

A BILL FOR AN ACT

CREATING THE BANK OF THE STATE OF COLORADO

AND IN CONNECTION THEREWITH AMENDING C.R.S.

SECTION 24-77-108 TO EXEMPT THE BANK FROM ITS

PROVISIONS

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47 **BILL SUMMARY**

48 *(Note: This summary applies to this bill as introduced and does not reflect any amendments that*
49 *may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill*
50 *summary that applies to the reengrossed version of this bill will be available at*
51 *<http://leg.colorado.gov>.)*

52 This statute creates the Bank of the State of Colorado (hereinafter “the bank”), which is a body
53 corporate and political subdivision of the state. The bank is an “enterprise” as defined in section
54 (2)(d) of Article X, section 20 of the Colorado constitution. The bank is operated and controlled
55 by the Bank of the State of Colorado board, which consists of eleven members These include:
56 the governor, the attorney general, and the state treasurer, three persons with substantial
57 experience in banking or finance, two of them with banks a majority of whose owners are
58 Colorado residents, and five others from diverse backgrounds such as small business, community
59 development, and housing. The bank board will appoint the president of the bank and will
60 approve the appointment of other executive officers of the bank.

61 The bank will cooperate with community banks and credit unions by making loans in partnership
62 with them and will not compete with them for depositors or in making loans.

63 The bank will make loans in Colorado for local purposes.

64 The bank will engage in counter-cyclical lending practices that discourage asset bubbles and
65 recession. The bank will avoid lending or investing to inflate existing assets. Such practices will

66 include a preference for responding to an economic downturn with increased lending, in
67 partnership with community banks and credit unions, in order to offset the decline and thereby
68 prevent recession.

69 The bank has all the powers of a state-chartered bank under the Colorado banking code. On or
70 before September 1, 2023, the state treasurer shall transfer to the bank for its initial deposits all
71 cash and cash equivalents and other funds held by the state treasury that are currently deposited
72 in banks with over \$5 billion in assets that are not majority owned by Colorado residents. The
73 state treasurer will thereafter deposit all the state's tax and other revenues in the bank.

74 The bank will initially be capitalized in the amount of five hundred million dollars
75 (\$500,000,000). Such funds will be allocated from the Federal Stimulus to Colorado as available,
76 or revenue bonds, or a combination thereof and/or of other funds. The bank shall also explore
77 applying state pooled funds, pension funds, and existing state revolving loan funds as additional
78 sources of capital.

79 The bank will accept deposits solely from the state government, its agencies, including
80 enterprises, from political subdivisions of the state, and from community banks and credit unions
81 to facilitate their loans in partnership with the bank and check clearing.

82 Because the maximum coverage of federal deposit insurance would only be able to cover a small
83 fraction of the state's deposits, and the state's guarantee of its deposits will provide the necessary
84 protection, FDIC membership will not be required.

85 Due to the differences in ownership, purpose, overhead, operation, performance, profitability,
86 and risks of a public bank compared to large private banks, and the need to ensure
87 countercyclical lending, like the Bank of North Dakota, the bank will have a separate set of
88 statutes, regulations, and administration.

89 Because the bank will be managed directly by its board under Colorado legislation regulating the
90 bank and will not be a chartered state bank under the Banking Board of Colorado, like the Bank
91 of North Dakota, it will not be eligible to be a member of the Federal Reserve but will have a
92 business relationship with its regional Federal Reserve bank in Kansas City. It will do check
93 processing, deposit excess cash balances, maintain a reserve requirement, safe keep all its Fed
94 book entry securities and have discount window borrowing authority. Borrowing at the discount
95 window may allow the bank to borrow at significantly lower interest rates.

96 The bank will be deemed a public depository under C.R.S. section 11-10.5-106 and as defined in
97 C.R.S. section 11-10.5-103 (6). The requirements of C.R.S. section 11-10.5-106 (2) and (3) will
98 not apply to the bank.

99 Because the collateralization requirement in C.R.S. section 11-10.5-107 for public deposits was
100 designed for private banks holding public deposits, and not a bank holding its own government's
101 deposits, the statute governing the bank will permit the need for backing of the bank's public
102 deposits to be met by a general pledge by the state of its tangible and intangible assets equivalent
103 to 100% of its public deposits, or, in the alternative, by a guarantee by the state of the bank's
104 public deposits with the state's full faith and credit. The bank shall be exempt from all state,
105 county, municipal, and other local taxes of all kinds.

106 C.R.S. section 24-77-108, which incorporates Proposition 117 that voters approved in November
107 2020, is amended to exempt the bank as a state enterprise from its requirements, a major purpose
108 of which is to save taxpayers money.

