



Senate Select Committee on Education Finance
S.B. 142 Appropriations for the Department of Education for FY 2020 and 2021

Testimony submitted by Schools For Fair Funding
March 6, 2019

Chairman Baumgardner, Members of the Committee:

SB 142 provides the appropriate inflationary increases for FY 20, but the funding and base numbers are not appropriate for the ensuing 3 years, so **SFFF cannot support this bill in its current form.**

As you know, SFFF came out in support of SB 44 last month because it believed it would add \$363 million in NEW funding over the next four years to cure the inflation issue. This was the amount that Dale Dennis calculated last summer and again on February 6 for inflation. After the hearing on SB 44, at the suggestion of Sen. Denning, SFFF realized that the Bases in that bill did not implement the KSDE “new money needed” analysis that Mr. Dennis provided. SFFF then had to retract its testimony supporting SB 44 due to the error. SB 142 continues the same mistake in the Bases as SB 44, so SFFF cannot support this bill in its current form. SFFF can support the bill if the correct Bases are included.

Historical perspective. The State argued to the Kansas Supreme Court last summer that the finance system should be constitutional if spending levels were increased to the levels in place at the conclusion of the Montoy case in 2010, as adjusted for inflation. Last summer, Legislative Research calculated those spending levels and concluded that, as of 2017, the system should be constitutional if \$3,434,941,542 was being spent. That amount was not being spent. The state then, in SB 61 last session, increased funding to approximate those spending levels in a phased-in plan from 2019 through 2023. In Gannon VI, the court found that the spending targets and the so-called Montoy Safe Harbor would be an appropriate end to the litigation, if but only if inflationary amounts were added, to recognize that the spending target was calculated as of 2017 spending, but the phase-in would not provide those dollars until 2023. The court required those 6 years of inflation (2017-2023) to be added by 2023 if the state desired to rely on the Montoy Safe Harbor to end the litigation. This amounts to adding 6 years of inflation over the next 4 years to catch up the missing, past years.

The State Board of Education then calculated that \$363 million in NEW funding was needed to fund this required inflation over the phase-in period. SFFF believes that all parties are in agreement that this \$363M is the needed amount of new money to fund the inflation. Note that

even Dale's February 6 testimony refers to this as *additional* funding or "new money" funding. It was intended to be in addition to the increases already scheduled to take place as adopted in SB61.

The issue comes in the conversion of this new \$363M into the Bases needed to drive the formula.

The Bases in the bill, as written, include only one (1) installment of NEW inflation money over the four year period. It only provides approximately \$90M in new money. The remaining years are simply repeating the prior year's money and are, thus, NOT equivalent to the NEW money required by the KSDE calculation to reach the Montoy Safe Harbor. The correct method if phased over four years requires four (4) \$90M installments of NEW money to reach the KSDE \$363M new money target and the Montoy Safe Harbor.

The correct method of phasing these increases in has been used for many years. It was used during the conclusion of the Montoy litigation and it was used again last year in SB 61. A yearly amount of NEW money is added. The following year, that amount repeats and another installment of NEW money is added. The following year this pattern repeats. New money is added to the repeating money to reach the goal. The effect of the bases contained in this bill is to depart from accepted methodology and to attempt to count this "repeating" money as "new" money. It is simply funny math. It does not reach the goal.

SFFF does support the FY2020 appropriation of \$92,659,017 and base of \$4436 in this bill. It adds the first of the four required new money increases needed to phase-in the missing 6 years of inflation.

SFFF cannot support the FY2021 appropriation of \$89,659,017 and base in FY2021 of \$4569. It does NOT add a second installment of NEW money needed to phase in the missing 6 years of inflation.

Similarly, the bases for FY2022 and FY2023 are also incorrect to continue the phase-in of 2018 SB61 and to phase-in a total of \$363M in new money needed for inflation.

A check step. KSDE computed the amount of increased aid needed to reach the Montoy Safe Harbor in the Dale Dennis February 6 testimony. Like the Legislative Research computation in 2018, Dale continues the methodology from 2017 through 2023. Dale finds that total spending in 2023 should equal \$3,742,611,889 to equate to Montoy spending in 2010 adjusted for inflation. See page 2 of Dale's February 6 testimony. To see if the bases contained in both SB 44 and SB 142 hit this mark, you need only look as far as the Governor's Current Projections which are attached. It clearly shows that in 2023 the spending level only reaches \$3,419,231,000, not the required \$3,742,611,889 for the Montoy Safe Harbor.

Another check step. If you compare the 2018 version of the projections to the current 2019 version of the projection you see that in 2018, after SB 61 was adopted, the 2023 spending level was projected to be \$3,310,599,000. The Current 2019 projection for 2023 shows the level at \$3,419,231,000, a difference of only \$108,632,000. This means that only \$108M of new money was added by the current bill over the total phase-in time period, NOT the required \$363M required by the state's analysis.

