



MEMORANDUM

Date: November 27, 2013
To: Members of the Legislative Audit Committee
From:  Dianne E. Ray, CPA, State Auditor
Re: Higher Education Enterprise Status

Under Section 23-5-101.7(2), C.R.S., a higher education governing board may designate its respective institution(s) as an enterprise for purposes of Article X, Section 20 of the Colorado Constitution (Taxpayer's Bill of Rights or TABOR). Entities that meet the definition of a TABOR-exempt enterprise are exempt from the revenue growth and spending limitations of TABOR. The Office of the State Auditor and the Legislative Audit Committee (the Committee) are required to review whether such designations meet the requirements of a TABOR-exempt enterprise. In 2004, the Committee reviewed and approved the designation of the University of Colorado as a TABOR-exempt enterprise for Fiscal Year 2005. In 2005, the Committee reviewed and approved the designation of 10 additional higher education institutions as TABOR-exempt enterprises for Fiscal Year 2006. In 2007, the Committee approved Colorado State University's request to combine its separate enterprises for the Fort Collins and Pueblo campuses into a single enterprise.

Final determination of enterprise status is made at the end of each fiscal year after final financial information is known. This memo provides the final enterprise status of the institutions for Fiscal Year 2013 and their projected enterprise status for Fiscal Year 2014. Based on our review, all institutions qualified as TABOR-exempt enterprises for Fiscal Year 2013. It is projected that one institution – Adams State University – will not qualify as a TABOR enterprise for Fiscal Year 2014. We have provided some background information below, and our analysis of enterprise status begins on page 4.

Background: Fee-For-Service Contract Purchases and College Opportunity Fund Stipends

The General Assembly passed Senate Bill 04-189 during the 2004 Legislative Session, which changed the process for funding postsecondary education. The bill established the College Opportunity Fund (COF) as a trust fund to provide financial assistance to eligible undergraduate college students through stipend payments. To obtain the stipend, an eligible undergraduate student must apply for the stipend and be admitted to a state or private participating institution of higher



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education. Once this is accomplished, an institution requests that College Assist provide the stipend payment to the institution so the funds can be applied against the student's in-state tuition cost. Qualified students receive stipend payments on a credit-hour basis for undergraduate instruction up to a life-time limitation of 145 credit hours. If students have already completed their baccalaureate degrees under the College Opportunity Fund Program (the COF Program), they may receive stipend payments for an additional 30 undergraduate credit hours. The stipend payment for Fiscal Year 2013 was \$62 per credit hour, and for Fiscal Year 2014 is \$64 per credit hour.

Senate Bill 04-189 also directed the Colorado Commission on Higher Education (the Commission) to acquire educational services from state institutions of higher education. On behalf of the Commission, the Department of Higher Education was authorized to enter into fee-for-service contracts with higher education governing boards to purchase such services. Statute (Section 23-5-130, C.R.S.), as amended in subsequent years, authorized the purchase of:

- Educational services in rural areas or communities in which the cost of delivering the educational services is not sustained by the amount received in student tuition.
- Educational services required by the Commission to meet its obligations under reciprocal agreements (i.e., agreements for obtaining waivers of the nonresident differential in tuition rates for Colorado residents attending higher education institutions in other states in exchange for Colorado institutions waiving the nonresident differential in tuition rates for residents of the other states).
- Graduate school services.
- Educational services that may increase economic development opportunities in the state, including courses to assist students in career development and retraining.
- Specialized educational services and professional degrees including, but not limited to, the areas of dentistry, medicine, veterinary medicine, nursing, law, forestry, and engineering.

For Fiscal Year 2013, the appropriation for the COF Program (including COF stipends for private institutions, as provided for under statute) was approximately \$502 million. The COF Program appropriation to state institutions was approximately \$256 million for COF stipends and about \$246 million for fee-for-service contracts. Participating private institutions (i.e., University of Denver, Regis University, and Colorado Christian College) received approximately \$1.1 million of COF stipends.

