

<p>SUPREME COURT OF COLORADO 101 West Colfax Avenue, Suite 800 Denver, Colorado 80203</p>	
<p>Original Proceeding Under C.R.S. § 1-40-107(2) Appeal from the Ballot Title Board</p>	<p>▪ COURT USE ONLY ▪</p>
<p>In the Matter of the Title, Ballot Title, and Submission Clause for Proposed Initiative 2011-2012 No. 95 ("Establishment of State-Owned Bank")</p> <p>Petitioner: Barbara M. A. Walker;</p> <p>v.</p> <p>Respondents: Earl Staelin and Robert Bows;</p> <p>and</p> <p>Title Board: Suzanne Staiert, Dan Domenico, and Jason Gelandner.</p>	<p style="text-align: center;">FILED IN THE SUPREME COURT.</p> <p style="text-align: center;">MAY - 1 2012</p> <p style="text-align: center;">OF THE STATE OF COLORADO Christopher T. Ryan, Clerk</p> <p>Case No. <u>12SA130</u></p>
<p>Attorneys for Petitioner Thomas M. Rogers III, #28809 Nathaniel S. Barker, #43572 ROTHGERBER JOHNSON & LYONS LLP 1200 Seventeenth Street, Suite 3000 Denver, CO 80202 Phone: 303.623.9000 Fax: 303.623.9222 Email: trogers@rothgerber.com nbarker@rothgerber.com</p>	<p>12 SA 130</p>
<p>PETITION FOR REVIEW OF FINAL ACTION OF TITLE SETTING BOARD CONCERNING PROPOSED INITIATIVE 2011-2012 NO. 95 ("ESTABLISHMENT OF STATE-OWNED BANK")</p>	

Petitioner Barbara M. A. Walker, a registered elector of the State of Colorado, through her counsel Rothgerber Johnson & Lyons LLP and pursuant to

C.R.S. § 1-40-107(2), respectfully petitions this Court to review the actions of the Ballot Title Setting Board with respect to the setting of the title, ballot title, and submission clause for Proposed Initiative 2011-2012 No. 95 ("Establishment of State-Owned Bank"),¹ and states:

STATEMENT OF THE CASE

I. Procedural History of Proposed Initiative No. 95

On April 6, 2012, after Earl Staelin and Robert Bows ("Proponents") proposed Initiative 2011-2012 No. 95 ("Initiative"), the Office of Legislative Council and Legislative Legal Services conducted a statutorily mandated review and comment hearing. Later that same day, Proponents submitted the original, amended, and final versions of the Initiative to the Secretary of State for title setting. At an April 18, 2012 hearing, the Title Board set the Initiative's title. On April 25, 2012, Petitioner filed a Motion for Rehearing and stated, in part, that the Title Board did not have jurisdiction to set the title because the Initiative was submitted to the Secretary of State in an improper form. The rehearing, attended by only one of the Proponents, was held on April 26, 2012, at which the Title Board denied the motion except to the extent that the Board amended the title.

¹ Petitioner notes that the issues presented by both this petition and her petition regarding Proposed Initiative 2011-2012 No. 94 ("Establishment of Banks by Political Subdivisions") are the same. For this reason, the Court may wish to consider both petitions as part of the same proceedings.

II. Jurisdiction

Petitioner is entitled to Colorado Supreme Court review of the Title Board's actions in setting the Initiative's title. C.R.S. § 1-40-107(1). Petitioner filed a timely Motion for Rehearing, *see* C.R.S. § 1-40-107(1), and subsequently filed this timely Petition for Review within five days from the date of the rehearing, *see* C.R.S. § 1-40-107(2). Pursuant to C.R.S. § 1-40-107(2), attached to the instant Petition for Review are certified copies of: 1) the title and submission clause as set by the Title Board; 2) the Title Board's order denying Petitioner's Motion for Rehearing; 3) Petitioner's Motion for Rehearing; 4) Proponents' final draft of the Initiative; 5) Proponents' amended draft of the Initiative; and 6) Proponents' original draft of the Initiative. Petitioner objects to the Title Board's denial of her Motion for Rehearing. For these reasons, this matter is properly before the Colorado Supreme Court.

GROUND FOR APPEAL

As grounds for appeal, Petitioner states:

1. Colorado law imposes on all of an initiative's proponents the burden of attending all Title Board meetings at which their proposed initiative is considered. C.R.S. § 1-40-106(4)(a), (d). Proponents failed to both attend the April 26, 2012 rehearing at which the Initiative was considered, and at which the

title was—in fact—amended. Because both Proponents did not attend the rehearing, the Title Board erred in accepting jurisdiction to set the Initiative's title.

2. Colorado law requires that all initiatives must be submitted to the Secretary of State in a specific style, Colo. Const. art. V § 1(8), and that any initiative submitted to the Secretary of State must not include anything other than the text of the Initiative that will be enacted into law, C.R.S. § 1-40-105(4). By including nine extraneous recitals (none of which, as all parties agree, are to be enacted into law) above the constitutionally mandated enactment clause, Proponents failed to comply with constitutional and statutory procedural filing requirements. For this reason, the Title Board erred in accepting jurisdiction to set the Initiative's title.

PRAYER FOR RELIEF

Petitioner respectfully requests that this Court determine that:

1. Proponents failed to comply with statutorily mandated attendance at the April 26, 2012 Motion for Rehearing on the Initiative;

2. Proponents failed to comply with constitutionally and statutorily mandated requirements for submitting an initiative to the Secretary of State; and

3. Based on these failures, the Title Board does not have jurisdiction to set the Initiative's title until such time as Proponents cure these jurisdictional defects.

