

2023 South Dakota Legislature

House Bill 1116**AMENDMENT 1116B
FOR THE INTRODUCED BILL**

1 **An Act to prohibit the use of state resources in hosting lewd or lascivious content.**

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

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

4 ~~The Board of Regents, the Board of Technical Education, or any institution under~~
5 ~~their control; a~~No state agency or ~~any~~institution under the control of a state agency; ~~-, or~~
6 ~~a~~public school district may ~~not~~ authorize or expend public moneys or use any state-owned
7 ~~facility or property to develop, implement, facilitate, host, promote, or fund any lewd or~~
8 ~~lascivious content.~~

9 For the purpose of this section, the term, lewd or lascivious content, means any
10 program, or event, ~~or literature~~ presenting obscene live conduct, as defined by subdivision
11 22-24-27(10), ~~or obscene material, as defined by subdivision 22-24-27(11),~~ that depicts,
12 describes, or simulates, as applicable:

13 (1) Any specific sexual activity, as defined in § 11-12-1;

14 (2) Any specific anatomical areas, as defined in § 11-12-1;

15 (3) Nude or seminude adults, as defined in § 11-12-1;

16 (4) Adults who remove clothing for the entertainment of one or more individuals; or

17 (5) Any physical human body activity, whether performed alone or with other persons,
18 ~~including singing, speaking, dancing, acting, simulation, or pantomiming, where a~~
19 ~~performer exhibits a gender identity that is different from the performer's biological~~
20 ~~sex through the use of clothing, makeup, or other physical markers,~~ for the
21 predominant purpose of appealing to a prurient interest.

22 **Section 2. That § 13-53-49 be AMENDED:**

23 **13-53-49.** As Terms used in §§ 13-53-49 to 13-53-53, inclusive, mean:

24 (1) ~~"Expressive activity," protected under the provisions of §§ 13-53-49 to 13-53-53,~~
25 ~~inclusive,~~ includes any lawful noncommercial verbal or written means by which one

1 person communicates ideas to another, and includes peaceful assembly, protests,
2 speeches, distribution of literature, the carrying of signs, and the circulation of
3 petitions. Expressive activity may not be interpreted to include any lewd or
4 lascivious content, as defined in section 1 of this Act; and

5 (2) "Intellectual diversity," denotes a learning environment that exposes students to
6 and encourages exploration of a variety of ideological and political perspectives.
7 Intellectual diversity may not be interpreted to include any lewd or lascivious
8 content, as defined in section 1 of this Act.

9 **Section 3. That § 13-53-50 be AMENDED:**

10 **13-53-50.** The Board of Regents and the Board of Technical Education shall require
11 each institution under its control to maintain a commitment to the principles of free
12 expression and encourage the timely and rational discussion of topics in an environment
13 that is intellectually and ideologically diverse. Neither the Board of Regents nor any
14 institution under its control may attempt to shield individuals from constitutionally
15 protected speech, including ideas and opinions they find offensive, unwise, immoral,
16 indecent, disagreeable, conservative, liberal, traditional, radical, or wrong-headed.

17 Nothing in this section prevents the Board of Regents or the Board of Technical
18 Education or any institution under their control from restricting or prohibiting the presence
19 of minors at any program or event.