AN ACT

ENTITLED, An Act to authorize the Governor to enter the Midwestern Regional Higher Education Compact and the Western Regional Education Compact, and to provide for the appointment of resident members to both commissions.

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

Section 1. The Governor is hereby authorized and directed to enter the Midwestern Regional Higher Education Compact on behalf of the state of South Dakota with all other states legally joining therein in substantially the following form:

MIDWESTERN REGIONAL HIGHER EDUCATION COMPACT

ARTICLE I PURPOSE

The purpose of the Midwestern Higher Education Compact is to provide greater higher education opportunities and services in the midwestern region, with the aim of furthering regional access to, research in, and choice of higher education for the citizens residing in the several states which are parties to this compact.

ARTICLE II THE COMMISSION

The compacting states create the Midwestern Higher Education Commission. The commission shall be a body corporate of each compacting state. The commission shall have all the responsibilities, powers, and duties set forth in this chapter, including the power to sue and be sued, and such additional powers as may be conferred upon it by subsequent action of the respective legislatures of the compacting states in accordance with the terms of this compact.

The commission shall consist of five resident members of each state as follows: the governor or the governor's designee, who shall serve during the tenure of office of the governor; two legislators, one from each house (except Nebraska, which may appoint two legislators from its unicameral legislature), who shall serve two-year terms and be appointed by the appropriate appointing authority

in each house of the legislature; and two other at-large members, at least one of whom shall be selected from the field of higher education. The at-large members shall be appointed in a manner provided by the laws of the appointing state. One of the two at-large members initially appointed in each state shall serve a two-year term. The other, and any regularly appointed successor to either at-large member, shall serve a four-year term. All vacancies shall be filled in accordance with the laws of the appointed states. Any commissioner appointed to fill a vacancy shall serve until the end of the incomplete term.

The commission shall select annually, from among its members, a chairperson, a vice chairperson, and a treasurer.

The commission shall appoint an executive director who shall serve at its pleasure and who shall act as secretary to the commission. The treasurer, the executive director, and such other personnel as the commission may determine shall be bonded in such amounts as the commission may require.

The commission shall meet at least once each calendar year. The chairperson may call additional meetings and, upon the request of a majority of the commission members of three or more compacting states, shall call additional meetings. Public notice shall be given of all meetings and meetings shall be open to the public.

Each compacting state represented at any meeting of the commission is entitled to one vote. A majority of the compacting states shall constitute a quorum for the transaction of business, unless a larger quorum is required by the bylaws of the commission.

ARTICLE III POWERS AND DUTIES OF THE COMMISSION

The commission shall adopt a seal and suitable bylaws governing its management and operations.

Irrespective of the civil service, personnel, or other merit system laws of any of the compacting states, the commission in its bylaws shall provide for the personnel policies and programs of the compact.

The commission shall submit a budget to the governor and legislature of each compacting state at such time and for such period as may be required. The budget shall contain specific recommendations of the amount or amounts to be appropriated by each of the compacting states.

The commission shall report annually to the legislatures and governors of the compacting states, to the Midwestern Governors' Conference, and to the Midwestern Legislative Conference of the Council of State Governments concerning the activities of the commission during the preceding year. Such reports shall also embody any recommendations that may have been adopted by the commission.

The commission may borrow, accept, or contract for the services of personnel from any state or the United States or any subdivision or agency, from any interstate agency, or from any institution, foundation, person, firm, or corporation.

The commission may accept for any of its purposes and functions under the compact any and all donations and grants of money, equipment, supplies, materials, and services (conditional or otherwise) from any state or the United States or any subdivision or agency thereof, or interstate agency, or from any institution, foundation, person, firm, or corporation, and may receive, utilize, and dispose of the same.

The commission may enter into agreements with any other interstate education organizations or agencies and with higher education institutions located in nonmember states and with any of the various states of these United States to provide adequate programs and services in higher education for the citizens of the respective compacting states. The commission shall, after negotiations with interested institutions and interstate organizations or agencies, determine the cost of providing the programs and services in higher education for use of these agreements.

The commission may establish and maintain offices, which shall be located within one or more of the compacting states.

The commission may establish committees and hire staff as it deems necessary for the carrying out of its functions.

The commission may provide for actual and necessary expenses for attendance of its members at official meetings of the commission or its designated committees.

ARTICLE IV ACTIVITIES OF THE COMMISSION

The commission shall collect data on the long-range effects of the compact on higher education. By the end of the fourth year from the effective date of the compact and every two years thereafter, the commission shall review its accomplishments and make recommendations to the governors and legislatures of the compacting states on the continuance of the compact.