Yet another check step. Rather than add the inflation over a four year phase-in, what addition to the base would be needed to be added “all at the end” to fund the required \$363M of new inflation money. \$363,036,068 divided by 700,154 weighted students produces a needed addition to the base of \$519 to cover the inflation amount. If you add that amount to the base all at the end of the SB 61 phase-in in 2023, you get $\$4713 + \$519 = \$5232$. This is far higher than the final base contained in the bill.

When Dale was asked if the Bases in this bill will reach the required \$3.7B spending level for the Montoy Safe Harbor that the state desired to reach, he responded “No sir.” He added that the Bases in the bill will only produce an ending spending level of approximately \$3.4B. This is verified by the governor’s current spending projection for 2023. The bases in the bill simply are not correct, nor do they follow from the KSDE and Legislative Research analysis of what is needed for the state to reach and take advantage of the Montoy Safe Harbor to comply with the court order and end the litigation.

Dale Dennis has provided the Base numbers needed to address the inflation and reach the \$3.7B Montoy Safe Harbor. Those bases are:

FY20 \$4436
FY21 \$4697
FY22 \$4958
FY23 \$5219

These are the Bases that include BOTH the SB 61 adequacy amount AND the new inflation amount. These are the correct Bases that need to be included in SB 142 to cure the error.

SB142, as introduced, addresses and includes both the SB 61 new money and the inflation new money for the first year only, FY20. However, the Base amounts included in Section 4 of the bill as introduced do NOT include the required new inflation money for FY21, FY22 and FY23.

Upon analysis we find that, in its current form, SB 142 would not satisfy the *Gannon VI* decision. Without correction we cannot support SB 142. With correction of the bases as set forth above, SFFF can still support the bill.

Thank you for allowing SFFF to clarify SFFF’s opposition to the bill.

Contact information:

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STATE GOAL:

Returning to Level of Spending in FY10.

This was the Montoy level of spending before the cuts.

Rationale: It was constitutional in 2006. It should be constitutional now if adjusted for inflation to current dollars.

SB 61 attempted to do this during the 2018 session.

They call this the Montoy Safe Harbor.



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February 6, 2019

TO: Senate Select Committee on Education Finance

FROM: Dale M. Dennis, Deputy
Commissioner of Education

SUBJECT: State Board of Education Budget Recommendations

The purpose of this memorandum is to review how the State Board of Education determined its recommendations on the Base Aid for Student Excellence (BASE).

The process began with the following chart submitted to the Supreme Court by the state attorneys.

Year	Prior Year Amount	Inflation Percent	Inflation Adjustment Amount	New Amount
2011	\$ 3,108,690,821	3.22	\$ 100,099,844	\$ 3,208,790,665
2012	3,208,790,665	2.03	65,138,451	3,273,929,116
2013	3,273,929,116	1.40	45,835,008	3,319,764,124
2014	3,319,764,124	1.47	4,880,533	3,368,564,656
2015	3,368,564,656	(0.54)	(18,190,249)	3,350,374,407
2016	3,350,374,407	0.85	28,478,182	3,378,852,590
2017	3,378,852,590	1.66	56,088,953	3,434,941,542

Following discussion, the State Board increased the inflation factor by 1.44 percent. This decision was based on the following quote from the Kansas Supreme Court Opinion, June 25, 2018.

"Toward that end, we observe that the average of all the years of inflation shown in the State's chart from its April 23, 2018 memo (SY 2010-11 through SY 2016-17) is 1.44%. Inflation adjustments for SY 2017-18 and SY 2018-19 obviously enlarge the State's principal figure of \$522 million. That enlarged principal amount then needs to be adjusted gain (for inflation) until the new principal is paid in full over time—as the State's chosen remediation plan provides."

INFLATION ADJUSTMENT

Year	Prior Year Amount	Inflation Percent	Inflation Adjustment Amount	Net Amount
2010-11	\$3,108,690,821	3.22	\$100,099,844	\$3,208,790,665
2011-12	\$3,208,790,665	2.03	\$ 65,138,451	\$3,273,929,116
2012-13	\$3,273,929,116	1.40	\$ 45,835,008	\$3,319,764,124
2013-14	\$3,319,764,124	1.47	\$ 48,800,533	\$3,368,564,656
2014-15	\$3,368,564,656	(0.54)	(\$18,190,249)	\$3,350,374,407
2015-16	\$3,350,374,407	0.85	\$ 28,478,182	\$3,378,852,590
2016-17	\$3,378,852,590	1.66	\$ 56,088,953	\$3,434,941,542
2017-18	\$3,434,941,542	1.44	\$ 49,463,158	\$3,484,404,700
2018-19	\$3,484,404,700	1.44	\$ 50,175,428	\$3,534,580,128
2019-20	\$3,534,580,128	1.44	\$ 50,897,954	\$3,585,478,076
2020-21	\$3,585,478,076	1.44	\$ 51,630,884	\$3,637,108,960
2021-22	\$3,637,108,960	1.44	\$ 52,374,369	\$3,689,483,329
2022-23	\$3,689,483,329	1.44	\$ 53,128,559	\$3,742,611,889

