BILL TOPIC: "School District Uniform Total Program Mill Levy"

A BILL FOR AN ACT

CONCERNING THE NUMBER OF PROPERTY TAX MILLS THAT A SCHOOL DISTRICT IS REQUIRED TO LEVY FOR THE SCHOOL DISTRICT'S SHARE OF TOTAL PROGRAM FUNDING.

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.)

For purposes of funding a school district's total program under existing law, each school district is required to levy a specified number of property tax mills. The amount of revenue generated by the levy, plus the revenue the district receives from specific ownership tax, is the district's share of total program. The state share equals the difference...
between the district's share and the amount of the district's total program.

Beginning with the 2022 property tax year, the bill directs most school districts to levy 27 mills or the number of mills that will result in enough property tax revenue to fully fund the district's total program, whichever is less. If the number of mills required in the bill is an increase in a school district's existing levy, the school district must seek voter approval for the increase. A rural school district that must increase the mill levy by 10 or more mills is not required to seek voter approval to begin increasing the mill levy until the 2024 property tax year. If a school district increases the total program mill levy before it is required to do so, the school district's state share will be calculated based on the number of mills levied in the 2019 property tax year, until the property tax years in which the mill levy is required to increase.

A school district is not required to increase the mill levy by more than one mill each year. A school district may count mills that it levies for additional revenue as total program mills to meet the total program mill levy requirements. If a school district does not levy the number of mills required, the state share for the school district will still be based on the number of mills that the school district is required to levy; except that the total combined district and state share amount that a school district receives must not be less than a specified percentage of the school district's total program. A school district that seeks voter approval to increase the mill levy to a number of mills that will fully fund the district's total program may request voter approval to allow the mill levy to adjust to fluctuations in the district's assessed property value so that the amount of revenue generated does not exceed the district's total program.

Beginning in the 2020-21 budget year and continuing until the general assembly determines that the budget stabilization factor is no longer required, the appropriation for the state share of total program must increase annually by at least the rate of inflation plus the increase in funded pupil count for the applicable budget year.

The school districts and superintendents are encouraged to form working groups to make recommendations to the general assembly by January 2021 concerning appropriate technical assistance for school districts that must hold elections to increase the total program mill levy.

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

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

(a) The general assembly has not made comprehensive changes to the method of funding public schools in Colorado since passage of the
(b) Since 1994, the interaction of certain constitutional provisions and statutory language concerning school district mill levy requirements has resulted in unintended consequences regarding the level of local investment in public education by school districts and the balance of school district and state contributions;

(c) In comparing the local investment in public education by school districts across the state, there is little consistency in the level of contribution as demonstrated by the property tax rates among school districts with similar economic attributes;

(d) The balance of local and state shares in funding public education is now skewed toward the state share at such a level as to make the required level of state funding unsustainable into the future;

(e) To restore a greater level of consistency in the districts' local shares and a sustainable balance between local and state funding of public education, the number of mills that each school district is expected to levy must be reset to a more uniform number;

(f) In increasing the school districts' local share by resetting these local mill levies, it is the intent of the general assembly to improve the adequacy of resources available to students by maintaining the level of the state's contribution so as to fully fund the state's share of total program without the reduction currently imposed by the budget stabilization factor;

(g) Unlike the existing determination of mill levy rates for public education, the method of resetting the mill levy rates is intentional and based on achieving specific policy goals, including:

(I) Setting mill levies at a uniform rate so that the state contribution to the public education system equalizes public education
funding across the state for differences in property value among school
districts;

   (II) Increasing tax equity at the taxpayer level so that property
owners in different school districts who own property that is of equal
value pay the same property tax amount for support of their local public
schools, regardless of the school district they are in;

   (III) Similar to state income tax rates and sales tax rates, ensuring
that property tax rates for the local share of total program are the same for
taxpayers across the state, regardless of which school district they live in;

and

   (IV) Ensuring that the property tax revenue collected by each
school district to support the schools of the school district remains within
that school district.