The commission shall study issues in higher education of particular concern to the midwestern region. The commission shall also study the needs for higher education programs and services in the compacting states and the resources for meeting such needs. The commission shall from time to time prepare reports on such research for presentation to the governors and legislatures of the compacting states and other interested parties. In conducting such studies, the commission may confer with any national or regional planning body. The commission may redraft and recommend to the governors and legislatures of the various compacting states suggested legislation dealing with problems of higher education.

The commission shall study the need for provision of adequate programs and services in higher education, such as undergraduate, graduate, or professional student exchanges in the region. If a need for exchange in a field is apparent, the commission may enter into such agreements with any higher education institution and with any of the compacting states to provide programs and services in higher education for the citizens of the respective compacting states. The commission shall, after negotiations with interested institutions and the compacting states, determine the costs of providing the programs and services in higher education for use in its agreements. The contracting states shall

contribute the funds not otherwise provided, as determined by the commission, for carrying out the agreements. The commission may also serve as the administrative and fiscal agent in carrying out agreements for higher education programs and services.

The commission shall serve as a clearinghouse on information regarding higher education activities among institutions and agencies.

In addition to the activities of the commission previously noted, the commission may provide services and research in other areas of regional concern.

ARTICLE V FINANCE

The moneys necessary to finance the general operations of the commission, not otherwise provided for, in carrying forth its duties, responsibilities, and powers as stated herein shall be appropriated to the commission by the compacting states, when authorized by the respective legislatures, by equal apportionment among the compacting states.

The commission shall not incur any obligations of any kind prior to the making of appropriations adequate to meet the same; nor shall the commission pledge the credit of any of the compacting states, except by and with the authority of the compacting state.

The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the commission shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become part of the annual report of the commission.

The accounts of the commission shall be open at any reasonable time for inspection by duly authorized representatives of the compacting states and persons authorized by the commission.

ARTICLE VI ELIGIBLE PARTIES AND ENTRY INTO FORCE

The states of Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, North

Dakota, Ohio, South Dakota, and Wisconsin shall be eligible to become party to this compact. Additional states will be eligible if approved by a majority of the compacting states.

As to any eligible party state, this compact shall become effective when its legislature shall have enacted the same into law.

Amendments to the compact shall become effective upon their enactment by the legislatures of all compacting states.

ARTICLE VII WITHDRAWAL, DEFAULT, AND TERMINATION

Any compacting state may withdraw from this compact by enacting a statute repealing the compact, but such withdrawal shall not become effective until two years after the enactment of such statute. A withdrawing state shall be liable for any obligations which it may have incurred on account of its party status up to the effective date of withdrawal, except that if the withdrawing state has specifically undertaken or committed itself to any performance of an obligation extending beyond the effective date of withdrawal, it shall remain liable to the extent of such obligation.

If any compacting state shall at any time default in the performance of any of its obligations, assumed or imposed, in accordance with the provisions of this compact, all rights, privileges, and benefits conferred by this compact or agreements hereunder shall be suspended from the effective date of such default as fixed by the commission, and the commission shall stipulate the conditions and maximum time for compliance under which the defaulting state may resume its regular status. Unless such default shall be remedied under the stipulations and within the time period set forth by the commission, this compact may be terminated with respect to such defaulting state by affirmative vote of a majority of the other member states. Any such defaulting state may be reinstated by performing all acts and obligations as stipulated by the commission.

ARTICLE VIII SEVERABILITY AND CONSTRUCTION

The provisions of this compact entered into hereunder shall be severable and if any phrase,

clause, sentence, or provision of this compact is declared to be contrary to the Constitution of any compacting state or of the United States or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If this compact entered into hereunder shall be held contrary to the constitution of any compacting state, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters. The provisions of this compact entered into pursuant hereto shall be liberally construed to effectuate the purposes thereof.

Section 2. The members of the Midwestern Regional Higher Education Commission representing this state are as follows:

(1) The Governor or a designee of the Governor who shall serve throughout the Governor's tenure in office;

(2) One member of the Senate appointed by the Executive Board of the Legislative Research Council;

(3) One member of the House of Representatives appointed by the Executive Board of the Legislative Research Council;

(4) One member of the general public from the field of higher education appointed by the executive director of the Board of Regents; and

(5) One member of the general public from the field of career and technical education appointed by the secretary of the Department of Education.

