

Initiative 295: Voter Approval for Certain New State Enterprises

1 **Proposition ? proposes amending the Colorado statutes to:**

- 2 • require voter approval for new state government-owned businesses, called
3 enterprises, if the enterprise's revenues from fees over its first five years
4 exceed \$100 million; and
- 5 • require that specific language be included on the ballot when voters are
6 asked to approve enterprises.

7 **What Your Vote Means**

YES

A "yes" vote on Proposition ? requires voter approval for new state government enterprises with fee revenues over \$100 million in the first five years.

NO

A "no" vote retains the state legislature's authority to create new enterprises as under current law.

1 **Summary and Analysis for Proposition ?**

2 **What is an enterprise?**

3 An enterprise is a largely self-funded, government-owned business that charges user
4 fees in exchange for services provided. The Colorado Constitution requires that an
5 enterprise meet the following three requirements:

- 6 • be a government-owned business;
- 7 • be authorized to issue its own revenue bonds; and
- 8 • receive less than 10 percent of its annual revenue from all Colorado state and
9 local governments combined.

10 Money collected by an enterprise is not subject to the state’s constitutional revenue
11 limit, also called the Taxpayer’s Bill of Rights (TABOR) limit. A state enterprise is
12 evaluated each year to ensure it continues to meet the qualifications above. It may
13 lose or regain its status as an enterprise based on these qualifications. If an
14 enterprise loses its status as an enterprise, its revenue becomes subject to the
15 TABOR limit.

16 **What happens if Proposition ? passes?**

17 If Proposition ? passes, beginning in 2021, voter approval is required to create new
18 state government enterprises that are expected to collect fee revenues of over
19 \$100 million during the first five fiscal years. In addition, voter approval is required
20 for a state government enterprise that actually collects over \$100 million in fee
21 revenue during the first five fiscal years, even if fee revenue was originally not
22 projected to be over \$100 million. For multiple enterprises created to serve primarily
23 the same purpose, including those created during the past five years, revenues are
24 added together to determine whether voter approval is required. Proposition ? also
25 requires that titles for ballot measures creating an enterprise begin with the amount
26 of fees that an enterprise will collect in its first five years.

27 **How do enterprises interact with the TABOR revenue limit?**

28 TABOR limits the amount of revenue that the state government may spend or save
29 each year. The limit is adjusted annually based on population growth and inflation.
30 Revenue collected in excess of the TABOR limit must be refunded to taxpayers
31 unless voters approve a measure allowing the government to retain the excess.
32 When a program is designated as an enterprise, revenue collected does not count
33 toward the TABOR revenue limit, and does not limit the amount available for the rest
34 of the government.

35 **How much money do enterprises currently collect?**

36 Revenue collected by enterprises, which is exempt from the TABOR limit, has grown
37 as a portion of the state’s total revenue from 8 percent in state budget year 1993-94
38 to 33 percent in state budget year 2018-19. These percentages reflect total
39 enterprise revenue, including non-fee revenue from federal, state, and local
40 governments, interest, and other sources.

1 **When is voter approval required for other measures?**

2 In Colorado, voter approval is required for any new or increased state tax; however,
 3 a fee can be created by the state legislature without voter approval. A tax is
 4 differentiated from a fee in that a tax is designed to fund the general expenses of
 5 government, while a fee is collected from the users of a particular government
 6 program to defray the cost of that program.

7 **How many enterprises would Proposition ? have affected?**

8 As of 2018, there are 16 government programs that qualify as state enterprises, 7 of
 9 which had annual fee revenues over \$100 million in the first five state budget years
 10 and would have required a vote under this measure. Table 1 below shows the
 11 annual fee revenue of those seven statewide enterprises in state budget
 12 year 2018-19.

13 **Table 1**
 14 **State Government Enterprises**
 15 *2018-19 Budget Year*

Enterprise	Annual Fee Revenue (Millions)	Fee Description	Year Created
Higher Education Colleges, Universities, and Auxiliary Institutions	\$5,108.7	- tuition and student fees - care at university hospitals	2004*
Colorado Healthcare Affordability and Sustainability Enterprise	\$996.3	- healthcare affordability and sustainability fee	2017
Colorado Lottery	\$679.8	- sale of lottery tickets - other games of chance	1992
Unemployment Insurance	\$546.8	- employer premiums - other surcharges	2009
Parks and Wildlife	\$157.0	- hunting/fishing licenses - habitat stamps - boat and vehicle registrations - state park entrance fees	2001
Correctional Industries	\$64.3	- sale of manufactured products - sale of agricultural products	1992
Petroleum Storage Tank Fund	\$34.9	- registration and annual review fees from tank operators - surcharges on petroleum sales	2005

16 *Source: Office of the State Controller.*

17 ** Certain functions of higher education institutions, such as campus stores and health centers, have been*
 18 *enterprises since TABOR became effective in state budget year 1993-94. However, these functions would*
 19 *not have been subject to voter approval under this measure. All functions of the University of Colorado at*
 20 *Boulder became an enterprise in state budget year 2004-05, followed by all other higher education*
 21 *institutions in state budget year 2005-06.*

For information on those issue committees that support or oppose the measures on the ballot at the November 3, 2020, election, go to the Colorado Secretary of State’s elections center web site hyperlink for ballot and initiative information:

<http://www.sos.state.co.us/pubs/elections/Initiatives/InitiativesHome.html>

1 **Argument For Proposition ?**

2 1) Proposition ? strengthens the voters' role in determining whether to increase the
3 size and scope of government. Coloradans approved the constitutional
4 safeguards in TABOR to reasonably restrain the growth of government by
5 requiring the voters' consent for increased taxes and spending above certain
6 limits. The state legislature has used its ability to create enterprises to grow the
7 size of government far faster than would otherwise be permitted under the state's
8 constitutional spending limits. Further, voters' refusal to approve new enterprises
9 in state government may lead the state legislature to fund expanded services
10 within the framework of TABOR's limits, leading to larger refunds for all
11 taxpayers.

12 **Argument Against Proposition ?**

13 1) Enterprises were specifically exempted from the spending restrictions of TABOR
14 and work as intended: they shift the responsibility for paying for a
15 government-provided service from all taxpayers to the people who use and
16 benefit from the service. Further, the use of enterprises has been an effective
17 tool for the state legislature to maintain an adequate level of services in the face
18 of severe limitations imposed by TABOR. If Proposition ? passes, the state
19 legislature may be forced to choose between using tax revenues to pay for
20 critical services that would otherwise be funded through user fees, or not
21 providing these services.

22 **Estimate of Fiscal Impact of Proposition ?**

23 **State spending.** Proposition ? increases workload for state agencies to estimate
24 revenue that would be collected by proposed enterprises, since these estimates will
25 be necessary in order to determine whether an election is required. County clerks
26 may have additional workload or costs to the extent the measure results in more
27 measures placed on the ballot. Indirect impacts that may result from the creation of
28 fewer future enterprises are not estimated.