

# Proposition ? : 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.

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**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 In the 2018-19 budget year, fee revenue collected by state enterprises made up  
17 approximately 20 percent of the state’s total budget.

18 **What happens if Proposition ? passes?**

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

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

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

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

40 In Colorado, voter approval is required for any new or increased state tax; however,  
41 a fee can be created by the state legislature without voter approval. A tax is  
42 differentiated from a fee in that a tax is designed to fund the general expenses of

1 government, while a fee is collected from the users of a particular government  
 2 program to defray the cost of that program.

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

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

9 **Table 1**  
 10 **Current Enterprises That Would Have Required Voter Approval**  
 11 **Under Proposition ?**

<b>Enterprise</b>	<b>2018-19 Annual Fee Revenue (Millions)</b>	<b>Fee Description</b>	<b>Year Created</b>
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

12 *Source: Office of the State Controller.*

13 *\* Certain functions of higher education institutions, such as campus stores and health centers, have been*  
 14 *enterprises since TABOR became effective in state budget year 1993-94. However, these functions would*  
 15 *not have been subject to voter approval under this measure. All functions of the University of Colorado at*  
 16 *Boulder became an enterprise in state budget year 2004-05, followed by all other higher education*  
 17 *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 role of citizens in determining the proper size and  
3 scope of government. The state government uses enterprises to grow its budget  
4 without voter approval. Coloradans approved TABOR to require voter consent  
5 for tax increases; this measure extends this principle to fees collected by large  
6 new enterprises. Fees, like taxes, are paid by everyday Coloradans and  
7 businesses, so voters should have a say in their creation.

8 **Argument Against Proposition ?**

9 1) Enterprises were specifically exempted from the spending restrictions of TABOR  
10 and work as intended; they shift the responsibility for paying for a  
11 government-provided service from all taxpayers to the people who use and  
12 benefit from the service. If Proposition ? passes, the state may be forced to  
13 choose between using tax revenues to pay for critical services that would  
14 otherwise be funded through user fees, or not providing these services.

15 **Estimate of Fiscal Impact for Proposition ?**

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