

Proposition 117 – VOTER APPROVAL OF NEW FEE BASED ENTERPRISES

Under the Colorado Constitution, the creation of new taxes or the raising of existing taxes must be voted on by the people of Colorado.ⁱ This November, Colorado voters will see Proposition 117 on the ballot, which proposes a similar voter approval for new state fees. If Proposition 117 passes, every new fee or enterprise “with projected or actual revenue from fees and surcharges of over \$100,000,000 total in its first five fiscal years must be approved at a statewide general election.”ⁱⁱ

Total state spending in Colorado is generated from three main revenue sources:

- 1) State taxes
- 2) State fees and enterprises, and
- 3) Federal spending distributed by the state

Most fees and all federal revenues are exempt from the TABOR provisions of the Colorado Constitution, however, which has allowed them to grow outside our state’s constitutional limits on spending.ⁱⁱⁱ In 1993, the first year of TABOR limits, only 46% of the total state spending was exempt, or \$2,403 per Coloradan in 2019 inflation adjusted dollars. **In 2019, 69% of total Colorado state spending was exempt from TABOR, which equates to an amount of \$5,787 per Coloradan.**

What is the difference between a fee and a tax?

For many, the distinction remains unsettled, however, generally taxes are revenues collected by the government which can be used for any purpose the legislature chooses. Fees are revenues which are collected for a specific purpose, and often for the funding of quasi-government entities referred to as enterprises.

Colorado Revenue Subject to TABOR vs Not Subject to TABOR

Revenue subject to the TABOR spending limits compared with revenue exempt from the TABOR spending limits on a per Coloradan basis

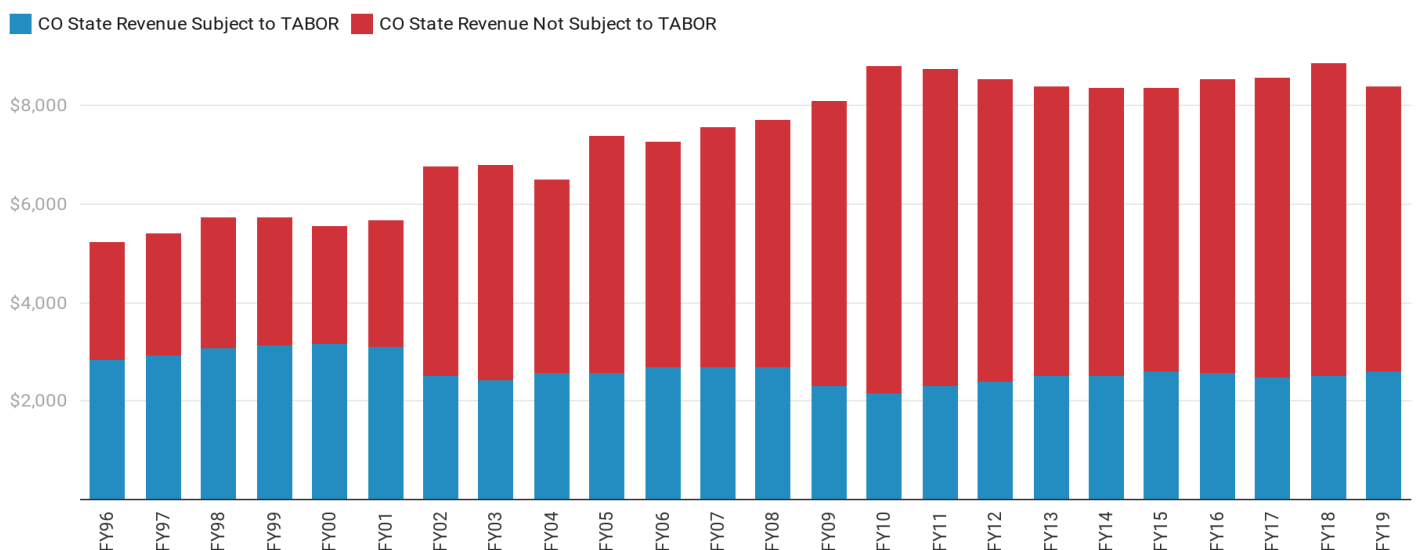


Chart: Common Sense Institute • Source: TABOR Schedules of Computation Office of the State Controller and Office of the State Auditor • Created with Datawrapper

Since the adoption of TABOR, or the Taxpayer’s Bill of Rights, voters have approved only a total of 3 statewide tax revenue increases, which include increased rates on tobacco products, new taxes on marijuana, and online sports betting. However, during that same time, the state legislature has created 15 new enterprises, resulting in fees to Coloradans and new revenue to the state, without a direct vote of the people. In FY 2018, total revenue collected from enterprise fees totaled \$17.9 billion.

