SENATE BILL NO. 645

November 12, 2019, Introduced by Senator BUMSTEAD and referred to the Committee on Appropriations.

A bill to amend 1979 PA 94, entitled "The state school aid act of 1979," by amending sections 11, 20, and 22b (MCL 388.1611, 388.1620, and 388.1622b), as amended by 2019 PA 58.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

Sec. 11. (1) For the fiscal year ending September 30, 2019,
 there is appropriated for the public schools of this state and
 certain other state purposes relating to education the sum of
 \$12,845,140,200.00 from the state school aid fund, the sum of

\$87,920,000.00 from the general fund, an amount not to exceed 1 \$72,200,000.00 from the community district education trust fund 2 created under section 12 of the Michigan trust fund act, 2000 PA 3 489, MCL 12.262, an amount not to exceed \$30,000,000.00 from the 4 5 MPSERS retirement obligation reform reserve fund, an amount not to 6 exceed \$30,000,000.00 from the school mental health and support 7 services fund created under section 31m, and an amount not to 8 exceed \$100.00 from the water emergency reserve fund. For the 9 fiscal year ending September 30, 2020, there is appropriated for 10 the public schools of this state and certain other state purposes 11 relating to education the sum of \$13,293,465,000.00 12 \$13,217,775,000.00 from the state school aid fund, the sum of \$75,000,000.00 \$62,270,000.00 from the general fund, an amount not 13 14 to exceed \$75,400,000.00 from the community district education 15 trust fund created under section 12 of the Michigan trust fund act, 16 2000 PA 489, MCL 12.262, an amount not to exceed \$1,900,000.00 from the MPSERS retirement obligation reform reserve fund, an amount not 17 to exceed \$40,000,000.00 from the talent investment fund created 18 19 under section 8a of the higher education loan authority act, 1975 20 PA 222, MCL 390.1158a, and an amount not to exceed \$100.00 from the water emergency reserve fund. In addition, all available federal 21 funds are appropriated each fiscal year for the fiscal years year 22 23 ending September 30, 2019 and September 30, 2020.

(2) The appropriations under this section are allocated as
provided in this article. Money appropriated under this section
from the general fund must be expended to fund the purposes of this
article before the expenditure of money appropriated under this
section from the state school aid fund.

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(3) Any general fund allocations under this article that are

not expended by the end of the fiscal year are transferred to the
 school aid stabilization fund created under section 11a.

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Sec. 20. (1) For 2019-2020, both of the following apply:

4 (a) The target foundation allowance, formerly known as the5 basic foundation allowance, is \$8,529.00.

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(b) The minimum foundation allowance is \$8,111.00.

7 (2) The department shall calculate the amount of each
8 district's foundation allowance as provided in this section, using
9 a target foundation allowance in the amount specified in subsection
10 (1). For the purpose of these calculations, a reference to the
11 target foundation allowance for a preceding fiscal year is
12 equivalent to a reference to the "basic" foundation allowance for
13 that fiscal year.

14 (3) Except as otherwise provided in this section, the 15 department shall calculate the amount of a district's foundation 16 allowance as follows, using in all calculations the total amount of 17 the district's foundation allowance as calculated before any 18 proration:

(a) Except as otherwise provided in this subdivision, for a 19 20 district that had a foundation allowance for the immediately 21 preceding fiscal year that was at least equal to the minimum 22 foundation allowance for the immediately preceding fiscal year, but 23 less than the target foundation allowance for the immediately preceding fiscal year, the district receives a foundation allowance 24 25 in an amount equal to the sum of the district's foundation allowance for the immediately preceding fiscal year plus the 26 27 difference between twice the dollar amount of the adjustment from 28 the immediately preceding fiscal year to the current fiscal year 29 made in the target foundation allowance and [(the difference

between the target foundation allowance for the current fiscal year 1 and target foundation allowance for the immediately preceding 2 fiscal year minus \$40.00) times (the difference between the 3 district's foundation allowance for the immediately preceding 4 5 fiscal year and the minimum foundation allowance for the 6 immediately preceding fiscal year) divided by the difference 7 between the target foundation allowance for the current fiscal year 8 and the minimum foundation allowance for the immediately preceding 9 fiscal year.] However, the foundation allowance for a district that 10 had less than the target foundation allowance for the immediately 11 preceding fiscal year must not exceed the target foundation allowance for the current fiscal year. 12

(b) Except as otherwise provided in this subsection, for a district that in the immediately preceding fiscal year had a foundation allowance in an amount equal to the amount of the target foundation allowance for the immediately preceding fiscal year, the district receives a foundation allowance for 2019-2020 in an amount equal to the target foundation allowance for 2019-2020.

