

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

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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 (2) ~~Operator~~ Cosmetologist license fee, fifteen dollars;
- 2 (3) ~~Operator~~ Cosmetologist license renewal fee, fifteen dollars;
- 3 (4) Cosmetologist-manager license fee, fifteen dollars;
- 4 (5) Cosmetologist-manager license renewal fee, fifteen dollars;
- 5 ~~(4)~~(6) Nail technician examination fee, sixty dollars;
- 6 ~~(5)~~(7) Nail technician license fee, fifteen dollars;
- 7 ~~(6)~~(8) Nail technician license renewal fee, fifteen dollars;
- 8 ~~(7)~~ Temporary operator or nail technician license fee, ~~six dollars~~;
- 9 ~~(8)~~ Manager-operator license fee, ~~fifteen dollars~~;
- 10 (9) ~~Manager-operator~~ license renewal fee, ~~fifteen dollars~~;
- 11 ~~(10)~~ ~~Manager-nail technician~~ Nail technician-manager license fee, fifteen dollars;
- 12 ~~(11)~~(10) ~~Manager-nail technician~~ Nail technician-manager license renewal fee, fifteen
- 13 dollars;
- 14 (11) Esthetician examination fee, eighty dollars;
- 15 (12) Esthetician license fee, twenty-five dollars;
- 16 (13) Esthetician license renewal fee, twenty-five dollars;
- 17 (14) Esthetician-manager license fee, twenty-five dollars;
- 18 (15) Esthetician-manager license renewal fee, twenty-five dollars;
- 19 (16) Temporary cosmetologist, nail technician, or esthetician license fee, six dollars;
- 20 ~~(12)~~(17) Junior instructor license fee, fifteen dollars;
- 21 ~~(13)~~(18) Junior instructor license renewal fee, fifteen dollars;
- 22 ~~(14)~~(19) Senior instructor license fee, fifteen dollars;
- 23 ~~(15)~~(20) Senior instructor license renewal fee, fifteen dollars;
- 24 ~~(16)~~(21) Reciprocity and waiver of examination fee, one hundred 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

77110186

HOUSE LOCAL GOVERNMENT COMMITTEE

ENGROSSED NO. **SB 11** - 01/30/2003

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 the return and
2 canvass of votes.

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

4 Section 1. That § 12-20-13 be amended to read as follows:

5 12-20-13. Except as provided in § 12-20-17, the county auditor shall tabulate election
6 returns as rapidly as received and make the result available for the information of the public, but
7 such returns are not the official returns. The county auditor shall enter ~~such~~ the information into
8 the central election reporting system by using ~~the state~~ any computer located in ~~the~~ a county
9 treasurer's office which is properly configured and linked to the central state computer
10 immediately following the tabulation of each precinct.

11 Section 2. That § 12-20-37 be amended to read as follows:

12 12-20-37. The secretary of state shall, at least thirty days before ~~every~~ each primary and
13 general election, transmit to ~~the~~ each county ~~auditors of the several counties~~ auditor envelopes
14 for all returns of votes required to be made to ~~his~~ the secretary of state's office, ~~with printed~~
15 ~~directions on the envelopes as are deemed necessary by the State Board of Elections.~~ Printed



1 directions shall accompany the envelope for the guidance and direction of the ~~officers~~ auditor in
2 making the returns according to law. ~~The expense of printing the envelopes shall be paid by the~~
3 ~~state.~~

4 Section 3. That § 12-20-38.1 be amended to read as follows:

5 12-20-38.1. The county auditor shall immediately ~~make and file with~~ transmit by mail, fax,
6 or electronic means to the secretary of state a certified copy of the official county canvass of
7 votes prepared pursuant to § 12-20-38 which shall be used for the official state canvass. The
8 certified copy shall bear a visible county seal. If the copy is faxed or sent by electronic means,
9 the original certified copy shall also be mailed or hand delivered to the secretary of state. The
10 ~~abstracts~~ certified copies shall be microfilmed to become permanent records of the State of South
11 Dakota and be kept by the secretary of state.

12 Section 4. That § 13-7-18 be amended to read as follows:

13 13-7-18. The pollbooks shall be opened and the election results shall be canvassed by the
14 school board at the next meeting and certificates of election shall be issued by the business
15 manager of the district to ~~the~~ each successful ~~candidates~~ candidate and election results shall be
16 certified to the county auditor of ~~the counties~~ each county in which the school district is located.

State of South Dakota

SEVENTY-EIGHTH SESSION
LEGISLATIVE ASSEMBLY, 2003

781I0264

HOUSE ENGROSSED NO. **SB 30** - 02/05/2003

Introduced by: The Committee on Legislative Procedure at the request of the Investment Council

1 FOR AN ACT ENTITLED, An Act to clarify certain prohibitions against direct or indirect
2 benefit by members of the Investment Council.

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

4 Section 1. That § 4-5-14 be amended to read as follows:

5 4-5-14. The members of the State Investment Council shall be qualified by training and
6 experience in the field of investment or finance. During ~~his~~ tenure as a member of the State
7 Investment Council, a no member of the council or his firm shall not be engaged nor the firm of
8 any member may engage in the sale of marketable or public securities to the state or to any fund
9 thereof; ~~nor shall~~. Nor may any member benefit directly or indirectly from any transaction made
10 by the state investment officer; ~~nor shall he~~. Nor may any member hold any office, position, or
11 employment in any political party. Except as provided in section 2 of this Act, the council may
12 not enter into any contract or transaction with any firm or business in which a council member
13 serves as a principal, shareholder, trustee, director, officer, employee, agent, or independent
14 contractor.

