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Memorandum

This is not a legal opinion.

May 20, 2019

TO: Interested Persons

FROM: Matt Bishop, Research Analyst, 303-866-4796

SUBJECT: State Government Enterprises

Summary

This memorandum provides information on state government enterprises under Article X, Section 20 of the Colorado Constitution, also known as the Taxpayer's Bill of Rights (TABOR). From FY 1993-94 through FY 2017-18, 22 state government entities had received enterprise status for at least one fiscal year. In FY 2017-18, enterprise revenue totaled \$17.9 billion.

Enterprise Status

An enterprise is a government-owned business that receives revenue in return for the provision of a good or service. An enterprise may receive up to 10 percent of its annual revenue from state and local government sources combined. Otherwise, an enterprise must be financially independent of the state or any local government. In addition, an enterprise must have bonding authority.

Exempting revenue for enterprises. Enterprise status can create additional budget flexibility for an exempted program and the General Fund budget. When a program is granted enterprise status, its revenue is not counted toward the TABOR limit calculation. Because enterprise programs are primarily user-funded, they can grow fee revenue over time at rates sufficient to fund expenses without increasing the size of the TABOR refund, and therefore affecting the General Fund budget. Enterprise status shifts the responsibility of paying for a government-provided product or service away from the state to the persons or entity benefiting from the product or service.

State Enterprises

Enterprise revenue. Revenue to enterprises has grown significantly since the passage of TABOR, from \$742 million in FY 1993-94, the first year TABOR was in effect, to \$17.9 billion in FY 2017-18, the most recent year for which financial data are available.

Table 1 shows revenue to enterprises since TABOR's passage. The following programs have been enterprises since TABOR's passage:

- the state lottery, which received voter approval in 1992 along with TABOR;
- Colorado Correctional Industries, a program that employs state prisoners to manufacture products for sale;
- College Assist (including the former College Access Network and the Student Loan Program), a program that helps families pay for higher education; and
- state nursing homes.

The following programs have received enterprise status through legislation, listed in chronological order according to when they received enterprise status. Please note that higher education enterprises are reported as a single listing in Table 1.

- *State Fair Authority* in the Department of Agriculture (FY 1997-98). The authority directs and supervises the Colorado State Fair. The authority has not qualified for enterprise status since FY 2005-06 because it has received more than 10 percent of its revenue from state and local governments.
- *CollegeInvest* in the Department of Higher Education (FY 2000-01). This program includes the former Student Obligation Bond Authority and administers college savings accounts for families saving for higher education.
- *Division of Wildlife* in the Department of Natural Resources (DNR) (FY 2001-02). The division is funded via the sale of hunting and fishing licenses, habitat stamps, and state park entrance fees. The Division of Wildlife and Division of Parks merged to form Colorado Parks and Wildlife in FY 2011-12.
- *Clean Screen Authority* in the Department of Public Health and Environment (FY 2002-03). The authority charges fees for vehicle emission inspections.
- *Capitol Parking Authority* in the Department of Personnel and Administration (FY 2003-04). The authority financed a lease-purchase agreement to build a parking structure near the Capitol Building and uses parking fee revenue to make the required lease payments.
- *Statewide Tolling Authority* (FY 2003-04). Also known as the Colorado Tolling Enterprise, the authority was replaced by the High-Performance Transportation Enterprise in FY 2008-09.
- *The Brand Board* in the Department of Agriculture (FY 2004-05). The Brand Board collects fee-for-service revenue to inspect and verify the ownership of livestock at the time of sale, transport, or slaughter.
- *Higher education institutions*: the University of Colorado at Boulder (FY 2004-05) and all other higher education institutions (FY 2005-06). Some functions of higher education institutions, such as campus stores and health centers, have been enterprises since TABOR became effective in

FY 1993-94. Although most institutions have retained enterprise status every year since FY 2005-06, a few have temporarily lost enterprise status in years during which they have received a large state-funded appropriation for capital projects.

- *The Petroleum Storage Tank Fund* in the Department of Labor and Employment (FY 2005-06). The program helps clean up sites contaminated from petroleum storage tanks in exchange for a fee from tank operators.
- *The High-Performance Transportation Enterprise* in the Department of Transportation (FY 2008-09). The enterprise finances surface transportation infrastructure projects in the state through innovative means, such as public-private partnerships. It has the statutory authority to impose tolls and other user fees.
- *Unemployment Compensation and Service Enterprise* in the Department of Labor and Employment (FY 2009-10). The unemployment insurance program is a federally required program that insures most private workers against being released from employment at no fault of their own in exchange for insurance premium fees levied on employers.
- *The Statewide Bridge Enterprise* in the Department of Transportation (FY 2009-10). The enterprise finances repairs and replacement of bridges statewide, funded by a bridge safety surcharge levied on vehicle registrations.
- *The Electronic Recording Technology Fund* in the Department of State (FY 2015-16). The enterprise facilitates the electronic filing of public records.
- *The Colorado Healthcare Affordability and Sustainability Enterprise* in the Department of Health Care Policy and Financing (FY 2017-18). The enterprise charges and collects the healthcare affordability and sustainability fee to obtain federal matching funds that are used to provide reimbursements to hospitals for uncompensated indigent care and Medicaid expansion populations.
- *The Front Range Waste Diversion Enterprise* in the Department of Public Health and Environment (FY 2019-20). Starting in FY 2019-20, the enterprise will collect a user fee on each load of waste disposed of at a landfill in the Front Range to finance the Front Range Waste Diversion Grant Program.

