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# COLORADO SCHOOL LAWS 2003

## ENABLING ACT

### **AN ACT TO ENABLE THE PEOPLE OF COLORADO TO FORM A CONSTITUTION AND STATE GOVERNMENT, AND FOR THE ADMISSION OF THE SAID STATE INTO THE UNION ON AN EQUAL FOOTING WITH THE ORIGINAL STATES.**

Be it enacted by the senate and house of representatives of the United States of America in congress assembled:

**§ 1. Authority to form state.** That the inhabitants of the territory of Colorado included in the boundaries hereinafter designated, be, and they are hereby authorized to form for themselves, out of said territory, a state government, with the name of the state of Colorado; which state, when formed, shall be admitted into the Union upon an equal footing with the original states in all respects whatsoever, as hereinafter provided.

**§ 2. Boundaries.** That the said state of Colorado shall consist of all the territory included within the following boundaries, to-wit: commencing on the thirty-seventh parallel of north latitude where the twenty-fifth meridian of longitude west from Washington crosses the same; thence north, on same meridian, to the forty-first parallel of north latitude; thence along said parallel west to the thirty-second meridian of longitude west from Washington; thence south on said meridian, to the thirty-seventh parallel of north latitude; thence along said thirty-seventh parallel of north latitude to the place of beginning.

**§ 3. Convention — election — apportionment — proclamation.** That all persons qualified by law to vote for representatives to the general assembly of said territory, at the date of the passage of this act, shall be qualified to be elected, and they are hereby authorized to vote for and choose representatives to form a convention, under such rules and regulations as the governor of said territory, the chief justice, and the United States attorney thereof may prescribe; and also to vote upon the acceptance or rejection of such constitution as may be formed by said convention, under such rules and regulations as said convention may prescribe; and the aforesaid representatives to form the aforesaid convention shall be apportioned among the several counties in said territory in proportion to the vote polled in each of said counties at the last general election as near as may be; and said apportionment shall be made for said territory by the governor, United States district attorney, and chief justice thereof, or any two of them; and the

governor of said territory shall, by proclamation, order an election of the representatives aforesaid, to be held throughout the territory at such time as shall be fixed by the governor, chief justice and United States attorney, or any two of them; which proclamation shall be issued within ninety days next after the first day of September, eighteen hundred and seventy-five, and at least thirty days prior to the time of said election; and such election shall be conducted in the same manner as is prescribed by the laws of said territory regulating elections therein, for members of the house of representatives; and the number of members to said convention shall be the same as now constitutes both branches of the legislature of the aforesaid territory.

**§ 4. Constitutional convention — requirements of constitution.** That the members of the convention thus elected shall meet at the capital of said territory, on a day to be fixed by said governor, chief justice, and United States attorney, not more than sixty days subsequent to the day of election, which time of meeting shall be contained in the aforesaid proclamation mentioned in the third section of this act, and after organization, shall declare, on behalf of the people of said territory, that they adopt the constitution of the United States; whereupon the said convention shall be and is hereby authorized to form a constitution and state government for said territory; provided, that the constitution shall be republican in form, and make no distinction in civil or political rights on account of race or color, except Indians not taxed, and not be repugnant to the constitution of the United States and the principles of the declaration of independence; and, provided further, that said convention shall provide by an ordinance irrevocable without the consent of the United States and the people of said state; first, that perfect toleration of religious sentiment shall be secured, and no inhabitant of said state shall ever be molested in person or property, on account of his or her mode of religious worship; secondly, that the people inhabiting said territory do agree and declare that they forever disclaim all right and title to the unappropriated public lands lying within said territory, and that the same shall be and remain at the sole and entire disposition of the United States; and that the lands belonging to citizens of the United States residing without said state shall never be taxed higher than the lands belonging to residents thereof, and that no taxes shall be imposed by the state on lands or property therein belonging to, or which may hereafter be purchased by the United States.