109 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF COLORADO:

110 **SECTION 1. LEGISLATIVE DECLARATION**

111 **THE GENERAL ASSEMBLY OF THE STATE OF COLORADO HEREBY FINDS AND**
112 **DECLARES:**

113 (a) THE STATE HAS A STRATEGIC OPPORTUNITY TO CREATE MAJOR BENEFITS
114 FOR ITS CITIZENS BY ESTABLISHING A STATE PUBLIC DEPOSITORY AND
115 LENDING INSTITUTION OWNED BY THE PEOPLE AND SERVING THE PEOPLE OF
116 THE STATE OF COLORADO. THE PUBLIC BANK WILL PRODUCE SUBSTANTIAL
117 NEW REVENUE WITHOUT RAISING TAXES, WHILE INCREASING FINANCING
118 FOR ESSENTIAL SERVICES AND PROJECTS THAT WILL BENEFIT PRESENT AND
119 FUTURE GENERATIONS.

120 (b) IN ORDER TO FUND LARGE INFRASTRUCTURE PROJECTS AND IN TIMES OF
121 FINANCIAL CRISIS THROUGHOUT COLORADO HISTORY, THE STATE AND
122 POLITICAL SUBDIVISIONS HAVE BORROWED MONEY FOR PUBLIC PURPOSES
123 FROM PRIVATE INVESTORS. SUCH BORROWING FROM PRIVATE INVESTORS
124 NEARLY DOUBLES THE TOTAL COST OF PROJECTS AS A RESULT OF THE
125 INTEREST PAID OVER THE LONG TERM OF THE DEBT REPAYMENT
126 OBLIGATION. CONSEQUENTLY, PUBLIC DEBT AND TAXES TO PAY THE DEBT
127 STEADILY INCREASE.

- 128 (c) PUBLIC BANKS CAN REDUCE OR ELIMINATE THE COST OF INTEREST AND
129 ENABLE GOVERNMENT TO OPERATE MORE EFFICIENTLY WHENEVER THE
130 STATE, ITS AGENCIES OR POLITICAL SUBDIVISIONS NEED FINANCING.
- 131 (d) PUBLIC BANKS WILL HELP PREVENT RECESSIONS AND REDUCE THEIR
132 SEVERITY THROUGH COUNTER-CYCLICAL LENDING BY: (i) INCREASING
133 LENDING IN A RECESSION TO OFFSET OR LESSEN THE DECLINE, IN
134 PARTNERSHIP WITH COMMUNITY BANKS AND CREDIT UNIONS, WITH WHOM
135 IT MAKES JOINT LOANS, JUST AS THE BANK OF NORTH DAKOTA PREVENTED
136 RECESSION IN THAT STATE IN 2008; (ii) AVOIDING INFLATIONARY BUBBLES
137 OF EXISTING ASSETS BY LENDING PRIMARILY FOR NEW GOODS AND
138 SERVICES, THEREBY CONTRIBUTING TO THE PRODUCTIVE ECONOMY OF THE
139 STATE INSTEAD;
- 140 (e) DUE TO THE ABILITY OF A BANK TO LEND MULTIPLES OF ITS CAPITAL, THE
141 BANK WILL MAKE LOANS TO LOCAL FINANCIAL INSTITUTIONS.
- 142 (f) THE STATE OF COLORADO IS STILL EXPERIENCING ECONOMIC RECESSION
143 DUE TO THE PANDEMIC, RESULTING IN BUDGET CUTS IN ORDER TO AVOID
144 DEFICITS. THE BANK CAN REDUCE BUDGET DEFICITS AND THE NEED FOR
145 BUDGET CUTS DURING THE PRESENT CRISIS AND CAN HELP PREVENT AND
146 AMELIORATE FUTURE CRISES.
- 147 (g) THE BANK CAN PROVIDE LOWER COST PUBLIC FINANCING BY REDUCING THE
148 COSTS OF GOVERNMENT BORROWING AND ACHIEVE MORE WITH THE SAME
149 AMOUNT OF MONEY.

150 (h) THE BANK WILL PROVIDE A SUBSTANTIAL NEW SOURCE OF INCOME FROM
151 THE INTEREST ON LOANS AND OTHER LENDING WITHOUT RAISING TAXES.

152 (i) THE PUBLIC BANK CAN PRODUCE SUBSTANTIAL SAVINGS ON THE COST OF
153 LONG-TERM BORROWING BY REFINANCING EXISTING CERTIFICATES OF
154 PARTICIPATION AND FINANCING MAJOR GOVERNMENT PROJECTS DIRECTLY
155 AT LOWER INTEREST RATES THROUGH NEW CERTIFICATES OF
156 PARTICIPATION AND THROUGH FINANCING OR REFINANCING BONDS AND
157 CERTIFICATES OF PARTICIPATION OF POLITICAL SUBDIVISIONS.