(c) For a district that had a foundation allowance for the 19 20 immediately preceding fiscal year that was greater than the target 21 foundation allowance for the immediately preceding fiscal year, the district's foundation allowance is an amount equal to the sum of 22 23 the district's foundation allowance for the immediately preceding 24 fiscal year plus the lesser of the increase in the target 25 foundation allowance for the current fiscal year, as compared to 26 the immediately preceding fiscal year, or the product of the district's foundation allowance for the immediately preceding 27 28 fiscal year times the percentage increase in the United States 29 Consumer Price Index in the calendar year ending in the immediately

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preceding fiscal year as reported by the May revenue estimating
 conference conducted under section 367b of the management and
 budget act, 1984 PA 431, MCL 18.1367b.

4 (d) For a district that has a foundation allowance that is not
5 a whole dollar amount, the department shall round the district's
6 foundation allowance up to the nearest whole dollar.

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7 (4) Except as otherwise provided in this subsection, beginning 8 in 2014-2015, the state portion of a district's foundation allowance is an amount equal to the district's foundation allowance 9 10 or the target foundation allowance for the current fiscal year, 11 whichever is less, minus the local portion of the district's foundation allowance. For a district described in subsection 12 (3) (c), beginning in 2014-2015, the state portion of the district's 13 14 foundation allowance is an amount equal to \$6,962.00 plus the 15 difference between the district's foundation allowance for the current fiscal year and the district's foundation allowance for 16 17 1998-99, minus the local portion of the district's foundation 18 allowance. For a district that has a millage reduction required under section 31 of article IX of the state constitution of 1963, 19 20 the department shall calculate the state portion of the district's foundation allowance as if that reduction did not occur. For a 21 22 receiving district, if school operating taxes continue to be levied 23 on behalf of a dissolved district that has been attached in whole 24 or in part to the receiving district to satisfy debt obligations of 25 the dissolved district under section 12 of the revised school code, MCL 380.12, the taxable value per membership pupil of property in 26 27 the receiving district used for the purposes of this subsection 28 does not include the taxable value of property within the 29 geographic area of the dissolved district. For a community

district, if school operating taxes continue to be levied by a qualifying school district under section 12b of the revised school code, MCL 380.12b, with the same geographic area as the community district, the taxable value per membership pupil of property in the community district to be used for the purposes of this subsection does not include the taxable value of property within the geographic area of the community district.

8 (5) The allocation calculated under this section for a pupil 9 is based on the foundation allowance of the pupil's district of 10 residence. For a pupil enrolled pursuant to section 105 or 105c in 11 a district other than the pupil's district of residence, the allocation calculated under this section is based on the lesser of 12 the foundation allowance of the pupil's district of residence or 13 14 the foundation allowance of the educating district. For a pupil in 15 membership in a K-5, K-6, or K-8 district who is enrolled in another district in a grade not offered by the pupil's district of 16 residence, the allocation calculated under this section is based on 17 18 the foundation allowance of the educating district if the educating 19 district's foundation allowance is greater than the foundation 20 allowance of the pupil's district of residence.

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(6) All of the following apply:

22 (a) Except as otherwise provided in this subsection, for 23 pupils in membership, other than special education pupils, in a public school academy, the allocation calculated under this section 24 25 is an amount per membership pupil other than special education 26 pupils in the public school academy equal to the foundation 27 allowance of the district in which the public school academy is located or the state maximum public school academy allocation, 28 29 whichever is less.