**§ 5. Adoption of constitution — president to proclaim.** That in case the constitution and state

government shall be formed for the people of said territory of Colorado, in compliance with the provisions of this act, said convention forming the same shall provide by ordinance for submitting said constitution to the people of said state for their ratification or rejection, at an election to be held at such time, in the month of July, eighteen hundred and seventy-six, and at such places and under such regulations as may be prescribed by said convention, at which election the lawful voters of said new state shall vote directly for or against the proposed constitution; and the returns of said election shall be made to the acting governor of the territory, who, with the chief justice and United States attorney of said territory, or any two of them, shall canvass the same; and if a majority of the legal votes shall be cast for said constitution in said proposed state, the said acting governor shall certify the same to the president of the United States, together with a copy of said constitution and ordinances, whereupon it shall be the duty of the president of the United States to issue his proclamation declaring the state admitted into the Union on an equal footing with the original states, without any further action whatever on the part of Congress.

**§ 6. One representative — officers — election.** That until the next general census said state shall be entitled to one representative in the house of representatives of the United States, which representative, together with the governor and state and other officers provided for in said constitution, shall be elected on a day subsequent to the adoption of the constitution, and to be fixed by said constitutional convention; and until said state officers are elected and qualified under the provisions of the constitution, the territorial officers shall continue to discharge the duties of their respective offices.

**§ 7. School lands.** The sections numbered sixteen and thirty-six in every township, and where such sections have been sold or otherwise disposed of by any act of congress, other lands equivalent thereto in legal sub-divisions of not more than one quarter-section, and as contiguous as may be, are hereby granted to said state for the support of common schools.

**§ 8. Land for public buildings.** That, provided the state of Colorado shall be admitted into the Union in accordance with the foregoing provisions of this act, fifty entire sections of the unappropriated public lands within said state, to be selected and located by direction of the legislature thereof, and with the approval of the president, on or before the first day of January, eighteen hundred and seventy-eight, shall be and are hereby granted, in legal sub-divisions of not less than one quarter-section, to said state for the purpose of erecting public buildings at the capital of said state, for legislative and judicial purposes, in such manner as the legislature shall prescribe.

**§ 9. Land for penitentiary.** That fifty other entire sections of land as aforesaid, to be selected and located and with the approval as aforesaid, in legal sub-divisions as aforesaid, shall be, and they are hereby granted, to said state for the purpose of erecting a suitable building for a penitentiary or state prison in the manner aforesaid.

**§ 10. Land for university.** That seventy-two other sections of land shall be set apart and reserved for the use and support of a state university, to be selected and approved in manner as aforesaid, and to be appropriated and applied as the legislature of said state may prescribe for the purpose named and for no other purpose.

**§ 11. Salt springs.** That all salt springs within said state not exceeding twelve in number, with six sections of land adjoining, and as contiguous as may be to each, shall be granted to said state for its use, the said land to be selected by the governor of said state within two years after the admission of the state, and when so selected to be used and disposed of on such terms, conditions and regulations as the legislature shall direct; provided, that no salt springs or lands, the right whereof is now vested in any individual or individuals, or which hereafter shall be confirmed or adjudged to any individual or individuals, shall by this act be granted to said state.

**§ 12. Sale of agricultural lands.** That five per centum of the proceeds of the sales of agricultural public lands lying within said state, which shall be sold by the United States subsequent to the admission of said state into the Union, after deducting all the expenses incident to the same, shall be paid to the said state for the purpose of making such internal improvements within said state as the legislature thereof may direct; provided, that this section shall not apply to any lands disposed of under the homestead laws of the United States, or to any lands now or hereafter reserved for public or other uses.

**§ 13. Unexpended balance of appropriations.** That any balance of the appropriations for the legislative expenses of said territory of Colorado remaining unexpended, shall be applied to and used for defraying the expenses of said convention, and for the payment of the members thereof, under the same rules and regulations and rates as are now provided by law for the payment of the territorial legislature.

**§ 14. School lands — how sold.** That the two sections of land in each township herein granted for the support of common schools shall be disposed of only at public sale and at a price not less than two dollars and fifty cents per acre, the proceeds to constitute a permanent school fund, the interest of which to be expended in the support of common schools.

**§ 15. Mineral lands excepted.** That all mineral lands shall be excepted from the operation and grants of this act.



# CONSTITUTION OF THE STATE OF COLORADO

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**Source:** Entire article added, effective August 1, 1876, see L. 1877, p. 28.

**Section 2. People may alter or abolish form of government — proviso.** The people of this state have the sole and exclusive right of governing themselves, as a free, sovereign and independent state; and to alter and abolish their constitution and form of government whenever they may deem it necessary to their safety and happiness, provided, such change be not repugnant to the constitution of the United States.

