



**House K-12 Education Budget Committee**  
**HB 2395 Amending the Kansas school equity and enhancement act and other statutes and making appropriations for the Department of Education**

Testimony submitted by Schools For Fair Funding  
March 14, 2019

Chairman Williams, Members of the Committee:

**SFFF cannot support this bill.**

HB 2395 has numerous program and policy changes but does not add \$363 million in NEW funding over the next four years to cure the inflation issue identified by the Supreme Court in the *Gannon VI* decision.

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 five year 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, using the Legislative Research methodology presented to the court, that by the end of the 5 year plan, in 2023, the system should be constitutional if \$3,742,611,889 was being spent, and then calculated that an additional increase of \$363,636,068 of NEW money was needed by 2023 to fund this required inflation over the phase-in period.**

The State Board of Education then departed from past methodology in calculating its recommended bases. The bases recommended by the State BOE do NOT reach its own

calculation of the needed spending to reach the Montoy Safe Harbor. In essence the State BOE used a “new money” methodology to determine the “needed amount” to reach the Montoy Safe Harbor, but then switched to a “repeat money” method to argue that the need would be met.

SFFF agrees with the State BOE calculation of the \$363,636,068 new money that would be needed to reach the Montoy Safe Harbor. It disagrees that this need can be fulfilled by simply increasing funding for one year and then continuing that one year of new money for three additional years with repeat money.

HB 2395. This bill not only doesn't add the inflation increase needed, it removes the final two years of last year's 5-year plan by removing the bases that last year's SB61 set in statute. It also removes the SB61 included future CPI increases from law both in calculating the base and in calculating LOB.

Additionally, adding program specific funding for new programs does not meet the Supreme Court mandate that *inflation* be funded in the out years. Inflation recognizes increases in existing program costs over time. Adding new programs and new funding for those programs does not address inflationary pressures.

**In order to rely on the Montoy Safe Harbor as a way to end the *Gannon* litigation, if the intent of this bill is to reach constitutionality by 2021 rather than by 2023 as contemplated by SB 61, the net amount of funding required in 2021 as calculated by the State Board of Education is \$3,637,108,960. This bill does not get funding to that level.**

**In its current form, HB 2395 would not satisfy the *Gannon VI* decision.**

Thank you for allowing SFFF to explain our opposition to this bill.

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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**

<b>Year</b>	<b>Prior Year Amount</b>	<b>Inflation Percent</b>	<b>Inflation Adjustment Amount</b>	<b>Net Amount</b>
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	<b>\$3,637,108,960</b>
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 21  
TO MEET THE MONTDY SAFE HARBOR.

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	

HB 2395  
 ± 4371  
 ± 4512  
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 NO CPI

THESE BASES DO NOT GET TO THE  
 REQUIRED \$3.6B TO MEET THE  
 MONTROY SAFE HARBOR.