

HOUSE BILL NO. 1355

Introduced by

Representative Wentz

Senator Nething

1 A BILL for an Act to create and enact a new chapter to title 15 of the North Dakota Century
2 Code, relating to adoption of the midwestern regional higher education compact.

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

4 **SECTION 1.** A new chapter to title 15 of the North Dakota Century Code is created and
5 enacted as follows:

6 **Midwestern regional higher education compact.** The midwestern regional higher
7 education compact is adopted as follows:

8 Article I. Purpose

9 The purpose of the midwestern higher education compact is to provide greater higher
10 education opportunities and services in the midwestern region, with the aim of furthering
11 regional access to, research in, and choice of higher education for the citizens residing in the
12 states that are parties to this compact.

13 Article II. The Commission

- 14 1. The compacting states create the midwestern higher education commission,
15 hereinafter called the commission. The commission is a body corporate of each
16 compacting state. The commission has all the responsibilities, powers, and duties
17 set forth in this chapter, including the power to sue and be sued, and any additional
18 powers conferred upon it by subsequent action of the respective legislative
19 assemblies of the compacting states in accordance with the terms of this compact.
- 20 2. The commission consists of the following five resident members from each state:
21 the governor or the governor's designee who serves during the tenure of office of
22 the governor; two legislators, one from each house, except for Nebraska, which
23 may appoint two legislators from its legislative assembly, who serve two-year terms
24 and are appointed by the appropriate appointing authority in each house of the

1 legislative assembly; and two other at large members, at least one of whom is to
2 be selected from the field of higher education. The at large members are to be
3 appointed as provided by the laws of the appointing state. One of the two at large
4 members initially appointed in each state serves a two-year term. The other, and
5 any regularly appointed successor to either at large member, serves a four-year
6 term. All vacancies are to be filled in accordance with the laws of the appointing
7 states. Any commissioner appointed to fill a vacancy serves until the end of the
8 incomplete term.

9 3. The commission shall select annually, from among its members, a chairman, a vice
10 chairman, and a treasurer.

11 4. The commission shall appoint an executive director who serves at its pleasure and
12 who is secretary to the commission. The treasurer, the executive director, and
13 other personnel as the commission determines must be bonded in the amounts
14 required by the commission.

15 5. The commission shall meet at least once each calendar year. The chairman may
16 call additional meetings and upon the request of a majority of the commission
17 members of three or more compacting states, shall call additional meetings. The
18 commission shall give public notice of all meetings. All meetings must be open to
19 the public.

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

24 Article III. Powers and Duties of the Commission

25 1. The commission shall adopt bylaws governing its management and operations.

26 2. Notwithstanding the laws of any compacting state, the commission shall provide for
27 the personnel policies and programs of the compact in its bylaws.

28 3. The commission shall submit a budget to the governor and legislative assembly of
29 each compacting state at the time and for the period required by each state. The
30 budget must contain recommendations regarding the amount to be appropriated by
31 each compacting state.

- 1 4. The commission shall report annually to the legislative assemblies and governors
2 of the compacting states, to the midwestern governors' conference, and to the
3 midwestern legislative conference of the council of state governments regarding
4 the activities of the commission during the preceding year. The reports must
5 include any recommendations that have been adopted by the commission.
- 6 5. The commission may borrow, accept, or contract for the services of personnel from
7 any state or from the United States, or from any subdivision or agency thereof,
8 from any interstate agency, or from any person.
- 9 6. The commission may accept for any of its purposes and functions under the
10 compact donations and grants of money, equipment, supplies, materials, and
11 services, conditional or otherwise, from any state or the United States or from any
12 subdivision or agency thereof, from an interstate agency, or from any person, and
13 may receive, use, and dispose of the same.
- 14 7. The commission may enter agreements with any other interstate education
15 organization or agency, with institutions of higher education located in nonmember
16 states, and with any of the various states to provide adequate programs and
17 services in higher education for the citizens of the respective compacting states.
18 After negotiations with interested institutions and interstate organizations or
19 agencies, the commission shall determine the cost of providing the programs and
20 services in higher education for use in these agreements.
- 21 8. The commission may establish and maintain offices in one or more of the
22 compacting states.
- 23 9. The commission may establish committees and hire staff as necessary to carry out
24 its functions.
- 25 10. The commission may provide for actual and necessary expenses for the
26 attendance of its members at official meetings of the commission or of its
27 designated committees.