For Fiscal Year 2014, the total amount appropriated for the COF Program is approximately \$525 million, of which approximately \$524 million is for state institutions and about \$1 million is for private institutions. The appropriation consists of about \$268 million for COF stipends and \$257 million for fee-for-service contracts.

The services to be purchased from higher education institutions through fee-for-service contracts and the appropriated amount of COF stipends for Fiscal Year 2014 are shown in the table on the following page.

**HIGHER EDUCATION INSTITUTIONS
FEE-FOR-SERVICE CONTRACT PURCHASES AND APPROPRIATED COF STIPENDS
FISCAL YEARS 2014 (PROJECTED) AND 2013 (ACTUAL)**

	GRADUATE EDUCATION	RECIPROCAL AGREEMENTS, VET PROGRAM, AND VESTIBULE LABS (Note 1)	HIGH-COST SPECIALIZED EDUCATION (Note 2)	FEE-FOR- SERVICE TOTALS	COLLEGE OPPORTUNITY FUND (COF) STIPENDS	FISCAL YEAR 2014 TOTAL (PROJECTED)	FISCAL YEAR 2013 TOTAL (ACTUAL)
ADAMS STATE UNIVERSITY			\$8,619,761	\$8,619,761	\$2,941,440	\$11,561,201	\$11,047,855
COLORADO COMMUNITY COLLEGE SYSTEM		\$3,000,000	\$20,902,597	\$23,902,597	\$99,486,720	\$123,389,317	\$117,720,293
COLORADO SCHOOL OF MINES	\$2,772,044		\$8,886,303	\$11,658,347	\$5,155,200	\$16,813,547	\$16,084,131
COLORADO STATE UNIVERSITY SYSTEM	\$8,548,394	\$16,272,305	\$44,854,523	\$69,675,222	\$40,172,160	\$109,847,382	\$105,190,477
FORT LEWIS COLLEGE		\$249,600	\$5,162,720	\$5,412,320	\$4,128,000	\$9,540,320	\$9,186,240
COLORADO MESA UNIVERSITY	\$509,328		\$6,089,923	\$6,599,251	\$13,234,560	\$19,833,811	\$18,892,318
METROPOLITAN STATE UNIVERSITY OF DENVER			\$7,870,653	\$7,870,653	\$31,359,360	\$39,230,013	\$37,469,193
UNIVERSITY OF COLORADO SYSTEM	\$46,841,570		\$50,836,789	\$97,678,359	\$52,577,280	\$150,255,639	\$143,842,041
UNIVERSITY OF NORTHERN COLORADO	\$7,371,681		\$11,088,859	\$18,460,540	\$15,179,520	\$33,640,060	\$32,314,830
WESTERN STATE COLORADO UNIVERSITY			\$7,144,429	\$7,144,429	\$2,388,480	\$9,532,909	\$9,225,225
TOTAL	\$66,043,017	\$19,521,905	\$171,456,557	\$257,021,479	\$266,622,720	\$523,644,199	\$500,972,603

Source: Services purchased is based on information provided by the Department of Higher Education. COF stipends are based on Long Bill appropriations.

Note 1: Reciprocal agreements involve the waiver of the nonresident differential in tuition rates for out-of-state students attending Colorado colleges in exchange for the same waiver for Colorado students attending college in other states. Vet Program is the Veterinary Medicine professional services program at Colorado State University. Vestibule labs provide instruction and guidance for students to obtain skills for degree completion and career development.

Note 2: This includes engineering programs, medical programs, courses at rural community colleges, and other programs that are high cost or specialized.

Final Enterprise Status for Fiscal Year 2013 and Projected Status for Fiscal Year 2014

To qualify as an enterprise, an entity is required by TABOR to be a government-owned business authorized to issue its own revenue bonds and to receive under 10 percent of its annual revenue in grants from all Colorado state and local governments combined. The State's higher education institutions possess the characteristics of government-owned businesses and have the authority to issue revenue bonds. Regarding the limitation on receipt of governmental support from state and local grants, TABOR does not define what is meant by "grants." The General Assembly, through enabling legislation [Section 23-5-101.5(2)(b)(I), C.R.S.], defines a grant to be any direct cash subsidy or other direct contribution of money from the State or any local government that is not required to be repaid.