158 (j) THE PUBLIC BANK IN PARTNERSHIP WITH COMMUNITY BANKS AND CREDIT
159 UNIONS CAN PROVIDE LOWER COST LOANS FOR SMALL BUSINESSES,
160 AFFORDABLE HOUSING, RENEWABLE ENERGY, INFRASTRUCTURE, HEALTH
161 CARE, EDUCATION, BROADBAND, AND OTHER ESSENTIAL NEEDS AND
162 SERVICES, URBAN AND RURAL.

163 (k) THE FINANCING PARADIGM IN THE UNITED STATES HAS BEEN TO RELY
164 EXCLUSIVELY ON PRIVATE BANKS RATHER THAN PUBLIC BANKS. THE LONE
165 EXCEPTION IS THE 102-YEAR-OLD BANK OF NORTH DAKOTA. IN 2020, THIS
166 PUBLICLY OWNED BANK REPORTED ITS TWENTIETH CONSECUTIVE YEAR OF
167 HIGH PROFITS FOR THE PEOPLE OF NORTH DAKOTA, AVERAGING TWENTY
168 PERCENT (20%) RETURN ON EQUITY OVER THIS PERIOD, WHILE
169 INCREASING PUBLIC FINANCING CAPACITY FOR THE STATE. THE BANK OF
170 NORTH DAKOTA, LENDING IN PARTNERSHIP WITH COMMUNITY BANKS AND
171 CREDIT UNIONS INCREASES ACCESS TO CREDIT FOR ITS PEOPLE AND
172 BUSINESSES THROUGH HOME LOANS, FARMING AND SMALL BUSINESS

173 LOANS, STUDENT LOANS, AND OTHER ECONOMIC DEVELOPMENT PROGRAMS.
174 IT HAS ALSO PROVIDED STABILITY AND FINANCIAL CAPACITY TO THE
175 PEOPLE OF THE STATE THROUGH ADVERSE ECONOMIC CYCLES, AVOIDING
176 THE GREAT RECESSION OF 2008 BY INCREASING LENDING, AND OFFSETTING
177 THE OIL PRICE CRASH OF 2015.

178

179 **SECTION 2. BODY OF LEGISLATION**

180 **DEFINITIONS**

181 **11-108.5-101. DEFINITIONS.**

182 AS USED IN THIS ARTICLE 108.5, UNLESS THE CONTEXT OTHERWISE REQUIRES:

- 183 (a) THE “BANK” MEANS THE STATE BANK OF COLORADO.
- 184 (b) THE “BOARD” MEANS STATE BANK OF COLORADO BOARD.
- 185 (c) “PUBLIC BANK” IS THE DEPOSITORY BANK OWNED BY THE STATE.
- 186 (d) “PRIVATE BANK” FOR PURPOSES OF THIS LEGISLATION MEANS ANY BANK
187 NOT OWNED BY THE STATE OR ANY AGENCY, DEPARTMENT, OR POLITICAL
188 SUBDIVISION OF THE STATE.
- 189 (e) “LOCAL FINANCIAL INSTITUTION” MEANS A CERTIFIED COMMUNITY
190 DEVELOPMENT FINANCIAL INSTITUTION, A CREDIT UNION, AS DEFINED IN THE
191 BANKING CODE, OR A SMALL BANK OR AN INTERMEDIATE SMALL BANK, AS
192 DEFINED IN SECTION 25.12 OF TITLE 12 OF THE CODE OF FEDERAL REGULATIONS.

193

194 **PART 1: THE ESTABLISHMENT OF THE BANK OF THE STATE OF**
195 **COLORADO**

196 **11-108.5-102. BANK OF THE STATE OF COLORADO – ESTABLISHMENT.**

197 THE BANK OF THE STATE OF COLORADO IS HEREBY ESTABLISHED AS A
198 PUBLICLY OWNED DEPOSITORY BANK TO BE KNOWN AS THE STATE BANK OF
199 COLORADO (THE ‘BANK’) WHICH IS A BODY CORPORATE AND A POLITICAL
200 SUBDIVISION OF THE STATE AND NOT AN AGENCY OF STATE GOVERNMENT. THE
201 BANK OF THE STATE OF COLORADO IS NOT SUBJECT TO ADMINISTRATIVE
202 DIRECTION BY ANY DEPARTMENT, COMMISSION, BOARD, BUREAU, OR AGENCY
203 OF THE STATE.

204 **THE MISSION AND PURPOSES OF THE BANK**

205 THE MISSION OF THE BANK IS TO STIMULATE ECONOMIC RECOVERY FOR
206 PEOPLE, BUSINESSES, AND GOVERNMENTAL ENTITIES AND SUSTAIN A STRONG
207 AND STABLE ECONOMY BY INCREASING LOCAL LENDING FOR PRODUCTIVE
208 PURPOSES AT LOWER INTEREST RATES.

