

2011 SENATE INDUSTRY, BUSINESS AND LABOR

SB 2098

# 2011 SENATE STANDING COMMITTEE MINUTES

Senate Industry, Business and Labor Committee  
Roosevelt Park Room, State Capitol

SB 2098  
1/12/2011  
Job Number 12782

☐ Conference Committee

Committee Clerk Signature

*Eva Litch*

## Explanation or reason for introduction of bill/resolution:

Relating to the practice and licensing of cosmetologists

## Minutes:

1 Attached testimony

**Chairman Klein:** Opened hearing on Senate Bill 2098

**Barb Hougum, State Board of Cosmetology:** Testimony Attached

**Senator Andrist:** Including rules, I am assuming you mean administrative rules. Any rules you adopt must be offered to the public in advance. Do we want to check and see if we need the word, administrative, or does rules, mean administrative rules?

**Chairman Klein:** In reading the current language, they are just expanding that to say including rules. I do believe they have to follow administrative rule code. Eric will check that out.

**Barb:** Continues going over testimony and the attached changes they would like.

**Chairman Klein:** What you are suggesting is that you will start the rules process, come before the rules committee and present your increases and then if you have acceptance from the committee go from there.

**Barb:** Yes and I stated in here it is not to financially benefit the board, this goes directly to the company but it is needed if they want to use any of the latest technology.

**Senator Larsen:** Do they need a diploma and a license when they go to the salon schools?

**Barb:** They get a license after they pass the state board exam.

**Senator Larsen:** The update of the computer system that they will use, you were stating that there is a failure rate in there, due to the communication and language barriers. Will that computer system handle the different languages that are needed?

**Barb:** Yes, it is done nationally so it is offered in four different languages. We would still administer the practical examinations and they would go to the testing sites for their written exam.

**Senator Andrist:** Where it deals with reciprocity on page six. Does that reciprocity extend if a person has been an owner operator and complied with it in another state or province, can they then become an owner operator by reciprocity or just an operator?

**Virginia Herberholz, Secretary of the State Board of Cosmetology:**

Stated that if they come from a state or country where their requirements to obtain license for operating and as a cosmetologist and an owner, if they are at least stringent as our requirements, they can obtain reciprocity and open a business.

**Barb:** They still have to take the North Dakota state law exam so that they follow North Dakota state law.

**Senator Larsen:** How are your standards compared to other states, are you all in line?

**Barb:** The written test is our own and we use a national theory exam and which is through the national that is where the computer testing comes from. We have designed and written our own state exam, we went a step above and feel ours is better.

**Virginia:** The national comes from the National Council of Boards.

**Chairman Klein:** Closed the hearing.

# 2011 SENATE STANDING COMMITTEE MINUTES

**Senate Industry, Business and Labor Committee**  
Roosevelt Park Room, State Capitol

SB 2098  
1/12/2011  
Job Number 12826

☐ Conference Committee

Committee Clerk Signature



## Explanation or reason for introduction of bill/resolution:

Relating to the practice of licensing of cosmetologists

## Minutes:

Vote and discussion

**Chairman Klein:** Called the meeting back to order on SB 2098.

**Senator Murphy:** Moved for a do pass.

**Senator Larsen:** Seconded the motion.

Questions asked about the State Board of Cosmetology and the rules and laws.

Vote Taken

Yes: 7 No: 0

Senator Schneider to carry the bill

**FISCAL NOTE**  
Requested by Legislative Council  
04/14/2011

Amendment to: SB 2098

**1A. State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2009-2011 Biennium		2011-2013 Biennium		2013-2015 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures				\$16,800		
Appropriations						

**1B. County, city, and school district fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

2009-2011 Biennium			2011-2013 Biennium			2013-2015 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

**2A. Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

This amendment requires 2 additional members.

Amendment keeps the fees into law. Board administers practical portion for same fees. Examinees apply and pay the testing company to take the written exam on a computer at sites located throughout N.D. and receives their results that day.

**B. Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

This amendment increase board members from 3 to 5 members.

**3. State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

**A. Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

Computer testing will eliminate appx. \$2,100.00 in postage.

Eliminate cost of test booklets appx. \$4,000.00 per year (\$15.00 per booklet). In 2013 test booklets will increase to \$18.00 per booklet.

The Board would not have these expenses.

**B. Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

Five board members compensation under section 54-35-10 for:

4 home office days.

Board meeting once a month.

Board examination once a month for each member.

Each board member would receive compensation for 6 days employed per month.

- C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

Name:	Sue Meier	Agency:	ND State Board of Cosmetology
Phone Number:	701-224-9800	Date Prepared:	04/14/2011

# FISCAL NOTE

Requested by Legislative Council  
03/25/2011

Amendment to: SB 2098

1A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2009-2011 Biennium		2011-2013 Biennium		2013-2015 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures				\$16,800		
Appropriations						

1B. **County, city, and school district fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

2009-2011 Biennium			2011-2013 Biennium			2013-2015 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

2A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

This amendment requires 2 additional members.

Amendment keeps the fees into law. Board administers practical portion for same fees. Examinees apply and pay the testing company to take the written exam on a computer at sites located throughout N.D. and receives their results that day.

B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

This amendment increase board members from 3 to 5 members.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

Computer testing will eliminate appx. \$2,100.00 in postage.

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The Board would not have these expenses.

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Five board members compensation under section 54-35-10 for:

4 home office days.

Board meeting once a month.

Board examination once a month for each member.

Each board member would receive compensation for 6 days employed per month.

C. Appropriations: *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

Name:	Sue Meier	Agency:	ND State Board of Cosmetology
Phone Number:	701-224-9800	Date Prepared:	03/28/2011



Date: 1/12/2011  
Roll Call Vote # 1

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 2098

Senate Industry, Business and Labor Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken: ☒ Do Pass ☐ Do Not Pass ☐ Amended ☐ Adopt Amendment  
☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Senator Murphy Seconded By Senator Larsen

Senators	Yes	No	Senators	Yes	No
Chairman Jerry Klein	✓		Senator Mac Schneider	✓	
VC George L. Nodland	✓		Senator Murphy	✓	
Senator John Andrist	✓				
Senator Lonnie J. Laffen	✓				
Senator Oley Larsen	✓				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Senator Schneider

If the vote is on an amendment, briefly indicate intent:

**REPORT OF STANDING COMMITTEE**

**SB 2098: Industry, Business and Labor Committee (Sen. Klein, Chairman)** recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2098 was placed on the Eleventh order on the calendar.

**2011 HOUSE HUMAN SERVICES**

**SB 2098**

# 2011 HOUSE STANDING COMMITTEE MINUTES

## House Human Services Committee Fort Union Room, State Capitol

SB 2098  
March 8, 2011  
Job #15087

☐ Conference Committee

Committee Clerk Signature

*Vicky Crabtree*

### Explanation or reason for introduction of bill/resolution:

Relating to the practice and licensing of cosmetologists, salons, estheticians, instructors, manicurists and schools and the powers and compensation of the state board of cosmetology.