(b) Except as otherwise provided in this subsection, for 1 2 pupils in membership, other than special education pupils, in a 3 public school academy that is a cyber school and is authorized by a school district, the allocation calculated under this section is an 4 amount per membership pupil other than special education pupils in 5 6 the public school academy equal to the foundation allowance of the 7 district that authorized the public school academy or the state 8 maximum public school academy allocation, whichever is less. 9 However, for

10 (c) Except as otherwise provided in this subsection, for 11 pupils in membership, other than special education pupils, in a 12 public school academy that meets all of the following, the 13 allocation calculated under this section is \$8,111.00 per 14 membership pupil other than special education pupils in the public 15 school academy:

16 (i) The total combined membership of the constituent districts 17 of the intermediate district in which the public school academy is 18 located is at least 26,000 but not more than 27,000. As used in 19 this subparagraph, "constituent district" means a district of an 20 intermediate district or a public school academy located within an 21 intermediate district.

22 (*ii*) The public school academy is located in prosperity region23 4.

24 (*iii*) The total pupil membership of the public school academy is
25 at least 550 but not more than 700.

(d) For a public school academy that had an allocation under
this subsection before 2009-2010 that was equal to the sum of the
local school operating revenue per membership pupil other than
special education pupils for the district in which the public

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school academy is located and the state portion of that district's
 foundation allowance, that allocation is not reduced as a result of
 the 2010 amendment to this subsection.

4 (e) Notwithstanding section 101, for a public school academy 5 that begins operations after the pupil membership count day, the 6 amount per membership pupil calculated under this subsection must 7 be adjusted by multiplying that amount per membership pupil by the 8 number of hours of pupil instruction provided by the public school 9 academy after it begins operations, as determined by the 10 department, divided by the minimum number of hours of pupil 11 instruction required under section 101(3). The result of this calculation must not exceed the amount per membership pupil 12 otherwise calculated under this subsection. 13

14 (7) Except as otherwise provided in this subsection, for 15 pupils in membership, other than special education pupils, in a 16 community district, the allocation calculated under this section is 17 an amount per membership pupil other than special education pupils 18 in the community district equal to the foundation allowance of the qualifying school district, as described in section 12b of the 19 20 revised school code, MCL 380.12b, that is located within the same 21 geographic area as the community district.

22 (8) Subject to subsection (4), for a district that is formed 23 or reconfigured after June 1, 2002 by consolidation of 2 or more districts or by annexation, the resulting district's foundation 24 25 allowance under this section beginning after the effective date of the consolidation or annexation is the lesser of the sum of the 26 27 average of the foundation allowances of each of the original or 28 affected districts, calculated as provided in this section, 29 weighted as to the percentage of pupils in total membership in the

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resulting district who reside in the geographic area of each of the
 original or affected districts plus \$100.00 or the highest
 foundation allowance among the original or affected districts. This
 subsection does not apply to a receiving district unless there is a
 subsequent consolidation or annexation that affects the district.

6 (9) The department shall round each fraction used in making
7 calculations under this section to the fourth decimal place and
8 shall round the dollar amount of an increase in the target
9 foundation allowance to the nearest whole dollar.

10 (10) State payments related to payment of the foundation
11 allowance for a special education pupil are not calculated under
12 this section but are instead calculated under section 51a.

13 (11) To assist the legislature in determining the target 14 foundation allowance for the subsequent fiscal year, each revenue 15 estimating conference conducted under section 367b of the 16 management and budget act, 1984 PA 431, MCL 18.1367b, must 17 calculate a pupil membership factor, a revenue adjustment factor, 18 and an index as follows:

19 (a) The pupil membership factor is computed by dividing the 20 estimated membership in the school year ending in the current 21 fiscal year, excluding intermediate district membership, by the 22 estimated membership for the school year ending in the subsequent 23 fiscal year, excluding intermediate district membership. If a 24 consensus membership factor is not determined at the revenue 25 estimating conference, the principals of the revenue estimating conference shall report their estimates to the house and senate 26 27 subcommittees responsible for school aid appropriations not later than 7 days after the conclusion of the revenue conference. 28 29 (b) The revenue adjustment factor is computed by dividing the