209 The purposes of the Bank include, but are not limited to:

210 (a) BEGIN THE PROCESS OF REDUCING DEBT OF THE STATE, ITS POLITICAL
211 SUBDIVISIONS, AND THE PEOPLE AND BUSINESSES OF COLORADO.

212 (b) PROVIDE LOAN PARTICIPATION AND CREDIT SUPPORT FOR LOCAL
213 FINANCIAL INSTITUTIONS.

- 214 (c) ADDRESS UNMET SOCIAL AND ECONOMIC NEEDS OF THE PEOPLE OF
215 COLORADO AND PRIORITIZE SOLUTIONS FOR THE COMMON GOOD.
- 216 (d) FINANCE PUBLIC INFRASTRUCTURE AND REFINANCE EXISTING
217 GOVERNMENT “DEBT” IN THE FORM OF CERTIFICATES OF PARTICIPATION.
- 218 (e) THE BANK WILL NOT COMPETE WITH LOCAL COMMUNITY BANKS OR CREDIT
219 UNIONS OR OTHER LENDING INSTITUTIONS FOR PRIVATE DEPOSITS OR IN
220 MAKING LOANS.
- 221 (f) THE BOARD OF THE BANK WILL OVERSEE AND ASSURE COMPLIANCE OF THE
222 BANK WITH ITS MISSION STATEMENT, GOVERNING STATUTES, AND BYLAWS.

223

224 **THE GUIDING PRINCIPLES OF THE BANK**

225 **11-108.5-103 THE GUIDING PRINCIPLES OF THE BANK.**

226 THE BANK WILL ADHERE TO THE FOLLOWING PRIORITY PRINCIPLES:

- 227 (a) THE HIGHEST ETHICAL STANDARDS
- 228 (b) FINANCIAL INTEGRITY AND SOUNDNESS
- 229 (c) TRANSPARENCY: THE BANK WILL INCLUDE ONLINE PUBLIC DISCLOSURE
230 OF FINANCIAL RECORDS AND ANNUAL REPORTS; THERE WILL BE NO HIDDEN
231 ACCOUNTS OR HIDDEN TRANSACTIONS.
- 232 (d) ACCOUNTABILITY: REGULAR AUDITS AND REPORTS ACCESSIBLE TO THE
233 GENERAL PUBLIC.

- 234 (e) THE REGIONAL PRINCIPLE: THE BANK SHALL LIMIT ITS LENDING AND
235 OTHER INVESTMENTS IN THE STATE AND LOCAL COMMUNITIES OF COLORADO
236 AND FOR THE PUBLIC GOOD.
- 237 (f) THE BANK SHALL PRIORITIZE LENDING FOR ESSENTIAL COMMUNITY
238 NEEDS IN GEOGRAPHIC AND DEMOGRAPHIC AREAS TRADITIONALLY
239 UNDERSERVED BY COMMERCIAL AND OTHER BANKS.
- 240 (g) THE BANK WILL FINANCE ENVIRONMENTALLY AND SOCIALLY
241 SUSTAINABLE ENDEAVORS, WITH AWARENESS OF THE POTENTIAL
242 EXTERNALIZED COSTS TO HEALTH, THE ENVIRONMENT AND TO SOCIETY OF ITS
243 LENDING PRACTICES, INCLUDING THEIR LONG-TERM EFFECTS.
- 244 (h) THE BANK WILL PRIORITIZE SMALL AND MEDIUM-SIZED BUSINESSES AS
245 WELL AS PUBLIC PROJECTS AND INFRASTRUCTURE IN MARGINALIZED
246 COMMUNITIES AND COMMUNITIES OF COLOR.
- 247 (i) THE BANK WILL BE PROTECTED FROM INAPPROPRIATE POLITICAL,
248 CORPORATE, AND PRIVATE INFLUENCE, AND FROM CONFLICTS OF INTEREST.
- 249 (j) PRUDENT AND RISK-AVERSE BANKING PRACTICES; ALL LOANS OF THE
250 BANK SHALL BE MADE BASED UPON CREDITWORTHINESS AND EVIDENCE OF
251 THE ABILITY TO REPAY THE LOAN.
- 252 (k) THE BANK WILL AVOID LENDING OR INVESTING TO INFLATE EXISTING
253 ASSETS SUCH AS REAL ESTATE, STOCKS, AND COMMODITIES. THE BANK MAY
254 LEND FOR EXISTING ASSETS THAT SERVE A PUBLIC PURPOSE.
- 255 (l) THE BOARD SHALL ESTABLISH BYLAWS THAT INCORPORATE THE ABOVE
256 PRINCIPLES.