   (2) The general assembly finds, therefore, that, in furtherance of
its constitutional duty to establish and maintain a thorough and uniform
system of free public schools throughout the state, the general assembly
is authorized to require school districts to seek voter approval to increase
the school districts' total program mill levies to a uniform rate of
twenty-seven mills or the number of mills required to fully fund total
program, whichever is less. The general assembly further finds that, just
as the current levels of school finance mill levies evolved over several
years, correcting these mill levies to a uniform rate may also take several
years.

   SECTION 2. In Colorado Revised Statutes, 22-54-106, amend
   (1)(a)(I), (1)(b)(I), (2)(a) introductory portion, and (2)(c); and add
   (1)(b)(III), (2)(a.3), (2)(a.5), (2)(a.7), (4)(a.5), and (13) as follows:

22-54-106. Local and state shares of district total program -
definition - repeal. (1) (a) (I) For property tax years before the 2022 property tax year, every district shall levy the number of mills determined pursuant to paragraph (a) of subsection (2) of this section, and subsection (2)(a) of this section. For the 2022 property tax year and each property tax year thereafter, each district shall levy the number of mills determined pursuant to subsection (2)(a.3) of this section. The amount of property tax revenue which the district is entitled to receive from the levy, assuming one hundred percent collection, along with the amount of specific ownership tax revenue paid to the district, as defined in section 22-54-103 (11), shall be the district's share of its total program.

(b)(I) Except as provided in subsections (1)(b)(III), (11), and (12) of this section, the state's share of a district's total program is the difference between the district's total program and the district's share of its total program.

(III) If in a budget year a district levies a lesser number of mills than the number required in subsection (2)(a.3) of this section, for that budget year, the state's share of the district's total program is the greater of:

(A) An amount equal to what the state's share of the district's total program, calculated pursuant to subsection (1)(b)(I) of this section, would be if the district had levied the number of mills required in subsection (2)(a.3) of this section for that budget year; or

(B) The amount necessary to ensure that the combined total of the district's share, calculated assuming one hundred percent collection of the amount of property tax revenue
GENERATED BY THE ACTUAL NUMBER OF MILLS LEVIED FOR THAT BUDGET YEAR, AND THE AMOUNT THE DISTRICT RECEIVES FROM THE STATE PURSUANT TO THIS SUBSECTION (1)(b)(III) IS NOT LESS THAN X PERCENT OF THE DISTRICT'S TOTAL PROGRAM AFTER APPLICATION OF THE BUDGET STABILIZATION FACTOR AS CALCULATED PURSUANT TO SECTION 22-54-104 FOR THE APPLICABLE BUDGET YEAR.

(2) (a) Except as provided in paragraph (c) of this subsection (2), subsection (2)(c) OF THIS SECTION for reorganized districts, for the 2007 property tax year and property tax years thereafter THROUGH THE 2019 PROPERTY TAX YEAR, each district shall levy the lesser of:

(a.3) (I) FOR THE 2022 PROPERTY TAX YEAR AND EACH PROPERTY TAX YEAR THEREAFTER, EACH DISTRICT SHALL LEVY THE LESSER OF:

(A) TWENTY-SEVEN MILLS; OR

(B) THE NUMBER OF MILLS THAT WILL GENERATE PROPERTY TAX REVENUE IN AN AMOUNT EQUAL TO THE DISTRICT'S TOTAL PROGRAM FOR THE APPLICABLE BUDGET YEAR MINUS THE AMOUNT OF SPECIFIC OWNERSHIP TAX REVENUE PAID TO THE DISTRICT. REGARDLESS OF THE APPLICABILITY OF SECTION 22-54-104 (5)(g), FOR THE PURPOSES OF THIS SUBSECTION (2)(a.3)(I)(B), A DISTRICT'S TOTAL PROGRAM IS THE AMOUNT CALCULATED PURSUANT TO SECTION 22-54-104 (2).

