

# *JOURNAL OF THE SENATE*

## *NINETY-FIFTH SESSION*

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TWENTY-THIRD DAY

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STATE OF SOUTH DAKOTA  
Senate Chamber, Pierre  
Thursday, February 20, 2020

The Senate convened at 2:00 p.m., pursuant to adjournment, the President presiding.

The prayer was offered by the Chaplain, Pastor Emily Munger, followed by the Pledge of Allegiance led by Senate page Avery Wolff.

Roll Call: All members present.

### **APPROVAL OF THE JOURNAL**

MR. PRESIDENT:

The Committee on Legislative Procedure respectfully reports that the Secretary of the Senate has had under consideration the Senate Journal of the twenty-second day.

All errors, typographical or otherwise, are duly marked in the temporary journal for correction.

And we hereby move the adoption of the report.

Which motion prevailed.

Respectfully submitted,  
Brock L. Greenfield, Chair

1

**COMMUNICATIONS AND PETITIONS**

2

February 19, 2020

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Mr. President and Members of the Senate:

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I have the honor to inform you that on February 19, 2020, I approved Senate Bills 10, 11, 12, 13, 23, and 30, and the same have been deposited in the office of the Secretary of State.

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Respectfully submitted,  
Kristi Noem  
Governor

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**REPORTS OF STANDING COMMITTEES**

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MR. PRESIDENT:

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The Joint Committee on Appropriations respectfully reports that it has had under consideration **HB 1035** and returns the same with the recommendation that said bill do pass.

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Also MR. PRESIDENT:

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The Joint Committee on Appropriations respectfully reports that it has had under consideration **HB 1093 and 1272** which were tabled.

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Also MR. PRESIDENT:

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The Joint Committee on Appropriations respectfully reports that it has had under consideration **HB 1100** and returns the same with the recommendation that said bill be amended as follows:

18

19

1100A

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On page 1, line 4, of the Introduced bill, delete "million dollars " and insert "dollar "

21

On page 1, line 5, of the Introduced bill, delete "(\$1,000,000)" and insert "(\$1)"

22

And that as so amended, said bill do pass.

23

Respectfully submitted,  
John Wiik, Co-Chair

24

Respectfully submitted,  
Chris G. Karr, Co-Chair

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MR. PRESIDENT:

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The Committee on Senate Commerce and Energy respectfully reports that it has had under consideration **SB 165** which was deferred to the 41st Legislative Day.

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Also MR. PRESIDENT:

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The Committee on Senate Commerce and Energy respectfully reports that it has had under consideration the nomination of Tom Graham of Minnehaha County, Sioux Falls, South Dakota, to the South Dakota Building Authority and returns the same with the recommendation that the Senate advise and consent to the confirmation of said appointment, and that said appointment having been certified as uncontested, be placed on the consent calendar.

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1 Also MR. PRESIDENT:

2 The Committee on Senate Commerce and Energy respectfully reports that it has had under  
3 consideration **HB 1041 and 1063** and returns the same with the recommendation that said bills  
4 do pass.

5 Also MR. PRESIDENT:

6 The Committee on Senate Commerce and Energy respectfully reports that it has had under  
7 consideration **HB 1129** and returns the same with the recommendation that said bill do pass, and  
8 having been certified as uncontested, be placed on the consent calendar.

9  
10 Respectfully submitted,  
Jim Stalzer, Chair

11 MR. PRESIDENT:

12 The Committee on Senate Agriculture and Natural Resources respectfully reports that it has  
13 had under consideration **SB 163** which was tabled.

14 Also MR. PRESIDENT:

15 The Committee on Senate Agriculture and Natural Resources respectfully reports that it has  
16 had under consideration **HB 1025, 1026, and 1080** and returns the same with the  
17 recommendation that said bills do pass, and having been certified as uncontested, be placed on the  
18 consent calendar.

19  
20 Respectfully submitted,  
Gary L. Cammack, Chair

21 MR. PRESIDENT:

22 The Committee on Senate Education respectfully reports that it has had under consideration  
23 **SB 66** and returns the same with the recommendation that said bill be amended as follows:

24 66A

25 On page 1, line 1, of the Introduced bill, delete "charter " and insert "community-based "

26 On page 1, line 4, delete "Charter " and insert "Oceti Sakowin community-based "

27 On page 1, line 5, after "school" insert "s"

28 On page 1, line 6, delete "charter " and insert " community-based "

29 On page 1, line 11, delete "charter " and insert "Oceti Sakowin community-based "

30 On page 1, line 12, delete "charter " and insert "Oceti Sakowin community-based "

31 On page 1, line 13, delete "charter " and insert "Oceti Sakowin community-based "

32 On page 1, line 18, delete "charter " and insert "Oceti Sakowin community-based "

33 On page 1, line 21, delete "charter " and insert "community-based "

34 On page 2, line 1, delete "charter " and insert "Oceti Sakowin community-based "

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- 1 On page 2, line 3, delete "charter " and insert "Oceti Sakowin community-based "
  - 2 On page 2, line 5, delete "charter " and insert "Oceti Sakowin community-based "
  - 3 On page 2, line 12, delete "charter " and insert "community-based "
  - 4 On page 2, line 13, delete "charter " and insert "Oceti Sakowin community-based "
  - 5 On page 2, line 15, delete "a charter " and insert "an Oceti Sakowin community-based "
  - 6 On page 2, line 22, delete "charter " and insert "community-based "
  - 7 On page 2, line 27, delete "charter " and insert "Oceti Sakowin community-based "
  - 8 On page 2, line 29, delete "charter " and insert "Oceti Sakowin community-based "
  - 9 On page 3, line 2, delete "charter " and insert "community-based "
  - 10 On page 3, line 3, delete "charter " and insert " Oceti Sakowin community-based "
  - 11 On page 3, line 5, delete "charter " and insert "Oceti Sakowin community-based "
  - 12 On page 3, line 8, delete "charter " and insert "Oceti Sakowin community-based "
  - 13 On page 3, line 9, delete "charter " and insert "Oceti Sakowin community-based "
  - 14 On page 3, line 11, delete "charter " and insert "Oceti Sakowin community-based "
  - 15 On page 3, line 13, delete "charter " and insert "Oceti Sakowin community-based "
  - 16 On page 3, line 15, delete "charter " and insert "Oceti Sakowin community-based "
  - 17 On page 3, line 17, delete "charter " and insert "Oceti Sakowin community-based "
  - 18 On page 3, line 19, delete "charter " and insert "Oceti Sakowin community-based "
  - 19 On page 3, line 21, delete "charter " and insert "Oceti Sakowin community-based "
  - 20 On page 3, line 23, delete "charter " and insert "Oceti Sakowin community-based "
  - 21 On page 3, line 28, delete "charter " and insert "Oceti Sakowin community-based "
  - 22 On page 3, line 30, delete "charter " and insert "Oceti Sakowin community-based "
  - 23 On page 3, line 33, delete "charter " and insert "Oceti Sakowin community-based "
  - 24 On page 4, line 3, delete "charter " and insert "community-based "
  - 25 On page 4, line 5, delete "charter " and insert "Oceti Sakowin community-based "
  - 26 On page 4, line 10, delete "charter " and insert "community-based "
  - 27 On page 4, line 15, delete "charter " and insert "community-based "
  - 28 On page 4, line 15, delete "charter " and insert "Oceti Sakowin community-based "
  - 29 On page 4, line 18, delete "charter " and insert "Oceti Sakowin community-based "
  - 30 On page 4, line 21, delete "charter " and insert "community-based "

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- 1 On page 4, line 23, delete "charter " and insert "Oceti Sakowin community-based "
  - 2 On page 4, line 24, delete "charter " and insert "Oceti Sakowin community-based "
  - 3 On page 4, line 30, delete "charter " and insert "community-based "
  - 4 On page 5, line 2, delete "charter " and insert "Oceti Sakowin community-based "
  - 5 On page 5, line 4, delete "charter " and insert "Oceti Sakowin community-based "
  - 6 On page 5, line 7, delete "charter " and insert "Oceti Sakowin community-based "
  - 7 On page 5, line 18, delete "charter " and insert "community-based "
  - 8 On page 5, line 20, delete "charter " and insert "Oceti Sakowin community-based "
  - 9 On page 5, line 25, delete "charter " and insert "community-based "
  - 10 On page 5, line 30, delete "charter " and insert "Oceti Sakowin community-based "
  - 11 On page 6, line 5, delete "charter " and insert "community-based "
  - 12 On page 6, line 6, delete "charter " and insert "Oceti Sakowin community-based "
  - 13 On page 6, line 9, delete "charter " and insert "Oceti Sakowin community-based "
  - 14 On page 6, line 17, delete "charter " and insert "Oceti Sakowin community-based "
  - 15 On page 6, line 20, delete "charter " and insert "community-based "
  - 16 On page 6, line 27, delete "charter " and insert "community-based "
  - 17 On page 7, line 1, delete "Charter " and insert "Oceti Sakowin community-based "
  - 18 On page 7, line 2, delete "charter " and insert "community-based "
  - 19 On page 7, line 5, delete "Charter " and insert "Oceti Sakowin community-based "
  - 20 On page 7, line 6, delete "charter " and insert "community-based "
  - 21 On page 7, line 11, delete "charter " and insert "Oceti Sakowin community-based "
  - 22 On page 7, line 16, delete "charter " and insert "Oceti Sakowin community-based "
  - 23 On page 7, line 23, delete "charter " and insert "community-based "
  - 24 On page 7, line 25, delete "a charter " and insert "an Oceti Sakowin community-based "
  - 25 On page 7, line 30, delete "charter " and insert "community-based "
  - 26 On page 7, line 30, delete "charter " and insert "Oceti Sakowin community-based "
  - 27 On page 8, line 2, delete "charter " and insert "Oceti Sakowin community-based "
  - 28 On page 8, line 4, delete "charter " and insert "Oceti Sakowin community-based "
  - 29 On page 8, line 8, delete "charter " and insert "community-based "
  - 30 On page 8, line 9, delete "charter " and insert "Oceti Sakowin community-based "

- 1 On page 8, line 12, delete "charter " and insert "Oceti Sakowin community-based "
- 2 On page 8, line 13, delete "charter " and insert "Oceti Sakowin community-based "
- 3 On page 8, line 14, delete "charter " and insert "Oceti Sakowin community-based "
- 4 On page 8, line 25, delete "charter " and insert "community-based "
- 5 On page 9, line 3, delete "charter " and insert "community-based "
- 6 On page 9, line 11, delete "charter " and insert "community-based "
- 7 On page 9, line 13, delete "a charter " and insert "an Oceti Sakowin community-based "
- 8 On page 9, line 19, delete "charter " and insert "community-based "
- 9 On page 9, line 21, delete "charter " and insert "community-based "
- 10 On page 9, line 23, delete "charter " and insert "Oceti Sakowin community-based "
- 11 On page 9, line 30, delete "charter " and insert "Oceti Sakowin community-based "
- 12 On page 9, line 32, delete "charter " and insert "Oceti Sakowin community-based "
- 13 On page 10, line 31, delete "charter " and insert "community-based "
- 14 On page 11, line 1, delete "charter " and insert "community-based "
- 15 On page 15, line 3, delete "charter " and insert "community-based "
- 16 On page 15, line 6, delete "charter " and insert "Oceti Sakowin community-based "

66E

18 On the Introduced bill, delete everything after the enacting clause and insert:

19 "

20 **Section 1.** That a NEW SECTION be added:

21 13-9.1-1. Oceti Sakowin Essential Understandings and Standards--Oceti Sakowin  
22 community-based schools--Application contents.

