

**First Regular Session
Seventy-first General Assembly
STATE OF COLORADO**

INTRODUCED

LLS NO. 17-0701.01 Julie Pelegrin x2700

SENATE BILL 17-119

SENATE SPONSORSHIP

Court,

HOUSE SPONSORSHIP

(None),

Senate Committees

State, Veterans, & Military Affairs

House Committees

A BILL FOR AN ACT

101 **CONCERNING CALCULATING THE NUMBER OF PROPERTY TAX MILLS**
102 **EACH SCHOOL DISTRICT IS REQUIRED TO LEVY FOR TOTAL**
103 **PROGRAM FUNDING IN SCHOOL FINANCE.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill requires each school district that has obtained voter approval to retain and spend revenues in excess of the property tax revenue limitation imposed on the school district by section 20 of article X of the state constitution to restore the number of mills it levies for purposes of total program funding under the "Public School Finance Act

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

of 1994" to the number of mills levied in the property tax year immediately preceding the year in which the school district received the voter approval. The mill levies are restored in equal increments over 5 years. A school district is not allowed to levy a number of mills that would exceed the school district's total program as calculated before application of the negative factor.

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

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 finds that:

4 (a) Due to the recent increase in residential property values in
5 Colorado, the statewide assessment rate for residential properties is
6 projected to decrease from 7.96 percent to 6.56 percent for the 2018
7 property tax year. This will result in a projected reduction of one hundred
8 seventy million dollars in the amount of property tax revenue collected by
9 school districts and a concomitant increase in the pressure on the state
10 budget to fund public schools to make up for this loss in local revenue.

11 (b) Three provisions of the Colorado constitution, section 3 (1)(b)
12 of article X, known as the Gallagher amendment, section 20 of article X,
13 known as the TABOR amendment, and section 17 of article IX, known
14 as Amendment 23, in combination have created an untenable burden on
15 the state budget for funding public schools;

16 (c) To decrease the burden and provide a higher level of
17 sustainable funding for public schools, it is imperative that school
18 districts take on a greater portion of the responsibility for funding
19 themselves through the local share of total program funding under the
20 "Public School Finance Act of 1994";

21 (d) The percentage of local funding that school districts contribute
22 was lowered over the course of twelve years by a statutory requirement

1 that forced school districts to reduce the number of property tax mills
2 levied even though the voters in those school districts authorized the
3 school districts to retain and spend property tax revenues in excess of the
4 limits imposed by the TABOR amendment;

5 (e) The decrease in mill levies has resulted in a significant
6 inequity in the tax burden borne by school districts across the state;
7 property-rich school districts have low mill levies while property-poor
8 school districts continue to experience relatively high mill levies;

9 (f) The Colorado Supreme Court in *Mesa County Board of County*
10 *Commissioners v. State of Colorado*, 203 P.3d 519 (Colo. 2009), held that
11 legislation does not require voter approval if it is directing how a district
12 must use revenue for which the district has already obtained voter
13 approval to retain and spend in excess of the limits imposed by the
14 TABOR amendment; and

15 (g) Legislation to reset the number of mills levied by a school
16 district for total program to the number levied in the property tax year
17 immediately preceding the year in which the school district received voter
18 approval to retain and spend property tax revenues in excess of the limits
19 imposed by the TABOR amendment does not require voter approval
20 because it directs the school district to use the revenue it could have
21 collected when the school district received voter approval to pay the local
22 share of total program.

23 (2) The general assembly finds therefore, that it is imperative to
24 restore balance to the funding of the state public school system and
25 relieve the existing, untenable burden on the state budget by resetting the
26 local mill levies for school districts to the number of mills levied by the
27 school districts in the property tax year immediately preceding the year

1 in which each school district received voter approval to retain and spend
2 property tax revenues in excess of the limits imposed by the TABOR
3 amendment.

4 **SECTION 2.** In Colorado Revised Statutes, 22-54-106, **amend**
5 (1)(a)(I), (2)(a) introductory portion, (2)(c)(I), and (2)(c)(II); and **add**
6 (2)(d) and (2)(e) as follows:

7 **22-54-106. Local and state shares of district total program.**

8 (1) (a) (I) Every district shall levy the number of mills determined
9 pursuant to ~~paragraph (a)~~ of subsection (2) of this section, and the amount
10 of property tax revenue ~~which~~ THAT the district is entitled to receive from
11 the levy, assuming one hundred percent collection, along with the amount
12 of specific ownership tax revenue paid to the district, as defined in section
13 22-54-103 (11), ~~shall be~~ IS the district's share of its total program.