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sum of the estimated total state school aid fund revenue for the 1 subsequent fiscal year plus the estimated total state school aid 2 3 fund revenue for the current fiscal year, adjusted for any change in the rate or base of a tax the proceeds of which are deposited in 4 that fund and excluding money transferred into that fund from the 5 6 countercyclical budget and economic stabilization fund under the 7 management and budget act, 1984 PA 431, MCL 18.1101 to 18.1594, by 8 the sum of the estimated total school aid fund revenue for the 9 current fiscal year plus the estimated total state school aid fund 10 revenue for the immediately preceding fiscal year, adjusted for any 11 change in the rate or base of a tax the proceeds of which are deposited in that fund. If a consensus revenue factor is not 12 determined at the revenue estimating conference, the principals of 13 14 the revenue estimating conference shall report their estimates to 15 the house and senate subcommittees responsible for school aid appropriations not later than 7 days after the conclusion of the 16 17 revenue conference.

(c) The index is calculated by multiplying the pupil membership factor by the revenue adjustment factor. If a consensus index is not determined at the revenue estimating conference, the principals of the revenue estimating conference shall report their estimates to the house and senate subcommittees responsible for school aid appropriations not later than 7 days after the conclusion of the revenue conference.

(12) Payments to districts and public school academies are not
made under this section. Rather, the calculations under this
section are used to determine the amount of state payments under
section 22b.

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(13) If an amendment to section 2 of article VIII of the state

constitution of 1963 allowing state aid to some or all nonpublic
 schools is approved by the voters of this state, each foundation
 allowance or per-pupil payment calculation under this section may
 be reduced.

5 (14) For the purposes of section 1211 of the revised school
6 code, MCL 380.1211, the basic foundation allowance under this
7 section is considered to be the target foundation allowance under
8 this section.

9 (15) As used in this section:

10 (a) "Certified mills" means the lesser of 18 mills or the 11 number of mills of school operating taxes levied by the district in 12 1993-94.

(b) "Combined state and local revenue" means the aggregate of the district's state school aid received by or paid on behalf of the district under this section and the district's local school operating revenue.

17 (c) "Combined state and local revenue per membership pupil"
18 means the district's combined state and local revenue divided by
19 the district's membership excluding special education pupils.

20 (d) "Current fiscal year" means the fiscal year for which a21 particular calculation is made.

(e) "Dissolved district" means a district that loses its
organization, has its territory attached to 1 or more other
districts, and is dissolved as provided under section 12 of the
revised school code, MCL 380.12.

26 (f) "Immediately preceding fiscal year" means the fiscal year27 immediately preceding the current fiscal year.

28 (g) "Local portion of the district's foundation allowance"29 means an amount that is equal to the difference between (the sum of

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the product of the taxable value per membership pupil of all 1 property in the district that is nonexempt property times the 2 district's certified mills and, for a district with certified mills 3 exceeding 12, the product of the taxable value per membership pupil 4 5 of property in the district that is commercial personal property 6 times the certified mills minus 12 mills) and (the quotient of the 7 product of the captured assessed valuation under tax increment 8 financing acts times the district's certified mills divided by the 9 district's membership excluding special education pupils).

10 (h) "Local school operating revenue" means school operating 11 taxes levied under section 1211 of the revised school code, MCL 380.1211. For a receiving district, if school operating taxes are 12 to be levied on behalf of a dissolved district that has been 13 14 attached in whole or in part to the receiving district to satisfy 15 debt obligations of the dissolved district under section 12 of the revised school code, MCL 380.12, local school operating revenue 16 17 does not include school operating taxes levied within the geographic area of the dissolved district. 18

(i) "Local school operating revenue per membership pupil"
means a district's local school operating revenue divided by the
district's membership excluding special education pupils.

(j) "Maximum public school academy allocation" , except as otherwise provided in this subdivision, means the maximum per-pupil allocation among all public school academies for the immediately preceding fiscal year.

26 (k) "Membership" means the definition of that term under
27 section 6 as in effect for the particular fiscal year for which a
28 particular calculation is made.

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(1) "Nonexempt property" means property that is not a principal

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residence, qualified agricultural property, qualified forest
 property, supportive housing property, industrial personal
 property, commercial personal property, or property occupied by a
 public school academy.

