



Legislative Council Staff  
Nonpartisan Services for Colorado's Legislature

# Initiative 19

## Fiscal Impact Statement

**Date:** April 30, 2021

**Fiscal Analyst:** Greg Sobetski (303-866-4105)

**LCS TITLE: REQUIREMENTS FOR SPENDING CUSTODIAL MONEY**

Fiscal Impact Summary		FY 2021-22	FY 2022-23
Revenue		-	indeterminate decrease
Expenditures	General Fund	at least \$150,000	at least \$1,000,000

***Disclaimer.** This initial fiscal impact statement has been prepared for an initiative approved for petition circulation by the Secretary of State. If the initiative is placed on the ballot, Legislative Council Staff may revise this estimate for the ballot information booklet (Blue Book) if new information becomes available.*

### Summary of Measure

**Constitutional provisions.** The Colorado Constitution currently allows money in the state treasury to be disbursed upon appropriation or following another authorization in law. The measure allows spending upon an appropriation only, and extends this requirement so that it applies to custodial funds in addition to money in the state treasury.

**Statutory provisions.** The measure defines “custodial funds” as money received by the state:

- that originated from a source other than the state;
- that is awarded or otherwise provided to the state for a particular purpose; and
- for which the state is acting as a custodian or trustee to carry out the purpose for which the money was provided.

The measure creates the Custodial Funds Transparency Fund and requires all custodial funds received by the state to be deposited in the new fund. Any investment income earned in the fund reverts to the General Fund at the end of each fiscal year. Custodial funds and investment income earned thereon is exempt from the state TABOR limit as a voter-approved revenue change.

The General Assembly is required to appropriate any expenditures from the fund, and to do so in a public hearing with the opportunity for public comment.

## Assumptions

**Implementing legislation.** For any funds that are currently not appropriated and that become subject to appropriation, the direct effect of the measure, absent legislation to appropriate the money, is to require that expenditures of these funds cease in FY 2022-23. The Office of the State Controller reports that the state received at least \$21.4 billion in custodial funds during FY 2019-20. This fiscal impact statement assumes that implementing legislation will be enacted to appropriate funds that are received for a specific purpose so that they may continue to be expended for that purpose. It is further assumed that the state will continue to receive these funds, though some federal allocations may be jeopardized depending on how the measure and implementing legislation interact with federal law and rule.

**Affected funds.** The measure defines “custodial funds” differently than the generally accepted accounting principles (GAAP) adopted by the U.S. Securities and Exchange Commission, which are currently used by the state’s accountants. It is unclear whether certain funds held by the state on behalf of others would become subject to appropriation. These include, but are not limited to:

- money belonging to inmates in state correctional facilities that is held by the Department of Corrections;
- money invested in college savings accounts at CollegeInvest;
- unclaimed property funds held in the Unclaimed Property Trust Fund; and
- revenue earned from business-type transactions at higher education institutions, like those at bookstores, dining halls, and sports venues.

This fiscal impact statement assumes that appropriations for any affected funds will be authorized through implementing legislation and/or the annual budget process.

## State Revenue

While the measure has the potential to both increase and decrease state revenue, it is expected to decrease state revenue, on net, by an indeterminate amount beginning in FY 2022-23. The amount of the revenue impact will depend on how the measure is implemented and on decisions made by grantors in response.

**Potential decrease.** The measure decreases state revenue if it keeps the federal government or private grantors from awarding grants to state agencies that otherwise would have been awarded under current law, or if it precludes the state’s receipt of court settlements or damage awards. These impacts will depend on the amount of revenue that would be received under current law, and cannot be estimated without information about future grants, settlements, and implementation that is unknown at this time.

**Potential increase.** The measure increases state revenue from investment earnings if custodial funds are held for a longer period of time before being appropriated and expended.

**Shift in revenue from cash funds to the General Fund.** The measure requires that investment income earned on deposits of custodial funds to revert to the General Fund at the end of each state fiscal year. This requirement is expected to decrease cash fund revenue and increase General Fund revenue each year. Higher education institutions receive a significant amount of custodial funds. If revenue available to higher education institutions is reduced, institutions may experience adverse impacts on their bond ratings, which will decrease the revenue they generate from bond proceeds in future years.

## State Expenditures

The measure increases General Fund expenditures by at least \$150,000 and 1.0 FTE in FY 2021-22, and by at least \$1,000,000 and 10.0 FTE in FY 2022-23. These costs are required for implementation. Depending on subsequent decisionmaking, the measure could impact the timing of state expenditures, increase or decrease state expenditures on net, and may shift expenditures between state programs.

**Implementation costs.** The measure requires appropriations to be written for at least \$21.4 billion currently not subject to appropriation. Beginning in FY 2021-22, the measure is expected to increase workload for the Office of State Planning and Budgeting and for state agency budget offices. Beginning in FY 2022-23, the measure is also expected to increase workload for the Joint Budget Committee Staff and the General Assembly. Actual costs will depend on implementation and, depending on the funds affected, could be significantly greater than estimated.

**New appropriations of funds.** The measure requires that all expenditures of state funds be authorized by appropriation. Depending on how funds are appropriated, the measure may increase, decrease, or change the timing of state expenditures, and could shift expenditures between different state programs, relative to current law.

**Timing of state expenditures.** If custodial funds are received by the state before an appropriation is written to authorize their expenditure, funds could remain unexpended for longer periods of time, reducing state services during the intervening period. This impact could delay expenditures across fiscal years. The amount of this impact cannot be determined as it will depend on how the measure is implemented.

## Effective Date

If approved by voters at the 2021 general election, this measure takes effect on July 1, 2022.

## State and Local Government Contacts

All State Agencies

## Revisions from Fiscal Summary

This fiscal impact statement has been updated to reflect information received after publication of the fiscal summary dated April 2, 2021.