23 In order to establish an Oceti Sakowin community-based school that will provide instruction in  
24 accordance with the Oceti Sakowin Essential Understandings and Standards, a person shall file an  
25 application seeking sponsorship with the board of a school district. The application must include:

26 (1) A mission statement;

27 (2) A description of the Oceti Sakowin community-based school's organizational structure;

28 (3) A description of the Oceti Sakowin community-based school's governance structure;

29 (4) A location for and a description of the facility that will be used to house the Oceti Sakowin  
30 community-based school;

31 (5) The grade levels that will be served;

32 (6) A financial plan for the first three years of operation;

1 (7) Personnel policies, including those addressing employment and qualifications; and

2 (8) The criteria that will be used to measure the effectiveness of the Oceti Sakowin community-  
3 based school.

4 The application required by this section must be developed by each person seeking sponsorship  
5 for an Oceti Sakowin community-based school.

6 For purposes of this Act, an Oceti Sakowin community-based school means an educational  
7 institution that combines the rigorous academics of a quality school with a wide range of vital in-  
8 house services, supports, and opportunities for the purpose of promoting each student's learning  
9 and development. The school unites the most important influences in a student's life, including  
10 educational experiences, families, and communities, to create a support network that nurtures the  
11 student's development toward productive adulthood. The school embraces and lifts the Indigenous  
12 Language of the community and incorporates four inter-connected support systems into one core  
13 structure that includes a strong core instructional program designed to help each student meet high  
14 academic standards; enrichment activities designed to expand each student's learning opportunities  
15 and support cognitive, social, emotional, moral, and physical development; a full range of health  
16 and mental health services designed to safeguard each student's well-being and remove barriers to  
17 learning; and Indigenous language as the instructional language for core classes or as a kindergarten  
18 through grade twelve Indigenous language program to develop fluency and preserve language.

19 **Section 2.** That a NEW SECTION be added:

20 13-9.1-2. Application--Conditions for approval.

21 Upon receiving an application for sponsorship of an Oceti Sakowin community-based school,  
22 the board of a school district has thirty days within which to review and either approve or deny the  
23 application. The application shall be approved if:

24 (1) There is a reasonable likelihood that the Oceti Sakowin community-based school will open  
25 and be operated in an educationally and fiscally sound manner;

26 (2) Decisions regarding the Oceti Sakowin community-based school will be based on  
27 documented evidence offered as part of the application process;

28 (3) The Oceti Sakowin community-based school will follow policies and practices that are  
29 transparent and based on merit;

30 (4) Conflicts of interest or any appearance of impropriety will be avoided; and

31 (5) The Oceti Sakowin community-based school is likely to improve student learning and  
32 achievement.

33 The board of a school district shall, within five days of making a determination under this  
34 section, forward copies of all application materials and report its determination to the secretary of  
35 education.

36 **Section 3.** That a NEW SECTION be added:

37 13-9.1-3. Sponsorship--Conditions.

38 An application for sponsorship of an Oceti Sakowin community-based school may not be  
39 approved by the board of a school district if the Oceti Sakowin community-based school is to be  
40 located outside the boundaries of the school district.

41 The board of a school district may not serve as the sponsor of an Oceti Sakowin community-  
42 based school if the Department of Education has determined that, during either of the two fiscal  
43 years immediately preceding the date of the application, the district was not in compliance with the

1 uniform system for gathering and reporting educational data, as established in accordance with  
2 § 13-3-51.

3 **Section 4.** That a NEW SECTION be added:

4 13-9.1-4. Teacher qualifications.

5 Except as otherwise provided in this section, each person employed as a teacher at an Oceti  
6 Sakowin community-based school shall hold a certificate, as provided for in chapter 13-42. If the  
7 person is to serve only as a Native American language teacher, the person shall hold a South Dakota  
8 Native American Lakota, Dakota, or Nakota language permit.

9 Prior to making an offer of employment to any person, the Oceti Sakowin community-based  
10 school shall undertake a good faith effort to contact the person's previous employers and references,  
11 in order to ascertain the person's fitness for employment. The Oceti Sakowin community-based  
12 school shall document its contacts and findings pursuant to this section.

13 **Section 5.** That a NEW SECTION be added:

14 13-9.1-5. Contract--Provisions.

15 No later than thirty days after an application for an Oceti Sakowin community-based school is  
16 approved, the board of the school district shall enter into a contract with the governing board of the  
17 Oceti Sakowin community-based school. The contract must include the following:

18 (1) The academic and operational expectations of the Oceti Sakowin community-based school  
19 and the manner in which both are to be determined;

20 (2) The terms and conditions of sponsorship;

21 (3) The rights and expectations of the sponsor and the Oceti Sakowin community-based school;

22 (4) A requirement that the Oceti Sakowin community-based school be nonsectarian in its  
23 programs, admission policies, employment practices, and all other operations;

24 (5) A requirement that the Oceti Sakowin community-based school provide a comprehensive  
25 program of instruction for at least one grade level between kindergarten and twelve;

26 (6) A statement that the Oceti Sakowin community-based school is subject to the same  
27 operational term as provided for in § 13-26-2;

28 (7) A statement that the Oceti Sakowin community-based school is subject to all state and  
29 federal laws governing the provision of education to children with disabilities;

30 (8) A requirement that the Oceti Sakowin community-based school follow the Oceti Sakowin  
31 Essential Understandings and Standards;

32 (9) A requirement that the Oceti Sakowin community-based school incorporate in its instruction  
33 the official indigenous language of this state, as set forth in § 1-27-20;

34 (10) A requirement that the Oceti Sakowin community-based school provide for the  
35 measurement of student progress in a manner approved by the Department of Education;

36 (11) A requirement that the Oceti Sakowin community-based school report educational data  
37 and preserve educational and financial records in the same manner as school districts in accordance  
38 with § 13-3-51;

39 (12) A requirement that the Oceti Sakowin community-based school and its governing board  
40 comply with the open meetings and open records provisions otherwise applicable to school districts,  
41 in accordance with chapters 1-25 and 1-27;



1 (13) A statement that the Oceti Sakowin community-based school is subject to annual financial  
2 and compliance audits, as well as performance audits;

3 (14) the administration and delivery of public or nonpublic education in this state;

4 A statement that the Oceti Sakowin community-based school shall maintain an adequate risk  
5 management and insurance program;

6 (15) A statement that the Oceti Sakowin community-based school is subject to the same state  
7 and federal statutes and regulations applicable to other public schools in this state, unless otherwise  
8 provided by this Act;

9 (16) A statement that the Oceti Sakowin community-based school is subject to the same  
10 student assessment and accountability requirements applicable to other public schools in this state,  
11 except that nothing prevents the school, with the sponsor's approval, from establishing additional  
12 assessments and requirements that exceed those otherwise applicable under state law ; and

13 (17) A statement that the Oceti Sakowin community-based school must utilize the same  
14 standards as those established for the education of students in a school district.

15 **Section 6.** That a NEW SECTION be added:

16 13-9.1-6. Contract--Term.

17 An initial contract, provided for in § 13-9.1-5, must have a term of five years and specify a  
18 beginning date. An Oceti Sakowin community-based school may, upon notifying the board of the  
19 sponsoring school district, delay the effective date of the contract for a period of one year. If the  
20 Oceti Sakowin community-based school determines that a delay of more than one year is necessary,  
21 the school may request concurrence by the sponsor. The sponsor may grant the request, deny the  
22 request, or terminate the sponsorship.

23 **Section 7.** That a NEW SECTION be added:

24 13-9.1-7. Contract--Amendment.

25 The terms of a contract entered into by an Oceti Sakowin community-based school and the  
26 board of a sponsoring district may be amended upon the concurrence of both parties.

27 **Section 8.** That a NEW SECTION be added:

28 13-9.1-8. Data--Collection--Analysis.

29 The board of a sponsoring district shall monitor the performance and legal compliance of an  
30 Oceti Sakowin community-based school and may request, collect, and analyze data from the Oceti  
31 Sakowin community-based school to support the ongoing monitoring and evaluation. The board of  
32 a sponsoring district shall, at the time and in the manner requested by the Department of Education,  
33 provide to the department a report regarding the performance of the Oceti Sakowin community-  
34 based school.

35 **Section 9.** That a NEW SECTION be added:

36 13-9.1-9. Unsatisfactory performance--Corrective action--Sanctions.

37 If the board of a sponsoring school district determines that an Oceti Sakowin community-based  
38 school's performance or legal compliance is unsatisfactory, the board shall provide written  
39 notification to the Oceti Sakowin community-based school and shall provide the school with a specific  
40 time period within which the matter must be addressed. If the matter is not addressed by the Oceti  
41 Sakowin community-based school within the specified time period, the board may take corrective  
42 action, including the imposition of sanctions.

1 **Section 10.** That a NEW SECTION be added:

2 13-9.1-10. Contract renewal--Application.

3 After an initial contract has been in effect for four years, the board of a sponsoring district shall  
4 provide to an Oceti Sakowin community-based school a report setting forth the school's performance  
5 to date and shall note any concerns that need to be addressed before the renewal process is initiated.  
6 The board shall provide the Oceti Sakowin community-based school at least thirty days within which  
7 to submit clarifications or corrections to the report, or to otherwise respond to the report.

8 The board shall provide guidance to the Oceti Sakowin community-based school regarding the  
9 renewal process and set forth the specific criteria that the sponsor will use to make a determination  
10 regarding a renewal of the contract.

11 The process must involve an application to renew the contract. The Oceti Sakowin community-  
12 based school may attach to its application for renewal:

13 (1) Additional evidence of improvements in student performance;

14 (2) A description of improvements that had been undertaken, are being undertaken, or are  
15 being planned; and

16 (3) A detailed operational plan for the ensuing contract period.

17 **Section 11.** That a NEW SECTION be added:

18 13-9.1-11. Contract renewal--Application--Review.

19 Upon receiving an application for renewal of a contract, the board of the sponsoring district  
20 shall, within sixty days:

21 (1) Examine and base the decision regarding renewal of the contract on evidence of the Oceti  
22 Sakowin community-based school's performance during the first term of the contract; and

23 (2) Prepare and provide to the Oceti Sakowin community-based school a report regarding the  
24 evidence provided and the decision that was reached.

25 **Section 12.** That a NEW SECTION be added:

26 13-9.1-12. Application for renewal--Grounds for denial.

27 The board of a sponsoring school district may deny an application for renewal of a contract if  
28 the sponsor determines that the Oceti Sakowin community-based school:

29 (1) Engaged in a material breach of the contract or a substantial violation of this Act;

30 (2) Failed to meet or make sufficient progress toward the school's performance expectations;

31 (3) Failed to meet generally accepted standards of fiscal management; or

32 (4) Substantially violated any provision of law from which the Oceti Sakowin community-based  
33 school was not exempt.

34 A denial of renewal under this section may be appealed to the secretary of education.

35 **Section 13.** That a NEW SECTION be added:

1 13-9.1-13. Contract--Unilateral revocation.

