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SNAPSHOT OF FEES IN COLORADO: 2024 UPDATE

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ABOUT THE AUTHORS



Lang Sias – CSI Mike A. Leprino Free Enterprise Fellow

Lang Sias is a former Colorado State legislator, attorney and Navy and Air National Guard fighter pilot. As a Colorado State Representative from 2015-2019, Lang represented House District 27 in Jefferson County. The ranking member on the business committee, Lang also served on the education, public health and health exchange oversight committees, and was a member of the legislative tax simplification task force and the JeffCo school safety task force. Over 85% of the bills Lang sponsored were bipartisan. He focused on solving problems in the areas of education, health care and small business, and on government transparency and accountability. He played major roles in passing legislation expanding public school choice, increasing healthcare transparency and reforming the public pension system to benefit retirees and taxpayers. Lang currently serves on the legislative subcommittee that oversees Colorado's state pension fund.



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Stevenson is a senior at the University of Notre Dame, majoring in History and minoring in Business Economics.

The Mike A. Leprino Fellowship



The Mike A. Leprino Fellowship was established by Laura Leprino and Matthew Leprino in honor of the late Mike A. Leprino, who was a pillar in the Denver community. The son of Italian immigrants, he was a banker, developer and community servant. Some of the greatest treasures and neighborhoods in our state were built and funded by Mike. He gave back relentlessly to his state and country, something that he also instilled in each of his children. A great defender of free enterprise and the American dream, Mike is someone who from humble beginnings built an enviable legacy in Colorado. Thanks to Mike A. Leprino's

legacy, we can all take a lesson in hard work, the entrepreneurial spirit, and the power of free enterprise. The Mike A. Leprino Fellowship will focus on issues reflected in the values and accomplishments of this former pillar of the community

ABOUT COMMON SENSE INSTITUTE

Common Sense Institute is a non-partisan research organization dedicated to the protection and promotion of Colorado's economy. CSI is at the forefront of important discussions about the future of free enterprise and aims to impact the issues that matter most to Coloradans. CSI's mission is to examine the fiscal impacts of policies, initiatives, and proposed laws so that Coloradans are educated and informed on issues impacting their lives. CSI employs rigorous research techniques and dynamic modeling to evaluate the potential impact of these measures on the economy and individual opportunity.

TEAMS & FELLOWS STATEMENT

CSI is committed to independent, in-depth research that examines the impacts of policies, initiatives, and proposed laws so that Coloradans are educated and informed on issues impacting their lives. CSI's commitment to institutional independence is rooted in the individual independence of our researchers, economists, and fellows. At the core of CSI's mission is a belief in the power of the free enterprise system. Our work explores ideas that protect and promote jobs and the economy, and the CSI team and fellows take part in this pursuit with academic freedom. Our team's work is informed by data-driven research and evidence. The views and opinions of fellows do not reflect the institutional views of CSI. CSI operates independently of any political party and does not take positions.

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SUMMARY FINDINGS

- In the first year following the passage of TABOR, **fee-based enterprises generated \$742 million**. By 2023, their revenue had increased **by over 3,000%, far beyond population growth (62%), to \$23.3 billion**.
- In 1996, only 46% of total state spending was TABOR-exempt—\$5,027 per Coloradan in 2023 dollars. **In 2023, 71% of state spending was exempt, amounting to \$8,442 per Coloradan**.
- **Proposition 117**, which requires new enterprises projected to generate revenue above a threshold to receive voter approval, passed in 2020. Since then, the legislature has directly **established eight new enterprises and expanded a preexisting one, costing Coloradans a total of \$88.3 million in FY23**.
- **If all Colorado's fee enterprises, minus higher education, were instead funded by the state income tax, the state income tax would increase to 7.68%, a 75% increase from the current rate of 4.4%**.
- Since 2018, voters have approved two income tax cuts worth a combined reduction of .23 of a percentage point. At the same time, fee-based revenue to enterprises has increased by an amount equivalent to a **.51 percentage point increase in the state income tax**.
- In 2000, enterprises collected \$222 per Coloradan and the General Fund received \$1,174 per resident. By 2023, these amounts had grown to \$3,791 and \$2,360, respectively—**for every \$1 increase in General Fund revenue per Coloradan since 2008, total fee collections rose by \$3.10**.

