



Colorado  
Legislative  
Council  
Staff

Room 029 State Capitol, Denver, CO 80203-1784

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MEMORANDUM

May 5, 2004

TO: Members of the General Assembly

FROM: Amy Zook, Principal Analyst, 303-866-4750

SUBJECT: Financing of Public Schools and Categorical Programs — Summary of House Bills 04-1397 and 04-1422

House Bill 04-1397 amends the Public School Finance Act of 1994 to provide funding for school districts for the 2004-05 budget year. It also addresses such matters as funding for school district capital construction, age-of-entry requirements for students, payment of excess costs for children with disabilities, and financial reporting requirements for charter schools. In addition to summarizing HB 04-1397, this memorandum summarizes funding for categorical programs, as contained in the Long Bill. This memorandum also provides a printout showing estimates of school district funding.

- ✍ The **school finance act** is expected to provide \$4.42 billion for the state's 178 school districts in FY 2004-05. State sources contribute 61.8 percent of this amount—about \$2.73 billion—while local taxes provide the remaining 38.2 percent.
- ✍ **School district funding** under the school finance act is expected to increase by an estimated \$121.7 million in FY 2004-05, or about 2.8 percent. State aid provides about \$105.5 million of this amount. Local property and specific ownership taxes make up the remaining \$16.2 million.
- ✍ **State funding** for school finance totals \$2,730.1 million: \$2,365.6 million from the General Fund, \$308.4 million from the State Education Fund, and \$56.1 million from cash funds.
- ✍ The **General Fund** increase for school finance, sometimes referred to as "maintenance of effort" or MOE, is 5.3 percent, an increase of just over \$120 million. The constitutional provision requiring a General Fund increase of 5 percent is not required for FY 2004-05 because personal income grew by only 2.8 percent in 2003. The threshold for invoking the 5 percent minimum General Fund increase is personal income growth of 4.5 percent.

- ✍ The increase in the **statewide base** per pupil amount is 2.1 percent, 1.1 percent for inflation plus the additional percentage point required by the constitution. The resulting base is \$4,666.29.
- ✍ The estimated increase in **average per pupil funding** is 2.1 percent. The statewide average per pupil funding is estimated to be \$6,067, and increase of \$124.
- ✍ **Minimum per pupil funding** is increasing from \$5,511 to \$5,627, an increase of 2.1 percent.
- ✍ Implementation of the 2003 **cost-of-living study** and changes to the statutory cost-of-living calculation increase school district funding by \$1.6 million, rather than the \$16.1 million the previous calculations would have provided.
- ✍ The **at-risk factor** is reduced from 11.5 percent to 11.2 percent, resulting in a savings under the school finance act of \$3.5 million.
- ✍ The **number of students** funded under the school finance act is expected to increase by 5,345 students, an increase of 0.8 percent.
- ✍ Funding for public school **capital construction** totals \$10 million. The General Assembly appropriated \$5 million for charter schools and \$5 million for the two funds designated for capital construction money under the *Giardino* lawsuit settlement. The \$10 million comes from the State Education Fund.
- ✍ Funding for **categorical programs** increased by approximately \$3.4 million, a 2.1 percent increase as required by the state constitution. The additional funding comes from the State Education Fund. Total state funding for categorical programs increased to about \$165.8 million.

#### **FUNDING FOR DISTRICTS UNDER THE SCHOOL FINANCE ACT**

The Public School Finance Act of 1994 is the mechanism by which school districts receive most of their state aid and property taxes. School district funding under the act will increase by an estimated \$121.7 million in the budget year that begins July 1, 2004. A portion of the school finance funding increase is simply attributable to anticipated growth in pupils: an estimated 5,345 new pupils will be funded in Colorado schools next year. The increase is also the result of the 2.1 percent increase in the statewide base per pupil funding amount contained

