Mill Levy Correction Overview Fall 2021

Agenda

- Welcome & introductions
- Summary & Background:
  - How did we get here?
  - How do we fix it?
- Next Steps: What happens now?
- Support: What support is available?
- Question & Answer

Summary

… school districts in Colorado, based on an interpretation of statute by CDE, began collecting less local property tax for education than their voters had authorized, in some cases for years. How this came to pass is a complicated story that we will try to tell succinctly. **Mill Levy Correction is a legislative and legal directive to fix this undercollection of local property taxes for education.**

Terminology

- **Mill:** One mill is equal to one tenth of one penny or one 1/1000 of a dollar. Mills are used to calculate property taxes using a formula of mills x assessed property value = property tax. The assessed property value is the actual property value x the assessment rate. Currently, the residential assessment rate in Colorado is 7.15%.
    - If you live in an area where the total mills levied on all homes is 27 mills, and the assessed property value of your $200,000 home is $14,300 (7.15%), your property tax is .027 x $14,300 = $386.

$200,000 X Residential Assessment Rate: 7.15% = Assessed Property Value: $14,300 X Mill Levy: .027 = **Property Tax Bill for Education: $386**

- **Total Program Mill Levy:** The mill levy is the total number of mills the school district collects from local property taxpayers to fund the local share of Total Program.

Terminology

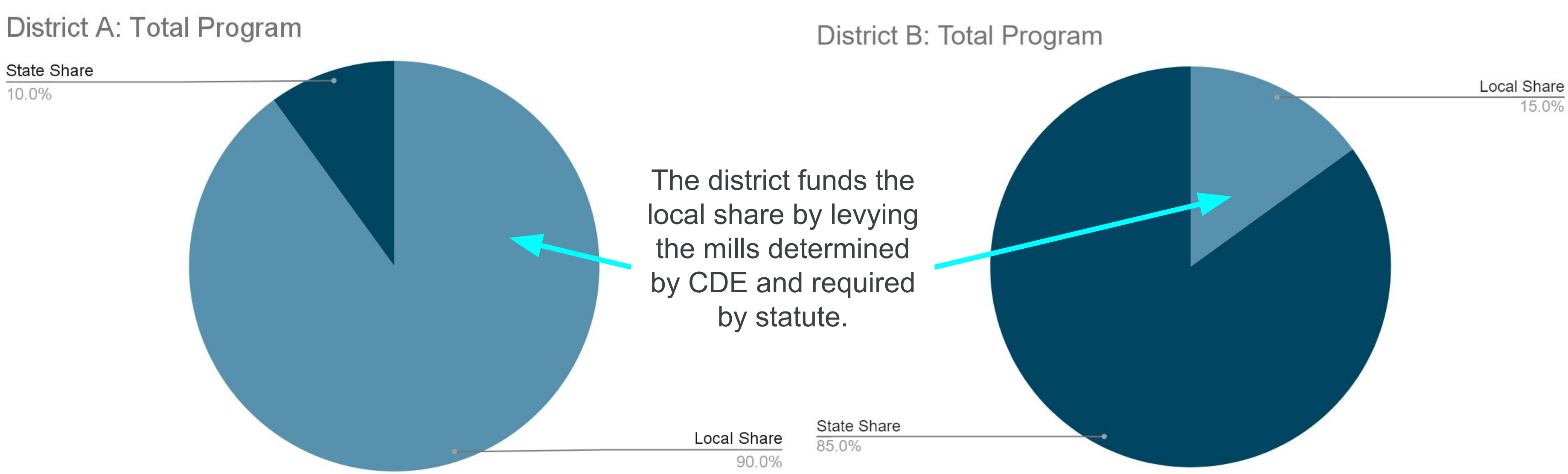
- **Assessed Valuation (AV):** The taxable portion of property value in the school district. As an index of property wealth, AV varies significantly between districts and can vary a lot from year to year (particularly for oil and gas districts).