Colorado State Enterprise Revenue

Revenue generated from Colorado state enterprise fees has grown from \$742 million in FY1994, the first full-year of TABOR, to \$17.9 billion in FY2018.

	FY 1994	FY 2006	FY 2018
Higher Education Enterprises	\$359,402,000	\$4,285,758,961	\$11,568,285,214
Colorado Healthcare Affordability and Sustainability Enterprise			\$3,310,867,117
Collegeinvest		\$320,884,776	\$777,595,435
State Lottery	\$288,288,000	\$477,769,929	\$622,320,424
College Assist		\$437,190,510	\$540,409,415
Unemployment Compensation Section			\$444,422,991
Parks and Wildlife			\$315,167,828
Correctional Industries	\$19,499,000	\$42,303,679	\$92,974,194
State Nursing Homes	\$13,077,000	\$43,612,634	\$90,791,740
Petroleum Storage Tank Fund		\$35,416,339	\$37,621,298
Statewide Transportation Enterprise			\$21,890,869
Statewide Bridge Enterprise			\$20,201,311
Brand Board		\$4,065,130	\$8,726,704
Clean Screen Authority		\$604,278	\$3,314,143
Capitol Parking Authority		\$391,268	\$851,756
Electronic Recording Technology Fund			\$97,759
College Access Network*			
Division of Wildlife		\$100,788,085	
State Fair Authority		\$8,690,633	
Statewide Tolling Authority*			
Student Loan Program	\$62,047,000		
Student Obligation Bond Authority*			

*Rows with no dollar values in any of the three columns collected fees during at least one year since 1994 but just not in the three years displayed here

Chart: Common Sense Institute • Source: TABOR Schedules of Computation Office of the State Controller and Office of the State Auditor • Created with Datawrapper

In 2018, state enterprise fee revenues were more than double what they were in 2008 on a per-Coloradan basis as total revenue from **enterprise fees has grown faster than general fund revenue**. In the year 2000, fees amounted to \$222 per Coloradan, while General Fund spending amounted to \$1,174 per resident. By 2018, fees equaled \$3,136 per Coloradan, and General Fund spending equaled \$1,864. **This means that for every \$1 increase in general fund revenue per Coloradan, enterprise fees have gone up \$4.22 – more than four times faster.**

History of Colorado Enterprise Fees

General Fund Appropriations per Coloradan compared to Enterprise Fees per Coloradan

