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Memorandum

This is not a legal opinion.

August 29, 2022

TO: Interested Persons

FROM: Elizabeth Ramey, Principal Economist, 303-866-3522

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 2022-23, 33 state government entities had received enterprise status for at least one fiscal year. In FY 2020-21, the most recent year for which financial data are available, enterprise revenue totaled \$27.1 billion.

Contents

Summary	1
Enterprise Status	1
State Enterprises	2
Enterprise Revenue	5

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 authority to issue its own revenue bonds.

Exempting revenue for enterprises. Enterprise status can create additional budget flexibility for a government entity and for 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 obligation, 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 users who benefit 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 \$16.1 billion in FY 2018-19 and to \$27.1 billion in FY 2020-21. The increase between FY 2018-19 and FY 2020-21 reflects a substantial increase in unemployment insurance benefits paid by the Unemployment Compensation and Service Enterprise during the COVID-19 pandemic.

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

- 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. 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 Parks and 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 usage 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 (CDPHE) (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 (2004-05) and all other state higher education institutions (FY 2005-06). The Auraria Higher Education Center continues to designate a portion of its activities, rather than the functions of the entire institution, as being performed by its TABOR enterprise. 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 BY 2005-06, a few have temporarily lost enterprise status in years during which they have received a large state-funded appropriation for capital projects.
- *Petroleum Storage Tank Fund* in the Department of Labor and Employment (CDLE) (FY 2005-06). The program helps clean up sites contaminated by petroleum storage tanks in exchange for a fee from tank operators.
- The *Colorado Transportation Investment Office*, formerly called the Statewide Transportation Enterprise and the High Performance Transportation Enterprise, in the Department of Transportation (CDOT) (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 CDLE (FY 2009-10). The unemployment insurance program is a federally required program that insures most private workers against being released from employment through no fault of their own in exchange for insurance premium fees levied on employers.
- *Statewide Bridge and Tunnel Enterprise* in CDOT (FY 2009-10). The enterprise finances repairs and replacement of bridges statewide, funded by a bridge safety surcharge levied on vehicle registrations, a bridge and tunnel impact fee levied on sales of diesel fuel, and a retail delivery fee. The Statewide Bridge Enterprise was expanded to include tunnels in FY 2021-22.
- *Electronic Recording Technology Fund* in the Department of State (FY 2015-16). The enterprise facilitates the electronic filing of public records.
- *Colorado Healthcare Affordability and Sustainability Enterprise* in the Department of Health Care Policy and Financing (HCPF) (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.
- *Front Range Waste Diversion Enterprise* in CDPHE (FY 2019-20). The enterprise collects 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.

- *Reinsurance Program* in the Department of Regulatory Agencies (DORA) Division of Insurance (DOI), (FY 2019-20). The reinsurance program operates as an enterprise to lower the cost of health insurance. The reinsurance program became part of the Health Insurance Affordability Enterprise in FY 2020-21.
- *Health Insurance Affordability Enterprise* in DORA DOI (FY 2020-21). The enterprise collects fees from health insurance carriers and hospitals to fund activities related to the expansion of health insurance enrollment and affordability, including the reinsurance program.
- *Air Quality Enterprise* in CDPHE (FY 2020-21). The enterprise monitors and reports on air quality and implements emission mitigation projects, funded by fees imposed per ton of air pollutant emitted by a stationary source, for custom air quality research, and for emission mitigation services. The enterprise is scheduled for repeal in 2034.
- *Clean Motor Vehicle Fleet Enterprise* in CCPHE (FY 2021-22). The enterprise supports the use of electric motor vehicles and other technologies in private and government vehicle fleets, funded by a retail delivery fee.
- *Clean Transit Enterprise* in CDOT (FY 2021-22). The enterprise supports public transit electrification, facility upgrades, fleet motor vehicle replacement, and construction of electric motor vehicle charging infrastructure and is funded by a retail delivery fee.
- *Nonattainment Area Air Pollution Mitigation Enterprise* in CDOT (FY 2021-22). The enterprise levies a fee on retail deliveries and on rides provided by transportation network companies to mitigate transportation-related emissions in ozone nonattainment areas.
- *Community Access Enterprise* in the Colorado Energy Office (FY 2021-22). The enterprise is funded by a retail delivery fee and supports the widespread adoption of electric vehicles and electric alternatives to motor vehicles.
- *Natural Disaster Mitigation Enterprise* in the Department of Public Safety (FY 2021-22). The enterprise charges fees to insurance companies to support local governments in hazard mitigation.
- *988 Crisis Hotline Enterprise* in the Department of Human Services (FY 2021-22). The enterprise funds the 988 Crisis Hotline for suicide prevention, and is funded by a surcharge imposed on phone service users and a charge on prepaid wireless phones.
- *Orphaned Wells Mitigation Enterprise* in DNR (FY 2022-23). The enterprise collects mitigation fees from oil and gas operators to fund the plugging, reclaiming, and remediation of orphaned oil and gas wells.