### Minutes:

See attached Testimony #1

**Chairman Weisz:** Opened the hearing on SB 2098.

**Gary Andes:** A board member of State Board of Cosmetology testified in support of the bill. (See Testimony #1.)

**Barb Hougum:** Board member of State Board of Cosmetology in support. (See Testimony #1.)

**Virginia Herberholz:** Board member of State Board of Cosmetology in support of the bill. (See Testimony #1.)

**Rep. Porter:** Did you bring along a current financial statement of the board?

**Gary:** No.

**Rep. Porter:** As we look at various boards throughout the course of the legislative session and talking about the fees that they may charge the individuals who are licensed under them we typically look at financial statement to make sure that what we are doing is not over charging those individuals that are under the control of a particular board. I would appreciate having copy of your most recent financial statement.

**Virginia:** I am the secretary of the board and that will not be a problem at. We will provide it for you.

**Rep. Porter:** One of the other areas that is that has typically concerned me when we look at boards is when we have a board made up of only individuals who are licensed to do the work. So you have three individuals who are also in the business acting as a regulatory

agency. Has there been discussion on adding public members to your board as we have in many other boards across the state.

**Virginia:** We have not talked about that recently. I've been on the board for nine years and that subject has not been approached to us. We have visited other boards in other states where there are public people who are selected by the Governor. Also lay people in other fields that are selected by the Governor and those people answer only to the Governor. They don't answer to the legislature in any way. We are not opposed to the idea of adding anyone else. Because of our population being what it is, it has been this way since 1927 and nobody has ever thought that we needed to add another board member from any other field.

**Rep. Porter:** My last question has to do with Section 11 and it seems to be a fairly significant change going from an individual who maintain a manager operator's license from 125 days of working to 1,000 hours of working.

**Virginia:** Actually the 1000 hundred hours is equal to 125 eight hour days. Sometimes we individuals apply for a manager operator's license and they lack the school hours that would provide them with the automatic ability to get that license. So, if they provide us with proof with documentation that they worked in a licensed salon governed by manager operator for 128 days or 1000 hours. They don't have to be 8 hour days. Sometimes people work for 2 or 3 years and only put in an hour a day.

**Rep. Pietsch:** On page 8, line 17 you are talking about the licensed can be refused or revoked and it says grossly unprofessional. Can you give me an example of grossly?

**Virginia:** We have twice in my nine years refused licensure and it was because of operating in a salon while the person was under the influence of drugs and alcohol. We deemed it necessary to take that person's license away from them and require treatment.

**Rep. Louser:** As I read this, this now allows for unlimited written exams until they pass, correct?

**Gary:** In the past they had to go back to school and take hours. This allows them to take the exam many times as long as they pay the fees and applied. It doesn't do them any good to go back to school and do those hours especially if they failed a written test. The national written test is a 110 questions and a very difficult test to take.

**Virginia:** We have been audited by the legislature this summer and we will be happy to provide that very quickly.

## **NO OPPOSITION**

**Vice-Chair Pietsch:** Closed the hearing on SB 2098

# 2011 HOUSE STANDING COMMITTEE MINUTES

## House Human Services Committee Fort Union Room, State Capitol

SB 2098  
March 9, 2011  
Job # 15147

☐ Conference Committee

Committee Clerk Signature

*Ticky Crabtree*

### Minutes:

**Chairman Weisz:** We will look at 2098. Rep. Porter asked for financial during the hearing and he has a copy of the financial.

**Rep. Porter:** They were kind enough to drop off their financial statement for the year ending June 30, 2010. I'll leave this with Steve so if somebody else wants to look at it they sure can. One of the concerns I had on the bill when they were discussing it was the removal of the dollar amounts in the Century Code and allowing the board to set those. As we have seen boards come and go out of this committee over the past number of years, we have always had a vested interest in making sure that there was public representation on those boards. On this particular board you have three cosmetologists that run the entire state board of cosmetology and on public members. That is number one on my concern list. The other thing that happens is they have in Century Code the dollar amount around \$13,000 as payment to secretary of the board for running this three person board. That \$13,000 is removed by this bill and then the fee is set by the board. The other part inside of the current law is all of the fees for all of the different licensing that fall under the board, there is a page and half of different items they charge for as a board to a license holder in the form of a fee. The repeal on page 8, section 14 repeals that fee section of the law. Currently they have \$114,897 in cash, \$383,788 in CD's, \$1,200 in interest and they have prepaid about \$4,000 in expenses. I'm just looking at the balance sheet. On the asset side of the balance sheet they have \$508,000 and I'm using rounded numbers and most of it is cash. They have about \$118,000 in liabilities. Their total bottom line in the balance sheet is \$390,000 in cash. The question is by removing the language in the Century Code that limits the amount they can pay their secretary, they also in their testimony talked about being able to pay the president of the board which would be a new expense. And the other side of it was the removal of the fee section. I have 3 concerns, regulating a practice under the auspice of protecting public members and there is no public member on the board. The fees in code are legitimate and don't need additional revenues to function as a board.

**Chairman Weisz:** The gross salary that was spent was a \$125,000 for a year. Three board members. Professional services were \$33,000. Employee insurance \$10,000. Payroll taxes about \$10,000. They paid \$7,000 in rent. They have expenses of \$233,000. It is an interesting balance sheet. Aside from these issues they seem to have one legitimate part of the bill and that was changing the operator to cosmetologist. I think this sheds a little more light on the (stops). Does the committee want time to think about this or fix it now?

**Rep. Porter:** One thing we have done on a lot of the boards and other things that we have seen; we just had one energy and natural resources that dealt with the state water commission and we did change on page 4 at the top of the compensation of how the boards are paid and we referenced the section to legislative reimbursement for interim committee meetings. I don't have problem doing that as that dollar amount changes so can their fee for coming to a board meeting. I have concern on totally removing the language about the secretary and don't have a problem with putting a higher cap limit on it. Saying they shall receive an annual salary not more than \$16,000-\$18,000. I think for the sake of the fee side of it given the financial status that there be a cap maintained in place and it is looked at in a couple of years. Leaving the fee language in and removing the repealer.

**Chairman Weisz:** I don't have any disagreement on the \$100 part being changed. Most boards I don't recall that we see here that we ever specify what they are allowed to pay their employees. It is generally left up to them and why it was in here and when that language was in I don't know. That is not normal in most boards that we even talk about it. I'm comfortable leaving that language out that they did ask us to delete just because we don't do that in other boards. I would agree with you though that tying to (stops). You have language where you did it in the other (stops).

**Rep. Porter:** I think between Rep. Hofstad and myself, you carried that bill didn't you Rep. Hofstad on water commission salaries so we can pull that language out of that? I don't remember the bill number. We set it to a Century Code amount that tied it back to the legislative per diem rate.

**Chairman Weisz:** I don't have a problem changing operator to cosmetologist.

**Rep. Paur:** Their testimony on page 6 concerning changing the days to hours sounded very reasonable to me.

**Chairman Weisz:** That is section 11.

**Rep. Damschen:** A question about line 2 and 3 on page 4. That is basically pretty much an open ended thing the way it is stated. For each day employed in the actual discharge of official duties is determined by the board. I was just figuring the math and if it is a \$100 a day and how much was the board compensated?

**Chairman Weisz:** When I said that number that didn't necessarily go to the board itself. That was a salary that was paid both to the board and the secretary and anybody else that they may have employed. We generally let the boards do what they want, the problem here the way the bill is drafted is that now by rule they have their cake and it too.

