SB 24-230

Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

Fiscal Note

Drafting Number:	LLS 24-1193	**Date:**	May 2, 2024
Prime Sponsors:	Sen. Fenberg; Cutter Rep. McCluskie; Velasco	**Bill Status:**	Senate Finance
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Bill Topic: **OIL & GAS PRODUCTION FEES**

Summary of Fiscal Impact:

☒ State Revenue ☐ State Transfer ☒ Local Government
☒ State Expenditure ☒ TABOR Refund ☒ Statutory Public Entity

The bill creates new oil and gas production fees to be used to expand transit service, frequency, ridership, and fund passenger rail projects, and to fund wildlife and land remediation services. It increases state, local, and statutory public entity revenue and expenditures on an ongoing basis beginning in FY 2025-26.

Appropriation Summary: No appropriation is required.

Fiscal Note Status: The fiscal note reflects the introduced bill.

Table 1
State Fiscal Impacts Under SB 24-230

		Budget Year FY 2024-25	Out Year FY 2025-26	Out Year FY 2026-27
Revenue	Oil and Gas Production Fees Fund	-	$68,291	$7,328
	Clean Transit Enterprise Sub Funds	-	$52.7 million	$116.3 million
	Wildlife and Land Fund	-	$56.6 million	$59.0 million
	Total	-	**$109.4 million**	**$175.3 million**
Expenditures	Oil and Gas Production Fees Fund	-	$68,291	$7,328
	Clean Transit Enterprise Sub Funds	-	$52.7 million	$116.3 million
	Wildlife and Land Fund	-	$56.6 million	$59.0 million
	Centrally Appropriated	-	$173,246	$167,284
	Total Expenditures	**-**	**$109.7 million**	**$175.5 million**
	Total FTE	**-**	**9.4 FTE**	**9.1 FTE**
Transfers		-	-	-
Other Budget Impacts	TABOR Refund	-	$68,291	not estimated

Summary of Legislation

The bill creates new oil and gas production fees to be used to expand transit service, frequency, ridership, and fund passenger rail projects, as well as to fund wildlife and land remediation services. The fees are collected by two existing state enterprises, the Clean Transit Enterprise in the Department of Transportation (CDOT) and the Colorado Parks and Wildlife (CPW) in the Department of Natural Resources (DNR), and administered by the Department of Revenue (DOR). Revenue from the fees is exempt from TABOR as enterprise revenue, except for a small portion retained by the DOR for its administrative costs.

Fee amounts and administration. The fees apply to oil and gas producers producing in the state on and after July 1, 2025. Beginning no later than October 1, 2025, and each quarter thereafter, the Energy and Carbon Management Commission (commission) within DNR is required to calculate the average oil and gas spot prices from the previous quarter and publish the prices on their website. In addition, the commission is required to provide written guidance to the enterprises on the current condition of the oil and gas markets and the market's sensitivity to higher or lower production fee amounts and to take into consideration national emergency and security needs and extreme new regulatory burdens on producers.

No later than one month from when the commission posts the average oil and gas spot prices from the previous quarter on their website, the enterprises are required to set the production fee amounts that will be applied to the previous quarter's oil and gas production. Oil and gas producers are required to file a return and pay the production fee on or before the last day of the second month following the previous quarter.

The maximum amounts at which the bill permits the enterprises to set the fees are presented in Tables 2 and 3.

Table 2
Maximum Oil Production Fee Amounts under SB 24-230

Spot Price	Clean Transit Enterprise	Colorado Parks and Wildlife
up to $40 per barrel	$0.04 per barrel	$0.01 per barrel
$40 up to $50 per barrel	$0.12 per barrel	$0.03 per barrel
$50 up to $60 per barrel	$0.24 per barrel	$0.06 per barrel
$60 per barrel or more	$0.24 per barrel, plus $0.12 per barrel for each $10, or fraction thereof, by which the spot price exceeds $60 per barrel	$0.06 per barrel, plus $0.03 per barrel for each $10, or fraction thereof, by which the spot price exceeds $60 per barrel

Table 3
Maximum Natural Gas Production Fee Amounts under SB 24-230
Assessed per thousand cubic feet (mcf), based on the price per million British thermal units (MMBTU)