- **Total Program:** Refers to the total amount required by the formula to fund the school district on an annual basis. Typically has two portions: *local share* (property taxes) and *state share* (state funds appropriated by the Legislature). Some districts can fully fund Total Program with only local share (property taxes).
  - Districts have different ratios of local to state share in their Total Program. Some are totally funded by local share; others receive most revenue from state share. The ratio depends on multiple factors, including the district's Assessed Valuation.
  - Districts may have Mill Levy Overrides and/or bonds that allow them to collect property taxes above and beyond the amount required for Total Program.

Example

District A includes a large, active mine. The district's Assessed Valuation is very high.

District B is a district without a lot of industry. The district's Assessed Valuation is very low.

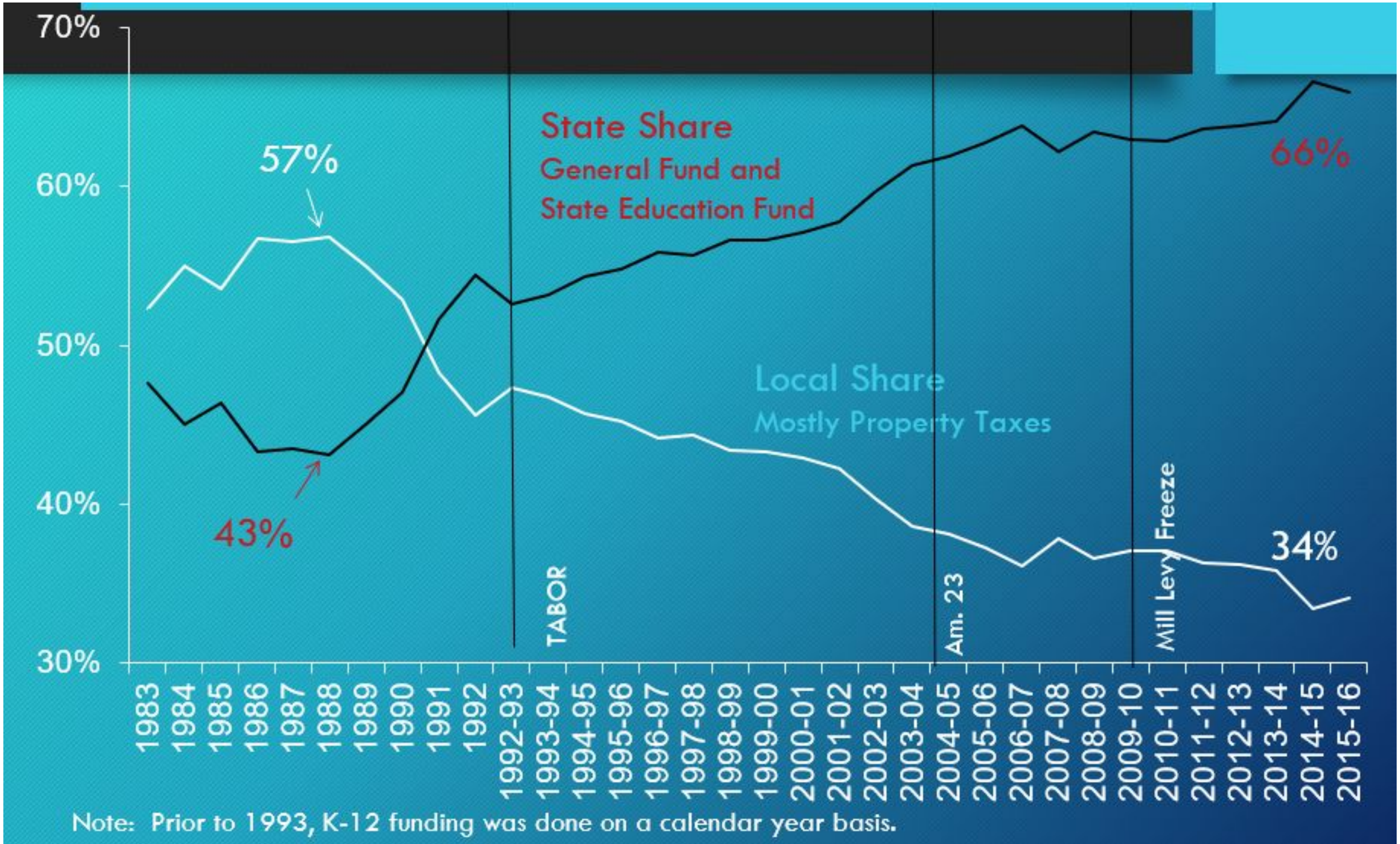


The size of the pie is fixed per the school finance formula. The size of the slices is dependent on local factors.