**Rep. Damschen:** What is the current license fee?

**Chairman Weisz:** The original salon fee is \$80, the annual renewal is \$30, a school is \$505 and annual renewal is \$205, operator \$15 a year, manager is \$25 a year and so on and so on. I'm not sure their fees are out of line there is just so many of them.

**Rep. Porter:** I'd ask Rep. Devlin as our main expert on main expert on administrative rules, what his preference would be. What happens on the fees part of this if we take it out of Century Code, then they have to come back to administrative rules and if they change them they have to do the same. There would still be oversight on their fees. I know on other boards we have taken the fees out of the Century Code. Where do you want the questions asked? It is still legislative oversight. Do we want it in rule or in the Century Code?

**Chairman Weisz:** The last time we changed their fees was in 2003. I'm comfortable with it in the Century Code. The income is still exceeding the expense and they have a half a million dollars of cash on hand.

**Rep. Devlin:** I would agree. We see a lot of them in administrative rules. As far as the secretary one I have never seen that in any legislative oversight of what we set the salary of the secretary. I don't think that is any of our business. I wouldn't worry about that.

**Rep. Porter:** I make a motion that we amend SB 2098. Add two members of the public to the board. It will have to be a new section to the bill. On page 4 at the top, to insert language, to overstrike \$100, and insert the language, "in the amount provided for members of the legislative management under section 54-35-10 and that would tie it back to what we had talked about. In section 3 (Chairman interrupts).

**Chairman Weisz:** To add your two public members will go in 43-11-03.

**Rep. Porter:** In section 3, we would remove the underlined language on line 26-30.

**Chairman Weisz:** Just to be clear on page 3, on lines 1 and 2 you are ok with that language?

**Rep. Porter:** Yes. On page 8, line 25, remove line 25 and 26. As an overview of the motion, it would add two members of the public, remove the board's rule making authority to set their fees, change the compensation of the board from the \$100 to whatever is set in section 54-35-10 for legislative management and would remove the repealer of that fee section that is currently in the Century Code.

**Chairman Weisz:** I'll have the amendment drafted and then act on to make sure it does exactly and everybody is ok with it. Then we will take it up and entertain a motion on it and go from there.

**Rep. Damschen:** The point I was trying to make earlier is that discharge of official duties as determined by the board can be basically checking your e-mail daily or weekly. Is everybody ok with that being wide open?

**Chairman Weisz:** I think it is typical language on most boards. Not sure how you would narrow it. You have to allow the board to be compensated when it is doing things and it isn't just sitting in a meeting all day. You have to be somewhat trusting that the board is not abusing its position. If you want to come up with some language that is fine.



# 2011 HOUSE STANDING COMMITTEE MINUTES

House Human Services Committee  
Fort Union Room, State Capitol

SB 2098  
March 14, 2011  
Job #15410

☐ Conference Committee

Committee Clerk Signature

*Vicky Cratree*

**Minutes:**

See attachment #1

**Chairman Weisz:** (See Attachment #1) I think the amendments reflect what the discussion was, but we can add or delete those. It does two things, it adds two members to the board. I saw where a couple of boards used public members and maybe change that to public on 43-11-04 where it talks about members of the board. It still staggers them. Because you have an odd number on 3 year terms. No more than 2 terms can expire at any one time so you will still stagger them. The amendments delete you might say the rule making for the fees, reinstates the current 43-11-21. Brings that section back. That section sets all the fees for the board, takes out the rule making process and again leave that in Century Code. That is pretty much it. The other change is the language on page 4 line 2, instead of \$100 per day it will be the amount provided from the members of the legislative management under Section 54-35-10. That puts them in the same group as we are. They get paid the same per diem that we would. Leaves overstrike the secretary.

**Rep. Hofstad:** Are the fees still set in statute or set by the board.

**Chairman Weisz:** That is set in statute. 43-11-28 is the fee schedule that is in statute now which they were repealing. So that goes away and all the references where it talks about annual fee which will be determined by the board by rule, that is all gone. It is all back to 43-11-28. Going back to the C structure that is currently set up in the Century Code.

**Rep. Hofstad:** I move we adopt the amendment.

**Rep. Louser:** Second.

**Voice Vote: Motion Carried**

**Rep. Devlin:** I move a Do Pass as amended.

**Rep. Hofstad:** Second.

**VOTE: 13 y 0 n DO PASS AS AMENDED CARRIED**

**Bill Carrier: Rep. Holman**

Representative Porter's Proposed Amendments to SB 2098

Page 1, line 3, after the first comma insert "43-11-03, 43-11-04,"

Page 1, line 6, after "powers" insert ", membership,"

Page 1, line 7, replace "; to repeal section 43-11-28 of the North Dakota" with "."

Page 1, remove line 8

Page 3, after line 16, insert:

**"SECTION 2. AMENDMENT.** Sections 43-11-03 and 43-11-03 of the North Dakota Century Code are amended and reenacted as follows:

**43-11-03. State board of cosmetology – Appointment – Term – Removal.** The state board of cosmetology consists of ~~three~~five members appointed by the governor for three years each, with their terms of office so arranged that ~~one term expires~~ no more than two terms expire on June thirtieth of each year. Each member shall qualify by taking the oath required of civil officers and shall hold office until a successor is appointed and qualified. The governor may remove from office a member for misconduct, malfeasance, neglect of duty in office, crime in office, gross incompetency, or habitual drunkenness. A vacancy on the board must be filled by appointment by the governor for the unexpired term.

**43-11-04. Members of board – Qualifications.** Each member of the board must be a citizen of this state ~~and. Three of the members of the board must each be~~ a licensed cosmetologist who has had at least three years practical experience in the occupation. The other two members of the board must be citizen members.

Page 3, line 17, replace "2." with "3."

Page 3, line 21, replace "3." with "4."

Page 3, line 26, remove ", including rules establishing license."

Page 3, remove lines 27 through 29

Page 3, line 30, replace "4." with "5."

Page 4, line 2 replace "of one hundred dollars" with "in the amount provided for members of the legislative management under section 54-35-10"

Page 4, line 10, replace "5." with "6."

Page 4, line 20, replace "6." with "7."

Page 4, line 25, remove the overstrike over "~~as set forth in section 43-11-28~~"

Page 4, line 25, remove "by rule"

Page 4, line 27, remove the overstrike over "~~as set forth in section 43-11-28~~"

Page 4, line 27, remove "by rule"

Page 4, line 28, replace "7." with "8."

Page 5, line 8, remove the overstrike over "~~, as set forth in section 43-11-28~~"

Page 5, line 8, remove "by rule"

Page 5, line 9, replace "8." with "9."

Page 5, line 17, remove the overstrike over "~~, as set forth in section 43-11-28~~"

Page 5, line 17, remove "by rule"

Page 5, line 20, remove the overstrike over "~~, as set forth in section 43-11-28~~"

Page 5, line 20, remove "rule"

Page 5, line 21, replace "9." with "10."

Page 6, line 1, remove the overstrike over "~~, as set forth in section 43-11-28~~"

Page 6, line 4, replace "10." with "11."

Page 6, line 16, replace "11." with "12."

