

## 2023 South Dakota Legislature

**House Bill 1233****AMENDMENT 1233B  
FOR THE INTRODUCED BILL**

1 **An Act to expand the provision of online education through the South Dakota Virtual**  
2 **School.**

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

4 **Section 1. That § 13-33-24 be AMENDED:**

5 ~~13-33-24.~~ 13-33-24. ~~There is created the South Dakota virtual school.~~ The South Dakota  
6 virtual school shall be under the control of ~~is created within~~ the Department of Education.

7 ~~The South Dakota virtual school shall provide choice accessibility, flexibility,~~  
8 ~~quality, and equity in curricular offerings for students in the state, for the use of school~~  
9 ~~districts in this state, purchase, lease, or otherwise obtain access to:~~

10 (1) Online grade-level classes for students in kindergarten through grade eight;

11 (2) High school core and elective courses necessary for a student to meet the  
12 requirements of an opportunity scholarship, as set forth in § 13-55-31.1; and

13 (3) At least forty additional high school elective courses.

14 **Section 2. That chapter 13-33 be amended with a NEW SECTION:**

15 Prior to the South Dakota virtual school obtaining any class or course referenced  
16 in § 13-33-24, the Department of Education shall review the class or course and verify  
17 that it:

18 (1) Meets or exceeds the academic content standards of this state;

19 (2) Is offered through a provider that is approved by this state, in accordance with §  
20 13-33-21, or by another state having comparable or greater approval requirements  
21 than this state; and

22 (3) Is developed and presented by instructional staff who:

23 (a) Are certified to teach in this state;

24 (b) Hold degrees in education and are certified or licensed to teach in another  
25 state; or

1           (c) Hold graduate degrees from an accredited university, in education or in a  
2           field related to the class or course being taught.

3           Upon verifying that a class or course meets the requirements of this section, the  
4           department shall seek the advice of the South Dakota Virtual School Advisory Council, to  
5           ensure that the class or course will provide a challenge to and expand the educational  
6           experience of students.

7           **Section 3. That chapter 13-33 be amended with a NEW SECTION:**

8           Each school district shall provide any student enrolled therein with the opportunity  
9           to pursue and complete all grade level classes and all high school courses through  
10          technology-based online programs that may be accessed at a student's preferred location.

11          **Section 4. That chapter 13-33 be amended with a NEW SECTION:**

12          A student may participate in a full-time, technology-based, online educational  
13          program, provided the student's parent submits a completed application form to the  
14          student's school district of residence prior to July first of each school year.

15          The Department of Education shall develop a standardized application form, make  
16          the form available to each school district, and post the form on the department's website.

17          **Section 5. That chapter 13-33 be amended with a NEW SECTION:**

18          As a condition of participation in a full-time, technology-based, online educational  
19          program, the student's parent must attend an orientation session hosted by school district  
20          personnel. The session must address:

- 21          (1) The distribution of and responsibility for district-owned technology equipment;  
22          (2) The distribution of other school-related supplies;  
23          (3) The availability of internet connectivity and, if necessary, the provision by the  
24          school district of internet connectivity options;  
25          (4) The registration for classes and the selection of courses;  
26          (5) The daily check-in requirements;  
27          (6) The school district's monitoring of the student's time and pace, using a device  
28          management system;  
29          (7) The designation of teachers-of-record;  
30          (8) The manner of obtaining assistance with the technology;  
31          (9) The manner of obtaining assistance with academic content;

- 1       (10) The necessity for parental monitoring of student progress; and  
2       (11) Testing and examination requirements.

3       **Section 6. That chapter 13-33 be amended with a NEW SECTION:**

4               Upon acceptance of an application required in accordance with section 4 of this Act,  
5       a school district shall contact the South Dakota virtual school and arrange for the student's  
6       access to the required classes or courses.

