

## 2022 South Dakota Legislature

**Senate Bill 139****AMENDMENT 139B FOR THE SENATE ENGROSSED BILL**

1 **An Act to provide for the creation and funding of Oceti Sakowin community-based**  
2 **schools.**

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 **Section 1. That a NEW SECTION be added to title 13:**

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

9 (1) A mission statement;

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

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

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

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

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

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

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

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

23 For purposes of this chapter, an Oceti Sakowin community-based school means an  
24 educational institution that combines the rigorous academics of a quality school with a  
25 wide range of vital in-house services, supports, and opportunities for the purpose of  
26 promoting each student's learning and development. The school unites the most important

1 influences in a student's life, including educational experiences, families, and  
2 communities, to create a support network that nurtures the student's development toward  
3 productive adulthood. The school embraces and lifts the indigenous language of the  
4 community and incorporates four inter-connected support systems into one core structure  
5 that includes a strong core instructional program designed to help each student meet high  
6 academic standards; enrichment activities designed to expand each student's learning  
7 opportunities and support cognitive, social, emotional, moral, and physical development;  
8 a full range of health and mental health services designed to safeguard each student's  
9 well-being and remove barriers to learning; and indigenous language as the instructional  
10 language for core classes or as a kindergarten through grade twelve indigenous language  
11 program to develop fluency and preserve language.

12 **Section 2. That a NEW SECTION be added to title 13:**

13 Upon receiving an application seeking sponsorship of an Oceti Sakowin community-  
14 based school, the board of a school district has sixty days to review and either approve or  
15 deny the application. The application is considered complete if:

- 16 (1) There is a reasonable likelihood that the Oceti Sakowin community-based school  
17 will open and be operated in an educationally and fiscally sound manner;  
18 (2) Decisions regarding the Oceti Sakowin community-based school will be based on  
19 documented evidence offered as part of the application process;  
20 (3) The Oceti Sakowin community-based school will follow policies and practices that  
21 are transparent and based on merit;  
22 (4) Conflicts of interest or any appearance of impropriety will be avoided;  
23 (5) The Oceti Sakowin community-based school is likely to improve student learning  
24 and achievement; and  
25 (6) An operating agreement, including funding, is proposed.

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

29 **Section 3. That a NEW SECTION be added to title 13:**

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

1           The board of a school district may not serve as the sponsor of an Oceti Sakowin  
2           community-based school if the Department of Education has determined that, during  
3           either of the two fiscal years immediately preceding the date of the application, the district  
4           was not in compliance with the uniform system for gathering and reporting educational  
5           data, as established in accordance with § 13-3-51.

6           **Section 4. That a NEW SECTION be added to title 13:**

7           Each person serving as an educator at an Oceti Sakowin community-based school  
8           shall either hold a certificate, as provided for in chapter 13-42, or if the person is to provide  
9           instruction only in a Native American language, the person shall hold a South Dakota  
10          Native American Lakota, Dakota, or Nakota language permit.

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

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

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

- 21          (1) The academic and operational expectations of the Oceti Sakowin community-based  
22             school and the manner in which both are to be determined;  
23          (2) The terms and conditions of sponsorship;  
24          (3) The rights and expectations of the sponsoring school district and the Oceti Sakowin  
25             community-based school;  
26          (4) A requirement that the Oceti Sakowin community-based school be nonsectarian in  
27             its programs, admission policies, employment practices, and all other operations;  
28          (5) A requirement that the Oceti Sakowin community-based school provide a  
29             comprehensive program of instruction for at least one grade level between  
30             kindergarten and twelve;  
31          (6) A requirement that the Oceti Sakowin community-based school is subject to the  
32             same operational term as provided for in § 13-26-2;