Page 6, line 23, remove the overstrike over "~~, as set forth in section 43-11-28; and~~"

Page 6, line 26, replace "12." with "13."

Page 6, line 31, remove the overstrike over "~~set forth in section 43-11-28~~"

Page 7, line 28, remove the overstrike over "~~, as set forth in section 43-11-28~~"

Page 8, line 7, replace "13." with "14."

Page 8, remove lines 25 through 27

Renumber accordingly

Date: 3-14-11  
Roll Call Vote # 7

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 2098

House HUMAN SERVICES Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken: ☐ Do Pass ☐ Do Not Pass ☐ Amended ☒ Adopt Amendment

☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Rep HOFSTAD Seconded By Rep. LOUSER

Representatives	Yes	No	Representatives	Yes	No
CHAIRMAN WEISZ			REP. CONKLIN		
VICE-CHAIR PIETSCH			REP. HOLMAN		
REP. ANDERSON			REP. KILICHOWSKI		
REP. DAMSCHEN					
REP. DEVLIN					
REP. HOFSTAD					
REP. LOUSER					
REP. PAUR					
REP. PORTER					
REP. SCHMIDT					

Total (Yes) \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

Floor Assignment \_\_\_\_\_

If the vote is on an amendment, briefly indicate intent:

Voice Vote MOTION Carried

March 14, 2011

VK  
3/15/11  
1082

PROPOSED AMENDMENTS TO SENATE BILL NO. 2098

Page 1, line 2, after the semicolon insert "and"

Page 1, line 3, replace "43-11-05" with "43-11-03, 43-11-04"

Page 1, line 4, remove "43-11-17, 43-11-19,"

Page 1, line 4, remove "43-11-27,"

Page 1, line 6, after "powers" insert ", membership,"

Page 1, line 7, remove "; to repeal section 43-11-28 of the North Dakota"

Page 1, line 8, remove "Century Code, relating to fees; and to provide an effective date"

Page 3, replace lines 21 through 29 with:

**"SECTION 3. AMENDMENT.** Section 43-11-03 of the North Dakota Century Code is amended and reenacted as follows:

**43-11-03. State board of cosmetology - Appointment - Term - Removal.**

The state board of cosmetology consists of ~~three~~five members appointed by the governor for three years each, with their terms of office so arranged that ~~one term expires no more than two terms expire~~ on June thirtieth of each year. Each member shall qualify by taking the oath required of civil officers and shall hold office until a successor is appointed and qualified. The governor may remove from office a member for misconduct, malfeasance, neglect of duty in office, crime in office, gross incompetency, or habitual drunkenness. A vacancy on the board must be filled by appointment by the governor for the unexpired term.

**SECTION 4. AMENDMENT.** Section 43-11-04 of the North Dakota Century Code is amended and reenacted as follows:

**43-11-04. Members of board - Qualifications.**

Each member of the board must be a citizen of this state ~~and~~. Three of the members of the board must each be a licensed cosmetologist who has had at least three years' practical experience in the occupation. The other two members of the board must be citizen members.

Page 4, line 2, overstrike "of one hundred dollars" and insert immediately thereafter "in the amount provided for members of the legislative management under section 54-35-10"

Page 4, remove lines 20 through 31

Page 5, remove lines 1 through 8

Page 5, line 17, remove the overstrike over "pursuant to section 43-11-28"

Page 5, line 17, remove "by rule"

Page 5, line 20, remove the overstrike over "section 43-11-28"

Page 5, line 20, remove "rule"

Page 6, line 1, remove the overstrike over "~~as set forth in section 43-11-28~~"

Page 6, line 23, remove the overstrike over "~~as set forth in section 43-11-28~~"

Page 6, remove lines 26 through 31

Page 7, remove lines 1 through 31

Page 8, remove lines 1 through 6

Page 8, remove lines 25 through 27

Renumber accordingly

Date: 3-14  
Roll Call Vote # 2

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 2098

House HUMAN SERVICES Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken: ☒ Do Pass ☐ Do Not Pass ☒ Amended ☐ Adopt Amendment

☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Rep. Devlin Seconded By Rep. HOFSTAD

Representatives	Yes	No	Representatives	Yes	No
CHAIRMAN WEISZ	<input checked="" type="checkbox"/>	<input type="checkbox"/>	REP. CONKLIN	<input checked="" type="checkbox"/>	<input type="checkbox"/>
VICE-CHAIR PIETSCH	<input checked="" type="checkbox"/>	<input type="checkbox"/>	REP. HOLMAN	<input checked="" type="checkbox"/>	<input type="checkbox"/>
REP. ANDERSON	<input checked="" type="checkbox"/>	<input type="checkbox"/>	REP. KILICHOWSKI	<input checked="" type="checkbox"/>	<input type="checkbox"/>
REP. DAMSCHEN	<input checked="" type="checkbox"/>	<input type="checkbox"/>			
REP. DEVLIN	<input checked="" type="checkbox"/>	<input type="checkbox"/>			
REP. HOFSTAD	<input checked="" type="checkbox"/>	<input type="checkbox"/>			
REP. LOUSER	<input checked="" type="checkbox"/>	<input type="checkbox"/>			
REP. PAUR	<input checked="" type="checkbox"/>	<input type="checkbox"/>			
REP. PORTER	<input checked="" type="checkbox"/>	<input type="checkbox"/>			
REP. SCHMIDT	<input checked="" type="checkbox"/>	<input type="checkbox"/>			

Total (Yes) 13 No 0

Absent \_\_\_\_\_

Floor Assignment Rep Holman

If the vote is on an amendment, briefly indicate intent:

**REPORT OF STANDING COMMITTEE**

**SB 2098: Human Services Committee (Rep. Weisz, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (13 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2098 was placed on the Sixth order on the calendar.

Page 1, line 2, after the semicolon insert "and"

Page 1, line 3, replace "43-11-05" with "43-11-03, 43-11-04"

Page 1, line 4, remove "43-11-17, 43-11-19,"

Page 1, line 4, remove "43-11-27,"

Page 1, line 6, after "powers" insert ", membership,"

Page 1, line 7, remove "; to repeal section 43-11-28 of the North Dakota"

Page 1, line 8, remove "Century Code, relating to fees; and to provide an effective date"

Page 3, replace lines 21 through 29 with:

**"SECTION 3. AMENDMENT.** Section 43-11-03 of the North Dakota Century Code is amended and reenacted as follows:

**43-11-03. State board of cosmetology - Appointment - Term - Removal.**

The state board of cosmetology consists of ~~three~~five members appointed by the governor for three years each, with their terms of office so arranged that ~~one term expires~~no more than two terms expire on June thirtieth of each year. Each member shall qualify by taking the oath required of civil officers and shall hold office until a successor is appointed and qualified. The governor may remove from office a member for misconduct, malfeasance, neglect of duty in office, crime in office, gross incompetency, or habitual drunkenness. A vacancy on the board must be filled by appointment by the governor for the unexpired term.