2 The board of a sponsoring school district may unilaterally revoke a contract upon the conditions  
3 set forth in § 13-9.1-12, if the sponsor:

4 (1) Provides written notice of the intent to revoke the contract to the Oceti Sakowin  
5 community-based school, at least fourteen days prior to the hearing required by this section;

6 (2) Schedules a public hearing at which representatives of the Oceti Sakowin community-based  
7 school may provide testimony and documentary evidence;

8 (3) Permits the hearing to be recorded; and

9 (4) Provides to the Oceti Sakowin community-based school a written determination, citing  
10 evidence in support of the determination.

11 **Section 14.** That a NEW SECTION be added:

12 13-9.1-14. Contract--Term.

13 A sponsorship contract under this Act is effective for five years, unless a shorter duration is  
14 agreed to by the parties, or there is a material breach of the contract. A sponsorship contract,  
15 regardless of duration, may contain conditions governing its continuation.

16 **Section 15.** That a NEW SECTION be added:

17 13-9.1-15. Establishment of Oceti Sakowin community-based school--Adverse action--  
18 Prohibited.

19 Neither the board of a sponsoring school district nor an administrator may take any adverse  
20 action against a school district employee as a result of that employee's direct or indirect participation  
21 in the establishment of an Oceti Sakowin community-based school under this Act. For purposes of  
22 this section, an adverse action against a school district employee includes a disciplinary measure, a  
23 compensatory reduction, a transfer or reassignment not otherwise requested by the employee, and  
24 any other significant changes in the employee's duties or responsibilities.

25 Neither the board of a sponsoring school district nor an administrator may take any adverse  
26 action against an existing school district program as a result of an application to establish an Oceti  
27 Sakowin community-based school under this Act. For purposes of this section, an adverse action  
28 against a school district program includes the suspension or termination of the program, the transfer  
29 or reassignment of the program to a less desirable department within the district, the physical  
30 relocation of the program to a less desirable setting, and a reduction in or the elimination of funding  
31 for the program.

32 **Section 16.** That a NEW SECTION be added:

33 13-9.1-16. Oceti Sakowin community based school--Powers.

34 An Oceti Sakowin community based school established in accordance with this Act may:

35 (1) Purchase or lease real property, facilities, appurtenances, and equipment;

36 (2) Obtain a loan;

37 (3) Pledge, assign, or encumber its assets to collateralize a loan or obtain credit;

38 (4) Accept gifts, grants, and donations for any purpose related to the establishment or  
39 operation of the community based school;

40 (5) Hire and compensate personnel;

1 (6) Participate in the state retirement system established in accordance with chapter 3-12C;  
2 and

3 (7) Enter into a contract with a school district or educational cooperative for the delivery of  
4 educational services, provided the consideration paid by the community school for the services does  
5 not exceed the delivering entity's actual cost of providing the services.

6 **Section 17.** That a NEW SECTION be added:

7 13-9.1-17. Liability.

8 Neither a sponsoring school district nor any employee or board member of the district may be  
9 held liable for:

10 (1) Any act or omission undertaken in good faith, and within the scope of authority, regarding  
11 an Oceti Sakowin community-based school established or operated in accordance with this Act; or

12 (2) Any debts incurred by or on behalf of an Oceti Sakowin community-based school  
13 established or operated in accordance with this Act.

14 **Section 18.** That a NEW SECTION be added:

15 13-9.1-18. Administrative fee.

16 A school district that enters into a contract of sponsorship for an Oceti Sakowin community-  
17 based school may impose an annual administrative fee upon the Oceti Sakowin community-based  
18 school in an amount not exceeding the lesser of thirty-five thousand dollars or three percent of the  
19 Oceti Sakowin community-based school's total revenues.

20 An administrative fee under this section does not include the delivery of any educational  
21 services that the Oceti Sakowin community-based school elects to purchase from the sponsoring  
22 school district.

23 **Section 19.** That a NEW SECTION be added:

24 13-9.1-19. Admission of students.

25 The admission of students to an Oceti Sakowin community-based school must be based on an  
26 annual application process. If, on a date identified by the Oceti Sakowin community-based school,  
27 the number of applicants exceeds the capacity of a program, class, or grade level, enrollment  
28 preference must be given in the following order:

29 (1) Students who attended the Oceti Sakowin community-based school during the previous  
30 year;

31 (2) Siblings of students who attended the Oceti Sakowin community-based school during the  
32 previous year;

33 (3) Students who reside within the boundaries of the school district in which the Oceti Sakowin  
34 community-based school is located; and

35 (4) Students selected by lot.

36 No student may be denied admission based on the student's academic status, athletic ability,  
37 color, ethnicity, familial status, gender, income, national origin, race, religion, sexual orientation,  
38 special needs, or proficiency in the official indigenous language of this state.

39 ~~**Section 20.** That a NEW SECTION be added:~~

40 ~~**Section 21.** That a NEW SECTION be added:~~

1 **Section 20.** That a NEW SECTION be added:

2 13-9.1-22. Participation in state retirement system.

3 An employee of an Oceti Sakowin community-based school sponsored by a school district is  
4 deemed to be an employee of the school district for purposes of participating in the state retirement  
5 system, as set forth in chapter 3-12C.

6 **Section 21.** That a NEW SECTION be added:

7 13-9.1-23. Annual report.

8 On or before October first of each year, the secretary of education shall provide an annual  
9 report to the Governor and the Legislature regarding Oceti Sakowin community-based schools. The  
10 report must include:

11 (1) The performance of students attending each Oceti-Sakowin community-based school in  
12 comparison to academically, ethnically, and economically comparable students in the school's  
13 sponsoring district;

14 (2) Information provided by each Oceti-Sakowin community-based school regarding the  
15 students' Indigenous identity, mental health, and overall well-being;

16 (3) An assessment of each Oceti-Sakowin community-based school's successes, challenges,  
17 and needs for improvement; and

18 (4) An assessment regarding the size and number of the existing Oceti Sakowin community-  
19 based schools with respect to their ability in meeting the demand, as calculated by admissions data  
20 and the number of students denied enrollment.

21 **Section 22.** That § 13-10-12 be AMENDED:

22 13-10-12. Criminal background investigation--School districts--Oceti Sakowin community-  
23 based schools--Technical institute instructors.

24 Each person over eighteen years of age hired by a school district or an Oceti Sakowin  
25 community-based school shall submit to a criminal background investigation, by means of  
26 fingerprint checks by the Division of Criminal Investigation and the Federal Bureau of Investigation.  
27 The school district or Oceti Sakowin community-based school shall submit completed fingerprint  
28 cards to the Division of Criminal Investigation before the prospective new employee enters into  
29 service. If no disqualifying record is identified at the state level, the fingerprints shall be forwarded  
30 by the Division of Criminal Investigation to the Federal Bureau of Investigation for a national criminal  
31 history record check. Any person whose employment is subject to the requirements of this section  
32 may enter into service on a temporary basis pending receipt of results of the criminal background  
33 investigation. The employing school district or Oceti Sakowin community-based school may, without  
34 liability, withdraw its offer of employment or terminate the temporary employment without notice if  
35 the report reveals a disqualifying record. The employing school district or Oceti Sakowin community-  
36 based school may pay any fees charged for the cost of fingerprinting or the criminal background  
37 investigation for any person whose employment is subject to the requirements of this section.

38 Any person hired to officiate, judge, adjudicate, or referee a public event sponsored by a school  
39 district is not required to submit to a criminal background investigation as required in this section.

40 ~~In addition, any~~ Any instructor employed by a postsecondary technical institute ~~is required to~~  
41 shall submit to a criminal background investigation as required in this section at the time of initial  
42 employment.

43 The criminal investigation required by this section with respect to a student teacher completing  
44 requirements for teacher certification shall be conducted by the school district. A criminal  
45 background investigation, of a student teacher, conducted by a school district may be provided to

1 any other school in which the student engages in student teaching. The school district conducting  
 2 the criminal background investigation of a student teacher may rely upon the results of that  
 3 investigation for employment of that person as an employee of the district.

4 **Section 23.** That § 13-13-10.1 be AMENDED:

5 13-13-10.1. Definitions.

6 The education funding terms and procedures referenced in this chapter are defined as follows:

7 (1) Repealed by SL 2016, ch 83, § 4;

8 (1A) Nonresident students who are in the care and custody of the Department of Social  
 9 Services, the Unified Judicial System, the Department of Corrections, or other state  
 10 agencies and are attending a public school may be included in the fall enrollment of the  
 11 receiving district when enrolled in the receiving district;

12 (2) Repealed by SL 2016, ch 83, § 4;

13 (2A) "Fall enrollment," is calculated as follows:

14 (a) Determine the number of kindergarten through twelfth grade students ~~enrolled in~~  
 15 ~~all schools operated by the school district who~~ on the last Friday of September of  
 16 the current school year are:

17 (i) Enrolled in all schools operated by the district; and

18 (ii) Enrolled in an Oceti Sakowin community-based school sponsored by the district;

19 (b) Subtract the number of students for whom the district receives tuition, except for:

20 (i) Nonresident students who are in the care and custody of a state agency  
 21 and are attending a public school district; and

22 (ii) Students who are being provided an education pursuant to § 13-28-11;

23 (c) Add the number of students for whom the district pays tuition.

24 When computing state aid to education for a school district pursuant to  
 25 § 13-13-73, the secretary of the Department of Education shall use the school district's  
 26 fall enrollment;

27 (2B) Repealed by SL 2010, ch 84, § 1;

28 (2C) "Target teacher ratio factor," is:

29 (a) For school districts with a fall enrollment of two hundred or less, the target teacher  
 30 ratio factor is 12;

31 (b) For districts with a fall enrollment of greater than two hundred, but less than six  
 32 hundred, the target teacher ratio factor is calculated as follows:

33 (1) Multiplying the fall enrollment by .00750;

34 (2) Adding 10.50 to the product of subsection (b)(1);

35 (c) For districts with a fall enrollment of six hundred or greater, the target teacher  
 36 ratio factor is 15.