INTRODUCTION

TABOR (Taxpayers’ Bill of Rights) was approved by Colorado voters to provide taxpayer protections over the growth rate of government. Lawmakers must secure voter consent to retain tax revenue above its limit.ⁱ Governments can still raise new money through fees, however, and have done so liberally in recent years.

Fees have driven Coloradans’ effective tax burdens higher and higher. Over most of the last two decades, fee revenue has grown faster than the state’s General Fund; per Coloradan, it has tripled since 2008 to \$23.3 billion in 2023 alone. **In 1996, only 46% of total state spending was TABOR-exempt**—\$5,027 per Coloradan in 2023 dollars. **In 2023, 71% of state spending was exempt**, amounting to \$8,442 per Coloradan. There is no reason to expect this trend to abate in the future.

Colorado’s income tax rate is among the lowest in the country, but that fact belies the state’s substantial reliance on fee revenue. If all Colorado’s fee enterprises were instead funded by the state income tax, it would have to grow to 14.41% to accommodate 2023 levels. If higher education enterprises are

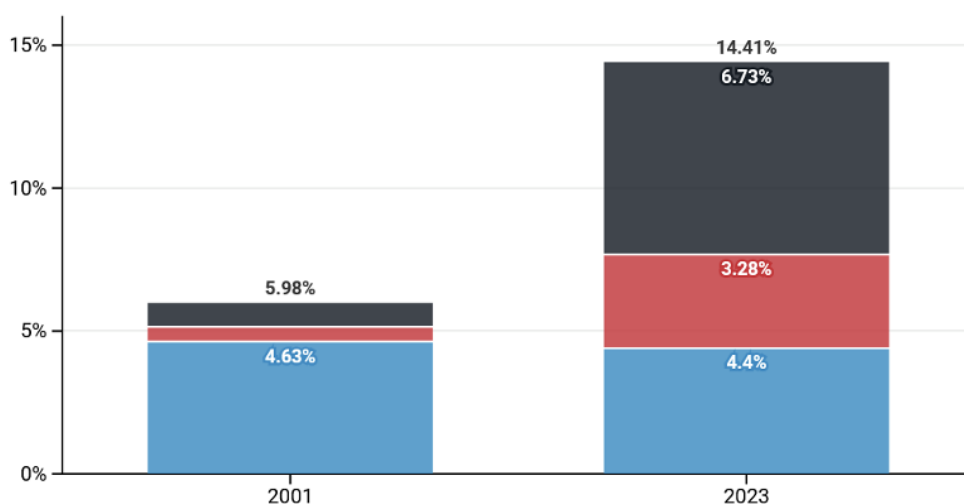
excluded, the state income tax would still need to increase to 7.68%, a 75% increase from the current rate of 4.4%. **Since 2018, voters have approved two income tax cuts for a combined .23 percentage point reduction. At the same time, fee-based revenue to enterprises has increased by an amount equal to a .51 percentage point increase in the state income tax.**ⁱⁱ

FIGURE 1

Trading Fees for a Tax Increase

How high would Colorado’s income tax rate be if fee enterprises were funded by income taxes?

■ Actual Income Tax Rate ■ Rate Increase Required to Pay for All Non-Higher Education Fees ■ Rate Increase Required to Pay for All Fees



HISTORY OF FEES IN COLORADO

Since the adoption of TABOR in 1992, voters have approved only a handful of statewide tax revenue increases, the majority of which have been “sin taxes” imposed on products such as tobacco and actives including sports betting. While many local governments have received voter approval to retain revenues above the TABOR spending limit, a large share of state revenue and spending is still subject to the limit.