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Renumber accordingly

2011 SENATE INDUSTRY, BUSINESS AND LABOR

CONFERENCE COMMITTEE

SB 2098

# 2011 SENATE STANDING COMMITTEE MINUTES

## Senate Industry, Business and Labor Committee Roosevelt Park Room, State Capitol

SB 2098  
April 5, 2011  
Job Number 16309

☒ Conference Committee

Committee Clerk Signature

*Eva Lubell*

### Explanation or reason for introduction of bill/resolution:

Relating to the practice and licensing of cosmetologists

### Minutes:

Conference Committee Discussion

**Chairman Larsen:** Called the meeting to order. He said the bill is relating to the practice and licensing of cosmetologists, cosmetology salons, estheticians, instructors, manicurists, and schools. He asked for the amendment to be stated.

**Representative Hofstad:** Said that there were three things that the House did, they changed the makeup of the board with some people outside of the industry on the board. They changed the compensation for the board members to more reflect with legislative management. The third thing is the fee structure was taken out of code and put into rule making and they eliminated that so it is back to code.

**Chairman Larsen:** He said he would like to take each amendment on its own and see if they can concur. The first amendment they have three licensed members and then they are adding an additional two that do not have to be cosmetologists, so it will be a total of five.

**Senator Nodland:** Asked why the House was adding two more members to the board.

**Representative Hofstad:** He said that it is somewhat consistent on how they made up many of the boards so they can get a broader view of the issues that are brought forth. He said rather than have the board made up only of people within the cosmetology field they thought it more appropriate to have citizen members.

**Senator Schneider:** Asked if there were any specific concerns with the regulation of cosmetology in North Dakota that made them want to expand this board.

**Representative Hofstad:** Said no it is strictly to expand the board to bring in other voices. He said there are no term limits on the existing board.

**Senator Schneider:** Asked under the House amendments all the board members would be paid what legislators get paid for interim pay. Asked if there were no specific concerns related to the regulation of cosmetology and we are going to pay these two additional

people to show up would you have any heartburn with just leaving the board to three people.

**Representative Schmidt:** Said along with that they felt it was nice to have the clientele that were the recipients of the actions of the board to be there to provide input to the board as to the impact of those decisions that they made upon the clientele, without that input from the clientele it may be more difficult to identify what those impacts are.

**Senator Schneider:** Asked if there were any concerns with being able to find these individuals to serve on the board in this capacity.

**Representative Schmidt:** Said no not at all.

**Chairman Larsen:** Asked if the people that would fill the board were customer and said he felt it was pretty board to who would be on the board.

**Representative Holman:** Said it is pretty broad in the way it is defined. The way he reads the bill they could even be cosmetologists or former cosmetologists, he didn't think it specified anything like that. He said there are about seven thousand people involved in this profession and they exists in almost every community in our state and they are paying fees and dues. He said expanding the board made sense and there appeared to not be a major problem with funding it with the amount of reserves they have.

**Representative Schmidt:** Said in response there are seven thousand six hundred licensed individuals and over one thousand salons and they have roughly five hundred and eight thousand dollars in cash, a hundred and eight thousand dollars in liability. There is a substantial amount of funds that they are dealing with, which was surprising to them the amount of money that they have.

**Senator Nodland:** Said the compensation of the board members is correct, they have done that with quite a few boards in giving them the same pay as the legislative management under that code. He said he was okay with that part of it.

**Representative Holman:** Said that in the logic of it is they wouldn't have to revisit the issue it would be put into code.

**Chairman Larsen:** Asked if they were talking about the second amendment and that they are putting that back into rules and it was in code. All of the boards will all have the same pay now?

**Representative Hofstad:** Said that this specifically deals with the cosmetology board, we are saying that particular board instead of coming to the legislative process to increase their salary it is automatically the same with what legislators get.

**Chairman Larsen:** Asked if there was any discussion on the third amendment.

**Senator Nodland:** Asked if the House members would explain that again.

**Representative Hofstad:** Said that when they looked at their financial statement it was quite substantial and they thought raising the fee which would be an increase of thirty dollars was inappropriate with the amount of money that board had on hand. He said because they are going to an electronic system of registry it wouldn't cost the board more money. He said with the amount of money on the balance sheet they could absorb that.

**Senator Nodland:** Asked if there were any objections from the committee members if someone from the cosmetology board commented on the three amendments.

**Sue Meyer, Secretary of the Board of Cosmetology:** She said that right now the three board members are cosmetologists from North Dakota. She explained that they test students for the practical exam, so they have knowledge because they are licensed cosmetologists. There is no problem with the compensation increase but they do question why two citizens would be on the board when they would not be able to administer a test or inspect any schools or salons.

**Senator Nodland:** Asked if the three board members do the inspecting of all the salons.

**Sue:** Said not all, they do some and they employ five inspectors that inspect the salons throughout the state.

**Senator Nodland:** Asked if she could explain the examination.

**Sue:** Said they administer the practical exam and they give the national written exam. The board has been working on going to computerized testing for the written exam. They would like to eliminate the written exam and have the applicant pay the testing company directly. The applicant would pay the company, take the exam and would know the results that day.

**Senator Nodland:** Asked if she had an opinion on the last amendment and the fee.

**Sue:** Said that the board doesn't have any intentions of increasing the licensing fees. She explained that the reason they requested to remove the fees from the law to rules was so they could eliminate the written portion.

**Chairman Larsen:** Asked if what their board wanted to do was allow the students to test on their own and pay for their test. They weren't looking for an increase to the board?

**Sue:** Said that was correct.

**Representative Hofstad:** Asked for them to go back to the makeup of the board. Asked for Sue to explain what the duties of the board are.

**Sue:** Said that they meet once a month, they discuss any violations a salon may have, they are there to protect the public for sanitation reasons.

**Representative Hofstad:** Said that was one of the important aspects of why they wanted someone from the public on there. He said it is good practice to expand that board so they will have a broader view by bringing people from the public to be on the board. It would give

them a better understanding of the rules that are made and some of the infractions and all of those kind of issues.

**Representative Holman:** Said that the line between administration and the policy is a little cloudy. The board they are talking about is a policy making body but they are also involved in caring out the duties of the board.

**Sue:** Said if he was talking about when they administer the practical exam, yes.

**Representative Hofstad:** Said he wanted to visit the fee structure again. He asked what the fee charge to the membership was.

**Sue:** Said the licensed cosmetologists will pay for the original license fee which is twenty dollars and will pay a yearly renewal fee of fifteen dollars. The salon renewal fee is thirty dollars and a manager operator renewal fee is twenty dollars.

**Representative Hofstad:** Asked if they were all set in 431128.

**Sue:** Yes.

**Representative Hofstad:** Said that the intent of eliminating code and taking it to administrative rule is what?

**Sue:** Said the only reason the board requested that is so they could remove the written portion fee from law.

**Representative Hofstad:** Asked what the written fee was.

**Sue:** Said it was twenty five dollars for the manager exam and for the cosmetologist it would be twenty dollars.

**Representative Hofstad:** If this were to go to rules what would it be?

**Sue:** Said the written exam would be the responsibility of the candidate to pay the testing fee to the testing company, the charge is fifty five dollars.

**Representative Hofstad:** Said what she is saying unless this bill is passed in the senate form it would cost the board thirty dollars.

**Sue:** Said if we go to computerized testing.

**Representative Holman:** Asked how much time they would save.

**Sue:** She shared how often they test and also commented that right now they purchase test booklets which are fifteen dollars.