SUMMARY

Target Aid To Schools -- FY 2023	\$ 3,742,611,889
Less: Current Aid	(\$ 2,817,090,821)
Less: Scheduled Increase in Aid -- FY 2019	(\$ 146,105,000)
Total Target Additional Aid	\$ 779,416,068

THIS IS THE AMOUNT NEEDED IN FY 23
TO FUND SB 61 PLUS INFLATION REMEDY.

ANNUAL SUMMARY	2019-20	2020-21	2021-22	2022-23	TOTAL
Four-Year Average	\$ 194,854,017	\$ 194,854,017	\$ 194,854,017	\$ 194,854,017	\$ 779,416,068
Five-Year Plan Amount	(\$ 102,195,000)	(\$ 105,195,000)	(\$ 105,195,000)	(\$ 103,195,000)	(\$ 415,780,000)
Additional Required	\$ 92,659,017	\$ 89,659,017	\$ 89,659,017	\$ 91,659,017	\$ 363,636,068

The State Board increased the amount by 1.44 percent as outlined by the Supreme Court, subtracted current aid plus the amount approved in 2018-19 and then divided by four (four-year period) and subtracted from that amount the amount already approved by the Legislature.

They then adjusted the BASE only on the amounts that would be needed for the next four years that is approximately \$90 million per year. The State Board's BASE recommendations are provided below.

	Sub. for SB 61	KSBE
2018-19	\$ 4,165	
2019-20	4,302	\$ 4,436
2020-21	4,439	4,569
2021-22	4,576	4,706
2022-23	4,713	4,846
2023-24	CPI	

THESE BASES DO NOT GET THE \$3.7B
NEEDED TO FUND SB61 PLUS
INFLATION REMEDY.