Background: How did we get here?

- **In the 1990s and 2000s, many school districts** obtained voter approval to retain and spend revenue in excess of the property tax revenue limitation imposed on the district by TABOR.
  - You may hear this referred to as “de-Brucing” or “de-TABORing”
- Districts that de-TABORed had permission from the voters to keep their local property tax mill levies (their local share) at the level in place at the time of the de-TABOR vote.
- Without de-TABORing, districts would not have been able to retain revenues above their TABOR limitation due to interactions of various factors unique to Colorado.
  - Rapid and significant growth in residential property value;
  - TABOR, which prevents taxes from increasing without voter approval;
  - And Gallagher, which has driven the residential assessment rate down in order to preserve the required ratio of residential/commercial property tax rates.

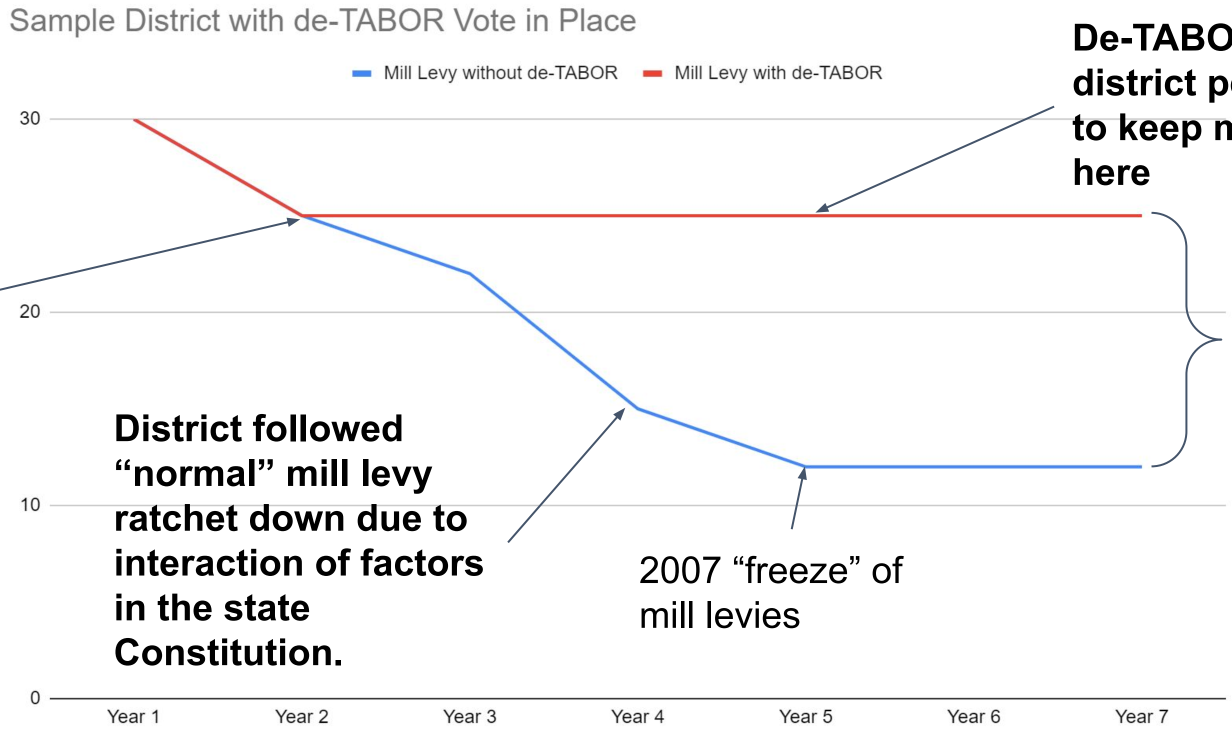
Background: How did we get here?



Background: How did we get here?