- 1        (7) A requirement that the Oceti Sakowin community-based school is subject to all  
2        state and federal laws governing the provision of education to children with  
3        disabilities;
- 4        (8) A requirement that the Oceti Sakowin community-based school follow the Oceti  
5        Sakowin Essential Understandings and Standards;
- 6        (9) A requirement that the Oceti Sakowin community-based school incorporate in its  
7        instruction the official indigenous language of this state, as set forth in § 1-27-20;
- 8        (10) A requirement that the Oceti Sakowin community-based school provide for the  
9        measurement of student progress in a manner required by the Department of  
10       Education;
- 11       (11) A requirement that the Oceti Sakowin community-based school report educational  
12       data and preserve educational and financial records in the same manner as school  
13       districts in accordance with §§ 13-3-51 to 13-3-51.6, inclusive;
- 14       (12) A requirement that the Oceti Sakowin community-based school and its governing  
15       board comply with the open meetings and open records provisions otherwise  
16       applicable to school districts, in accordance with chapters 1-25 and 1-27,  
17       respectively;
- 18       (13) A requirement that the Oceti Sakowin community-based school is subject to annual  
19       financial and compliance audits, as well as performance audits;
- 20       (14) A requirement that the Oceti Sakowin community-based school must maintain  
21       accounting and financial functions that are separate and apart from those of the  
22       sponsoring school district;
- 23       (15) A requirement that the Oceti Sakowin community-based school shall maintain an  
24       adequate risk management and insurance program;
- 25       (16) A requirement that, unless otherwise provided in this chapter, the Oceti Sakowin  
26       community-based school is subject to the same state and federal laws that are  
27       applicable to other school districts in this state, except those laws applicable to  
28       taxing authority, as found in chapters 10-12, 13-11, and 13-16, and school district  
29       elections as set forth in chapters 13-7 and 13-8;
- 30       (17) A requirement that the Oceti Sakowin community-based school is subject to the  
31       same student assessment and accountability requirements applicable to other  
32       school districts in this state, except that nothing prevents the school, with the  
33       sponsor's approval, from establishing additional assessments and requirements  
34       that exceed those otherwise applicable under state law; and

1       (18) A requirement that the Oceti Sakowin community-based school must utilize the  
2       same standards as those established for the education of students in a school  
3       district.

4       **Section 6. That a NEW SECTION be added to title 13:**

5       An initial contract, provided for in section 5 of this Act, must have a term of five  
6       years, except as otherwise permitted by section 13 of this Act, and specify a beginning  
7       date. An Oceti Sakowin community-based school may, upon notifying the board of the  
8       sponsoring school district, delay the effective date of the contract for a period of one year.  
9       If the Oceti Sakowin community-based school determines that a delay of more than one  
10      year is necessary, the school may request concurrence by the board. The board may grant  
11      the request, deny the request, or terminate the sponsorship.

12      **Section 7. That a NEW SECTION be added to title 13:**

13      The board of a sponsoring district shall monitor the performance and legal  
14      compliance of an Oceti Sakowin community-based school and may request, collect, and  
15      analyze data from the Oceti Sakowin community-based school to support the ongoing  
16      monitoring and evaluation. The board of a sponsoring district shall, at the time and in the  
17      manner requested by the Department of Education, provide to the department a report  
18      regarding the performance of the Oceti Sakowin community-based school. The report and  
19      data contained in the report must be separate and apart from any report or data otherwise  
20      pertaining to the school district.

21      **Section 8. That a NEW SECTION be added to title 13:**

22      If the board of a sponsoring school district determines that an Oceti Sakowin  
23      community-based school's performance or legal compliance is unsatisfactory, the board  
24      must provide written notification to the Oceti Sakowin community-based school and must  
25      provide the school with a specific time period within which the matter must be addressed.  
26      If the matter is not addressed by the Oceti Sakowin community-based school within the  
27      specified time period, the board may take corrective action, including the imposition of  
28      sanctions, or may terminate the sponsorship.

29      **Section 9. That a NEW SECTION be added to title 13:**

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

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

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

- 12 (1) Additional evidence of improvements in student performance;  
13 (2) A description of improvements that had been undertaken, are being undertaken,  
14 or are being planned; and  
15 (3) A detailed operational plan for the ensuing contract period.