15 Section 2. That chapter 4-5 be amended by adding thereto a NEW SECTION to read as



1 follows:

2 The provisions of this Act do not prohibit a transaction that:

3 (1) Affects the public generally, and the council member's personal interest is only
4 affected by virtue of being a member of the general public; or

5 (2) Affects participants in the South Dakota Retirement System generally, and the council
6 member's personal interest is only affected by virtue of being a participant in the South
7 Dakota Retirement System; or

8 (3) Involves the acceptance of deposits under a statewide certificate of deposit program
9 made generally available to South Dakota financial institutions or the sale of interests
10 in the South Dakota Higher Education Savings Program authorized pursuant to
11 chapter 13-63 even though the council member has an interest as a principal,
12 shareholder, trustee, director, officer, employee, independent contractor, or advisor
13 of a financial institution or firm that would accept such deposits or sell such interests,
14 if the council member has disclosed such interest in such financial institution or firm
15 to the council.

State of South Dakota

SEVENTY-EIGHTH SESSION
LEGISLATIVE ASSEMBLY, 2003

529I0293

HOUSE ENGROSSED NO. **SB 31** - 02/05/2003

Introduced by: The Committee on Legislative Procedure at the request of the Investment Council

1 FOR AN ACT ENTITLED, An Act to clarify the immunity from personal liability of certain
2 persons discharging their responsibilities under the higher education savings plan.

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

4 Section 1. That chapter 13-63 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 The council, its members, the state investment officer, and the employees of the Division of
7 Investment personally are immune from any and all liability for actions taken in good faith in the
8 discharge of the council's responsibilities under the program.



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).

State of South Dakota

SEVENTY-EIGHTH SESSION
LEGISLATIVE ASSEMBLY, 2003

400I0585

SENATE STATE AFFAIRS COMMITTEE ENGROSSED

NO. **SB 129** - 02/05/2003

Introduced by: The Committee on State Affairs at the request of the Governor

1 FOR AN ACT ENTITLED, An Act to increase certain fees charged by the Office of the
2 Secretary of State.

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

4 Section 1. That § 1-8-10 be amended to read as follows:

5 1-8-10. The secretary of state shall charge the following fees for services performed in the
6 Office of the Secretary of State and shall collect the fees in advance:

- 7 (1) For filing, recording, and safekeeping of any instrument or paper required by law to
8 be filed and recorded in the office, one dollar per page;
- 9 (2) For making a copy or transcript of any record, instrument, or paper, except campaign
10 finance reports, on file in the office, one dollar per page;
- 11 (3) For filing and safekeeping of any instrument or paper required by law to be filed only,
12 one dollar; except the oath of office of members of the Legislature and legislative
13 officers, employees and governmental officers, employees and agencies, for which
14 there is no fee;
- 15 (4) For each commission, requisition, passport, or other document, signed by the



1 Governor and attested by the secretary of state, under the great seal of the state,
2 except commissions issued for executive appointment and extraditions, and making
3 the proper record for the same, five dollars;

4 (5) For filing application, bond, and issuing commission of notary public, ~~ten~~ twenty-five
5 dollars;

6 (6) For official certificate, attestation, and impression of the great seal, ~~two~~ five dollars;

7 (7) For filing or recording any other instrument or document, one dollar; and

8 (8) For a certified copy of any document, instrument, or paper on file in the office, one
9 dollar per page and ~~five~~ ten dollars for the certificate and affixing the seal;

10 ~~(9) For making a copy of any campaign finance report, thirty cents per page for the first~~
11 ~~ten pages and ten cents per page for each page thereafter.~~

12 However, there is no fee to any state government agency pursuant to ~~subdivisions (1), (2),~~
13 ~~and (9)~~ subdivision (1) or (2).

14 Section 2. That § 1-8-12 be amended to read as follows:

15 1-8-12. The secretary of state shall charge a fee of ~~ten~~ twenty dollars for expedited services.

16 Section 3. That § 2-12-3 be amended to read as follows:

17 2-12-3. Each lobbyist who registers and is employed pursuant to this chapter shall pay to the
18 secretary of state an annual registration fee of ~~twenty-five~~ thirty-five dollars for each employer
19 represented by ~~him~~ the lobbyist. Upon payment, ~~his~~ the lobbyist's name shall be registered by the
20 secretary of state in the directory provided by § 2-12-2, and ~~he~~ the lobbyist is entitled to one
21 copy of the official directory of the current year's legislative session. A fee of ten dollars may be
22 charged for a weekly copy of an updated directory of lobbyists. All fees collected shall be
23 deposited by the secretary of state with the state treasurer and credited to the general fund.

24 Any lobbyist who registers pursuant to this section is exempt from the one dollar filing fee

1 prescribed in subdivision 1-8-10(3).

2 Section 4. That § 15-7-7 be amended to read as follows:

3 15-7-7. Service of process as authorized by § 15-7-6 shall be made by serving a copy thereof
4 upon the secretary of state, or by filing ~~such~~ the copy in the office of ~~said~~ the secretary of state,
5 together with payment of a fee of ~~two ten~~ ten dollars, ~~and such~~. The service shall be sufficient service
6 upon the absent resident or the nonresident or ~~his~~ the resident's or nonresident's personal
7 representative; ~~provided that~~ if the notice of ~~such~~ the service and a copy of the process are within
8 ten days thereafter sent by mail by the plaintiff to the defendant at ~~his~~ the defendant's last-known
9 address and that the plaintiff's affidavit of compliance with the provisions of this section is
10 attached to the summons. The secretary of state shall keep a record of ~~all such~~ any process so
11 served ~~which~~. The record shall show the day and hour of such service. The fee of ~~two ten~~ ten dollars
12 paid by the plaintiff to the secretary of state at the time of service of ~~such~~ the process shall be
13 ~~taxed in his cost~~ recovered as taxable costs if ~~he~~ the plaintiff prevails in the suit.