- 1                           The fall enrollment used for the determination of the target teacher ratio  
2                           for a school district may not include any students residing in a residential treatment  
3                           facility when the education program is operated by the school district;
- 4           (2D) "Limited English proficiency (LEP) adjustment," is calculated by multiplying 0.25 times  
5           the number of kindergarten through twelfth grade students who, in the prior school year,  
6           scored below level four on the state-administered language proficiency assessment as  
7           required in the state's consolidated state application pursuant to 20 USC § 6311(b)(7)  
8           as of January 1, 2013;
- 9           (3) "Index factor," is the annual percentage change in the consumer price index for urban  
10           wage earners and clerical workers as computed by the Bureau of Labor Statistics of the  
11           United States Department of Labor for the year before the year immediately preceding  
12           the year of adjustment or three percent, whichever is less;
- 13           (4) "Target teacher salary," for the school fiscal year beginning July 1, 2019 is \$50,360.26.  
14           Each school fiscal year thereafter, the target teacher salary is the previous fiscal year's  
15           target teacher salary increased by the index factor;
- 16           (4A) "Target teacher benefits," is the target teacher salary multiplied by twenty-nine percent;
- 17           (4B) "Target teacher compensation," is the sum of the target teacher salary and the target  
18           teacher benefits;
- 19           (4C) "Overhead rate," is thirty-three and six hundredths percent.
- 20                           Beginning in school fiscal year 2018, the overhead rate shall be adjusted  
21                           to take into account the sum of the amounts that districts exceed the other revenue base  
22                           amount;
- 23           (5) "Local need," is calculated as follows:
- 24                   (a) Divide the fall enrollment by the target teacher ratio factor;
- 25                   (b) If applicable, divide Limited English proficiency (LEP) adjustment pursuant to  
26                   subdivision (2D) by the target teacher ratio factor;
- 27                   (c) Add the results of subsections (a) and (b);
- 28                   (d) Multiply the result of subsection (c) by the target teacher compensation;
- 29                   (e) Multiply the product of subsection (d) by the overhead rate;
- 30                   (f) Add the products of subsections (d) and (e);
- 31                   (g) When calculating local need at the statewide level, include the amounts set aside  
32                   for costs related to technology in schools and statewide student assessments; and
- 33                   (h) When calculating local need at the statewide level, include the amounts set aside  
34                   for sparse school district benefits, calculated pursuant to §§ 13-13-78 and 13-13-  
35                   79;
- 36           (5A) "Alternative per student need," is calculated as follows:
- 37                   (a) Add the total need for each school district for school fiscal year 2016, including  
38                   the small school adjustment and the limited English proficiency adjustment, to  
39                   the lesser of the amount of funds apportioned to each school district in the year  
40                   preceding the most recently completed school fiscal year or school fiscal year 2015  
41                   pursuant to §§ 13-13-4, 23A-27-25, 10-33-24, 10-36-10, 11-7-73, 10-35-21,  
42                   and 10-43-77;

- 1 (b) Divide the result of (a) by the September 2015 fall enrollment, excluding any  
2 adjustments based on prior year student counts;
- 3 (5B) "Alternative local need," is the alternative per student need multiplied by the fall  
4 enrollment, excluding any adjustments based on prior year student counts;
- 5 (6) "Local effort," the amount of ad valorem taxes generated in a school fiscal year by  
6 applying the levies established pursuant to § 10-12-42. Beginning on July 1, 2017, local  
7 effort will include the amount of funds apportioned to each school district in the year  
8 preceding the most recently completed school fiscal year pursuant to §§ 10-33-24, 10-  
9 35-21 as provided by subdivision (6B), 10-36-10, 10-43-77, 11-7-73, 13-13-4, and 23A-  
10 27-25 and that exceeds the other revenue base amount. For the period July 1, 2016,  
11 through December 31, 2016, inclusive, local effort includes the amount of ad valorem  
12 taxes generated by applying the levies established pursuant to § 13-10-6 during this  
13 period;
- 14 (6A) "Other revenue base amount," for school districts not utilizing the alternative local need  
15 calculation is the amount of funds apportioned to each school district pursuant to §§ 10-  
16 33-24, 10-35-21 as provided by subdivision (6B), 10-36-10, 10-43-77, 11-7-73, 13-13-  
17 4, and 23A-27-25 calculated as follows:
- 18 (a) Beginning on July 1, 2017, equals the greatest of the amounts of the funds  
19 apportioned to each school district pursuant to §§ 10-33-24, 10-35-21 as  
20 provided by subdivision (6B), 10-36-10, 10-43-77, 11-7-73, 13-13-4, and 23A-  
21 27-25 for school fiscal years 2013, 2014, and 2015;
- 22 (b) Beginning on July 1, 2018, multiply eighty percent times subsection (a);
- 23 (c) Beginning on July 1, 2019, multiply sixty percent times subsection (a);
- 24 (d) Beginning on July 1, 2020, multiply forty percent times subsection (a);
- 25 (e) Beginning on July 1, 2021, multiply twenty percent times subsection (a);
- 26 (f) Beginning on July 1, 2022, is zero.
- 27 For school districts utilizing the alternative local need calculation, the other  
28 revenue base amount is zero until such time the school district chooses to no longer  
29 utilize the alternative local need calculation. At that time, the other revenue base amount  
30 is calculated as defined above.
- 31 For a school district created or reorganized after July 1, 2016, the other  
32 revenue base amount is the sum of the other revenue base amount for each district  
33 before reorganization, and the new school district may not utilize the alternative local  
34 need calculation.
- 35 In the case of the dissolution and annexation of a district, the other  
36 revenue base amount of the dissolved school district will be prorated based on the total  
37 number of students in the fall enrollment as defined in subdivision (2A) who attend each  
38 district to which area of the dissolved district were annexed to in the first year of  
39 reorganization. The amount apportioned for each district will be added to the annexed  
40 districts' other revenue base;
- 41 (6B) "Wind energy tax revenue," any wind energy tax revenue apportioned to school districts  
42 pursuant to § 10-35-21 from a wind farm producing power for the first time before July  
43 1, 2016, shall be considered local effort pursuant to subdivision (6) and other revenue  
44 base amount pursuant to subdivision (6A). However, any wind energy tax revenue  
45 apportioned to a school district from a wind farm producing power for the first time after  
46 June 30, 2016, one hundred percent shall be retained by the school district to which the  
47 tax revenue is apportioned for the first five years of producing power, eighty percent for



- 1 the sixth year, sixty percent for the seventh year, forty percent for the eighth year,  
 2 twenty percent for the ninth year, and zero percent thereafter;
- 3 (7) "Per student equivalent," for funding calculations that are determined on a per student  
 4 basis, the per student equivalent is calculated as follows:
- 5 (a) Multiply the target teacher compensation times the sum of one plus the overhead  
 6 rate;
- 7 (b) Divide subsection (a) by 15;
- 8 (8) "Monthly cash balance," the total amount of money for each month in the school district's  
 9 general fund, calculated by adding all deposits made during the month to the beginning  
 10 cash balance and deducting all disbursements or payments made during the month;
- 11 (9) "General fund base percentage," is determined as follows:
- 12 (a) Forty percent for a school district with a fall enrollment as defined in subdivision  
 13 (2A) of two hundred or less;
- 14 (b) Thirty percent for a school district with fall enrollment as defined in subdivision  
 15 (2A) of more than two hundred but less than six hundred; and
- 16 (c) Twenty-five percent for a school district with fall enrollment as defined in  
 17 subdivision (2A) greater than or equal to six hundred.

18 When determining the general fund base percentage, the secretary of the  
 19 Department of Education shall use the lesser of the school district's fall enrollment as  
 20 defined in subdivision (2A) for the current school year or the school district's fall  
 21 enrollment from the previous two years;

- 22 (10) "Allowable general fund cash balance," the general fund base percentage multiplied by  
 23 the district's general fund expenditures in the previous school year.

24 **Section 24.** That a NEW SECTION be added:

25 13-13-93. Aid--Proportionate distribution.

26 A sponsoring school district shall forward to the Oceti Sakowin community-based school that  
 27 portion of the total funding received by the district in accordance with this chapter, which equals  
 28 the percentage of the district's students who are enrolled in the Oceti Sakowin community-based  
 29 school. The sponsoring school district is responsible for the provision of services required in  
 30 accordance with federal law.

31 **Section 25.** Notwithstanding any other provision in this Act, during the five year period  
 32 beginning July 1, 2020, Oceti Sakowin community-based schools may not exceed four in number.

33 "

66G

34 On the Introduced bill, delete everything after the enacting clause and insert:

35 "

36 **Section 26.** That a NEW SECTION be added:

13-9.1-1. Oceti Sakowin Essential Understandings and Standards--Oceti Sakowin community-based schools--Application contents.

In order to establish an Oceti Sakowin community-based school that will provide instruction in accordance with the Oceti Sakowin Essential Understandings and Standards, a nonprofit corporation shall file an application seeking sponsorship with the board of a school district. The application must include:

(1) A mission statement;

(2) A description of the Oceti Sakowin community-based school's organizational structure;

(3) A description of the Oceti Sakowin community-based school's governance structure;

(4) A location for and a description of the facility that will be used to house the Oceti Sakowin community-based school;

(5) The grade levels that will be served;

(6) A financial plan for the first three years of operation;

(7) Personnel policies, including those addressing employment and qualifications; and

(8) The criteria that will be used to measure the effectiveness of the Oceti Sakowin community-based school.

The application required by this section must be developed by each nonprofit corporation seeking sponsorship for an Oceti Sakowin community-based school.

For purposes of this Act, an Oceti Sakowin community-based school means an educational institution that combines the rigorous academics of a quality school with a wide range of vital in-house services, supports, and opportunities for the purpose of promoting each student's learning and development. The school unites the most important influences in a student's life, including educational experiences, families, and communities, to create a support network that nurtures the student's development toward productive adulthood. The school embraces and lifts the Indigenous Language of the community and incorporates four inter-connected support systems into one core structure that includes a strong core instructional program designed to help each student meet high academic standards; enrichment activities designed to expand each student's learning opportunities and support cognitive, social, emotional, moral, and physical development; a full range of health and mental health services designed to safeguard each student's well-being and remove barriers to learning; and Indigenous language as the instructional language for core classes or as a kindergarten through grade twelve Indigenous language program to develop fluency and preserve language.

**Section 27.** That a NEW SECTION be added:

13-9.1-2. Application--Conditions for approval.

Upon receiving an application for sponsorship of an Oceti Sakowin community-based school, the board of a school district has sixty days within which to review and either approve or deny the application. The application shall be approved if:

(1) There is a reasonable likelihood that the Oceti Sakowin community-based school will open and be operated in an educationally and fiscally sound manner;

(2) Decisions regarding the Oceti Sakowin community-based school will be based on documented evidence offered as part of the application process;

(3) The Oceti Sakowin community-based school will follow policies and practices that are transparent and based on merit;

- 1 (4) Conflicts of interest or any appearance of impropriety will be avoided; and
- 2 (5) The Oceti Sakowin community-based school is likely to improve student learning and  
3 achievement.
- 4 The board of a school district shall, within five days of making a determination under this  
5 section, forward copies of all application materials and report its determination to the secretary of  
6 education.
- 7 **Section 28.** That a NEW SECTION be added:
- 8 13-9.1-3. Sponsorship--Conditions.
- 9 An application for sponsorship of an Oceti Sakowin community-based school may not be  
10 approved by the board of a school district if the Oceti Sakowin community-based school is to be  
11 located outside the boundaries of the school district.
- 12 The board of a school district may not serve as the sponsor of an Oceti Sakowin community-  
13 based school if the Department of Education has determined that, during either of the two fiscal  
14 years immediately preceding the date of the application, the district was not in compliance with the  
15 uniform system for gathering and reporting educational data, as established in accordance with  
16 § 13-3-51.
- 17 **Section 29.** That a NEW SECTION be added:
- 18 13-9.1-4. Educator qualifications.
- 19 Except as otherwise provided in this section, each person serving as an educator at an Oceti  
20 Sakowin community-based school shall either hold a certificate, as provided for in chapter 13-42 or  
21 if the person is to provide instruction only in a Native American language, the person shall hold a  
22 South Dakota Native American Lakota, Dakota, or Nakota language permit.
- 23 Prior to making an offer of employment to any person, the Oceti Sakowin community-based  
24 school shall undertake a good faith effort to contact the person's previous employers and references,  
25 in order to ascertain the person's fitness for employment. The Oceti Sakowin community-based  
26 school shall document its contacts and findings pursuant to this section.
- 27 **Section 30.** That a NEW SECTION be added:
- 28 13-9.1-5. Contract--Provisions.
- 29 No later than sixty days after an application for an Oceti Sakowin community-based school is  
30 approved, the board of the school district shall enter into a contract with the governing board of the  
31 Oceti Sakowin community-based school. The contract must include the following:
- 32 (1) The academic and operational expectations of the Oceti Sakowin community-based school  
33 and the manner in which both are to be determined;
- 34 (2) The terms and conditions of sponsorship;
- 35 (3) The rights and expectations of the sponsor and the Oceti Sakowin community-based school;
- 36 (4) A requirement that the Oceti Sakowin community-based school be nonsectarian in its  
37 programs, admission policies, employment practices, and all other operations;
- 38 (5) A requirement that the Oceti Sakowin community-based school provide a comprehensive  
39 program of instruction for at least one grade level between kindergarten and twelve;
- 40 (6) A statement that the Oceti Sakowin community-based school is subject to the same  
41 operational term as provided for in § 13-26-2;