**Senator Nodland:** Asked if they have anybody complaining about the board or about stylists.

**Sue:** Said no about the board but they do get consumer complaints that they do follow through with.

**Chairman Larsen:** Asked for any other discussion and said he would reschedule and closed the meeting.

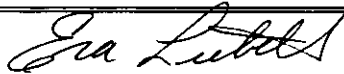
# 2011 SENATE STANDING COMMITTEE MINUTES

Senate Industry, Business and Labor Committee  
Roosevelt Park Room, State Capitol

SB 2098  
April 8, 2011  
Job Number 16444

☒ Conference Committee

Committee Clerk Signature



## Explanation or reason for introduction of bill/resolution:

Relating to the practice and licensing of cosmetologists

## Minutes:

Conference Committee Discussion

**Chairman Larsen:** Opened the meeting on Senate Bill 2098. He went over the three amendments.

**Senator Schneider:** Asked if they would consider the compensation of the board.

**Chairman Larsen:** Said he would like to address each amendment one at a time, if we want to discuss compensation of the board first we can do that.

**Representative Hofstad:** Said that they thought it was more of a practical approach, they thought it should just be tied to legislative management so the issue doesn't keep coming forward.

**Representative Holman:** Said standardization of practice is where this came from. The idea would be when they get a change in pay the others would follow.

**Senator Nodland:** Said he didn't think there is any problem on the Senate side with that amendment.

**Senator Schneider:** Said it was his understanding that it would raise the daily compensation from 100 to 140 and increase thereafter. He moved that the Senate accede to the House amendments to 43-1106 regarding compensation of members of the board.

**Representative Hofstad:** Seconded the motion.

Roll Call Vote: Yes: 6 No-0

**Chairman Larsen:** Said they would go onto the second amendment.

**Representative Hofstad:** He said the House's position on adding board members is that a three member board is difficult and that they always run the risk of violating the open



meetings law. He said it is a practical method of avoiding that kind of issue. He would like to see public members added to the board.

**Senator Nodland:** Said he did some research, of the sixty five boards in North Dakota, nineteen have either public citizens or a consumer member, so it is a small amount of the boards. He said of the boards in relation to this board, the board of barber examiners, have three governor appointed licensed barbers who are practicing for the state, the board of reflexology has three governing appointed board members and the board of massage has five who are licensed in North Dakota. He said adding two more that would be cosmetologists would be better than adding private citizens.

**Chairman Larsen:** Said when the bill came this wasn't the intention of the board of cosmetologists and if they are interested in adding more cosmetologists he wouldn't have a problem with that but not private citizens.

**Representative Holman:** Said that he had a discussion with legal counsel and they felt a three member board was problematic, one of the difficulties of a board of three is trying to follow North Dakota law with regard to open meeting laws.

**Chairman Larsen:** Commented that this board has always been a three member board.

**Representative Hofstad:** Said that a board is always a nucleus, center that moves the industry forward. He said it would be a practical and prudent thing to do and having other board members would bring in other expertise.

**Chairman Larsen:** Said they would go to the third amendment which allows electronic testing for the cosmetologist.

**Representative Hofstad:** Said that it would be okay to take that fee outside of the code if they want to have that applicant pay directly to the testing company. They would stand firm on having the rest of the fee structure stay within the code. He said he feels the board is somewhat in agreement with that and they could work that out if needed.

**Chairman Larsen:** Said that even though they have done very well with the money that they have obtained from the fees paid he doesn't feel it is right to take that fee money to pay for others to take a test. He didn't feel it should be free.

**Senator Schneider:** Said he agreed with the chairman.

**Senator Nodland:** He commented that they are one of the largest groups in the state and that is why they have so much money on hand.

**Representative Hofstad:** Said they would support an amendment that would remove that examination fee from the code allowing the applicant to pay it directly to the testing company and then leaving the rest of the fee structure as it is in code.

**Senator Nodland:** Said they are just stuck on one point and should schedule another meeting.

**Senator Schneider:** Asked if they could have Eric put that in amendment form.

**Representative Holman:** Stated that he had met with Jennifer Clark from legislative council and she is working on the amendment.

**Representative Hofstad:** Said they could provide that amendment to them so they could look at it before they get to the meeting.

**Chairman Larsen:** Closed the hearing.

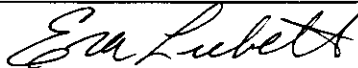
# 2011 SENATE STANDING COMMITTEE MINUTES

Senate Industry, Business and Labor Committee  
Roosevelt Park Room, State Capitol

SB 2098  
April 11, 2011  
Job Number 16471

☒ Conference Committee

Committee Clerk Signature



## Explanation or reason for introduction of bill/resolution:

Relating to the practice and licensing of cosmetologists

## Minutes:

Discussion, Amendments and Vote

**Chairman Larsen:** Called to order the meeting on Senate Bill 2098. He said that one amendment was worked out and we have a couple of issues about the board members and the license fees. There are some new amendments, some revised ideas. He said legislative council will explain the amendments. He asked for her to discuss the Holman amendment first.

**Jennifer Clark, Legislative Council:** She said that the Holman amendment is identical to the 1001 amendment, so they are identical to what came out of the House with one change. The change adds section eleven on page two. She said they have changed the title to reflect that. She said this is the portion of the bill that talks about the fees that can be charged by the board specific to the examinations and they took out the reexamination fees for the operators and they renamed the examination for their initial license, so it is just the practical portion, the hands on setting. She said they have a practical examination fee of twenty five and an instructor of examination fee of fifty five. She went on to say if there is a written examination the applicant is required to pay whoever is administering the exam and pay them directly.

**Chairman Larsen:** Said they will move onto Senator Schneider's amendments. In this section we will be discussing the board members

**Senator Schneider:** Said that is correct and he said it would be most helpful if Jennifer went through the substantive differences between the Holman amendment and the Schneider amendment.

**Jennifer:** Said she didn't know if Senator Schneider wanted them added onto Representative Holman's amendments or to have them stand alone. She has them done both ways but will just go through the differences. She said the substantive change is on page one and it is the amendment to section 431104, they are identical to the ones that came out of the House with this change. She said that they talked about the citizen members and expanded the board from three to five and they talk about the two citizen

members. She said it states that at least one of the citizen members has to be an individual with experience as a teacher. She said her understanding is part of what the board does is test these individuals and they license instructors so there may be some value to having someone who does have some teaching experience and understands what is entailed in that. She said they would have a five member board and three of the individuals need to be licensed cosmetologists and two citizens members and one will need to have an education background.

**Representative Hofstad:** Said he would like to see what else Jennifer has for amendments.

**Jennifer:** She said it is Representative Holman's amendment to the fees and Senator Schneider's change incorporated into the House amendments.

**Chairman Larsen:** Said he has another amendment. He said this one would allow the board to decide who they want, we are not telling them to have citizen members. They would just have to have a five member board.

**Jennifer:** Said what we did was change the board from three to five and we are not specifying who is on the board. If you page back to Senator Schneider's amendment they took 431104 out of this bill; it is in its current format.