(m) "Principal residence", "qualified agricultural property",
"qualified forest property", "supportive housing property",
"industrial personal property", and "commercial personal property"
mean those terms as defined in section 1211 of the revised school
code, MCL 380.1211.

10 (n) "Receiving district" means a district to which all or part
11 of the territory of a dissolved district is attached under section
12 of the revised school code, MCL 380.12.

(o) "School operating purposes" means the purposes included in the operation costs of the district as prescribed in sections 7 and 18 and purposes authorized under section 1211 of the revised school code, MCL 380.1211.

17 (p) "School operating taxes" means local ad valorem property
18 taxes levied under section 1211 of the revised school code, MCL
19 380.1211, and retained for school operating purposes.

20 (q) "Target foundation allowance for the immediately preceding
21 fiscal year" means, for 2019-2020 only, the basic foundation
22 allowance in effect for the 2018-2019 fiscal year.

(r) "Tax increment financing acts" means 1975 PA 197, MCL
125.1651 to 125.1681, the tax increment finance authority act, 1980
PA 450, MCL 125.1801 to 125.1830, the local development financing
act, 1986 PA 281, MCL 125.2151 to 125.2174, parts 2, 3, 4, and 6 of
the recodified tax increment financing act, 2018 PA 57, MCL
125.4201 to 125.4420 and 125.4602 to 125.4629, or the brownfield
redevelopment financing act, 1996 PA 381, MCL 125.2651 to 125.2670.

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1 , or the corridor improvement authority act, 2005 PA 280, MCL 2 125.2871 to 125.2899.

3 (s) "Taxable value per membership pupil" means taxable value,
4 as certified by the county treasurer and reported to the
5 department, for the calendar year ending in the current state
6 fiscal year divided by the district's membership excluding special
7 education pupils for the school year ending in the current state
8 fiscal year.

9 Sec. 22b. (1) For discretionary nonmandated payments to 10 districts under this section, there is allocated for 2018-2019 an 11 amount not to exceed \$4,217,800,000.00 from the state school aid 12 fund and general fund appropriations in section 11 and an amount not to exceed \$72,200,000.00 from the community district education 13 14 trust fund appropriation in section 11, and there is allocated for 15 2019-2020 an amount not to exceed \$4,480,600,000.00 16 \$4,445,760,000.000 from the state school aid fund and general fund appropriations in section 11 and an amount not to exceed 17

18 \$75,400,000.00 from the community district education trust fund 19 appropriation in section 11.

20 (2) Subject to subsection (3) and section 296, the allocation to a district under this section is an amount equal to the sum of 21 the amounts calculated under sections 20 - and 51a(2), 51a(3), and 22 23 51a(11), (3), and (11) minus the sum of the allocations to the 24 district under sections 22a and 51c. For a community district, the 25 allocation as otherwise calculated under this section is increased by an amount equal to the amount of local school operating tax 26 27 revenue that would otherwise be due to the community district if not for the operation of section 386 of the revised school code, 28 29 MCL 380.386, and this increase must be paid from the community

1 district education trust fund allocation in subsection (1) in order 2 to offset the absence of local school operating revenue in a 3 community district in the funding of the state portion of the 4 foundation allowance under section 20(4).

5 (3) In order to receive an allocation under subsection (1),
6 each district shall must do all of the following:

7 (a) Comply with section 1280b of the revised school code, MCL8 380.1280b.

9 (b) Comply with sections 1278a and 1278b of the revised school10 code, MCL 380.1278a and 380.1278b.

11 (c) Furnish data and other information required by state and 12 federal law to the center and the department in the form and manner 13 specified by the center or the department, as applicable.

14 (d) Comply with section 1230g of the revised school code, MCL15 380.1230g.

16 (e) Comply with section 21f.

17 (f) For a district or public school academy that has entered18 into a partnership agreement with the department, comply with19 section 22p.

20 (g) For a district or public school academy that offers21 kindergarten, comply with section 104(4).

(4) Districts are encouraged to use funds allocated under this section for the purchase and support of payroll, human resources, and other business function software that is compatible with that of the intermediate district in which the district is located and with other districts located within that intermediate district.

