

State of South Dakota

SEVENTY-EIGHTH SESSION
LEGISLATIVE ASSEMBLY, 2003

991I0170

HOUSE HEALTH AND HUMAN SERVICES
COMMITTEE ENGROSSED NO. **HB 1006** -
01/24/2003

Introduced by: Representatives Smidt, Lange, and Michels and Senators Bogue, Dennert, and McCracken at the request of the Interim Rules Review

1 FOR AN ACT ENTITLED, An Act to permit the Department of Social Services to publish
2 certain fee schedules used in certain medical assistance programs.

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

4 Section 1. That chapter 28-6 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 The Department of Social Services may establish or amend fee schedules used to pay for
7 items and services covered by the medical assistance program under the provisions of this
8 chapter without following the procedures set forth in §§ 1-26-4 to 1-26-6, inclusive. The
9 department shall post the fee schedules on the department's website and shall notify website users
10 of pending changes by posting a notice of the pending changes on the website at least forty-eight
11 hours before the changes are made. Fee schedules posted on the department's website must be
12 in accordance with the department's administrative rules promulgated under the provisions of
13 chapter 1-26 which establish the reimbursement provisions for medical services.



State of South Dakota

SEVENTY-EIGHTH SESSION
LEGISLATIVE ASSEMBLY, 2003

77110183

HOUSE ENGROSSED NO. **HB 1008** - 01/27/2003

Introduced by: The Committee on Local Government at the request of the Secretary of State

1 FOR AN ACT ENTITLED, An Act to revise certain provisions concerning campaign
2 contributions and reports.

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

4 Section 1. That § 12-25-1.1 be amended to read as follows:

5 12-25-1.1. It is a Class 2 misdemeanor for any natural person, except as otherwise provided
6 in this chapter, to contribute more than one thousand dollars to or in behalf of any individual
7 candidate for state-wide office in any calendar year or more than two hundred fifty dollars to or
8 in behalf of any individual candidate for legislative or county office in any calendar year. The
9 limitation on individual contributions to any individual candidate in this section does not apply
10 to contributions from the candidate, ~~his~~ the candidate's spouse, any relative within the third
11 degree of kinship of the candidate or ~~his~~ the candidate's spouse, and the spouses of such
12 relatives.

13 No candidate for state-wide office in any calendar year may accept more than one thousand
14 dollars from any natural person. No candidate for legislative office in any calendar year may
15 accept more than two hundred fifty dollars from any natural person. If a state-wide or legislative
16 candidate accepts a contribution in excess of the limits provided by this section, the secretary of



1 state shall notify such candidate by personal service or by certified mail. If the candidate fails to
2 comply with this section within thirty days after receipt or delivery of such notice, the candidate
3 is guilty of a Class 2 misdemeanor.

4 No candidate for county office in any calendar year may accept more than two hundred fifty
5 dollars from any natural person. If a candidate for county office accepts a contribution in excess
6 of the limits provided by this section, the county auditor shall notify such candidate by personal
7 service or by certified mail. If the candidate fails to comply with this section within thirty days
8 after receipt or delivery of such notice, the candidate is guilty of a Class 2 misdemeanor.

9 Section 2. That § 12-25-13.1 be amended to read as follows:

10 12-25-13.1. If any candidate, candidate's committee, ballot question committee, political
11 action committee, or political party committee receives any contribution of five hundred dollars
12 or more within the nine days immediately prior to any election from any individual contributor,
13 such candidate or committee shall ~~make and file~~ fax or deliver to the secretary of state a
14 supplement to the statement required in § 12-25-13 or 12-25-19.1 stating the name, residence
15 address, and place of employment of any individual contributor or the name and address of the
16 committee and the amount of the contribution within forty-eight hours of the receipt thereof. A
17 violation of this section is a Class 2 misdemeanor.

State of South Dakota

SEVENTY-EIGHTH SESSION
LEGISLATIVE ASSEMBLY, 2003

400I0028

SENATE COMMERCE COMMITTEE ENGROSSED NO.

HB 1046 - 02/04/2003

Introduced by: The Committee on Commerce at the request of the Department of Commerce
and Regulation

1 FOR AN ACT ENTITLED, An Act to revise the regulation of cosmetologists and nail
2 technicians and to provide for the licensure of estheticians.

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

4 Section 1. That § 36-15-1 be amended to read as follows:

5 36-15-1. Terms used in this chapter, ~~unless the context otherwise plainly requires,~~ mean:

6 (1) "Apprentice," any person ~~who meets all the qualifications therefor as hereinafter set~~
7 ~~forth and is so~~ licensed by the state commission to receive education through an
8 apprenticeship in a salon;

9 (2) "Beauty school," ~~any place, premise, or building, whereat or wherein instruction in~~
10 ~~any or all of the practices of cosmetology is given, but not including a licensed beauty~~
11 ~~shop or beauty establishment where apprentices are being tutored~~ "Apprentice salon,"
12 any salon licensed by the commission to teach apprentices;

13 (3) "~~Beauty shop" or "beauty establishment," any place, premise, or building or any part~~
14 ~~or portion thereof whereat or wherein any of the practices or arts of cosmetology are~~
15 ~~performed, except that said terms shall not include a "beauty school"~~ "Booth," any



1 part within a licensed salon that is rented or leased for the purpose of rendering
2 licensed cosmetology services as a separate, independent salon business;

3 (4) "Commission," the Cosmetology Commission as established and created in § 36-15-3;

4 (5) "~~Cosmetological establishment,~~" or "~~establishment,~~" any beauty shop, nail shop, or
5 beauty school;

6 ~~—(6)—~~ "~~Cosmetologist" or "cosmetician,~~" any person who, for compensation, engages in any
7 ~~one or any combination or all of the practices of cosmetology;~~

8 ~~(7)(6)~~ "Cosmetology," any one or any combination of ~~all~~ the practices set forth in § 36-15-2;

9 ~~(8)(7)~~ "Demonstrator," any person licensed to practice cosmetology ~~in the State of South~~
10 ~~Dakota or any person who is the holder of a currently valid operator's license or~~
11 ~~certificate in another state of the United States, who for the purpose of demonstrating~~
12 ~~the practice of cosmetology performs before groups of students of cosmetology,~~
13 ~~operators, manager-operators, instructors, shop owners, school owners, or who~~
14 ~~without fee or charge demonstrates before civic or educational groups, and in so~~
15 ~~doing incidently engages in the practice of cosmetology as defined in this chapter, nail~~
16 ~~technology, or esthetics in this state, in another state, or in another country, who~~
17 ~~demonstrates the various practices of cosmetology, as applicable, in order to inform~~
18 ~~or educate other licensees or the public;~~

19 (8) "Esthetician," any person who, for compensation, engages in the practice of esthetics,
20 but not in other practices of cosmetology;

21 (9) "Esthetics," any one or any combination of the practices set forth in section 5 of this
22 Act;

23 (10) "Junior instructor," any person ~~who meets all the qualifications therefor as hereinafter~~
24 ~~set forth and is so~~ licensed by the commission to instruct in a school under the direct

- 1 supervision of a senior instructor;
- 2 ~~(10) "Manager-nail technician," any person meeting the requirements of this chapter who~~
3 ~~manages a nail shop or establishment;~~
- 4 (11) ~~"Manager-operator" or "manager-operator cosmetologist," any person who meets all~~
5 ~~the qualifications therefor as hereinafter set forth and is so licensed by the commission~~
6 "Manager," any person licensed by the commission to practice without supervision or
7 supervise a salon;
- 8 (12) ~~"Nail shop," any place, premise, or building or any part or portion thereof where nail~~
9 ~~care is practiced for compensation, but not a beauty shop or beauty school~~ "Nail
10 technology," any one or any combination of the practices set forth in section 4 of this
11 Act;
- 12 (13) ~~"Nail care," the care and beautification of the hands and feet, including filing,~~
13 ~~trimming, or buffing of the nails, and the application of polish, wrappings, nail~~
14 ~~extensions, and other materials or substances on the nails;~~
- 15 ~~(14) "Nail technician," any person who, for compensation, engages in the practice of nail~~
16 ~~care~~ technology, but not in other practices of cosmetology;
- 17 ~~(15) "Operator" or "operator-cosmetologist," any person who meets the qualifications~~
18 ~~therefor as hereinafter set forth and is so licensed by the commission;~~
- 19 (14) "Salon," any place, premise, or building or any part of a building operated for the
20 purpose of engaging in the practice of cosmetology, nail technology, or esthetics, or
21 any combination of these practices;
- 22 (15) "School," any place, premise, or building that is licensed by the commission to provide
23 education to students in the practice of cosmetology, nail technology, or esthetics, or
24 any combination of these practices;

1 (16) "Senior instructor," any person ~~who meets all the qualifications therefor as hereinafter~~
2 ~~set forth and is so~~ licensed by the commission to instruct in a school;

3 (17) "Student," any person ~~receiving instruction in a beauty school of cosmetology under~~
4 ~~the qualifications and conditions as hereinafter set forth in this chapter and so~~ who is
5 licensed by the commission to receive education in a licensed school.

6 Section 2. That § 36-15-2 be amended to read as follows:

7 36-15-2. ~~Any~~ No person may engage in the practice of cosmetology unless the person is
8 licensed by the commission. A person is engaged in the practice of cosmetology if that person,
9 ~~who~~ for compensation, a fee, or any valuable consideration, engages in any of the following
10 practices or arts is engaged in the practice of cosmetology with hands, chemicals, or any
11 mechanical or electrical apparatus or appliance for beautifying or cosmetic purposes:

12 (1) Hair care by styling, wrapping, arranging, braiding, twisting, weaving, extending,
13 fusing, dressing, curling, waving, permanent waving, ~~cleaning, cutting,~~ singeing,
14 cleansing, shampooing, cutting, bleaching, setting, fitting, coloring, straightening,
15 relaxing, fitting, massaging, or similar work upon the hair ~~or, scalp, wigs, or~~
16 hairpieces of any a person by any means, or who, with hands, mechanical or electrical
17 apparatus, or any other appliances, or by use of cosmetic preparations or antiseptics,
18 engages in the practice or art of massaging, cleansing, manipulating, or performing
19 similar services upon the scalp, face, neck, arms, bust, or shoulders, manicuring the
20 nails, or removing;

21 (2) Nail technology;

22 (3) Esthetics; or

23 (4) Removal of superfluous hair about the body of any person by nonpermanent means.

