



## MEMORANDUM

Date: October 1, 2015

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). Article X, Section 20(2)(d), defines a TABOR enterprise as "a government owned business authorized to issue its own revenue bonds and receiving under 10 percent of annual revenue in grants from all Colorado state and local governments combined." 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 (LAC) are required [Section 2-3-101(3)(f), C.R.S.] to review whether such designations meet the requirements of a TABOR-exempt enterprise.

In 2004, the LAC reviewed and approved the designation of the University of Colorado as a TABOR-exempt enterprise beginning in Fiscal Year 2005. In 2005, the LAC reviewed and approved the designation of 10 additional higher education institutions as TABOR-exempt enterprises beginning in Fiscal Year 2006. In 2007, the LAC approved Colorado State University's request to combine its separate enterprises for the Fort Collins and Pueblo campuses into a single enterprise.



We Set the Standard for Good Government

## **FINAL ENTERPRISE STATUS FOR FISCAL YEAR 2015 AND PROJECTED STATUS FOR FISCAL YEAR 2016**

During Fiscal Year 2015, none of the higher education institutions reported that they received any direct cash subsidies or contributions from local governments. However, all higher education institutions reported that they received some level of financial support from the State. The table on PAGE 3 shows the amount of revenue earned and state support received by the higher education enterprises for Fiscal Year 2015. This table shows that nine 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 2015**

	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	\$ 65,803,843		\$ 13,039,450		\$ 13,039,450	19.82%
COLORADO COMMUNITY COLLEGE SYSTEM	633,643,668	3,625,022 (NOTE 3)	15,343,405	3,694,783 (NOTE 4)	22,663,210	3.58%
COLORADO SCHOOL OF MINES	254,665,296	1,858,014	1,679,745	700,411 (NOTE 4)	4,238,170	1.66%
COLORADO STATE UNIVERSITY SYSTEM	1,142,416,142		19,441,811	2,195,220 (NOTE 4)	21,637,031	1.89%
FORT LEWIS COLLEGE	78,765,006		7,529,278	172,306 (NOTE 4)	7,701,584	9.78%
COLORADO MESA UNIVERSITY	134,599,950		10,826,623	1,381,198 (NOTE 4)	12,207,821	9.07%
METROPOLITAN STATE UNIVERSITY OF DENVER	182,234,349		2,023,076		2,023,076	1.11%
UNIVERSITY OF COLORADO SYSTEM	3,559,728,505		18,187,864	21,554,641 (NOTE 5)	39,742,505	1.12%
UNIVERSITY OF NORTHERN COLORADO	203,955,249		616,702	1,064,861 (NOTE 4)	1,681,563	0.82%
WESTERN STATE COLORADO UNIVERSITY	48,468,969		2,294,965	1,935,205 (NOTE 4)	4,230,170	8.73%

SOURCE: Office of the State Auditor analysis of institution-provided financial information.

NOTE 1: Amounts within this column represent available capital funds used during Fiscal Year 2015 and may not equal capital funds appropriated for any one year.

NOTE 2: Any institution that receives 10 percent or more in State support during a fiscal year does not qualify as a TABOR-exempt enterprise.

NOTE 3: This amount includes appropriations of \$2,725,022 for Colorado First Customized Job Training, and \$900,000 for Occupational Education for CCCS.

NOTE 4: This amount 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 \$13,007,869 from the Tobacco Litigation Settlement Moneys Health Education Fund for the University of Colorado. "Other State Support" also includes \$6,965,572 received from annual lease payments for capital projects financed by State Certificates of Participation related to the Anschutz Medical Campus.

## **PROJECTED TABOR ENTERPRISE STATUS FOR FISCAL YEAR 2016**

The table on PAGE 5 shows the estimated amount of revenue expected to be earned and state support expected to be received by higher education enterprises in Fiscal Year 2016, as reported by each higher education institution. Based on current projections, two institutions—Western State Colorado University and Fort Lewis College—are projected to exceed the 10 percent threshold for governmental support for Fiscal Year 2016 due to capital contributions expected to be provided by the State.