7               Each school district is responsible for:

- 8       (1) Ensuring that the student is able to access the required classes or courses;  
9       (2) Ensuring that the student is provided with the technology, attendant equipment,  
10       and services necessary for participation in the classes or courses;  
11       (3) Identifying the teacher of record for each class or course;  
12       (4) Monitoring the student's participation in each class or course by means of a device  
13       management system;  
14       (5) Monitoring the student's progress in each class or course;  
15       (6) Communicating regularly with the student's parent regarding the student's  
16       participation and progress;  
17       (7) Providing assistance regarding academic content;  
18       (8) Identifying and arranging for the provision of any necessary interventions;  
19       (9) Assisting with technological use or issues; and  
20       (10) Arranging for required tests and examinations.

21       **Section 7. That chapter 13-33 be amended with a NEW SECTION:**

22               Each public school student participating in a full-time, technology-based, online  
23       educational program, as provided for in sections 1 to 6, inclusive, of this Act, is considered  
24       to be enrolled full-time in the school district, for purposes of determining state aid under  
25       chapter 13-13.

26               Upon completing the district's requirements for high school graduation, the district  
27       shall issue a high school diploma to the student.

28       **Section 8. That chapter 13-33 be amended with a NEW SECTION:**

29               Nothing in sections 1 to 7, inclusive, of this Act precludes a student who is  
30       participating in a full-time, technology-based, online educational program from:

- 1        (1) Accelerating the student's online educational program, in whole or in part, within  
 2        the school year, or from one school year to another; or  
 3        (2) Participating in the dual credit program, as set forth in § 13-28-37.1.

4        **Section 9. That § 13-33-25 be AMENDED:**

5                **13-33-25.** The South Dakota Virtual School Advisory Council is established.

6                ~~The council shall advise the Department of Education, the South Dakota Board of~~  
 7                ~~Education Standards, education-related organizations, and other education groups on~~  
 8                ~~issues related to distance learning. The council shall meet quarterly with the Department~~  
 9                ~~of Education to discuss, develop, and make recommendations for the promulgation of~~  
 10                ~~rules concerning policies that affect distance delivery consists of:~~

- 11                (1) One person with expertise in the development of online educational programming  
 12                for elementary and high school students;  
 13                (2) One person with expertise in the delivery of online educational programming for  
 14                elementary and high school students;  
 15                (3) One person with expertise in the purchase, use, and maintenance of technology  
 16                systems for the delivery and management of online educational programming;  
 17                (4) One curriculum specialist;  
 18                (5) One administrator employed by a large school district in this state;  
 19                (6) One administrator employed by a small school district in this state; and  
 20                (7) The parent of a student enrolled in a technology-based, online educational  
 21                program.  
 22                Each member must be appointed by the Governor.

23        **Section 10. That § 13-33-27 be AMENDED:**

24                **13-33-27.** ~~Members~~The term of office for each member of the council shall be  
 25                appointed for two-year terms, except that four of the members of the initial council shall  
 26                be appointed to two-year terms, and three of the members of the initial council shall be  
 27                appointed for one year. All subsequent appointments shall be for terms of two years. Any  
 28                vacancy on the council that occurs before the incumbent's term has expired shall be filled  
 29                by appointment to serve the remainder of~~is three years and begins on July first, except~~  
 30                that the terms of the initial members must be staggered by lot so that no more than three  
 31                terms expire in any one year.

32                In the event of a vacancy, the Governor shall appoint another qualified person to  
 33                fill the unexpired term. The number of terms that a council member may not serve is not

1 ~~limited more than two full terms. The completion of an unexpired term is not considered~~  
2 ~~to be a full term for purposes of this section.~~

3 **Section 11. That chapter 13-33 be amended with a NEW SECTION:**

4 At the initial meeting of the South Dakota Virtual School Advisory Council, and  
5 annually thereafter, the council shall elect members from among itself to serve as the  
6 chair and the vice chair.