16 **Section 10. That a NEW SECTION be added to title 13:**

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

- 19 (1) Examine and base the decision regarding renewal of the contract on evidence of  
20 the Oceti Sakowin community-based school's performance during the first term of  
21 the contract; and  
22 (2) Prepare and provide to the Oceti Sakowin community-based school a report  
23 regarding the evidence provided and the decision that was reached.

24 **Section 11. That a NEW SECTION be added to title 13:**

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

- 27 (1) Engaged in a material breach of the contract or a substantial violation of this  
28 chapter;  
29 (2) Failed to meet or make sufficient progress toward the school's performance  
30 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  
33 community-based school was not exempt.

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

3 **Section 12. That a NEW SECTION be added to title 13:**

4 The board of a sponsoring school district may unilaterally revoke a contract upon  
5 the conditions set forth in section 11 of this Act, if the board:

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

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

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

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

14 **Section 13. That a NEW SECTION be added to title 13:**

15 A sponsorship contract under this chapter is effective for five years unless a shorter  
16 duration is agreed to by the parties or a unilateral revocation occurs pursuant to section  
17 12 of this Act. A sponsorship contract, regardless of duration, may contain conditions  
18 governing its continuation, provided the conditions comply with the provisions of this  
19 chapter.

20 **Section 14. That a NEW SECTION be added to title 13:**

21 Neither the board of a sponsoring school district nor an administrator may take  
22 any adverse action against a school district employee as a result of that employee's direct  
23 or indirect participation in the establishment of an Oceti Sakowin community-based school  
24 under this chapter. For purposes of this section, an adverse action against a school district  
25 employee includes a disciplinary measure, a compensatory reduction, a transfer or  
26 reassignment, and any other significant changes in the employee's duties or  
27 responsibilities objected to by the employee.

28 Neither the board of a sponsoring school district nor an administrator may take  
29 any adverse action against an existing school district program as a result of an application  
30 to establish an Oceti Sakowin community-based school under this chapter. For purposes  
31 of this section, an adverse action against a school district program includes the suspension

1 or termination of the program, the transfer or reassignment of the program to a less  
2 desirable department within the district, the physical relocation of the program to a less  
3 desirable setting, and a reduction in or the elimination of funding for the program.

4 **Section 15. That a NEW SECTION be added to title 13:**

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

- 7 (1) Purchase or lease real property, facilities, appurtenances, and equipment;  
8 (2) Obtain a loan;  
9 (3) Pledge, assign, or encumber its assets to collateralize a loan or obtain credit;  
10 (4) Apply for state and federal grants;  
11 (5) Apply for grants from philanthropic foundations;  
12 (6) Accept gifts, grants, and donations for any purpose related to the establishment or  
13 operation of the community-based school;  
14 (7) Hire and compensate personnel;  
15 (8) Participate in the state retirement system established in accordance with chapter  
16 3-12C;  
17 (9) Enter into a contract with a school district or educational cooperative for the  
18 delivery of educational or other services, provided the consideration paid by the  
19 community-based school for the services does not exceed the delivering entity's  
20 actual cost of providing the services; and  
21 (10) Access any shared services offered by the state.

22 **Section 16. That a NEW SECTION be added to title 13:**

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

- 25 (1) Any act or omission undertaken in good faith, and within the scope of authority,  
26 regarding an Oceti Sakowin community-based school established or operated in  
27 accordance with this chapter; or  
28 (2) Any debts incurred by or on behalf of an Oceti Sakowin community-based school  
29 established or operated in accordance with this chapter.

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

32 **Section 17. That a NEW SECTION be added to title 13:**



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

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

9           **Section 18. That a NEW SECTION be added to title 13:**

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

- 14           (1) Students who attended the Oceti Sakowin community-based school during the  
15           previous year;  
16           (2) Siblings of students who attended the Oceti Sakowin community-based school  
17           during the previous year;  
18           (3) Students who reside within the boundaries of the school district in which the Oceti  
19           Sakowin community-based school is located; and  
20           (4) Students selected by lot.