24 ~~Any person practicing cosmetology shall be licensed under this title, while practicing within the~~

1 ~~scope of that person's license. The following does not constitute the practice of cosmetology:~~

2 ~~— (1) — Any person practicing permanent removal of hair by the use of a galvanic or~~
3 ~~thermalytic needle; or~~

4 ~~— (2) — Any retailer at a retail establishment who in the ordinary course of business is engaged~~
5 ~~in the demonstration of make-up if:~~

6 ~~— (a) — The make-up is applied only with disposable applicators that are discarded~~
7 ~~after each customer demonstration;~~

8 ~~— (b) — The demonstration is without charge to the person to whom the demonstration~~
9 ~~is given; and~~

10 ~~— (c) — The retailer does not advertise or provide a cosmetological service except the~~
11 ~~sale of make-up and fragrances.~~

12 Section 3. That chapter 36-15 be amended by adding thereto a NEW SECTION to read as
13 follows:

14 None of the following constitute the practice of cosmetology:

15 (1) Any person practicing permanent removal of hair by the use of a galvanic or
16 thermalytic needle known as electrolysis;

17 (2) Any retailer at a retail establishment who in the ordinary course of business is engaged
18 in the demonstration of make-up if:

19 (a) The make-up is applied only with disposable applicators that are discarded
20 after each customer demonstration;

21 (b) The demonstration is without charge to the person to whom the demonstration
22 is given; and

23 (c) The retailer does not advertise or provide a cosmetology service except the
24 sale of make-up and fragrances.

1 Section 4. That chapter 36-15 be amended by adding thereto a NEW SECTION to read as
2 follows:

3 No person may engage in the practice of nail technology unless the person is licensed by the
4 commission. A person is engaged in the practice of nail technology if that person, for
5 compensation, a fee, or any valuable consideration, engages in any of the following practices
6 with hands, chemicals, or any mechanical or electrical apparatus or appliance for beautifying or
7 cosmetic purposes:

8 (1) Cutting, filing, trimming, shaping, polishing, coloring, removing polish, tinting, air-
9 brushing, decorating, cleansing, or otherwise beautifying a person's fingernails or
10 toenails;

11 (2) Applying and removing artificial nails; or

12 (3) Massaging, cleansing, and exfoliating a person's hands, arms, feet, and legs.

13 Nail technology does not include hair removal, cutting nail beds, treating corns or calluses,
14 or any medical treatment involving the feet, hands, or nails.

15 Section 5. That chapter 36-15 be amended by adding thereto a NEW SECTION to read as
16 follows:

17 No person may engage in the practice of esthetics unless the person is licensed by the
18 commission. A person is engaged in the practice of esthetics if that person, for compensation,
19 a fee, or any valuable consideration, engages in any of the following practices with hands,
20 chemicals, or any mechanical or electrical apparatus or appliance for beautifying or cosmetic
21 purposes:

22 (1) Beautifying, massaging, cleansing, exfoliating, stimulating, or applying oils, creams,
23 cosmetic preparations, make-up, facial treatments, body treatments, body wraps,
24 antiseptics, scrubs, clays, lotions, masks, waxes, or other preparations for the

1 noninvasive care of the skin. For purposes of this subdivision, noninvasive means
 2 confined to the nonliving cells of the stratum corneum of the epidermis. Such
 3 practices shall be in a superficial mode and not for the treatment of medical disorders,
 4 and living cells may never be altered, cut, or damaged;

5 (2) Grooming or applying eyebrows or eyelashes, including arching and tinting; or

6 (3) Removing superfluous hair by nonpermanent means, including tweezing and waxing.

7 Esthetics does not include scalp treatments or scalp massage.

8 Section 6. That § 36-15-4 be amended to read as follows:

9 36-15-4. All professional members of the ~~Cosmetology Commission must be citizens of this~~
 10 ~~state; must be at least twenty-five years of age; must have a high school education or its~~
 11 ~~equivalent; must be a graduate of a recognized school of cosmetology; must have been actively~~
 12 ~~engaged in the practice of cosmetology for the three years immediately preceding their~~
 13 ~~appointment; and must be currently licensed as cosmetologists in this state at the time of their~~
 14 ~~appointment~~ commission shall be:

15 (1) A resident of this state;

16 (2) At least twenty-five years of age;

17 (3) A high school graduate or its equivalent;

18 (4) Actively engaged in the practice of cosmetology for the three years immediately
 19 preceding the appointment; and

20 (5) Currently licensed as a cosmetologist in this state at the time of the appointment and
 21 while serving on the commission.

22 No member of the commission ~~shall~~ may be a member of ~~nor~~ or affiliated with or have an
 23 interest in any ~~beauty~~ school while in office.

24 Section 7. That § 36-15-5 be amended to read as follows:

1 36-15-5. The ~~Cosmetology~~ commission shall organize at its first meeting after ~~August~~ July
 2 first of each year by electing from its membership a president, a vice-president, and a
 3 secretary-treasurer. The commission shall meet at such times and places as shall be designated
 4 by the commission. Any ~~two~~ three members of the commission shall constitute a quorum for the
 5 transaction of business.

6 Section 8. That § 36-15-6 be amended to read as follows:

7 36-15-6. The commission may, ~~if in its judgment it is necessary and~~ in conformity with
 8 chapter 3-6A, employ clerical assistance and any other assistance in performing its general duties
 9 ~~in furtherance of this chapter and fix their compensation and prescribe their duties~~ such personnel
 10 as it deems necessary to administer and enforce the provisions of this chapter. The commission
 11 may also pay the travel and subsistence expenses of such employees pursuant to § 3-9-2 ~~if~~
 12 ~~deemed necessary by the commission.~~ However, no such person employee of the commission
 13 may be connected or associated in any manner with any school ~~teaching cosmetology.~~

14 Section 9. That § 36-15-11 be amended to read as follows:

15 36-15-11. The duties of the members of the commission include ~~inspection of beauty shops,~~
 16 ~~nail shops, beauty;~~

- 17 (1) Inspecting salons, booths, schools, nail technicians, estheticians, and cosmetologists;
 18 conducting
- 19 (2) Conducting examinations for applicants for licenses under this chapter; ~~investigating;~~
- 20 (3) Approving continuing education courses;
- 21 (4) Investigating violations and enforcing provisions of this chapter and the rules
 22 established by the commission pursuant to this chapter; ~~maintaining~~
- 23 (5) Maintaining an office for the keeping of records; and ~~doing~~
- 24 (6) Doing all things necessary for the proper administration of this chapter.

1 Section 10. That § 36-15-12 be repealed.

2 ~~36-15-12. The Cosmetology Commission may promulgate rules pursuant to chapter 1-26~~
3 ~~reasonably necessary for the enforcement of the provisions of this chapter.~~

4 Section 11. That § 36-15-12.1 be repealed.

5 ~~36-15-12.1. All rules made by the Cosmetology Commission pursuant to this chapter shall~~
6 ~~be promulgated and amended pursuant to chapter 1-26.~~

7 Section 12. That § 36-15-13 be amended to read as follows:

8 36-15-13. The commission may adopt rules pursuant to chapter 1-26 pertaining to the
9 following:

- 10 (1) Application requirements for any license or permit issued pursuant to this chapter;
- 11 (2) Examinations;
- 12 (3) Reports of students' instruction education and work performed;
- 13 (4) Minimum standards and requirements for beauty cosmetology, nail technology, and
14 esthetics salons and schools;
- 15 (5) Minimum standards for plumbing, electrical, physical, and sanitary conditions for the
16 health and safety of persons utilizing ~~cosmetological establishments pursuant to~~
17 ~~§ 36-15-13.1~~ cosmetology, nail technology, or esthetics salons or schools;
- 18 (6) The professional conduct of licensees ~~pursuant to § 36-15-13.1~~;
- 19 (7) The reinstatement of lapsed licenses and lapsed renewal pursuant to § 36-15-20.1;
- 20 (8) ~~Establishing the~~ The fee for a lapsed license and lapsed renewal pursuant to
21 § 36-15-20.1;
- 22 (9) The course and instruction education requirements received by transfer students
23 pursuant to § 36-15-34;
- 24 (10) The textbooks, instructional educational material, and the general course of study for

1 beauty schools and for ~~beauty shops~~ cosmetology salons and nail ~~shops~~ salons having
2 apprentices pursuant to § 36-15-46;

3 (11) The progress and ~~instruction~~ education received by an apprentice pursuant to
4 § 36-15-48; and

5 (12) The fees for all licenses, permits, and renewals;

6 (13) Minimum standards for the use of chemicals or any mechanical or electrical apparatus
7 or appliance;

8 (14) Amount of work experience of an out-of-state licensed applicant that may be used as
9 a substitute for the education requirement pursuant to §§ 36-15-17, 36-15-17.1, and
10 section 22 of this Act;

11 (15) Inspection and reinspection of individual licensees, salons, and schools; and

12 (16) Administration and duties of the commission.