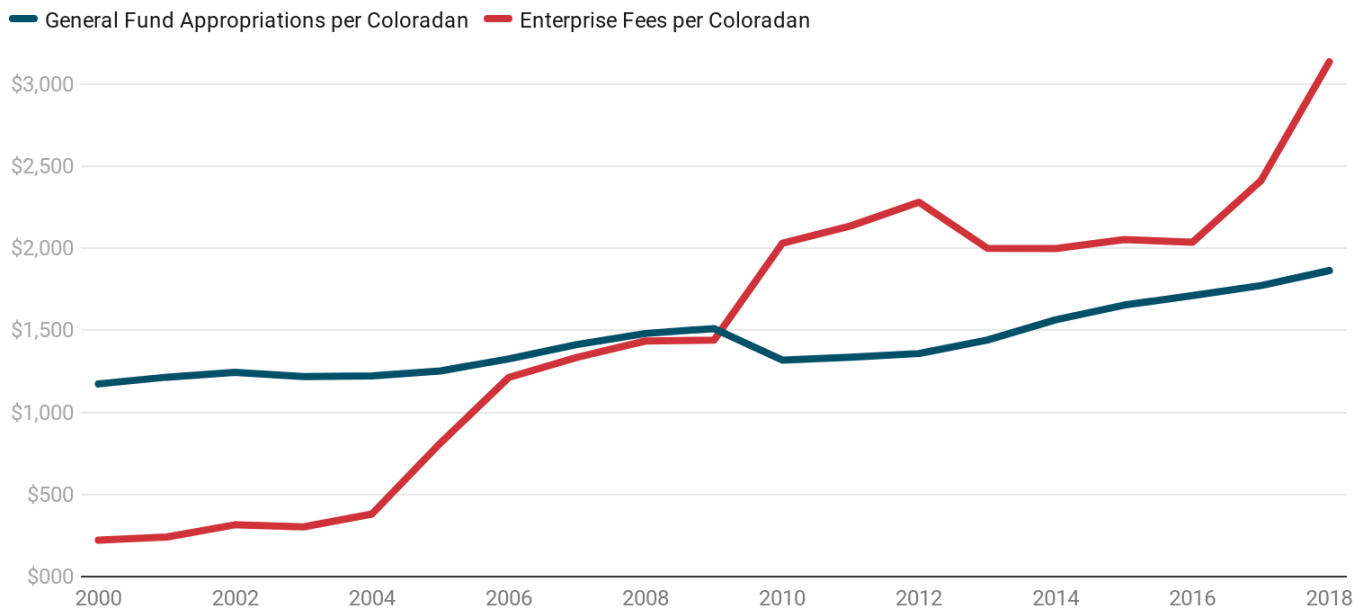


Chart: Common Sense Institute •
 Source: CO JBC Appropriations Reports, TABOR Schedules of Computation Office of State Auditor and Office of State Comptroller, State Demography Office
 • Created with Datawrapper

The reasons for this trend are two-fold: First, individual fees have grown, and second, the Colorado General Assembly has moved several revenue sources outside of the TABOR cap by designating them as state enterprises. The primary example is the exemption of most higher education tuition and fees in 2005. Yet even when enterprises related to higher education are removed, total remaining fees have grown from \$97 per Coloradan in 2000 to \$873 per Coloradan in 2018.

History of Colorado Non-Higher Education Enterprise Fees Compared to General Fund Appropriations

General fund appropriations per Coloradan compared to non-higher education related enterprise fees since 2000

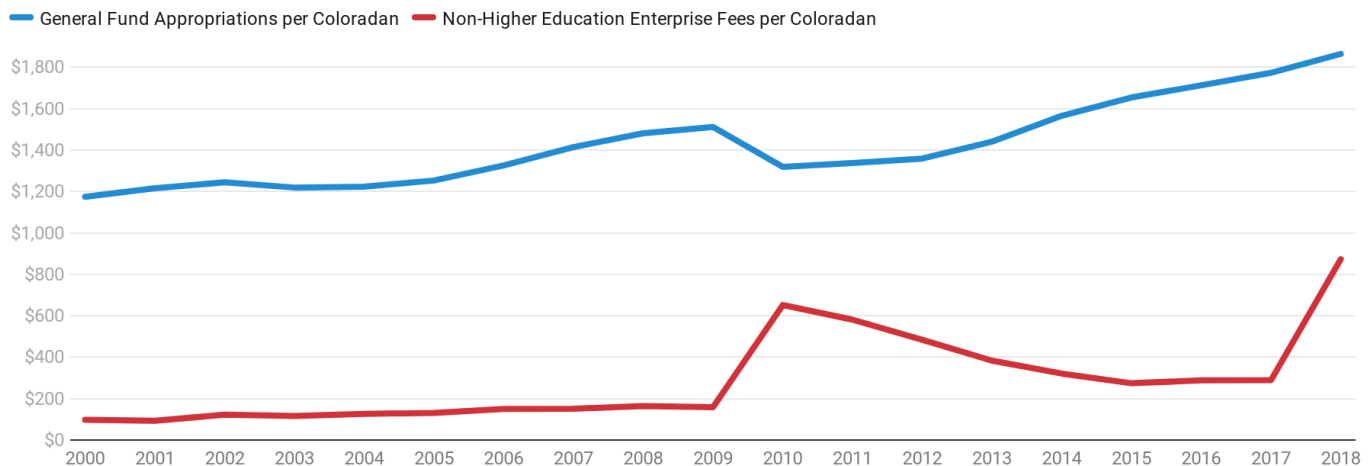


Chart: Common Sense Institute •
 Source: CO JBC Appropriations Reports, TABOR Schedules of Computation Office of State Auditor and Office of State Comptroller, State Demography Office •
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If passed, Proposition 117 would not change any of the enterprise fees that currently exist, it would instead involve the voters in the process of approving new fees, which are being used more and more by lawmakers and interest groups to support their public policy priorities.