State spending in Colorado is facilitated by three main revenue sources:

- **State taxes** – Most taxes are subject to TABOR
- **State fees** – Most fees are exempt from TABOR
- **Federal funding** – Exempt from TABOR

As tax rates have been kept lower by TABOR’s growth limitations, the Colorado legislature has shifted more of the state’s revenue dependence to fee-based enterprises. By 2020, lawmakers had created 24 such enterprises which, together, collected \$20.9 billion of revenue in that year. In just three years since then, the total increased to over \$23.3 billion. **Even since the 2020 passage of Proposition 117, a direct rebuke of the rapid growth of fee revenue, the legislature has established eight new enterprises and expanded a preexisting one, costing Coloradans a total of \$88.3 million in FY23, some of which is not TABOR-exempt.**

WHY DOES THE DIFFERENCE BETWEEN TAXES AND FEES MATTER?

TABOR's provisions apply to state taxes; however, most fees and all federal revenues are exempt. The Colorado government collected fees prior to the enactment of TABOR in 1992, but the proportion of the Colorado state budget comprised of fees increased following its passage, a trend which has continued to the present day. **In 1996, only 46% of the total state spending was TABOR-exempt**—\$5,027 per Coloradan in 2023 dollars. **In 2023, 71% of state spending was exempt**—\$8,442 per Coloradan.

Tax vs Fee?

This distinction is often subtle and has recently been the subject of controversy, but, at its simplest:

Tax: A tax is a mandatory payment to the government that funds a wide range of public services and programs, like income tax or sales tax.

Fee: A fee is a payment made for a specific service or benefit provided directly to the person paying it, such as a park entrance or a vehicle registration.

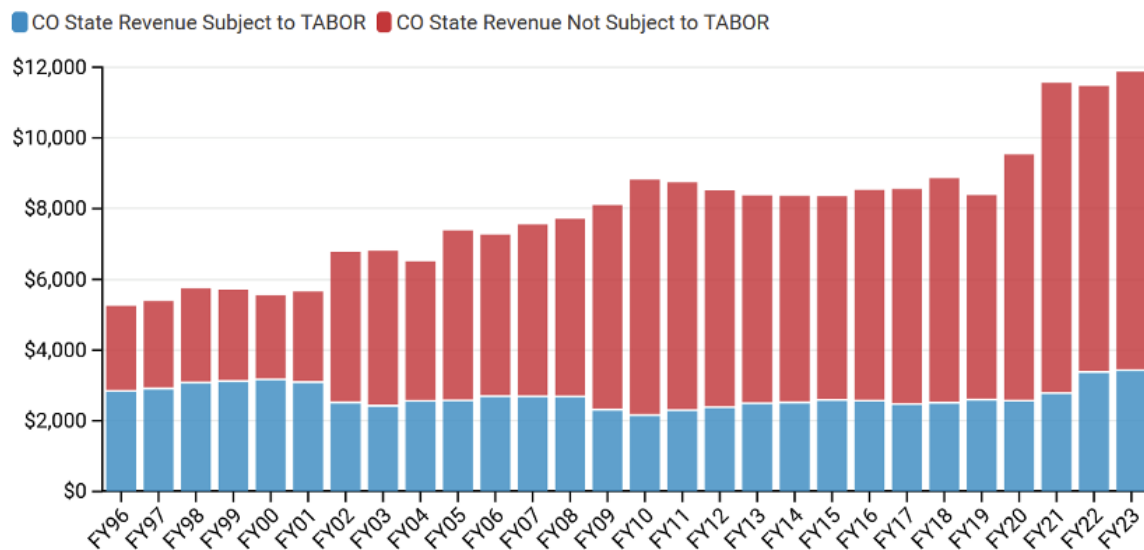
HOW IS FEE REVENUE COLLECTED?