Table 1
State Enterprise Revenue
Dollars in Millions

Enterprise	FY 1993-94	FY 1994-95	FY 1995-96	FY1996-97	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	\$19.5	\$21.9	\$21.6	\$25.6	\$27.1	\$29.6
Division of Wildlife						
Electronic Recording Technology Fund						
Front Range Waste Diversion Enterprise						
Health Insurance Affordability Enterprise						
Education Enterprises	\$359.4	\$370.5	\$393.3	\$433.3	\$462.5	\$462.7
Parks and Wildlife						
Petroleum Storage Tank Fund						
State Fair Authority					\$7.1	
State Lottery	\$288.3	\$353.4	\$333.3	\$362.6	\$375.9	\$370.6
State Nursing Homes	\$13.1	\$14.0	\$14.4	\$16.4	\$17.1	\$18.7
Statewide Bridge Enterprise (now Statewide Bridge & Tunnel)						
Statewide Tolling Authority						
Statewide Transportation Enterprise						
Student Loan Program	\$62.0	\$61.7	\$62.4	\$66.5	\$70.5	\$68.8
Student Obligation Bond Authority (now CollegelInvest)						
Unemployment Compensation Section						
Total*	\$742.3	\$821.5	\$825.0	\$904.4	\$960.2	\$950.5

Source: TABOR Schedules of Computations, Office of the State Controller, Office of the State Auditor

* Totals may not sum due to rounding.

Table 1 (Cont.)
State Enterprise Revenue
Dollars in Millions

Enterprise	FY 1999-00	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04	FY 2004-05
Brand Board						\$3.8
Capitol Parking Authority						\$0.6
Clean Screen Authority				\$0.0		\$0.1
College Access Network					\$73.5	\$88.3
College Assist						
CollegeInvest						\$431.7
Colorado Healthcare Affordability and Sustainability Enterprise						
Correctional Industries	\$31.9	\$38.0	\$35.7	\$42.0	\$37.8	\$39.0
Division of Wildlife			\$78.2	\$86.1	\$89.6	\$97.3
Electronic Recording Technology Fund						
Front Range Waste Diversion Enterprise						
Health Insurance Affordability Enterprise						
Education Enterprises	\$487.5	\$532.2	\$746.1	\$685.4	\$915.2	\$2,667.3
Parks and Wildlife						
Petroleum Storage Tank Fund						
State Fair Authority					\$8.7	\$8.9
State Lottery	\$372.9	\$352.4	\$413.5	\$398.0	\$408.6	\$421.0
State Nursing Homes	\$19.6	\$21.8	\$23.8	\$1.8	\$37.8	\$37.8
Statewide Bridge Enterprise (now Statewide Bridge & Tunnel)						
Statewide Tolling Authority					\$0.1	\$0.7
Statewide Transportation Enterprise						
Student Loan Program	\$52.4	\$63.8	\$73.5	\$79.9	\$73.5	
Student Obligation Bond Authority (now CollegeInvest)		\$61.0	\$50.6	\$85.0	\$110.5	
Unemployment Compensation Section						
Total*	\$964.3	\$1,069.1	\$1,421.4	\$1,378.2	\$1,755.3	\$3,796.5

Source: TABOR Schedules of Computations, Office of the State Controller, Office of the State Auditor

* Totals may not sum due to rounding.