New Money Included in SB61 5 Year Plan Adopted 2018 Session

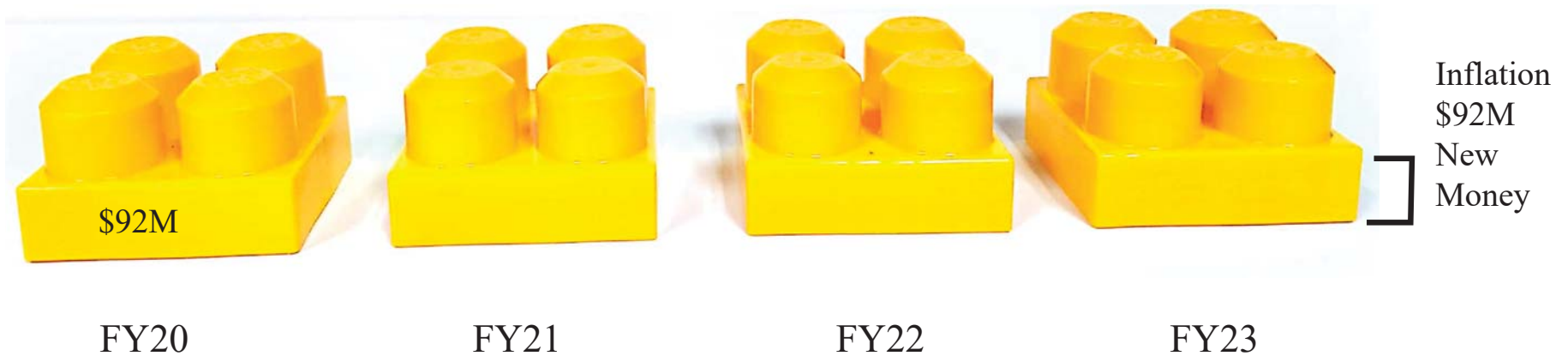


	FY19	FY20	FY21	FY22	FY23
SB61 Base:	\$4165	\$4302	\$4439	\$4576	\$4713

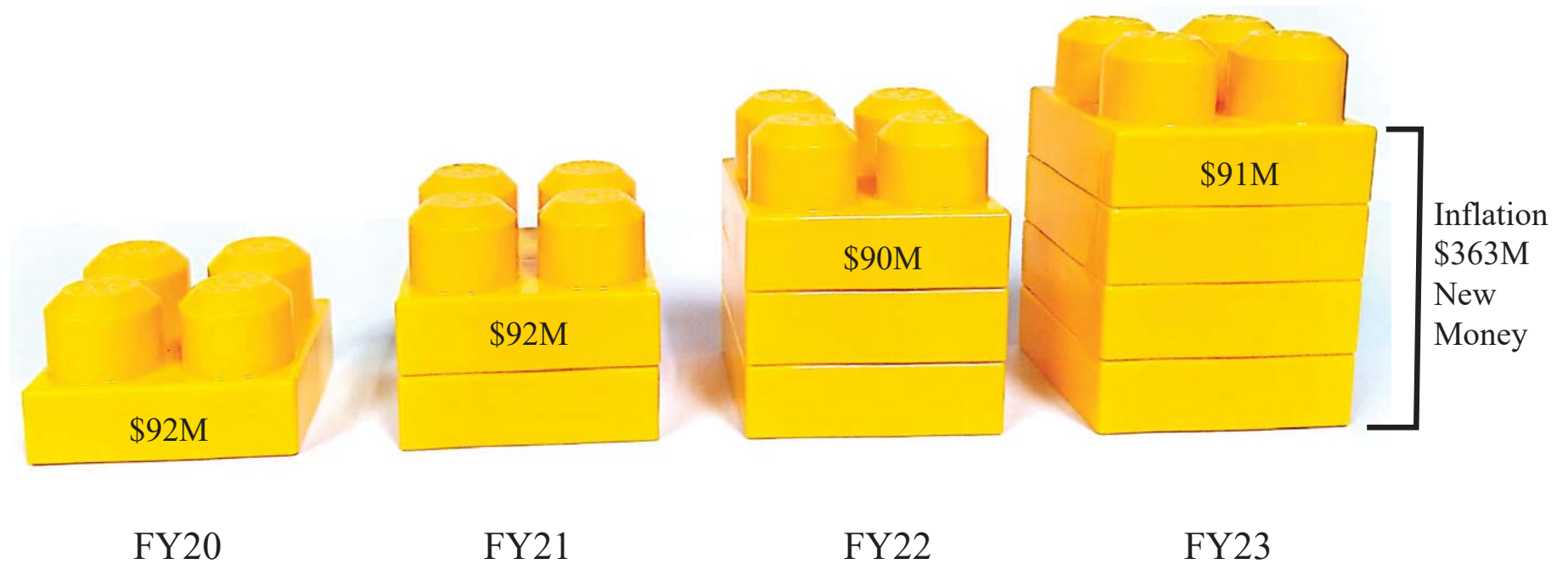
 SB61 New money phased-in over 5 years

New Money in SB44/SB142

Only One Year of Inflation Added



New Money Required to Phase-In Six Years of Gannon VI Inflation

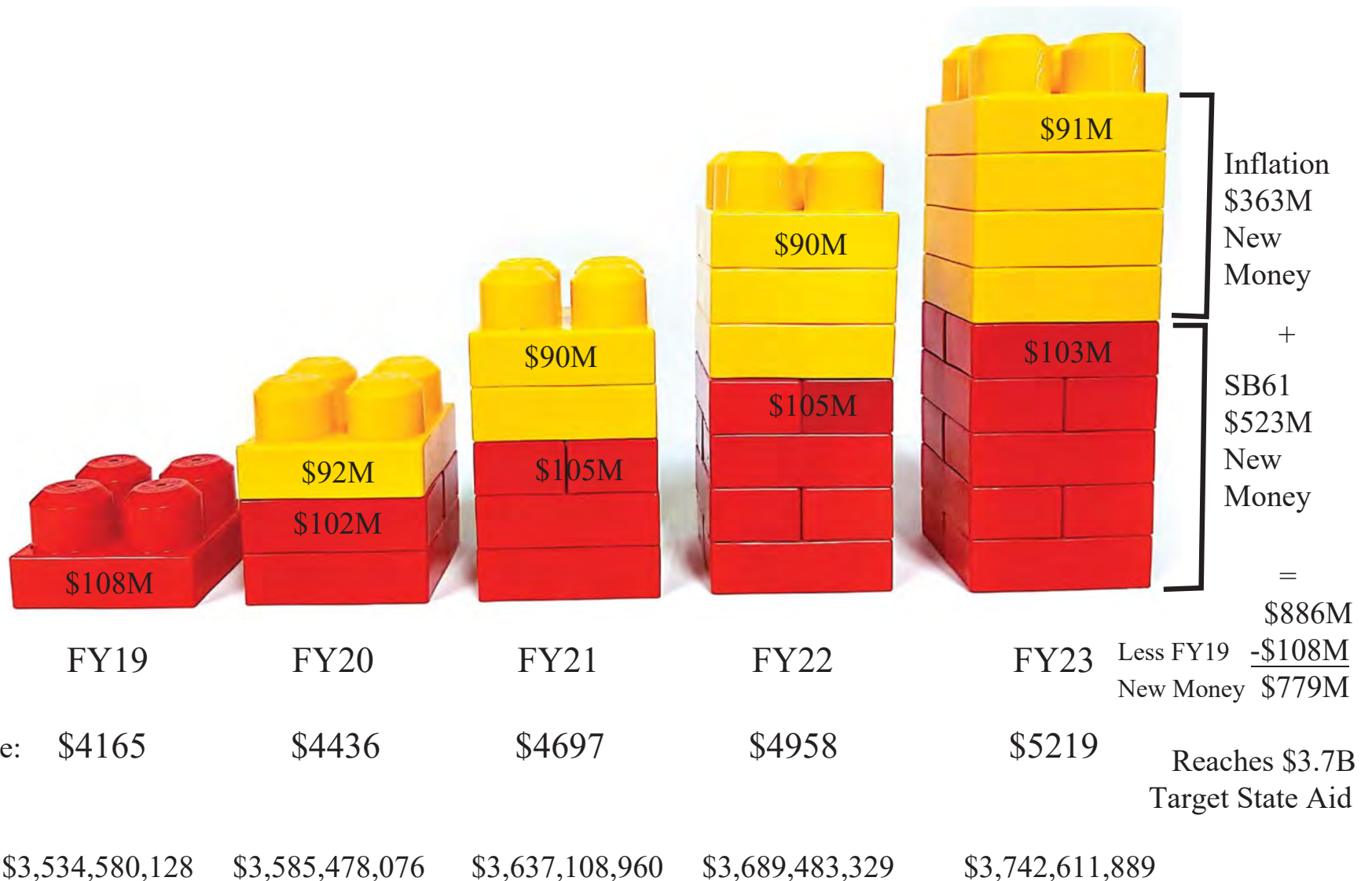


New Money in SB44/SB142

Only One Year of Inflation Added



New Money Required to Fund SB61 Plus Gannon VI Inflation



SB61 New money phased-in over 5 years



Gannon VI 6 years of inflation phased-in over 4 years

Current Projections

Governor's Recommendation School Finance Plan State Expenditures Perspective <i>(Dollars in Thousands)</i>											
	FY 2018 Actuals	FY 2019 Gov. Rec.	Prior Year Difference	FY 2020 Gov. Rec.	Prior Year Difference	FY 2021 Gov. Rec.	Prior Year Difference	FY 2022 Est.	Prior Year Difference	FY 2023 Est.	Prior Year Difference
BASE	\$ 4,006	\$ 4,165	\$ 159	\$ 4,436	\$ 271	\$ 4,569	\$ 133	\$ 4,706	\$ 137	\$ 4,846	\$ 140
State Foundation Aid (SFA)											
State General Fund	\$ 2,001,554	\$ 2,109,651	\$ 108,098	\$ 2,317,775	\$ 208,123	\$ 2,395,360	\$ 77,585	\$ 2,478,217	\$ 82,857	\$ 2,563,937	\$ 85,720
20-Mill Local Prop. Tax	641,068	678,357	37,289	711,953	33,596	738,735	26,782	764,347	25,612	788,968	24,621