Users of public services, like parks, toll roads, and waste disposal facilities, pay fees to the state government enterprises responsible for them. These enterprises are government-owned entities that fund their operations with the fees they collect. They must receive less than 10% of their funding from government grants.ⁱⁱⁱ Some fee enterprises, including several that were established after 2020, provide no direct services to their payers and behave instead as means of generating revenue for government projects and/or disincentivizing adverse behaviors.

FIGURE 2

Colorado Revenue Subject to TABOR and Exempt from TABOR per Colorado Resident

The growth of TABOR-exempt revenue has dramatically outpaced that of revenue subject to TABOR



2020 PROPOSITION 117

As public consciousness of increasing fee revenue rose, appeals for fee relief did as well. The loudest of these was Proposition 117, a citizen-led initiative which appeared on the 2020 statewide ballot. Proposition 117 proposed requiring voter approval for the creation of any new state enterprise projected to generate more than \$100 million in revenue over its first five years. The proposition passed and became law in 2021. As Colorado voters have historically rejected most tax increases, Prop 117 was expected to slow the growth in state fee revenue collection.

FIGURE 3

Colorado Fee Enterprise Revenue

Revenue generated from enterprise fees has grown from \$742 million in FY94, the first full year of TABOR, to \$23.3 billion in FY23. That is a growth rate of 30X (3054%) compared to total state population growth of 62%.

	FY94	FY20	FY23
Higher Education Enterprises	\$359,400,000	\$10,047,500,000	\$13,937,749,908
Colorado Healthcare Affordability and Sustainability Enterprise	\$0	\$3,531,700,000	\$5,148,694,666
Unemployment Compensation Section	\$0	\$4,767,300,000	\$488,067,809
CollegelInvest	\$0	\$926,200,000	\$1,178,278,868
State Lottery	\$288,300,000	\$655,000,000	\$892,346,392
College Assist	\$0	\$554,300,000	\$550,536,971
Parks and Wildlife	\$0	\$208,900,000	\$329,841,605
Health Insurance Affordability Enterprise	\$0	\$0	\$386,189,018
Bridge and Tunnel Enterprise	\$0	\$14,700,000	\$118,892,323
State Nursing Homes	\$13,100,000	\$46,500,000	\$64,972,665
Correctional Industries	\$19,500,000	\$56,500,000	\$43,901,395
Statewide Transportation Enterprise	\$0	\$23,600,000	\$49,848,148
Petroleum Storage Tank Fund	\$0	\$35,300,000	\$33,791,358
Student Loan Program	\$62,000,000	\$0	\$0
Family and Medical Leave Insurance	\$0	\$0	\$41,969,927
Community Access Enterprise*	\$0	\$0	\$19,400,000
Clean Motor Vehicle Fleet Enterprise*	\$0	\$0	\$17,300,000
988 Crisis Hotline	\$0	\$0	\$10,134,849
Brand Board	\$0	\$3,000,000	\$6,508,013
Air Pollution Mitigation Enterprise*	\$0	\$0	\$9,200,000
Clean Transit Enterprise*	\$0	\$0	\$8,400,000
Clean Screen Authority	\$0	\$3,600,000	\$4,040,845
Front Range Waste Diversion Enterprise	\$0	\$100,000	\$5,010,029
Electronic Recording Technology Fund	\$0	\$4,300,000	\$534,830
Capitol Parking Authority	\$0	\$1,200,000	\$1,424,895
Orphaned Wells Enterprise	\$0	\$0	\$390,592
Air Quality Enterprise	\$0	\$0	\$167,620
Natural Disaster Mitigation	\$0	\$0	\$16,275