Table 1 (Cont.)
State Enterprise Revenue
Dollars in Millions

Enterprise	FY 2005-06	FY 2006-07	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11
Brand Board	\$4.1	\$3.8	\$4.1	\$4.2	\$4.1	\$4.4
Capitol Parking Authority	\$0.4	\$1.5	\$0.8	\$1.0	\$0.8	\$0.5
Clean Screen Authority	\$0.6	\$1.5	\$3.6	\$4.8	\$4.8	\$6.1
College Access Network						
College Assist	\$437.2	\$523.5	\$661.5	\$672.0	\$612.8	\$683.1
CollegeInvest	\$320.9	\$352.7	\$451.5	\$437.2	\$563.2	\$442.6
Colorado Healthcare Affordability and Sustainability Enterprise						
Correctional Industries	\$42.3	\$52.1	\$64.9	\$63.4	\$57.9	\$67.3
Division of Wildlife	\$100.8	\$104.9	\$120.9	\$123.8	\$116.6	\$121.1
Electronic Recording Technology Fund						
Front Range Waste Diversion Enterprise						
Health Insurance Affordability Enterprise						
Education Enterprises	\$4,285.8	\$4,836.8	\$5,114.1	\$5,272.4	\$5,784.5	\$6,842.9
Parks and Wildlife						
Petroleum Storage Tank Fund	\$35.4	\$44.7	\$38.0	\$32.4	\$36.9	\$36.8
State Fair Authority	\$8.7					
State Lottery	\$477.8	\$469.7	\$516.6	\$501.0	\$513.3	\$528.1
State Nursing Homes	\$43.6	\$47.5	\$52.0	\$54.9	\$54.3	\$53.4
Statewide Bridge Enterprise (now Statewide Bridge & Tunnel)					\$0.4	\$11.2
Statewide Tolling Authority		\$1.1	\$4.7	\$0.8		
Statewide Transportation Enterprise				\$0.8	\$1.7	\$3.8
Student Loan Program						
Student Obligation Bond Authority (now CollegeInvest)						
Unemployment Compensation Section					\$2,499.1	\$2,144.3
Total*	\$5,757.5	\$6,439.9	\$7,032.6	\$7,168.7	\$10,250.5	\$10,945.7

Source: TABOR Schedules of Computations, Office of the State Controller, Office of the State Auditor

* Totals may not sum due to rounding.