257

258 **LAW APPLICABLE TO THE BANK**

259 **11-108.5-104 LAW APPLICABLE TO PUBLIC BANKS.**

260 **SEPARATE STATUTES AND ADMINISTRATION FOR PUBLIC BANKS.**

261 DUE TO MARKED DIFFERENCES BETWEEN A PUBLIC BANK AND PRIVATE BANK
262 IN OWNERSHIP, PURPOSES, GOVERNANCE, AND OPERATION, THE STATE PUBLIC
263 BANK, LIKE THE BANK OF NORTH DAKOTA, SHALL BE GOVERNED BY ITS OWN
264 SET OF STATUTES DIFFERING IN SOME RESPECTS FROM THE STATUTES
265 GOVERNING PRIVATE BANKS IN COLORADO, AS DESCRIBED BELOW. THE
266 PURPOSE OF SUCH DIFFERENCES ARE TO ENABLE THE BANK TO OPTIMALLY
267 ACHIEVE ITS PURPOSES, INCLUDING TO BE PROFITABLE AND TO CREATE A
268 STRONG AND STABLE ECONOMY IN PARTNERSHIP WITH LOCAL COMMUNITY
269 BANKS AND CREDIT UNIONS.

270 (a) THE BANK CONSTITUTES AN ENTERPRISE AS DEFINED IN SECTION 20 (2)(d)
271 OF ARTICLE X OF THE STATE CONSTITUTION, WHICH CURRENTLY REQUIRES
272 THAT IT BE GOVERNMENT-OWNED, RETAINS THE AUTHORITY TO ISSUE
273 REVENUE BONDS, AND RECEIVES LESS THAN TEN PERCENT OF ITS TOTAL
274 REVENUE EACH YEAR IN GRANTS FROM ALL COLORADO STATE AND
275 POLITICAL SUBDIVISIONS COMBINED. SO LONG AS IT CONSTITUTES AN
276 ENTERPRISE UNDER ARTICLE X, SECTION 20 (2)(d), THE PUBLIC BANK IS NOT
277 SUBJECT TO SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION.

- 278 (b) THE BANK IS AUTHORIZED TO ISSUE REVENUE BONDS, INCLUDING, AMONG
279 OTHER PURPOSES, TO CREATE ITS INITIAL CAPITAL.
- 280 (c) THE BANK HAS ALL OF THE POWERS OF A STATE-CHARTERED BANK UNDER
281 THIS CODE.
- 282 (d) NOTWITHSTANDING SECTION 11-10.5-106 (1), THE BANK IS AN ELIGIBLE
283 PUBLIC DEPOSITORY.
- 284 (e) ANY "OFFICIAL CUSTODIAN," AS DEFINED IN C.R.S. SECTION 11-10.5-103 (9),
285 MAY DEPOSIT PUBLIC FUNDS IN THE BANK.
- 286 (f) THE BANK WILL NOT BE REQUIRED TO BE A MEMBER OF THE FDIC.
- 287 (g) LIKE THE BANK OF NORTH DAKOTA, THE BANK WILL NOT BE A MEMBER OF
288 THE FEDERAL RESERVE BUT WILL HAVE A BUSINESS RELATIONSHIP WITH
289 ITS REGIONAL FEDERAL RESERVE BANK IN KANSAS CITY FOR CHECK
290 PROCESSING, DEPOSITING EXCESS CASH BALANCES, MAINTAINING A
291 RESERVE REQUIREMENT, SAFE KEEPING ALL ITS FED BOOK ENTRY
292 SECURITIES, AND WILL HAVE DISCOUNT WINDOW BORROWING
293 AUTHORITY.
- 294 (h) AS LONG AS THE BANK ONLY ACCEPTS DEPOSITS FROM THE STATE, ITS
295 AGENCIES, AND ITS POLITICAL SUBDIVISIONS, AND FROM COMMUNITY
296 BANKS AND CREDIT UNIONS TO FACILITATE PARTNERSHIP LOANS AND
297 CLEARING CHECKS, IN THE EVENT OF AN ECONOMIC DECLINE, THE POLICY
298 OF THE BANK WILL BE TO INCREASE LENDING COUNTER-CYCLICALLY TO
299 OFFSET THE DECLINE, AND THEREBY REDUCE OR PREVENT RECESSION.

300 (i) THE STATUTE GOVERNING THE BANK WILL AUTHORIZE THE BANK TO
301 PROVIDE COLLATERAL FOR ITS PUBLIC DEPOSITS BY A GENERAL PLEDGE
302 BY THE STATE OF ITS TANGIBLE AND INTANGIBLE ASSETS EQUIVALENT TO
303 100% OF THE PUBLIC DEPOSITS IN THE BANK, OR, IN THE ALTERNATIVE, BY
304 A GUARANTEE OF THE BANK'S PUBLIC DEPOSITS WITH THE STATE'S FULL
305 FAITH AND CREDIT.