* Includes non-TABOR-exempt revenue from fees imposed by SB21-260



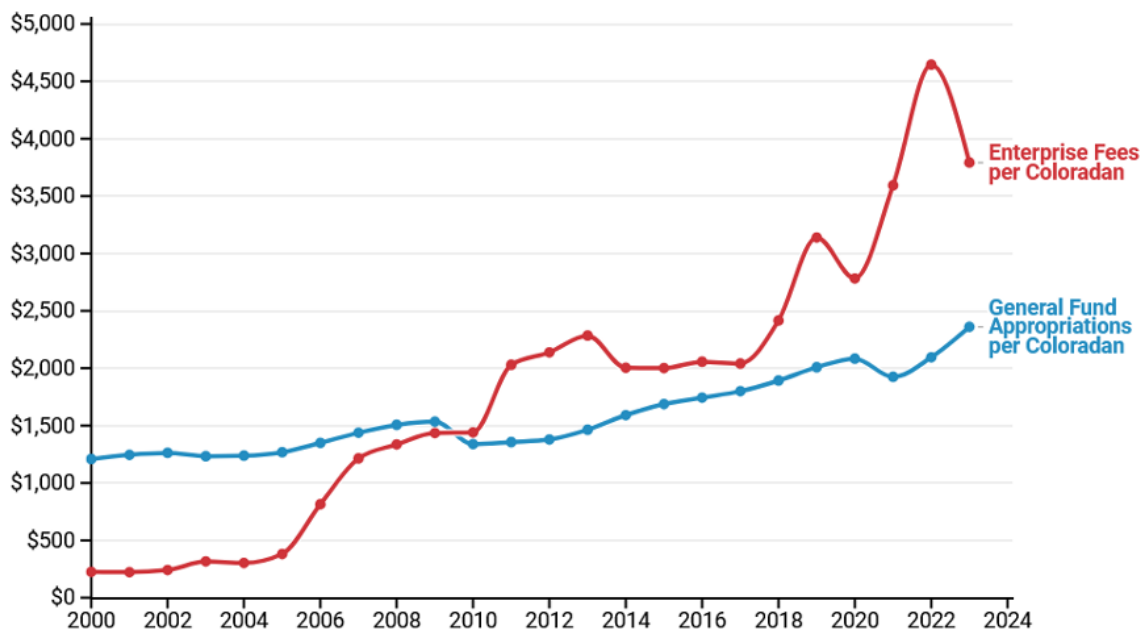
WHERE DO FEES STAND NOW?

Data from the three years following the enactment of Proposition 117 demonstrate that fee revenue growth has not declined as expected; instead, it has grown even more rapidly. In FY23, revenue collected from enterprise fees totaled \$23.3 billion, accounting for over half the state budget.

Between 2008 and 2023, the total amount of TABOR-exempt revenue collected by enterprises per Colorado resident tripled and fee revenue grew substantially faster than General Fund revenue. In 2000, enterprises collected \$222 per Coloradan and the General Fund received \$1,174 per resident. By 2023, these amounts had grown to \$3,791 and \$2,360, respectively—for every \$1 increase in General Fund revenue per Coloradan since 2008, total fee collections rose by \$3.10.