14 Section 5. That § 15-7-14 be amended to read as follows:

15 15-7-14. ~~Such~~ The service of process as authorized by § 15-7-13 shall be made by filing in
16 the Office of the Secretary of State a copy of ~~such~~ the process and payment to ~~such~~ the secretary
17 of state a fee of ~~two ten~~ ten dollars and shall be completed by the plaintiff, ~~his~~ or the plaintiff's agent
18 or attorney within ten days after ~~such~~ the filing, forwarding to the defendant, or ~~his~~ the
19 defendant's personal representative, by registered or certified mail at the defendant's last known
20 post office address, or the last known post office address of defendant's personal representative,
21 notice of such service and a copy of the process. In lieu of such mailing ~~such~~ the process may
22 be served upon the defendant or ~~his~~ the defendant's personal representative personally without
23 the state at any time within thirty days after ~~such~~ the filing of ~~such~~ the process. The time within
24 which the defendant or ~~his~~ the defendant's personal representative may appear ~~shall~~ does not

1 commence to run until ~~such~~ the mailing or ~~such~~ the personal service without the state. The
2 secretary of state shall keep a record of ~~all such~~ any process so served, ~~such~~ the record to show
3 the day and hour of ~~such~~ the service. The fee of ~~two~~ ten dollars paid by the plaintiff to ~~such~~ the
4 secretary of state shall be ~~taxed in his costs~~ recovered as taxable costs if ~~he~~ the plaintiff prevails.

5 Section 6. That § 18-1-1 be amended to read as follows:

6 18-1-1. The secretary of state shall appoint ~~one or more~~ notaries public, who shall hold office
7 for six years unless sooner removed by the secretary of state. An applicant to become a notary
8 public shall complete an application form as prescribed by the secretary of state pursuant to
9 chapter 1-26. The applicant shall submit a fee of ~~ten~~ twenty-five dollars. The application shall
10 include the applicant's name, street, city, state, zip code, county, and date of birth. The applicant
11 shall apply in the same name as that which will appear as the seal imprint. Each notary may,
12 anywhere in this state, administer oaths and perform all other duties required by law. The
13 secretary of state may not appoint as a notary public any person who has been convicted of a
14 felony.

15 Section 7. That § 37-6-5 be amended to read as follows:

16 37-6-5. Subject to the limitations set forth in §§ 37-6-6 to 37-6-11, inclusive, any person who
17 adopts and uses a mark in this state may file in the Office of the Secretary of State, on a form to
18 be furnished by the secretary of state, an application for registration of that mark setting forth
19 the following information:

- 20 (1) The name and business address of the person applying for the registration; and, if a
21 corporation, the state of incorporation;
- 22 (2) The goods or services in connection with which the mark is used and the mode or
23 manner in which the mark is used in connection with the goods or services and the
24 class in which the goods fall;

1 (3) The date when the mark was first used anywhere and the date when it was first used
2 in this state by the applicant or the applicant's predecessor in business; and

3 (4) A statement that the applicant is the owner of the mark and that no other person has
4 the right to use the mark in this state either in the identical form thereof or in such
5 near resemblance thereto as might be calculated to deceive or to be mistaken therefor.

6 The application shall be signed under oath by the applicant or by a member of the firm or an
7 officer of the corporation or association applying. The application shall be accompanied by a
8 specimen or facsimile of the mark in triplicate. The application for registration shall be
9 accompanied by a filing fee of ~~fifty~~ one hundred dollars, payable to the secretary of state.

10 Section 8. That § 37-6-14 be amended to read as follows:

11 37-6-14. Registration of a mark under § 37-6-13 is effective for a term of four years from
12 the date of registration. Upon application filed within six months prior to the expiration of the
13 term, on a form to be furnished by the secretary of state, the registration may be renewed for a
14 like term. A renewal fee of ~~fifty~~ one hundred dollars, payable to the secretary of state, shall
15 accompany the application for renewal of the registration. A mark registration may be renewed
16 for successive periods of four years in like manner.

17 Section 9. That § 37-6-17 be amended to read as follows:

18 37-6-17. A mark and its registration under § 37-6-13 is assignable with the good will of the
19 business in which the mark is used, or with that part of the good will of the business connected
20 with the use of and symbolized by the mark. Assignment shall be by instruments in writing duly
21 executed and may be recorded with the secretary of state upon the payment of a fee of ~~fifty~~ one
22 hundred dollars payable to the secretary of state ~~who, upon~~. Upon recording of the assignment,
23 the secretary of state shall issue in the name of the assignee a new certificate for the remainder
24 of the term of the registration or of the last renewal thereof. An assignment of any registration

1 under § 37-6-13 is void as against any subsequent purchaser for valuable consideration without
2 notice unless it is recorded with the secretary of state within three months after the date thereof
3 or prior to ~~such~~ the subsequent purchase.

4 Section 10. That § 43-27-1 be amended to read as follows:

5 43-27-1. The owner of any farm, ranch, or home in this state may, upon the payment of ~~one~~
6 ~~dollar~~ ten dollars to the secretary of state, have the name of ~~such~~ the farm, ranch, or home
7 entered and recorded in a register, ~~which the~~ The secretary of state shall keep for such purpose,
8 ~~and thereupon such owner shall be by such officer furnished~~ the register and furnish the owner
9 a certificate setting forth the name and location of the farm, ranch, or home and the name of ~~such~~
10 the owner.