13 Section 13. That § 36-15-13.1 be repealed.

14 ~~— 36-15-13.1. The State Cosmetology commission may adopt rules and regulations pertaining~~
15 ~~to and promoting health and safety of persons utilizing the services of persons or establishments~~
16 ~~licensed under this chapter including those relating to plumbing, electrical, physical, or sanitary~~
17 ~~conditions of cosmetological establishments. Such commission may also adopt reasonable rules~~
18 ~~and regulations pertaining to the professional conduct of any licensee licensed under this chapter.~~

19 Section 14. That chapter 36-15 be amended by adding thereto a NEW SECTION to read as
20 follows:

21 The commission may adopt rules pursuant to chapter 1-26 pertaining to continuing education
22 for licensees on health issues, safety issues, and services that require the use of chemicals or
23 electrical or mechanical apparatus. The commission may provide, by rule promulgated pursuant
24 to chapter 1-26, the kinds and subjects of education and the number of hours of education

1 required. The commission may also substitute experience in addition to or in lieu of educational
2 requirements. The commission may waive any of the education requirement in case of certified
3 illness or undue hardship. The commission may establish a fee by rules adopted pursuant to
4 chapter 1-26 to cover the cost of verifying the required continuing education. The commission
5 may offer a course and charge a registration fee to cover the costs.

6 Section 15. That chapter 36-15 be amended by adding thereto a NEW SECTION to read as
7 follows:

8 Any license or permit issued under this Act or any license issued under prior law may be
9 renewed for periods of one year, but in any event expiring on the renewal date as established by
10 the commission. The commission shall, by rule promulgated pursuant to chapter 1-26, establish
11 the renewal date for any licenses or permits issued under this Act.

12 Section 16. That chapter 36-15 be amended by adding thereto a NEW SECTION to read as
13 follows:

14 The commission may adopt rules pursuant to chapter 1-26 pertaining to educational
15 requirements for instructor licenses and the renewal of instructor licenses including the kinds and
16 subjects of education and the number of hours of education required. The commission may also
17 substitute experience in addition to or in lieu of educational requirements. The commission may
18 set a fee through rules adopted pursuant to chapter 1-26 to cover the cost of verifying the
19 required continuing education. The commission may offer a course and charge a registration fee
20 to cover the costs.

21 Section 17. That § 36-15-14 be amended to read as follows:

22 36-15-14. The ~~State Cosmetology~~ commission, ~~all any state and or local boards~~ board of
23 health, or any officer or employee thereof, ~~shall have power and authority to~~ may enter during
24 the business hours, ~~all establishments~~ any salon or school licensed under the provisions of this

1 chapter and ~~all any other places place~~ where the ~~art or~~ practice of cosmetology is followed,
 2 practiced, or taught for the purpose of inspection and enforcement of this chapter and the rules
 3 ~~and regulations~~ adopted pursuant ~~thereto~~ to this chapter.

4 Section 18. That § 36-15-15 be amended to read as follows:

5 36-15-15. An applicant for any license or permit ~~and renewal thereof~~ shall first submit
 6 evidence, satisfactory to the ~~Cosmetology~~ commission that the applicant:

- 7 (1) ~~That he is~~ Is at least eighteen years of age or older, except as otherwise provided in
 8 this chapter;
- 9 (2) ~~That he possesses~~ Possesses a high school education or its equivalent as determined
 10 by the ~~State Cosmetology~~ commission; and
- 11 (3) ~~That he has~~ Has complied with all of the rules ~~and regulations~~ adopted by the
 12 commission as to the qualifications, standards, and requirements required for such
 13 license and application ~~therefor~~.

14 Section 19. That § 36-15-16 be amended to read as follows:

15 36-15-16. This chapter ~~shall~~ does not apply to services rendered by regularly licensed
 16 ~~physicians or regularly licensed barbers so far as their usual and ordinary vocation is concerned;~~
 17 ~~nor to demonstrators as to licensing requirements,~~ physician assistants, nurses, podiatrists,
 18 chiropractors, physical therapists, occupational therapists, morticians, barbers, or licensed
 19 demonstrators when exclusively engaged in the practice of their respective professions.

20 Section 20. That § 36-15-17 be amended to read as follows:

21 36-15-17. Any person desiring to practice ~~or follow any or all of the practices of~~
 22 cosmetology in this state as an ~~an "operator"~~ a cosmetologist shall make application to the
 23 commission to take the examination ~~therein. Such.~~ The application shall ~~contain;~~

- 24 (1) Contain the information required pursuant to § 36-15-15, ~~and;~~

1 (2) Contain information satisfactory to the commission that ~~such~~ the applicant has
 2 completed twenty-one hundred hours ~~training~~ of education or equivalent credit hours
 3 in an approved and licensed ~~beauty cosmetology~~ school, or in lieu of such ~~training, in~~
 4 a licensed ~~beauty shop, shall have~~ education, has successfully completed a course of
 5 apprenticeship in a licensed cosmetology salon as provided for in this chapter. ~~Such~~
 6 ~~application shall be;~~ and

7 (3) Be accompanied by the fee required ~~by~~ in this chapter.

8 ~~The above requirements for application for licensure shall not apply to any "operator"~~
 9 ~~licensed on or before July 1, 1971, or who has theretofore been licensed in this state.~~

10 Section 21. That § 36-15-17.1 be amended to read as follows:

11 36-15-17.1. Any person desiring to practice nail ~~care~~ technology in this state as a nail
 12 technician shall apply to the commission to take the nail technician examination. The application
 13 ~~shall contain;~~

14 (1) Contain the information required by § 36-15-15 ~~and;~~

15 (2) Contain proof that the applicant has completed four hundred hours of ~~training~~
 16 education or equivalent credit hours in an approved and licensed ~~beauty cosmetology~~
 17 or nail school or, in lieu of such ~~training education,~~ has successfully completed a
 18 course of apprenticeship in a licensed ~~beauty shop~~ cosmetology salon or nail ~~shop~~
 19 salon, as provided in § 36-15-45. ~~The application shall be;~~ and

20 (3) Be accompanied ~~with~~ by the fee required ~~by~~ in this chapter.

21 Section 22. That chapter 36-15 be amended by adding thereto a NEW SECTION to read as
 22 follows:

23 Any person desiring to practice esthetics in this state as an esthetician shall apply to the
 24 commission to take the esthetics examination. The application shall:

- 1 (1) Contain the information required by § 36-15-15;
- 2 (2) Contain proof that the applicant has completed seven hundred fifty hours of education
3 or equivalent credit hours in an approved and licensed cosmetology or esthetics
4 school; and
- 5 (3) Be accompanied by the fee required in this chapter.

6 Section 23. That § 36-15-19 be amended to read as follows:

7 36-15-19. The commission shall conduct at least six examinations in the ~~art and~~ practice of
8 cosmetology ~~and~~, at least two examinations in the practice of nail ~~care~~ technology, and at least
9 two examinations in the practice of esthetics each year. The commission shall set the times and
10 places for the conduct of the examination.

11 Section 24. That § 36-15-19.1 be amended to read as follows:

12 36-15-19.1. Each applicant for ~~an "operator's"~~ a cosmetologist license who ~~shall have~~ has
13 complied with § 36-15-17, shall take ~~an~~ the prescribed examination in the ~~art and~~ practice of
14 cosmetology ~~before the State Cosmetology Commission as the commission may prescribe.~~ The
15 commission shall determine the contents of the examination. Upon passing ~~such~~ the examination
16 to the satisfaction of ~~said~~ the commission and the receipt of the fee required in this chapter, the
17 applicant shall be licensed as ~~an "operator"~~ a cosmetologist in the ~~art and~~ practice of
18 cosmetology. Any ~~operator's~~ cosmetologist license issued by the commission pursuant to this
19 chapter ~~shall expire on the thirty-first day of January, annually, and shall be~~ expires annually on
20 a date set by the commission in rules promulgated pursuant to chapter 1-26, and is renewable
21 annually.

22 Section 25. That § 36-15-19.2 be amended to read as follows:

23 36-15-19.2. The commission may waive the examination required in § 36-15-19.1 ~~or,~~
24 36-15-19.3, or in section 28 of this Act upon application made to the commission that the

1 applicant possesses the qualifications required pursuant to § 36-15-15, and that:

2 (1) The applicant ~~is of good moral character~~ holds a currently valid license issued by
3 another state, district, or foreign country and the requirements of that state, district,
4 or foreign country at the time of the examination were equal to or not less than those
5 required by this state;

6 (2) The applicant has passed an examination acceptable to the commission in
7 cosmetology or, nail care technology, or esthetics, as applicable, in the District of
8 Columbia or any state or territory in the United States and is the holder of a currently
9 valid license, certificate, or certificate of registration in cosmetology or nail care
10 issued in that district, state, or territory;

11 (3) ~~The requirements of that district, state, or territory at the time of the examination~~
12 ~~were not less than those required by this state as a condition precedent to the issuance~~
13 ~~of the license, certificate, or certificate of registration;~~

14 ~~(4) The applicant comes before any member of the commission for a~~ shall take the
15 prescribed written ~~or oral~~ examination on ~~South Dakota Cosmetology Laws and the~~
16 ~~examination is approved in writing by the provisions of this chapter and rules adopted~~
17 ~~pursuant to this chapter. The commission member shall determine the contents of the~~
18 ~~examination;~~ and

19 ~~(5)~~(4) The application is accompanied ~~with~~ by the fee provided for in this chapter.

20 Section 26. That § 36-15-19.3 be amended to read as follows:

21 36-15-19.3. Each applicant for a nail technician license who has complied with § 36-15-17.1
22 shall take ~~an~~ the prescribed examination ~~before the commission in the art and practice of nail care~~
23 ~~technology. The commission shall prescribe~~ determine the contents of the examination. ~~If the~~
24 ~~applicant satisfactorily passes~~ Upon passing the examination, as determined by to the satisfaction

1 ~~of the commission, the commission shall license~~ and the receipt of the fee required in this
2 chapter, the applicant shall be licensed as a nail technician. Any nail technician license issued by
3 the commission pursuant to this chapter expires ~~on January thirty-first each year~~ annually on a
4 date set by the commission in rules promulgated pursuant to chapter 1-26, and is renewable
5 annually.