14 (2) (a) Except as provided in ~~paragraph (c) of this subsection (2)~~
15 SUBSECTION (2)(c) OF THIS SECTION for reorganized districts, for the 2007
16 property tax year and property tax years thereafter THROUGH THE 2017
17 PROPERTY TAX YEAR, each district shall levy the lesser of:

18 (c) (I) Notwithstanding any other provision of this subsection (2),
19 if there is a reorganization pursuant to article 30 of this ~~title~~ TITLE 22,
20 except for a detachment and annexation, and if such reorganization
21 involves districts with differing mill levies, then in its first year of
22 operation, the new district shall levy a number of mills that is based on
23 the total property taxes collected in the preceding year from property
24 included within the new district divided by the total valuation for
25 assessment in the preceding year of property located within the new
26 district but in no event more than 41.75 mills. This ~~paragraph (c)~~
27 SUBSECTION (2)(c) shall not apply to ~~any~~ A new district whose levy would

1 otherwise be calculated pursuant to ~~subparagraph (H) of paragraph (a) of~~
2 ~~this subsection (2)~~ SUBSECTION (2)(a)(II), (2)(d)(II), OR (2)(e)(II) OF THIS
3 SECTION, WHICHEVER APPLIES.

4 (II) If there is a detachment and annexation pursuant to article 30
5 of this ~~title~~ TITLE 22 and if such detachment and annexation involves
6 districts with differing mill levies, then in the first year after the
7 detachment and annexation, the annexing district shall calculate its levy
8 pursuant to ~~paragraph (a) of this subsection (2)~~ SUBSECTION (2)(a), (2)(d),
9 OR (2)(e) OF THIS SECTION, WHICHEVER APPLIES.

10 (d) FOR PROPERTY TAX YEARS 2017 THROUGH 2021, EACH
11 DISTRICT SHALL LEVY THE LESSER OF:

12 (I) THE NUMBER OF MILLS THE DISTRICT LEVIED FOR THE
13 IMMEDIATELY PRECEDING TAX YEAR PLUS ONE-FIFTH OF THE DIFFERENCE
14 BETWEEN THE NUMBER OF MILLS THE DISTRICT LEVIED IN THE 2016
15 PROPERTY TAX YEAR AND THE NUMBER OF MILLS THE DISTRICT LEVIED IN
16 THE PROPERTY TAX YEAR IMMEDIATELY PRECEDING THE PROPERTY TAX
17 YEAR IN WHICH THE DISTRICT RECEIVED VOTER APPROVAL TO RETAIN AND
18 SPEND REVENUES IN EXCESS OF THE PROPERTY TAX REVENUE LIMITATION
19 IMPOSED ON THE DISTRICT BY SECTION 20 OF ARTICLE X OF THE STATE
20 CONSTITUTION;

21 (II) (A) SUBJECT TO THE PROVISIONS OF SUBSECTION (2)(d)(II)(B)
22 OF THIS SECTION, THE NUMBER OF MILLS THAT WILL GENERATE PROPERTY
23 TAX REVENUE IN AN AMOUNT EQUAL TO THE DISTRICT'S TOTAL PROGRAM
24 FOR THE APPLICABLE BUDGET YEAR MINUS THE AMOUNT OF SPECIFIC
25 OWNERSHIP TAX REVENUE PAID TO THE DISTRICT.

26 (B) REGARDLESS OF THE APPLICABILITY OF SECTION 22-54-104
27 (5)(g), FOR THE PURPOSES OF THIS SUBSECTION (2)(d)(II), A DISTRICT'S

1 TOTAL PROGRAM SHALL BE THE AMOUNT CALCULATED PURSUANT TO
2 SECTION 22-54-104 (2); OR

3 (III) FOR A DISTRICT THAT HAS NOT OBTAINED VOTER APPROVAL
4 TO RETAIN AND SPEND REVENUES IN EXCESS OF THE PROPERTY TAX
5 REVENUE LIMITATION IMPOSED ON THE DISTRICT BY SECTION 20 OF
6 ARTICLE X OF THE STATE CONSTITUTION, THE NUMBER OF MILLS THAT THE
7 DISTRICT MAY LEVY UNDER THE PROPERTY TAX REVENUE LIMITATION
8 IMPOSED ON THE DISTRICT BY SECTION 20 OF ARTICLE X OF THE STATE
9 CONSTITUTION. IN CALCULATING LOCAL GROWTH FOR PURPOSES OF
10 DETERMINING THE PROPERTY TAX REVENUE LIMITATION IMPOSED ON A
11 DISTRICT UNDER THIS SUBSECTION (2)(d)(III), A DISTRICT'S STUDENT
12 ENROLLMENT IS THE DISTRICT'S FUNDED PUPIL COUNT.