306 (j) THE PUBLIC BANK WILL NOT BE SUBJECT TO C.R.S. SECTIONS 11-10.5-106 (2)
307 OR (3).

308 **BANKING PRACTICES AND RESTRICTIONS ON AUTHORITY**

309 **11-108.5-105. SOUND BANKING PRACTICES - RESTRICTIONS ON THE BANK'S**
310 **AUTHORITY.**

311 (a) NOTWITHSTANDING ANY OTHER PROVISION OF THE CODE, THE BANK
312 SHALL OPERATE IN ACCORDANCE WITH SOUND BANKING PRACTICES
313 THAT ARE GENERALLY FOLLOWED BY PUBLIC BANKS, SUCH AS THE BANK
314 OF NORTH DAKOTA, FOUNDED IN 1919, THE ATB FINANCIAL BANK OF
315 ALBERTA, CANADA, FOUNDED IN 1938, AND THE 413 CITY-OWNED
316 SPARKASSEN BANKS IN GERMANY, FOUNDED 200 YEARS AGO. NONE OF
317 SUCH PUBLIC BANKS HAS EVER FAILED OR REQUIRED A BAILOUT.

318 (b) THE BANK SHALL NOT INVEST IN ANY SPECULATIVE INSTRUMENTS,
319 INCLUDING DERIVATIVES, SUCH AS CREDIT-DEFAULT SWAPS, INTEREST-
320 RATE SWAPS, COMMODITY FUTURES, COLLATERIZED DEBT OBLIGATIONS,
321 AND MORTGAGE-BACKED SECURITIES, EXCEPT AS MAY HAVE

322 PREVIOUSLY BEEN ACQUIRED BY A FINANCIAL INSTITUTION WHICH THE
323 BANK THEREAFTER ACQUIRES, OR EXCEPT FOR MORTGAGE-BACKED
324 SECURITIES THAT THE BOARD DEEMS TO BE IN THE BEST INTEREST OF
325 THE BANK.

326 (c) THE BANK SHALL NOT OFFER OR ACCEPT ANY MONEY FOR A DEMAND,
327 SAVINGS, CHECKING, OR TIME DEPOSIT ACCOUNT, OR ANY OTHER
328 SIMILAR ACCOUNT, TO OR FROM ANY PERSON THAT IS NOT A
329 GOVERNMENTAL ENTITY, EXCEPT IN CONNECTION WITH A LOAN MADE IN
330 PARTNERSHIP WITH A COMMUNITY BANK OR CREDIT UNION, OR TO
331 FACILITATE CLEARING CHECKS FOR SUCH BANKS.

332 **EXEMPTIONS AND EXCLUSIVE RIGHTS**

333 **11-108.5-106. TAX EXEMPT STATUS.**

334 THE BANK IS EXEMPT FROM ALL STATE, COUNTY, MUNICIPAL, AND OTHER
335 LOCAL TAXES.

336 **11-108.5-107. EXCLUSIVE RIGHT TO USE "BANK OF THE STATE OF COLORADO" 337 OR SIMILAR NAME IN TITLE.**

338 THE BANK OF THE STATE OF COLORADO HAS THE EXCLUSIVE RIGHT TO USE THE
339 NAME "THE BANK OF THE STATE OF COLORADO", "BANK OF COLORADO",
340 "PUBLIC BANK OF COLORADO", OR ANY SIMILAR NAME. ANY OTHER PERSON,
341 ASSOCIATION, CORPORATION, OR PARTNERSHIP USING SIMILAR PHRASES IN ITS
342 NAME OR TITLE IS GUILTY OF A MISDEMEANOR AND, UPON CONVICTION

343 THEREOF, SHALL BE PUNISHED BY A FINE OF NOT MORE THAN ONE THOUSAND
344 DOLLARS.

345 **THE BANK BOARD**

346 **11-108.5-108. OPERATION AND MANAGEMENT – THE BOARD OF THE STATE**
347 **BANK OF COLORADO – ENTERPRISE STATUS.**

348 THE INITIAL BOARD OF THE STATE BANK OF COLORADO (THE ‘BOARD’) SHALL
349 CONSIST OF ELEVEN MEMBERS.

350 THE MEMBERS SHALL BE:

351 THE GOVERNOR, ATTORNEY GENERAL, AND STATE TREASURER

352 THE OTHER MEMBERS SHALL BE APPOINTED AS INDICATED BELOW AND SHALL
353 CONSIST OF THE FOLLOWING:

354 (a) AT LEAST TWO BANKING PROFESSIONALS WHO HAVE HAD SUBSTANTIAL
355 EXPERIENCE WITH BANKS OR CREDIT UNIONS THAT HAVE MAJORITY
356 OWNERSHIP BY COLORADO RESIDENTS, AND A THIRD PERSON WITH
357 SUBSTANTIAL EXPERIENCE IN FINANCE OR BANKING, ALL OF WHOM SHALL
358 HAVE SUBSTANTIAL EXPERIENCE IN ECONOMIC DEVELOPMENT FINANCE IN
359 COLORADO. THE GOVERNOR SHALL APPOINT ONE, THE SPEAKER OF THE
360 COLORADO HOUSE SHALL APPOINT ONE, AND THE LEADING MEMBER OF
361 ANOTHER POLITICAL PARTY IN THE SENATE SHALL APPOINT THE THIRD.