- CDE interpreted the statute such that **some de-TABORed districts should reduce their local share** through 2007.
  - However, because de-TABORed districts had permission from the voters to keep their mill levies at a higher level, it is now clear that local share should not have been reduced.
- In 2007, school district mills were frozen through legislation, then litigated in a debate about how local school districts should have treated their local mills per statute.
- **Because of the reduction to mill levies made between the early 1990s and 2007, the local share collected by those districts went down, and state share went up.**

Background: How did we get here?



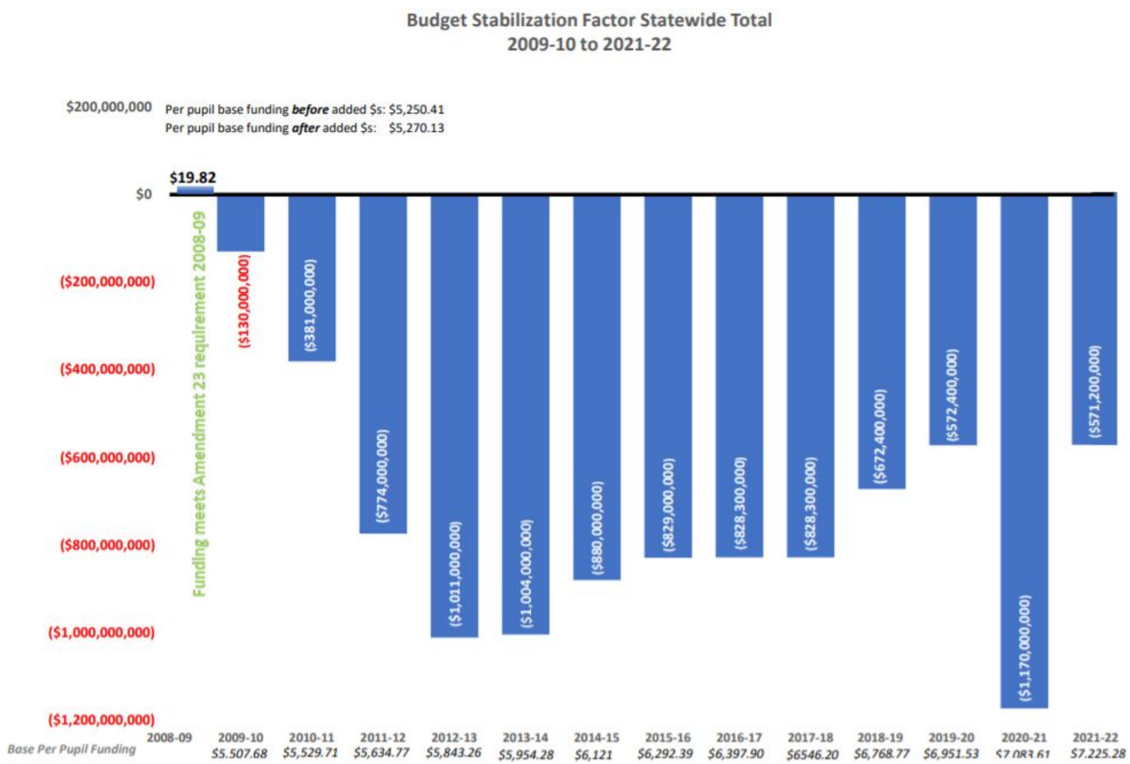
De-TABOR vote gave district permission to keep mill levy here

Year of de-TABOR vote

Gap in property tax collections that was then covered by state share

Background: How did we get here?

- **Beginning in 2008-2009 with the Great Recession, the state's budget was under increasing pressure.** As state share went up, and the economy went through ups and downs, the state was forced to implement the **Budget Stabilization Factor**.



Background: How do we fix it?

- **The legislature has now taken steps to restore, going forward, the local share that was erroneously reduced.**
  - This created a reduction in local share and resulted in the non-collection of local property taxes that were already authorized by voters.
  - The legislature is only seeking to fix this issue going forward--it is **NOT** seeking to recover local tax property revenue that should have been collected in the past.
- **Mill Levy Correction is a state law.** While the responsibility for setting the mill levy lies with the local school board, the local school board must set the Total Program levy in accordance with state law.

