

## CHAPTER 238

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**EDUCATION - PUBLIC SCHOOLS**

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## SENATE BILL 22-202

BY SENATOR(S) Zenzinger and Rankin, Bridges, Buckner, Ginal, Hansen, Moreno, Pettersen, Priola, Simpson;  
also REPRESENTATIVE(S) McCluskie, Bennett, Bird, Boesenecker, Esgar, Hooton, Kipp, Lindsay, Valdez A..

**AN ACT**

**CONCERNING PROVIDING STATE MATCHING MONEY FOR PROPERTY TAX REVENUE COLLECTED BY SCHOOL DISTRICTS, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.**

*Be it enacted by the General Assembly of the State of Colorado:*

**SECTION 1.** In Colorado Revised Statutes, **add** 22-54-107.9 as follows:

**22-54-107.9. Override mill levy match - calculation - distribution - fund created - definitions.** (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "ADDITIONAL MILL LEVY REVENUE PER PUPIL AMOUNT" MEANS THE AMOUNT OF AN ELIGIBLE DISTRICT'S ADDITIONAL MILL LEVY REVENUE, AS DEFINED IN SECTION 22-32-108.5, FOR A BUDGET YEAR, DIVIDED BY THE ELIGIBLE DISTRICT'S FUNDED PUPIL COUNT FOR THAT BUDGET YEAR.

(b) "APPLICABLE BUDGET YEAR" MEANS THE BUDGET YEAR IN WHICH THE DEPARTMENT DISTRIBUTES MONEY PURSUANT TO THIS SECTION TO A DISTRICT.

(c) "APPLICABLE PROPERTY TAX YEAR" MEANS THE PROPERTY TAX YEAR THAT ENDS DURING THE APPLICABLE BUDGET YEAR.

(d) "DEPARTMENT" MEANS THE DEPARTMENT OF EDUCATION CREATED PURSUANT TO SECTION 24-1-115.

(e) "ELIGIBLE DISTRICT" MEANS A DISTRICT FOR WHICH THE OVERRIDE MILL CAPACITY IS LESS THAN THE MAXIMUM NUMBER OF OVERRIDE MILLS CALCULATED FOR THE DISTRICT.

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*Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.*

(f) "ELIGIBLE INSTITUTE CHARTER SCHOOL" MEANS AN INSTITUTE CHARTER SCHOOL THAT IS LOCATED WITHIN THE GEOGRAPHIC BOUNDARIES OF AN ELIGIBLE DISTRICT.

(g) "MAXIMUM NUMBER OF OVERRIDE MILLS" MEANS THE NUMBER OF OVERRIDE MILLS CALCULATED FOR A DISTRICT PURSUANT TO SUBSECTION (3) OF THIS SECTION.

(h) "OVERRIDE MILL CAPACITY" MEANS THE NUMBER OF OVERRIDE MILLS CALCULATED PURSUANT TO SUBSECTION (4) OF THIS SECTION THAT A DISTRICT MAY BE EXPECTED TO LEVY TOWARD THE DISTRICT'S MAXIMUM NUMBER OF OVERRIDE MILLS.

(i) "OVERRIDE MILL PER PUPIL MATCH AMOUNT" MEANS THE AMOUNT OF THE OVERRIDE MILL MATCH AMOUNT THAT THE DEPARTMENT DISTRIBUTES TO AN ELIGIBLE DISTRICT PURSUANT TO SUBSECTION (5)(a) OF THIS SECTION FOR A BUDGET YEAR, DIVIDED BY THE ELIGIBLE DISTRICT'S FUNDED PUPIL COUNT FOR THAT BUDGET YEAR.

(j) "OVERRIDE MILLS" MEANS PROPERTY TAX MILLS THAT A DISTRICT LEVIES PURSUANT TO SECTION 22-54-108.

(k) "SMALL RURAL DISTRICT" HAS THE SAME MEANING AS PROVIDED IN SECTION 22-54-108.

(l) "TOTAL PROGRAM" MEANS THE AMOUNT OF TOTAL PROGRAM FUNDING FOR A DISTRICT CALCULATED PURSUANT TO SECTION 22-54-104 (2) BEFORE APPLICATION OF THE BUDGET STABILIZATION FACTOR.