School Dist. Fin. Fund	55,447	56,000	553	56,000	--	56,000	--	56,000	--	56,000	--
Mineral Production Fund	7,197	9,233	2,036	11,100	1,867	10,326	(774)	10,326	--	10,326	--
State Highway Fund	96,600	45,000	(51,600)	--	(45,000)	--	--	--	--	--	--
Total-SFA	\$ 2,801,866	\$ 2,898,241	\$ 96,376	\$ 3,096,828	\$ 198,586	\$ 3,200,421	\$ 103,593	\$ 3,308,890	\$ 108,469	\$ 3,419,231	\$ 110,341
Special Education											
State General Fund	\$ 435,982	\$ 490,381	\$ 54,399	\$ 497,881	\$ 7,500	\$ 505,381	\$ 7,500	\$ 512,881	\$ 7,500	\$ 520,381	\$ 7,500
State Highway Fund	10,000	--	(10,000)	--	--	--	--	--	--	--	--
Total-Special Education	\$ 445,982	\$ 490,381	\$ 44,399	\$ 497,881	\$ 7,500	\$ 505,381	\$ 7,500	\$ 512,881	\$ 7,500	\$ 520,381	\$ 7,500
Subtotal-USD General Funds	\$ 3,247,847	\$ 3,388,622	\$ 140,775	\$ 3,594,709	\$ 206,086	\$ 3,705,802	\$ 111,093	\$ 3,821,771	\$ 115,969	\$ 3,939,612	\$ 117,841
Supp. General State Aid (LOB)											
State General Fund	\$ 454,500	\$ 494,300	\$ 39,800	\$ 503,300	\$ 9,000	\$ 519,300	\$ 16,000	\$ 532,300	\$ 13,000	\$ 545,300	\$ 13,000
Total-Governor's Plan	\$ 3,702,347	\$ 3,882,922	\$ 180,575	\$ 4,098,009	\$ 215,086	\$ 4,225,102	\$ 127,093	\$ 4,354,071	\$ 128,969	\$ 4,484,912	\$ 130,841
% Chg. from Prior Yr.			4.9%		5.5%		3.1%		3.1%		3.0%

