

2024 South Dakota Legislature

House Bill 1113**AMENDMENT 1113A
FOR THE INTRODUCED BILL**

1 **An Act to prohibit the use of state resources for the provision of lewd or lascivious**
2 **content.**

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

4 **Section 1. That chapter 13-1 be amended with a NEW SECTION:**

5 Neither the Board of Regents nor any institution under the control of the board
6 may expend public moneys or use any state-owned facility or property to develop,
7 facilitate, host, or promote lewd or lascivious content.

8 For purposes of this section, the term "lewd or lascivious" means:

9 (1) The featuring of specific sexual activity, as defined in § 11-12-1, for the
10 predominant purpose of appealing to a prurient interest;

11 (2) The featuring of specific anatomical areas, as defined in § 11-12-1, for the
12 predominant purpose of appealing to a prurient interest;

13 (3) The featuring of nude or seminude individuals, as defined in § 11-12-1, for the
14 predominant purpose of appealing to a prurient interest; or

15 (4) The performance of any physical movement or activity for the predominant purpose
16 of appealing to a prurient interest; ~~or~~

17 ~~(5) The public removal of one's clothing for the entertainment of another.~~

18 **Section 2. That a NEW SECTION be added to chapter 13-1:**

19 ~~If as a result of compliance with section 1 of this Act, a lawsuit is brought or a~~
20 ~~complaint is filed against the Board of Regents, an institution under the control of the~~
21 ~~board, or an employee of the board or of an institution, the attorney general must provide~~
22 ~~legal representation to the entity or individual, without charge.~~

23 ~~The state shall assume financial responsibility for any other expense related to the~~
24 ~~lawsuit or complaint and incurred by the board, an institution under the control of the~~

1 board, or an employee of the board or of an institution, including an award of attorneys'
2 fees and costs for which the entity or individual would otherwise be responsible.

3 **Section 3. That § 13-53-49 be AMENDED:**

4 **13-53-49.** As used in §§ ~~13-53-49~~ 13-53-50 to 13-53-53, inclusive:

5 (1) "Expressive activity," ~~protected under the provisions of §§ 13-53-49 to 13-53-53,~~
6 ~~inclusive,~~ includes any lawful noncommercial verbal or written means by which one
7 person communicates ideas to another, and includes peaceful assembly, protests,
8 speeches, distribution of literature, the carrying of signs, and the circulation of
9 petitions; and

10 (2) "Intellectual diversity," denotes a learning environment that exposes students to
11 and encourages exploration of a variety of ideological and political perspectives.

12 Neither the term "expressive activity" nor the term "intellectual diversity" may be
13 construed to include content that is lewd or lascivious, as defined in section 1 of this Act.

14 **Section 4. That § 13-53-50 be AMENDED:**

15 **13-53-50.** The Board of Regents shall require each institution under its control to
16 maintain a commitment to the principles of free expression and encourage the timely and
17 rational discussion of topics in an environment that is intellectually and ideologically
18 diverse. ~~Neither the Board of Regents board~~ nor any institution under its control may
19 attempt to shield individuals from constitutionally protected speech, including ideas and
20 opinions they find offensive, unwise, immoral, indecent, disagreeable, conservative,
21 liberal, traditional, radical, or wrong-headed.

22 Nothing in this section precludes the board or any institution under the control of
23 the board from restricting or prohibiting the presence of minors at any program or event
24 occurring on any state-owned property.