For example, during the 2020 state legislative session, a bill was passed to create a new enterprise estimated to collect nearly \$130 million in new fees from health insurance companies and hospitals. A group of lawmakers also endorsed a proposed ballot measure for the November 2020 election, Initiative 283, which would raise fees by an estimated \$1.3 billion to establish a new paid family and medical leave enterprise. The fiscal note accompanying Initiative 283 estimates that \$1.3 billion in new fee-based revenue will be needed to cover the paid leave benefit program.^{iv}

Taken together, the creation of these two new enterprises would result in an 8% increase in enterprise fee-based revenue, or an additional \$248 per Coloradan per year.

What If State Income Taxes Were Raised to Replace Fees?

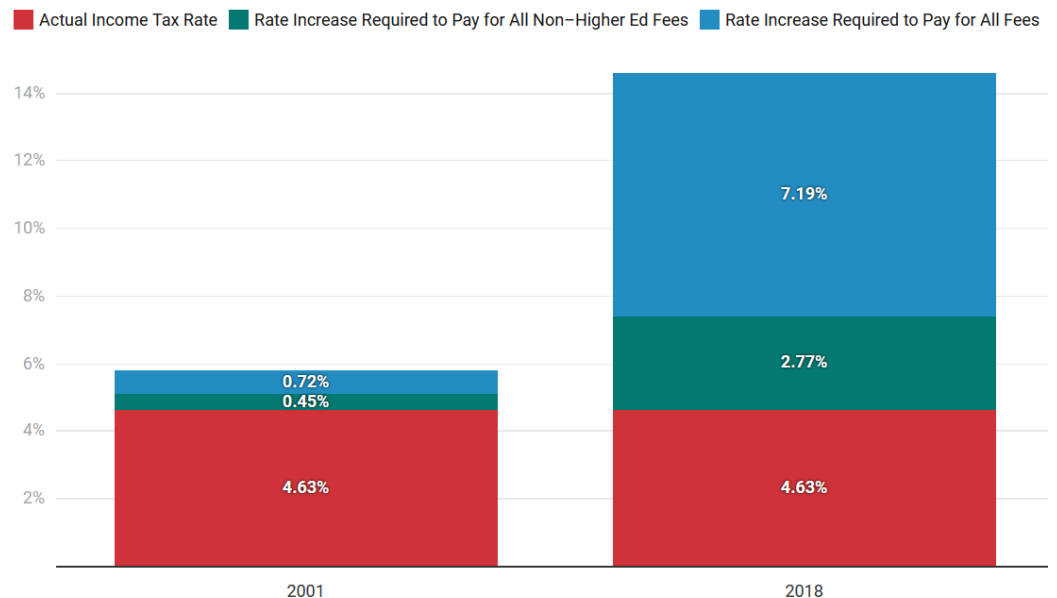
As the previous charts have shown, fee-based revenue has grown at a much faster pace than general fund revenue, of which income taxes contribute the largest share. The current state income tax rate, applied to both personal income and corporate income, stands at 4.63%, as it has since 2001. To provide another perspective on the magnitude of the growth in fees, the following chart shows how much the personal income tax rate would have to increase, if were to raise enough revenue to eliminate all fees. The bars break out the rate needed to cover all fees, and all fees excluding higher education related fees.

The following chart shows how much the personal income tax rate would have to increase, to raise enough revenue to eliminate all fees, or all non-higher education-related fees.

- **In 2001** the personal income tax rate would have needed to **increase from 4.63% to 5.8%**.
- **By 2018** the personal income tax rate would have needed to **increase from 4.63% to 14.6% to replace all fees**.
- If the income tax were to only **replace the revenue for non-higher education-based fees**, the rate would have grown from **5.08% in 2001 to 7.4% in 2018**.
- For someone making \$50,000 in income, **an income tax increase from 4.63% to 7.4% or 14.6% would equate to an additional \$1,387 or \$4,984 in taxes per year**.

Trading Fees for a Tax Increase

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



ⁱ <https://leg.colorado.gov/agencies/legislative-council-staff/tabor#:~:text=The%20TABOR%20Amendment%2C%20which%20was,Colorado%20can%20retain%20and%20spend.&text=The%20TABOR%20limit%20%E2%80%9Cbase%E2%80%9D%20is,the%20current%20fiscal%20year's%20revenue.>

ⁱⁱ <https://www.sos.state.co.us/pubs/elections/Initiatives/titleBoard/filings/2019-2020/295OriginalFinal.pdf>

ⁱⁱⁱ <https://leg.colorado.gov/publications/tabor-revenue-limit>

^{iv} <https://www.sos.state.co.us/pubs/elections/Initiatives/titleBoard/filings/2019-2020/283FiscallImpact.pdf>