11 Section 11. That § 43-44-6 be amended to read as follows:

12 43-44-6. The fee of the secretary of state for filing the application and issuing certificate of
13 registration, alteration, or cancellation shall be ~~five~~ fifty dollars.

14 The fee for filing any assignment or other transfer of registration shall be ~~one dollar~~ ten
15 dollars.

16 The fee for searches, certified copies, and other official acts of the secretary of state, required
17 under the provisions of this chapter, shall be the same as provided by law for similar services
18 except as otherwise specifically provided in this chapter.

19 Section 12. That § 47-9-7 be amended to read as follows:

20 47-9-7. The secretary of state shall charge and collect for:

- 21 (1) Filing articles of incorporation and issuing a certificate of incorporation or filing an
22 application of a foreign corporation for a certificate of authority to transact business
23 in this state and issuing the certificate:

1	Authorized capital stock of \$25,000 or less	\$ 90 <u>100</u>
2	Over \$25,000 and not exceeding 100,000	110 <u>125</u>
3	Over \$100,000 and not exceeding 500,000	130 <u>200</u>
4	Over \$500,000 and not exceeding 1,000,000	150 <u>300</u>
5	Over \$1,000,000 and not exceeding 1,500,000	200 <u>400</u>
6	Over \$1,500,000 and not exceeding 2,000,000	250 <u>500</u>
7	Over \$2,000,000 and not exceeding 2,500,000	300 <u>600</u>
8	Over \$2,500,000 and not exceeding 3,000,000	350 <u>700</u>
9	Over \$3,000,000 and not exceeding 3,500,000	400 <u>800</u>
10	Over \$3,500,000 and not exceeding 4,000,000	450 <u>900</u>
11	Over \$4,000,000 and not exceeding 4,500,000	500 <u>1,000</u>
12	Over \$4,500,000 and not exceeding 5,000,000	550 <u>1,100</u>
13	For each additional \$500,000, \$40 <u>\$250</u> in addition to \$550 <u>\$1,100</u> .	

14 For purposes only of computing fees under this section, the dollar value of each
 15 authorized share having a par value shall be equal to par value and the value of each
 16 authorized share having no par value shall be equal to one hundred dollars per share.

17 The maximum amount charged under this subdivision may not exceed sixteen
 18 thousand dollars;

19 (2) Filing articles of amendment and issuing a certificate of amendment, ~~twenty~~ fifty
 20 dollars;

21 (3) Filing restated articles of incorporation, ~~twenty~~ fifty dollars;

22 (4) Filing articles of merger or consolidation and issuing a certificate of merger or
 23 consolidation, ~~twenty~~ fifty dollars;

24 (5) Filing an application to reserve a corporate name, ~~fifteen~~ twenty dollars;

25 (6) Filing a notice of transfer of a reserved corporate name, ten dollars.

26 (7) Filing a statement of change of address of registered office or change of registered

- 1 agent, or both, ten dollars;
- 2 (8) Filing a statement of the establishment of a series of shares, ~~twenty~~ fifty dollars;
- 3 (9) Filing a statement of cancellation of shares, ~~twenty~~ fifty dollars;
- 4 (10) Filing a statement of reduction of stated capital, ~~twenty~~ fifty dollars;
- 5 (11) Filing a statement of revocation of voluntary dissolution proceedings, ten dollars;
- 6 (12) Filing articles of dissolution, ten dollars;
- 7 (13) Filing an application of a foreign corporation for an amended certificate of authority
- 8 to transact business in this state and issuing an amended certificate of authority,
- 9 ~~twenty~~ fifty dollars;
- 10 (14) Filing a copy of an amendment to the articles of incorporation of a foreign
- 11 corporation holding a certificate of authority to transact business in this state, ~~twenty~~
- 12 fifty dollars;
- 13 (15) Filing a copy of articles of merger of a foreign corporation holding a certificate of
- 14 authority to transact business in this state, ~~twenty~~ fifty dollars;
- 15 (16) Filing an application for withdrawal of a foreign corporation and issuing a certificate
- 16 of withdrawal, ten dollars;
- 17 (17) Filing any other statement or report except an annual report, of a domestic or foreign
- 18 corporation, ten dollars;
- 19 (18) Filing by a domestic corporation of articles of amendment, restated articles of
- 20 incorporation, or articles of merger or consolidation in which the surviving
- 21 corporation is a domestic corporation, which provides authority to increase the
- 22 number of authorized shares of such corporation, in addition to the other fees
- 23 imposed by this section, an additional fee shall be charged as shall make, together with
- 24 the fee paid at the time of the incorporation, a total sum equal to the fee which would

1 be required under this section in case the corporation had been incorporated for such
2 total increased capitalization;

3 (19) Filing by a foreign corporation of articles of amendment or articles of merger when
4 the surviving or new corporation is a foreign corporation, which articles provide
5 authority to increase the number of authorized shares of such foreign corporation, in
6 addition to the other fees imposed by this section, an additional fee shall be charged
7 as shall make, together with the ~~sum that would have been~~ fee paid at the time of
8 authorization based on the fee schedule in subdivision (1) of this section, a total sum
9 equal to the fee which would be required under this section in the case the corporation
10 had been authorized for such total increased capitalization;

11 (20) All articles of amendment or articles of merger if the surviving or new corporation is
12 a foreign corporation shall be filed with the secretary of state within thirty days after
13 they have been filed with the secretary of state or other proper officer of the state
14 wherein the corporation is organized. In case of failure to so file within the time
15 specified in this subdivision, the corporation shall pay to the secretary of state on the
16 filing of such articles of amendment or articles of merger a penalty of twenty-five
17 dollars;

18 (21) Filing an annual report of a domestic or foreign corporation, ~~twenty-five~~ thirty dollars;

19 (22) Each corporation, domestic or foreign, that fails or refuses to file its annual report for
20 any year within the time prescribed by this chapter is subject to a penalty of fifty
21 dollars to be assessed by the secretary of state;

22 (23) Issuing a certificate of existence, ~~ten~~ fifteen dollars;

23 (24) Filing articles of correction, twenty dollars.

