

SECOND REGULAR SESSION

# HOUSE BILL NO. 1467

## 96TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES NASHEED (Sponsor),  
CARTER, WEBB AND JONES (63) (Co-sponsors).

4085L.011

D. ADAM CRUMBLISS, Chief Clerk

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### AN ACT

To repeal section 173.385, RSMo, and to enact in lieu thereof one new section relating to the higher education loan authority.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Section 173.385, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 173.385, to read as follows:

173.385. 1. The authority shall have the following powers, together with all powers incidental thereto or necessary for the performance thereof:

(1) To have perpetual succession as a body politic and corporate;

(2) To adopt bylaws for the regulation of its affairs and the conduct of its business;

(3) To sue and be sued and to prosecute and defend, at law or in equity, in any court having jurisdiction of the subject matter and of the parties;

(4) To have and to use a corporate seal and to alter the same at pleasure;

(5) To maintain an office at such place or places in the state of Missouri as it may designate;

(6) To issue bonds or other forms of indebtedness to obtain funds to purchase student loan notes or finance student loans, or both, including those which are guaranteed under the provisions of sections 173.095 to 173.187, or under the provisions of the federal Higher Education Act of 1965, as amended, or secondary education loans, or scholarships which have been converted to loans under the Missouri teacher education scholarship program provided for in sections 160.276 to 160.283. Such bonds or other forms of indebtedness shall be payable from and secured by a pledge of revenues derived from or by reason of the ownership of student loan

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

17 notes or financing of student loans, or both, and investment income or shall be payable from and  
18 secured as may be designated in a bond resolution authorized by the authority. Such bonds or  
19 other forms of indebtedness shall not constitute a debt or liability of the state of Missouri or of  
20 any political subdivision thereof;

21 (7) To cause proceeds of any bond or any other form of indebtedness to be used to  
22 purchase student loan notes or finance student loans, or both, including those which are  
23 guaranteed under section 173.110, or guaranteed under the federal Higher Education Act of  
24 1965, as amended, or secondary education loans, or scholarships which have been converted to  
25 loans under the Missouri teacher education scholarship program provided for in sections 160.276  
26 to 160.283;

27 (8) To sell or enter into agreements to sell student loan notes acquired pursuant to  
28 subdivision (7) of this section, and any agreement to sell student loan notes guaranteed under  
29 section 173.110 shall be subject to prior approval of the department. Such agreements to sell  
30 student loan notes shall be limited only by the terms of the bond resolution authorizing the issue  
31 of the bonds or other forms of indebtedness, but shall not be limited by any other provision of  
32 law limiting the sale of such student loan notes;

33 (9) To transfer assets of the authority to the Lewis and Clark discovery fund established  
34 in section 173.392;

35 (10) To accept appropriations, gifts, grants, bequests, and devises and to utilize or  
36 dispose of the same to carry out its purpose;

37 (11) To make and execute contracts, releases, compromises, and other instruments  
38 necessary or convenient for the exercise of its powers, or to carry out its purpose;

39 (12) To collect reasonable fees and charges in connection with making and servicing its  
40 loans, notes, bonds, obligations, commitments, and other evidences of indebtedness, and in  
41 connection with providing technical, consultative and project assistant services. Such fees and  
42 charges shall be used to pay the costs of the authority;

43 (13) To invest any funds not required for immediate disbursement in obligations of the  
44 state of Missouri or of the United States government or any instrumentality thereof, the principal  
45 and interest of which are guaranteed by the state of Missouri, or the United States government  
46 or any instrumentality thereof, or certificates of deposit or time deposits of federally insured  
47 banks, or federally insured savings and loan associations or of insured credit unions, or, with  
48 respect to moneys pledged or held under a trust estate or otherwise available for the owners of  
49 bonds or other forms of indebtedness, any investment authorized under the bond resolution  
50 governing the security and payment of such obligations or repurchase agreements for the  
51 specified investments;

52 (14) To acquire, hold and dispose of personal property to carry out its purposes;

53 (15) To enter into agreements or other transactions with any federal or state agency, any  
54 person and any domestic or foreign partnership, corporation, association or organization;

