



2021 South Dakota Legislature

Senate Bill 68

Introduced by: **Senators** Heinert, Foster, and V. J. Smith and **Representatives** Pourier, Bordeaux, Haugaard, Phil Jensen, Randolph, and St. John at the request of the Committee on State-Tribal Relations

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:

5 **13-67-1. Oceti Sakowin Essential Understandings and Standards--Oceti**
 6 **Sakowin community-based schools--Application contents.**

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

- 11 (1) A mission statement;
 12 (2) A description of the Oceti Sakowin community-based school's organizational
 13 structure;
 14 (3) A description of the Oceti Sakowin community-based school's governance
 15 structure;
 16 (4) A location for and a description of the facility that will be used to house the Oceti
 17 Sakowin community-based school;
 18 (5) The grade levels that will be served;
 19 (6) A financial plan for the first three years of operation;
 20 (7) Personnel policies, including those addressing employment and qualifications; and
 21 (8) The criteria that will be used to measure the effectiveness of the Oceti Sakowin
 22 community-based school.

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

25 For purposes of this chapter, an Oceti Sakowin community-based school means an
 26 educational institution that combines the rigorous academics of a quality school with a

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

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

15 **13-67-2. Application--Conditions for approval.**

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

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

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

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

1 **13-67-3. Sponsorship--Conditions.**

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

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

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

11 **13-67-4. Educator qualifications.**

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

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

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

22 **13-67-5. Contract--Provisions.**

23 No later than sixty days after an application for an Oceti Sakowin community-based
24 school is approved, the board of the school district shall enter into a contract with the
25 governing board of the Oceti Sakowin community-based school. The contract must include
26 the following:

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

29 (2) The terms and conditions of sponsorship;

30 (3) The rights and expectations of the sponsoring school district and the Oceti Sakowin
31 community-based school;

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

- 1 (5) A requirement that the Oceti Sakowin community-based school provide a
2 comprehensive program of instruction for at least one grade level between
3 kindergarten and twelve;
- 4 (6) A requirement that the Oceti Sakowin community-based school is subject to the
5 same operational term as provided for in § 13-26-2;
- 6 (7) A requirement that the Oceti Sakowin community-based school is subject to all
7 state and federal laws governing the provision of education to children with
8 disabilities;
- 9 (8) A requirement that the Oceti Sakowin community-based school follow the Oceti
10 Sakowin Essential Understandings and Standards;
- 11 (9) A requirement that the Oceti Sakowin community-based school incorporate in its
12 instruction the official indigenous language of this state, as set forth in § 1-27-20;
- 13 (10) A requirement that the Oceti Sakowin community-based school provide for the
14 measurement of student progress in a manner required by the Department of
15 Education;
- 16 (11) A requirement that the Oceti Sakowin community-based school report educational
17 data and preserve educational and financial records in the same manner as school
18 districts in accordance with §§ 13-3-51 to 13-3-51.6, inclusive;
- 19 (12) A requirement that the Oceti Sakowin community-based school and its governing
20 board comply with the open meetings and open records provisions otherwise
21 applicable to school districts, in accordance with chapters 1-25 and 1-27;
- 22 (13) A requirement that the Oceti Sakowin community-based school is subject to
23 annual financial and compliance audits, as well as performance audits;
- 24 (14) A requirement that the Oceti Sakowin community-based school must maintain
25 accounting and financial functions that are separate and apart from those of the
26 sponsoring school district;
- 27 (15) A requirement that the Oceti Sakowin community-based school shall maintain an
28 adequate risk management and insurance program;
- 29 (16) A requirement that, unless otherwise provided in this chapter, the Oceti Sakowin
30 community-based school is subject to the same state and federal laws that are
31 applicable to other public schools and school districts in this state, except those
32 laws applicable to taxing authority, as found in chapters 10-12, 13-11, and 13-16,
33 and school district elections as set forth in chapters 13-7 and 13-8;
- 34 (17) A requirement that the Oceti Sakowin community-based school is subject to the
35 same student assessment and accountability requirements applicable to other

1 public schools in this state, except that nothing prevents the school, with the
2 sponsor's approval, from establishing additional assessments and requirements
3 that exceed those otherwise applicable under state law; and
4 (18) A requirement that the Oceti Sakowin community-based school must utilize the
5 same standards as those established for the education of students in a school
6 district.

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

8 **13-67-6. Contract--Term.**

9 An initial contract, provided for in § 13-67-5, must have a term of five years,
10 except as otherwise permitted by § 13-67-13, and specify a beginning date. An Oceti
11 Sakowin community-based school may, upon notifying the board of the sponsoring school
12 district, delay the effective date of the contract for a period of one year. If the Oceti
13 Sakowin community-based school determines that a delay of more than one year is
14 necessary, the school may request concurrence by the board. The board may grant the
15 request, deny the request, or terminate the sponsorship.