24 Section 13. That § 47-9-8 be amended to read as follows:

1 47-9-8. The secretary of state shall charge and collect for furnishing a certified copy of any
2 document, instrument, or paper relating to a corporation, one dollar per page and ~~five~~ ten dollars
3 for the certificate and affixing the seal thereto.

4 Section 14. That § 47-9-9 be amended to read as follows:

5 47-9-9. The secretary of state shall charge and collect, at the time of any service of process
6 on ~~him~~ the secretary of state as resident agent of a corporation, ~~five~~ twenty-five dollars, which
7 amount may be recovered as taxable costs by the party to the suit or action causing ~~such~~ the
8 service to be made if ~~such~~ the party prevails in the suit or action.

9 Section 15. That § 47-20-7 be amended to read as follows:

10 47-20-7. The annual report required by § 47-20-5 shall be delivered to the secretary of state
11 before the first day of the second month following the anniversary month of the corporation, of
12 each year following incorporation. A fee of ~~five~~ thirty dollars shall be paid to the secretary of
13 state for filing the report. If the report does not conform to requirements, it shall be returned to
14 the cooperative for necessary corrections. The penalties for failure to file ~~such~~ the report do not
15 apply if it is corrected and returned within thirty days after receipt thereof.

16 Section 16. That § 47-24-8 be repealed.

17 ~~—47-24-8. The secretary of state may grant to a corporation, upon written request, the right~~
18 ~~to report for any other year and to file such report before the first day of the second month~~
19 ~~following the anniversary month of the corporation.~~

20 Section 17. Section 16 of this Act is effective December 31, 2003. Section 18 of this Act is
21 effective January 1, 2004.

22 Section 18. That § 47-24-9 be amended to read as follows:

23 47-24-9. ~~After the annual report required to be filed on or before July 1, 1981, the reporting~~
24 ~~requirements of §§ 47-24-6 to 47-24-8, inclusive, require filing of reports only once every three~~

1 ~~years as outlined in § 47-24-7. The reporting requirements of §§ 47-24-6 and 47-24-7 require~~
2 filing of reports annually.

3 Section 19. That § 47-28-6 be amended to read as follows:

4 47-28-6. The secretary of state shall charge and collect for:

5 (1) Filing articles of incorporation and issuing a certificate of incorporation, ~~twenty~~
6 twenty-five dollars;:

7 (2) Filing articles of amendment and issuing a certificate of amendment, ten dollars;:

8 (3) Filing articles of merger or consolidation and issuing a certificate of merger or
9 consolidation, ten dollars;:

10 (4) Filing a statement of change of address of registered office or change of registered
11 agent, or both, five dollars;:

12 (5) Filing articles of dissolution, five dollars;:

13 (6) Filing an application of a foreign corporation for a certificate of authority to conduct
14 affairs in this state and issuing a certificate of authority, ~~fifty~~ one hundred dollars;:

15 (7) Filing an application of a foreign corporation for an amended certificate of authority
16 to conduct affairs in this state and issuing an amended certificate of authority, twenty
17 dollars;:

18 (8) Filing an application for withdrawal of a foreign corporation and issuing a certificate
19 of withdrawal, five dollars;:

20 (9) Filing any other statement or report, including an annual report, of a foreign
21 corporation, ten dollars;:

22 (10) Filing an annual report of a domestic nonprofit corporation under chapter 47-24, ten
23 dollars; and

24 (11) Filing a petition for reinstatement and issuing a certificate of reinstatement, ~~twenty~~

1 twenty-five dollars.

2 Section 20. That § 47-28-7 be amended to read as follows:

3 47-28-7. The secretary of state shall charge and collect, at the time of any service of process
4 on ~~him~~ the secretary of state as resident agent of a corporation, ~~five~~ twenty-five dollars, which
5 amount may be recovered as taxable costs by the party to the suit or action causing ~~such~~ the
6 service to be made if ~~such~~ the party prevails in the suit or action.

7 Section 21. That § 47-28-8 be amended to read as follows:

8 47-28-8. The secretary of state shall charge and collect for furnishing a certified copy of any
9 document, instrument, or paper relating to a corporation, one dollar per page, and ~~five~~ ten
10 dollars for the certificate and affixing the seal thereto.

11 Section 22. That § 47-34-54 be amended to read as follows:

12 47-34-54. The secretary of state shall charge and collect for:

13 (1) Filing the original articles of organization and issuing certificates of organization, in
14 the case of a domestic limited liability company or filing, registering and issuing a
15 certificate of authority in the case of a foreign liability company; if the total agreed
16 contributions of the limited liability company are:

17	————— Not in excess of \$50,000	\$ 90
18	————— \$50,001 to \$100,000	\$150
19	————— In excess of \$100,000	\$150 for first \$100,000, plus \$.50 for each additional \$1,000

20	<u>\$25,000 or less</u>	<u>\$ 100</u>
21	<u>Over \$25,000 and not exceeding 100,000</u>	<u>125</u>
22	<u>Over \$100,000 and not exceeding 500,000</u>	<u>200</u>
23	<u>Over \$500,000 and not exceeding 1,000,000</u>	<u>300</u>

