

Testimony in Support of HB20-1164 – Total Program Mill Levy Tax Credit

Senate Education Committee – March 18, 2021

Leslie Colwell

- Good afternoon, members of the committee. I'd love to be there in person with you all. My name is Leslie Colwell, and I'm the vice president of education initiatives at the Colorado Children's Campaign. I'm testifying today in enthusiastic support of House Bill 21-1164.
- The unevenness of our property tax system forms the foundation of inequity in our school finance system, and what has always been perplexing to me is that it is not a system that was designed on purpose. There is no intentional policy design behind it. There was never a debate among policymakers about what the system should look like, and no voter ever had the chance to weigh in on what their property tax rate should be.
- Rather, our property tax system is arbitrary, and advantages taxpayers in some school districts over others – all because of an error made decades ago by the Department of Education in how mill levies were calculated.
- Last session, the General Assembly acknowledged this mistake and corrected the levies to address the error that was made after school districts held de-Brucing elections – elections where voters permanently waived TABOR's spending cap for their schools.
- However, CDE acted as if these elections had not occurred and lowered mill levies to stay under districts' TABOR caps when calculating local share of school finance.
- In 2009, the Colorado Supreme Court ruled that this was a mistake. The court said, "waiver elections were effective immediately and gave the school districts, which are the relevant taxing authorities, the right to receive property tax revenue above TABOR's limits." The Court also found that "Rather than recognizing that all limits had been waived immediately after each successful election occurred, the CDE continued to advise school districts to certify mill levies in accordance with the property tax revenue limit."
- At that point in time, the Court did not recommend a remedy to solve for this error. HB-1164 attempts to institute that remedy. It is based on the premise that CDE's calculations for school district mill levies were set in violation of statute, and in violation of voter intent.
- This bill instructs CDE to implement a correction plan to phase out mill levy credits that were established in last year's School Finance Act and restore the statutorily authorized, voter-approved mill levies, over the next 20 years. It puts the issue back in front of the Colorado Supreme Court to affirm that current levies are incorrect and authorize the state's authority to fix this error, and we believe this is responsible and necessary policy.
- House Bill 1164 has the potential to put us on an incremental path to fixing a structural problem in Colorado's K-12 property tax system, and we are in full support. Thank you, committee members, and thank you Sen. Zenzinger and Majority Leader Fenberg for championing this important legislation.