362

- 363 (b) ONE COUNTY TREASURER OR DESIGNEE TO BE APPOINTED BY THE
364 GOVERNOR.
- 365 (c) FOUR EXPERTS FROM VITAL ECONOMIC SECTORS, SUCH AS SMALL BUSINESS,
366 EMPLOYEE-OWNED BUSINESS, AFFORDABLE HOUSING FINANCE OR POLICY,
367 ORGANIZED LABOR, ENVIRONMENTAL PROTECTION, AND EDUCATION
368 FINANCE. THE EXPERTS SHALL BE SELECTED BY THE BOARD FROM A POOL
369 OF QUALIFIED CITIZEN APPLICANTS.
- 370 (d) THE CHAIRPERSON SHALL BE ELECTED BY A MAJORITY OF THE BOARD.
- 371 (e) TERMS OF BOARD MEMBERS. TERMS OF BOARD MEMBERS SHALL BE FOUR
372 YEARS. FIVE RANDOMLY SELECTED MEMBERS OF THE ELEVEN MEMBER
373 BOARD SHALL SERVE INITIAL TERMS OF TWO YEARS. BOARD MEMBERS
374 WHO ARE NOT EX-OFFICIO BOARD MEMBERS MAY SERVE TWO ADDITIONAL
375 FOUR-YEAR TERMS.
- 376 (f) THE BOARD SHALL APPOINT THE PRESIDENT OF THE BANK. THE
377 APPOINTMENT OF OTHER EXECUTIVE OFFICERS OF THE BANK SHALL BE
378 PROPOSED BY THE PRESIDENT OF THE BANK SUBJECT TO THE APPROVAL BY
379 THE BOARD.
- 380 (g) THE PRESIDENT SHALL PROPOSE THE COMPENSATION PACKAGES OF OTHER
381 EXECUTIVE OFFICERS OF THE BANK, SUBJECT TO MODIFICATION AND
382 APPROVAL BY THE BOARD.
- 383 (h) THE BOARD SHALL ENSURE THAT THE BANK IS LOCATED WITHIN THE STATE.
384

- 385 (i) A MEMBER OF THE BOARD SHALL NOT PARTICIPATE IN ANY BANK ACTION
386 OR ATTEMPT TO INFLUENCE ANY DECISION OR RECOMMENDATION BY ANY
387 EMPLOYEE OF, OR CONSULTANT TO, THE BANK THAT INVOLVES A SPONSOR
388 OF WHICH THE MEMBER IS A REPRESENTATIVE OR IN WHICH THE MEMBER
389 OR THE IMMEDIATE FAMILY OF THE MEMBER HAS A PERSONAL FINANCIAL
390 INTEREST.
- 391 (j) [THE BOARD SHALL ADOPT A WRITTEN POLICY FOR SAFE DISCLOSURE AND
392 PROTECTION OF WHISTLEBLOWERS UNDER THE COLORADO
393 WHISTLEBLOWER STATUTE, C.R.S. 24-50.5-101-107.]
- 394 (k) THE MEMBERS OF THE BOARD SHALL SERVE WITHOUT COMPENSATION BUT
395 SHALL BE REIMBURSED FOR ACTUAL AND NECESSARY EXPENSES INCURRED
396 IN THE PERFORMANCE OF THEIR DUTIES TO THE EXTENT THAT
397 REIMBURSEMENT FOR THESE EXPENSES IS NOT OTHERWISE PROVIDED OR
398 PAYABLE BY ANOTHER PUBLIC AGENCY.
- 399 (l) THOSE BOARD MEMBERS NOT EMPLOYED BY ANOTHER PUBLIC AGENCY
400 SHALL RECEIVE REASONABLE COMPENSATION FOR EACH FULL DAY OR
401 PORTION THEREOF FOR ATTENDING MEETINGS OF THE BOARD.