**HIGHER EDUCATION TABOR-EXEMPT ENTERPRISE STATUS  
ESTIMATED REVENUES AND STATE SUPPORT  
FISCAL YEAR 2016**

	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	\$ 57,009,457		\$ 3,819,119		\$ 3,819,119	6.70%
COLORADO COMMUNITY COLLEGE SYSTEM	639,148,322	5,400,000 (NOTE 3)	9,782,625	1,143,979 (NOTE 4)	16,326,604	2.55%
COLORADO SCHOOL OF MINES	289,056,770	2,800,706	18,325,000	192,788 (NOTE 4)	21,318,494	7.38%
COLORADO STATE UNIVERSITY SYSTEM	1,292,521,883		25,637,056	686,226 (NOTE 4)	26,323,282	2.04%
FORT LEWIS COLLEGE	90,770,289		20,500,000	56,046 (NOTE 4)	20,556,046	22.65%
COLORADO MESA UNIVERSITY	140,838,206		12,000,000	429,578 (NOTE 4)	12,429,578	8.83%
METROPOLITAN STATE UNIVERSITY OF DENVER	199,776,576		14,720,872		14,720,872	7.37%
UNIVERSITY OF COLORADO SYSTEM	3,429,458,549		27,182,289	20,197,390 (NOTE 5)	47,379,679	1.38%
UNIVERSITY OF NORTHERN COLORADO	226,057,739		8,177,646	331,192 (NOTE 4)	8,508,838	3.76%
WESTERN STATE COLORADO UNIVERSITY	68,343,551		21,454,903	601,885 (NOTE 4)	22,056,788	32.27%

SOURCE: Office of the State Auditor analysis of Fiscal Year 2016 projections provided by each higher education institution

NOTE 1: Amounts within this column represent estimated capital funds to be used during Fiscal Year 2016 and may not equal capital funds appropriated for any one year.

NOTE 2: Any institution that receives 10 percent or more in State support during a fiscal year will be projected to not qualify as a TABOR-exempt enterprise.

NOTE 3: This amount represents appropriations of \$4,500,000 for Colorado First Customized Job Training and \$900,000 for Occupational Education for CCCS.

NOTE 4: This amount 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 \$12,500,677 from the Fiscal Year 2016 Long Bill for Tobacco Litigation Settlement Moneys Health Education Fund; final distribution will be calculated by the State Treasurer, for the University of Colorado. Other State Support also includes \$491,782 received from annual lease payments for capital project financed by state Certificates of Participation.

The disqualification of an institution as a TABOR-exempt enterprise has several consequences. The State Controller adjusts the prior-year fiscal year spending limit (TABOR base) 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 for recording of revenues and expenses for TABOR purposes.
- The institution's sources of revenue available to pledge for the payment of principal, interest, and reserve requirements on revenue bonds decreases. 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.

## **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 education in Colorado. 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. In addition, if a student has

already completed his or her baccalaureate degree under the College Opportunity Fund Program (COF Program), he or she may receive stipend payments for an additional 30 undergraduate credit hours. The stipend payment for Fiscal Year 2015 was originally set at \$66 per credit hour. SB 14-001 provided additional funding and increased the COF stipend to \$75 per credit hour. The Fiscal Year 2016 is set at \$75 per credit hour.

Senate Bill 04-189 also directed the Colorado Commission on Higher Education (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 per Section 23-5-130, C.R.S.

During Fiscal Year 2014, Section 23-5-130, C.R.S., was repealed and replaced with Section 23-18-303 C.R.S., effective for Fiscal Year 2015. The new statute continues to give the Department of Higher Education the ability to enter into fee-for-service contracts with higher education governing boards to purchase services, but now those contracts must include the institutional role and mission funding factors, and institutional funding performance factors. Institutional role and mission factors include selectivity, number of campuses, location, enrollment, support services, undergraduate and graduate programs, and remediation. Institutional funding factors include awards for degrees and certificates, retention, and up to four additional performance metrics as determined by the Colorado Commission on Higher Education.

For Fiscal Year 2015, the appropriation for the COF Program (including COF stipends for private institutions, as provided for under statute) and fee-for-service contracts was approximately \$584 million. The appropriation to higher education institutions was approximately \$296 million (\$260.5 million per HB 14-1336 (long bill) and \$35.5 million to increase the COF stipend per SB 14-001) for COF stipends and about \$288 million for fee-for-service contracts. Out of the \$296 million COF stipends, participating private institutions (i.e., University of Denver, Regis University, and Colorado Christian College) received approximately \$1.5 million.