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

17 **13-67-7. Data--Collection--Analysis.**

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

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

27 **13-67-8. Unsatisfactory performance--Corrective action--Sanctions.**

28 If the board of a sponsoring school district determines that an Oceti Sakowin
29 community-based school's performance or legal compliance is unsatisfactory, the board
30 shall provide written notification to the Oceti Sakowin community-based school and shall
31 provide the school with a specific time period within which the matter must be addressed.

1 If the matter is not addressed by the Oceti Sakowin community-based school within the
2 specified time period, the board may take corrective action, including the imposition of
3 sanctions, or may terminate the sponsorship.

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

5 **13-67-9. Contract renewal--Application.**

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

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

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

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

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

22 **13-67-10. Contract renewal--Application--Review.**

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

- 25 (1) Examine and base the decision regarding renewal of the contract on evidence of
26 the Oceti Sakowin community-based school's performance during the first term of
27 the contract; and
28 (2) Prepare and provide to the Oceti Sakowin community-based school a report
29 regarding the evidence provided and the decision that was reached.

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

1 **13-67-11. Application for renewal--Grounds for denial.**

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

- 4 (1) Engaged in a material breach of the contract or a substantial violation of this
 5 chapter;
 6 (2) Failed to meet or make sufficient progress toward the school's performance
 7 expectations;
 8 (3) Failed to meet generally accepted standards of fiscal management; or
 9 (4) Substantially violated any provision of law from which the Oceti Sakowin
 10 community-based school was not exempt.

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

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

14 **13-67-12. Contract--Unilateral revocation.**

15 The board of a sponsoring school district may unilaterally revoke a contract upon
 16 the conditions set forth in § 13-67-11, if the board:

- 17 (1) Provides written notice of the intent to revoke the contract to the Oceti Sakowin
 18 community-based school, at least fourteen days prior to the hearing required by
 19 this section;
 20 (2) Schedules a public hearing at which representatives of the Oceti Sakowin
 21 community-based school may provide testimony and documentary evidence;
 22 (3) Permits the hearing to be recorded; and
 23 (4) Provides to the Oceti Sakowin community-based school a written determination,
 24 citing evidence in support of the determination.

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

26 **13-67-13. Contract--Term.**

27 A sponsorship contract under this chapter is effective for five years unless a shorter
 28 duration is agreed to by the parties or a unilateral revocation occurs pursuant to § 13-67-
 29 12. A sponsorship contract, regardless of duration, may contain conditions governing its
 30 continuation, provided the conditions comply with the provisions of this chapter.

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

1 **13-67-14. Establishment of Oceti Sakowin community-based school--**
 2 **Adverse action--Prohibition.**

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

10 Neither the board of a sponsoring school district nor an administrator may take
 11 any adverse action against an existing school district program as a result of an application
 12 to establish an Oceti Sakowin community-based school under this chapter. For purposes
 13 of this section, an adverse action against a school district program includes the suspension
 14 or termination of the program, the transfer or reassignment of the program to a less
 15 desirable department within the district, the physical relocation of the program to a less
 16 desirable setting, and a reduction in or the elimination of funding for the program.

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

18 **13-67-15. Oceti Sakowin community-based school--Powers.**

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

- 21 (1) Purchase or lease real property, facilities, appurtenances, and equipment;
 22 (2) Obtain a loan;
 23 (3) Pledge, assign, or encumber its assets to collateralize a loan or obtain credit;
 24 (4) Apply for state and federal grants;
 25 (5) Accept gifts, grants, and donations for any purpose related to the establishment or
 26 operation of the community-based school;
 27 (5) Hire and compensate personnel;
 28 (6) Participate in the state retirement system established in accordance with chapter
 29 3-12C;
 30 (7) Enter into a contract with a school district or educational cooperative for the
 31 delivery of educational or other services, provided the consideration paid by the
 32 community-based school for the services does not exceed the delivering entity's
 33 actual cost of providing the services; and
 34 (8) Access any shared services offered by the state.

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

2 **13-67-16. Liability.**

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

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

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

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

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

13 **13-67-17. Administrative fee.**

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

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

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

23 **13-67-18. Admission of students.**

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

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

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

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

3 (4) Students selected by lot.

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

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

8 **13-67-19. Participation in state retirement system.**

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

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

13 **13-67-20. Annual report.**

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

17 The secretary shall include in the report the following:

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

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

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

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

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

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

1 **13-67-21. Promulgation of rules.**

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

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

10 **13-67-22. Initial school limit.**

11 Notwithstanding any other provision in this chapter, during the five-year period
12 beginning July 1, 2021, Oceti Sakowin community-based schools may not exceed four in
13 number.

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

15 **13-10-12. Criminal background investigation--Prospective employees,**
16 **technical college instructors, and student teachers--Temporary employment**
17 **pending results.**

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

1 to officiate, judge, adjudicate, or referee a public event sponsored by a school district is
 2 not required to submit to a criminal background investigation as required in this section.
 3 ~~In addition, any~~ Any instructor employed by a technical college ~~is required to~~ shall submit
 4 to a criminal background investigation as required in this section at the time of initial
 5 employment.