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

24           **Section 19. That a NEW SECTION be added to title 13:**

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

28           **Section 20. That a NEW SECTION be added to title 13:**

29           On or before October first of each year, the secretary of education shall provide an  
30           annual report to the Governor and the Legislature regarding Oceti Sakowin community-  
31           based schools.

1           The secretary shall include in the report the following:

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

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

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

8       (4) An assessment regarding the size and number of the existing Oceti Sakowin  
9       community-based schools with respect to their ability to meet the demand, as  
10      calculated by admissions data and the number of students denied enrollment.

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

14      **Section 21. That a NEW SECTION be added to title 13:**

15           The Board of Education Standards shall promulgate rules, in accordance with  
16      chapter 1-26, to provide for the application process, creation and development of an Oceti  
17      Sakowin community-based school, to provide for the delivery and administration of  
18      elementary and secondary education within the framework of an Oceti Sakowin  
19      community-based school, and to provide for an appellate mechanism governing decisions  
20      related to the creation, development, administration, or operations of an Oceti Sakowin  
21      community-based school.

22      **Section 22. That a NEW SECTION be added to title 13:**

23           Notwithstanding any other provision in this chapter, during the five-year period  
24      beginning July 1, 2022, Oceti Sakowin community-based schools may not exceed two in  
25      number.

26      **Section 23. That § 13-10-12 be AMENDED:**

27           **13-10-12.** Each person over eighteen years of age hired by a school district or an  
28      Oceti Sakowin community-based school shall submit to a criminal background  
29      investigation, by means of fingerprint checks by the Division of Criminal Investigation and  
30      the Federal Bureau of Investigation. The school district or the Oceti Sakowin community-  
31      based school shall submit completed fingerprint cards to the Division of Criminal

1 Investigation before the prospective new employee enters into service. If no disqualifying  
2 record is identified at the state level, the fingerprints shall be forwarded by the Division  
3 of Criminal Investigation to the Federal Bureau of Investigation for a national criminal  
4 history record check. Any person whose employment is subject to the requirements of this  
5 section may enter into service on a temporary basis pending receipt of results of the  
6 criminal background investigation. The employing school district or Oceti Sakowin  
7 community-based school may, without liability, withdraw its offer of employment or  
8 terminate the temporary employment without notice if the report reveals a disqualifying  
9 record. The employing school district or Oceti Sakowin community-based school may pay  
10 any fees charged for the cost of fingerprinting or the criminal background investigation for  
11 any person whose employment is subject to the requirements of this section. Any person  
12 hired to officiate, judge, adjudicate, or referee a public event sponsored by a school district  
13 is not required to submit to a criminal background investigation as required in this section.  
14 ~~In addition, any~~ Any instructor employed by a technical college ~~is required to~~ shall submit  
15 to a criminal background investigation as required in this section at the time of initial  
16 employment.

17 The criminal investigation required by this section with respect to a student teacher  
18 completing requirements for teacher certification shall be conducted by the school district.  
19 A criminal background investigation, of a student teacher, conducted by a school district  
20 may be provided to any other school in which the student engages in student teaching.  
21 The school district conducting the criminal background investigation of a student teacher  
22 may rely upon the results of that investigation for employment of that person as an  
23 employee of the district.

