

State of South Dakota

NINETY-FIRST SESSION LEGISLATIVE ASSEMBLY, 2016

748X0001

HOUSE BILL NO. _____

Introduced by: _____

1 FOR AN ACT ENTITLED, An Act to repeal the Midwestern Regional Higher Education
2 Compact.

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

4 Section 1. That § 13-53C-1 be repealed.

5 ~~13-53C-1. The Governor is hereby authorized and directed to enter the Midwestern Regional~~
6 ~~Higher Education Compact on behalf of the State of South Dakota with all other states legally~~
7 ~~joining therein in substantially the following form:~~

8 ~~MIDWESTERN REGIONAL HIGHER EDUCATION COMPACT~~

9 ~~ARTICLE I PURPOSE~~

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

14 ~~ARTICLE II THE COMMISSION~~

15 ~~The compacting states create the Midwestern Higher Education Commission. The~~
16 ~~commission shall be a body corporate of each compacting state. The commission shall have all~~



1 ~~the responsibilities, powers, and duties set forth in this chapter, including the power to sue and~~
2 ~~be sued, and such additional powers as may be conferred upon it by subsequent action of the~~
3 ~~respective legislatures of the compacting states in accordance with the terms of this compact.~~

4 ~~— The commission shall consist of five resident members of each state as follows: the~~
5 ~~governor or the governor's designee, who shall serve during the tenure of office of the governor;~~
6 ~~two legislators, one from each house (except Nebraska, which may appoint two legislators from~~
7 ~~its unicameral legislature), who shall serve two-year terms and be appointed by the appropriate~~
8 ~~appointing authority in each house of the legislature; and two other at-large members, at least~~
9 ~~one of whom shall be selected from the field of higher education. The at-large members shall~~
10 ~~be appointed in a manner provided by the laws of the appointing state. One of the two at-large~~
11 ~~members initially appointed in each state shall serve a two-year term. The other, and any~~
12 ~~regularly appointed successor to either at-large member, shall serve a four-year term. All~~
13 ~~vacancies shall be filled in accordance with the laws of the appointed states. Any commissioner~~
14 ~~appointed to fill a vacancy shall serve until the end of the incomplete term.~~

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

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

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

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

4 ~~ARTICLE III POWERS AND DUTIES OF THE COMMISSION~~

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

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

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

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

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

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

1 ~~receive, utilize, and dispose of the same.~~

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

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

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

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

14 ~~—————~~ **ARTICLE IV ACTIVITIES OF THE COMMISSION**

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

19 ~~—The commission shall study issues in higher education of particular concern to the~~
20 ~~midwestern region. The commission shall also study the needs for higher education programs~~
21 ~~and services in the compacting states and the resources for meeting such needs. The commission~~
22 ~~shall from time to time prepare reports on such research for presentation to the governors and~~
23 ~~legislatures of the compacting states and other interested parties. In conducting such studies, the~~
24 ~~commission may confer with any national or regional planning body. The commission may~~

1 ~~redraft and recommend to the governors and legislatures of the various compacting states~~
2 ~~suggested legislation dealing with problems of higher education.~~

3 ~~— The commission shall study the need for provision of adequate programs and services in~~
4 ~~higher education, such as undergraduate, graduate, or professional student exchanges in the~~
5 ~~region. If a need for exchange in a field is apparent, the commission may enter into such~~
6 ~~agreements with any higher education institution and with any of the compacting states to~~
7 ~~provide programs and services in higher education for the citizens of the respective compacting~~
8 ~~states. The commission shall, after negotiations with interested institutions and the compacting~~
9 ~~states, determine the costs of providing the programs and services in higher education for use~~
10 ~~in its agreements. The contracting states shall contribute the funds not otherwise provided, as~~
11 ~~determined by the commission, for carrying out the agreements. The commission may also serve~~
12 ~~as the administrative and fiscal agent in carrying out agreements for higher education programs~~
13 ~~and services.~~

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

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

18 ~~—————~~ ~~ARTICLE V FINANCE~~

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

23 ~~— The commission shall not incur any obligations of any kind prior to the making of~~
24 ~~appropriations adequate to meet the same; nor shall the commission pledge the credit of any of~~

1 ~~the compacting states, except by and with the authority of the compacting state.~~

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

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

9 ~~—————ARTICLE VI ELIGIBLE PARTIES AND ENTRY INTO FORCE~~

10 ~~—The states of Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska,~~
11 ~~North Dakota, Ohio, South Dakota, and Wisconsin shall be eligible to become party to this~~
12 ~~compact. Additional states will be eligible if approved by a majority of the compacting states.~~

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

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

17 ~~—————ARTICLE VII WITHDRAWAL, DEFAULT, AND TERMINATION~~

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

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

11 ~~—————~~ ARTICLE VIII SEVERABILITY AND CONSTRUCTION

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

22 Section 2. That § 13-53C-2 be repealed.

23 ~~— 13-53C-2. The members of the Midwestern Regional Higher Education Commission~~
24 ~~representing this state are as follows:~~

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

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

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

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

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

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

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