FIGURE 4

TABOR-exempt Enterprise Fees and General Fund Revenue per Coloradan since 2000



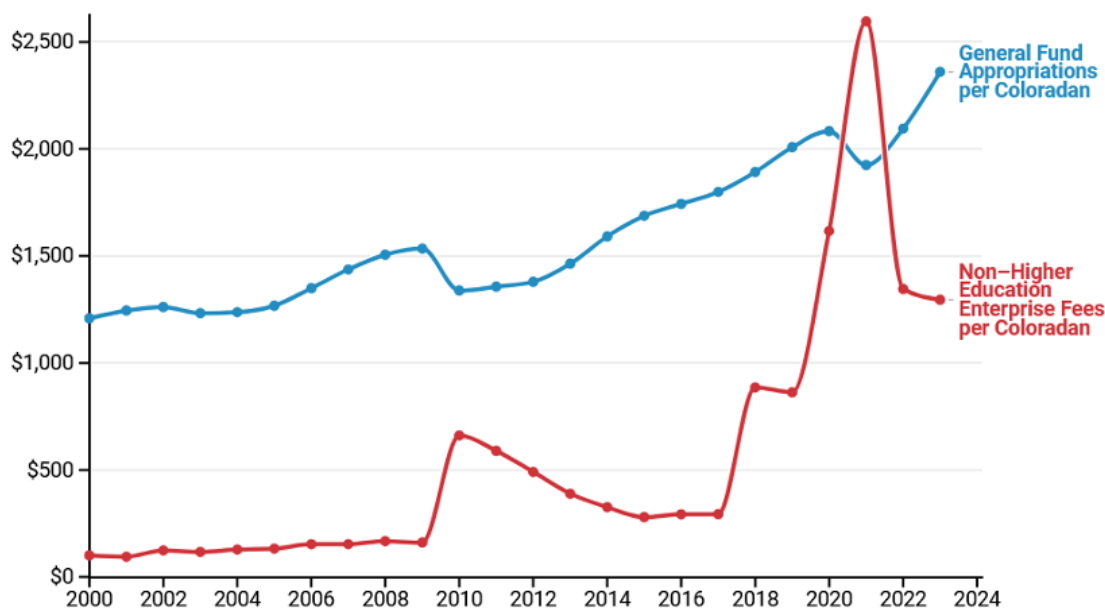
WHY HAS FEE REVENUE CONTINUED TO GROW?

Most importantly, though the passage of Proposition 117 required voter approval for the creation of large new enterprises, it did not restrict the growth of existing enterprises. Revenue collected by almost every enterprise active in 2020 has continued to grow unimpeded.

Additionally, the Colorado General Assembly has exempted several revenue sources from the TABOR cap by designating them as state enterprises. The largest of these is public university tuition and fees, which was reclassified in 2005. Even this, however, is not primarily responsible for the long-term growth of fee revenue—excluding higher education fees, total enterprise revenue grew from \$97 per Coloradan in 2000 to \$1,295 in 2023.

FIGURE 5

General Fund and TABOR-exempt Fee Enterprise Revenue (Excluding Higher Education Enterprises) per Coloradan since 2000



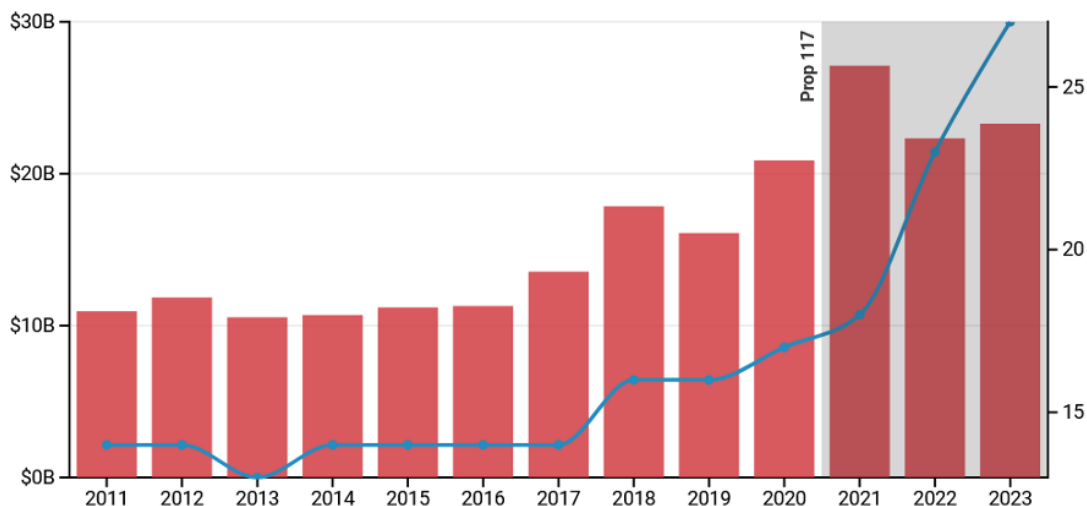
Lastly, the proliferation of new enterprises since the passage of Proposition 117 appears to be accelerating fee revenue growth. Eight new enterprises have been constituted since Proposition 117 became law, which is far more than have historically been established over similar periods of time. Fees under one preexisting enterprise, the Bridge and Tunnel Enterprise, have been substantially increased as well.