7 The council shall meet at the call of the chair or upon the request of a majority of  
8 members. The council shall meet at least quarterly.

9 **Section 12. That chapter 13-33 be amended with a NEW SECTION:**

10 The South Dakota Virtual School Advisory Council shall:

11 (1) Provide advice to the Governor, the Department of Education, and the South  
12 Dakota Board of Education Standards regarding issues related to the acquisition,  
13 development, and delivery of technology-based online educational programs to  
14 elementary and secondary public school students in this state; and

15 (2) Participate in the development and review of rules to be promulgated by the  
16 department in accordance with § 13-33-28.

17 **Section 13. That § 13-33-28 be AMENDED:**

18 **13-33-28.** ~~The Department of Education may~~ shall ~~promulgate rules, pursuant to~~  
19 ~~chapter 1-26, to coordinate course offerings by the South Dakota virtual school, to award~~  
20 ~~course credits earned by students taking classes from the South Dakota virtual school,~~  
21 ~~and to establish criteria for school districts to participate in the South Dakota virtual~~  
22 ~~school;~~

23 (1) Provide for the review and acquisition of online, grade-level classes for students in  
24 kindergarten through grade eight and high-school-level core and elective courses;

25 (2) Provide for the development of online, grade-level classes for students in  
26 kindergarten through grade eight and high-school-level core and elective courses;

27 (3) Provide for the delivery and administration of online, grade-level classes for  
28 students in kindergarten through grade eight and high-school-level core and  
29 elective courses;

30 (4) Provide for the ~~regular~~ review, ~~at least once every five years,~~ of all available online  
31 classes to ensure continued compliance with state content standards;

- 1        (5) Standardize school district monitoring of student progress with online classes and  
 2        courses;
- 3        (6) Monitor achievement variances between public school students receiving online,  
 4        grade-level classes and high school core and elective courses and students  
 5        attending onsite; and
- 6        (7) Establish preservice requirements regarding the provision of online education to  
 7        students; and
- 8        (8) Establish ~~continuing education~~ professional development requirements for  
 9        classroom teachers and public school and school district administrators regarding  
 10       online education to students.

11       **Section 14. That chapter 13-33 be amended with a NEW SECTION:**

12        ~~In addition to being available to any public school student through the student's~~  
 13        ~~school district of residence, each~~ Each technology-based, online, grade-level class and  
 14        high school core or elective course purchased, leased, developed, or otherwise obtained  
 15        by the South Dakota virtual school is available, upon request and without charge, to any  
 16        accredited nonpublic school in this state ~~and to any parent providing alternative education~~  
 17        ~~in accordance with chapter 13-27.~~

18        ~~The. For purposes of this section, the accredited nonpublic school or the parent~~  
 19        ~~providing alternative education~~ is responsible for acquiring and maintaining all technology,  
 20        equipment, and services necessary for a student's participation in a class or course, ~~and~~  
 21        ~~for providing all administrative and oversight functions.~~

22       **Section 15. That chapter 13-33 be amended with a NEW SECTION:**

23        ~~Each technology-based, online, grade-level class and high school core or elective~~  
 24        ~~course purchased, leased, developed, or otherwise obtained by the South Dakota virtual~~  
 25        ~~school is available, upon request and without charge, in accordance with § 13-28-5, to~~  
 26        ~~any child being provided alternative instruction, in accordance with chapter 13-27, in:~~

27        (1) The district of the child's residence; or

28        (2) The district in which the child is open enrolled under § 13-28-41.

29        ~~For purposes of this section, the person providing alternative instruction is~~  
 30        ~~responsible for acquiring and maintaining all technology, equipment, and services~~  
 31        ~~necessary for a student's participation in a class or course.~~

32       **Section 16. That § 13-33-26 be REPEALED:**

1           The council shall consist of seven members appointed by the secretary of education  
2       with broadly based representation from entities involved in virtual education efforts  
3       statewide.

AMENDMENT