1 (7) A statement that the Oceti Sakowin community-based school is subject to all state and  
2 federal laws governing the provision of education to children with disabilities;

3 (8) A requirement that the Oceti Sakowin community-based school follow the Oceti Sakowin  
4 Essential Understandings and Standards;

5 (9) A requirement that the Oceti Sakowin community-based school incorporate in its instruction  
6 the official indigenous language of this state, as set forth in § 1-27-20;

7 (10) A requirement that the Oceti Sakowin community-based school provide for the  
8 measurement of student progress in a manner by the Department of Education;

9 (11) A requirement that the Oceti Sakowin community-based school report educational data  
10 and preserve educational and financial records in the same manner as school districts in accordance  
11 with § 13-3-51;

12 (12) A requirement that the Oceti Sakowin community-based school and its governing board  
13 comply with the open meetings and open records provisions otherwise applicable to school districts,  
14 in accordance with chapters 1-25 and 1-27;

15 (13) A statement that the Oceti Sakowin community-based school is subject to annual financial  
16 and compliance audits, as well as performance audits;

17 (14) A requirement that the Oceti Sakowin community-based school must maintain accounting  
18 and financial functions that are separate and apart from those of the sponsoring school district;

19 (15) A statement that the Oceti Sakowin community-based school shall maintain an adequate  
20 risk management and insurance program;

21 (16) A statement that, unless otherwise provided in this Act, the Oceti Sakowin community-  
22 based school is subject to the same state and federal laws that are applicable to other public schools  
23 and school districts in this state, except those laws applicable to taxing authority, as found in  
24 chapters 10-12, 13-11, and 13-16, and school district elections as set forth in chapters 13-7 and  
25 13-8;

26 (17) A statement that the Oceti Sakowin community-based school is subject to the same  
27 student assessment and accountability requirements applicable to other public schools in this state,  
28 except that nothing prevents the school, with the sponsor's approval, from establishing additional  
29 assessments and requirements that exceed those otherwise applicable under state law; and

30 (18) A statement that the Oceti Sakowin community-based school must utilize the same  
31 standards as those established for the education of students in a school district.

32 **Section 31.** That a NEW SECTION be added:

33 13-9.1-6. Contract--Term.

34 An initial contract, provided for in § 13-9.1-5, must have a term of five years and specify a  
35 beginning date. An Oceti Sakowin community-based school may, upon notifying the board of the  
36 sponsoring school district, delay the effective date of the contract for a period of one year. If the  
37 Oceti Sakowin community-based school determines that a delay of more than one year is necessary,  
38 the school may request concurrence by the sponsor. The sponsor may grant the request, deny the  
39 request, or terminate the sponsorship.

40 **Section 32.** That a NEW SECTION be added:

41 13-9.1-7. Contract--Amendment.

42 The terms of a contract entered into by an Oceti Sakowin community-based school and the  
43 board of a sponsoring district may be amended upon the concurrence of both parties.

1 **Section 33.** That a NEW SECTION be added:

2 13-9.1-8. Data--Collection--Analysis.

3 The board of a sponsoring district shall monitor the performance and legal compliance of an  
4 Oceti Sakowin community-based school and may request, collect, and analyze data from the Oceti  
5 Sakowin community-based school to support the ongoing monitoring and evaluation. The board of  
6 a sponsoring district shall, at the time and in the manner requested by the Department of Education,  
7 provide to the department a report regarding the performance of the Oceti Sakowin community-  
8 based school. The report and any data contained in the report must be separate and apart from any  
9 report or data otherwise pertaining to the school district.

10 **Section 34.** That a NEW SECTION be added:

11 13-9.1-9. Unsatisfactory performance--Corrective action--Sanctions.

12 If the board of a sponsoring school district determines that an Oceti Sakowin community-based  
13 school's performance or legal compliance is unsatisfactory, the board shall provide written  
14 notification to the Oceti Sakowin community-based school and shall provide the school with a specific  
15 time period within which the matter must be addressed. If the matter is not addressed by the Oceti  
16 Sakowin community-based school within the specified time period, the board may take corrective  
17 action, including the imposition of sanctions.

18 **Section 35.** That a NEW SECTION be added:

19 13-9.1-10. Contract renewal--Application.

20 After an initial contract has been in effect for four years, the board of a sponsoring district shall  
21 provide to an Oceti Sakowin community-based school a report setting forth the school's performance  
22 to date and shall note any concerns that need to be addressed before the renewal process is initiated.  
23 The board shall provide the Oceti Sakowin community-based school at least thirty days within which  
24 to submit clarifications or corrections to the report, or to otherwise respond to the report.

25 The board shall provide guidance to the Oceti Sakowin community-based school regarding the  
26 renewal process and set forth the specific criteria that the sponsor will use to make a determination  
27 regarding a renewal of the contract.

28 The process must involve an application to renew the contract. The Oceti Sakowin community-  
29 based school may attach to its application for renewal:

30 (1) Additional evidence of improvements in student performance;

31 (2) A description of improvements that had been undertaken, are being undertaken, or are  
32 being planned; and

33 (3) A detailed operational plan for the ensuing contract period.

34 **Section 36.** That a NEW SECTION be added:

35 13-9.1-11. Contract renewal--Application--Review.

36 Upon receiving an application for renewal of a contract, the board of the sponsoring district  
37 shall, within sixty days:

38 (1) Examine and base the decision regarding renewal of the contract on evidence of the Oceti  
39 Sakowin community-based school's performance during the first term of the contract; and

40 (2) Prepare and provide to the Oceti Sakowin community-based school a report regarding the  
41 evidence provided and the decision that was reached.

1 **Section 37.** That a NEW SECTION be added:

2 13-9.1-12. Application for renewal--Grounds for denial.

3 The board of a sponsoring school district may deny an application for renewal of a contract if  
4 the sponsor determines that the Oceti Sakowin community-based school:

5 (1) Engaged in a material breach of the contract or a substantial violation of this Act;

6 (2) Failed to meet or make sufficient progress toward the school's performance expectations;

7 (3) Failed to meet generally accepted standards of fiscal management; or

8 (4) Substantially violated any provision of law from which the Oceti Sakowin community-based  
9 school was not exempt.

10 A denial of renewal under this section may be appealed to the secretary of education.

11 **Section 38.** That a NEW SECTION be added:

12 13-9.1-13. Contract--Unilateral revocation.

13 The board of a sponsoring school district may unilaterally revoke a contract upon the conditions  
14 set forth in § 13-9.1-12, if the sponsor:

15 (1) Provides written notice of the intent to revoke the contract to the Oceti Sakowin  
16 community-based school, at least fourteen days prior to the hearing required by this section;

17 (2) Schedules a public hearing at which representatives of the Oceti Sakowin community-based  
18 school may provide testimony and documentary evidence;

19 (3) Permits the hearing to be recorded; and

20 (4) Provides to the Oceti Sakowin community-based school a written determination, citing  
21 evidence in support of the determination.

22 **Section 39.** That a NEW SECTION be added:

23 13-9.1-14. Contract--Term.

24 A sponsorship contract under this Act is effective for five years, unless a shorter duration is  
25 agreed to by the parties, or there is a material breach of the contract. A sponsorship contract,  
26 regardless of duration, may contain conditions governing its continuation, provided the conditions  
27 comply with the provisions of this Act.

28 **Section 40.** That a NEW SECTION be added:

29 13-9.1-15. Establishment of Oceti Sakowin community-based school--Adverse action--  
30 Prohibited.

31 Neither the board of a sponsoring school district nor an administrator may take any adverse  
32 action against a school district employee as a result of that employee's direct or indirect participation  
33 in the establishment of an Oceti Sakowin community-based school under this Act. For purposes of  
34 this section, an adverse action against a school district employee includes a disciplinary measure, a  
35 compensatory reduction, a transfer or reassignment not otherwise requested by the employee, and  
36 any other significant changes in the employee's duties or responsibilities.

37 Neither the board of a sponsoring school district nor an administrator may take any adverse  
38 action against an existing school district program as a result of an application to establish an Oceti

Sakowin community-based school under this Act. For purposes of this section, an adverse action against a school district program includes the suspension or termination of the program, the transfer or reassignment of the program to a less desirable department within the district, the physical relocation of the program to a less desirable setting, and a reduction in or the elimination of funding for the program.

**Section 41.** That a NEW SECTION be added:

13-9.1-16. Oceti Sakowin community based school--Powers.

An Oceti Sakowin community-based school established in accordance with this Act may, independently of its sponsoring school district:

(1) Purchase or lease real property, facilities, appurtenances, and equipment;

(2) Obtain a loan;

(3) Pledge, assign, or encumber its assets to collateralize a loan or obtain credit;

(4) Apply for state and federal grants;

(5) Accept gifts, grants, and donations for any purpose related to the establishment or operation of the community based school;

(5) Hire and compensate personnel;

(6) Participate in the state retirement system established in accordance with chapter 3-12C;

(7) Enter into a contract with a school district or educational cooperative for the delivery of educational or other services, provided the consideration paid by the community-based school for the services does not exceed the delivering entity's actual cost of providing the services; and

(8) Access any shared services offered by the state.

**Section 42.** That a NEW SECTION be added:

13-9.1-17. Liability.

Neither a sponsoring school district nor any employee or board member of the district may be held liable for:

(1) Any act or omission undertaken in good faith, and within the scope of authority, regarding an Oceti Sakowin community-based school established or operated in accordance with this Act; or

(2) Any debts incurred by or on behalf of an Oceti Sakowin community-based school established or operated in accordance with this Act.

Each Oceti Sakowin community-based school shall be responsible for any debts incurred by or on behalf of the school.

**Section 43.** That a NEW SECTION be added:

13-9.1-18. Administrative fee.

A school district that enters into a contract of sponsorship for an Oceti Sakowin community-based school may impose an annual administrative fee upon the Oceti Sakowin community-based school in an amount not exceeding the lesser of thirty-five thousand dollars or three percent of the Oceti Sakowin community-based school's total revenues.

An administrative fee under this section does not include the delivery of any educational services that the Oceti Sakowin community-based school elects to purchase from the sponsoring school district.

**Section 44.** That a NEW SECTION be added:

13-9.1-19. Admission of students.