OF THIS SECTION, A DISTRICT MAY INCREMENTALLY INCREASE THE
NUMBER OF MILLS LEVIED, BEGINNING IN THE 2022 PROPERTY TAX YEAR,
BY INCREASING THE MILL LEVY BY AT LEAST ONE MILL EVERY PROPERTY
TAX YEAR UP TO THE NUMBER OF MILLS REQUIRED IN SUBSECTION
(2)(a.3)(I) OF THIS SECTION. THE DISTRICT'S SHARE OF TOTAL PROGRAM
FOR A BUDGET YEAR IN WHICH THE DISTRICT, IN ACCORDANCE WITH THIS
SUBSECTION (2)(a.3)(II), LEVIES FEWER THAN THE NUMBER OF MILLS
REQUIRED IN SUBSECTION (2)(a.3)(I) OF THIS SECTION IS CALCULATED
BASED ON THE GREATER OF THE ACTUAL NUMBER OF MILLS THE DISTRICT
LEVIES, ASSUMING ONE HUNDRED PERCENT COLLECTION, OR THE NUMBER
OF MILLS THAT THE DISTRICT IS REQUIRED TO LEVY PURSUANT TO THIS
SUBSECTION (2)(a.3)(II), ASSUMING ONE HUNDRED PERCENT COLLECTION.

(III) IN A BUDGET YEAR, A DISTRICT MAY COUNT ALL OR ANY
PORTION OF THE MILLS THAT THE DISTRICT LEVIES FOR THAT BUDGET YEAR
PURSUANT TO SECTION 22-54-108 AS MILLS LEVIED PURSUANT TO THIS
SUBSECTION (2)(a.3) TO COMPLY WITH THE REQUIREMENTS SPECIFIED IN
SUBSECTIONS (2)(a.3)(I) AND (2)(a.3)(II) OF THIS SECTION.

(IV) IF A DISTRICT SEEKS VOTER APPROVAL TO LEVY THE NUMBER
OF MILLS THAT WILL GENERATE PROPERTY TAX REVENUE IN AN AMOUNT
EQUAL TO THE DISTRICT'S TOTAL PROGRAM AS DESCRIBED IN SUBSECTION
(2)(a.3)(I)(B) OF THIS SECTION, THE DISTRICT MAY SEEK VOTER APPROVAL
TO ALLOW THE MILL LEVY TO INCREASE OR DECREASE AS NECESSARY TO
ENSURE THAT, DUE TO FLUCTUATIONS IN THE DISTRICT'S ASSESSED
PROPERTY VALUE, THE AMOUNT OF REVENUE COLLECTED, LESS THE
AMOUNT OF SPECIFIC OWNERSHIP TAX REVENUE PAID TO THE DISTRICT, IN
A BUDGET YEAR DOES NOT EXCEED THE DISTRICT'S TOTAL PROGRAM FOR
THAT BUDGET YEAR.
(a.5) (I) Notwithstanding any provision of this subsection (2) to the contrary, a rural district that is required by subsection (2)(a.3) of this section to increase its mill levy by ten mills or more is not required to comply with subsection (2)(a.3) of this section or seek voter approval to increase the mill levy until the 2024 property tax year. Said district is not required to levy more than the number of mills required in subsection (2)(a) of this section through the 2023 property tax year.

(II) For the purposes of this subsection (2)(a.5), "rural district" means a district in Colorado that the department of education determines is rural, based on the geographic size of the district and the distance of the district from the nearest large, urbanized area.

(III) This subsection (2)(a.5) is repealed, effective July 1, 2025.

(a.7) (I) Notwithstanding any provision of this subsection (2) to the contrary, a district may seek voter approval to increase the number of mills levied pursuant to this subsection (2), up to the number of mills specified in subsection (2)(a.3) of this section, before the 2022 property tax year or the 2024 property tax year, whichever is applicable. If a district obtains voter approval to increase said mill levy before the 2022 property tax year or the 2024 property tax year, the district may levy the number of voter-approved mills, but the district's local share and state share shall be calculated based on the number of mills the district is required to levy pursuant to subsection (2)(a) of this section, assuming one hundred percent
(II) This subsection (2)(a.7) is repealed, effective July 1, 2025.