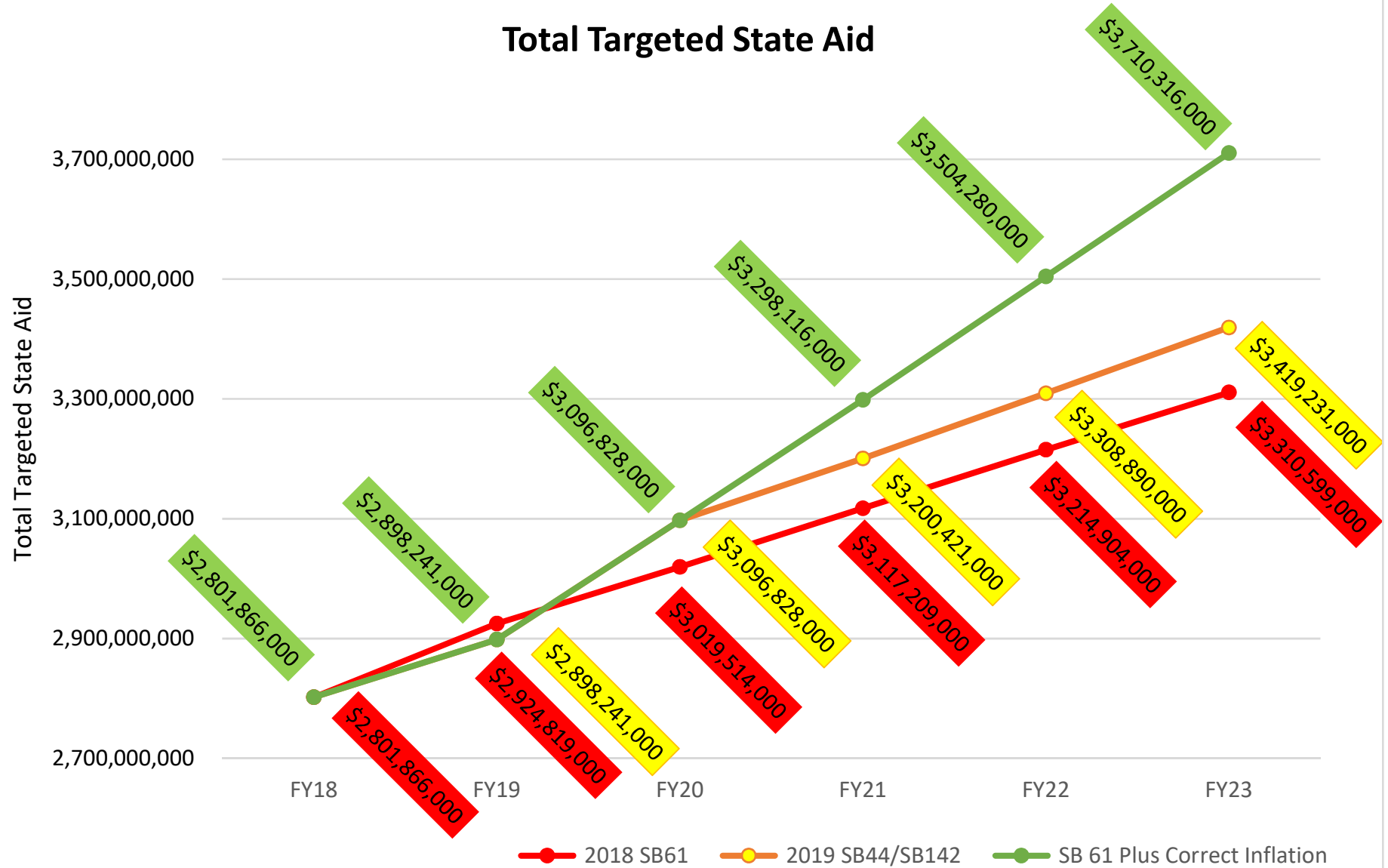
This is the total, purportedly, after SB61 PLUS inflation is phased-in. Note - It is not \$363M higher than the 2018 projections. It is only \$109M higher. If \$363M had been added over all 4 years, the end result would be \$363M higher than the 2018 projections. This is how we know the bases are incorrect.