Spot Price	Clean Transit Enterprise	Colorado Parks and Wildlife
up to $1.40 per MMBTU	0.16¢ per mcf	0.04¢ per mcf
$1.40 up to $1.80 per MMBTU	0.64¢ per mcf	0.16¢ per mcf
$1.80 up to $2.20 per MMBTU	1.12¢ per mcf	0.28¢ per mcf
$2.20 per MMBTU or more	1.12¢ per mcf, plus 0.48¢ per mcf for each $0.40, or fraction thereof, by which the spot price exceeds $2.20 per MMBTU	0.28¢ per mcf, plus 0.12¢ per mcf for each $0.40, or fraction thereof, by which the spot price exceeds $2.20 per MMBTU

To comply with Proposition 117, for FY 2025-26 only, the Clean Transit Enterprise is required to reduce fees so that the total revenue it generates from the production fees and from the current law retail delivery fee does not exceed $100 million over the five-year period between FY 2021-22 and FY 2025-26.

Clean Transit Enterprise. The bill creates three new cash funds within the enterprise as described below. After administrative expenses in the DOR, the bill allocates the remaining fee revenue in the following shares:

- 70 percent to the Local Transit Operations Cash Fund
  Money credited to the Local Transit Operations Cash Fund is to be used to expand transit service, increase transit frequency, and improve transit networks to increase transit ridership. Money is allocated to eligible entities (local governments, local or regional transit districts, or regional transportation authorities serving one or more communities with total population of at least 1 million). Applicants must provide a service improvement plan and describe how the money will be spent to expand transit services and increase frequency. Money in the fund is continuously appropriated to the enterprise.

- 10 percent to the Local Transit Grant Program Cash Fund
  Money credited to the Local Transit Grant Program Cash Fund is to provide competitive grants to eligible entities for operating and capital expenses with providing public transportation. The enterprise board will design the grant program to incentivize matching grants and the creation or expansion of local regional transportation authorities. Money in the fund is continuously appropriated to the enterprise.

- 20 percent to the Rail Funding Program Cash Fund
  Money credited to the Rail Funding Program Cash Fund is to fund passenger rail projects. Money in the fund is continuously appropriated to the enterprise.

Colorado Parks and Wildlife. Oil and gas production fees to CPW are credited to the Climate Resilient Wildlife and Land Cash Fund to be used for funding of broad investments in land, wildlife, and habitat conservation restoration.

Reporting. By March 1, 2030 and every fifth March 1 thereafter, both enterprises are required to complete an analysis of the production fees, revenue generated, and the use of the production fee revenue. This report is required to be posted on each enterprise's website.

Longmont rail line. The bill requires the Regional Transportation District (RTD) to prioritize the completion of the northwest rail line to Longmont by cooperating and partnering with the state the Front Range Passenger District. On or before July 1, 2025, RTD is required to provide a report to the Governor and General Assembly describing how they will fulfill the district's commitment in the transportation expansion plan. RTD is required to present the report to the Transportation Legislation Review Committee by December 15, 2025.

Interaction with potential ballot measures. If a ballot measure is approved by voters at the November 2024 general election that requires voter approval of fees assessed for the purpose of, or that may be used for, funding mass transportation, the bill imposes restrictions on how the fees may be used if voters do not approve their broader use.

Enforcement. Oil and gas producers that fail to register with the DOR are subject to a petty offense and a civil penalty of $50 per day of noncompliance.

Comparable Crime Analysis

Legislative Council Staff is required to include certain information in the fiscal note for any bill that creates a new crime, changes the classification of an existing crime, or creates a new factual basis for an existing crime. The following section outlines crimes that are comparable to the offense in this bill and discusses assumptions on future rates of criminal convictions resulting from the bill.

Prior conviction data and assumptions. This bill creates a new petty offense for producers that failure to register with the Department of Revenue. To form an estimate on the prevalence of this new crime, the fiscal note analyzed the existing petty offense of failure to register to collect sales taxes as a comparable crime. From FY 2020-21 to FY 2022-23, zero offenders have been sentenced and convicted for this existing offense; therefore, the fiscal note assumes that there will be minimal or no additional case filings or convictions for the new offense under the bill. Because the bill is not expected to have a tangible impact on criminal justice-related expenditures or revenue at the state or local levels, these potential impacts are not discussed further in this fiscal note.

Assumptions

The fiscal note utilizes the expected average oil and gas prices from the March 2024 LCS revenue forecast beginning from the third quarter of calendar year 2025, the initial quarter the commission will use to determine the amount of production fees to be paid, each quarter through the second quarter of 2027, the last forecast period available. The fiscal note also uses forecast expectations for production during this period. Finally, the fiscal note assumes the maximum fee amount allowed based on the expected oil and gas spots will be assessed on the projected production, except for the Clean Transit Enterprise fees in FY 2025-26, which are required to be reduced for compliance with Proposition 117.