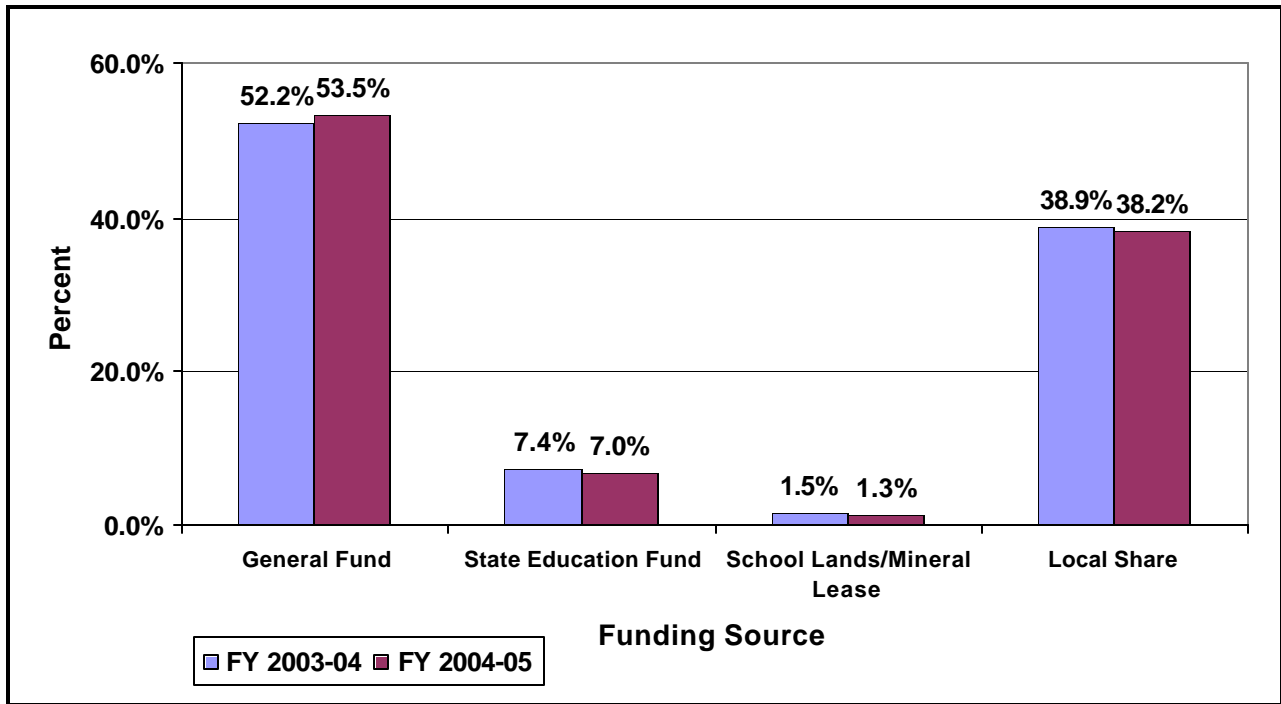
in House Bill 04-1397. However, House Bill 04-1397 also contains \$18.1 million in savings. It reduces at-risk funding from 11.5 percent of a district's per pupil funding to 11.2 percent. The bill also amends the cost-of-living formula to provide that adjustments to a district's cost-of-living factor be based on the increase in teacher income, rather than inflation. This change reduces the increase in funding from the 2003 cost-of-living study. Table 1 details the costs and savings associated with the school finance provisions of House Bill 04-1397.

**Table 1:  
Increase/(Decrease) in Components of School Finance Funding  
(Millions of Dollars)**

| Component                                                                           | Cost Increase/<br>(Decrease) | Percent of<br>Increase |
|-------------------------------------------------------------------------------------|------------------------------|------------------------|
| <b>Projected School Finance Funding Increase Prior to the Passage of HB 04-1397</b> |                              |                        |
| Enrollment Growth (5,345 pupils)                                                    | \$32.8                       | 26.9%                  |
| Inflation Plus One                                                                  | 91.0                         | 74.7%                  |
| 2003 Cost-of-Living Study Impact                                                    | 16.1                         | 13.2%                  |
| <b>Subtotal — School Finance Increase</b>                                           | <b>\$139.8</b>               | <b>114.8%</b>          |
| <b>HB 04-1397 School Finance Funding Changes</b>                                    |                              |                        |
| Amend the Cost-of-Living Formula in Statute                                         | (14.5)                       | -11.9%                 |
| Reduce the At-Risk Factor by 0.3 Percentage Point                                   | (3.5)                        | -2.9%                  |
| <b>HB 04-1397 School Finance Funding Impact</b>                                     | <b>(\$18.1)</b>              | <b>-14.8%</b>          |
| <b>Total Increase Over FY 2003-04</b>                                               | <b>\$121.7</b>               | <b>100.0%</b>          |