For Fiscal Year 2016, the appropriation for the COF Program and fee-for-service contracts is approximately \$648 million. The appropriation to higher education institutions is approximately \$296 million for COF stipends and about \$352 million for fee-for-service contracts. Out of the \$296 million COF stipends, participating private institutions is approximately \$1.5 million.

The funding for fee-for-service contracts and the appropriated amount of COF stipends for Fiscal Year 2016 are shown in the table on the following page.



**HIGHER EDUCATION TABOR-EXEMPT ENTERPRISES  
FEE-FOR-SERVICE CONTRACT PURCHASES AND APPROPRIATED COLLEGE  
OPPORTUNITY FUND (COF) STIPENDS  
FISCAL YEAR 2016**

	ROLE AND MISSION FUNDING (NOTE 1)	PERFORMANCE FUNDING (NOTE 2)	SPECIALTY EDUCATION PROGRAM & SPECIAL BILLS	FEE-FOR-SERVICE TOTALS (NOTE 3)	COLLEGE OPPORTUNITY FUND STIPENDS (NOTE 4)	TOTAL
ADAMS STATE UNIVERSITY	\$ 5,952,840	\$ 4,914,506		\$ 11,106,275	\$ 3,014,742	\$ 14,121,017
COLORADO COMMUNITY COLLEGE SYSTEM	29,158,642	15,094,066	86,960	44,142,008	109,407,533	153,549,541
COLORADO SCHOOL OF MINES	8,264,643	6,014,297		14,255,738	6,291,590	20,547,328
COLORADO STATE UNIVERSITY SYSTEM	21,653,248	14,162,802	53,814,371	90,645,050	44,015,134	134,660,184
FORT LEWIS COLLEGE	2,515,683	4,775,913		7,276,606	4,545,816	11,822,422
COLORADO MESA UNIVERSITY	5,124,265	4,761,818		9,855,958	14,609,398	24,465,356
METROPOLITAN STATE UNIVERSITY OF DENVER	10,178,904	8,782,432		18,540,331	31,613,068	50,153,399
UNIVERSITY OF COLORADO SYSTEM	38,280,900	21,520,770	62,319,426	123,481,061	61,134,606	184,615,667
UNIVERSITY OF NORTHERN COLORADO	13,429,534	7,709,326		23,915,186	17,177,543	41,092,729
WESTERN STATE COLORADO UNIVERSITY	4,101,172	4,704,018		8,871,375	2,772,617	11,643,992
<b>TOTAL</b>	<b>138,659,831</b>	<b>92,439,948</b>	<b>116,220,757</b>	<b>352,089,588</b>	<b>294,582,047</b>	<b>646,671,635</b>

SOURCE: Office of the State Auditor analysis of financial information provided by the Department of Higher Education.

NOTE 1: The Department of Higher Education shall determine the funding amount according to the base funding formula, with consideration of the following factors: the Institution's institutional mission, support services for Pell-eligible, first-generation, and underserved undergraduate students, weighted credit hours for graduate programs, remediation, and additional role and mission factors as determined by the Commission.

NOTE 2: The Department of Higher Education shall determine the funding amount according to the base funding formula, with consideration of the following factors: the Institution's student completion and retention statistics, and additional performance funding metrics supporting state policy goals as determined by the Commission.

NOTE 3: Fee-For-Service totals will not equal to the sum of role and mission funding, performance funding, and specialty education and special bills column because these amounts are adjusted to not exceed a five percent increase or decrease per Section 23-18-305(1)(a), C.R.S.

NOTE 4: COF stipends are based on Long Bill appropriations.

The electronic version of this memorandum is available on the website of the  
Office of the State Auditor

[www.state.co.us/auditor](http://www.state.co.us/auditor)

A copy of the written memorandum may be obtained by calling the  
Office of the State Auditor  
303.869.2800

Please refer to the Report Control Number below when requesting this memorandum.

REPORT NUMBER 1546F