6 Section 27. That § 36-15-19.4 be repealed.

7 ~~— 36-15-19.4. Any person licensed by the commission as a nail technician may qualify to be~~
8 ~~licensed as a manager-nail technician by applying to the commission and submitting evidence~~
9 ~~satisfactory to the commission that the applicant meets the requirements of § 36-15-15 and has~~
10 ~~worked at least fifty weeks, with an average of forty hours a week, as a licensed nail technician.~~

11 Section 28. That chapter 36-15 be amended by adding thereto a NEW SECTION to read as
12 follows:

13 Each applicant for an esthetician license who has complied with section 22 of this Act shall
14 take the prescribed examination in the practice of esthetics. The commission shall determine the
15 contents of the examination. Upon passing the examination to the satisfaction of the commission
16 and the receipt of the fee required in this chapter, the applicant shall be licensed as an esthetician
17 in the practice of esthetics. Any esthetician license issued by the commission pursuant to this
18 chapter expires annually on a date set by the commission in rules promulgated pursuant to
19 chapter 1-26, and is renewable annually.

20 Section 29. That § 36-15-20 be amended to read as follows:

21 36-15-20. The fees promulgated in rules by the commission pursuant to chapter 1-26 for all
22 examinations, licenses, permits, and renewals required by this chapter may not exceed the
23 following maximums:

- 24 (1) ~~Operator~~ Cosmetologist examination fee, sixty dollars;

1 cosmetologist-manager upon application made to the commission and submitting evidence
2 satisfactory to the commission that such applicant possesses the qualifications required pursuant
3 to § 36-15-15 and has had at least ~~fifty weeks with an average of forty hours per week~~ two
4 thousand hours of experience as a licensed ~~operator~~ cosmetologist, or has taught in a licensed
5 and approved beauty school for a period of ~~twelve months~~ two thousand hours, or a combination
6 of both ~~for twelve different months~~. The application for a manager's license shall be accompanied
7 by the fee required in this chapter.

8 Section 31. That § 36-15-21.1 be amended to read as follows:

9 36-15-21.1. Any ~~manager-operator or manager-nail technician~~ cosmetologist-manager, nail
10 technician-manager, or esthetician-manager license issued by the commission pursuant to this
11 chapter expires ~~on the thirty-first of January each year~~ annually on a date set by the commission
12 in rule promulgated pursuant to chapter 1-26, and is renewable annually. The application for
13 renewal shall be accompanied ~~with~~ by the fee required ~~by~~ in this chapter.

14 Section 32. That chapter 36-15 be amended by adding thereto a NEW SECTION to read as
15 follows:

16 Any person licensed by the commission as a nail technician may qualify to be licensed as a
17 nail technician-manager by applying to the commission and submitting evidence satisfactory to
18 the commission that the applicant meets the requirements of § 36-15-15 and has worked at least
19 two thousand hours as a licensed nail technician or has taught in a licensed and approved school
20 for a period of two thousand hours, or a combination of both. The application for a manager's
21 license shall be accompanied by the fee required in this chapter.

22 Section 33. That chapter 36-15 be amended by adding thereto a NEW SECTION to read as
23 follows:

24 Any person licensed by the commission as an esthetician may qualify to be licensed as a

1 esthetician-manager by applying to the commission and submitting evidence satisfactory to the
2 commission that the applicant meets the requirements of § 36-15-15 and has worked at least two
3 thousand hours as a licensed esthetician or has taught in a licensed and approved school for a
4 period of two thousand hours, or a combination of both. The application for a manager's license
5 shall be accompanied by the fee required in this chapter.

6 Section 34. That § 36-15-22 be amended to read as follows:

7 36-15-22. Any person who holds a current valid license, ~~certificate, or certificate of~~
8 ~~registration~~ from another state or territory of the United States or from the District of Columbia
9 ~~as an operator or manager-operator~~ or foreign country in the practices of cosmetology ~~or as a~~
10 ~~nail technician or manager-nail technician in the practice of nail care,~~ nail technology, or esthetics
11 may apply to the commission for a temporary permit to practice ~~the art of cosmetology or,~~ nail
12 ~~care~~ technology, or esthetics, as applicable, ~~pursuant to the provisions of this chapter.~~ The
13 application shall be accompanied with evidence satisfactory to the commission that the applicant
14 possesses those qualifications required pursuant to §§ 36-15-15 and ~~that the requirements of that~~
15 ~~state, territory, or district for licensure are comparable to the requirements of this state for~~
16 ~~licensure~~ 36-15-19.2. The application shall be accompanied ~~with~~ by the fee required ~~by~~ in this
17 chapter. A temporary permit is valid until the date of the ~~commission-scheduled~~ next regular
18 scheduled examination in cosmetology ~~or,~~ nail care technology, or esthetics, as applicable. If the
19 holder of a temporary permit takes the examination at the scheduled time, the commission shall
20 extend the temporary permit until the result of the examination is mailed to the applicant. If an
21 applicant is not excused from the examination by the commission or fails the examination, the
22 temporary permit is invalid and may not be extended or reissued.

23 Section 35. That § 36-15-25 be amended to read as follows:

24 36-15-25. No person may teach in a school unless that person is licensed by the commission

1 as an instructor. Any person may qualify and be licensed by the commission as a "senior
2 instructor" for cosmetology, nail technology, or esthetics, as applicable, upon application made
3 to the commission. The application shall be accompanied by evidence satisfactory to the
4 commission evidence that such the applicant possesses the qualifications required pursuant to
5 ~~§ 36-15-15 and that:~~

6 (1) ~~Such applicant has had at least two years experience as a licensed operator~~
7 ~~cosmetologist or has had one year experience as a "junior instructor"; and Possesses~~
8 the qualifications required by § 36-15-15;

9 (2) ~~Such applicant currently holds a valid "manager-operator's" license~~ Has had at least
10 two thousand hours experience as a licensed cosmetologist, nail technician, or
11 esthetician, as applicable, or as a junior instructor educating in cosmetology, nail
12 technology, or esthetics, as applicable;

13 (3) Has complied with any instructor education as prescribed by section 16 of this Act;
14 and

15 (4) Currently holds a valid cosmetologist-manager, nail technician-manager, or
16 esthetician-manager license, as applicable.

17 ~~—Such applicant must also submit proof satisfactory to the commission that he did attend at~~
18 ~~least ten hours of commission approved seminars conducted for cosmetology instructors during~~
19 ~~the twelve months prior to making such application, or, in lieu thereof, such applicant may~~
20 ~~receive such license conditionally, dependent on securing such ten hours within three months of~~
21 ~~receiving the same.~~

22 However, the applicant may receive the license conditionally, dependent on completing
23 instructor education as prescribed by the commission in rules adopted pursuant to chapter 1-26.

24 A senior instructor with a cosmetologist-manager license may instruct in any practice of

1 cosmetology. A senior instructor with a nail technician-manager license may only instruct in the
2 practice of nail technology. A senior instructor with an esthetician-manager license may only
3 instruct in the practice of esthetics.

4 Section 36. That § 36-15-25.1 be amended to read as follows:

5 36-15-25.1. Any "senior" instructor license issued by the commission pursuant to this chapter
6 ~~shall expire on the thirty-first day of January of each year and shall be~~ expires annually on a date
7 set by the commission in rule promulgated pursuant to chapter 1-26, and is renewable annually.
8 The application ~~must~~ shall be accompanied by the fee ~~provided for~~ required in this chapter and
9 proof of completion of any required commission-approved instructor education pursuant to
10 section 16 of this Act.

11 Section 37. That chapter 36-15 be amended by adding thereto a NEW SECTION to read as
12 follows:

13 Any applicant for a senior instructor license pursuant to § 36-15-25 who plans to instruct an
14 apprentice in a licensed salon shall submit proof of completion of thirty hours of commission-
15 approved education in teacher training from a college or university. This education shall be
16 completed before the senior instructor license is issued. The commission may provide, by rule
17 promulgated pursuant to chapter 1-26, the kinds and subjects of education and the number of
18 hours of education required. The commission may also substitute experience in addition to or
19 in lieu of educational requirements. The commission may set a fee in rules adopted pursuant to
20 chapter 1-26 to cover the cost of verifying the required continuing education.

21 Section 38. That § 36-15-26 be amended to read as follows:

22 36-15-26. Any person may qualify and be licensed by the commission as a "junior instructor"
23 for cosmetology, nail technology, or esthetics, as applicable, upon application made to the
24 commission. The application shall be accompanied by evidence satisfactory to the commission

1 ~~evidence~~ that such applicant ~~possesses the qualifications required pursuant to § 36-15-17 and~~
2 ~~that:~~

- 3 (1) ~~Such applicant currently holds a valid "operator's" license; and Possesses the~~
4 qualifications required by § 36-15-15;
- 5 (2) Currently holds a valid cosmetologist, nail technician, or esthetician license, as
6 applicable;
- 7 (3) Has complied with any instructor education as required by section 16 of this Act; and
- 8 (4) ~~Such applicant will~~ Will be working and giving instructions providing education in a
9 licensed beauty school in this state under the direct and constant supervision of a
10 "senior instructor."

11 ~~Such applicant must also submit proof satisfactory to the commission that he did attend at~~
12 ~~least ten hours of commission approved seminars conducted for cosmetology instructors during~~
13 ~~the twelve months prior to making such application, or, in lieu thereof, such applicant may~~
14 ~~receive such license conditionally, dependent on securing such ten hours within six months of~~
15 ~~receiving the same.~~

16 However, the applicant may receive the license conditionally, dependent on completing
17 instructor education as prescribed by the commission in rules adopted pursuant to chapter 1-26.

18 A junior instructor with a cosmetologist license may instruct in any practice of cosmetology
19 and shall be supervised by a senior cosmetologist instructor. A junior instructor with a nail
20 technician license may only instruct in the practice of nail technology and shall be supervised by
21 a senior cosmetologist instructor or a senior nail technician instructor. A junior instructor with
22 an esthetician license may only instruct in the practice of esthetics and shall be supervised by a
23 senior cosmetologist instructor or a senior esthetician instructor.