13 (e) FOR THE 2022 PROPERTY TAX YEAR AND PROPERTY TAX YEARS
14 THEREAFTER, EACH DISTRICT SHALL LEVY THE LESSER OF:

15 (I) THE NUMBER OF MILLS THE DISTRICT LEVIED FOR THE
16 IMMEDIATELY PRECEDING TAX YEAR;

17 (II) (A) SUBJECT TO THE PROVISIONS OF SUBSECTION (2)(e)(II)(B)
18 OF THIS SECTION, THE NUMBER OF MILLS THAT WILL GENERATE PROPERTY
19 TAX REVENUE IN AN AMOUNT EQUAL TO THE DISTRICT'S TOTAL PROGRAM
20 FOR THE APPLICABLE BUDGET YEAR MINUS THE AMOUNT OF SPECIFIC
21 OWNERSHIP TAX REVENUE PAID TO THE DISTRICT.

22 (B) REGARDLESS OF THE APPLICABILITY OF SECTION 22-54-104
23 (5)(g), FOR THE PURPOSES OF THIS SUBSECTION (2)(e)(II), A DISTRICT'S
24 TOTAL PROGRAM SHALL BE THE AMOUNT CALCULATED PURSUANT TO
25 SECTION 22-54-104 (2); OR

26 (III) FOR A DISTRICT THAT HAS NOT OBTAINED VOTER APPROVAL
27 TO RETAIN AND SPEND REVENUES IN EXCESS OF THE PROPERTY TAX

1 REVENUE LIMITATION IMPOSED ON THE DISTRICT BY SECTION 20 OF
2 ARTICLE X OF THE STATE CONSTITUTION, THE NUMBER OF MILLS THAT THE
3 DISTRICT MAY LEVY UNDER THE PROPERTY TAX REVENUE LIMITATION
4 IMPOSED ON THE DISTRICT BY SECTION 20 OF ARTICLE X OF THE STATE
5 CONSTITUTION. IN CALCULATING LOCAL GROWTH FOR PURPOSES OF
6 DETERMINING THE PROPERTY TAX REVENUE LIMITATION IMPOSED ON A
7 DISTRICT UNDER THIS SUBSECTION (2)(e)(III), A DISTRICT'S STUDENT
8 ENROLLMENT IS THE DISTRICT'S FUNDED PUPIL COUNT.

9 **SECTION 3.** In Colorado Revised Statutes, 22-45-103, **amend**
10 (1) introductory portion and (1)(k) as follows:

11 **22-45-103. Funds.** (1) The following funds are created for each
12 school district for purposes specified in this ~~article~~ ARTICLE 45:

13 (k) **Total program reserve fund.** A school district shall deposit
14 the property tax revenues that it collects from a tax levy imposed pursuant
15 to section 22-54-107 (5) in the total program reserve fund of the district.
16 The district may expend money from the total program reserve fund only
17 to offset the amount of a reduction in the district's state share caused by
18 application of the negative factor pursuant to section 22-54-104 (5)(g);
19 except that, in a budget year in which the school district levies for its total
20 program the number of mills calculated pursuant to ~~section 22-54-106~~
21 ~~(2)(a)(H)~~ SECTION 22-54-106 (2)(a)(II), (2)(d)(II), OR (2)(e)(II),
22 WHICHEVER APPLIES, if the balance of the total program reserve fund
23 exceeds an amount equal to the district's total program for that budget
24 year multiplied by the negative factor calculated pursuant to section
25 22-54-104 (5)(g) for that budget year, the district may expend the amount
26 of the excess balance. Any money remaining in the fund at the end of a
27 fiscal year must remain in the fund and may be used in future years only

1 as provided in this ~~paragraph (k)~~ SUBSECTION (1)(k).

2 **SECTION 4.** In Colorado Revised Statutes, 22-54-104, **amend**
3 (5)(g)(IV) and (5)(g)(V) as follows:

4 **22-54-104. District total program - definitions.** (5) For
5 purposes of the formulas used in this section:

6 (g) (IV) For the 2010-11 budget year, and each budget year
7 thereafter, the total program funding for a district that levies the number
8 of mills calculated pursuant to ~~section 22-54-106 (2)(a)(H)~~ SECTION
9 22-54-106 (2)(a)(II), (2)(d)(II), OR (2)(e)(II), WHICHEVER APPLIES, ~~shall~~
10 ~~be~~ IS the amount calculated pursuant to subsection (2) of this section for
11 the applicable budget year. Any such district shall use the revenues
12 generated by the number of mills that the district levies pursuant to
13 ~~section 22-54-106 (2)(a)(H)~~ SECTION 22-54-106 (2)(a)(II), (2)(d)(II), OR
14 (2)(e)(II), WHICHEVER APPLIES, to replace any categorical program
15 support funds that the district would otherwise be eligible to receive from
16 the state; except that the amount of categorical program support funds
17 that the district is required to replace shall not exceed an amount equal to
18 the district's reduction amount. The department shall use the amount of
19 categorical program support funds replaced by property tax revenue
20 pursuant to this ~~subparagraph (IV)~~ SUBSECTION (5)(g)(IV) to make
21 payments of categorical program support funds to eligible districts as
22 specified in section 22-54-107 (4).