During Fiscal Year 2013, none of the higher education institutions received any direct cash subsidies or contributions from local governments, and all but one (Metropolitan State University of Denver) received some financial support from the State. The table on page 5 shows the amount of revenue earned and state support received by the higher education enterprises for Fiscal Year 2013. This table shows that all 10 institutions received less than 10 percent of their total revenue from the State and thereby qualified for TABOR-exempt enterprise status.

**HIGHER EDUCATION TABOR-EXEMPT ENTERPRISE STATUS
ACTUAL REVENUES AND STATE SUPPORT
FISCAL YEAR 2013**

	TOTAL REVENUE	STATE SUPPORT GENERAL FUND APPROPRIATION	STATE SUPPORT CAPITAL APPROPRIATION (Note 1)	OTHER STATE SUPPORT	TOTAL STATE SUPPORT	STATE SUPPORT AS A PERCENTAGE OF TOTAL REVENUE (Note 2)
ADAMS STATE UNIVERSITY	\$ 48,760,882	\$	\$ 321,140	\$	\$ 321,140	0.66%
COLORADO COMMUNITY COLLEGE SYSTEM	590,505,624	3,625,022 (Note 3)	2,357,883	3,704,433 (Note 4)	9,687,338	1.64%
COLORADO SCHOOL OF MINES	223,443,332	706,326	790,702	619,786 (Note 4)	2,116,814	0.95%
COLORADO STATE UNIVERSITY SYSTEM	1,053,906,590		3,633,984	2,220,104 (Note 4)	5,854,088	0.56%
FORT LEWIS COLLEGE	66,656,682		95,928	180,182 (Note 4)	276,110	0.41%
COLORADO MESA UNIVERSITY	111,989,773			1,385,067 (Note 4)	1,385,067	1.24%
METROPOLITAN STATE UNIVERSITY OF DENVER	165,017,327					0.00%
UNIVERSITY OF COLORADO SYSTEM	2,950,423,687		2,269,408	29,767,458 (Note 5)	32,036,866	1.09%
UNIVERSITY OF NORTHERN COLORADO	197,568,878		207,288	1,064,736 (Note 4)	1,272,024	0.64%
WESTERN STATE COLORADO UNIVERSITY	36,407,616		124,877	1,934,978 (Note 4)	2,059,855	5.66%

Source: Amounts are from Fiscal Year 2013 unaudited financial statements.

Note 1: Represents available capital funds used during Fiscal Year 2013 and may not equal capital funds appropriated for any one year.

Note 2: Institutions that receive 10 percent or more in state support do not qualify as TABOR-exempt enterprises.

Note 3: Represents appropriations of \$2,725,022 for Colorado First Customized Job Training and \$900,000 for Occupational Education for CCCS. Distributions made to local school districts and other local entities for career and technical education programs are not considered state support.

Note 4: Represents state support received from annual lease payments for capital projects financed by state Certificates of Participation.

Note 5: Included in other state support is \$14,171,456 from the Tobacco Litigation Settlement Moneys Health Education Fund, pursuant to House Bill 12-1335, for the University of Colorado. State appropriations are in the calculation of state support. Other state support also consists of \$13,987,297 received from annual lease payments for capital project financed by state Certificates of Participation related to the Anschutz Medical Campus.

The table on page 7 shows the estimated amount of revenue to be earned and state support to be received by higher education enterprises for Fiscal Year 2014. Based on current projections, one institution – Adams State University – is projected to exceed the 10 percent threshold for governmental support for Fiscal Year 2014. The amount of capital contributions to be provided by the State is the reason the threshold is projected to be exceeded.