1	<u>Over \$1,000,000 and not exceeding 1,500,000</u>	<u>400</u>
2	<u>Over \$1,500,000 and not exceeding 2,000,000</u>	<u>500</u>
3	<u>Over \$2,000,000 and not exceeding 2,500,000</u>	<u>600</u>
4	<u>Over \$2,500,000 and not exceeding 3,000,000</u>	<u>700</u>
5	<u>Over \$3,000,000 and not exceeding 3,500,000</u>	<u>800</u>
6	<u>Over \$3,500,000 and not exceeding 4,000,000</u>	<u>900</u>
7	<u>Over \$4,000,000 and not exceeding 4,500,000</u>	<u>1,000</u>
8	<u>Over \$4,500,000 and not exceeding 5,000,000</u>	<u>1,100</u>
9	<u>For each additional \$500,000, \$250 in addition to \$1,100.</u>	

- 10 (2) For amending the articles of organization in the case of a domestic limited liability
- 11 company or amending the registration in the case of a foreign limited liability
- 12 company, a filing fee of ~~ten~~ fifty dollars; together with the appropriate fee set out in
- 13 subdivision (1) of this section if the amendment is to increase the amount of capital;
- 14 (3) For filing articles of dissolution, issuing a certificate of dissolution and canceling the
- 15 certificate of organization, ten dollars;
- 16 (4) For filing a statement of change of address of registered office or change of registered
- 17 agent, or both, ten dollars;
- 18 (5) For filing articles of merger or consolidation, ~~ten~~ fifty dollars;
- 19 (6) An annual tax of fifty dollars, due and payable January second of each year. This tax
- 20 is delinquent if not paid by February first and a penalty of fifty dollars shall also be
- 21 assessed.

22 Section 23. That § 47-34A-212 be amended to read as follows:

23 47-34A-212. The secretary of state shall charge and collect for:

- 24 (a) Filing the first annual report if the total agreed contribution of the limited liability
- 25 company are:

1	_____ Agreed Contribution	Fee
2	_____ Not in excess of \$50,000	\$ 90
3	_____ \$50,001, to \$100,000	\$150
4	_____ In excess of \$100,000	\$150 for first \$100,000, plus \$.50 for each additional \$1,000

5	<u>\$25,000 or less</u>	<u>\$ 100</u>
6	<u>Over \$25,000 and not exceeding 100,000</u>	<u>125</u>
7	<u>Over \$100,000 and not exceeding 500,000</u>	<u>200</u>
8	<u>Over \$500,000 and not exceeding 1,000,000</u>	<u>300</u>
9	<u>Over \$1,000,000 and not exceeding 1,500,000</u>	<u>400</u>
10	<u>Over \$1,500,000 and not exceeding 2,000,000</u>	<u>500</u>
11	<u>Over \$2,000,000 and not exceeding 2,500,000</u>	<u>600</u>
12	<u>Over \$2,500,000 and not exceeding 3,000,000</u>	<u>700</u>
13	<u>Over \$3,000,000 and not exceeding 3,500,000</u>	<u>800</u>
14	<u>Over \$3,500,000 and not exceeding 4,000,000</u>	<u>900</u>
15	<u>Over \$4,000,000 and not exceeding 4,500,000</u>	<u>1,000</u>
16	<u>Over \$4,500,000 and not exceeding 5,000,000</u>	<u>1,100</u>
17	<u>For each additional \$500,000, \$250 in addition to \$1,100.</u>	

18 The maximum amount charged under this subsection together with any subsequent
19 payments under subsection (b) may not exceed sixteen thousand dollars. The filing fee
20 required pursuant to this subsection is not applicable if the limited liability company
21 has previously paid the fee required pursuant to subdivision 47-34-54(1).

22 (b) Filing any subsequent annual report that reflects additional contribution in excess of
23 those stated in the last prior report, any additional fee necessary to make the
24 cumulative fee match the cumulative agreed contributions as provided in subsection
25 (a); above the agreed contributions as set forth in the last previous annual report

1 consistent with subsection (a).

2 (c) A reporting fee of fifty dollars, due and payable with the filing of all annual report,
3 after the first annual report required in § 47-34A-211(c).

4 Section 24. That § 47-34A-811 be amended to read as follows:

5 47-34A-811. (a) A limited liability company administratively dissolved may apply to the
6 secretary of state for reinstatement after the effective date of dissolution. The applicant shall
7 submit with the application the appropriate filing fee. The secretary of state shall base filing fees
8 on the total agreed contribution of the limited liability company as provided in § 47-34A-212,
9 plus any delinquent annual reports and fees for the period prior to the reinstatement application.

10 The application must:

- 11 (1) Recite the name of the company and the effective date of its administrative
12 dissolution;
- 13 (2) State that the ground for dissolution either did not exist or have been eliminated;
- 14 (3) State that the company's name satisfies the requirements of § 47-34A-105; and
- 15 (4) Contain a certificate from the appropriate state authority reciting that all taxes owed
16 by the company have been paid.

17 (b) If the secretary of state determines that the application contains the information required
18 by subsection (a) and that the information is correct, the secretary of state shall cancel the
19 certificate of dissolution and prepare a certificate of reinstatement that recites this determination
20 and the effective date of reinstatement, file the original of the certificate, and serve the company
21 with a copy of the certificate.

22 (c) When reinstatement is effective, it relates back to and takes effect as of the effective date
23 of the administrative dissolution and the company may resume its business as if the administrative
24 dissolution had never occurred.