(2) (a) BEGINNING IN THE 2022-23 BUDGET YEAR AND FOR EACH BUDGET YEAR THEREAFTER, THE DEPARTMENT, IN JUNE OF EACH BUDGET YEAR, SHALL CALCULATE AND DISTRIBUTE AS A LUMP SUM TO EACH ELIGIBLE DISTRICT AND EACH ELIGIBLE INSTITUTE CHARTER SCHOOL AN OVERRIDE MILL MATCH AMOUNT AS PROVIDED IN THIS SECTION. THE DEPARTMENT SHALL DISTRIBUTE THE OVERRIDE MILL MATCH AMOUNT FROM MONEY ANNUALLY APPROPRIATED FROM THE MILL LEVY OVERRIDE MATCH FUND CREATED IN SUBSECTION (6) OF THIS SECTION. IN A BUDGET YEAR IN WHICH THE GENERAL ASSEMBLY DOES NOT APPROPRIATE A SUFFICIENT AMOUNT TO FULLY FUND THE DISTRIBUTIONS CALCULATED PURSUANT TO THIS SECTION, THE DEPARTMENT SHALL REDUCE THE AMOUNT OF EACH ELIGIBLE DISTRICT'S AND EACH ELIGIBLE INSTITUTE CHARTER SCHOOL'S DISTRIBUTION BY THE SAME PERCENTAGE THAT THE DEFICIT BEARS TO THE AMOUNT REQUIRED TO FULLY FUND THE DISTRIBUTIONS CALCULATED PURSUANT TO THIS SECTION.

(b) THE OVERRIDE MILL MATCH AMOUNT THAT AN ELIGIBLE DISTRICT RECEIVES PURSUANT TO THIS SECTION IS DEEMED TO BE ADDITIONAL MILL LEVY REVENUE THAT IS SUBJECT TO DISTRIBUTION TO THE CHARTER SCHOOLS OF THE DISTRICT IN THE SAME MANNER THAT THE DISTRICT DISTRIBUTES OTHER ADDITIONAL MILL LEVY REVENUE THAT IT COLLECTS TO THE CHARTER SCHOOLS OF THE DISTRICT PURSUANT TO SECTION 22-32-108.5.

(3) (a) FOR THE 2022-23 BUDGET YEAR AND FOR EACH BUDGET YEAR THEREAFTER, THE DEPARTMENT SHALL ANNUALLY DETERMINE EACH DISTRICT'S

MAXIMUM NUMBER OF OVERRIDE MILLS, WHICH IS EQUAL TO THE NUMBER OF MILLS THAT A DISTRICT MAY LEVY FOR THE APPLICABLE PROPERTY TAX YEAR TO GENERATE PROPERTY TAX REVENUE EQUAL TO TWENTY-FIVE PERCENT, OR THIRTY PERCENT IN THE CASE OF A SMALL RURAL DISTRICT, OF THE DISTRICT'S:

(I) TOTAL PROGRAM FOR THE APPLICABLE BUDGET YEAR, IF TEN PERCENT OR LESS OF THE DISTRICT'S FUNDED PUPIL COUNT FOR THE APPLICABLE BUDGET YEAR IS ATTRIBUTABLE TO THE DISTRICT'S ONLINE PUPIL ENROLLMENT; OR

(II) ADJUSTED TOTAL PROGRAM FOR THE APPLICABLE BUDGET YEAR CALCULATED PURSUANT TO SUBSECTION (3)(b) OF THIS SECTION, IF MORE THAN TEN PERCENT OF THE DISTRICT'S FUNDED PUPIL COUNT FOR THE APPLICABLE BUDGET YEAR IS ATTRIBUTABLE TO THE DISTRICT'S ONLINE PUPIL ENROLLMENT.