24 Section 39. That § 36-15-26.1 be amended to read as follows:

1 36-15-26.1. Any "junior" instructor license issued by the commission pursuant to this chapter
2 ~~shall expire on the thirty-first day of January of each year~~ expires annually on a date set by the
3 commission in rule promulgated pursuant to chapter 1-26 and shall be is renewable annually. The
4 application ~~must~~ shall be accompanied by the fee ~~provided for~~ required in this chapter and proof
5 of completing commission-approved instructor education pursuant to section 16 of this Act.

6 Section 40. That § 36-15-29 be amended to read as follows:

7 36-15-29. Any person desiring to conduct a ~~beauty~~ cosmetology, nail technology, or
8 esthetics school for any of the practices ~~or arts~~ of cosmetology, as applicable, shall apply to the
9 commission for a license. ~~If the commission determines, based on evidence submitted with the~~
10 ~~application, that the beauty school requires of its students a course of training in the practices~~
11 ~~and arts of cosmetology of not less than twenty-one hundred hours equal to the requirements for~~
12 ~~examination for an operator license or a course of training in nail care of not less than four~~
13 ~~hundred hours equal to the requirements for examination for a nail technician license and the~~
14 ~~beauty school satisfies the requirements established by rules adopted pursuant to this chapter and~~
15 ~~chapter 1-26, the~~ The commission shall issue the license if:

- 16 (1) The applicant completes the application and provides any required documentation;
- 17 (2) The application is accompanied by the fee required in this chapter;
- 18 (3) The applicant has no violations with another cosmetology board;
- 19 (4) The education offered is not less than twenty-one hundred hours for a cosmetology
20 program or not less than four hundred hours for a nail technician program or not less
21 than seven hundred fifty hours for an esthetician license or their respective equivalent
22 credit hours; and
- 23 (5) All requirements established by rules adopted pursuant to this chapter are met.

24 Section 41. That § 36-15-29.1 be amended to read as follows:

1 36-15-29.1. The license issued pursuant to § 36-15-29 authorizes the ~~beauty cosmetology,~~
2 nail technology, or esthetics school holding ~~such~~ a license to transact a school in this state only
3 on the premises approved by the commission, subject to the rules ~~and regulations~~ of the
4 commission. ~~Such~~ The license is not ~~assignable~~ transferable to any other person. ~~In the event~~ If
5 the holder of ~~such~~ the license proposes to conduct a any portion ~~or all~~ of ~~his~~ the school activity
6 on premises other than those ~~theretofore~~ licensed by the commission, ~~such~~ the licensee shall
7 obtain an additional license for the newly proposed premises as a ~~beauty~~ school pursuant to
8 § 36-15-29. However, the commission may approve limited field trips supervised by instructors.

9 Section 42. That § 36-15-29.2 be amended to read as follows:

10 36-15-29.2. No ~~beauty~~ school may employ more than one "junior instructor" for each "senior
11 instructor" regularly employed by ~~such beauty~~ the school.

12 Section 43. That § 36-15-30 be amended to read as follows:

13 36-15-30. A school license issued pursuant to § 36-15-29 ~~shall expire~~ expires one year from
14 date of issuance and ~~may be renewed~~ is renewable annually. The renewal application must be
15 accompanied by the fee required ~~by~~ in this chapter.

16 Section 44. That § 36-15-33 be amended to read as follows:

17 36-15-33. Any person entering or enrolling in a licensed ~~beauty~~ school for training education
18 in the practice ~~or art~~ of cosmetology ~~or,~~ nail care technology, or esthetics shall apply to the
19 commission for a student license within ten days after the date of enrollment. The applicant for
20 a student license shall be at least ~~sixteen and one-half~~ seventeen years of age. The application
21 shall contain the information required pursuant to § 36-15-15 and the name and location of the
22 ~~beauty~~ school being attended. Upon receipt of the application and the fee provided for in this
23 chapter, the commission shall issue to the applicant a student license which entitles the student
24 to complete the course of training education in which the student is enrolled without additional

1 license fees. If the student withdraws from the ~~beauty~~ school or course in cosmetology ~~or~~, nail
2 ~~care~~ technology, or esthetics for which the fee was paid and later enrolls in the same or a
3 different ~~beauty~~ school or course, the student shall pay the student license fee again.

4 Section 45. That § 36-15-34 be amended to read as follows:

5 36-15-34. Any person who wishes to transfer from an out-of-state school of cosmetology
6 to a licensed ~~beauty~~ school in this state for the purpose of meeting the requirements of the state
7 for commission examination in cosmetology ~~or~~, nail ~~care~~ technology, or esthetics shall apply for
8 a student license pursuant to § 36-15-33. The commission may adopt rules pursuant to chapter
9 1-26, establishing requirements relating to courses and ~~instruction~~ education received by such
10 transfer students. ~~Such transfer~~ Transfer students shall be given South Dakota credit hours for
11 their out-of-state ~~training~~ education as determined and allowed by the commission.

12 Section 46. That § 36-15-37 be amended to read as follows:

13 36-15-37. No owner, employer, manager, or any other person may conduct simultaneously
14 a ~~beauty shop or nail shop~~ salon and a ~~beauty~~ school, unless the ~~shop~~ salon is conducted
15 separately from the ~~beauty~~ school so as not to be construed by the public as one enterprise.

16 Section 47. That § 36-15-38 be amended to read as follows:

17 36-15-38. ~~No beauty~~ Any school shall ~~fail to~~ use the word "school" or words indicating an
18 institution of learning in any advertisement, sign, display, or directory. ~~Every beauty~~ Each school
19 shall clearly indicate in a location conspicuous to the general public that cosmetological services
20 and practices performed in ~~such~~ the school and premises are by students.

21 Section 48. That § 36-15-42 be amended to read as follows:

22 36-15-42. A person may receive apprenticeship education in cosmetology and nail
23 technology. However, no person may receive apprenticeship education unless that person is
24 licensed as an apprentice. Any person may apply to the commission to be licensed as an

1 apprentice if the applicant ~~submits~~;

2 (1) Submits evidence satisfactory to the commission that the applicant possesses those
3 qualifications, except for age, required pursuant to § 36-15-15 ~~and the beauty shop~~
4 ~~or nail shop~~;

5 (2) Is at least seventeen years of age or older; and

6 (3) The cosmetology or nail salon in which the apprentice will ~~serve and~~ receive
7 ~~instruction~~ education is currently licensed as an apprentice salon and is adequately
8 equipped to teach the profession of cosmetology or nail ~~care~~ technology, as
9 applicable. ~~Any applicant for an apprentice license shall be at least seventeen years of~~
10 ~~age.~~

11 Any apprentice license issued pursuant to this chapter is ~~good~~ valid for the full period of the
12 apprenticeship as defined in § 36-15-45 and is not renewable. The application shall be
13 accompanied ~~with~~ by the fee required ~~by~~ in this chapter.

14 Section 49. That chapter 36-15 be amended by adding thereto a NEW SECTION to read as
15 follows:

16 No salon may offer apprenticeship education without obtaining an apprentice salon license.

17 The owner of the salon may apply to the commission to be licensed as an apprentice salon if:

18 (1) The salon meets the applicable requirements of this chapter and rules promulgated
19 pursuant to this chapter;

20 (2) The salon has passed the annual inspection for the current year; and

21 (3) The application is accompanied by the fee required in this chapter.

22 The apprentice salon license is valid for the length of the apprenticeship as stated in § 36-15-
23 45. If the apprenticeship period extends longer than the length of hours in § 36-15-45, as
24 applicable, then the apprentice salon license shall be renewed. The commission may grant an

1 extension of the license for good cause. The commission shall define good cause by rule
2 promulgated pursuant to chapter 1-26.

3 Section 50. That § 36-15-44 be amended to read as follows:

4 ~~36-15-44. Not more than two apprentices shall be allowed to a beauty shop or beauty~~
5 ~~establishment at any one period of time. No apprentice salon may have more than two~~
6 ~~apprentices during any one period of time.~~

7 Section 51. That § 36-15-45 be amended to read as follows:

8 36-15-45. A licensed apprentice in cosmetology shall receive ~~instruction~~ education in the
9 practice of cosmetology as required by this chapter in the same ~~licensed beauty shop for eighteen~~
10 ~~consecutive months~~ cosmetology salon for three thousand consecutive hours. A licensed
11 apprentice in nail ~~care~~ technology shall receive ~~instruction~~ education in the practice of nail ~~care~~
12 technology as required by this chapter for ~~six consecutive months~~ nine hundred consecutive
13 hours in the same ~~licensed beauty shop or nail shop~~ cosmetology salon or nail salon. The
14 commission may permit an apprentice to transfer to another ~~licensed beauty shop or nail shop~~
15 cosmetology salon or nail salon, as applicable, for completion of the apprenticeship if the
16 apprentice applies for the transfer in writing to the commission and shows good cause for the
17 request. The commission may permit a break in the consecutive period of the apprenticeship if
18 the apprentice applies for the break in writing to the commission and shows good cause for the
19 request. The commission shall define good cause by rule promulgated pursuant to chapter 1-26.

20 Section 52. That § 36-15-46 be amended to read as follows:

21 36-15-46. The commission may prescribe textbooks, ~~instructional~~ educational material, and
22 the general course of study required for ~~beauty schools and for beauty shops and nail shops~~
23 salons having one or more apprentices. Such textbooks and ~~instructional~~ educational material
24 ~~must~~ shall be furnished without charge for use by apprentices.