28 Article IV. Activities of the Commission

- 29 1. The commission shall collect data on the long-range effects of the compact on
30 higher education. By the end of the fourth year from the effective date of the
31 compact and every two years thereafter, the commission shall review its

- 1 by their respective legislative assemblies. The amount must be apportioned
2 equally among the compacting states.
- 3 2. The commission may not incur any obligations prior to the passage of
4 appropriations adequate to meet the same; nor may the commission pledge the
5 credit of any of the compacting states, except by and with the authority of the
6 compacting state.
- 7 3. The commission shall keep accurate accounts of its receipts and disbursements.
8 The receipts and disbursements of the commission are subject to the audit and
9 accounting procedures established under its bylaws. All receipts and
10 disbursements handled by the commission must be audited yearly by a certified or
11 licensed public accountant and the report of the audit must be included in and
12 become part of the annual report of the commission.
- 13 4. The accounts of the commission must be open at any reasonable time for
14 inspection by duly authorized representatives of the compacting states and by
15 persons authorized by the commission.

16 Article VI. Eligible Parties and Entry Into Force

- 17 1. The states of Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri,
18 Nebraska, North Dakota, Ohio, South Dakota, and Wisconsin are eligible to
19 become parties to this compact. Additional states may be eligible if approved by a
20 majority of the compacting states.
- 21 2. This compact becomes effective, as to any eligible party state, when its legislative
22 assembly enacts the compact into law.
- 23 3. An amendment to the compact becomes effective upon its enactment by the
24 legislative assemblies of all compacting states.

25 Article VII. Withdrawal, Default, and Termination

- 26 1. A compacting state may withdraw from the compact by enacting a statute repealing
27 the compact, but the withdrawal may not become effective until two years after the
28 enactment of such statute. A withdrawing state is liable for any obligation that it
29 incurred on account of its party status, up to the effective date of withdrawal,
30 except that if the withdrawing state has specifically undertaken or committed itself

1 to any performance of an obligation extending beyond the effective date of
2 withdrawal, it remains liable to the extent of the obligation.

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

13 Article VIII. Severability and Construction

14 The provisions of this compact are severable, and if any phrase, clause, sentence, or
15 provision of this compact is declared to be contrary to the constitution of any compacting state
16 or of the United States or its applicability to any person or circumstance is held invalid, the
17 validity of the remainder of the compact and its applicability to any person or circumstance may
18 not be affected. If the compact is found to be contrary to the constitution of any compacting
19 state, the compact remains in full force and effect as to the remaining states and in full force
20 and effect as to the state affected as to all severable matters. The provisions of the compact
21 must be liberally construed to effectuate the purpose of the compact.

22 **SECTION 2. Midwestern higher education commission - Terms - Vacancies.**

23 1. The members of the midwestern higher education commission representing this
24 state are:
25 a. The governor or the governor's designee.
26 b. One member of the senate, appointed by the majority leader of the senate.
27 c. One member of the house of representatives, appointed by the speaker of the
28 house.
29 d. Two at large members, one of whom must be knowledgeable about the field
30 of higher education, appointed by the governor.

Fifty-sixth
Legislative Assembly

- 1 2. The term of each legislative appointee is two years. One initial at large member
- 2 must be appointed for a term of two years and the other for a term of four years.
- 3 Thereafter, the term of each at large member is four years.
- 4 3. If a member vacates the position to which the member was appointed, the position
- 5 must be filled for the remainder of the unexpired term in the same manner as that
- 6 position was filled initially.