**Source:** Entire article added, effective August 1, 1876, see L. 1877, p. 29.

**Section 3. Inalienable rights.** All persons have certain natural, essential and inalienable rights, among which may be reckoned the right of enjoying and defending their lives and liberties; of acquiring, possessing and protecting property; and of seeking and obtaining their safety and happiness.

**Source:** Entire article added, effective August 1, 1876, see L. 1877, p. 29.

**Section 4. Religious freedom.** The free exercise and enjoyment of religious profession and worship, without discrimination, shall forever hereafter be guaranteed; and no person shall be denied any civil or political right, privilege or capacity, on account of his opinions concerning religion; but the liberty of conscience hereby secured shall not be construed to dispense with oaths or affirmations, excuse acts of licentiousness or justify practices inconsistent with the good order, peace or safety of the state. No person shall be required to attend or support any ministry or place of worship, religious sect or denomination against his consent. Nor shall any preference be given by law to any religious denomination or mode of worship.

**Source:** Entire article added, effective August 1, 1876, see L. 1877, p. 29.

**Section 5. Freedom of elections.** All elections shall be free and open; and no power, civil or military, shall at any time interfere to prevent the free exercise of the right of suffrage.

**Source:** Entire article added, effective August 1, 1876, see L. 1877, p. 29.

**Section 6. Equality of justice.** Courts of justice shall be open to every person, and a speedy remedy afforded for every injury to person, property or character; and right and justice should be administered without sale, denial or delay.

**Source:** Entire article added, effective August 1, 1876, see L. 1877, p. 29.

**Section 7. Security of person and property — searches — seizures — warrants.** The people shall be secure in their persons, papers, homes and effects, from unreasonable searches and seizures; and no warrant to search any place or seize any person or things shall issue without describing the place to be searched, or the person or thing to be

## PREAMBLE

We, the people of Colorado, with profound reverence for the Supreme Ruler of the Universe, in order to form a more independent and perfect government; establish justice; insure tranquillity; provide for the common defense; promote the general welfare and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this constitution for the “State of Colorado”.

## ARTICLE I BOUNDARIES

The boundaries of the state of Colorado shall be as follows: Commencing on the thirty-seventh parallel of north latitude, where the twenty-fifth meridian of longitude west from Washington crosses the same; thence north, on said meridian, to the forty-first parallel of north latitude; thence along said parallel, west, to the thirty-second meridian of longitude west from Washington; thence south, on said meridian, to the thirty-seventh parallel of north latitude; thence along said thirty-seventh parallel of north latitude to the place of beginning.

**Source:** Entire article added, effective August 1, 1876, see L. 1877, p. 28.

**Editor’s note:** As a result of a survey that was performed in the 1800’s, the actual boundaries of the state of Colorado differ from the legal description of the boundaries in Article I of the state constitution. However, the United States Supreme Court held in *New Mexico v. Colorado*, 267 U.S. 30, 45 S. Ct. 202, 69 L.Ed. 499 (1925) that the boundary line marked by a surveyor in the 1800’s will not be disturbed on the theory that it does not coincide with the 37th parallel of north latitude described as the common boundary under Acts of Congress and the state’s constitutions.

## ARTICLE II BILL OF RIGHTS

In order to assert our rights, acknowledge our duties, and proclaim the principles upon which our government is founded, we declare:

**Section 1. Vestment of political power.** All political power is vested in and derived from the people; all government, of right, originates from the people, is founded upon their will only, and is instituted solely for the good of the whole.

seized, as near as may be, nor without probable cause, supported by oath or affirmation reduced to writing.

**Source:** Entire article added, effective August 1, 1876, see **L. 1877**, p. 29.

**Section 8. Prosecutions — indictment or information.** Until otherwise provided by law, no person shall, for a felony, be proceeded against criminally otherwise than by indictment, except in cases arising in the land or naval forces, or in the militia when in actual service in time of war or public danger. In all other cases, offenses shall be prosecuted criminally by indictment or information.