It is important to note that energy commodities, specifically oil and natural gas, are extremely volatile and are subject to sharp price and production changes. The revenue estimate shown in Table 4 below is just one scenario based on many components that will change by the time (October 1, 2025) the commission is required to first calculate the oil and gas production fees. To the extent prices and/or production are higher than forecast, the amount of revenue will be greater; conversely, if prices and/or production are lower, revenue will be lower. Finally, the production fee levels set by the enterprises will have an impact on the expected revenue from production fees.

Due to data availability constraints, the fiscal note does not account for the amount by which the fees imposed in the bill will decrease production volumes relative to expected production under current law. Any production decline due to imposition of the fees will cause revenue collections to be lower than estimated.

State Revenue

Based on the assumptions above, the bill is expected to increase by about $109.4 million in FY 2025-26 and by $175.3 million in FY 2026-27, with ongoing impacts. Revenue impacts are summarized in Table 4. These estimates and future revenue will vary according to the production fees assessed, prices, and level of production. Most fee revenue collected under the bill is enterprise revenue exempt from TABOR, but for the amount credited to the DOR for its administration costs.

Table 4
State Cash Fund Revenue Under SB 24-230

	FY 2025-26	FY 2026-27
Department of Revenue	$68,291	$7,328
Clean Transit Enterprise (see Table 6 for detail)	$52.7 million	$116.3 million
Colorado Parks and Wildlife	$56.6 million	$59.0 million
Fee Revenue Total	**$109.4 million**	**$175.3 million**

Clean Transit Enterprise revenue limit. The bill requires that the Clean Transit Enterprise board reduce fees to ensure that enterprise revenue from fees and surcharges does not exceed $100 million in its first five years of operation (FY 2021-22 through FY 2025-26), to ensure that the enterprise remains compliant with Proposition 117. Under current law, retail delivery fee revenue credited to the enterprise is forecast to reach $46.6 million over the five-year period. Accordingly, the bill is expected to allow the enterprise to collect $53.4 million in additional oil and gas production fee revenue during FY 2025-26, or more if the excess amount is offset by reductions in the retail delivery fee in place in that year. The limit in Proposition 117 applies for the first five fiscal years for which an enterprise operates, so there is no limitation in place for FY 2026-27 or subsequent years.

State Expenditures

The bill increases state expenditures by $109.7 million in FY 2025-26 and by $179.5 million in FY 2026-27, with ongoing expenditures thereafter. Expenditures are mostly for transit improvements and land, wildlife, and habitat conservation through the two enterprises affected in the bill. Table 5 below itemizes administrative expenditures in each affected agency.

Table 5
Administrative Expenditures Under SB 24-230

	FY 2024-25	FY 2025-26	FY 2026-27
Department of Revenue			
Computer Programming	-	$60,899	-
Office of Research and Analysis	-	$7,392	$7,328
DOR Subtotal (O&G Production Fees Fund)	**-**	**$68,291**	**$7,328**
Department of Transportation			
Personal Services	-	$452,784	$430,400
Operating Expenses	-	$7,296	$6,912
Capital Outlay Costs	-	$33,350	-
Centrally Appropriated Costs[1]	-	$115,856	$109,894
FTE – Personal Services	-	5.7 FTE	5.4 FTE
CDOT Subtotal (Clean Transit Enterprise Fund)	**-**	**$609,285**	**$547,206**
Department of Natural Resources			
Personal Services	-	$283,381	$283,381
Operating Expenses	-	$4,736	$4,736
Capital Outlay Costs	-	$20,010	-
Centrally Appropriated Costs[1]	-	$57,390	$57,390
FTE – Personal Services	-	3.7 FTE	3.7 FTE
DNR Subtotal (Wildlife & Land Fund)	-	**$365,516**	**$345,506**
Total Administrative Expenditures	**-**	**$1,043,093**	**$900,040**
Total FTE	**-**	**9.4 FTE**	**9.1 FTE**

[1] Centrally appropriated costs are not included in the bill's appropriation.