Eighty-seven percent of the \$121.7 million increase in school district funding comes from state aid, an increase of \$105.5 million. However, the General Fund appropriation actually increased by \$120 million, allowing the amount coming from the State Education Fund and cash funds from such sources as state school lands and federal mineral lease moneys to decrease. Funding from the State Education Fund decreased by \$8 million and funding from other cash sources decreased by about \$7 million. Local property taxes and specific ownership taxes, or the local share, are expected to increase by \$16.2 million. However, the local share as a percent of total funding is decreasing from 38.9 percent to 38.2 percent. Graph 1 compares the percent of funding coming from each funding source for total funding for FY 2003-04 and FY 2004-05, under the school finance act.

**Graph 1: Comparison of Revenue Sources for Total School District Funding**



**Statewide Base Per Pupil Funding Amount**

House Bill 04-1397 increases the statewide base 2.1 percent, from \$4,570.31 to \$4,666.29. The statewide base is the amount to which a district's size, cost-of-living, and personnel costs factors are applied to determine its per pupil funding. The 2.1 percent increase is based on an inflation rate of 1.1 percent in 2003 plus an additional one percentage point as required by Amendment 23.

**Cost-of-Living Factor**

The cost-of-living factor is one of the adjustments that determines a district's per pupil funding under the school finance act. Each school district is assigned a factor to indicate the cost of living in the district relative to the cost of living in other districts. A cost-of-living study is required to be conducted every two years to update the cost-of-living factors used in the state school finance funding formula.

The method for calculating the cost-of-living factors, using the cost-of-living dollar amounts from the study, is contained in statute. House Bill 04-1397 amends the statutory calculation. Prior to House Bill 04-1397, the statutory calculation provided that each district's

factor stay the same as the previous year's factor unless its cost of living increased by more than the *rate of inflation*. In such cases, the statute required that a district's factor be the prior year's factor plus an amount equal to its percentage increase in cost of living divided by *inflation* and further divided by 1,000. House Bill 04-1397 replaces inflation with the increase in the *household income* level used in the cost-of-living study. Under the new provision, a district's cost-of-living factor is increased based on its cost-of-living increase above the household income increase used in the study, rather than its increase above inflation. Table 2 compares the old calculation to the new calculation.

**Table 2  
Cost-of-Living Calculation**

| Example School District                                                            | Pre-House Bill 04-1397                                                           | House Bill 04-1397                                                                            |
|------------------------------------------------------------------------------------|----------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------|
| Example School District Cost-of-Living Percent Change (2003 Study over 2001 Study) | 6.51%                                                                            | 6.51%                                                                                         |
| Inflation for 2003                                                                 | 1.10%                                                                            | N/A                                                                                           |
| 2003 Study Income Level Increase                                                   | N/A                                                                              | 5.26%                                                                                         |
| Did the School District Cost Change Exceed Requirement?                            | Yes                                                                              | Yes                                                                                           |
| FY 2002-03 and FY 2003-04 Cost of Living Factor                                    | 1.210                                                                            | 1.210                                                                                         |
| Calculation to Determine Addition to Cost-of-Living Factor                         | Percent Change in Cost of Living [6.51%] ÷ Inflation [1.1%] ÷ 1000 = <b>.006</b> | Percent Change in Cost of Living [6.51%] ÷ Income Level Increase [5.26%] ÷ 1000 = <b>.001</b> |
| New Cost of Living Factor for FY 2004-05 and FY 2005-06                            | 1.216                                                                            | 1.211                                                                                         |

### **Funding for At-Risk Pupils**

School districts receive additional money for each at-risk student counted. At-risk pupils are defined as students from low-income families, as measured by eligibility for free lunches under the National School Lunch Act. The amount of additional money a district receives depends on its proportion of at-risk students, which is used to calculate an "at-risk factor." House Bill 04-1397 reduces the minimum at-risk factor from 11.5 percent to 11.2 percent for three fiscal years. Therefore, every school district receives an at-risk factor of at least 11.2 percent, which entitles the district to an additional 11.2 percent of its per pupil funding for each at-risk student. Districts with higher-than-average proportions of at-risk students receive a higher at-risk factor. The reduction in the minimum at-risk factor from 11.5 percent to 11.2 percent reduces the funding requirement under the school finance act by about \$3.5 million.