The admission of students to an Oceti Sakowin community-based school must be based on an annual application process. If, on a date identified by the Oceti Sakowin community-based school, the number of applicants exceeds the capacity of a program, class, or grade level, enrollment preference must be given in the following order:

(1) Students who attended the Oceti Sakowin community-based school during the previous year;

(2) Siblings of students who attended the Oceti Sakowin community-based school during the previous year;

(3) Students who reside within the boundaries of the school district in which the Oceti Sakowin community-based school is located; and

(4) Students selected by lot.

No student may be denied admission based on the student's academic status, athletic ability, color, ethnicity, familial status, gender, income, national origin, race, religion, sexual orientation, special needs, or proficiency in the official indigenous language of this state.

**Section 45.** That a NEW SECTION be added:

13-9.1-22. Participation in state retirement system.

An employee of an Oceti Sakowin community-based school sponsored by a school district is deemed to be an employee of the school district for purposes of participating in the state retirement system, as set forth in chapter 3-12C.

**Section 46.** That a NEW SECTION be added:

Annual report.

On or before October first of each year, the secretary of education shall provide an annual report to the Governor and the Legislature regarding Oceti Sakowin community-based schools. The report must include the following:

(1) The performance of students attending each Oceti-Sakowin community-based school;

(2) Information regarding the students' Indigenous identity, mental health, and overall well-being;

(3) An assessment of the successes, challenges, and improvements needed with respect to this Act; and

(4) An assessment regarding the size and number of the existing Oceti Sakowin



1 community-based schools with respect to their ability to meet the demand, as calculated  
2 by admissions data and the number of students denied enrollment.

3 The secretary shall obtain the information from each Oceti Sakowin community- based school  
4 and shall provide a comparison of the students' performance to that of academically, ethnically, and  
5 economically similar students in each sponsoring district.

6 **Section 47.** That a NEW SECTION be added:

7 13-9.1-24. Promulgation of rules.

8 The Board of Education Standards shall promulgate rules, in accordance with chapter 1-26, to  
9 provide for the application process, creation and development of an Oceti Sakowin community-based  
10 school, to provide for the delivery and administration of elementary and secondary education within  
11 the framework of an Oceti Sakowin community-based school, and to provide for an appellate  
12 mechanism governing decisions related to the creation, development, administration, or operations  
13 of an Oceti Sakowin community-based school.

14 **Section 48.** That § 13-10-12 be AMENDED:

15 13-10-12. Criminal background investigation--School districts--Oceti Sakowin community-  
16 based schools--Technical institute instructors.

17 Each person over eighteen years of age hired by a school district or an Oceti Sakowin  
18 community-based school shall submit to a criminal background investigation, by means of  
19 fingerprint checks by the Division of Criminal Investigation and the Federal Bureau of Investigation.  
20 The school district or Oceti Sakowin community-based school shall submit completed fingerprint  
21 cards to the Division of Criminal Investigation before the prospective new employee enters into  
22 service. If no disqualifying record is identified at the state level, the fingerprints shall be forwarded  
23 by the Division of Criminal Investigation to the Federal Bureau of Investigation for a national criminal  
24 history record check. Any person whose employment is subject to the requirements of this section  
25 may enter into service on a temporary basis pending receipt of results of the criminal background  
26 investigation. The employing school district or Oceti Sakowin community-based school may, without  
27 liability, withdraw its offer of employment or terminate the temporary employment without notice if  
28 the report reveals a disqualifying record. The employing school district or Oceti Sakowin community-  
29 based school may pay any fees charged for the cost of fingerprinting or the criminal background  
30 investigation for any person whose employment is subject to the requirements of this section.

31 Any person hired to officiate, judge, adjudicate, or referee a public event sponsored by a school  
32 district is not required to submit to a criminal background investigation as required in this section.

33 ~~In addition, any~~ Any instructor employed by a postsecondary technical institute ~~is required to~~  
34 ~~shall~~ submit to a criminal background investigation as required in this section at the time of initial  
35 employment.

36 The criminal investigation required by this section with respect to a student teacher completing  
37 requirements for teacher certification shall be conducted by the school district. A criminal  
38 background investigation, of a student teacher, conducted by a school district may be provided to  
39 any other school in which the student engages in student teaching. The school district conducting  
40 the criminal background investigation of a student teacher may rely upon the results of that  
41 investigation for employment of that person as an employee of the district.

42 **Section 49.** That § 13-13-10.1 be AMENDED:

43 13-13-10.1. Definitions.

44 The education funding terms and procedures referenced in this chapter are defined as follows:

45 (1) Repealed by SL 2016, ch 83, § 4;

- 1 (1A) Nonresident students who are in the care and custody of the Department of Social  
2 Services, the Unified Judicial System, the Department of Corrections, or other state  
3 agencies and are attending a public school may be included in the fall enrollment of the  
4 receiving district when enrolled in the receiving district;
- 5 (2) Repealed by SL 2016, ch 83, § 4;
- 6 (2A) "Fall enrollment," is calculated as follows:
- 7 (a) Determine the number of kindergarten through twelfth grade students ~~enrolled in~~  
8 ~~all schools operated by the school district who~~ on the last Friday of September of  
9 the current school year are:
- 10 (i) Enrolled in all schools operated by the district; and
- 11 (ii) Enrolled in an Oceti Sakowin community-based school sponsored by the district;
- 12 (b) Subtract the number of students for whom the district receives tuition, except for:
- 13 (i) Nonresident students who are in the care and custody of a state agency  
14 and are attending a public school district; and
- 15 (ii) Students who are being provided an education pursuant to § 13-28-11;
- 16 (c) Add the number of students for whom the district pays tuition.
- 17 When computing state aid to education for a school district pursuant to  
18 § 13-13-73, the secretary of the Department of Education shall use the school district's  
19 fall enrollment;
- 20 (2B) Repealed by SL 2010, ch 84, § 1;
- 21 (2C) "Target teacher ratio factor," is:
- 22 (a) For school districts with a fall enrollment of two hundred or less, the target teacher  
23 ratio factor is 12;
- 24 (b) For districts with a fall enrollment of greater than two hundred, but less than six  
25 hundred, the target teacher ratio factor is calculated as follows:
- 26 (1) Multiplying the fall enrollment by .00750;
- 27 (2) Adding 10.50 to the product of subsection (b)(1);
- 28 (c) For districts with a fall enrollment of six hundred or greater, the target teacher  
29 ratio factor is 15.
- 30 The fall enrollment used for the determination of the target teacher ratio  
31 for a school district may not include any students residing in a residential treatment  
32 facility when the education program is operated by the school district;
- 33 (2D) "Limited English proficiency (LEP) adjustment," is calculated by multiplying 0.25 times  
34 the number of kindergarten through twelfth grade students who, in the prior school year,  
35 scored below level four on the state-administered language proficiency assessment as  
36 required in the state's consolidated state application pursuant to 20 USC § 6311(b)(7)  
37 as of January 1, 2013;
- 38 (3) "Index factor," is the annual percentage change in the consumer price index for urban  
39 wage earners and clerical workers as computed by the Bureau of Labor Statistics of the

- 1 United States Department of Labor for the year before the year immediately preceding  
2 the year of adjustment or three percent, whichever is less;
- 3 (4) "Target teacher salary," for the school fiscal year beginning July 1, 2019 is \$50,360.26.  
4 Each school fiscal year thereafter, the target teacher salary is the previous fiscal year's  
5 target teacher salary increased by the index factor;
- 6 (4A) "Target teacher benefits," is the target teacher salary multiplied by twenty-nine percent;
- 7 (4B) "Target teacher compensation," is the sum of the target teacher salary and the target  
8 teacher benefits;
- 9 (4C) "Overhead rate," is thirty-three and six hundredths percent.
- 10 Beginning in school fiscal year 2018, the overhead rate shall be adjusted  
11 to take into account the sum of the amounts that districts exceed the other revenue base  
12 amount;
- 13 (5) "Local need," is calculated as follows:
- 14 (a) Divide the fall enrollment by the target teacher ratio factor;
- 15 (b) If applicable, divide Limited English proficiency (LEP) adjustment pursuant to  
16 subdivision (2D) by the target teacher ratio factor;
- 17 (c) Add the results of subsections (a) and (b);
- 18 (d) Multiply the result of subsection (c) by the target teacher compensation;
- 19 (e) Multiply the product of subsection (d) by the overhead rate;
- 20 (f) Add the products of subsections (d) and (e);
- 21 (g) When calculating local need at the statewide level, include the amounts set aside  
22 for costs related to technology in schools and statewide student assessments; and
- 23 (h) When calculating local need at the statewide level, include the amounts set aside  
24 for sparse school district benefits, calculated pursuant to §§ 13-13-78 and 13-13-  
25 79;
- 26 (5A) "Alternative per student need," is calculated as follows:
- 27 (a) Add the total need for each school district for school fiscal year 2016, including  
28 the small school adjustment and the limited English proficiency adjustment, to  
29 the lesser of the amount of funds apportioned to each school district in the year  
30 preceding the most recently completed school fiscal year or school fiscal year 2015  
31 pursuant to §§ 13-13-4, 23A-27-25, 10-33-24, 10-36-10, 11-7-73, 10-35-21,  
32 and 10-43-77;
- 33 (b) Divide the result of (a) by the September 2015 fall enrollment, excluding any  
34 adjustments based on prior year student counts;
- 35 (5B) "Alternative local need," is the alternative per student need multiplied by the fall  
36 enrollment, excluding any adjustments based on prior year student counts;
- 37 (6) "Local effort," the amount of ad valorem taxes generated in a school fiscal year by  
38 applying the levies established pursuant to § 10-12-42. Beginning on July 1, 2017, local  
39 effort will include the amount of funds apportioned to each school district in the year  
40 preceding the most recently completed school fiscal year pursuant to §§ 10-33-24, 10-  
41 35-21 as provided by subdivision (6B), 10-36-10, 10-43-77, 11-7-73, 13-13-4, and 23A-

1 27-25 and that exceeds the other revenue base amount. For the period July 1, 2016,  
 2 through December 31, 2016, inclusive, local effort includes the amount of ad valorem  
 3 taxes generated by applying the levies established pursuant to § 13-10-6 during this  
 4 period;

5 (6A) "Other revenue base amount," for school districts not utilizing the alternative local need  
 6 calculation is the amount of funds apportioned to each school district pursuant to §§ 10-  
 7 33-24, 10-35-21 as provided by subdivision (6B), 10-36-10, 10-43-77, 11-7-73, 13-13-  
 8 4, and 23A-27-25 calculated as follows:

9 (a) Beginning on July 1, 2017, equals the greatest of the amounts of the funds  
 10 apportioned to each school district pursuant to §§ 10-33-24, 10-35-21 as  
 11 provided by subdivision (6B), 10-36-10, 10-43-77, 11-7-73, 13-13-4, and 23A-  
 12 27-25 for school fiscal years 2013, 2014, and 2015;

13 (b) Beginning on July 1, 2018, multiply eighty percent times subsection (a);

14 (c) Beginning on July 1, 2019, multiply sixty percent times subsection (a);

15 (d) Beginning on July 1, 2020, multiply forty percent times subsection (a);

16 (e) Beginning on July 1, 2021, multiply twenty percent times subsection (a);

17 (f) Beginning on July 1, 2022, is zero.

18 For school districts utilizing the alternative local need calculation, the other  
 19 revenue base amount is zero until such time the school district chooses to no longer  
 20 utilize the alternative local need calculation. At that time, the other revenue base amount  
 21 is calculated as defined above.