(c) (I) Notwithstanding any other provision of this subsection (2), for property tax years before the 2022 property tax year, if there is a reorganization pursuant to article 30 of this title, except for a detachment and annexation, and if such reorganization involves districts with differing mill levies, then in its first year of operation, the new district shall levy a number of mills that is based on the total property taxes collected in the preceding year from property included within the new district divided by the total valuation for assessment in the preceding year of property located within the new district but in no event more than 41.75 mills. This paragraph (c) shall not apply to any new district whose levy would otherwise be calculated pursuant to subparagraph (II) of paragraph (a) of this subsection (2) of this section.

(II) For property tax years before the 2022 property tax year, if there is a detachment and annexation pursuant to article 30 of this title and if such detachment and annexation involves districts with differing mill levies, then in the first year after the detachment and annexation, the annexing district shall calculate its levy pursuant to paragraph (a) of this subsection (2) of this section.

(III) For the 2022 property tax year and each property tax year thereafter, if there is a reorganization pursuant to article 30 of this title, regardless of the resulting change to district
BOUNDARIES, EACH DISTRICT INVOLVED IN OR RESULTING FROM THE REORGANIZATION SHALL CALCULATE ITS LEVY PURSUANT TO SUBSECTION (2)(a.3) OR (2)(a.5) OF THIS SECTION, AS APPLICABLE.

(4) (a.5) BEGINNING IN THE 2020-21 BUDGET YEAR AND FOR EACH BUDGET YEAR THEREAFTER UNTIL THE GENERAL ASSEMBLY DETERMINES THAT THE STABILIZATION OF THE STATE BUDGET NO LONGER REQUIRES A REDUCTION IN THE AMOUNT OF THE ANNUAL APPROPRIATION TO FUND THE STATE’S SHARE OF TOTAL PROGRAM, THE GENERAL ASSEMBLY SHALL ENSURE THAT THE APPROPRIATION FOR THE STATE SHARE OF TOTAL PROGRAM INCREASES ANNUALLY BY AT LEAST THE RATE OF INFLATION, AS DEFINED IN SECTION 22-55-102, PLUS THE INCREASE IN FUNDED PUPIL COUNT FOR THE APPLICABLE BUDGET YEAR.

(13) SCHOOL DISTRICT BOARD OF EDUCATION DIRECTORS AND DISTRICT ADMINISTRATORS, AS REPRESENTED BY STATEWIDE ASSOCIATIONS, ARE ENCOURAGED TO CONVENE ONE OR MORE WORKING GROUPS TO IDENTIFY APPROPRIATE AND NECESSARY FORMS OF TECHNICAL ASSISTANCE TO AID DISTRICTS IN HOLDING SUCCESSFUL ELECTIONS TO INCREASE THE TOTAL PROGRAM MILL LEVY AS PROVIDED IN SUBSECTION (2)(a.3) OF THIS SECTION. THE DISTRICTS ARE ENCOURAGED TO SUBMIT RECOMMENDATIONS TO THE EDUCATION COMMITTEES OF THE SENATE AND THE HOUSE OF REPRESENTATIVES, OR ANY SUCCESSOR COMMITTEES, BY JANUARY 15, 2021.

SECTION 3. In Colorado Revised Statutes, 22-45-103, amend (1)(k) as follows:

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

(k) Total program reserve fund. A school district shall deposit
the property tax revenues that it collects from a tax levy imposed pursuant
to section 22-54-107 (5) in the total program reserve fund of the district.
The district may expend money from the total program reserve fund only
to offset the amount of a reduction in the district's state share caused by
application of the budget stabilization factor pursuant to section
22-54-104 (5)(g); except that, in a budget year in which the school district
levies for its total program the number of mills calculated pursuant to
section 22-54-106 (2)(a)(II) OR (2)(a.3)(I)(B), WHICHEVER IS APPLICABLE,
if the balance of the total program reserve fund exceeds an amount equal
to the district's total program for that budget year multiplied by the budget
stabilization factor calculated pursuant to section 22-54-104 (5)(g) for
that budget year, the district may expend the amount of the excess
balance. Any money remaining in the fund at the end of a fiscal year must
remain in the fund and may be used in future years only as provided in
this subsection (1)(k).