1 Section 53. That § 36-15-47 be amended to read as follows:

2 36-15-47. Any apprentice licensed pursuant to this chapter may practice ~~any of the practices~~
3 ~~of cosmetology~~ if the practice is performed only in a ~~beauty shop or a nail shop~~ cosmetology
4 salon or nail salon, as applicable, licensed pursuant to this chapter; the apprentice is under the
5 constant supervision, control, and direction of a licensed senior instructor at all times; and the
6 apprentice is actually engaged in the study and practice of cosmetology or nail ~~care~~ technology
7 at least forty hours a week.

8 Section 54. That § 36-15-47.1 be amended to read as follows:

9 36-15-47.1. Only a "senior instructor" licensed under this chapter may teach ~~or instruct~~ an
10 apprentice in any of the practices of cosmetology. ~~No person shall be entitled to receive such~~
11 ~~instruction until and unless he shall have been licensed as an "apprentice."~~ The "senior
12 instructor," ~~beauty shop, or establishment,~~ the salon, or anyone connected ~~thereto~~ with the
13 apprenticeship may not charge, receive, or accept any fee or anything of value except services
14 for ~~such instruction~~ the education.

15 Section 55. That § 36-15-48 be amended to read as follows:

16 36-15-48. The ~~Cosmetology~~ commission may ~~make~~ adopt reasonable rules and regulations
17 pursuant to chapter 1-26 pertaining to a report on the progress and ~~instruction~~ education
18 received by any apprentice required of the licensed "senior instructor" under whom the
19 apprentice is being supervised.

20 Section 56. That § 36-15-50 be amended to read as follows:

21 36-15-50. Any person who successfully completes the term of apprenticeship pursuant to this
22 chapter ~~more than ten days before the time set for a regular commission examination in~~
23 ~~cosmetology or nail care, as applicable to the apprenticeship,~~ may apply to the commission for
24 a temporary license which will authorize the applicant to perform all the practices of a regularly

1 licensed ~~cosmetology operator~~ cosmetologist or nail technician, as applicable. The temporary
2 license application shall be accompanied with ~~evidence~~;

3 (1) Evidence satisfactory to the commission that the applicant possesses the qualifications
4 required pursuant to § 36-15-15 ~~and~~;

5 (2) Evidence satisfactory to the commission that the apprenticeship period has been
6 completed;

7 (3) The fee for a temporary license as provided in this chapter; and

8 (4) The application and fee for the cosmetologist or nail technician examination, as
9 applicable.

10 A temporary license issued by the commission is ~~good~~ valid until the date of the next ~~regular~~
11 ~~commission~~ scheduled examination in cosmetology or nail ~~care~~ technology, as applicable. If the
12 holder of a temporary license takes the applicable examination at that time, the commission shall
13 extend the temporary license until the result of the examination is mailed to the person. ~~The~~
14 ~~application for a temporary license shall be accompanied with the fee required by this chapter for~~
15 ~~the temporary license and by the examination fee. If a person is not excused from the~~
16 ~~examination by the commission or fails the examination, the temporary license is invalid and may~~
17 ~~not be extended or reissued.~~

18 Section 57. That § 36-15-50.1 be amended to read as follows:

19 36-15-50.1. Any person who successfully completes a course of ~~training~~ education in an
20 approved and licensed ~~beauty~~ school in this state, or in any other licensed ~~beauty~~ cosmetology,
21 nail technology, or esthetics school, as applicable, not located within this state that is shown to
22 the satisfaction of the commission to be ~~equally~~ comparable, ~~more than ten days before the time~~
23 ~~set for a regular commission examination in cosmetology or nail care, as applicable to the~~
24 ~~training,~~ may apply to the commission for a temporary license which will authorize the applicant

1 to perform all the practices of a regularly licensed ~~cosmetology operator or cosmetologist~~, nail
 2 technician, or esthetician, as applicable. The application shall ~~contain evidence~~ be accompanied
 3 by:

4 (1) Evidence satisfactory to the commission that the course of ~~training~~ education has been
 5 successfully completed ~~and shall be accompanied with the;~~

6 (2) The fee for a temporary license as provided by in this chapter; and

7 (3) The application ~~shall also be accompanied with the application and fee for an operator~~
 8 ~~or a cosmetologist, nail technician license, or esthetician examination, as applicable.~~

9 A temporary license issued by the commission is ~~good~~ valid until the date of the next ~~regular~~
 10 ~~commission~~ scheduled examination in cosmetology ~~or, nail care technology, or esthetics~~, as
 11 applicable. If the holder of a temporary license takes the applicable examination at that time, the
 12 commission shall extend the temporary license until the result of the examination is mailed to the
 13 person. If a person is not excused from the examination by the commission or fails the
 14 examination, the temporary license is invalid and may not be extended or reissued.

15 Section 58. That § 36-15-51 be amended to read as follows:

16 36-15-51. No person may operate a salon or booth without a license. Any person who
 17 desires to operate a ~~beauty shop~~ salon or booth where ~~all of the arts of;~~

18 (1) All of the practices of cosmetology are ~~practiced~~ provided shall apply to the
 19 commission for a ~~general beauty shop~~ cosmetology salon or booth license. ~~Any person~~
 20 ~~who desires to operate a beauty shop where the practice of cosmetology, as~~
 21 applicable;

22 (2) Only nail technology is practiced, shall apply to the commission for a nail salon or
 23 booth license, as applicable;

24 (3) Only esthetics is practiced, shall apply to the commission for an esthetics salon or

1 booth license, as applicable;

2 (4) Cosmetology is limited to one or a few of the arts practices specified in § 36-15-2,
3 shall apply to the commission for a limited beauty shop salon or booth license. The
4 application for a limited license shall state the arts practices of cosmetology desired
5 to be practiced provided. ~~Any person who desires to operate a nail shop where only~~
6 ~~nail care is practiced shall apply to the commission for a nail shop license.~~

7 The application fee set pursuant to ~~§ 36-15-20~~ shall accompany the application. ~~All beauty~~
8 ~~shop and nail shop licenses expire on January thirty-first each year~~ shall be accompanied by the
9 license fee provided for in this chapter. Any salon or booth license expires annually on a date set
10 by the commission in rule promulgated pursuant to chapter 1-26, and are is renewable annually.
11 ~~Operation of a beauty shop or a nail shop without a license is a petty offense. The practice of~~
12 ~~cosmetology beyond the limits specified in the license is a petty offense. No person may practice~~
13 ~~cosmetology, nail technology, or esthetics beyond the limits specified in the license. A violation~~
14 ~~of this section is a Class 2 misdemeanor.~~

15 Section 59. That § 36-15-51.1 be amended to read as follows:

16 36-15-51.1. If a ~~beauty shop or nail shop~~ salon or booth changes location or ownership, the
17 owner or manager of the ~~shop~~ salon or booth shall apply to the commission for a new license
18 pursuant to § 36-15-51. The application shall be accompanied ~~with~~ by the license fee provided
19 for ~~by~~ in this chapter. The commission may issue a temporary permit to the applicant which is
20 valid for ninety days. During that time, the commission shall inspect the premises. The owner or
21 manager of a ~~beauty shop or nail shop~~ salon or booth that changes location or ownership or is
22 closed shall immediately notify the commission of that fact.

23 Section 60. That § 36-15-53.1 be amended to read as follows:

24 36-15-53.1. A ~~beauty shop~~ cosmetology salon or booth shall be ~~at all times~~ under the

1 supervision of a person who holds a currently valid ~~manager-operator~~ cosmetologist-manager
2 license. A nail ~~shop~~ salon or booth shall be ~~at all times~~ under the supervision of a person who
3 holds a currently valid ~~manager-operator or manager-nail technician~~ cosmetologist-manager or
4 nail technician-manager license. ~~It is a petty offense for a beauty shop or nail shop or its owner~~
5 ~~to offer or render any of the practices of cosmetology to the public unless the shop has a licensed~~
6 ~~manager-operator or manager-nail technician, as applicable, present in the shop.~~ An esthetics
7 salon or booth shall be under the supervision of a person who holds a currently valid
8 cosmetologist-manager or esthetician-manager license. A licensed cosmetologist-manager or nail
9 technician-manager or esthetician-manager, as applicable, shall be present in the salon when any
10 of the practices of cosmetology are offered or rendered to the public. A violation of this section
11 is a Class 2 misdemeanor.

12 Section 61. That § 36-15-54 be amended to read as follows:

13 36-15-54. ~~Only demonstrators~~ Cosmetology, nail technology, and esthetics may only be
14 practiced in a licensed salon or booth, except as provided in this section. A demonstrator, while
15 demonstrating under the provisions of this chapter may practice any of the arts of cosmetology
16 for compensation, fee, or any other remuneration outside of the premises of a licensed beauty
17 shop or a licensed nail shop unless the person desiring any or all of the cosmetological services
18 is unable to come to the beauty shop or nail shop because of sickness or other disability salon.
19 In addition, a licensee may practice cosmetology services on persons unable to come to the salon
20 because of imprisonment, disabling sickness, or other disability as long as the licensee documents
21 the service through a salon or booth. A licensed nursing facility that permits cosmetology
22 services only to its residents and does not advertise as a salon is not required to have a salon
23 license.