The members of the Legislature appointed to the commission shall each serve a term of two years. The members of the general public appointed to the commission shall each serve a term of four years, except that one of the members of the general public initially appointed shall serve a term of two years.

The initial appointments shall be made no later than thirty days after the effective date of this Act. If a vacancy occurs, the remainder of the unexpired term shall be filled in the same manner as the original appointment.

Section 3. The Governor is hereby authorized and directed to enter the Western Regional Education Compact on behalf of the State of South Dakota with all other states legally joining therein in substantially the following form:

WESTERN REGIONAL EDUCATION COMPACT

Entered into by and between the States and Territories signatory hereto, to provide acceptable and efficient educational facilities to meet the needs of the Western Region of the United States of America.

ARTICLE I

Whereas, the future of this Nation and of the Western States is dependent upon the quality of the education of its youth; and

Whereas, many of the Western States individually do not have sufficient numbers of potential students to warrant the establishment and maintenance within their borders of adequate facilities in all of the essential fields of technical, professional, and graduate training, nor do all the states have the financial ability to furnish within their borders institutions capable of providing acceptable standards of training in all of the fields mentioned above; and

Whereas, it is believed that the Western States, or groups of such states within the Region, cooperatively can provide acceptable and efficient educational facilities to meet the needs of the Region and of the students thereof:

Now, therefore, the States of Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming, and the Territories of Alaska and Hawaii do hereby Covenant and agree as follows:

ARTICLE II

Each of the compacting states and territories pledges to each of the other compacting states and territories faithful cooperation in carrying out all the purposes of this Compact.

ARTICLE III

The compacting states and territories hereby create the Western Interstate Commission for Higher Education, hereinafter called the Commission. Said Commission shall be a body corporate of each compacting state and territory and an agency thereof. The Commission shall have all the powers and duties set forth herein, including the power to sue and be sued, and such additional powers as may be conferred upon it by subsequent action of the respective legislatures of the compacting states and territories.

ARTICLE IV

The Commission shall consist of three resident members from each compacting state or territory. At all times one Commissioner from each compacting state or territory shall be an educator engaged in the field of higher education in the state or territory from which he is appointed.

The Commissioners from each state and territory shall be appointed by the Governor thereof as provided by law in such state or territory. Any Commissioner may be removed or suspended from office as provided by the law of the state or territory from which he shall have been appointed.

The terms of each Commissioner shall be four years: Provided, however, that the first three Commissioners shall be appointed as follows; one for two years, one for three years, and one for four years. Each Commissioner shall hold office until his successor shall be appointed and qualified. If any office becomes vacant for any reason, the Governor shall appoint a Commissioner to fill the office for the remainder of the unexpired term.

ARTICLE V

Any business transacted at any meeting of the Commission must be by affirmative vote of a

majority of the whole number of compacting states and territories.

One or more Commissioners from a majority of the compacting states and territories shall constitute a quorum for the transaction of business.

Each compacting state and territory represented at any meeting of the Commission is entitled to one vote.

ARTICLE VI

The Commission shall elect from its number a chairman and a vice chairman and may appoint, and at its pleasure dismiss or remove, such officers, agents, and employees as may be required to carry out the purpose of this Compact; and shall fix and determine their duties, qualifications and compensation, having due regard for the importance of the responsibilities involved.

The Commissioners shall serve without compensation, but shall be reimbursed for their actual and necessary expenses from the funds of the Commission.

ARTICLE VII

The Commission shall adopt a seal and by-laws and shall adopt and promulgate rules and regulations for its management and control.

The Commission may elect such committees as it deems necessary for the carrying out of its functions.

The Commission shall establish and maintain an office within one of the compacting states for the transactions of its business and may meet at any time, but in any event must meet at least once a year. The Chairman may call such additional meetings and upon the request of a majority of the Commissioners of three or more compacting states or territories shall call additional meetings.

The Commission shall submit a budget to the Governor of each compacting state and territory at such time and for such period as may be required.

The Commission shall, after negotiations with interested institutions, determine the cost of

providing the facilities for graduate and professional education for use in its contractual agreements throughout the Region.

On or before the fifteenth day of January of each year, the Commission shall submit to the Governors and Legislatures of the compacting states and territories a report of its activities for the preceding calendar year.

The Commission shall keep accurate books of account, showing in full its receipts and disbursements, and said books of account shall be open at any reasonable time for inspection by the Governor of any compacting state or territory or his designated representative. The Commission shall not be subject to audit and accounting procedure of any of the compacting states or territories. The Commission shall provide for an independent annual audit.

