

# Initiative 19: Legislative Authority for Spending State Money

Placed on the ballot by citizen initiative • Passes with 55 percent of the vote

1 **Amendment ? proposes amending the Colorado Constitution and the**  
2 **Colorado statutes to:**

- 3 • remove the ability of state agencies to spend money without authorization by  
4 the state legislature in the state budget;
- 5 • require that money received by the state for a particular purpose (custodial  
6 money) be deposited into a newly created fund and that interest earned on  
7 money in the fund be transferred to the state's General Fund; and
- 8 • require that the state legislature authorize any spending from the new fund  
9 each year following a public hearing.

10 **What Your Vote Means**

**YES**

11 A "yes" vote on  
12 Amendment ? requires

13 that all state spending be authorized by the  
14 state legislature and that custodial money  
15 be deposited in and spent from a new  
16 fund.

**NO**

A "no" vote on Amendment ?  
allows state agencies to  
continue spending custodial money and  
certain other money as they do now.

## Summary and Analysis for Amendment ?

### 1 What does this measure do?

2 The measure removes the ability of state agencies and elected officials, such as the  
3 Governor or the Attorney General, to spend money without specific authorization by the  
4 state legislature in the state budget. Instead, it requires all state spending to be  
5 authorized, or “appropriated,” by the state legislature.

6 In addition, the measure deposits custodial money in a new fund, called the Custodial  
7 Funds Transparency Fund. It defines custodial money as money received by the state  
8 that must be used for a particular purpose. This includes money received from the  
9 federal government, as a legal settlement from a lawsuit, or as a donation from a private  
10 individual or organization. The word “custodial” is used to refer to the money because  
11 the state acts as the custodian of the money to ensure that it is spent on the intended  
12 purpose.

13 Each year, the legislature must authorize spending from the new fund and hold a public  
14 hearing with an opportunity for public comment. Any interest earned on money in the  
15 new fund is placed in the state’s General Fund, where it may be used for any purpose.

### 16 How is spending authorized now?

17 Under the Colorado Constitution, the state legislature has the power to direct how  
18 money will be spent by the government through the annual budget process. Each year,  
19 the state legislature passes the annual budget bill, completing a process that includes  
20 time for public input and debate by legislators. This bill sets the amount of funding  
21 available for state programs, allowing state agencies to legally spend the money  
22 allocated to them. The budget does not typically address the spending of custodial  
23 money, as these funds originate outside of state government, and the specific purpose  
24 for which they must be used is already determined.

### 25 How would the measure change the process for spending custodial money?

26 All state spending would require legislative authorization, including the spending of  
27 custodial money. The measure does not change the particular purpose for which  
28 custodial money must be spent. However, the state legislature may make different  
29 spending decisions than state agencies would to address that purpose, and the timing of  
30 when some moneys are spent may change.

31 The state receives custodial money throughout the year, including when the legislature  
32 is typically out of session between May and December. Implementation of the measure  
33 could require the legislature to establish a new process to authorize spending of  
34 custodial money outside of the regular legislative session. The new process may affect  
35 the timing of certain spending decisions, potentially resulting in delayed or interrupted  
36 operations until spending is authorized.

### 37 What are examples of money that the measure would affect?

38 The state legislature would have to authorize spending of all funds, including the  
39 following types of money that are not part of the current budget process.

- 1 • **Emergency relief funds.** For example, in 2020, the state received \$1.67 billion in  
2 federal relief funds through the Coronavirus Aid, Relief, and Economic Security Act  
3 (CARES Act), which was spent according to the Governor’s executive order.
- 4 • **Money from the federal government.** The federal government provides regular  
5 funding for many state programs each year, including but not limited to health care  
6 and human services, transportation, and education programs. This money is  
7 custodial when federal law says how it should be spent. Only some of this spending  
8 is currently authorized by the legislature.
- 9 • **Legal settlements.** The state receives funds from various legal settlements, such  
10 as the Volkswagen diesel emissions settlement. These funds are spent by state  
11 agencies according to the applicable court orders.
- 12 • **Transportation funding.** Under an existing law, nearly all funding for state  
13 transportation projects is allocated by an independent commission without regular  
14 legislative authorization.
- 15 • **Grants.** State agencies may receive competitive grant awards from the federal  
16 government or from private organizations, which may be spent on the specific  
17 programs or purposes for which the grant was awarded.
- 18 • **Gifts and donations.** State agencies, colleges, and universities may receive and  
19 spend gifts or donations.

20 **What are other impacts of this measure?**

21 **State revenue limit.** Under current law, most but not all custodial money is exempt  
22 from the state’s constitutional revenue limit. Under the measure, all custodial money  
23 and the interest earned on it are exempt.

24 **Interest revenue.** Currently, interest earned on custodial money remains available for  
25 the same purpose as the custodial money. This measure would move interest earned  
26 on the Custodial Fund Transparency Fund into the General Fund, where it could be  
27 spent by the legislature for any purpose.

*For information on those issue committees that support or oppose the measures on the ballot at the November 2, 2021, election, go to the Colorado Secretary of State’s elections center web site hyperlink for ballot and initiative information:*

<http://www.sos.state.co.us/pubs/elections/Initiatives/InitiativesHome.html>

1 **Argument For Amendment ?**

2 1) The measure increases transparency and accountability in state government. The  
3 Governor, the Attorney General, and unelected administrators in state agencies  
4 currently spend large amounts of custodial money without public input or accessible  
5 public records. By requiring that all state spending be authorized by elected  
6 representatives, the measure allows for public participation and provides  
7 transparency in how funds are spent.

8 **Argument Against Amendment ?**

9 1) The measure adds unnecessary and expensive bureaucracy and risks significant  
10 unintended consequences. A longer authorization process could delay or interrupt  
11 state services, including emergency responses to public health or wildfire disasters.  
12 Further, making grant funding subject to additional steps could jeopardize Colorado's  
13 competitiveness for grant awards, resulting in the state receiving less money.  
14 Finally, the measure shifts decision-making from program experts and independent  
15 commissions to a political process in the state legislature.

16 **Fiscal Impact for Amendment ?**

17 Amendment ? increases state spending on the budgeting process, may change how  
18 custodial money is spent, and may affect state revenue, as discussed below.

19 **State spending.** The measure increases spending by at least \$1.0 million annually to  
20 add new staff in state agency budget offices and the legislative budget committee. The  
21 additional staff are needed because the measure requires state agencies to submit  
22 proposed spending of custodial money for authorization by the state legislature.

23 Other state spending could be affected if the state legislature makes different spending  
24 decisions than would be made by state agencies. While the purpose of the spending is  
25 not altered, the state legislature could fund different programs to implement that  
26 purpose.

27 **State revenue.** The overall impact of the measure on state revenue is unknown and  
28 depends on how the measure is implemented. Because custodial funds must be placed  
29 in the new fund before being spent, the measure could move interest earnings to the  
30 General Fund rather than funds controlled by state agencies. However, whether interest  
31 earnings increase or decrease is dependent on many factors, including the different  
32 rates of return of the two funds and the amount of time the money remains in the new  
33 fund.