24 Section 62. That § 36-15-55.1 be repealed.

1 ~~36-15-55.1. A violation of any provision of this chapter or of the rules and regulations~~
2 ~~adopted pursuant thereto by the commission is a ground for disciplinary action by the~~
3 ~~commission.~~

4 Section 63. That § 36-15-56 be amended to read as follows:

5 36-15-56. The grounds for disciplinary action are ~~as follows, but not limited thereto:~~

- 6 (1) Fraud or deception in procuring a license required by this chapter;
- 7 (2) Failure of any person to comply with any of the requirements of this chapter or rules
8 ~~and regulations adopted pursuant thereto~~ to this chapter;
- 9 (3) Publication or use of any untruthful or improper statement or representation, with a
10 view of deceiving the public, or any patron or customer in connection with the
11 practice or ~~instruction~~ education in cosmetology;
- 12 (4) ~~Habits of intemperance, Habitual drunkenness or drug addiction, calculated in the~~
13 ~~opinion of the commission to affect~~ affecting the licensee's practice of ~~his~~ the
14 profession, or conviction of a violation of any federal or state law relating to narcotic
15 drugs;
- 16 (5) Failure to furnish to the commission, any report or information which is required by
17 this chapter or rules ~~and regulations adopted pursuant thereto~~ to this chapter;
- 18 (6) The employment of any unlicensed person to perform work which under this chapter
19 can lawfully be done only by licensed persons ~~licensed therein~~;
- 20 (7) Failure to publicly display any license required by this chapter;
- 21 (8) Willfully making any false oath or affirmation whenever any oath or affirmation is
22 required in this chapter or by rules ~~and regulations adopted pursuant thereto~~ to this
23 chapter;
- 24 (9) Conviction of ~~any crime or charge involving moral turpitude, in which case a record~~

1 ~~of conviction or a certified copy shall be conclusive evidence thereof~~ a felony affecting
 2 the licensee's practice of the profession, as shown by a certified copy of the record of
 3 the court of conviction;

4 (10) Continued practice by persons knowingly having an infectious or contagious disease;
 5 and

6 (11) Practice of any cosmetology services for which the commission requires additional
 7 continuing education when the education has not been completed.

8 ~~It is not intended that the above enumerated grounds are exclusive of all violations, but that~~
 9 ~~any requirement of this chapter or rules and regulations adopted pursuant thereto which are not~~
 10 ~~followed or are violated are grounds for refusal, suspension and revocation of a license.~~

11 Section 64. That § 36-15-58.5 be amended to read as follows:

12 36-15-58.5. ~~Upon written application establishing compliance with existing licensing~~
 13 ~~requirements and for reasons the commission deems sufficient, the commission, for good cause~~
 14 ~~shown, by~~ By majority vote, may, under such conditions as it the commission may impose,
 15 reinstate or reissue a suspended or revoked license to any person whose license has been
 16 suspended or revoked, provided, however, that upon suspension of a license, the commission in
 17 such order may provide for automatic reinstatement thereof after a fixed period of time as
 18 provided in the order upon:

- 19 (1) Written application establishing compliance with existing licensing requirements; or
- 20 (2) Testimony by witnesses.

21 The commission may impose conditions for the reinstatement of a license. One of the
 22 conditions may provide for an automatic reinstatement of the license after a fixed period of time.

23 Section 65. That § 36-15-60 be amended to read as follows:

24 36-15-60. ~~The commission of any of the following acts is a petty offense~~ No person may:

- 1 (1) ~~The practice of Practice~~ cosmetology without a license;
- 2 (2) Intentionally ~~making~~ make any false oath or affirmation whenever an oath or
3 affirmation is required by this chapter or rules promulgated ~~pursuant thereto to this~~
4 chapter;
- 5 (3) ~~Failure Fail~~ to display ~~all licenses~~ any license in a conspicuous place in the ~~beauty~~
6 ~~shop, beauty establishment, or beauty~~ salon, booth, or school;
- 7 (4) ~~Failure Fail~~ to comply with the plumbing, electrical, physical, or sanitary requirements
8 as stated in the rules promulgated by the ~~Cosmetology~~ commission;
- 9 (5) ~~Charging or receiving~~ Charge or receive compensation for teaching an apprentice ~~the~~
10 ~~art or arts~~ any of the practices of cosmetology;
- 11 (6) ~~Operating a beauty~~ Operate a school without a license as provided for in this chapter;
- 12 (7) ~~Employment of~~ Employ or allow any unlicensed person to perform work which under
13 this chapter ~~can~~ may lawfully be done only by licensed persons ~~licensed therein~~;
- 14 (8) ~~Allowing~~ Allow the practice of ~~cosmetology~~;
 - 15 (a) ~~Cosmetology by an operator~~ a cosmetologist except under the immediate and
16 constant supervision and direction of a licensed ~~manager-operator~~
17 cosmetologist-manager; or
 - 18 (b) Nail technology by a nail technician except under the immediate and constant
19 supervision and direction of a licensed ~~manager-operator~~ cosmetologist-
20 manager or a licensed ~~managing~~ nail ~~technician~~ technician-manager; or
 - 21 (c) Esthetics by an esthetician except under the immediate and constant
22 supervision and direction of a licensed cosmetologist-manager or a licensed
23 esthetician-manager;
- 24 (9) ~~Operating a beauty shop, nail shop, or beauty~~ Operate a salon, booth, or school for

1 any ~~or all~~ of the ~~arts~~ practices of cosmetology without having first obtained the
2 applicable license as provided in this chapter; ~~and~~

3 (10) ~~Doing~~ Practice any cosmetology services for which the commission requires
4 additional continuing education in which the education has not been completed; and

5 (11) Do any act prohibited by this chapter.

6 A violation of this section is a Class 2 misdemeanor.

7 Section 66. That § 36-15-61 be amended to read as follows:

8 36-15-61. ~~Any citizen~~ The commission or any resident of this state may bring an action in
9 circuit court for an injunction to ~~restrain;~~

10 (1) Restrain any person or corporation from the practice of or ~~instruction~~ education in
11 cosmetology ~~or~~ without a valid license;

12 (2) Restrain the ~~operating operation~~ of any establishment licensed hereunder salon or
13 school without a valid license ~~or to restrain;~~

14 (3) Restrain the violation of any of the provisions or requirements of this chapter or rules
15 ~~and regulations adopted pursuant thereto~~ to this chapter.

16 The Cosmetology commission ~~may bring an action for such injunctive relief and is authorized~~
17 ~~to~~ may employ counsel; ~~subject to the supervision, control and direction of the attorney general,~~
18 ~~and to~~ expend moneys from its treasury for such purposes. ~~An action for injunction shall be an~~
19 ~~alternate to criminal proceedings, and the commencement of one proceeding by the commission~~
20 ~~constitutes an election.~~

State of South Dakota

SEVENTY-EIGHTH SESSION
LEGISLATIVE ASSEMBLY, 2003

364I0179

SENATE JUDICIARY COMMITTEE ENGROSSED NO.

SB 60 - 02/03/2003

Introduced by: Senators Kooistra, Abdallah, Earley, Kloucek, Koetzle, Moore, and Olson
(Ed) and Representatives Christensen, Michels, and Nesselhuf

1 FOR AN ACT ENTITLED, An Act to revise certain provisions relating to child custody and to
2 provide for a shared parenting plan.

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

4 Section 1. That § 25-4A-10 be amended to read as follows:

5 25-4A-10. The South Dakota Supreme Court shall promulgate court rules establishing
6 standard guidelines to be used statewide for child visitation in divorce or separate maintenance
7 actions or any other custody action or proceeding. The standard guidelines shall reflect a
8 parenting schedule that allows the child to have regularly occurring, meaningful periods of
9 physical placement with each parent, taking into account geographic separation and
10 accommodations for different households. These guidelines shall provide a framework for child
11 visitation including frequency and time for child visitation; hours or days of visitation; definitions
12 for weekends, holidays, birthdays, and other special occasions; and time periods for summer
13 visitations. In establishing the standard guidelines, the court may consider varying ages and
14 circumstances of children and treat varying ages and circumstances differently.

15 Section 2. That § 25-4A-11 be amended to read as follows:



1 25-4A-11. Upon the filing of a summons and complaint for divorce or separate maintenance
2 or any other custody action or proceeding, the plaintiff shall also file and serve upon the
3 defendant a copy of the standard guidelines. The standard guidelines attached to the summons
4 shall become an order of the court upon fulfillment of the requirements of service. ~~Any minor~~
5 ~~child of the marriage shall remain in the custody of the parent who has been the primary~~
6 ~~caregiver for the minor child for the majority of time in the thirty days preceding the filing of the~~
7 ~~summons and complaint, unless the parties agree otherwise.~~ The standard guidelines shall apply
8 and continue in effect, unless the parties agree, or the court orders otherwise. Imposition of the
9 standard guidelines creates no presumption as to who shall be awarded custody at any hearing.

10 Section 3. That chapter 25-5 be amended by adding thereto a NEW SECTION to read as
11 follows:

12 If the court deviates from standard guidelines, the court shall make findings as to:

- 13 (1) The likelihood of serious physical or emotional harm to the child if placed in the
14 parent's custody;
- 15 (2) A history of abuse or neglect as defined in § 26-8A-2, domestic abuse as defined in
16 § 25-10-1, or any problem with alcohol or drug abuse;
- 17 (3) The lack of ability of either parent to provide for a child's physical, emotional, and
18 other needs over a significant period of time;
- 19 (4) The lack of a bonded relationship between the child and either parent, sufficient to
20 cause emotional harm to the child;
- 21 (5) Any situation that would cause significant instability and insecurity in the child's future
22 with either parent;
- 23 (6) The lack of cooperation and communication between the parties and whether either
24 party unreasonably refuses to cooperate or communicate with the other party;

- 1 (7) The pattern of involvement of the parties with the child that does not reflect a system
2 of values, time commitment, and mutual support;
- 3 (8) The lack of ability of either party to encourage the sharing of love, affection, and
4 contact between the child and the other party;
- 5 (9) An impairment to a child's right to an education while in the custody of either parent;
- 6 (10) That either parent has abandoned or persistently neglected the child;
- 7 (11) A demonstrated lack of either parent's commitment to raising the child;
- 8 (12) That either parent has forfeited or surrendered their parental rights over the child; or
- 9 (13) Any other circumstance that would substantially and adversely impact the welfare of
10 the child.

11 In all parenting arrangements, one parent's home shall be designated as the primary address
12 for the child.

13 Section 4. That chapter 25-5 be amended by adding thereto a NEW SECTION to read as
14 follows:

15 If an alternative parenting arrangement is ordered, the court shall state on the record why its
16 findings are in the best interest of the child.