ARTICLE VIII

It shall be the duty of the Commission to enter into such contractual agreements with any institutions in the Region offering graduate or professional education and with any of the compacting states or territories as may be required in the judgment of the Commission to provide adequate services and facilities of graduate and professional education for the citizens of the respective compacting states or territories. The Commission shall first endeavor to provide adequate services and facilities in the fields of dentistry, medicine, public health, and veterinary medicine, and may undertake similar activities in other professional and graduate fields.

For this purpose the Commission may enter into contractual agreements:

(a) With the governing authority of any educational institution in the Region, or with any compacting state or territory, to provide such graduate or professional educational services upon terms and conditions to be agreed upon between contracting parties, and

(b) With the governing authority of any educational institution in the Region or with any compacting state of territory to assist in the placement of graduate or professional students

in educational institutions in the Region providing the desired services and facilities, upon such terms and conditions as the Commission may prescribe.

It shall be the duty of the Commission to undertake studies of needs for professional and graduate educational facilities in the Region, the resources for meeting such needs, and the long-range effects of the Compact on higher education; and from time to time to prepare comprehensive reports on such research for presentation to the Western Governors' Conference and to the legislatures of the compacting states and territories. In conducting such studies, the Commission may confer with any national or regional planning body which may be established.

The Commission shall draft and recommend to the Governors of the various compacting states and territories, uniform legislation dealing with problems of higher education in the Region.

For the purposes of this Compact the word "Region" shall be construed to mean the geographical limits of the several compacting states and territories.

ARTICLE IX

The operating costs of the Commission shall be apportioned equally among the compacting states and territories.

ARTICLE X

This Compact shall become operative and binding immediately as to those states and territories adopting it whenever five or more of the states or territories of Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, Wyoming, Alaska and Hawaii have duly adopted it prior to July 1, 1953. This Compact shall become effective as to any additional states or territories adopting thereafter at the time of such adoption.

ARTICLE XI

This Compact may be terminated at any time by consent of a majority of the compacting states and territories. Consent shall be manifested by passage and signature in the usual manner of

legislation expressing such consent by the legislature and Governor of such terminating state. Any state of territory may at any time withdraw from this Compact by means of appropriate legislation to that end. Such withdrawal shall not become effective until two years after written notice thereof by the Governor of the withdrawing state or territory accompanied by a certified copy of requisite legislative action is received by the Commission. Such withdrawal shall not relieve the withdrawing state or territory from its obligations hereunder accruing prior to the effective date of withdrawal. The withdrawing state or territory may rescind its action of withdrawal at any time within the two-year period. Thereafter, the withdrawing state or territory may be reinstated by application to and the approval by a majority vote of the Commission.

ARTICLE XII

If any compacting state or territory shall at any time default in the performance of any of its obligations assumed or imposed in accordance with the provisions of this Compact, all rights, privileges and benefits conferred by this Compact or agreements hereunder shall be suspended from the effective date of such default as fixed by the Commission.

Unless such default shall be remedied within a period of two years following the effective date of such default, this Compact may be terminated with respect to such defaulting state or territory by affirmative vote of three-fourths of the other member states or territories.

Any such defaulting state may be reinstated by: (a) performing all acts and obligations upon which it has heretofore defaulted, and (b) application to and the approval by a majority vote of the Commission.

Section 4. The Governor shall appoint three commissioners to represent the State of South Dakota on the Western Interstate Commission for Higher Education, including at least one commissioner who is an educator engaged in the field of higher education in the state.

The commissioners shall each serve a term of four years, except that the first three

commissioners shall serve as follows: one for two years, one for three years, and one for four years.

The Governor may remove any appointed commissioner for cause, after a hearing prior to the expiration of the commissioner's term.

An Act to authorize the Governor to enter the Midwestern Regional Higher Education Compact and the Western Regional Education Compact, and to provide for the appointment of resident members to both commissions.

I certify that the attached Act originated in the

SENATE as Bill No. 153

_____
Secretary of the Senate

_____
President of the Senate

Attest:

_____
Secretary of the Senate

_____
Speaker of the House

Attest:

_____
Chief Clerk

Received at this Executive Office this _____ day of _____ ,

20____ at _____ M.

By _____
for the Governor

The attached Act is hereby approved this _____ day of _____ , A.D., 20___

_____
Governor

STATE OF SOUTH DAKOTA,
ss.
Office of the Secretary of State

Filed _____ , 20___
at _____ o'clock __ M.

_____
Secretary of State

By _____
Asst. Secretary of State

Senate Bill No. 153
File No. ____
Chapter No. _____