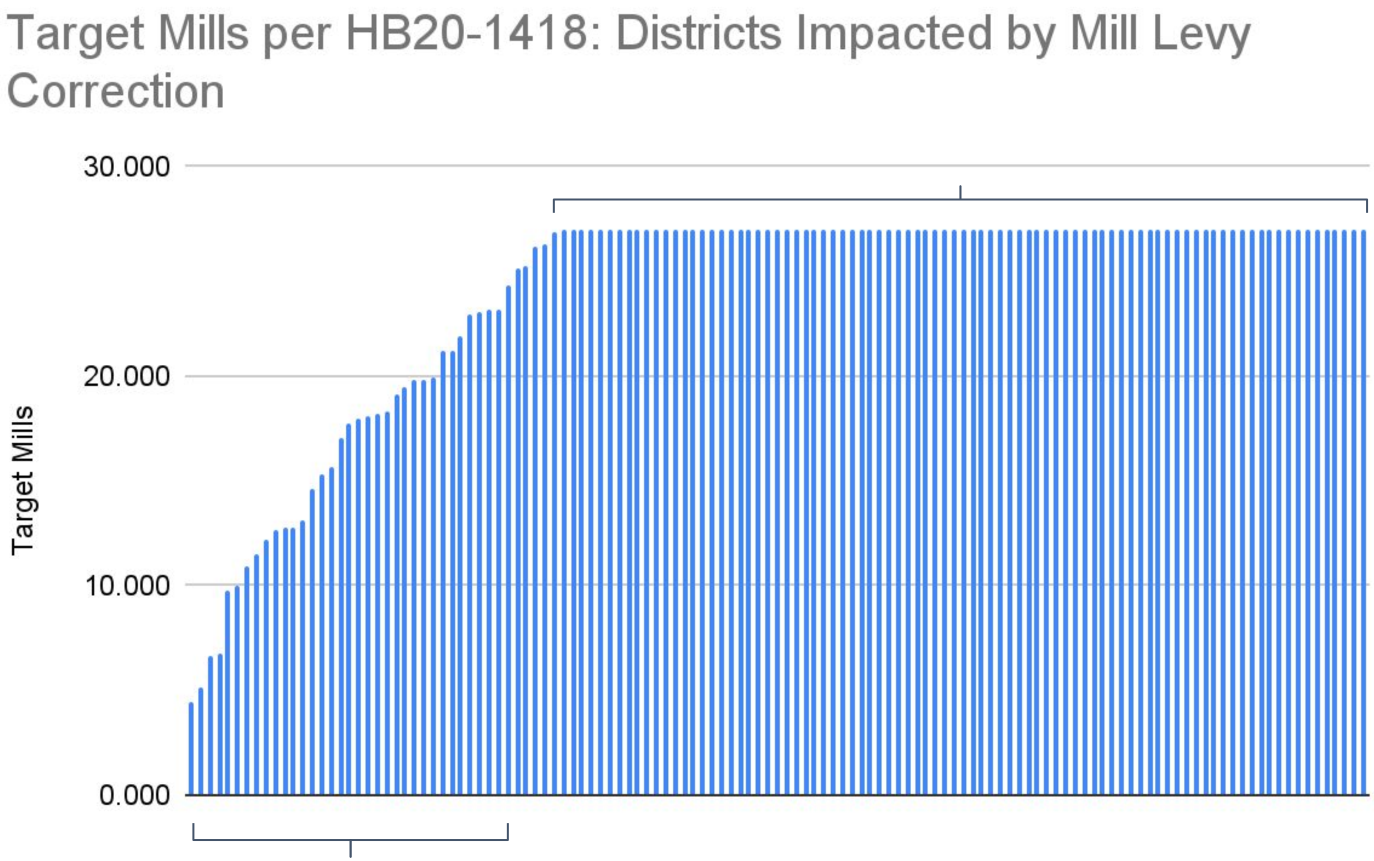
Background: How do we fix it?