6 The criminal investigation required by this section with respect to a student teacher
 7 completing requirements for teacher certification shall be conducted by the school district.
 8 A criminal background investigation, of a student teacher, conducted by a school district
 9 may be provided to any other school in which the student engages in student teaching.
 10 The school district conducting the criminal background investigation of a student teacher
 11 may rely upon the results of that investigation for employment of that person as an
 12 employee of the district.

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

14 **13-13-10.1. Definitions.**

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

- 17 (1) Repealed by SL 2016, ch 83, § 4;
- 18 (1A) Nonresident students who are in the care and custody of the Department of Social
 19 Services, the Unified Judicial System, the Department of Corrections, or other state
 20 agencies and are attending a public school may be included in the fall enrollment of
 21 the receiving district when enrolled in the receiving district;
- 22 (2) Repealed by SL 2016, ch 83, § 4;
- 23 (2A) "Fall enrollment," is calculated as follows:
- 24 (a) Determine the number of kindergarten through twelfth grade students
 25 ~~enrolled in all schools operated by the school district~~ who on the last Friday
 26 of September of the current school year are:
- 27 (i) Enrolled in all schools operated by the district; and
- 28 (ii) Enrolled in an Oceti Sakowin community-based school sponsored by
 29 the district;
- 30 (b) Subtract the number of students for whom the district receives tuition, except
 31 for:
- 32 (i) Nonresident students who are in the care and custody of a state agency
 33 and are attending a public school district; and

- 1 (ii) Students who are being provided an education pursuant to § 13-28-
 2 11;
- 3 (c) Add the number of students for whom the district pays tuition.
 4 When computing state aid to education for a school district pursuant to § 13-13-
 5 73, the secretary of the Department of Education shall use the school district's fall
 6 enrollment;
- 7 (2B) Repealed by SL 2010, ch 84, § 1;
- 8 (2C) "Target teacher ratio factor," is:
- 9 (a) For school districts with a fall enrollment of two hundred or less, the target
 10 teacher ratio factor is 12;
- 11 (b) For districts with a fall enrollment of greater than two hundred, but less than
 12 six hundred, the target teacher ratio factor is calculated as follows:
- 13 (1) Multiplying the fall enrollment by .00750;
- 14 (2) Adding 10.50 to the product of subsection (b)(1);
- 15 (c) For districts with a fall enrollment of six hundred or greater, the target teacher
 16 ratio factor is 15.
- 17 The fall enrollment used for the determination of the target teacher ratio for a school
 18 district may not include any students residing in a residential treatment facility
 19 when the education program is operated by the school district;
- 20 (2D) "Limited English proficiency (LEP) adjustment," is calculated by multiplying 0.25
 21 times the number of kindergarten through twelfth grade students who, in the prior
 22 school year, scored below level four on the state-administered language proficiency
 23 assessment as required in the state's consolidated state application pursuant to 20
 24 USC § 6311(b)(7) as of January 1, 2013;
- 25 (3) "Index factor," is the annual percentage change in the consumer price index for
 26 urban wage earners and clerical workers as computed by the Bureau of Labor
 27 Statistics of the United States Department of Labor for the year before the year
 28 immediately preceding the year of adjustment or three percent, whichever is less;
- 29 (4) "Target teacher salary," for the school fiscal year beginning July 1, 2020 is
 30 \$51,367.47. Each school fiscal year thereafter, the target teacher salary is the
 31 previous fiscal year's target teacher salary increased by the index factor;
- 32 (4A) "Target teacher benefits," is the target teacher salary multiplied by twenty-nine
 33 percent;
- 34 (4B) "Target teacher compensation," is the sum of the target teacher salary and the
 35 target teacher benefits;

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

1 For the period July 1, 2016, through December 31, 2016, inclusive, local effort
2 includes the amount of ad valorem taxes generated by applying the levies
3 established pursuant to § 13-10-6 during this period;

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

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

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

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

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

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

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

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

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

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

31 (6B) "Wind energy tax revenue," any wind energy tax revenue apportioned to school
32 districts pursuant to § 10-35-21 from a wind farm producing power for the first time
33 before July 1, 2016, shall be considered local effort pursuant to subdivision (6) and
34 other revenue base amount pursuant to subdivision (6A). However, any wind
35 energy tax revenue apportioned to a school district from a wind farm producing

1 power for the first time after June 30, 2016, one hundred percent shall be retained
 2 by the school district to which the tax revenue is apportioned for the first five years
 3 of producing power, eighty percent for the sixth year, sixty percent for the seventh
 4 year, forty percent for the eighth year, twenty percent for the ninth year, and zero
 5 percent thereafter;

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

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

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

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

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

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

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

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

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

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

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

29 **13-13-93. Aid--Proportionate distribution.**

30 A sponsoring school district shall forward to the Oceti Sakowin community-based
 31 school that portion of the total funding received by the district in accordance with this
 32 chapter, that equals the percentage of the district's students who are enrolled in the Oceti
 33 Sakowin community-based school. The sponsoring school district is responsible for the
 34 provision of services required by chapter 13-37.

1 Nothing in this section impairs any collateral pledge of state aid for debt incurred
2 by a sponsoring school district prior to July 1, 2021.