23 (V) For the 2010-11 budget year and each budget year thereafter,
24 if a district levies the number of mills calculated pursuant to ~~section~~
25 ~~22-54-106 (2)(a)(H)~~ SECTION 22-54-106 (2)(a)(I), (2)(d)(I), OR (2)(e)(I),
26 WHICHEVER APPLIES, and the district's reduction amount exceeds the
27 district's state share of total program funding, such district's total program

1 funding ~~shall be~~ IS the amount calculated pursuant to subsection (2) of
2 this section for the applicable budget year, minus the district's state aid.
3 Any such district shall use the revenues generated by the number of mills
4 that the district levies pursuant to ~~section 22-54-106 (2)(a)(I)~~ SECTION
5 22-54-106 (2)(a)(I), (2)(d)(I), OR (2)(e)(I), WHICHEVER APPLIES, to replace
6 any categorical program support funds that the district would otherwise
7 be eligible to receive from the state; except that the amount of categorical
8 program support funds that the district is required to replace shall not
9 exceed an amount equal to the remainder of the district's reduction
10 amount after the reduction to the district's total program has been applied
11 pursuant to this ~~subparagraph (V)~~ SUBSECTION (5)(g)(V). The department
12 of education shall use the amount of categorical program support funds
13 replaced by property tax revenue pursuant to this ~~subparagraph (V)~~
14 SUBSECTION (5)(g)(V) to make payments of categorical program support
15 funds to eligible districts as specified in section 22-54-107 (4).

16 **SECTION 5.** In Colorado Revised Statutes, 22-54-107, **amend**
17 (1) and (5) as follows:

18 **22-54-107. Buy-out of categorical programs - total program**
19 **reserve fund levy.** (1) If a district levies the number of mills calculated
20 pursuant to ~~section 22-54-106 (2)(a)(II)~~ SECTION 22-54-106 (2)(a)(II),
21 (2)(d)(II), OR (2)(e)(II), WHICHEVER APPLIES, the district shall make an
22 additional levy to generate property tax revenue in an amount equal to the
23 amount of categorical support funds; except that the total of the two
24 levies cannot exceed the lesser of the district's levy ~~for the immediately~~
25 ~~preceding year~~ DESCRIBED IN SECTION 22-54-106 (2)(a)(II), (2)(d)(II), OR
26 (2)(e)(II), WHICHEVER APPLIES, OR the district's allowable levy under the
27 property tax revenue limitation imposed on the district by section 20 of

1 article X of the state constitution if the district has not obtained voter
2 approval to retain and spend revenues in excess of such property tax
3 revenue limitation. ~~or twenty-seven mills.~~

4 (5) For the 2016-17 budget year and each budget year thereafter,
5 if a district levies the number of mills calculated pursuant to ~~section~~
6 ~~22-54-106 (2)(a)(H)~~ SECTION 22-54-106 (2)(a)(II), (2)(d)(II), OR
7 (2)(e)(II), WHICHEVER APPLIES, and the additional mill levy described in
8 subsection (1) of this section for categorical support funds, and the
9 combined total of the two levies is less than the number of mills that the
10 district levied in the preceding budget year, the district, in addition to the
11 two levies, shall assess a number of mills equal to the difference between
12 the combined total of the two levies and the number of mills levied in the
13 preceding budget year. The district shall deposit the property tax revenue
14 collected from the mills levied pursuant to this subsection (5) in the total
15 program reserve fund created in section 22-45-103 (1)(k).

16 **SECTION 6. Act subject to petition - effective date.** This act
17 takes effect at 12:01 a.m. on the day following the expiration of the
18 ninety-day period after final adjournment of the general assembly (August
19 9, 2017, if adjournment sine die is on May 10, 2017); except that, if a
20 referendum petition is filed pursuant to section 1 (3) of article V of the
21 state constitution against this act or an item, section, or part of this act
22 within such period, then the act, item, section, or part will not take effect
23 unless approved by the people at the general election to be held in
24 November 2018 and, in such case, will take effect on the date of the
25 official declaration of the vote thereon by the governor.