage of this amendment, the initial management of the bank, consisting of the top five officials of the bank, shall be charged with drafting the rules and regulations of the bank, subject to approval by Advisory Board, the Board of the Bank, and the Colorado General Assembly and signed by the Governor, in accordance with the rules of the legislature.

Capitalization of State Bank: The capitalization of the bank shall include all tax and other revenues and funds of the state, not already otherwise specifically allocated. Specifically allocated funds and other assets of the state normally held by financial institutions shall be deposited and held by the bank.