**Source:** Entire article added, effective August 1, 1876, see **L. 1877**, p. 29.

**Section 9. Treason — estates of suicides.** Treason against the state can consist only in levying war against it or in adhering to its enemies, giving them aid and comfort; no person can be convicted of treason, unless on the testimony of two witnesses to the same overt act, or on his confession in open court; no person can be attainted of treason or felony by the general assembly; no conviction can work corruption of blood or forfeiture of estate; the estates of such persons as may destroy their own lives shall descend or vest as in cases of natural death.

**Source:** Entire article added, effective August 1, 1876, see **L. 1877**, p. 30.

**Editor's note:** Compare Commonwealth of Pennsylvania v. Nelson, 350 U.S. 497, 100 L. Ed. 640, 76 S. Ct. 477 (affirming Commonwealth of Pennsylvania v. Nelson, 377 Pa. 58, 104 A.2d 133 whereby the enforceability of a state anti-sedition act was successfully resisted as superseded by federal intervention into the field by the Smith Act which proscribed the same conduct as did the state act); and Uphaus v. Wyman, 360 U.S. 72, 79 S. Ct. 1040, 3 L. Ed. 2d 1090 (1959) (Distinguishing Commonwealth of Pennsylvania v. Nelson, 350 U.S. 497, 76 S. Ct. 477, 100 L. Ed. 640 (1956) on the state's right to require the production of corporate papers of a state-chartered corporation pursuant to legislative investigation to determine if state policy concerning seditious activities had been violated, not impaired by the Smith Act.).

**Section 10. Freedom of speech and press.** No law shall be passed impairing the freedom of speech; every person shall be free to speak, write or publish whatever he will on any subject, being responsible for all abuse of that liberty; and in all suits and prosecutions for libel the truth thereof may be given in evidence, and the jury, under the direction of the court, shall determine the law and the fact.

**Source:** Entire article added, effective August 1, 1876, see **L. 1877**, p. 30.

**Section 11. Ex post facto laws.** No ex post facto law, nor law impairing the obligation of contracts, or retrospective in its operation, or making any irrevocable grant of special privileges, franchises or immunities, shall be passed by the general assembly.

**Source:** Entire article added, effective August 1, 1876, see **L. 1877**, p. 30.

**Section 12. No imprisonment for debt.** No person shall be imprisoned for debt, unless upon refusal to deliver up his estate for the benefit of his creditors in such manner as shall be prescribed by law, or in cases of tort or where there is a strong presumption of fraud.

**Source:** Entire article added, effective August 1, 1876, see **L. 1877**, p. 30.

**Section 13. Right to bear arms.** The right of no person to keep and bear arms in defense of his home, person and property, or in aid of the civil power when thereto legally summoned, shall be called in question; but nothing herein contained shall be construed to justify the practice of carrying concealed weapons.

**Source:** Entire article added, effective August 1, 1876, see **L. 1877**, p. 30.

**Section 14. Taking private property for private use.** Private property shall not be taken for private use unless by consent of the owner, except for private ways of necessity, and except for reservoirs, drains, flumes or ditches on or across the lands of others, for agricultural, mining, milling, domestic or sanitary purposes.

**Source:** Entire article added, effective August 1, 1876, see **L. 1877**, p. 30.

**Section 15. Taking property for public use — compensation, how ascertained.** Private property shall not be taken or damaged, for public or private use, without just compensation. Such compensation shall be ascertained by a board of commissioners, of not less than three freeholders, or by a jury, when required by the owner of the property, in such manner as may be prescribed by law, and until the same shall be paid to the owner, or into court for the owner, the property shall not be needlessly disturbed, or the proprietary rights of the owner therein divested; and whenever an attempt is made to take private property for a use alleged to be public, the question whether the contemplated use be really public shall be a judicial question, and determined as such without regard to any legislative assertion that the use is public.

**Source:** Entire article added, effective August 1, 1876, see **L. 1877**, p. 30.

**Section 16. Criminal prosecutions — rights of defendant.** In criminal prosecutions the accused shall have the right to appear and defend in person and by counsel; to demand the nature and cause of the accusation; to meet the witnesses against him face to face; to have process to compel the attendance of witnesses in his behalf, and a speedy public trial by an impartial jury of the county or district in which the offense is alleged to have been committed.

**Source:** Entire article added, effective August 1, 1876, see **L. 1877**, p. 31.

**Editor's note:** In a United States supreme court case (Escobedo v. State of Illinois, 378 U.S. 478, 84 S. Ct. 1758, 12 L. Ed.