Step 1: Passage of HB20-1418

June 2020: HB20-1418 signed (see Section 33). The 2020-2021 School Finance Act required districts to levy the number of mills specified by the requirements in the bill, including the establishment of temporary tax credits, if necessary, to correct historical errors. The bill required districts to set a mill levy target equal to **the lowest of**:

1. The mills required to fully fund the district with local property taxes;
2. The mills in place at the time the district obtained voter approval to retain and spend revenue in excess of the property tax revenue limitation imposed on the district by TABOR (de-Bruce); **or**
3. 27.000 mills.

Background: How do we fix it?



86 out of 127 districts (68%) have target mills of 27. This means that the mills required to fully fund the district, **and** the mills in place at the time of deTABOR, are both greater than 27.

41 out of 127 districts (32%) have target mills under 27. This means that either the mills required to fully fund the district, **or** the mills in place at the time of deTABOR, are less than 27.

Background: How do we fix it?

Step 2: District certification of Temporary Tax Credits

December 2020: If required, districts included temporary tax credits when certifying property tax mills related to the local share of total program for the 2020 tax year. The temporary tax credits were equal to the difference between the district's current total program mill and the mill levy target established by HB20-1418. For example, if the district's current total program mill was 25, and its mill levy target is 27, the district implemented a temporary tax credit of 2 mills.

DISTRICT NUMBER	COUNTY OF ASSESSED VALUATION	SCHOOL DISTRICT	NET ASSESSED VALUATION	HB20-1418 TOTAL PRGM MILLS	TEMP TAX CREDIT	NET TOTAL PRGM MILLS
0010	ADAMS	MAPLETON 1	831,452,880			
0010		**MAPLETON 1 TOTAL**	**$831,452,880**	27.000	0.920	26.080
0020	ADAMS	ADAMS 12 FIVE STAR	2,543,352,030			
0020	BROOMFIELD	ADAMS 12 FIVE STAR	542,844,087			
0020		**ADAMS 12 FIVE STAR TOTAL**	**$3,086,196,117**	27.000	0.000	27.000

Background: How do we fix it?

Step 3: Introduction, challenge to, and passage of HB21-1164

March 2021: HB21-1164 introduced. The bill requires CDE to implement a correction plan for districts with temporary tax credits. Specifically, the plan must ensure that districts incrementally reduce temporary tax credits “as quickly as possible but by no more than one mill each property tax year,” beginning in the 2021 tax year.

May 2021: Colorado Supreme Court ruled in an interrogatory that HB21-1164 is constitutional.

June 2021: HB21-1164 signed into law.

Next Steps: What happens now?