(b) IF MORE THAN TEN PERCENT OF A DISTRICT'S FUNDED PUPIL COUNT FOR THE APPLICABLE BUDGET YEAR IS ATTRIBUTABLE TO THE DISTRICT'S ONLINE PUPIL ENROLLMENT, THE DEPARTMENT SHALL CALCULATE THE DISTRICT'S ADJUSTED TOTAL PROGRAM AS FOLLOWS:

(I) THE DEPARTMENT SHALL REDUCE THE DISTRICT'S ONLINE PUPIL ENROLLMENT IN ACCORDANCE WITH THE FOLLOWING FORMULA:

$$\text{DISTRICT ONLINE PUPIL ENROLLMENT} - (((\text{DISTRICT FUNDED PUPIL COUNT} - \text{DISTRICT ONLINE PUPIL ENROLLMENT}) \div .9) \times .1)$$

(II) THE DEPARTMENT SHALL SUBTRACT FROM THE DISTRICT'S TOTAL PROGRAM FOR THE APPLICABLE BUDGET YEAR AN AMOUNT EQUAL TO THE DISTRICT'S REDUCED ONLINE PUPIL ENROLLMENT, CALCULATED PURSUANT TO SUBSECTION (3)(b)(I) OF THIS SECTION, MULTIPLIED BY THE PER PUPIL ONLINE FUNDING AMOUNT FOR THE APPLICABLE BUDGET YEAR AS DESCRIBED IN SECTION 22-54-104 (4.5)(c)(II), BEFORE APPLICATION OF THE BUDGET STABILIZATION FACTOR.

(4) (a) FOR THE 2022-23 BUDGET YEAR AND EACH BUDGET YEAR THEREAFTER, THE DEPARTMENT SHALL IDENTIFY THE FIVE-YEAR AVERAGE MEDIAN HOUSEHOLD INCOME FOR EACH DISTRICT IN THE STATE, REFERRED TO IN THIS SECTION AS THE "AVERAGE MEDIAN INCOME", USING THE INFORMATION REPORTED BY THE UNITED STATES CENSUS BUREAU'S AMERICAN COMMUNITY SURVEY FOR THE APPLICABLE BUDGET YEAR. THE DEPARTMENT SHALL DETERMINE THE AMOUNT OF THE DIFFERENCE BETWEEN THE HIGHEST AVERAGE MEDIAN INCOME AND LOWEST AVERAGE MEDIAN INCOME AMONG ALL DISTRICTS IN THE STATE, REFERRED TO IN THIS SECTION AS THE "MEDIAN INCOME GAP".

(b) USING THE AVERAGE MEDIAN INCOME FOR EACH DISTRICT, THE DEPARTMENT SHALL ANNUALLY DETERMINE FOR EACH DISTRICT THE DISTRICT'S OVERRIDE MILL CAPACITY, WHICH IS THE NUMBER OF OVERRIDE MILLS THE DISTRICT MAY BE EXPECTED TO LEVY TOWARD THE DISTRICT'S MAXIMUM NUMBER OF OVERRIDE MILLS, USING THE FOLLOWING FORMULA:

$$(((\text{DISTRICT AVERAGE MEDIAN INCOME} - \text{LOWEST DISTRICT AVERAGE MEDIAN INCOME}) \div \text{MEDIAN INCOME GAP}) \times 20) + 15$$

(5) (a) FOR THE 2022-23 BUDGET YEAR AND EACH BUDGET YEAR THEREAFTER, THE DEPARTMENT SHALL CALCULATE THE STATE MATCH PERCENTAGE FOR EACH ELIGIBLE DISTRICT BY SUBTRACTING THE ELIGIBLE DISTRICT'S OVERRIDE MILL CAPACITY FROM THE ELIGIBLE DISTRICT'S MAXIMUM NUMBER OF OVERRIDE MILLS, THEN DIVIDING THE REMAINDER BY THE ELIGIBLE DISTRICT'S OVERRIDE MILL CAPACITY. THE DEPARTMENT SHALL ANNUALLY DISTRIBUTE TO EACH ELIGIBLE DISTRICT AN OVERRIDE MILL MATCH AMOUNT EQUAL TO THE ELIGIBLE DISTRICT'S STATE MATCH PERCENTAGE MULTIPLIED BY THE AMOUNT OF PROPERTY TAX REVENUE GENERATED BY THE NUMBER OF OVERRIDE MILLS THAT THE ELIGIBLE DISTRICT LEVIES FOR THE APPLICABLE PROPERTY TAX YEAR.

