



Opposition to Amendment 78 – Legislative Authority for Spending State Money

What the initiative proposes to do:

Amendment 78 would transfer the power to allocate “custodial funds” solely to the General Assembly (Legislature) instead of the executive branch (Governor and State Treasurer).

- It deletes language the Colorado Constitution that allows custodial funds to be exempt from the legislative appropriation process; currently, these funds do not need to go through the legislative process to be allocated.
- “Custodial funds” means money received by the state that is provided for a particular purpose and which originated from a source other than state taxes and fees, such as:
 - Federal funds
 - Grants
 - Settlement money from lawsuits
- It allows for only “annual appropriation” of these funds.

Current law requires the State Treasurer to put custodial funds into a separate account that is not subject to annual appropriation by the General Assembly. Written direction to the State Treasurer must set forth the basis for the Attorney General’s determination that the money is custodial and must specify the manner in which the money will be expended (CRS 24-31-108).

Why the initiative would be a problem:

- Given the fact that the Legislature is in session only 120 days of the year, this amendment may lead to a disruption of services or federal payments.
 - To the extent that the measure delays or reduces spending of custodial funds, it may result in reduced or delayed public services and public sector employment in the state economy.
 - One example of disruption of services is that the funds sent to the state from the federal government to deal with the COVID-19 pandemic could not have been distributed immediately.
 - The legislative process for appropriation of funding requires approval of both the House and Senate, with the signature of the Governor, which is not ordinarily a quick process.
- The initiative prohibits state agencies or enterprises that receive gifts, grants, or donations from spending them until the General Assembly appropriates the money. Many state programs are funded with gifts, grants, or donations.
- These funds can be spent only on specific items. Passing them through the Legislature would not change the eventual outcome but would only slow the process and would add administrative expense.
- Restricting the allocation of these funds to an annual appropriation makes them even less available to serve the needs of the recipients for whom they were intended.
- Custodial funds should be processed as expeditiously as possible. The process under current law is efficient and effective.

Vote NO on Amendment 78!