Table 1 (Cont.)
State Enterprise Revenue
Dollars in Millions

Enterprise	FY 2011-12	FY 2012-13	FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17
Brand Board	\$4.8	\$4.7	\$5.0	\$5.4	\$5.1	\$8.2
Capitol Parking Authority	\$1.0	\$1.1	\$1.0	\$0.7	\$1.1	\$1.0
Clean Screen Authority	\$6.3	\$5.3	\$5.6	\$5.9	\$4.3	\$4.6
College Access Network						
College Assist	\$678.2	\$668.4	\$602.3	\$631.9	\$613.7	\$600.8
CollegeInvest	\$426.5	\$485.9	\$527.0	\$613.8	\$623.1	\$704.5
Colorado Healthcare Affordability and Sustainability Enterprise						
Correctional Industries	\$66.9	\$62.5	\$64.2	\$68.9	\$73.7	\$76.0
Division of Wildlife						
Electronic Recording Technology Fund						\$0.0
Front Range Waste Diversion Enterprise						
Health Insurance Affordability Enterprise						
Education Enterprises	\$8,232.9	\$7,374.0	\$7,847.3	\$8,455.5	\$8,458.4	\$10,618.4
Parks and Wildlife	\$188.3	\$208.1	\$209.8	\$220.7	\$229.0	\$281.3
Petroleum Storage Tank Fund	\$38.6	\$38.8	\$35.8	\$39.9	\$43.3	\$40.3
State Fair Authority						
State Lottery	\$565.3	\$578.1	\$548.0	\$540.9	\$597.5	\$563.1
State Nursing Homes	\$48.5	\$50.1	\$54.0	\$58.7	\$59.7	\$84.9
Statewide Bridge Enterprise (now Statewide Bridge & Tunnel)	\$16.0	\$8.7	\$11.4	\$15.6	\$16.7	\$21.9
Statewide Tolling Authority						
Statewide Transportation Enterprise	\$3.2	\$4.9	\$22.2	\$8.2	\$33.6	\$23.5
Student Loan Program						
Student Obligation Bond Authority (now CollegeInvest)						
Unemployment Compensation Section	\$1,573.8	\$1,057.6	\$760.2	\$530.1	\$531.6	\$519.2
Total*	\$11,850.2	\$10,548.2	\$10,693.6	\$11,196.1	\$11,290.9	\$13,547.5

Source: TABOR Schedules of Computations, Office of the State Controller, Office of the State Auditor

* Totals may not sum due to rounding.

Table 1 (Cont.)
State Enterprise Revenue
Dollars in Millions

Enterprise	FY 2017-18	FY 2018-19	FY 2019-20	FY 2020-21	Total
Brand Board	\$8.7	\$4.0	\$3.0	\$3.1	\$80.6
Capitol Parking Authority	\$0.9	\$0.8	\$1.2	\$1.1	\$15.3
Clean Screen Authority	\$3.3	\$2.9	\$3.6	\$3.5	\$66.9
College Access Network					\$161.8
College Assist	\$540.4	\$542.6	\$554.3	\$231.4	\$9,254.1
CollegelInvest	\$777.6	\$877.7	\$926.2	\$969.6	\$9,931.7
Colorado Healthcare Affordability and Sustainability Enterprise	\$3,310.9	\$3,430.4	\$3,531.7	\$4,235.1	\$14,508.1
Correctional Industries	\$93.0	\$68.4	\$56.5	\$48.2	\$1,395.8
Division of Wildlife					\$1,039.4
Electronic Recording Technology Fund	\$0.1	\$2.6	\$4.3	\$2.6	\$9.6
The Front Range Waste Diversion Enterprise			\$0.1	\$0.9	\$1.0
Health Insurance Affordability Enterprise			\$0.0	\$227.9	\$227.9
Education Enterprises	\$11,568.3	\$9,765.8	\$10,047.5	\$10,829.1	\$133,848.9
Parks and Wildlife	\$315.2	\$217.8	\$208.9	\$205.9	\$2,284.9
Petroleum Storage Tank Fund	\$37.6	\$37.6	\$35.3	\$35.3	\$606.7
State Fair Authority					\$33.4
State Lottery	\$622.3	\$678.7	\$655.0	\$789.9	\$13,595.8
State Nursing Homes	\$90.8	\$47.1	\$46.5	\$47.2	\$1,129.4
Statewide Bridge Enterprise (now Statewide Bridge & Tunnel)	\$20.2	\$12.6	\$14.7	\$12.5	\$161.9
Statewide Tolling Authority					\$7.3
Statewide Transportation Enterprise	\$21.9	\$20.5	\$23.6	\$46.9	\$214.8
Student Loan Program					\$735.0
Student Obligation Bond Authority (now CollegelInvest)					\$307.1
Unemployment Compensation Section	\$444.4	\$384.7	\$4,767.3	\$9,425.8	\$24,638.0
Total*	\$17,855.5	\$16,094.2	\$20,879.7	\$27,116.0	\$214,255.6

Source: TABOR Schedules of Computations, Office of the State Controller, Office of the State Auditor

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