**Representative Holman:** Said that the Larsen amendment would defeat the purpose of bringing someone in from the outside. He said it doesn't bring in the outside voice which would make for richer discussions when they are dealing with policy matters. He said as far as carrying out the other parts that the board does it would still fall upon the cosmetologists to carry out the testing and the other things they do. He said with the Schneider amendment it will bring in someone experienced in testing. He struggles with expanding it to five cosmetologists.

**Representative Hofstad:** Said he is ready to make a motion. He said he moves that the House recedes from its amendment and offer the Holman and Schneider amendments combined.

**Representative Schmidt:** Seconded the motion.

There was discussion about the amendment being 01006, which will combine the two amendments.

Roll Call Vote: Yes-6 No-0

**Senator Schneider** to carry for the Senate

**Senator Hofstad** to carry for the House

**Chairman Larsen:** Closed the meeting.

April 8, 2011

PROPOSED AMENDMENTS TO SENATE BILL NO. 2098

That the House recede from its amendments as printed on pages 994 and 995 of the Senate Journal and pages 1109 and 1110 of the House Journal and that Senate Bill No. 2098 be amended as follows:

Page 1, line 2, after the semicolon insert "and"

Page 1, line 3, replace "43-11-05" with "43-11-03, 43-11-04"

Page 1, line 4, remove "43-11-17, 43-11-19,"

Page 1, line 4, remove "43-11-27,"

Page 1, line 6, after "powers" insert ", membership,"

Page 1, line 7, remove "; to repeal section 43-11-28 of the North Dakota"

Page 1, line 8, remove "Century Code, relating to fees; and to provide an effective date"

Page 3, replace lines 21 through 29 with:

**"SECTION 3. AMENDMENT.** Section 43-11-03 of the North Dakota Century Code is amended and reenacted as follows:

**43-11-03. State board of cosmetology - Appointment - Term - Removal.**

The state board of cosmetology consists of ~~three~~five members appointed by the governor for three years each, with their terms of office so arranged that ~~one term expires~~no more than two terms expire on June thirtieth of each year. Each member shall qualify by taking the oath required of civil officers and shall hold office until a successor is appointed and qualified. The governor may remove from office a member for misconduct, malfeasance, neglect of duty in office, crime in office, gross incompetency, or habitual drunkenness. A vacancy on the board must be filled by appointment by the governor for the unexpired term.

**SECTION 4. AMENDMENT.** Section 43-11-04 of the North Dakota Century Code is amended and reenacted as follows:

**43-11-04. Members of board - Qualifications.**

Each member of the board must be a citizen of this state ~~and~~. Three of the members of the board must each be a licensed cosmetologist who has had at least three years' practical experience in the occupation. The other two members of the board must be citizen members, at least one of whom has professional experience as a secondary teacher or as a postsecondary educator.

Page 4, line 2, overstrike "of one hundred dollars" and insert immediately thereafter "in the amount provided for members of the legislative management under section 54-35-10"

Page 4, remove lines 20 through 31

Page 5, remove lines 1 through 8

Page 5, line 17, remove the overstrike over "~~pursuant to section 43-11-28~~"

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Page 8, remove lines 25 through 27

Renumber accordingly

# 2011 SENATE CONFERENCE COMMITTEE ROLL CALL VOTES

Committee: IBL

Bill/Resolution No. SB2098 as (re) engrossed

Date: \_\_\_\_\_

Roll Call Vote #: 1

- Action Taken**
- ☒ SENATE accede to House amendments
  - ☐ SENATE accede to House amendments and further amend
  - ☐ HOUSE recede from House amendments
  - ☐ HOUSE recede from House amendments and amend as follows

Senate/House Amendments on SJ/HJ page(s) --

- ☐ Unable to agree, recommends that the committee be discharged and a new committee be appointed

((Re) Engrossed) \_\_\_\_\_ was placed on the Seventh order of business on the calendar

Motion Made by: Senator Schneider Seconded by: Representative Hofstad

Senators	4/4	4/8	Yes	No		Representatives	4/4	4/8	Yes	No
Chairman Larsen	✓	✓	✓			Representative Hofstad	✓	✓	✓	
Senator Nodland	✓	✓	✓			Representative Schmidt	✓	✓	✓	
Senator Schneider	✓	✓	✓			Representative Holman	✓	✓	✓	

Vote Count: Yes 6 No 0 Absent 0

Senate Carrier \_\_\_\_\_ House Carrier \_\_\_\_\_

LC Number \_\_\_\_\_ of amendment

LC Number \_\_\_\_\_ of engrossment

Emergency clause added or deleted

Statement of purpose of amendment

*Vote on 1st amendment only, further amendments & vote to follow.*

April 8, 2011

4/2  
4-11-11  
1 of 2

PROPOSED AMENDMENTS TO SENATE BILL NO. 2098

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Page 1, line 2, after the semicolon insert "and"

Page 1, line 3, replace "43-11-05" with "43-11-03, 43-11-04"

Page 1, line 3, remove the second "and"

Page 1, line 4, remove "43-11-17, 43-11-19,"

Page 1, line 4, after the fifth comma insert "and"

Page 1, line 4, replace "43-11-27" with "subdivision b of subsection 1 of section 43-11-28"

Page 1, line 4, after "and" insert "section"

Page 1, line 5, after "to" insert "fees,"

Page 1, line 6, after "schools" insert a comma

Page 1, line 6, after "powers" insert ", membership,"

Page 1, line 7, remove "; to repeal section 43-11-28 of the North Dakota"

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**43-11-04. Members of board - Qualifications.**

Each member of the board must be a citizen of this state ~~and. Three of the members of the board must each be~~ a licensed cosmetologist who has had at least three years' practical experience in the occupation. ~~The other two members of the~~



board must be citizen members, at least one of whom has professional experience as a secondary teacher or as a postsecondary educator."

207

Page 4, line 2, overstrike "of one hundred dollars" and insert immediately thereafter "in the amount provided for members of the legislative management under section 54-35-10"

Page 4, remove lines 20 through 31

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Page 5, line 17, remove the overstrike over "~~pursuant to section 43-11-28~~"

Page 5, line 17, remove "by rule"

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Page 6, line 23, remove the overstrike over "~~as set forth in section 43-11-28~~"

Page 6, remove lines 26 through 31

Page 7, remove lines 1 through 31

Page 8, replace lines 1 through 6 with:

**"SECTION 11. AMENDMENT.** Subdivision b of subsection 1 of section 43-11-28 of the North Dakota Century Code is amended and reenacted as follows:

b. Examinations:

- (1) Operator practical examination \$25.00
- (2) Instructors practical examination \$55.00
- (3) ~~Reexamination fee, operator's~~
  - (a) ~~Practical~~ \$30.00
  - (b) ~~Written~~ \$20.00
- (4) ~~Reexamination fee, instructor's~~
  - (a) ~~Practical~~ \$55.00
  - (b) ~~Written~~ \$25.00 Written examination fees are set and collected by the administrator of the examination and payment is the responsibility of the applicant."