17 Section 5. That § 25-5-13 be amended to read as follows:

18 ~~25-5-13. A parent entitled to the custody of a child has the right to change his residence,~~
19 ~~subject to the power of the circuit court to restrain a removal which would prejudice the rights~~
20 ~~or welfare of the child. Any person entitled to parenting time with a child shall give notice of any~~
21 proposed relocation of the residence of the child to another state or a distance greater than
22 seventy-five miles. The notice shall be in writing by certified mail, return receipt requested, to
23 any party that has parenting time rights. Absent exigent circumstances as determined by a court
24 with jurisdiction, written notice shall be provided at least thirty days before the proposed

1 relocation. The notice of the proposed relocation shall include the following information: the city
2 and state to which the relocation is proposed, the date of the intended move, the reasons for
3 moving, a proposed parenting plan, and the procedure to be followed if the parent objects to the
4 relocation.

5 The residence of the child may be relocated thirty days after providing notice, as required by
6 this section, unless a party entitled to parenting time with a child files a motion seeking an order
7 to prevent the relocation within fifteen days after receipt of such notice. An affidavit setting forth
8 the specific basis for prohibiting the relocation shall be attached to the motion. The person
9 seeking the relocation shall respond to the motion within ten days, unless the court extends the
10 response time for good cause, and provide a counter affidavit setting forth the facts in support
11 of the relocation and the proposed revised parenting plan for the child.

12 If relocation is permitted, the court shall order contact with the nonrelocating party including
13 parenting time and telephone access sufficient to assure that the child has frequent, continuing,
14 and meaningful contact with the nonrelocating party unless such contact is detrimental to the
15 child.

State of South Dakota

SEVENTY-EIGHTH SESSION
LEGISLATIVE ASSEMBLY, 2003

525I0492

SENATE AGRICULTURE AND NATURAL RESOURCES COMMITTEE ENGROSSED NO. **SB 90** - 02/04/2003

Introduced by: Senators Dennert, Dempster, Duenwald, Duxbury, Nachtigal, and Symens and
Representatives Fryslie, Glenski, Hanson, Hundstad, and Peterson (Jim)

1 FOR AN ACT ENTITLED, An Act to revise the available number of certain nonresident
2 waterfowl hunting licenses.

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

4 Section 1. That section 2 of chapter 195 of the 2002 Session Laws be repealed.

5 ~~Section 2. The amendment under this Act to section 3 of chapter 205 of the 2000 Session~~
6 ~~Laws is repealed on June 30, 2003.~~

7 Section 2. That § 41-6-18.4 be amended to read as follows:

8 41-6-18.4. The Game, Fish and Parks Commission may promulgate rules in accordance with
9 chapter 1-26 to authorize the department to issue up to two thousand five hundred fall three-day
10 temporary nonresident waterfowl licenses, up to two thousand early fall Canada goose temporary
11 nonresident licenses, and a number of spring snow goose temporary nonresident licenses to be
12 determined by the department, and to establish the fee therefor, validity of the licenses issued,
13 types of waterfowl to be hunted, and areas in which hunting is permitted. Up to ~~five hundred~~ one
14 thousand of the fall three-day temporary nonresident waterfowl licenses shall be made available
15 for use in the counties of Brown, Marshall, Roberts, Day, Grant, Clark, Codington, Deuel,



1 Kingsbury, Spink, and Hamlin. The commission, in rules promulgated pursuant to chapter 1-26,
2 may establish a process and criteria to allow the issuance of a portion of the ~~five hundred~~ one
3 thousand licenses in counties other than those specified if the department determines that such
4 licenses are otherwise likely to remain unsold. Except for the fall three-day temporary
5 nonresident waterfowl licenses issued in Brown, Marshall, Roberts, Day, Grant, Clark,
6 Codington, Deuel, Kingsbury, Spink, and Hamlin counties, the fall three-day temporary
7 nonresident waterfowl licenses are valid only on private property, but are not valid on private
8 property leased by the department for public hunting or on highways or other public
9 rights-of-way within this state that otherwise meet the requirements of § 41-9-1.3. Revenue from
10 the sale of fall three-day temporary nonresident waterfowl licenses shall be deposited in the
11 department's land acquisition and development fund to be used to acquire, by lease, permit, or
12 otherwise, interests in real property to be used for providing waterfowl hunting public access in
13 the counties adjacent to the Missouri River. Revenue from the sale of early fall Canada goose
14 temporary nonresident licenses shall be deposited in the department's land acquisition and
15 development fund to be used to acquire by lease, permit, or otherwise, interests in real property
16 to be used for providing waterfowl hunting public access. Before promulgating rules which
17 permit the issuance of fall three-day temporary nonresident waterfowl licenses, the commission
18 shall determine that adequate waterfowl hunting public access has been provided through the
19 department's land acquisition and development fund or through other means.

20 Section 3. This Act is effective on June 28, 2003.

State of South Dakota

SEVENTY-EIGHTH SESSION
LEGISLATIVE ASSEMBLY, 2003

282I0406

SENATE EDUCATION COMMITTEE ENGROSSED NO.

SB 113 - 02/04/2003

Introduced by: Senators Kloucek, Kooistra, and Nachtigal and Representatives Begalka, Bartling, Bradford, Elliott, Gassman, Kroger, Lange, Nesselhuf, and Van Norman

1 FOR AN ACT ENTITLED, An Act to revise reserve fund criteria for reducing state aid to
2 education for certain school districts.

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

4 Section 1. That § 13-13-10.1 be amended to read as follows:

5 13-13-10.1. Terms used in this chapter mean:

6 (1) "Average daily membership," the average number of resident and nonresident
7 kindergarten through twelfth grade pupils enrolled in all schools operated by the
8 school district during the previous regular school year, minus average number of
9 pupils for whom the district receives tuition, except pupils described in subdivision
10 (1A) and pupils for whom tuition is being paid pursuant to § 13-28-42 and plus the
11 average number of pupils for whom the district pays tuition;

12 (1A) Nonresident students who are in the care and custody of the Department of Social
13 Services, the Unified Judicial System, the Department of Corrections, or other state
14 agencies and are attending a public school may be included in the average daily



1 membership of the receiving district when enrolled in the receiving district. When
2 counting a student who meets these criteria in its general enrollment average daily
3 membership, the receiving district may begin the enrollment on the first day of
4 attendance. The district of residence prior to the custodial transfer may not include
5 students who meet these criteria in its general enrollment average daily membership
6 after the student ceases to attend school in the resident district;

7 (2) "Adjusted average daily membership," calculated as follows:

8 (a) For districts with an average daily membership of two hundred or less, multiply
9 1.2 times the average daily membership;

10 (b) For districts with an average daily membership of less than six hundred, but
11 greater than two hundred, raise the average daily membership to the 0.8293
12 power and multiply the result times 2.98;

13 (c) For districts with an average daily membership of six hundred or more,
14 multiply 1.0 times their average daily membership;

15 (3) "Index factor," is the annual percentage change in the consumer price index for urban
16 wage earners and clerical workers as computed by the Bureau of Labor Statistics of
17 the United States Department of Labor for the year before the year immediately
18 preceding the year of adjustment or three percent, whichever is less;

19 (4) "Per student allocation," for the period January 1, 1997, to June 30, 1997, inclusive,
20 is \$1,675. For school fiscal year 1998, beginning on July 1, 1997, the per student
21 allocation shall be \$3,350 increased by the index factor. Each school fiscal year
22 thereafter, the per student allocation shall be the previous fiscal year's per student
23 allocation increased by the index factor, plus the enrollment adjustment;

24 (5) "Local need," the per student allocation multiplied by the adjusted average daily

- 1 membership;
- 2 (6) "Local effort," the amount of ad valorem taxes generated in a school fiscal year by
- 3 applying the levies established pursuant to § 10-12-42;
- 4 (7) "General fund balance," the unreserved fund balance of the general fund, less general
- 5 fund exclusions plus, beginning with transfers made in fiscal year 2001, any transfers
- 6 out of the general fund for the previous school fiscal year;
- 7 (8) "General fund balance percentage," is a school district's general fund balance divided
- 8 by the school district's total general fund expenditures for the previous school fiscal
- 9 year, the quotient expressed as a percent;
- 10 (9) "General fund base percentage," is the general fund balance percentage as of June 30,
- 11 2000. However, the general fund base percentage can never increase and can never
- 12 be less than ~~twenty~~ thirty percent;
- 13 (10) "Allowable general fund balance," the fund base percentage multiplied by the district's
- 14 general fund expenditures in the previous school fiscal year;
- 15 (11) "Imputed interest rate," the average prime rate for the preceding fiscal year minus 2.5
- 16 percentage points;
- 17 (12) "General fund exclusions," revenue a school district has received from the imposition
- 18 of the excess tax levy pursuant to § 10-12-43; revenue a school district has received
- 19 from gifts, contributions, grants, or donations; revenue a school district has received
- 20 under the provisions of §§ 13-6-92 to 13-6-96, inclusive; and any revenue in the
- 21 general fund set aside for a noninsurable judgment.

22 Section 2. That § 13-13-73.2 be amended to read as follows:

23 13-13-73.2. A school district's state aid for general education as calculated pursuant to

24 § 13-13-73 shall be reduced by the following calculation:

- 1 (1) Subtract the allowable general fund balance from the general fund balance. If the
2 result is less than zero, (1) equals zero;
- 3 (2) Determine the lower of the general fund base percentage or the general fund balance
4 percentage;
- 5 (3) Subtract ~~twenty percent (0.2)~~ thirty percent (0.3) from the result of (2). If the result
6 is less than zero, (3) equals zero;
- 7 (4) Multiply the result of (3) by the district's general fund expenditures in the previous
8 school fiscal year;
- 9 (5) Multiply the result of (4) by the imputed interest rate;
- 10 (6) Add the result of (1) and the result of (5).