## **Age-of-Entry Requirements**

House Bill 04-1397 puts into statute age requirements for the purpose of receiving funding under the school finance act. The bill requires, for FY 2005-06 and beyond, that by October 1 of each year:

- ✓ children participating in the Colorado Preschool Program be three or four years old;
- ✓ kindergarten students be five years old; and
- ✓ first graders be six years old. Kindergartner

Under current Colorado Department of Education rules, students must reach age six by October 1, or the official count date, to be enrolled in the first grade. For kindergarten, students must reach age five by October 1, or the official count date.

## **School Finance Act Administrative Costs**

House Bill 04-1397 allows the Department of Education's direct and indirect costs to administer the school finance act to be funded from a transfer from the school finance appropriation. The amount is to be specified by the General Assembly in the Long Bill. For FY 2004-05, the Long Bill identifies \$761,568 for such purpose. School district funding is reduced proportionately to accommodate the administrative costs. The reduction is estimated to be \$1.05 per student.

## **FUNDING FOR CAPITAL CONSTRUCTION**

House Bill 04-1397 amends state law regarding funding for school district capital construction. State law on funding school district capital construction identifies three revenue sources: General Fund appropriations resulting from the *Giardino* lawsuit settlement, a State Education Fund appropriation, and lottery proceeds in years that lottery revenue exceeds a constitutional formula. Bill 04-1397 addresses all three revenue sources, however, the net impact to the General Fund and the State Education Fund is zero. The bill:

- ✓ suspends for FY 2004-05 the statutorily required \$5.0 million appropriation from the State Education Fund to the School Capital Construction Expenditures Reserve;
- ✓ acknowledges that for FY 2004-05, General Fund revenues will not be sufficient to fund the *Giardino* lawsuit;
- ✓ in an attempt to fund a portion of the *Giardino* lawsuit, reallocates the \$5.0 million from the State Education Fund between two funds to provide partial funding for the lawsuit: \$2.5 million to the School Capital Construction

Expenditures Reserve and \$2.5 million to the School Construction and Renovation Fund; and

- ✓ acknowledges that for FY 2003-04, \$3.7 million in excess lottery revenues were allocated to the State Public School Fund Contingency Reserve to address immediate safety hazards or health concerns.

## **CHARTER SCHOOLS**

In addition to addressing funding under the school finance act and capital construction, House Bill 04-1397 also addresses charter schools.

***Charter school contracts.*** House Bill 04-1397 requires a contract between a charter school and a school district to specify the financial information that the charter school must report to the school district, including the reporting deadline. In addition, the contract must identify the circumstances where a school district may withhold a portion of the charter school's monthly payments if the charter school does not comply with the financial reporting requirements.

The bill also contains a process for charter schools to appeal a district's withholding of money. If a charter school believes moneys due to the charter school were improperly withheld by the school district it may seek a determination from the State Board. If the State Board rules in favor of the charter school, the school district is required to pay the charter school within 30 days. In the event the school district does not repay the charter school within 30 days, the Department of Education is required to withhold the unpaid amount from the school district and pay that amount to the charter school. A ruling in favor of the school district requires the charter school to repay the Department of Education for the costs of reviewing the dispute, while a ruling in favor of the charter school requires the district to pay those costs.

***Charter school financial reporting requirements.*** The bill requires charter schools to complete a government audit that complies with the Colorado Department of Education's requirements. Charter schools are also required to comply with all requirements of the school finance act. In addition, a charter school is required to comply with all of the state financial and budget rules, regulations, and financial reporting requirements that apply to the chartering school district.