FIGURE 6

New Enterprises after Proposition 117

The number of active enterprises and their cumulative TABOR-exempt revenue have both increased since the passage of Proposition 117

■ Number of Active Enterprises ■ Total Exempt Revenue



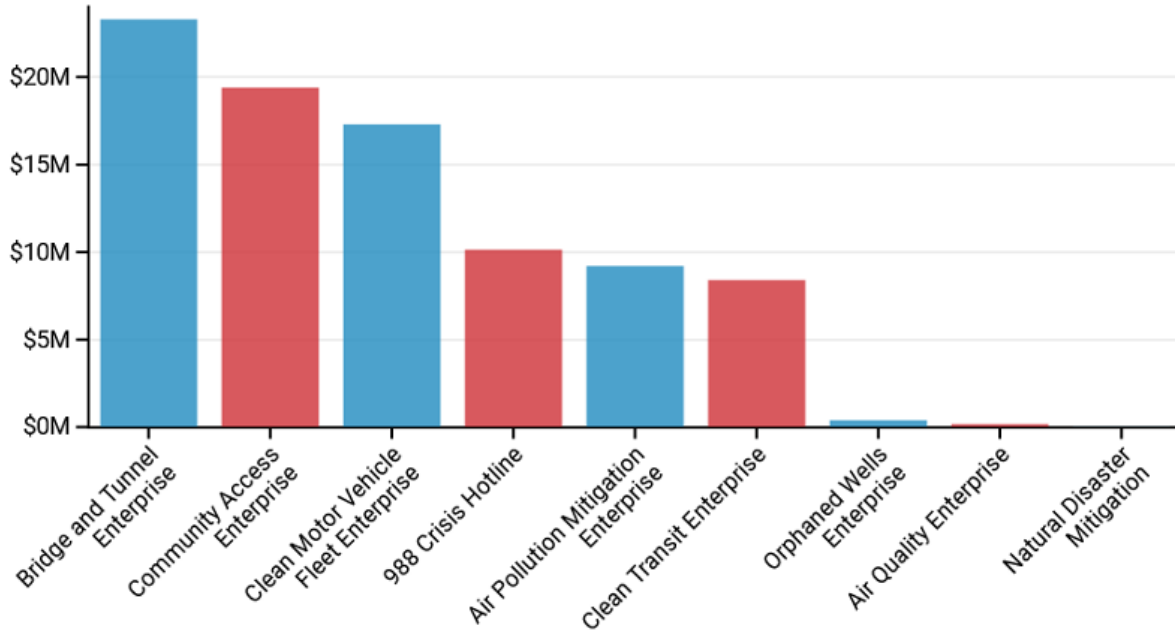
Of the eight new enterprises, all were established by the state legislature without being referred to the ballot to assess their popularity with voters.¹ The collections of these eight are comparable to those of many established funds. The largest new enterprise collected \$19.4 million in 2023 and the eight together collected a total of \$65 million, most of which came from non-TABOR-exempt fees imposed by a single bill (SB21-260).^{iv}

¹Note: The Family Medical Leave Insurance Enterprise was approved on the 2020 ballot alongside Proposition 117.

FIGURE 7

Revenue Collected in FY23 from Fees Approved after the Passage of Proposition 117

The rapid year-over-year increase in fee revenue collected is a trend likely to continue into future years



Note: These values include both exempt and non-exempt revenue from fees. The Bridge and Tunnel Enterprise predates Proposition 117, but its fee revenue rose under SB21-260.