27 (5) From the allocation in subsection (1), the department
28 shall pay up to \$1,000,000.00 in litigation costs incurred by this
29 state related to commercial or industrial property tax appeals,

including, but not limited to, appeals of classification, that
 impact revenues dedicated to the state school aid fund.

(6) From the allocation in subsection (1), the department 3 shall pay up to \$1,000,000.00 in litigation costs incurred by this 4 state associated with lawsuits filed by 1 or more districts or 5 6 intermediate districts against this state. If the allocation under 7 this section is insufficient to fully fund all payments required 8 under this section, the payments under this subsection must be made 9 in full before any proration of remaining payments under this 10 section.

11 (7) It is the intent of the legislature that all constitutional obligations of this state have been fully funded 12 under sections 22a, 31d, 51a, 51c, and 152a. If a claim is made by 13 14 an entity receiving funds under this article that challenges the 15 legislative determination of the adequacy of this funding or 16 alleges that there exists an unfunded constitutional requirement, 17 the state budget director may escrow or allocate from the 18 discretionary funds for nonmandated payments under this section the 19 amount as may be necessary to satisfy the claim before making any 20 payments to districts under subsection (2). If funds are escrowed, 21 the escrowed funds are a work project appropriation and the funds are carried forward into the following fiscal year. The purpose of 22 23 the work project is to provide for any payments that may be awarded 24 to districts as a result of litigation. The work project is 25 completed upon resolution of the litigation.

(8) If the local claims review board or a court of competent
jurisdiction makes a final determination that this state is in
violation of section 29 of article IX of the state constitution of
1963 regarding state payments to districts, the state budget

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1 director shall use work project funds under subsection (7) or
2 allocate from the discretionary funds for nonmandated payments
3 under this section the amount as may be necessary to satisfy the
4 amount owed to districts before making any payments to districts
5 under subsection (2).

6 (9) If a claim is made in court that challenges the 7 legislative determination of the adequacy of funding for this 8 state's constitutional obligations or alleges that there exists an 9 unfunded constitutional requirement, any interested party may seek 10 an expedited review of the claim by the local claims review board. 11 If the claim exceeds \$10,000,000.00, this state may remove the action to the court of appeals, and the court of appeals has and 12 shall exercise jurisdiction over the claim. 13

(10) If payments resulting from a final determination by the local claims review board or a court of competent jurisdiction that there has been a violation of section 29 of article IX of the state constitution of 1963 exceed the amount allocated for discretionary nonmandated payments under this section, the legislature shall provide for adequate funding for this state's constitutional obligations at its next legislative session.

21 (11) If a lawsuit challenging payments made to districts related to costs reimbursed by federal title XIX Medicaid funds is 22 23 filed against this state, then, for the purpose of addressing potential liability under such a lawsuit, the state budget director 24 25 may place funds allocated under this section in escrow or allocate money from the funds otherwise allocated under this section, up to 26 27 a maximum of 50% of the amount allocated in subsection (1). If funds are placed in escrow under this subsection, those funds are a 28 29 work project appropriation and the funds are carried forward into

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the following fiscal year. The purpose of the work project is to 1 provide for any payments that may be awarded to districts as a 2 result of the litigation. The work project is completed upon 3 resolution of the litigation. In addition, this state reserves the 4 right to terminate future federal title XIX Medicaid reimbursement 5 6 payments to districts if the amount or allocation of reimbursed 7 funds is challenged in the lawsuit. As used in this subsection, 8 "title XIX" means title XIX of the social security act, 42 USC 1396 9 to 1396w-5.

10 Enacting section 1. In accordance with section 30 of article 11 IX of the state constitution of 1963, total state spending on 12 school aid under article I of the state school aid act of 1979, 13 1979 PA 94, MCL 388.1601 to 388.1772, as amended by 2019 PA 58 and 14 this amendatory act, from state sources for fiscal year 2019-2020 15 is estimated at \$13,357,345,100.00 and state appropriations for 16 school aid to be paid to local units of government for fiscal year 17 2019-2020 are estimated at \$13,151,625,300.00.