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

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

(g) (IV) For the 2010-11 budget year, and each budget year
thereafter, the total program funding for a district that levies the number
of mills calculated pursuant to section 22-54-106 (2)(a)(II) shall be OR
(2)(a.3)(I)(B), WHICHEVER IS APPLICABLE, is the amount calculated
pursuant to subsection (2) of this section for the applicable budget year.
Any such district shall use the revenues generated by the number of mills
that the district levies pursuant to section 22-54-106 (2)(a)(II) OR
(2)(a.3)(I)(B), WHICHEVER IS APPLICABLE, to replace any categorical
program support funds that the district would otherwise be eligible to receive from the state; except that the amount of categorical program support funds that the district is required to replace shall **MUST** not exceed an amount equal to the district's reduction amount. The department shall use the amount of categorical program support funds replaced by property tax revenue pursuant to this subparagraph (IV) **SUBSECTION (5)(g)(IV) to make payments of categorical program support funds to eligible districts as specified in section 22-54-107 (4).

(V) For the 2010-11 budget year and each budget year thereafter, if a district levies the number of mills calculated pursuant to section 22-54-106 (2)(a)(I) **SECTION 22-54-106 (2)(a)(I), (2)(a.3)(I)(A), OR (2)(a.3)(II), WHICHEVER IS APPLICABLE, and the district's reduction amount exceeds the district's state share of total program funding, such the district's total program funding shall be is the amount calculated pursuant to subsection (2) of this section for the applicable budget year, minus the district's state aid. Any such district shall use the revenues generated by the number of mills that the district levies pursuant to section 22-54-106 (2)(a)(I) **SECTION 22-54-106 (2)(a)(I), (2)(a.3)(I)(A), OR (2)(a.3)(II), WHICHEVER IS APPLICABLE, to replace any categorical program support funds that the district would otherwise be eligible to receive from the state; except that the amount of categorical program support funds that the district is required to replace shall **MUST** not exceed an amount equal to the remainder of the district's reduction amount after the reduction to the district's total program has been applied pursuant to this subparagraph (V) **SUBSECTION (5)(g)(V). The department of education shall use the amount of categorical program support funds replaced by property tax revenue pursuant to this subparagraph (V)
SUBSECTION (5)(g)(V) to make payments of categorical program support funds to eligible districts as specified in section 22-54-107 (4).

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

22-54-107. Buy-out of categorical programs - total program reserve fund levy. (1) If a district levies the number of mills calculated pursuant to section 22-54-106 (2)(a)(II) or (2)(a.3)(I)(B), whichever is applicable, the district shall make an additional levy to generate property tax revenue in an amount equal to the amount of categorical support funds; except that the total of the two levies cannot exceed:

(a) For property tax years before the 2022 property tax year, the lesser of the district's levy for the immediately preceding year, the district's allowable levy under the property tax revenue limitation imposed on the district by section 20 of article X of the state constitution if the district has not obtained voter approval to retain and spend revenues in excess of such property tax revenue limitation, or twenty-seven mills; or

(b) For the 2022 property tax year and property tax years thereafter, the district's levy for the immediately preceding year.

(5) For the 2016-17 budget year and each budget year thereafter, if a district levies the number of mills calculated pursuant to section 22-54-106 (2)(a)(II) or (2)(a.3)(I)(B), whichever is applicable, and the additional mill levy described in subsection (1) of this section for categorical support funds, and the combined total of the two levies is less than the number of mills that the district levied in the preceding budget year, the district, in addition to the two levies, shall assess a number of
mills equal to the difference between the combined total of the two levies and the number of mills levied in the preceding budget year. The district shall deposit the property tax revenue collected from the mills levied pursuant to this subsection (5) in the total program reserve fund created in section 22-45-103 (1)(k).

SECTION 6. 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.