The disqualification of an institution as a TABOR-exempt enterprise has several consequences. An adjustment to the TABOR base for the State is made to ensure comparability between the base and current year nonexempt revenue. The TABOR base is used to calculate the limit on fiscal year spending and the amount required to be refunded or the amount of excess revenue to be retained. If a higher education institution does not qualify as a TABOR-exempt enterprise and it experiences a more rapid rate of growth in revenue than allowed under TABOR, the institution could contribute disproportionately to any required taxpayer refund, which historically has been paid from General Fund resources.

Other consequences resulting from the loss of TABOR-exempt enterprise status include:

- The accounting burden for the institution, as well as other state departments doing business with the institution, is increased because of the need to change the categories of how revenues and expenses are recorded for TABOR purposes.
- Reductions in the institution's sources of revenue available to pledge for the payment of principal, interest, and reserve requirements on revenue bonds. In addition to other sources of revenue that may be used, Section 23-5-103(1), C.R.S., allows a higher education institution designated as a TABOR-exempt enterprise to pledge up to 10 percent of its tuition revenue for payment of bond debt and reserve requirements. Without TABOR-exempt enterprise status, an institution loses its ability to pledge up to 10 percent of its tuition for such purpose.

**HIGHER EDUCATION TABOR-EXEMPT ENTERPRISE STATUS
ESTIMATED REVENUES AND STATE SUPPORT
FISCAL YEAR 2014**

	TOTAL REVENUE	STATE SUPPORT GENERAL FUND APPROPRIATION	STATE SUPPORT CAPITAL APPROPRIATION (Note 1)	OTHER STATE SUPPORT	TOTAL STATE SUPPORT	STATE SUPPORT AS A PERCENTAGE OF TOTAL REVENUE (Note 2)
ADAMS STATE UNIVERSITY	71,877,612		9,864,156		9,864,156	13.72%
COLORADO COMMUNITY COLLEGE SYSTEM	620,030,905	5,125,000 (Note 3)	26,070,074	3,704,951 (Note 4)	34,900,025	5.63%
COLORADO SCHOOL OF MINES	244,366,835	1,595,601	619,786	415,122 (Note 4)	2,630,509	1.08%
COLORADO STATE UNIVERSITY SYSTEM	1,084,164,542		20,176,774	2,220,104 (Note 4)	22,396,878	2.07%
FORT LEWIS COLLEGE	71,585,558		1,100,625	180,000 (Note 4)	1,280,625	1.79%
COLORADO MESA UNIVERSITY	119,834,704		7,660,714	1,385,260 (Note 4)	9,045,974	7.55%
METROPOLITAN STATE UNIVERSITY OF DENVER	188,879,295					0.00%
UNIVERSITY OF COLORADO SYSTEM	2,916,035,225		16,282,566	29,618,827 (Note 5)	45,901,393	1.57%
UNIVERSITY OF NORTHERN COLORADO	209,562,838		935,700	1,064,885 (Note 4)	2,000,585	0.95%
WESTERN STATE COLORADO UNIVERSITY	40,124,461		518,313	1,935,248 (Note 4)	2,453,561	6.11%

Source: Information provided by higher education institutions based on estimates for Fiscal Year 2014.

Note 1: Represents estimated capital funds to be used during Fiscal Year 2014 and may not equal capital funds appropriated for any one year.

Note 2: Institutions that receive 10 percent or more in state support are projected to not qualify as TABOR-exempt enterprises. Specifically, Adams State University is not projected to qualify as a TABOR-exempt enterprise for Fiscal Year 2014.

Note 3: Represents appropriations of \$2,725,022 for Colorado First Customized Job Training and \$900,000 for Occupational Education for CCCS. Distributions made to local school districts and other local entities for career and technical education programs are not considered state support.

Note 4: Represents state support received from annual lease payments for capital projects financed by state Certificates of Participation.

Note 5: Other state support includes the estimated amount of \$13,720,122 from the FY14 Long Bill for Tobacco Litigation Settlement Moneys Health Education Fund; final distribution will be calculated by the State Treasurer, for the University of Colorado. State appropriations are in the calculation of state support. Other state support also consists of \$14,289,775 received from annual lease payments for capital project financed by state Certificates of Participation related to the Anschutz Medical Campus.

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