Table 1
Enterprise Revenue From FY 1993-94 Through FY 2017-18

Enterprise	FY 1993-94	FY 1994-95	FY 1995-96	FY 1996-97	FY 1997-98	FY 1998-99
Brand Board						
Capitol Parking Authority						
Clean Screen Authority						
College Access Network						
College Assist						
CollegelInvest						
Colorado Healthcare Affordability and Sustainability Enterprise						
Correctional Industries	19,499,000	21,919,956	21,635,361	25,607,242	27,090,906	29,568,209
Division of Wildlife						
Electronic Recording Technology Fund						
Higher Education Enterprises	359,402,000	370,453,236	393,254,118	433,294,458	462,518,295	462,721,118
Parks and Wildlife						
Petroleum Storage Tank Fund						
State Fair Authority					7,075,939	
State Lottery	288,288,000	353,404,149	333,282,708	362,597,701	375,884,144	370,622,470
State Nursing Homes	13,077,000	14,014,508	14,442,553	16,353,762	17,068,187	18,721,800
Statewide Bridge Enterprise						
Statewide Tolling Authority						
Statewide Transportation Enterprise						
Student Loan Program	62,047,000	61,712,919	62,378,574	66,526,044	70,540,767	68,834,835
Student Obligation Bond Authority (now CollegelInvest)						
Unemployment Compensation Section						
Total	\$742,313,000	\$821,504,768	\$824,993,314	\$904,379,207	\$960,178,238	\$950,468,432

**Table 1 (Cont.)
Enterprise Revenue From FY 1993-94 Through FY 2017-18**

Enterprise	FY 1999-00	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04
Brand Board					
Capitol Parking Authority					
Clean Screen Authority				32,535	
College Access Network					73,459,330
College Assist					
CollegelInvest					
Colorado Healthcare Affordability and Sustainability Enterprise					
Correctional Industries	31,858,590	37,955,291	35,701,252	41,971,225	37,826,111
Division of Wildlife			78,244,457	86,052,919	89,647,747
Electronic Recording Technology Fund					
Higher Education Enterprises	487,505,254	532,158,366	746,097,768	685,445,127	915,219,244
Parks and Wildlife					
Petroleum Storage Tank Fund					
State Fair Authority					8,724,599
State Lottery	372,898,766	352,378,209	413,485,426	398,021,540	408,582,297
State Nursing Homes	19,631,019	21,789,886	23,833,086	1,806,180	37,826,111
Statewide Bridge Enterprise					
Statewide Tolling Authority					59,282
Statewide Transportation Enterprise					
Student Loan Program	52,376,791	63,811,616	73,451,528	79,871,353	73,459,330
Student Obligation Bond Authority (now CollegelInvest)		60,984,652	50,631,476	84,998,298	110,464,077
Unemployment Compensation Section					
Total	\$964,270,420	\$1,069,078,020	\$1,421,444,993	\$1,378,199,177	\$1,755,268,128

Table 1 (Cont.)
Enterprise Revenue From FY 1993-94 Through FY 2017-18

Enterprise	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08	FY 2008-09
Brand Board	3,842,737	4,065,130	3,842,120	4,093,319	4,202,534
Capitol Parking Authority	632,218	391,268	1,451,622	820,685	1,027,204
Clean Screen Authority	106,724	604,278	1,526,775	3,553,844	4,828,676
College Access Network	88,315,746				
College Assist		437,190,510	523,490,413	661,523,633	671,952,547
CollegelInvest	431,717,678	320,884,776	352,739,083	451,526,418	437,172,975
Colorado Healthcare Affordability and Sustainability Enterprise					
Correctional Industries	38,971,843	42,303,679	52,134,604	64,858,679	63,428,538
Division of Wildlife	97,282,958	100,788,085	104,925,886	120,887,713	123,811,894
Electronic Recording Technology Fund					
Higher Education Enterprises	2,667,253,877	4,285,758,961	4,836,771,964	5,114,091,726	5,272,380,306
Parks and Wildlife					
Petroleum Storage Tank Fund		35,416,339	44,680,704	38,013,691	32,448,987
State Fair Authority	8,939,862	8,690,633			
State Lottery	421,039,681	477,769,929	469,698,341	516,559,601	501,012,583
State Nursing Homes	37,761,754	43,612,634	47,534,116	51,963,977	54,853,505
Statewide Bridge Enterprise					
Statewide Tolling Authority	675,340		1,075,900	4,726,985	763,850
Statewide Transportation Enterprise					795,050
Student Loan Program					
Student Obligation Bond Authority (now CollegelInvest)					
Unemployment Compensation Section					
Total	\$3,796,540,418	\$5,757,476,222	\$6,439,871,528	\$7,032,620,271	\$7,168,678,649