24 **Section 24. That § 13-13-10.1 be AMENDED:**

25 **13-13-10.1.** The education funding terms and procedures referenced in this  
26 chapter are defined as follows:

- 27 (1) Nonresident students who are in the care and custody of the Department of Social  
28 Services, the Unified Judicial System, the Department of Corrections, or other state  
29 agencies and are attending a public school may be included in the fall enrollment  
30 of the receiving district when enrolled in the receiving district;
- 31 (2) "Fall enrollment," is calculated as follows:
- 32 (a) Determine the number of kindergarten through twelfth grade students  
33 ~~enrolled in all schools operated by the school district who~~ who on the last Friday  
34 of September of the current school year; ~~are enrolled in all schools operated~~

1 by the district and enrolled in an Oceti Sakowin community-based school  
2 sponsored by the district;

3 (b) Subtract the number of students for whom the district receives tuition except  
4 for:

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

7 (ii) Students who are being provided an education pursuant to § 13-28-  
8 11;

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

10 When computing state aid to education for a school district pursuant to § 13-13-  
11 73, the secretary of the Department of Education shall use the school district's fall  
12 enrollment;

13 (3) "Target teacher ratio factor," is:

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

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

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

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

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

22 The fall enrollment used for the determination of the target teacher ratio for a  
23 school district may not include any students residing in a residential treatment  
24 facility when the education program is operated by the school district;

25 (4) "English learner (EL) adjustment," is calculated by multiplying 0.25 times the  
26 number of kindergarten through twelfth grade students who, in the prior school  
27 year, scored below level four on the state-administered language proficiency  
28 assessment as required in the state's consolidated state application pursuant to  
29 § 1111(b)(2)(G) of the Every Student Succeeds Act of 2015. For the 2021-2022  
30 calculation only, the EL adjustment is calculated by multiplying 0.25 times the  
31 number of kindergarten through twelfth grade students who scored below level  
32 four on the state-administered language proficiency assessment in school year  
33 2019-2020 or 2020-2021, whichever is greater;

34 (5) "Index factor," is the annual percentage change in the consumer price index for  
35 urban wage earners and clerical workers as computed by the Bureau of Labor

- 1 Statistics of the United States Department of Labor for the year before the year  
2 immediately preceding the year of adjustment or three percent, whichever is less;
- 3 (6) "Target teacher salary," for the school fiscal year beginning July 1, 2021 is  
4 \$52,600.29. Each school fiscal year thereafter, the target teacher salary is the  
5 previous fiscal year's target teacher salary increased by the index factor;
- 6 (7) "Target teacher benefits," is the target teacher salary multiplied by twenty-nine  
7 percent;
- 8 (8) "Target teacher compensation," is the sum of the target teacher salary and the  
9 target teacher benefits;
- 10 (9) "Overhead rate," is thirty-seven and thirty hundredths percent.  
11 Beginning in school fiscal year 2018, the overhead rate shall be adjusted to take  
12 into account the sum of the amounts that districts exceed the other revenue base  
13 amount;
- 14 (10) "Local need," is calculated as follows:  
15 (a) Divide the fall enrollment by the target teacher ratio factor;  
16 (b) If applicable, divide English Learner (EL) adjustment pursuant to subdivision  
17 (4) by the target teacher ratio factor;  
18 (c) Add the results of subsections (a) and (b);  
19 (d) Multiply the result of subsection (c) by the target teacher compensation;  
20 (e) Multiply the product of subsection (d) by the overhead rate;  
21 (f) Add the products of subsections (d) and (e);  
22 (g) When calculating local need at the statewide level, include the amounts set  
23 aside for costs related to technology in schools and statewide student  
24 assessments; and  
25 (h) When calculating local need at the statewide level, include the amounts set  
26 aside for sparse school district benefits, calculated pursuant to §§ 13-13-  
27 78 and 13-13-79;
- 28 (11) "Alternative per student need," is calculated as follows:  
29 (a) Add the total need for each school district for school fiscal year 2016,  
30 including the small school adjustment and the English learner adjustment,  
31 to the lesser of the amount of funds apportioned to each school district in  
32 the year preceding the most recently completed school fiscal year or school  
33 fiscal year 2015 pursuant to §§ 13-13-4, 23A-27-25, 10-33-24, 10-36-10,  
34 11-7-73, 10-35-21, and 10-43-77; and