Department of Revenue. This bill requires expenditures of $60,899 to program, test, and update database fields in the DOR's GenTax software system. Programming costs are estimated at $45,191, representing 195 hours of contract programming at a rate of $231.75 per hour. Costs for testing at the department include $10,780 for 308 hours of innovation, strategy, and delivery programming support at a rate of $35 per hour, and $4,928 for 154 hours of user acceptance testing at a rate of $32 per hour. Expenditures in the Office of Research and Analysis are required for changes in the related GenTax reports so that the department can access and document statistics related to the new policy. These costs are estimated at $7,392 in FY 2025-26 and $7,328 ongoing, representing about 230 hours for data management and reporting at $32 per hour. The bill permits the DOR to recoup its administrative costs to collect the fee, therefore these costs are expected to be paid from off-the-top amounts from the bill’s fees.

Department of Transportation—Clean Transit Enterprise. Beginning in FY 2025-26, the Clean Transit Enterprise within CDOT requires 5.7 FTE to manage and administer the Local Transit Operations and the Local Transit Grant Programs, paid from the Clean Transit Enterprise Fund. Of the new staff, 4.0 FTE will support the new program and grants, while 1.7 FTE will provide budget, accounting, and procurement support for the enterprise. Support staff reduces to 1.3 FTE in FY 2026-27 once systems are in place.

- **Clean transit fees.** Funds collected through the clean transit production fees will be used to make grants to local government, transit districts, or regional transportation authorities. Table 5 shows the amount of fees expected to be collected in FY 2025-26 and FY 2026-27 based on the revenue assumptions described above.

Table 6
Clean Transit Fees Breakdown Under SB 24-230

	FY 2025-26	FY 2026-27
Local Transit Operations Cash Fund	$36.9 million	$81.4 million
Local Transit Grant Program Cash Fund	$5.3 million	$11.6 million
Rail Funding Program Cash Fund	$10.5 million	$23.3 million
Total	**$52.7 million**	**$116.3 million**

Department of Natural Resources—Colorado Parks and Wildlife. Beginning in FY 2025-26, the CPW requires 3.7 FTE to support the budget, accounting, procurement, and grants workload associated with the program, paid from the Climate Resilient Wildlife and Land Cash Fund.

- **Wildlife and land remediation fee.** As shown in Table 4, CPW is expected to have revenue of $56.6 million in FY 2025-26 and $59.0 million in FY 2026-27 and ongoing to be used for wildlife and land remediation purposes.

Department of Natural Resources—Energy and Carbon Management Commission. The bill increases workload for the Energy and Carbon Management Commission in the Department of Natural Resources to publish the prices used each quarter to determine the fee and provide written guidance on the condition of the oil and gas market and its sensitivity to the fee amounts. The commission will post this information and deliver it to the Clean Transit Enterprise. No change in appropriations is required.

Centrally appropriated costs. Pursuant to a Joint Budget Committee policy, certain costs associated with this bill are addressed through the annual budget process and centrally appropriated in the Long Bill or supplemental appropriations bills, rather than in this bill. These costs, which include employee insurance and supplemental employee retirement payments, are shown in Table 5.

Other Budget Impacts

TABOR refunds. Most fee revenue collected under the bill is exempt from TABOR because it is credited to an enterprise. The bill is expected to increase the amount of state revenue required to be refunded to taxpayers by the amounts retained by the state to pay administrative expenses associated with the fees; these amounts are shown in the State Revenue section above. This estimate assumes the March 2024 LCS revenue forecast. A forecast of state revenue subject to TABOR is not available beyond FY 2025-26. Because TABOR refunds are paid from the General Fund, increased cash fund revenue will increase the TABOR refund obligation and decrease the amount of General Fund otherwise available to spend or save.

Local Government and Statutory Public Entity

Local governments and statutory public entities that receive funding from the Clean Transit Enterprise will have increased revenue and expenditures to expand local transit services, to cover expenses associated with providing public transportation, and to fund passenger rail projects and services.

RTD will have increased workload to prioritize completion of the northwest rail line and to submit reporting. The Front Range Passenger Rail District will have increased workload to collaborate with RTD on this effort.

Effective Date

The bill takes effect upon signature of the Governor, or upon becoming law without his signature.

State and Local Government Contacts

Colorado Energy Office	Counties	Forest Service
Governor	Information Technology	Law
Local Affairs	Municipalities	Natural Resources
Personnel	Public Health and Environment	Public Safety
Regulatory Agencies	Revenue	Transportation
Treasury		

The revenue and expenditure impacts in this fiscal note represent changes from current law under the bill for each fiscal year. For additional information about fiscal notes, please visit the General Assembly website.