



Voter Approval for Certain New State Enterprises

Placed on the ballot by citizen initiative • Passes with a majority vote

Proposition 117 proposes amending the Colorado statutes to:

- require voter approval for new state government-owned businesses, called enterprises, if the enterprise’s revenue from fees over its first five years exceeds \$100 million; and
- require that specific language be included on the ballot when voters are asked to approve enterprises.

What Your Vote Means

YES A “yes” vote on Proposition 117 requires voter approval for new state government enterprises with fee revenue over \$100 million in the first five years.

NO A “no” vote on Proposition 117 retains the state legislature’s authority to create new enterprises as under current law.

Summary and Analysis for Proposition 117

What is an enterprise?

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

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

Money collected by an enterprise is not subject to the state's constitutional revenue limit, also called the Taxpayer's Bill of Rights (TABOR) limit, which is discussed below. A state enterprise is evaluated each year to ensure it continues to meet the required qualifications. It may lose or regain its status as an enterprise based on these qualifications. If an enterprise loses its status as an enterprise, its revenue becomes subject to the TABOR limit.

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

What happens if Proposition 117 passes?

If Proposition 117 passes, beginning in 2021, voter approval is required to create new state government enterprises that are expected to collect fee revenue of over \$100 million during the first five fiscal years. In addition, voter approval is required for a state government enterprise that actually collects over \$100 million in fee revenue during the first five fiscal years, even if fee revenue was not originally projected to be over \$100 million. If an existing enterprise loses and then regains its status as a state government enterprise, it may require a vote under this measure. For multiple enterprises created to serve primarily the same purpose, including those created during the past five years, revenue is added together to determine whether voter approval is required. Proposition 117 also requires that titles for ballot measures creating an enterprise begin with the amount of fees that an enterprise will collect in its first five years.

How do enterprises interact with the TABOR revenue limit?

TABOR limits state government revenue to an amount adjusted annually for inflation and population growth. Revenue collected under the limit may be spent or saved. Revenue collected over the limit must be refunded to taxpayers unless voters approve a measure allowing the government to retain the excess. When a program is designated as an enterprise, revenue collected does not count toward the TABOR revenue limit, and does not limit the amount available for the rest of the government.

When is voter approval required for other measures?

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

How many enterprises would Proposition 117 have affected?

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

Table 1
Current Enterprises That Would Have Required Voter Approval Under Proposition 117*

Enterprise	2018-19 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

Source: Office of the State Controller.

* The Health Insurance Affordability Enterprise, created in 2020, would also have required a vote under Proposition 117.

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