DATED: May 1, 2012



Thomas M. Rogers III
Nathaniel S. Barker
ROTHGERBER JOHNSON &
LYONS LLP
1200 Seventeenth Street, Suite 3000
Denver, CO 80202
Phone: 303.623.9000
Fax: 303.623.9222
Email: trogers@rothgerber.com
nbarker@rothgerber.com
Attorney for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that on May 1, 2012, a true and correct copy of the foregoing **PETITION FOR REVIEW OF FINAL ACTION OF TITLE SETTING BOARD CONCERNING PROPOSED INITIATIVE 2011-2012 NO. 95 ("ESTABLISHMENT OF STATE-OWNED BANK")** was served via U.S. mail to the following:

Earl Staelin
1873 S. Bellaire St., Suite 1401
Denver, CO 80202
Phone: 303.512.1123
Fax: 303.512.1129
Email: estaelin@osglaw.com
Proponent

Robert Bows
6077 Magnolia Drive
Nederland, CO 80466
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



Nancy Stewart



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.



Scott Gessler

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.

RECEIVED

By Steven Ward at 4:12 pm, Apr 25, 2012

BEFORE THE COLORADO STATE TITLE SETTING BOARD

In re Ballot Title and Submission Clause for 2011-2012 Initiative No. 95 ("Establishment of a State-Owned Bank")

BARBARA M. A. WALKER, Objector.

MOTION FOR REHEARING

Pursuant to C.R.S. § 1-40-107, Objector, Barbara M. A. Walker, a registered elector of the State of Colorado, by and through her legal counsel, Rothgerber Johnson & Lyons, LLP, hereby submits this Motion for Rehearing of the Title Board's April 18, 2012 decision to set the title of 2011-2012 Initiative No. 95 ("Initiative"), and states as follows:

- I. The Title Board does not have jurisdiction to set the Initiative's title because proponents made substantive changes to the Initiative after the Legislative Council Review and Comment Hearing.**

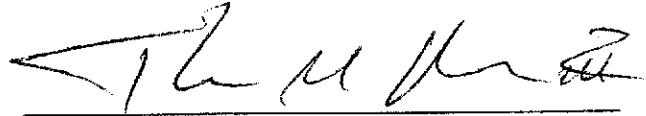
After the Legislative Council Review and Comment Hearing, Proponents made substantive changes to the Initiative that are not responsive to comments made at that hearing. Proponents failed to submit those changes for a second review and comment hearing, thus depriving the Title Board of jurisdiction to set the Initiative's title. *See* C.R.S. § 1-40-105(2).

- II. The Title Board does not have jurisdiction to set the Initiative's title because it was submitted in an improper form.**

Even though Legislative Council informed proponents of the proper form of the initiative to be submitted to the Secretary of State, proponents improperly included extraneous argument above the constitutionally mandated enactment clause. *See* Colo. Const. art. V § 1(8). Proponents also failed to comply with procedural filing requirements. *See* C.R.S. § 1-40-105(4). These failures deprive the Title Board of jurisdiction to set the Initiative's title.

WHEREFORE, Objector respectfully requests that the Title Board set Initiative 94 for rehearing pursuant to C.R.S. 1-40-107(1).

DATED: April 25, 2012.



Thomas M. Rogers III
ROTHGERBER JOHNSON & LYONS, LLP
1200 Seventeenth St., Suite 3000
Denver, CO 80202
Phone: (303) 623-9000
Fax: (303) 623-9222
Email: trogers@rothgerber.com

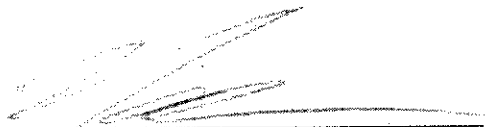
Address of objector:
Barbara M. A. Walker
1277 S. Vine St.
Denver, CO 80210

CERTIFICATE OF SERVICE

I hereby certify that on April 25, 2012, a true and correct copy of this **MOTION FOR REHEARING** was served on proponents via email and U.S. Mail as follows:

Earl Staelin (via email)
1873 S. Bellaire St., Suite 1401
Denver, CO 80222
Phone: 303.512.1123
Fax: 303.512.1129
Email: estaelin@osglaw.com

Robert Bows (via U.S. Mail)
6077 Magnolia Drive
Nederland, CO 80466
Phone: 303.413.9977
Proponents



Nathaniel S. Barker

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APR 06 2012 2:54 PM.

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

ELECTIONS/LICENSING
SECRETARY OF STATES. WARD
2:54 P.M.

Proposed Constitutional Amendment for the State of Colorado
To Establish a State-Owned Bank
To be Numbered as Article X, Section ~~2223~~

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 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, ~~if~~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, 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 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 ~~ADDITION~~ ~~OF THE STATE,~~ PLUS FOUR OTHERS TO BE CHOSEN BY HOLDERS OF THE OFFICES FIRST MENTIONED ABOVE AND ~~SHOULD~~ ~~THAT~~ 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~~ 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, STATE CIVIL SERVICE SYSTEM,~~ WHICH SHALL ENDEAVOR TO HIRE THE BEST QUALIFIED PERSONS AND COMPENSATE THEM ACCORDINGLY. THE PERSON APPOINTED AS ~~PRESIDENT~~ 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.

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AADVISORY BBOARD, THE BBOARD OF DIRECTORS OF THE BBANK, 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 SHALL MAY INCLUDE ALL TAX AND OTHER REVENUES AND FUNDS OF THE STATE, NOT ALREADY OTHERWISE SPECIFICALLY ALLOCATED 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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S. WARD
2:54 P.M.

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

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 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;

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.