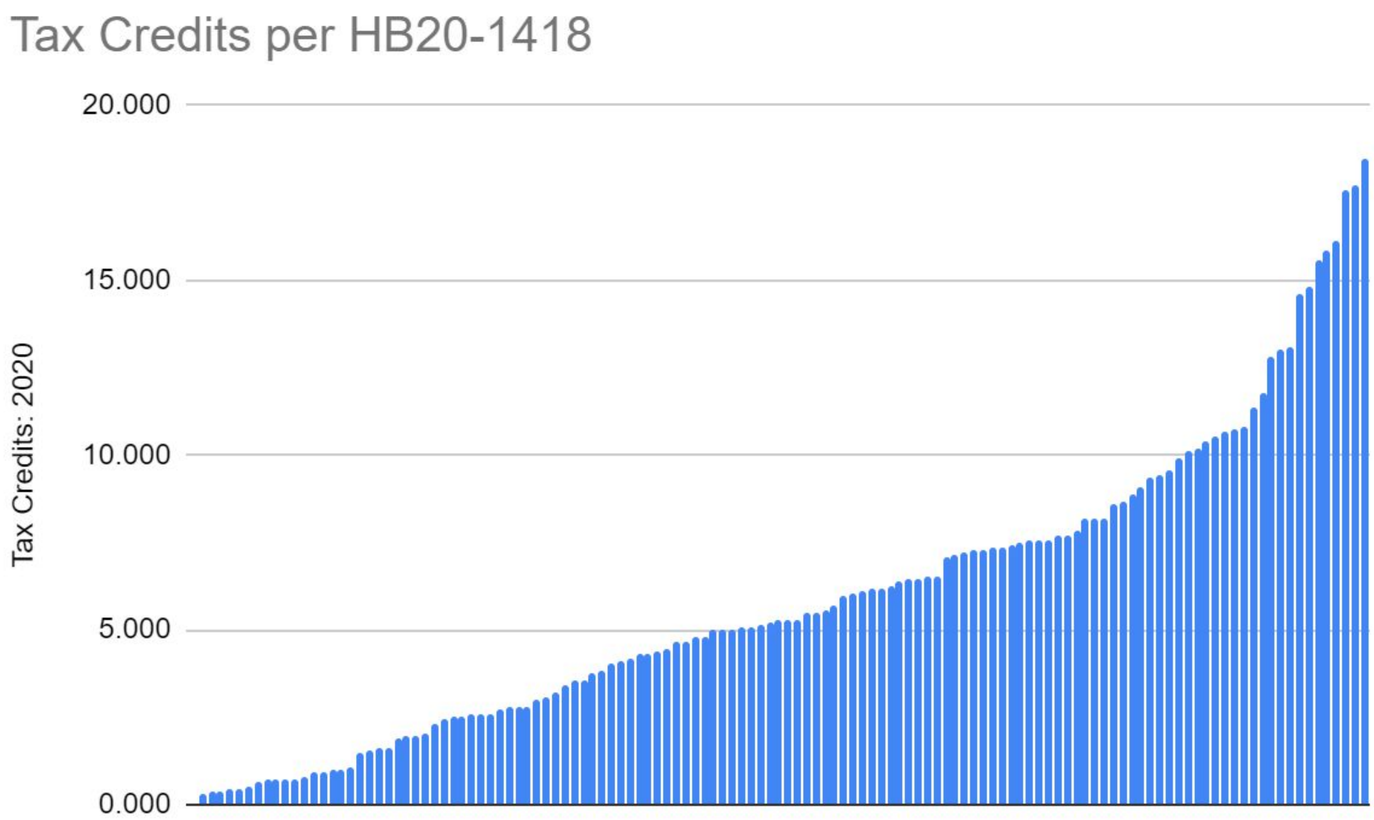
- **HB21-1164 requires CDE to implement a correction plan that:**
  - Reduces a district's temporary tax credits "as quickly as possible,"
  - But by no more than 1 mill per year.

For Example:

District A has a mill levy target of 27 mills based on the requirements of HB20-1418. In 2020, it was levying 25.0 mills. Taxpayers in District A will see the following changes in their property taxes for the local share of Total Program:

2020 Tax Year (certified December 2020):	25.0 mills, 2 temporary tax credits
2021 Tax Year (certified December 2021):	26.0 mills, 1 temporary tax credit
2022 Tax Year and beyond:	27.0 mills

Background: How do we fix it?



Tax credits range from **.048 to 18.480**.

This means that districts will be implementing Mill Levy Correction for anywhere from 1 to 19 years.

107 out of 127 districts (82%) have fewer than 10 temporary tax credits

Find your district's temporary tax credits here.

Next Steps: What happens now?

- **How much more will this cost a generic taxpayer each year?**

$600,000 X Residential Assessment Rate: 7.15% = Assessed Property Value: $42,900 X Mill Levy: .015 = **2020 School Property Tax Bill: $643.50**

One year later, when one tax credit has been implemented, the homeowner will pay $42.90 per year more in property taxes from mill levy correction, assuming a static residential assessment rate and static assessed property value:

$600,000 X Residential Assessment Rate: 7.15%* = Assessed Property Value: $42,900 X Mill Levy: **.016** = **2022 School Property Tax Bill: $686.40**

Note that this impact will vary depending on factors in your district.

Next Steps: What happens now?

- **What happens if a district does not implement Mill Levy Correction, despite being required to by law?**

“If a district does not certify at least the mill levy required by subsection (2) OR (2.1) of this section, the department shall determine what the state's percentage share of the district's total program would have been had the district certified the required mill levy. The department of education shall reduce the district's state aid in an amount that will result in the state's percentage share of the district's total program remaining the same as if the district had certified the required mill levy.” - from HB20-1418

Next Steps: What happens now?