Table 1 (Cont.)
Enterprise Revenue From FY 1993-94 Through FY 2017-18

Enterprise	FY 2009-10	FY 2010-11	FY 2011-12	FY 2012-13	FY 2013-14
Brand Board	4,118,563	4,364,826	4,811,020	4,725,962	4,992,832
Capitol Parking Authority	831,923	487,594	970,847	1,085,175	962,569
Clean Screen Authority	4,788,116	6,099,590	6,295,887	5,295,666	5,585,870
College Access Network					
College Assist	612,814,416	683,147,763	678,220,426	668,427,892	602,270,498
CollegelInvest	563,242,613	442,627,962	426,491,128	485,898,323	527,016,026
Colorado Healthcare Affordability and Sustainability Enterprise					
Correctional Industries	57,876,769	67,286,736	66,856,139	62,520,606	64,207,401
Division of Wildlife	116,642,218	121,102,821			
Electronic Recording Technology Fund					
Higher Education Enterprises	5,784,475,973	6,842,932,797	8,232,937,607	7,373,986,683	7,847,346,334
Parks and Wildlife			188,318,749	208,142,861	209,798,705
Petroleum Storage Tank Fund	36,865,072	36,797,270	38,575,667	38,787,125	35,765,093
State Fair Authority					
State Lottery	513,310,600	528,143,599	565,320,216	578,103,343	547,956,437
State Nursing Homes	54,277,169	53,387,808	48,509,487	50,074,366	53,951,013
Statewide Bridge Enterprise	421,883	11,228,233	15,956,339	8,690,299	11,383,446
Statewide Tolling Authority					
Statewide Transportation Enterprise	1,726,446	3,793,121	3,226,733	4,862,098	22,197,016
Student Loan Program					
Student Obligation Bond Authority (now CollegelInvest)					
Unemployment Compensation Section	2,499,120,652	2,144,256,726	1,573,750,649	1,057,649,102	760,174,178
Total	\$10,250,512,413	\$10,945,656,846	\$11,850,240,894	\$10,548,249,501	\$10,693,607,418

**Table 1 (Cont.)
Enterprise Revenue From FY 1993-94 Through FY 2017-18**

Enterprise	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18	Total
Brand Board	5,434,154	5,079,919	8,192,797	8,726,704	\$70,492,617
Capitol Parking Authority	721,685	1,091,211	966,673	851,756	\$12,292,430
Clean Screen Authority	5,868,209	4,347,950	4,562,319	3,314,143	\$56,810,582
College Access Network					\$161,775,076
College Assist	631,865,367	613,735,094	600,754,217	540,409,415	\$7,925,802,191
CollegelInvest	613,766,152	623,149,830	704,500,649	777,595,435	\$7,158,329,048
Colorado Healthcare Affordability and Sustainability Enterprise				3,310,867,117	\$3,310,867,117
Correctional Industries	68,900,760	73,701,031	75,979,315	92,974,194	\$1,222,633,437
Division of Wildlife					\$1,039,386,698
Electronic Recording Technology Fund			14,198	97,759	\$111,957
Higher Education Enterprises	8,455,491,475	8,458,394,515	10,618,379,415	11,568,285,214	\$103,206,555,831
Parks and Wildlife	220,670,719	229,006,335	281,272,127	315,167,828	\$1,652,377,324
Petroleum Storage Tank Fund	39,891,367	43,305,095	40,310,963	37,621,298	\$498,478,671
State Fair Authority					\$33,431,033
State Lottery	540,933,178	597,474,129	563,096,231	622,320,424	\$11,472,183,702
State Nursing Homes	58,660,713	59,711,521	84,907,496	90,791,740	\$988,561,391
Statewide Bridge Enterprise	15,558,306	16,675,940	21,910,988	20,201,311	\$122,026,745
Statewide Tolling Authority					\$7,301,357
Statewide Transportation Enterprise	8,232,300	33,580,526	23,502,067	21,890,869	\$123,806,226
Student Loan Program					\$735,010,757
Student Obligation Bond Authority (now CollegelInvest)					\$307,078,503
Unemployment Compensation Section	530,129,631	531,606,636	519,152,945	444,422,991	\$10,060,263,510
Total	\$11,196,124,016	\$11,290,859,732	\$13,547,502,400	\$17,855,538,198	\$150,165,576,203

Sources: TABOR Schedules of Computation
Office of the State Controller and Office of the State Auditor.