1 (b) Divide the result of (a) by the September 2015 fall enrollment, excluding any  
2 adjustments based on prior year student counts;

3 (12) "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 (13) "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,  
7 local effort will include the amount of funds apportioned to each school district in  
8 the year preceding the most recently completed school fiscal year pursuant to  
9 §§ 10-33-24, 10-35-21 as provided by subdivision (15), 10-36-10, 10-43-77, 11-  
10 7-73, 13-13-4, and 23A-27-25 and that exceeds the other revenue base amount;

11 (14) "Other revenue base amount," for school districts not utilizing the alternative local  
12 need calculation is the amount of funds apportioned to each school district pursuant  
13 to §§ 10-33-24, 10-35-21 as provided by subdivision (15), 10-36-10, 10-43-77,  
14 11-7-73, 13-13-4, and 23A-27-25, calculated as follows:

15 (a) Beginning on July 1, 2017, equals the greatest of the amounts of the funds  
16 apportioned to each school district pursuant to §§ 10-33-24, 10-35-21 as  
17 provided by subdivision (15), 10-36-10, 10-43-77, 11-7-73, 13-13-4, and  
18 23A-27-25 for school fiscal years 2013, 2014, and 2015;

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

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

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

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

23 (f) Beginning on July 1, 2022, is zero;

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

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

32 In the case of the dissolution and annexation of a district, the other revenue base  
33 amount of the dissolved school district will be prorated based on the total number  
34 of students in the fall enrollment as defined in subdivision (2) who attend each  
35 district to which area of the dissolved district were annexed to in the first year of

1 reorganization. The amount apportioned for each district will be added to the  
2 annexed districts' other revenue base;

3 (15) "Wind energy tax revenue," any wind energy tax revenue apportioned to school  
4 districts pursuant to § 10-35-21 from a wind farm producing power for the first  
5 time before July 1, 2016, shall be considered local effort pursuant to subdivision  
6 (13) and other revenue base amount pursuant to subdivision (14). However, any  
7 wind energy tax revenue apportioned to a school district from a wind farm  
8 producing power for the first time after June 30, 2016, one hundred percent shall  
9 be retained by the school district to which the tax revenue is apportioned for the  
10 first five years of producing power, eighty percent for the sixth year, sixty percent  
11 for the seventh year, forty percent for the eighth year, twenty percent for the ninth  
12 year, and zero percent thereafter. If a wind farm begins producing power for the  
13 first time between October first and December thirty-first in a calendar year, any  
14 revenues generated for that time period must be retained by the school district  
15 and that time period may not be counted against the first five-year period;

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

18 (a) Multiply the target teacher compensation times the sum of one plus the  
19 overhead rate; and

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

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

25 (18) "General fund base percentage," is determined as follows:

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

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

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

32 When determining the general fund base percentage, the secretary of the  
33 Department of Education shall use the lesser of the school district's fall enrollment  
34 as defined in subdivision (2) for the current school year or the school district's fall  
35 enrollment from the previous two years; and

1 (19) "Allowable general fund cash balance," the general fund base percentage multiplied  
2 by the district's general fund expenditures in the previous school year.

3 **Section 25. That chapter 13-13 be amended with a NEW SECTION:**

4 A sponsoring school district shall forward to the Oceti Sakowin community-based  
5 school that portion of the total funding received by the district in accordance with this  
6 chapter, that equals the percentage of the district's students who are enrolled in the Oceti  
7 Sakowin community-based school. The sponsoring school district is responsible for the  
8 provision of services required by chapter 13-37. ~~Notwithstanding anything else in this~~  
9 ~~section, any funding transferred to the Oceti Sakowin community-based school must be~~  
10 ~~net of any moneys required to provide special education services under chapter 13-37 to~~  
11 ~~Oceti Sakowin students, or any federal funds for which such a transfer would be unlawful.~~

12 Nothing in this section impairs any collateral pledge of state aid for debt incurred  
13 by a sponsoring school district prior to July 1, 2022.  
14