(b) FOR THE 2022-23 BUDGET YEAR AND EACH BUDGET YEAR THEREAFTER, THE DEPARTMENT SHALL DISTRIBUTE TO EACH ELIGIBLE INSTITUTE CHARTER SCHOOL AN OVERRIDE MILL MATCH AMOUNT EQUAL TO THE OVERRIDE MILL PER PUPIL MATCH AMOUNT FOR THE ELIGIBLE INSTITUTE CHARTER SCHOOL'S ACCOUNTING DISTRICT MULTIPLIED BY THE ELIGIBLE INSTITUTE CHARTER SCHOOL'S PUPIL ENROLLMENT FOR THE APPLICABLE BUDGET YEAR; EXCEPT THAT THE DEPARTMENT SHALL ENSURE THAT THE TOTAL PER PUPIL AMOUNT DISTRIBUTED TO AN ELIGIBLE INSTITUTE CHARTER SCHOOL PURSUANT TO THIS SECTION AND SECTION 22-30.5-513.1 IN A SINGLE BUDGET YEAR DOES NOT EXCEED THE COMBINED TOTAL OF THE ADDITIONAL MILL LEVY REVENUE PER PUPIL AMOUNT AND OVERRIDE MILL PER PUPIL MATCH AMOUNT OF THE ELIGIBLE INSTITUTE CHARTER SCHOOL'S ACCOUNTING DISTRICT FOR THE APPLICABLE BUDGET YEAR.

(6) (a) THE MILL LEVY OVERRIDE MATCH FUND IS CREATED IN THE STATE TREASURY. THE FUND CONSISTS OF MONEY APPROPRIATED OR TRANSFERRED TO THE FUND BY THE GENERAL ASSEMBLY. THE STATE TREASURER SHALL CREDIT TO THE FUND ALL INTEREST AND INCOME DERIVED FROM THE DEPOSIT AND INVESTMENT OF MONEY IN THE FUND. SUBJECT TO ANNUAL APPROPRIATION BY THE GENERAL ASSEMBLY, FOR THE 2022-23 BUDGET YEAR AND EACH BUDGET YEAR THEREAFTER, THE DEPARTMENT SHALL DISTRIBUTE MONEY FROM THE FUND AS DESCRIBED IN THIS SECTION. IN ADDITION, THE DEPARTMENT MAY EXPEND A PORTION OF THE AMOUNT APPROPRIATED FROM THE FUND TO PAY THE DIRECT COSTS THAT THE DEPARTMENT INCURS IN IMPLEMENTING THIS SECTION.

(b) ON JULY 1, 2022, THE STATE TREASURER SHALL TRANSFER TEN MILLION DOLLARS FROM THE GENERAL FUND TO THE MILL LEVY OVERRIDE MATCH FUND.

**SECTION 2.** In Colorado Revised Statutes, 24-75-220, amend as added in House Bill 22-1390 (8) as follows:

**24-75-220. State education fund - transfers - surplus - legislative declaration.**  
(8) On July 1, 2022, the state treasurer shall transfer ~~three hundred~~ TWO HUNDRED NINETY million dollars from the general fund to the state education fund created in section 17 (4) of article IX of the state constitution.

**SECTION 3. Appropriation.** (1) For the 2022-23 state fiscal year, \$10,041,238 is appropriated to the department of education. This appropriation consists of \$41,238 from the general fund and \$10,000,000 from the mill levy override match fund created in section 22-54-107.9 (6), C.R.S. To implement this act, the department may use this appropriation as follows:

(a) \$10,000,000 from the mill levy override match fund for mill levy override matching pursuant to section 22-54-107.9, C.R.S.; and

(b) \$41,238 from the general fund for administration related to public school finance, which amount is based on an assumption that the department will require an additional 0.5 FTE.

**SECTION 4. Effective date.** This act takes effect upon passage; except that sections 2 and 3 of this act take effect only if House Bill 22-1390 becomes law, in which case sections 2 and 3 of this act take effect on the effective date of this act or House Bill 22-1390, whichever is later.

**SECTION 5. Safety clause.** The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety.

Approved: May 26, 2022