1 Section 25. That § 47-34A-1206 be amended to read as follows:

2 47-34A-1206. The secretary of state may charge the following fees:

3 (a) For amending or restating the articles of organization in the case of a domestic limited
4 liability company or amending the registration in the case of a foreign limited liability
5 company, a filing fee of ~~ten~~ fifty dollars;

6 (b) For filing articles of termination, ten dollars;

7 (c) For filing articles of merger, ~~ten~~ fifty dollars;

8 (d) For filing a statement of dissociation, ten dollars;

9 (e) For filing an application to reserve a name, ~~fifteen~~ twenty dollars;

10 (f) For issuing a certificate of existence, ~~ten~~ fifteen dollars;

11 (g) For filing an application for registration of name, one dollar for each month, or
12 fraction thereof, between the date of filing such application and December thirty-first
13 of the calendar year in which such application is filed;

14 (h) For filing an annual renewal of registration, a limited liability company which has in
15 effect a registration of its name, may renew such registration from year to year by
16 annually filing an application for renewal setting forth the facts required to be set forth
17 in an original application for registration and a certificate of good standing as required
18 for the original registration and by paying a fee of ten dollars. A renewal application
19 may be filed between the first day of October and the thirty-first day of December in
20 each year, and shall extend the registration for the following year;

21 (i) For acting as agent for service of process the secretary of state shall charge and
22 collect at the time of such service ~~five~~ twenty-five dollars which may be recoverable
23 as taxable costs by the party to the suit or action causing the service to be made if the
24 party prevails in the suit or action.

1 Each limited liability company, domestic or foreign, that fails or refused to file its annual
2 report for any year within the time prescribed is subject to a penalty of fifty dollars to be assessed
3 by the secretary of state.

4 Section 26. That § 48-7-206.1 be amended to read as follows:

5 48-7-206.1. The provisions of § 1-8-10 notwithstanding, the fee for filing any document
6 required under this chapter with the secretary of state is ~~ninety~~ one hundred dollars.

7 Section 27. That § 48-7A-1003 be amended to read as follows:

8 48-7A-1003. (a) A limited liability partnership, and a foreign limited liability partnership
9 authorized to transact business in this state, shall file an annual report in the Office of the
10 Secretary of State which contains:

- 11 (1) The name of the limited liability partnership and the state or other jurisdiction under
12 whose laws the foreign limited liability partnership is formed;
- 13 (2) The street address of the partnership's chief executive office and, if different, the street
14 address of an office of the partnership in this state, if any; and
- 15 (3) If the partnership does not have an office in this state, the name and street address of
16 the partnership's current agent for service of process.

17 (b) An annual report must be filed with the secretary of state by the date specified by the
18 secretary of state in each year following the calendar year in which a partnership files a statement
19 of qualification or a foreign partnership becomes authorized to transact business in this state.

20 (c) The secretary of state may revoke the statement of qualification of a partnership that fails
21 to file an annual report when due or pay the required filing fee. To do so, the secretary of state
22 shall provide the partnership at least sixty days' written notice of intent to revoke the statement.
23 The notice must be mailed to the partnership at its chief executive office set forth in the last filed
24 statement of qualification or annual report. The notice must specify the annual report that has

1 not been filed, the fee that has not been paid, and the effective date of the revocation. The
2 revocation is not effective if the annual report is filed and the fee is paid before the effective date
3 of the revocation.

4 (d) A revocation under subsection (c) only affects a partnership's status as a limited liability
5 partnership and is not an event of dissolution of the partnership.

6 (e) A partnership whose statement of qualification has been revoked may apply to the
7 secretary of state for reinstatement within two years after the effective date of the revocation.

8 The applicant shall submit with the application the filing fee of one hundred dollars, plus any
9 delinquent annual reports and fees for the period prior to the reinstatement application. The
10 application must state:

11 (1) The name of the partnership and the effective date of the revocation; and

12 (2) That the ground for revocation either did not exist or has been corrected.

13 (f) A reinstatement under subsection (e) relates back to and takes effect as of the effective
14 date of the revocation, and the partnership's status as a limited liability partnership continues as
15 if the revocation had never occurred.

16 Section 28. That § 48-7A-1208 be amended to read as follows:

17 48-7A-1208. The provisions of § 1-8-10 notwithstanding, the fee for filing the statements
18 and reports provided for in the following sections with the secretary of state is as follows:

19 (1) Section 48-7A-303, Statement of Authority, ~~ninety~~ one hundred dollars;

20 (2) Section 48-7A-304, Statement of Denial, ten dollars;

21 (3) Section 48-7A-704, Statement of Dissociation, ten dollars;

22 (4) Section 48-7A-805, Statement of Dissolution, ten dollars;

23 (5) Section 48-7A-907, Statement of Merger, ~~ten~~ fifty dollars;

24 (6) Section 48-7A-1001, Statement of Qualification, ~~ninety~~ one hundred dollars;

1 (7) Section 48-7A-1003, Annual Report, ~~twenty-five~~ thirty dollars; and

2 (8) Section 48-7A-1102, Statement of Foreign Qualification, ~~ninety~~ one hundred dollars;

3 and

4 (9) Filing any other statement, ten dollars.

5 Each limited liability partnership, domestic or foreign, that fails or refused to file its annual
6 report for any year within the time prescribed is subject to a penalty of fifty dollars to be assessed
7 by the secretary of state.

8 Section 29. That § 57A-9-525 be amended to read as follows:

9 57A-9-525. (a) Except as otherwise provided in subsection (e), the fee for filing and indexing
10 a record under this part, other than an initial financing statement of the kind described in
11 subsection (b), is the amount specified in subsection (c), if applicable, plus:

12 (1) ~~Thirteen~~ Twenty dollars if the record is communicated in writing and consists of one
13 page, and four dollars for ~~each~~ additional page pages. One dollar of this fee shall be deposited
14 into the financing statement filing fee fund;

15 (2) ~~Eleven~~ Fifteen dollars if the record is communicated by internet. One dollar of this fee
16 shall be deposited into the financing statement filing fee fund; and

17 (3) Twenty dollars if the record is communicated by another medium authorized by
18 filing-office rule.