## **SPECIAL EDUCATION: PAYMENT OF EXCESS COSTS**

Excess costs refers to the amount of money a school district or charter school may charge as tuition for special education services. It is the amount by which expenditures exceed revenues. Generally, the school district of residence is responsible for excess costs when a student chooses to attend a school in a district other than the one in which he or she lives or when a student

attends a charter school. House Bill 04-1397 provides additional direction to the school districts and charter schools regarding responsibility to pay excess costs and requires the State Board to adopt rules addressing the type of excess costs that may be charged to a district of residence.

***School districts.*** When a child with a disability attends a school outside his or her district of residence and is not participating in an on-line program,

- ✓ the district of attendance may not charge the district of residence for excess costs if the disabled student attends the school for less than a percentage of time prescribed by State Board rules; and
- ✓ the district of attendance is required to notify the district of residence in accordance with rules adopted by the State Board.

***Charter schools.*** When a child with a disability enrolls in a charter school, including an on-line program provided by a charter school:

- ✓ the tuition responsibility must be reflected in a contract between the charter school and the district of residence;
- ✓ a charter school is required to provide notice to the district of residence in accordance with State Board rules when a child with a disability applies to enroll in the charter school; and
- ✓ the tuition charge is determined by the State Board by rule.

***On-line programs.*** When a child with a disability enrolls in an on-line program that is not provided by a charter school:

- ✓ the district of residence is required to pay the provider of the on-line program the excess costs to educate a child;
- ✓ the tuition responsibility must be reflected in a contract between the district of attendance and the district of residence;
- ✓ the on-line provider is required to provide notice to the district of residence in accordance with State Board rules when a child with a disability applies to enroll in the on-line program; and
- ✓ the tuition charge is determined by the State Board by rule.

## **CATEGORICAL PROGRAMS**

Amendment 23 requires funding for categorical programs to increase by the rate of inflation plus one percentage point through FY 2010-11. For FY 2004-05, the required increase is 2.1 percent, or \$3.4 million. The source of funding for the increased amount is the State Education Fund. Colorado law allows the General Assembly to determine which programs receive increased funding; the additional funding is not required to be 2.1 percent across the



board. Table 3 summarizes the funding for categorical programs for FY 2003-04 and FY 2004-05. Appropriations for these programs are contained in the Long Appropriations Bill (House Bill 04-1422).

**Table 3**  
**State Funding for Categorical Programs: FY 2003-04 and FY 2004-05**

| <b>Program</b>                                 | <b>FY 2003-04</b>    | <b>FY 2004-05</b>    | <b>\$ Increase</b> | <b>Percent Increase</b> |
|------------------------------------------------|----------------------|----------------------|--------------------|-------------------------|
| Special Education - Children With Disabilities | \$84,172,756         | \$86,669,717         | \$2,496,961        | 3.0%                    |
| English Language Proficiency                   | 3,658,392            | 3,766,630            | 108,238            | 3.0%                    |
| Transportation                                 | 40,967,748           | 41,418,393           | 450,645            | 1.1%                    |
| Vocational Education                           | 19,742,390           | 19,959,556           | 217,166            | 1.1%                    |
| Special Education - Gifted and Talented        | 6,190,647            | 6,258,744            | 68,097             | 1.1%                    |
| Expelled and At-Risk Student Services          | 6,216,786            | 6,285,171            | 68,385             | 1.1%                    |
| Small Attendance Centers                       | 808,089              | 808,089              | 0                  | 0.0%                    |
| Comprehensive Health Education                 | 600,000              | 600,000              | 0                  | 0.0%                    |
| <b>Total</b>                                   | <b>\$162,356,808</b> | <b>\$165,766,300</b> | <b>\$3,409,492</b> | <b>2.1%</b>             |
| <b>General Fund/Other</b>                      | <b>142,065,474</b>   | <b>142,065,474</b>   | <b>0</b>           | <b>0.0%</b>             |
| <b>State Education Fund</b>                    | <b>20,291,334</b>    | <b>23,700,826</b>    | <b>3,409,492</b>   | <b>16.8%</b>            |