- **Where will the money go?**
  - The estimate for the 2021-2022 school year is that Mill Levy Correction will generate ~$90M in additional local share
  - These are funds that won't need to be paid from state sources
  - Therefore, the funds may be redirected, for example to the new factor changes in the finance formula:

"...THE GENERAL ASSEMBLY FURTHER DECLARES THAT THE REMAINING COSTS OF THE SCHOOL FINANCE FORMULA CHANGES ARE OFFSET BY THE SAVINGS TO THE STATE SHARE OF TOTAL PROGRAM THAT OCCUR AS A RESULT OF CORRECTING THE UNAUTHORIZED REDUCTIONS IN DISTRICT PROPERTY TAX MILL LEVIES AS PROVIDED IN SECTION 22-54-106 (2.1)."

- **Ultimately, use of these state funds is the legislature's decision.**

Next Steps: What happens now?

- **How much might Mill Levy Correction raise in additional property taxes over time?**
  The following chart provides an *estimate* of the impact of Mill Levy Correction on property tax collection, all else being equal.*

FY2021-22 Projected Property Taxes with Credit Stepdowns			
	Current with No Stepdown	With Credit Stepdown	Approx Add'l Prop Taxes per Year
Year 1	2,853,909,591	2,945,599,960	91,690,369
Year 5	2,853,909,591	3,061,122,354	207,212,763
Year 10	2,853,909,591	3,096,358,015	242,448,424
Fully Implemented	2,853,909,591	3,106,891,398	252,981,807

*Note: the estimates above assume static Assessed Valuations and assessment rates.

Next Steps: What happens now?

What do districts need to do?

Review and organize documentation:

- Find the documentation used to support the mills the district levied in 2020, including any temporary tax credits. This supporting documentation may include previous district audits; information from the local county about the mills in place at the time the district obtained voter approval to retain and spend revenue in excess of the property tax revenue limitation imposed on the district by TABOR; and / or other district records.
- Questions or concerns? Reach out to Tim Kahle at CDE: kahle_t@cde.state.co.us. CDE will do everything possible to assist you with confirming and documenting the correct mill levy for your district, if needed.

Provide a copy of documentation supporting temporary mill levy tax credits to CDE:

- CDE strongly recommends that districts share a copy of the supporting documentation referenced above with the department.
- Please submit supporting documentation for any temporary tax credits established in 2020 by emailing it to schoolfinance@cde.state.co.us, as soon as possible, but not later than **October 15, 2021**.

Communicate with stakeholders:

- Start with informing your local Board of Education and your County Assessor--use this presentation if helpful
- Access CDE-provided communications resources to communicate with broader stakeholders

Support: What support is available?

- **Consultation**

  CDE School Finance is offering technical assistance to districts in the form of webinars and individual district consultations. To request technical assistance with mill levy correction, please reach out to Kate Bartlett (bartlett_k@cde.state.co.us) or Tim Kahle (kahle_t@cde.state.co.us) at CDE.

- **Communications resources in development**
  - CDE press release - *early September*
  - One pager
  - FAQs
  - Sample letter for districts to use
  - Slide deck for districts to use
  - Talking points for County Assessors and Treasurers

Review: Main takeaways

- Mill Levy Correction is a legislative and legal directive to correct a historical undercollection of local property taxes.
- The historical undercollection resulted in districts collecting less in property taxes for education than their voters had approved by de-TABORing.
- Mill Levy Correction is in law, dictated by state statute; it is not a local decision to raise property taxes.
- Mill Levy Correction is a phased approach to restoring local property taxes to the levels voters authorized.
- Mill Levy Correction will result in local taxpayers increasing their taxes to previously approved levels, or to an appropriate level as defined by HB20-1418.
- There are no retroactive payments or penalties--the law only applies to future years.
- **Funds generated through Mill Levy Correction will result in more fiscal resources overall being available for education.**

Questions? Feedback?

General Questions: Kate Bartlett, bartlett_k@cde.state.co.us
Technical Questions: Tim Kahle, kahle_t@cde.state.co.us

https://www.cde.state.co.us/cdefinance/milllevycorrection