2018 Projections

2018 Legislature Approved School Finance Plan State Expenditures Perspective As of May 2018 (Dollars in Thousands)											
	FY 2018 Actuals	FY 2019 Leg. App'd.	Prior Year Difference	FY 2020 Est.	Prior Year Difference	FY 2021 Est.	Prior Year Difference	FY 2022 Est.	Prior Year Difference	FY 2023 Est.	Prior Year Difference
BASE	\$ 4,006	\$ 4,165	\$ 159	\$ 4,302	\$ 137	\$ 4,439	\$ 137	\$ 4,576	\$ 137	\$ 4,713	\$ 137
State Foundation Aid (SFA)											
State General Fund	\$ 2,001,554	\$ 2,148,294	\$ 146,740	\$ 2,216,696	\$ 68,402	\$ 2,287,850	\$ 71,153	\$ 2,359,933	\$ 72,083	\$ 2,433,185	\$ 73,252
20-Mill Local Prop. Tax	641,068	669,656	28,588	695,949	26,293	722,490	26,541	748,102	25,612	770,545	22,443
School Dist. Fin. Fund	55,447	52,800	(2,647)	52,800	—	52,800	—	52,800	—	52,800	—
Mineral Production Fund	7,197	9,069	1,872	9,069	—	9,069	—	9,069	—	9,069	—
State Highway Fund	96,600	45,000	(51,600)	45,000	—	45,000	—	45,000	—	45,000	—
Total—SFA	\$ 2,801,866	\$ 2,924,819	\$ 122,953	\$ 3,019,514	\$ 94,695	\$ 3,117,209	\$ 97,694	\$ 3,214,904	\$ 97,695	\$ 3,310,599	\$ 95,695
Special Education											
State General Fund	\$ 435,982	\$ 490,381	\$ 54,399	\$ 497,881	\$ 7,500	\$ 505,381	\$ 7,500	\$ 512,881	\$ 7,500	\$ 520,381	\$ 7,500
State Highway Fund	10,000	—	(10,000)	—	—	—	—	—	—	—	—
Total—Special Education	\$ 445,982	\$ 490,381	\$ 44,399	\$ 497,881	\$ 7,500	\$ 505,381	\$ 7,500	\$ 512,881	\$ 7,500	\$ 520,381	\$ 7,500
Subtotal—USD General Funds	\$ 3,247,847	\$ 3,415,200	\$ 167,353	\$ 3,517,395	\$ 102,195	\$ 3,622,590	\$ 105,194	\$ 3,727,785	\$ 105,195	\$ 3,830,980	\$ 103,195
Supp. General State Aid (LOB)											
State General Fund	\$ 454,500	\$ 483,917	\$ 29,417	\$ 491,217	\$ 7,300	\$ 498,517	\$ 7,300	\$ 507,117	\$ 8,600	\$ 520,117	\$ 13,000
Mental Health Pilot Program	\$ —	\$ 7,500	\$ 7,500	\$ 7,500	\$ —	\$ 7,500	\$ —	\$ 7,500	\$ —	\$ 7,500	\$ —
ACT/WorkKeys	\$ —	\$ 2,800	\$ 2,800	\$ 2,800	\$ —	\$ 2,800	\$ —	\$ 2,800	\$ —	\$ 2,800	\$ —
Teacher Mentoring	\$ —	\$ 500	\$ 500	\$ 500	\$ —	\$ 500	\$ —	\$ 500	\$ —	\$ 500	\$ —
Total—School Finance Expenditures	\$ 3,702,347	\$ 3,909,917	\$ 207,570	\$ 4,019,412	\$ 109,495	\$ 4,131,907	\$ 112,494	\$ 4,245,702	\$ 113,795	\$ 4,361,897	\$ 116,195
% Chg. from Prior Yr.			5.6%		2.8%		2.8%		2.8%		2.7%

This is the total after SB61 is phased-in.

Total Targeted State Aid



Data from 2018 Legislature Approved School Finance Plan as of May 2018 and Governor's Recommendation School Finance Plan

Another view of the issue:

What if the \$363M for inflation was added to the final year rather than spreading it over 4 years?

$$\begin{array}{rcl} \begin{array}{c} \text{Amount} \\ \text{Needed for} \\ \text{Inflation} \\ \text{Increase} \end{array} & & \begin{array}{c} \text{Base} \\ \text{Increase} \\ \text{Needed for} \\ \text{Inflation} \\ \text{Only} \end{array} \\ \hline \$363,636,068 & / & \hline 700,154 & = & \$519 \end{array}$$

\$519 on the base is needed for inflation only.