19 (b) Except as otherwise provided in subsection (e), the fee for filing and indexing an initial
20 financing statement of the following kind is the amount specified in subsection (c), if applicable,
21 plus:

22 (1) Thirty dollars if the financing statement indicates that it is filed in connection with a
23 public-finance transaction;

24 (2) Thirty dollars if the financing statement indicates that it is filed in connection with a

1 manufactured-home transaction.

2 (c) Except as otherwise provided in subsection (e), if a record is communicated in writing
3 or electronically, the fee for each name more than one required to be indexed is two dollars.

4 (d) The fee for responding to a request for information from the filing office, including for
5 issuing a certificate showing whether there is on file any financing statement naming a particular
6 debtor, is:

7 (1) ~~Twelve~~ Twenty dollars if the request is communicated in writing; and

8 (2) Ten dollars if the request is communicated by ~~another medium~~ internet authorized by
9 filing-office rule.

10 Upon request the filing officer shall furnish a copy of any filed financing statement or
11 statement of assignment for a uniform fee of one dollar per page.

12 (e) This section does not require a fee with respect to a record of a mortgage which is
13 effective as a financing statement filed as a fixture filing or as a financing statement covering
14 as-extracted collateral or timber to be cut under § 57A-9-502(c). However, the recording and
15 satisfaction fees that otherwise would be applicable to the record of the mortgage apply.

16 Section 30. That chapter 57A-9 be amended by adding thereto a NEW SECTION to read
17 as follows:

18 The annual registration fee for the crop or livestock effective finance statement microfiche
19 master list is one hundred twenty dollars.

State of South Dakota

SEVENTY-EIGHTH SESSION
LEGISLATIVE ASSEMBLY, 2003

345I0679

SENATE TAXATION COMMITTEE ENGROSSED NO.

SB 154 - 02/05/2003

Introduced by: Senators Bogue, Abdallah, Diedrich (Larry), LaPointe, McCracken, and Reedy and Representatives Peterson (Bill), Dykstra, and Nesselhuf

1 FOR AN ACT ENTITLED, An Act to authorize certain interstate shipments of wine, to
2 establish certain penalties, and to collect sales tax.

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

4 Section 1. Notwithstanding any other provision of law, any person who is at least twenty-one
5 years of age may purchase and receive wine from another state as provided in this section if the
6 wine is not in distribution in this state and the wine comes from a winery that is located in a state
7 that affords South Dakota wineries an equal reciprocal shipping privilege, or a winery located
8 in South Dakota. The person shall place an order with a licensee as defined in subdivision
9 35-4-2(3) or (5). The licensee shall order the wine through a wholesaler licensed pursuant to
10 subdivision 35-4-2(2) and the wholesaler shall arrange the purchase of wine. The licensee shall
11 inform the purchaser of the cost of the wine, the amount of any tax that would apply to the
12 purchase pursuant to subdivision 35-5-3, the amount of sales tax that would apply, and the
13 amount of charges for freight and handling. The licensee shall collect the total amount due from
14 the customer before ordering the wine through the wholesaler. After receiving the order for the
15 wine from the licensed retailer the wholesaler shall arrange for the wine to be shipped directly



1 to the licensee who placed the order for the purchaser. Wine purchased pursuant to this Act may
2 only be delivered and received by the purchaser from a licensee as defined in subdivision
3 35-4-2(3) or (5).

4 Section 2. If the wholesaler orders twelve or less cases of a particular brand of wine for an
5 individual purchaser in one calendar year pursuant to this section, no registration fee pursuant
6 to chapter 39-13 may be imposed.

7 Section 3. No person may receive more than twelve cases of wine, containing no more than
8 nine liters per case, in any calendar year for personal use from another state under this Act. No
9 person who receives wine under this Act may resell any of the wine. However, if the delivery of
10 the wine does not result in a completed sale to the person who placed the original order, the
11 licensee may sell the wine in the ordinary course of business. It is a Class 2 misdemeanor for any
12 person to receive more than twelve cases of wine during a calendar year in violation of this Act.
13 It is a Class 2 misdemeanor for any person to resell or attempt to resell any wine obtained
14 pursuant to this Act. The Department of Revenue shall promulgate rules pursuant to chapter
15 1-26 to provide for the reporting and tracking of information related to the sale of wine under
16 this Act and to prescribe forms for the implementation of this Act.

17 Section 4. Any licensee who holds a farm winery license pursuant to § 35-12-2 may ship no
18 more than twelve cases of wine per person per calendar year. A case may contain no more than
19 nine liters per case in any one shipment. Any wine sold may only be for personal use and not for
20 resale. The wine may only be sold directly to a resident of another state if the state to which the
21 wine is sent allows residents of the state to receive wine sent from outside that state.

22 Section 5. No person in the business of selling alcoholic beverages in another state or country
23 may ship or cause to be shipped any alcoholic beverage to any South Dakota resident who does
24 not hold a license issued pursuant to chapter 35-4. The department shall, for the first offense,

1 send a certified letter to any person who violates this section and order such person to cease and
2 desist any shipments of alcoholic beverages to South Dakota residents. Any subsequent violation
3 of this section is a Class 6 felony.

4 Section 6. No person may deliver any alcoholic beverage to any person who does not hold
5 a license issued pursuant to chapter 35-4. A violation of this section is a Class 1 misdemeanor.