

WHAT ARE ENTERPRISE FUNDS?

Have you visited a state park lately? If so, you might've interacted with a state "enterprise fund." Even if you aren't familiar with the term, you've probably encountered these state-created businesses more than you imagine.

Since the passage of the [Taxpayer's Bill of Rights \(TABOR\)](#) in 1992, which created the legal structure for enterprise funds, these entities have become an important part of how Colorado functions. In this brief, we aim to offer an understanding of these funds, the role they play within in our state, and whether Colorado's use of them represents a good trend (or just a necessary one).

Government by User Fee

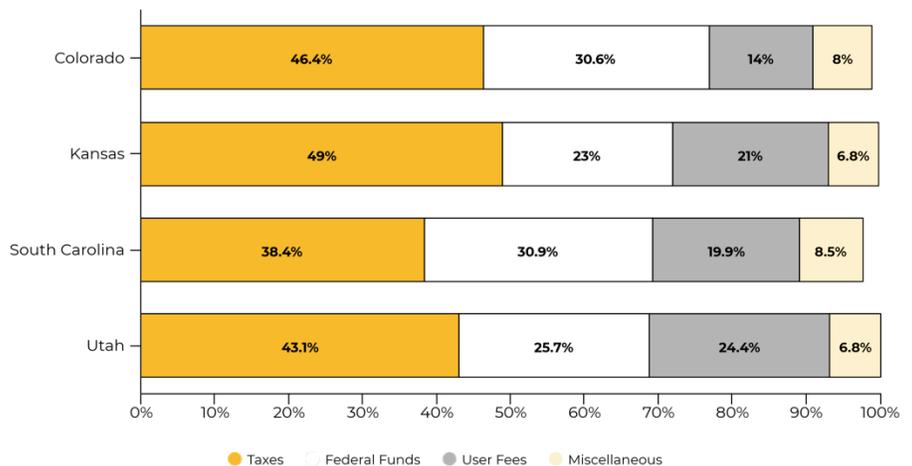
While the legal structures around enterprise funds are unique to Colorado, their underlying functions and revenue structures are not. At their core, enterprise funds provide services based upon the use of user fees. Over the last few decades, many localities and states have shifted away from funding services using general revenue produced from income, property, or sales tax to pay for a portion of services. Instead, they have instituted user fees, which charge users based upon their specific utilization of services.

User fees are fairly common across states and localities. Some of them are baked into the economy in ways most people don't even think about and can further larger positive policy objectives. For instance, a locality might institute user fees on the amount of garbage a household puts out on the curb, charging bigger users more. This system might have the larger objective of encouraging more recycling and composting or decreasing waste. In other circumstances, such as Colorado's Petroleum Storage Tank Fund, enterprises provide business-like services in areas where there's also a desired state interest. In this case, the program helps cleanup sites contaminated from petroleum storage tanks in exchange for a fee from tank operators, providing both a needed service as well as promoting a larger environmental goal.

But user fees can also be inequitable in profound ways. For example, Colorado has moved its public colleges and universities to a user-fee model — in this case, tuition — to help relieve the state of funding and free up other programs for state spending. The effects of this are substantial, including [exploding student debt](#) in the state and many young high school graduates who are unable to afford higher education even with financial aid. Many times, user fees may prohibit families, especially low- to middle-income ones, from accessing a public benefit that should be accessible to all. In most cases, a fair tax system that ensures the wealthy pay their share will help fund programs without relying on a user fee, allowing all Coloradans to have access without prohibitive costs.

Charges and user fees play a part in government revenue for all 50 states. [While Colorado uses a slightly larger share of user fees](#) for its revenue than the state average — Colorado is at 14 percent of revenues from user fees compared to the average of 11.8 percent, according to 2016 census data — it's not disproportionate. Colorado utilization of user fees is small in comparison to states like Kansas, South Carolina, and Utah. Furthermore, even when revenue from user fees is added to budget totals, Colorado's budget isn't as large on a per capita basis when compared to other states. Colorado's budget is lower than the national average and on par with neighboring states such as Arizona, Idaho, and Nevada.

PERCENTAGE OF STATE REVENUE BY SOURCE, FY 2016



Source: Pew Charitable Trusts, "Where States Get Their Money," U.S. Census Bureau's 2016 Annual Survey of State Government Finances

Note: Percentages do not add up to 100% due to exclusion of local funds in this graphic

While user fees are common across the nation, Colorado uses them differently, and in some cases much more than it should, because of the budgetary limitations of TABOR.

What's an Enterprise Fund?

An enterprise fund is a specific type of “state-owned business” authorized by the Colorado Constitution under TABOR. There are a number of important aspects that characterize a [legal enterprise fund](#) in Colorado:

- It's a government-owned business, housed in an existing state agency and run by a state employee
- It can only receive up to 10 percent of its annual revenue from state and local governments grants combined
- The bulk of the revenue for enterprises comes primarily from user fees
- Enterprises have bonding authority, meaning they can take out debt based upon the projected revenue from their user fees
- Enterprises cannot levy taxes and must provide goods or services in exchange for fees

Purpose of Enterprise Funds

Enterprise funds are an important part of how Colorado delivers services in compliance with TABOR. While TABOR has several different components, many that combine to hurt Colorado's ability to provide proper services to its residents, two of the more well-known ones include:

- The requirement that all taxes are approved by a vote from Coloradans at the ballot
- A cap on the amount of tax revenue the state can spend. Revenue above the budget cap must be returned to the taxpayers, shortchanging Colorado's ability to make needed investments in areas such as transportation and education

TABOR specifically created enterprise funds as a mechanism for delivering some state services outside of these two primary constraints. Because enterprises are mostly funded through user fees, their revenue is not subject to the TABOR revenue cap. **Also, enterprise funds are established through the legislature, allowing elected state representatives some decision-making power over state revenue changes, since TABOR doesn't allow them to raise taxes.** Colorado can use enterprise funds to provide services to Coloradans and continue to comply with TABOR.