55 (16) To take any necessary actions to be qualified to issue tax-exempt bonds or other  
56 forms of tax-exempt indebtedness pursuant to the applicable provisions of the Internal Revenue  
57 Code of 1986, as amended, including the issuance of such bonds to fulfill the obligations of the  
58 authority under subsection 2 of this section;

59 (17) To take any necessary actions to be qualified to issue bonds or other forms of  
60 indebtedness, the interest on which is not exempt from federal income taxation, including the  
61 issuance of such bonds to fulfill the obligations of the authority under subsection 2 of this  
62 section;

63 (18) To service student loans for any owner thereof, regardless of whether such student  
64 loans are originated in this state or out of this state;

65 (19) To create, acquire, contribute to, or invest in any type of financial aid program that  
66 provides grants and scholarships to students.

67 2. The authority shall distribute three hundred fifty million dollars of assets of the  
68 authority to the Lewis and Clark discovery fund established in section 173.392 as follows: two  
69 hundred thirty million dollars no later than September 15, 2007; five million dollars by  
70 December 31, 2007; and five million dollars each quarter thereafter ending September 30, 2013.  
71 Any investment earnings on the moneys in the Lewis and Clark discovery fund shall be credited  
72 against the next distribution by the authority and shall thereby reduce the amount of any such  
73 distribution by the authority. The authority shall make any distributions to the Lewis and Clark  
74 discovery fund pursuant to the dates scheduled in this subsection, provided, however, that the  
75 date of any such distribution may be delayed by the authority if the authority determines that any  
76 such distribution may materially adversely effect the services and benefits provided Missouri  
77 students or residents in the ordinary course of the authority's business, the borrower benefit  
78 programs of the authority, or the economic viability of the authority. Notwithstanding the ability  
79 of the authority to delay any distribution required by this subsection, the distribution of the entire  
80 three hundred fifty million dollars of assets by the authority to the Lewis and Clark discovery  
81 fund shall be completed no later than September 30, 2013, unless otherwise approved by the  
82 authority and the commissioner of the office of administration.

83 3. No member of the authority who lawfully acts or votes on any agreement or other  
84 matter authorized under the powers granted to the authority under this section shall incur any  
85 personal liability as a result of such lawful deliberations, acts, or votes, and such members shall  
86 be immune from suit for such deliberations, acts, or votes. In no event shall such deliberations,  
87 acts, or votes constitute a conflict of interest under section 173.380.

88           4. Notwithstanding any provision of law to the contrary, in the event of the initial  
89 distribution of two hundred thirty million dollars of assets by the authority to the Lewis and  
90 Clark discovery fund created in section 173.392, the director of the department of economic  
91 development shall allocate to and reserve for the authority during the year of such first  
92 distribution and in at least each of the next fourteen years thereafter a percentage of the state  
93 ceiling under sections 108.500 to 108.532, which percentage shall at a minimum be equal to one  
94 and one-half percent less than the average percentage of the authority's allocation of state ceiling  
95 for the two calendar years 2005 and 2006 calculated annually. The dollar amount of state ceiling  
96 to be received by the authority as determined under the provisions of this subsection for calendar  
97 year 2014 and later years, not to exceed calendar year 2021, shall be reduced in any calendar year  
98 by the percentage of the three hundred fifty million dollars not yet distributed by the authority  
99 to the Lewis and Clark discovery fund by the preceding calendar year end.

100           **5. In any fiscal year beginning in the calendar year immediately following a**  
101 **calendar year in which the Missouri unemployment rate exceeded seven and five-tenths**  
102 **percent for every month in the calendar year, the authority shall reserve thirty million**  
103 **dollars of its assets to be expended for loan forgiveness to Missouri residents on loans**  
104 **which the authority owns. The department of higher education, in cooperation with the**  
105 **authority, shall promulgate rules establishing priorities for forgiveness. Any rule or**  
106 **portion of a rule, as that term is defined in section 536.010, that is created under the**  
107 **authority delegated in this section shall become effective only if it complies with and is**  
108 **subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This**  
109 **section and chapter 536 are nonseverable and if any of the powers vested with the general**  
110 **assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove**  
111 **and annul a rule are subsequently held unconstitutional, then the grant of rulemaking**  
112 **authority and any rule proposed or adopted after August 28, 2012, shall be invalid and**  
113 **void.**

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