FY23 base in current law		\$4,713
Inflation	+	\$519
Base needed by FY23 to include SB61 plus Inflation		\$5,232

Conclude: The final phased-in base in FY23 must approximate \$5,232 to fund both SB61 plus the Gannon VI required inflation. Getting there in a phased-in manner should not reduce the final required base to achieve the goal.

Date: February 13, 2019 at 1:15:20 PM CST

Listed below—see estimated BASE amounts.

2019-20	\$ 4,436
2020-21	\$ 4,697
2021-22	\$ 4,958
2022-23	\$ 5,219

Let us know if you have questions.

Dale



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Dale Dennis Testimony February 6, 2019
Senate Select Committee on Education Finance

Dale Dennis: I am supposed to review with you how the Board arrived at their numbers. One on general state aid and then our budget appeal. So we'll try to do that within the time frame.

On the first page of our memo, and John referred to this a little bit ago, from the memo that went to the Supreme Court from the State's Attorneys. You'll see that table that shows about a several, six to seven year history of the inflation costs, and that's what was very very important in arriving of what the court came down with.

You'll notice right under that table was a quote from the court. They took an average of those inflation factors and they averaged 1.44%. The Board's opinion when we did this, they thought that was kind of a vehicle that the court would accept the 1.44.

You may hear today somebody that the inflation will be higher than that. But we believe based on that language at the bottom of the page that the board thought that would be acceptable to the court. So on page two we apply that 1.44% out for the number of years that the law provided for. Five years, so there's four years left.

And you'll notice the target aid after the 1.44% in 2023 is \$3.742B. The 2.817B was in the memo that went to the court and the State's attorneys.

The \$146M is what we added last year in General Aid and also includes Special Ed. **We subtract that out and we are \$779M short and what the Board chose to do,** and there is more than one way you could do this and come up with higher numbers, they spread that \$779M on page three over a four year period and that's \$194M. You subtract out the money that you approved, the bill you approved last year which run about a little over \$100M to \$105M per year. Subtract that out and that leaves you in the range of \$89M to \$92M per year.

The Board then translated that into an amount per pupil and that amount per pupil is shown on page three. It increases the base amount per pupil about the \$90M to \$89M to \$92M **per** year. Same law that you adopted last year it just takes, tries to solve the adequacy problem. That's how the board went about that.

I also attached another sheet that came out of the Governor's budget that shows the four year history of that and which is based on the same base amount per pupil.

Before I go to the other piece dealing with the agency, is there any questions?

That's nine credit hours in three minutes. Is there any questions you got in there?

Molly Baumgardner: Senator Denning.

Jim Denning: Dale before I start talking about the finance piece, do you have any idea why Governor Kelly added the whole entire budget to what we're working on today rather than just let us sort out the latest demand for inflation? Do you have any idea why she bundled the whole darn education budget in one bill?

Dale Dennis: No you will have to ask somebody else other than me sir. I couldn't answer that.

Jim Denning: Gotcha. I mean, it's caused so much angst because there's half of the State's budget is sitting in this committee and we're really just interested in sorting out the final piece.

Dale Dennis: Somebody else might be able to but I couldn't tell you why it's in one bill verses more than one. Sorry.

Jim Denning: Gotcha. On just the finance piece, when the house bill, their budget, which we sent to the Supreme Court they use the Montoy Logic all the way through.

Now, the Board has deviated from that Montoy Logic and I'm specifically talking about the \$363M which is on your page three where it says additional required. So that's a total deviation from the Montoy Logic. So what we've used all this time is an accumulating logic and this is a fixed logic. So if we would use the Montoy Logic where the Supreme Court signed off on **we're shorting schools \$271M from FY20 to FY23**. So I looked ahead at the Schools for Fair Funding and it looks like they're agreed that we can deviate from the Supreme Court's demand, short the schools \$271M and call it a day. I just want to make sure that you're in agreement with that.

Dale Dennis: Sir, I don't know it's important that I agree but I would have to look at the numbers because if I recall Montoy started out at 4433 and then I assume you would apply then the consumer price index coming forward and I'm not sure exactly what that would be but I understand the logic.

Jim Denning: So I can show you offline. I stayed up late last night and spread it out for you. **But it's clearly shorting schools \$271M from FY20 to FY23** and I just want to make sure I guess if the attorneys sign off on it, it's a no brainer but I don't (A) want to get sued and (2) I don't want the Supreme Court coming back that we defied them.

Dale Dennis: I understand that.

Jim Denning: So if we could talk offline about that. Thank you.

Dale Dennis: I understand.