Page 8, remove lines 25 through 27

Renumber accordingly

# 2011 SENATE CONFERENCE COMMITTEE ROLL CALL VOTES

Committee: IBL

Bill/Resolution No. SB 2098 as (re) engrossed

Date: 4/11/11

Roll Call Vote #: 2

## Action Taken

- ☐ SENATE accede to House amendments  
☐ SENATE accede to House amendments and further amend  
☐ HOUSE recede from House amendments  
☒ HOUSE recede from House amendments and amend as follows

Senate/House Amendments on SJ/HJ page(s) --

- ☐ Unable to agree, recommends that the committee be discharged and a new committee be appointed

((Re) Engrossed) \_\_\_\_\_ was placed on the Seventh order of business on the calendar

Motion Made by: Representative Hofstad Seconded by: Representative Schmidt

Senators	4/11		Yes	No		Representatives	4/11		Yes	No
Chairman Larsen	✓		✓			Representative Hofstad	✓		✓	
Senator Nodland	✓		✓			Representative Schmidt	✓		✓	
Senator Schneider	✓		✓			Representative Holman	✓		✓	

Vote Count: Yes 6 No 0 Absent 0

Senate Carrier Senator Schneider House Carrier Representative Hofstad

LC Number \_\_\_\_\_ of amendment

LC Number \_\_\_\_\_ of engrossment

Emergency clause added or deleted

Statement of purpose of amendment

**REPORT OF CONFERENCE COMMITTEE**

**SB 2098:** Your conference committee (Sens. Larsen, Nodland, Schneider and Reps. Hofstad, Schmidt, Holman) recommends that the **HOUSE RECEDE** from the House amendments as printed on SJ pages 994-995, adopt amendments as follows, and place SB 2098 on the Seventh order:

That the House recede from its amendments as printed on pages 994 and 995 of the Senate Journal and pages 1109 and 1110 of the House Journal and that Senate Bill No. 2098 be amended as follows:

Page 1, line 2, after the semicolon insert "and"

Page 1, line 3, replace "43-11-05" with "43-11-03, 43-11-04"

Page 1, line 3, remove the second "and"

Page 1, line 4, remove "43-11-17, 43-11-19,"

Page 1, line 4, after the fifth comma insert "and"

Page 1, line 4, replace "43-11-27" with "subdivision b of subsection 1 of section 43-11-28"

Page 1, line 4, after "and" insert "section"

Page 1, line 5, after "to" insert "fees,"

Page 1, line 6, after "schools" insert a comma

Page 1, line 6, after "powers" insert ", membership,"

Page 1, line 7, remove "; to repeal section 43-11-28 of the North Dakota"

Page 1, line 8, remove "Century Code, relating to fees; and to provide an effective date"

Page 3, replace lines 21 through 29 with:

**"SECTION 3. AMENDMENT.** Section 43-11-03 of the North Dakota Century Code is amended and reenacted as follows:

**43-11-03. State board of cosmetology - Appointment - Term - Removal.**

The state board of cosmetology consists of ~~three~~five members appointed by the governor for three years each, with their terms of office so arranged that ~~one term expires~~no more than two terms expire on June thirtieth of each year. Each member shall qualify by taking the oath required of civil officers and shall hold office until a successor is appointed and qualified. The governor may remove from office a member for misconduct, malfeasance, neglect of duty in office, crime in office, gross incompetency, or habitual drunkenness. A vacancy on the board must be filled by appointment by the governor for the unexpired term.

**SECTION 4. AMENDMENT.** Section 43-11-04 of the North Dakota Century Code is amended and reenacted as follows:

**43-11-04. Members of board - Qualifications.**

Each member of the board must be a citizen of this state ~~and. Three of the members of the board must each be~~ a licensed cosmetologist who has had at least three years' practical experience in the occupation. ~~The other two members of the board must be citizen members, at least one of whom has professional experience as a secondary teacher or as a postsecondary educator."~~

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Page 8, remove lines 25 through 27

Renumber accordingly

SB 2098 was placed on the Seventh order of business on the calendar.

**2011 TESTIMONY**

**SB 2098**



## **NORTH DAKOTA STATE BOARD OF COSMETOLOGY**

1102 S. WASHINGTON SUITE 200  
P.O. BOX 2177  
BISMARCK, ND 58502-2177  
TELEPHONE (701) 224-9800

### **TESTIMONY ON SB 2098**

Mr. Chairman and members of the committee, we serve as Board Members for the N.D. State Board of Cosmetology. Gary Andes from Minot, Barb Hougum from Fargo, and Virginia Herberholz from Bismarck. Thank you for allowing us to testify on Senate Bill 2098. We as Board Members are asking you and the members of the committee to vote in favor of this bill.

Testimony of the North Dakota State Board of Cosmetology  
On S.B.2098

Section 1. Amendment (43-11-01)

Definition of Cosmetologist added. Outdated definition of operator will be omitted (line 10) and be replaced with cosmetologist.

Section 2. Amendment (43-11-02)

In the past, estheticians could only practice in a licensed salon. This new law allows estheticians to also work in medical facilities under the supervision of a doctor.

Section 3. Amendment (43-11-05)

This identifies rules the board may adopt to implement this chapter.

Section 4. Amendment (43-11-06)

The secretary of the board has and will receive the same compensation as the president and vice president, one hundred dollars for each day employed, not a salary.

Section 5. Amendment (43-11-16)

This law needs to be removed. It prevents students that transfer to another school to maintain their clinical floor status. It also interferes with schools that relocate and have students already working on the clinic floor.

Section 6. Amendment (43-11-17)

Section 7. Amendments (43-11-19)

Moving fees from laws to rules. Will be explained in Section 14 repeal.

Section 8. Amendment (43-11-21)

Omit "operator" and replace it with cosmetologist. Also moving fees to rules.

Section 9. Amendments (43-11-24)

Remove outdated term "operator" and replace it with cosmetologist. Also need to meet certain requirements. Remove fees to rules. An applicant who fails the practical exam twice must return to school for clinical work. An applicant who fails the written exam twice is no longer required to return to school. School lectures do not focus strictly on laws and theory and therefore do not serve the student's needs.

Section 10. Amendment (43-11-25)

Move fees from laws to rules. Clarify that all requirements must be met.

Section 11. Amendment (43-11-26)

Replace a person with an individual. That individual needs to meet all requirements. The word "operator" replaced with cosmetologist. Simplify to 1000 hours rather than 125 days which does not specify eight hour days. Move fees from law to rules.

Section 12. Amendment (43-11-27)

Fees removed from laws to rules.

Section 13. Amendment (43-11-31)

Clarifying and updating terminology. We may deny an application or discipline a licensee.

Line #8 allows us to discipline salon and school owners responsible for non-licensed individuals practicing on their premises. This type of activity has greatly increased in the last few years.

Section 14 Repeal (43-11-28)

The State Board of Cosmetology would like permission to move our "fees to be paid" from ND Law to ND Rules and Regulations. Two years ago we started transitioning from paper written exams to computerized testing. The computerized exams and fees are administered by testing companies. They charge a higher fee than is stated in our law book. Because the fees are law, we had to wait until the 2011 session to get approval. Moving our fees from laws to rules and regulations will allow the board to provide our state licensees with the most current examinations and remain competitive nationally. This change is not to the financial benefit of the board, but is needed to provide the best and latest technologies available to our licensees we serve. We will meet with the Rules and Regulations Committee to adjust fees effective date January 1, 2012

Thank You

ND State Board of Cosmetology



April 8, 2011

PROPOSED AMENDMENTS TO SENATE BILL NO. 2098

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