22 For a school district created or reorganized after July 1, 2016, the other  
 23 revenue base amount is the sum of the other revenue base amount for each district  
 24 before reorganization, and the new school district may not utilize the alternative local  
 25 need calculation.

26 In the case of the dissolution and annexation of a district, the other  
 27 revenue base amount of the dissolved school district will be prorated based on the total  
 28 number of students in the fall enrollment as defined in subdivision (2A) who attend each  
 29 district to which area of the dissolved district were annexed to in the first year of  
 30 reorganization. The amount apportioned for each district will be added to the annexed  
 31 districts' other revenue base;

32 (6B) "Wind energy tax revenue," any wind energy tax revenue apportioned to school districts  
 33 pursuant to § 10-35-21 from a wind farm producing power for the first time before July  
 34 1, 2016, shall be considered local effort pursuant to subdivision (6) and other revenue  
 35 base amount pursuant to subdivision (6A). However, any wind energy tax revenue  
 36 apportioned to a school district from a wind farm producing power for the first time after  
 37 June 30, 2016, one hundred percent shall be retained by the school district to which the  
 38 tax revenue is apportioned for the first five years of producing power, eighty percent for  
 39 the sixth year, sixty percent for the seventh year, forty percent for the eighth year,  
 40 twenty percent for the ninth year, and zero percent thereafter;

41 (7) "Per student equivalent," for funding calculations that are determined on a per student  
 42 basis, the per student equivalent is calculated as follows:

43 (a) Multiply the target teacher compensation times the sum of one plus the overhead  
 44 rate;

45 (b) Divide subsection (a) by 15;

1 (8) "Monthly cash balance," the total amount of money for each month in the school district's  
2 general fund, calculated by adding all deposits made during the month to the beginning  
3 cash balance and deducting all disbursements or payments made during the month;

4 (9) "General fund base percentage," is determined as follows:

5 (a) Forty percent for a school district with a fall enrollment as defined in subdivision  
6 (2A) of two hundred or less;

7 (b) Thirty percent for a school district with fall enrollment as defined in subdivision  
8 (2A) of more than two hundred but less than six hundred; and

9 (c) Twenty-five percent for a school district with fall enrollment as defined in  
10 subdivision (2A) greater than or equal to six hundred.

11 When determining the general fund base percentage, the secretary of the  
12 Department of Education shall use the lesser of the school district's fall enrollment as  
13 defined in subdivision (2A) for the current school year or the school district's fall  
14 enrollment from the previous two years;

15 (10) "Allowable general fund cash balance," the general fund base percentage multiplied by  
16 the district's general fund expenditures in the previous school year.

17 **Section 50.** That a NEW SECTION be added:

18 13-13-93. Aid--Proportionate distribution.

19 A sponsoring school district shall forward to the Oceti Sakowin community-based school that  
20 portion of the total funding received by the district in accordance with this chapter, which equals  
21 the percentage of the district's students who are enrolled in the Oceti Sakowin community-based  
22 school. The sponsoring school district is responsible for the provision of services required in  
23 accordance with the Individuals with Disabilities Education Act, Titles I, II, and IV of the Every  
24 Student Succeeds Act, and any other requirements set forth in chapter 13-37.

25 **Section 51.** Notwithstanding any other provision in this Act, during the five year period  
26 beginning July 1, 2020, Oceti Sakowin community-based schools may not exceed four in number.

27 "

66I

28 On amendment (66G),

29 On page 10, line 12, after "religion," delete "sexual orientation,"

30 And that as so amended, said bill do pass.

31 Also MR. PRESIDENT:

32 The Committee on Senate Education respectfully reports that it has had under consideration  
33 **SB 170** and returns the same with the recommendation that said bill be amended as follows:

170A

34 On page 1, line 6, of the Introduced bill, after "hundred " insert "four hundred "

35 On page 1, line 17, of the Introduced bill, after "hundred " insert "four hundred "

36 On page 2, line 14, of the Introduced bill, delete "may, starting with taxes payable in 2021,  
37 authorize the levy of a tax not to exceed three dollars and fifty cents per thousand dollars " and

1 insert "that, in calendar year 2020 was limited to a maximum capital outlay revenue of one thousand  
2 four hundred dollars or less per student is eligible, starting with taxes payable in 2021, to authorize  
3 the levy of a tax not to exceed three dollars per thousand "

4 On page 2, line 19, of the Introduced bill, after "Authority" delete " if the school district:

5 (1) Is limited to maximum capital outlay revenue of one thousand dollars or less per student  
6 in calendar year 2020; and

7 (2) Had a capital outlay balance of four hundred thousand dollars or less as of June 30,  
8 2019.

9 Taxes collected pursuant to the levy may be irrevocably pledged by the school board to the  
10 payment of principal and interest on installment purchase contracts or capital outlay certificates  
11 entered into or issued pursuant to § 13-16-6 or 13-16-6. 2 or any lease-purchase agreement or  
12 other arrangement with the Health and Educational Facilities Authority and, as long as any capital  
13 outlay certificates are outstanding, or any installment agreement payments, lease-purchase  
14 agreements, or other arrangements are unpaid, the school board of any district may be compelled  
15 by mandamus or other appropriate remedy to levy an annual tax sufficient to pay the principal and  
16 interest thereon, but not to exceed three dollars and fifty cents per thousand dollars of taxable  
17 valuation in any year as authorized in this section.

18 The total amount of revenue payable from the levy authorized in this section may not increase  
19 annually by more than the lesser of three percent or the index factor, as defined in § 10-13-38,  
20 over the maximum amount of revenue that could have been generated from the taxes payable in  
21 2021. After applying the index factor, a school district may increase the revenue payable from taxes  
22 on real property above the limitations provided in this section by the percentage increase of value  
23 resulting from any improvements or change in use of real property, annexation, boundary changes,  
24 and any adjustments in taxation of real property separately classified and subject to statutory  
25 adjustments and reductions under chapters 10-4, 10-6, 10-6A, and 10-6B, except § 10-6-31. 4,  
26 only if assessed the same as property of equal value. A school district may increase the revenue the  
27 district receives from taxes on real property above the limit provided in this section for taxes levied  
28 to pay the principal, interest, and redemption charges on any bonds issued after January 1, 2009,  
29 that are subject to referendum, scheduled payment increases on bonds, and for a levy directed by  
30 the order of a court for the purpose of paying a judgment against the school district"

31 On page 3, line 17, of the Introduced bill, delete "two " and insert "four "

32 On page 3, line 21, of the Introduced bill, after "10-13-38." insert "

33 **Section 52.** That § 13-16-7 be AMENDED:

34 13-16-7. Additional tax levy for certain funds or obligations--Pledge of taxes--Limitations.

35 The school board of any school district of this state may at the board's discretion authorize an  
36 annual levy of a tax not to exceed three dollars per thousand dollars of taxable valuation on the  
37 taxable valuation of the district for the capital outlay fund for assets as defined by § 13-16-6 or for  
38 the district's obligations under a resolution, lease-purchase agreement, capital outlay certificate, or  
39 other arrangement with the Health and Educational Facilities Authority. Taxes collected pursuant to  
40 the levy may be irrevocably pledged by the school board to the payment of principal of and interest  
41 on installment purchase contracts or capital outlay certificates entered into or issued pursuant to  
42 § 13-16-6 or 13-16-6.2 or lease-purchase agreements or other arrangement with the Health and  
43 Educational Facilities Authority and, so long as any capital outlay certificates are outstanding,  
44 installment agreement payments, lease-purchase agreements, or other arrangements are unpaid,  
45 the school board of any district may be compelled by mandamus or other appropriate remedy to  
46 levy an annual tax sufficient to pay principal and interest thereon, but not to exceed the three dollars  
47 per thousand dollars of taxable valuation in any year authorized to be levied hereby.

48 The total amount of revenue payable from the levy provided in this section may ~~not~~ increase  
49 annually by ~~more than the lesser of three percent or the index factor, as defined in § 10-13-38,~~

1 over the maximum amount of revenue that could have been generated from the taxes payable in  
 2 2016. After applying ~~the index factor~~ three percent, a school district may increase the revenue  
 3 payable from taxes on real property above the limitations provided by this section by the percentage  
 4 increase of value resulting from any improvements or change in use of real property, annexation,  
 5 minor boundary changes, and any adjustments in taxation of real property separately classified and  
 6 subject to statutory adjustments and reductions under chapters 10-4, 10-6, 10-6A, and 10-6B,  
 7 except § 10-6-31.4, only if assessed the same as property of equal value. A school district may  
 8 increase the revenue the district receives from taxes on real property above the limit provided by  
 9 this section for taxes levied to pay the principal, interest, and redemption charges on any bonds  
 10 issued after January 1, 2009, which are subject to referendum, scheduled payment increases on  
 11 bonds and for a levy directed by the order of a court for the purpose of paying a judgment against  
 12 the school district. Any school district created or reorganized after January 1, 2016, is exempt from  
 13 the limitation provided by this section for a period of two years immediately following the district's  
 14 creation.

15 In no year may the annual tax levy provided in this section exceed three dollars per thousand  
 16 dollars of taxable valuation of the school district for the current year.

17 "

18 On page 3, line 21, of the Introduced bill, after "10-13-38." insert "

19 **Section 53.** That a NEW SECTION be added:

20 13-16-7.4. Maximum pledge of taxes--Transition.

21 Any school district impacted by the three thousand four hundred dollar tax limitation as  
 22 provided in § 13-16-7.2 during calendar years 2021, 2022, and 2023 may transfer to the general  
 23 fund the actual total dollar amount the school district transferred in fiscal year 2020. Beginning in  
 24 calendar year 2024, any impacted school district is limited to the transfer amount provided for in  
 25 § 13-16-6.

26 "

27 And that as so amended, said bill do pass.

28 Respectfully submitted,  
 29 R. Blake Curd, Chair

30 Mr. PRESIDENT:

31 The Committee on Legislative Procedure respectfully reports that the Office of Engrossing and  
 32 Enrolling has carefully compared **SB 9** and finds the same correctly enrolled.

33 Respectfully submitted,  
 34 Brock L. Greenfield, Chair

35 Mr. PRESIDENT:

36 The Committee on Legislative Procedure respectfully reports that **SB 8 and 62** were delivered  
 37 to her Excellency, the Governor, for her approval at 10:40 a.m., February 20, 2020.

38 Respectfully submitted,  
 39 Brock L. Greenfield, Chair

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**MESSAGES FROM THE HOUSE**

2 Mr. PRESIDENT:

3 I have the honor to transmit herewith **HB 1034, 1073, 1090, 1095, 1123, 1169, 1205,**  
4 **1208, 1257, and 1260** which have passed the House and your favorable consideration is  
5 respectfully requested.

6 Also Mr. PRESIDENT:

7 I have the honor to return herewith **SB 9** which has passed the House without change.

8 Also Mr. PRESIDENT:

9 I have the honor to transmit herewith **HCR 6009** which has been adopted by the House and  
10 your concurrence is respectfully requested.

11 Also Mr. PRESIDENT:

12 I have the honor to return herewith **SB 28** which has been amended by the House and your  
13 concurrence in the amendments is respectfully requested.