Structure of Enterprise Funds

As mentioned above, enterprise funds are government owned. This means even though there's very little funding from the state's General Fund that can be used to support enterprises, they are overseen by state employees within an agency. For example, CollegenInvest, the enterprise that administers Colorado's 529 tax-deductible college savings account, is housed in the Colorado Department of Higher Education (CDHE). The CEO of CollegenInvest is a senior staff member of CDHE and reports to the executive director, giving the state some oversight of the enterprise fund. Also, all enterprise funds are subject to periodic audits, allowing for some level of supervision from the legislature.

The Many Types of Enterprise Funds

There are currently over a dozen enterprise funds throughout Colorado. As of fiscal year 2017-2018, revenue (or user fees) to enterprise funds [totaled \\$17.9 billion](#). The largest enterprises in Colorado are the higher education enterprises, CollegenInvest, the state lottery, and the Colorado Healthcare Affordability and Sustainability Enterprise.

- **Higher education enterprises:** All public higher education institutions in Colorado are qualified as enterprise funds since at least fiscal year 2005-2006. This means public colleges and universities are more reliant on user fees (tuition) than they might otherwise be and are capped in how much they can receive from the state in grant funds. Combined, these places of higher education have revenue, mostly made up of tuition, in an enterprise fund of more than \$11.5 billion as of fiscal year 2017-2018, by far the largest in the state.
- **CollegenInvest:** Administers the 529 college savings accounts in Colorado. 529 accounts, named for the section of the federal tax code that governs them, are tax-deductible investment accounts for families to save for college. In fiscal year 2017-2018, CollegenInvest's revenue was \$777.5 million.

- **State lottery:** Established by voter approval in 1992, the same year as TABOR. 100 percent of profits from the state lottery go to outdoor recreation and conservation efforts. In 2017-2018, the state lottery, which gets revenue from the purchase of lottery tickets, had a revenue of more than \$622 million.
- **Colorado Healthcare Affordability and Sustainability:** Collects a fee, which is matched by federal funds, that is used for reimbursing hospitals for those without insurance and costs not fully covered by Medicaid.

Here is a full list of enterprise funds, along with their revenue over the past four fiscal years.

Enterprise Funds & Revenue: 2014-2015 Through 2017-2018

| Enterprise | FY 2014-2015 | FY 2015-2016 | FY 2016-2017 | FY 2017-2018 |
|---|-----------------------|-----------------------|-----------------------|-----------------------|
| Brand Board | 5,434,154 | 5,079,919 | 8,192,797 | 8,726,704 |
| Capitol Parking Authority | 721,685 | 1,091,211 | 966,673 | 851,756 |
| Clean Screen Authority | 5,868,209 | 4,347,950 | 4,562,319 | 3,314,143 |
| College Assist | 631,865,367 | 613,735,094 | 600,754,217 | 540,409,415 |
| CollegeInvest | 613,766,152 | 623,149,830 | 704,500,649 | 777,595,435 |
| Colorado Healthcare Affordability & Sustainability Enterprise | | | | 3,310,867,117 |
| Correctional Industries | 68,900,760 | 73,701,031 | 75,979,315 | 92,974,194 |
| Electronic Recording Technology Fund | | | 14,198 | 97,759 |
| Higher Education Enterprises | 8,455,491,475 | 8,458,394,515 | 10,618,379,415 | 11,568,285,214 |
| Parks and Wildlife | 220,670,719 | 229,006,335 | 281,272,127 | 315,167,828 |
| Petroleum Storage Tank Fund | 39,891,367 | 43,305,095 | 40,310,963 | 37,621,298 |
| State Lottery | 540,933,178 | 597,474,129 | 563,096,231 | 622,320,424 |
| State Nursing Homes | 58,660,713 | 59,711,521 | 84,907,496 | 90,791,740 |
| Statewide Bridge Enterprise | 15,558,306 | 16,675,940 | 21,910,988 | 20,201,311 |
| Statewide Transportation Enterprise | 8,232,300 | 33,580,526 | 23,502,067 | 21,890,869 |
| Unemployment Compensation Section | 530,129,631 | 531,606,636 | 519,152,945 | 444,422,991 |
| TOTAL | 11,196,124,016 | 11,290,859,732 | 13,547,502,400 | 17,855,538,198 |

Data from [Legislative Council Staff Memorandum](#)

Bottom Line

User fees are common across the U.S. economy. Their growing use can represent a negative development in public financing, especially in circumstances where the user fees limit access to vital public services. Whether it's states, localities, or the federal government, the use of service charges make up for gaps in public funding. Colorado is no exception. Enterprise funds have become widespread as we have seen an increased need for services, public programs, and the revenue to fund them.

But Colorado is in an especially tricky situation due to TABOR. With the demand for revenue growing, but the presence of a cap on general revenues, state legislators of both parties have seen enterprise funds and user fees as a smart way to comply with the state constitution.

However, this isn't an equitable solution. The burdens of user fees can often fall on the most economically vulnerable populations — those who can least afford them. A fairer tax system would allow the state to meet the needs of Coloradans without relying so much on user fees.