402 [We have also considered adding an **advisory board**, which we included in an earlier draft. We
403 took it out at the time because it looked too much like the governing board. However, we
404 recommend reconsidering the idea of adding an advisory board to provide a second level of
405 oversight. The advisory board would monitor the bank's operations, assure it is following its
406 governing documents, including credit guidance for productive and sustainable purposes, that it
407 meets its socially responsible and nondiscriminatory purposes, and takes a proactive role to find
408 and take advantage of new opportunities and means for the bank to better serve the public good.]
409

410 **MANAGEMENT AND OPERATION OF THE BANK**

411 **11-108.5-109 MANAGEMENT AND OPERATION OF THE BANK.**

412 THE BANK EXECUTIVE(S) WILL:

413 (a) APPROVE THE APPOINTMENT OF AND EMPLOY SUCH SUBORDINATE
414 OFFICERS, EMPLOYEES, AND AGENTS AS THEY MAY JUDGE EXPEDIENT AND
415 IN THE INTERESTS OF THE STATE, AND SHALL DEFINE THE DUTIES,
416 DESIGNATE THE TITLES, AND FIX THE COMPENSATION OF ALL SUCH
417 PERSONS.

418 (b) MAKE AND ENFORCE THIS CODE, THE OPERATING AGREEMENT, BYLAWS,
419 ORDERS, AND ANY RULES AND REGULATIONS FOR THE TRANSACTION OF
420 THE BANK'S BUSINESS AND IN ALL OF ITS OPERATIONS.

421 (c) ALLOCATE THE TOTAL COMPENSATION OF SUCH APPOINTEES AND
422 EMPLOYEES, TOGETHER WITH OTHER EXPENDITURES FOR THE OPERATION
423 AND MAINTENANCE OF THE BANK.

424 **DEPOSITS OF STATE FUNDS**

425 **11-108.5-110. DEPOSIT OF STATE FUNDS.**

426 NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, ON
427 SEPTEMBER 1, 2022, THE STATE TREASURER SHALL TRANSFER TO THE BANK OF
428 THE STATE OF COLORADO ALL CASH AND CASH EQUIVALENTS, OR OTHER
429 PUBLIC DEPOSITS OF THE STATE IN ANY BANK WITH OVER FIVE BILLION IN
430 TOTAL ASSETS, INCLUDING ASSETS OF ANY SUBSIDIARY, AFFILIATE, HOLDING

431 COMPANY, OR OTHER OWNERSHIP CONNECTION TO SUCH BANK, AND A
432 MAJORITY OF WHOSE OWNERSHIP IS NOT HELD BY COLORADO RESIDENTS.

433 **CAPITALIZATION**

434 **11-108.5-111. CAPITALIZATION.**

435 THE INITIAL CAPITAL OF THE BANK SHALL BE FIVE HUNDRED MILLION
436 DOLLARS. THE LEGISLATURE SHALL PROVIDE THAT SUM EITHER THROUGH A
437 PORTION OF THE FEDERAL STIMULUS FUND OF \$3.8 BILLION ALLOCATED TO
438 COLORADO, THROUGH REVENUE BONDS ISSUED BY THE BANK, OR A
439 COMBINATION THEREOF. OTHER POTENTIAL SOURCES SUCH AS A PORTION OF
440 STATE POOLED FUNDS, PENSION FUNDS, AND STATE REVOLVING LOAN FUNDS,
441 SHALL ALSO BE INVESTIGATED. THE STATE TREASURER SHALL TRANSFER THE
442 APPROPRIATED PORTION OF THE STIMULUS FUND TO THE BANK ON SEPTEMBER
443 1, 2022. IF REVENUE BONDS ARE USED TO PROVIDE ALL OR A PORTION OF
444 CAPITALIZATION, THEY SHALL BE PROMPTLY ISSUED AFTER FORMATION OF
445 THE BANK AND THE PROCEEDS PROMPTLY USED TO PAY FOR CAPITAL OF THE
446 BANK.

447 **EXEMPTION FROM C.R.S. SECTION 24-77-108 REQUIREMENTS FOR**
448 **A NEW ENTERPRISE.**

449 **11-108.5-111. EXEMPTION FROM C.R.S. 24-77-108 REQUIREMENTS FOR NEW**
450 **ENTERPRISE.**

451 THE BANK SHALL BE EXEMPT FROM THE REQUIREMENTS OF C.R.S. 24-77-108 FOR
452 A NEW STATE ENTERPRISE.

453 **EFFECTIVE DATE**

454 **ACT SUBJECT TO PETITION - EFFECTIVE DATE.**

455 This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period
456 after final adjournment of the general assembly (August 4, 2023, if adjournment sine die is on
457 May 6, 2023); except that, if a referendum petition is filed pursuant to section 1 (3) of article V
458 of the state constitution against this act or an item, section, or part of this act within such period,
459 then the act, item, section, or part will not take effect unless approved by the people at the
460 general election to be held in November 2024 and, in such case, will take effect on the date of
461 the official declaration of the vote thereon by the governor.