

## CSFP Briefing Document: Mill Levy changes through 2023

Before the 2008-09 legislative session mill rates in districts were often decreased due to the interaction of TABOR and Gallagher, resulting in increasing pressure on the state budget to fund K-12 education. During the 2008-09 legislative session legislation was passed that froze school districts' mills if they had “de-bruced”. This impacted 174 of 178 school districts and was referenced as a mill levy freeze. The legislation froze current mill rates at or below 27 mills and capped mill rates at 27 mills. The combination of these two actions resulted in having school districts that were above 27 mills lowered to the new cap which forced more state contribution to those school districts.

This mill levy freeze occurred just as the Great Recession began which helped the state balance its budget. It kept local share higher and the state did not have to, nor did it have the ability to, backfill this loss of revenue. This was legally challenged and went to the Supreme Court – it is known as the [Mesa County decision](#). Ultimately, the Supreme Court upheld the legislative decision.

The Mesa County decision meant that if a school district “de-bruced” in 1996 and at that time the district had 30 mills then their mills should have remained at 30 and not have been lowered over time. The statute also put in place a cap at 27 mills, therefore lowering some districts. ([Click here](#) to see when school districts “de-bruced”, the mill levy rate at that time, and current total program mills.)

When the legislature implemented the mill levy freeze it created a cap of 27 mills. This still left a wide range of variance across the state from generating under 2 mills up to 27. It also highlighted the variance of mills across the state. ([Click here](#) to see Colorado school districts’ mill rates and how much one mill generates.)

[School Finance Act HB-20-1418](#) recognized these issues and the impact over 12 years. This legislation acknowledged that the lowering of the mills from 2008-09 was done incorrectly by CDE and therefore each district should have collected more local revenue. The legislation now allows each school district to set their mills annually to either where they were when they “de-bruced” or 27, whichever is lower, or what mills it takes to be fully locally-funded. Then a tax credit will also be given to school districts for the difference between 27 and the total they are assessing currently. School boards will pass this resolution during the annual setting of their mills. ([Click here](#) for the excerpted mill language from HB20-1418.)

For example, if a district's current total program mills are at 25 and when they “de-bruced” they were at 30 mills - the statute says they can't go above 27 mills – so the tax credit is 2 mills, the difference between 27 and 25. The taxpayer will not pay any more than they would have without this change in HB20-1418. It is important to note that the tax credits can only be adjusted by actions of the state legislature, no action is needed for each district. The legislature has begun to make changes by removing one tax credit a year therefore taxpayers are seeing this annual change. This change will create more

stability in the local share. This correction will take 19 years, with the majority of districts being at their cap within the first three years. [HB21-1164](#) requires CDE to implement a correction plan for districts with temporary tax credits. Starting in the 2021 tax year, districts will reduce by no more than one mill each property tax year until credits are reduced to zero. Out of 178, 127 districts are impacted. These districts are instructed to raise their local property tax mill levy to the lowest of

- The mill levy level approved by their voters at the time of the de-TABOR vote;
- The mill levy level required to fully fund the district according to the school finance formula;
- OR 27 mills.

During the 2023 Legislative Season, [SB23- 287](#) was passed including a \$23M transfer from the State Education Fund to the Mill Levy equalization fund. SB23-303 was passed to limit tax property revenue with a proposition on the ballot in November 2023. The bill will still be on the books even if the ballot doesn't pass. Property tax rates will still increase when the time out ends in December 2023.