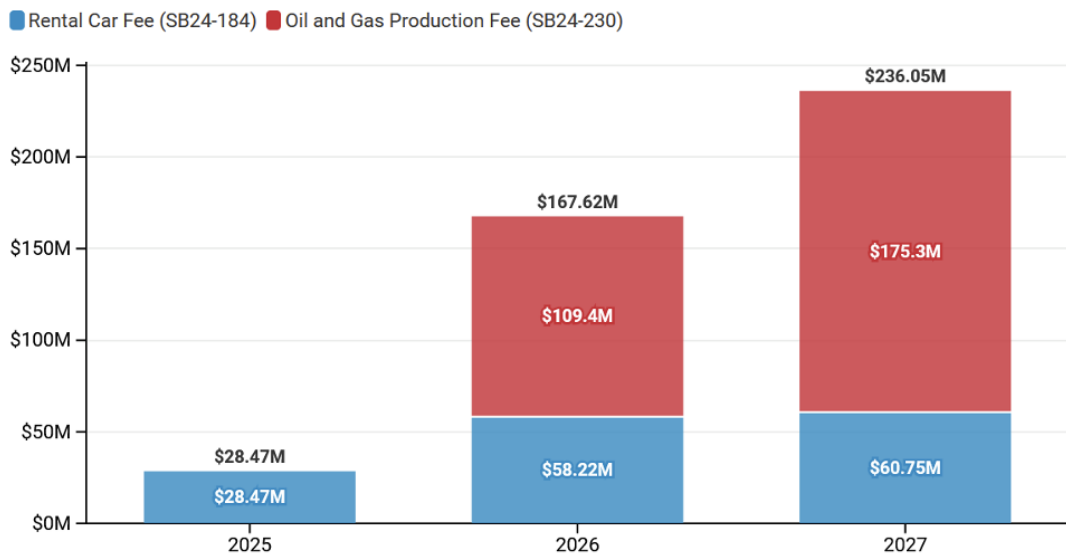
LOOKING FORWARD

Two major pieces of fee-related legislation were passed into law during the 2024 legislative session and will take effect in the coming years. SB24-184 imposes a fee on vehicle rentals to create the Transportation Enterprise Special Revenue Fund, with a projected revenue of \$28.5 million next year.^v SB24-230 establishes fees on oil and gas production in the estimated amount of \$109.4 million next year to benefit two existing enterprises: the Clean Transit Enterprise and the Colorado Parks and Wildlife Enterprise.^{vi}

FIGURE 8

Fee Increases Passed in 2024

These two bills from the 2024 legislative session will generate revenue for one new enterprise and two existing ones



BOTTOM LINE

The more that fee increases assume the character of tax increases, especially in the aftermath of Proposition 117, the more appropriate it becomes to characterize them as such. The comparative difficulty of enacting tax increases in Colorado has for decades encouraged lawmakers to instead use fees as means of generating new revenue for the state; the evidence of the years since 2020 suggests that Proposition 117 drove them only to change tactic, not change course. Fee revenue growth, therefore, is still driving Coloradans' effective tax burdens higher and higher without giving them a say in the process—far beyond levels that they'd likely approve on a ballot.

SOURCES

- i. <https://leg.colorado.gov/agencies/legislative-council-staff/tabor>
- ii. <https://commonsenseinstituteco.org/proposition-117/>
- iii. https://www.sos.state.co.us/pubs/info_center/laws/COConstitution/ArticleXSection20.html
- iv. https://leg.colorado.gov/sites/default/files/documents/2021A/bills/fn/2021a_sb260_f1.pdf
- v. https://leg.colorado.gov/sites/default/files/documents/2024A/bills/fn/2024a_sb184_r2.pdf
- vi. https://leg.colorado.gov/sites/default/files/documents/2024A/bills/fn/2024a_sb230_00.pdf