

LEGISLATIVE BILL 209

Approved by the Governor June 5, 1991

Introduced by Withem, 14; Conway, 17; Warner, 25

AN ACT relating to higher education; to adopt the
Midwestern Higher Education Compact; to
provide for certain appointments; and to
declare an emergency.

Be it enacted by the people of the State of Nebraska,

Section 1. The State of Nebraska hereby
ratifies and approves the following compact:

MIDWESTERN HIGHER EDUCATION COMPACT

ARTICLE I

PURPOSE

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

ARTICLE II

THE COMMISSION

A. The compacting states hereby create the
Midwestern Higher Education Commission, hereinafter
called the Commission. The Commission shall be a body
corporate of each compacting state. The Commission
shall have all the responsibilities, 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 in accordance with
the terms of this compact.

B. 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 appointing states. Any commissioner appointed to fill a vacancy shall serve until the end of the incomplete term.

C. The Commission shall select annually, from among its members, a chairperson, a vice-chairperson, and a treasurer.

D. 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.

E. 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.

F. Each compacting state represented at any meeting of the Commission shall be 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

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

B. 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.

C. 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.

D. 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.

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

F. 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.

G. 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 the 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 in these agreements.

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

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

J. 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

A. 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.

B. 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 draft and recommend to the governors and legislatures of the various compacting states suggested legislation dealing with problems of higher education.

C. 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 cost 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.

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

E. 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

A. The monies 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.

B. 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.

C. 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.

D. 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

A. 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 the majority of the compacting states.

B. As to any eligible party state, this compact shall become effective when its legislature shall have enacted the same into law, except that it shall not become initially effective until enacted into law by five states prior to December 31, 1995.

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

ARTICLE VII

WITHDRAWAL, DEFAULT AND TERMINATION

A. 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.

B. 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.

Sec. 2. Notwithstanding any provision of Article II of the Midwestern Higher Education Compact, members of the Midwestern Higher Education Commission residing in Nebraska shall be as follows: (1) The Governor or his or her designee who shall serve during the tenure of office of the Governor; (2) two members of the Legislature selected by the Executive Board of the Legislative Council; and (3) two members appointed by the Governor representing higher education, at least one of whom shall be a member of the statewide coordinating commission for postsecondary education. The director of such coordinating commission shall serve as an ex officio member of the Midwestern Higher Education Commission. Length of terms of the members appointed pursuant to subdivision (3) of this section shall be as provided in Article II of the compact for at-large members. Vacancies shall be filled as provided in such article.

Sec. 3. Since an emergency exists, this act

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shall be in full force and take effect, from and after its passage and approval, according to law.