14

15

Respectfully,  
Mary Lou Goehring, Chief Clerk

16

**MOTIONS AND RESOLUTIONS**

17 **HCR 6009:** A CONCURRENT RESOLUTION, Strengthening the sister-state ties between the  
18 State of South Dakota and Taiwan; supporting the signing of a Bilateral Trade Agreement (BTA)  
19 between Taiwan and the United States; and reaffirming support for increasing Taiwan’s international  
20 participation.

21 Was read the first time and the President waived the committee referral pursuant to Joint Rule  
22 6D-1.

23 Sen. Langer moved that **SB 155 and 167** be deferred to Friday, February 21, 2020, the 24<sup>th</sup>  
24 legislative day.

25 Which motion prevailed.

26 Sen. Langer moved that when we adjourn today, we adjourn to convene at 1:00 p.m. on  
27 Friday, February 21, 2020, the 24<sup>th</sup> legislative day.

28 Which motion prevailed.



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**CONSIDERATION OF REPORTS OF COMMITTEES**

Sen. Langer moved that the reports of the Standing Committees on Health and Human Services on **SB 136** as found on page 251 of the Senate Journal; also State Affairs on **SB 157** as found on page 252 of the Senate Journal; also Local Government on **SB 183** as found on page 250 of the Senate Journal; also Judiciary on **SB 176** as found on page 249 of the Senate Journal be adopted. Which motion prevailed and the reports were adopted.

**CONSIDERATION OF CONSENT EXECUTIVE APPOINTMENTS**

The Senate proceeded to the consideration of the executive appointment of Darin Seeley of Lake County, Wentworth, South Dakota, to the position of Commissioner of the Bureau of Human Resources.

The question being "Does the Senate advise and consent to the executive appointment of Darin Seeley pursuant to the executive message as found on page 82 of the Senate Journal?"

And the roll being called:  
Yeas 35, Nays 0, Excused 0, Absent 0

Yeas:  
Blare, Bolin, Cammack, Castleberry, Curd, Duhamel, Ewing, Foster, Brock Greenfield, Heinert, Phil Jensen, Kennedy, Klumb, Kolbeck, Lake, Langer, Maher, Monroe, Nesiba, Novstrup, Ernie Otten, Partridge, Rusch, Russell, Schoenbeck, Schoenfish, V. J. Smith, Soholt, Stalzer, Steinhauer, Sutton, White, Wiik, Wismer, and Youngberg

So the question having received an affirmative vote of a majority of the members-elect, the President declared the appointment confirmed.

**FIRST READING OF HOUSE BILLS AND JOINT RESOLUTIONS**

**HB 1095:** FOR AN ACT ENTITLED, An Act to revise requirements regarding hunting mentors.

**HB 1257:** FOR AN ACT ENTITLED, An Act to revise certain provisions regarding hunting, fishing, or trapping on private property without permission.

Were read the first time and referred to the Committee on Agriculture and Natural Resources.

**HB 1073:** FOR AN ACT ENTITLED, An Act to authorize special event alcohol licenses for full-service restaurant licensees.

Was read the first time and referred to the Committee on Commerce and Energy.

**HB 1123:** FOR AN ACT ENTITLED, An Act to revise provisions regarding termination of a lease by a victim of alleged domestic abuse.

1 **HB 1169:** FOR AN ACT ENTITLED, An Act to prohibit the use of certain electronic devices while  
2 driving.

3 **HB 1205:** FOR AN ACT ENTITLED, An Act to revise provisions regarding a custodial parent  
4 relocating a minor child.

5 Were read the first time and referred to the Committee on Judiciary.

6 **HB 1260:** FOR AN ACT ENTITLED, An Act to revise provisions regarding tax increment districts.

7 Was read the first time and referred to the Committee on Local Government.

8 **HB 1208:** FOR AN ACT ENTITLED, An Act to revise provisions regarding the titling of motor  
9 vehicles.

10 Was read the first time and referred to the Committee on Transportation.

11 **HB 1034:** FOR AN ACT ENTITLED, An Act to make an appropriation to fund tax refunds for  
12 elderly persons and persons with a disability, and to declare an emergency.

13 **HB 1090:** FOR AN ACT ENTITLED, An Act to make an appropriation to evaluate the feasibility  
14 of the use of telehealth services within the criminal justice system and to declare an emergency.

15 Were read the first time and the President waived the committee referral pursuant to Joint  
16 Rule 6D-1.

17 **SECOND READING OF CONSENT CALENDAR ITEMS**

18 **HB 1048:** FOR AN ACT ENTITLED, An Act to revise certain requirements for certain advisory  
19 committees under the Board of Medical and Osteopathic Examiners, Board of Nursing, and Board of  
20 Social Work Examiners.

21 **HB 1059:** FOR AN ACT ENTITLED, An Act to revise certain provisions regarding hunting with  
22 drones.

23 **HB 1082:** FOR AN ACT ENTITLED, An Act to revise the conditions under which a licensed  
24 vehicle dealer may display or sell certain vehicles.

25 **HB 1086:** FOR AN ACT ENTITLED, An Act to repeal certain fees charged by a clerk of courts.

26 **HB 1091:** FOR AN ACT ENTITLED, An Act to revise provisions regarding the compensation of  
27 merchandise dealers for diagnostic and warranty work.

28 **HB 1105:** FOR AN ACT ENTITLED, An Act to revise certain provisions regarding restrictions on  
29 State Investment Council members.

30 **HB 1106:** FOR AN ACT ENTITLED, An Act to authorize the state investment officer to include  
31 an indemnity provision in certain investment-related documents.

1 **HB 1120**: FOR AN ACT ENTITLED, An Act to authorize the governing body of a second or third  
2 class municipality to act as a planning and zoning commission.

3 Were read the second time.

4 The question being "Shall **HB 1082 and 1105** pass as amended, and **HB 1048, 1059, 1086,**  
5 **1091, 1106, and 1120** pass?"

6 And the roll being called:

7 Yeas 35, Nays 0, Excused 0, Absent 0

8 Yeas:

9 Blare, Bolin, Cammack, Castleberry, Curd, Duhamel, Ewing, Foster, Brock Greenfield, Heinert,  
10 Phil Jensen, Kennedy, Klumb, Kolbeck, Lake, Langer, Maher, Monroe, Nesiba, Novstrup, Ernie Otten,  
11 Partridge, Rusch, Russell, Schoenbeck, Schoenfish, V. J. Smith, Soholt, Stalzer, Steinhauer, Sutton,  
12 White, Wiik, Wismer, and Youngberg

13 So the bills having received an affirmative vote of a majority of the members-elect, the  
14 President declared the bills passed and the titles were agreed to.

15 **SECOND READING OF SENATE BILLS AND JOINT RESOLUTIONS**

16 **SB 162**: FOR AN ACT ENTITLED, An Act to provide limitations on the use of lighting equipment  
17 while hunting.

18 Was read the second time.

19 Sen. Youngberg moved that **SB 162** be amended as follows:

20 162B

21 On page 2, line 1, of the Senate Agriculture and Natural Resources bill, delete " rimfire  
22 cartridges" and insert " a cartridge having a bullet diameter of less than .225 inches"

23 On page 2, line 15, of the Senate Agriculture and Natural Resources bill, delete " rimfire  
24 cartridges" and insert " a cartridge having a bullet diameter of less than .225 inches"

25 Which motion prevailed.

26 The question being "Shall **SB 162** pass as amended?"

27 And the roll being called:

28 Yeas 35, Nays 0, Excused 0, Absent 0

29 Yeas:

30 Blare, Bolin, Cammack, Castleberry, Curd, Duhamel, Ewing, Foster, Brock Greenfield, Heinert,  
31 Phil Jensen, Kennedy, Klumb, Kolbeck, Lake, Langer, Maher, Monroe, Nesiba, Novstrup, Ernie Otten,  
32 Partridge, Rusch, Russell, Schoenbeck, Schoenfish, V. J. Smith, Soholt, Stalzer, Steinhauer, Sutton,  
33 White, Wiik, Wismer, and Youngberg

34 So the bill having received an affirmative vote of a majority of the members-elect, the President  
35 declared the bill passed and the title was agreed to.

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**SECOND READING OF HOUSE BILLS AND JOINT RESOLUTIONS**

**HB 1007:** FOR AN ACT ENTITLED, An Act to require certain adjustments to the assessed value of agricultural land if factors impact the land's productivity and to require those adjustments to be documented.

Was read the second time.

The question being "Shall **HB 1007** pass as amended?"

And the roll being called:

Yeas 35, Nays 0, Excused 0, Absent 0

Yeas:

Blare, Bolin, Cammack, Castleberry, Curd, Duhamel, Ewing, Foster, Brock Greenfield, Heinert, Phil Jensen, Kennedy, Klumb, Kolbeck, Lake, Langer, Maher, Monroe, Nesiba, Novstrup, Ernie Otten, Partridge, Rusch, Russell, Schoenbeck, Schoenfish, V. J. Smith, Soholt, Stalzer, Steinhauer, Sutton, White, Wiik, Wismer, and Youngberg

So the bill having received an affirmative vote of a majority of the members-elect, the President declared the bill passed and the title was agreed to.

**HB 1060:** FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the use of the aeronautics fund.

Was read the second time.

Sen. Maher moved that **HB 1060** be amended as follows:

1060A

On page 1, line 5, of the Introduced bill, remove the overstrikes from " as appropriated by the Legislature may"

On page 1, line 6, of the Introduced bill, after "may " delete "shall "

Sen. Brock Greenfield requested that Joint Rule 5-17 be invoked on **HB 1060**.

Which request was supported and **HB 1060** with Sen. Maher's pending motion to amend was deferred until Monday, February 24, 2020, the 25<sup>th</sup> legislative day.

There being no objection, the Senate reverted to Order of Business No. 10 - First Reading of Senate Bills.

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**FIRST READING OF SENATE BILLS AND JOINT RESOLUTIONS**

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The President declared that **SB 79** changed prime sponsor from Senator Klumb to Senator Brock Greenfield at their request.

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**SIGNING OF BILLS**

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The President publicly read the title to

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**SB 9:** FOR AN ACT ENTITLED, An Act to repeal the Department of Labor and Regulation's retirement plan and to transfer plan members and funds to the South Dakota Retirement System.

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**HB 1023:** FOR AN ACT ENTITLED, An Act to permit the secretary of revenue to issue cease and desist orders and to impose a civil penalty on certain public auctions.

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**HB 1032:** FOR AN ACT ENTITLED, An Act to revise the authority of the Board of Education Standards to promulgate rules regarding certification.

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**HB 1039:** FOR AN ACT ENTITLED, An Act to revise the rule-making authority of the Human Resources Commissioner regarding the drug screening program for certain state employees.

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**HB 1051:** FOR AN ACT ENTITLED, An Act to revise certain provisions regarding public access to voter registration data.

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**HB 1074:** FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the required time that sexual assault kits be preserved.

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**HB 1083:** FOR AN ACT ENTITLED, An Act to rename the postsecondary technical institutes as technical colleges.

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**HB 1084:** FOR AN ACT ENTITLED, An Act to increase the maximum allowable height of certain vehicles carrying baled feed and to declare an emergency.

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And signed the same in the presence of the Senate.

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Sen. Klumb moved that the Senate do now adjourn, which motion prevailed and at 3:03 p.m. the Senate adjourned.

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Kay Johnson, Secretary

