

FIRST REGULAR SESSION

SENATE BILL NO. 200

96TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR CROWELL.

Read 1st time January 27, 2011, and ordered printed.

TERRY L. SPIELER, Secretary.

0652S.021

AN ACT

To repeal sections 100.270, 100.282, 173.385, 176.080, 215.030, 260.035, and 360.045, RSMo, and to enact in lieu thereof eight new sections relating to bond issuances.

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

Section A. Sections 100.270, 100.282, 173.385, 176.080, 215.030, 260.035, and 360.045, RSMo, are repealed and eight new sections enacted in lieu thereof, to be known as sections 100.270, 100.282, 173.385, 173.389, 176.080, 215.030, 260.035, and 360.045, to read as follows:

100.270. 1. The board shall have the power to:

- (1) Sue and be sued in its official name;
- (2) Adopt and use an official seal;
- (3) Confer with agencies of the state and development agencies, and with representatives of business, industry, and labor for the purpose of promoting the economic development of this state;
- (4) Consider and review applications for loans to be made from the development and reserve fund or for loans, bonds or notes to be made by or secured by the development and reserve fund, the guarantee fund, the export finance fund or the infrastructure development fund or any other available money, under sections 100.250 to 100.297, and for grants or loans to be made by or secured by the jobs now fund;
- (5) Enter into agreements with development agencies, borrowers, participating lenders and others to implement any of the provisions of sections 100.250 to 100.297;
- (6) Direct disbursements from the development and reserve fund, the

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

17 guarantee fund, the export finance fund, the infrastructure development fund,
18 and the jobs now fund as provided in sections 100.250 to 100.297;

19 (7) Administer the development and reserve fund, the guarantee fund, the
20 export finance fund, the infrastructure development fund, and the jobs now fund
21 and invest any portion of such funds not required for immediate disbursement in
22 obligations of the United States, or any agency or instrumentality of the United
23 States, in obligations of the state of Missouri and its political subdivisions, in
24 certificates of deposit and time deposits or other obligations of banks and savings
25 and loan associations or in such other obligations as may be prescribed by the
26 board;

27 (8) Apply for and accept gifts, grants, appropriations, loans or
28 contributions to the development and reserve fund, the guarantee fund, the
29 export finance fund, the infrastructure development fund, and the jobs now fund
30 from any source, public or private, and enter into contracts or other transactions
31 with any federal or state agency, any development agency, private organization,
32 or any other source in furtherance of the purposes of sections 100.250 to 100.297,
33 and do any and all things necessary in order to avail itself of such aid and
34 cooperation;

35 (9) Issue, from time to time, its negotiable revenue bonds or notes in such
36 principal amounts as, in its opinion, shall be necessary to provide sufficient funds
37 for achieving its purposes;

38 (10) Establish reserves to secure bonds, notes and loans issued or made
39 by the board, development agencies or participating lenders;

40 (11) Make, purchase, or participate in the making or purchase, of loans,
41 bonds, or notes to finance the costs of projects;

42 (12) Procure insurance, letters of credit, or other form of credit
43 enhancement, to secure the payment of principal and interest on any loans, bonds
44 or notes or other obligations of the board;

45 (13) Purchase, receive, take by grant, gift, devise, bequest or otherwise,
46 lease, or otherwise acquire, own, hold, improve, employ, use and otherwise deal
47 in and with, real or personal property, or any interest therein, wherever situated;

48 (14) Sell, convey, lease, exchange, transfer or otherwise dispose of, all or
49 any of its property, or any interest therein, wherever situated;

50 (15) Conduct hearings and other methods of examination, and authorize
51 any of its members to do so, on any matter material for its information and
52 necessary to the exercise of the duties of the board;

53 (16) Employ and fix the compensation of an executive director and such
54 other agents or employees as it considers necessary;

55 (17) Adopt, alter, or repeal its own bylaws, rules, and regulations
56 governing the manner in which its business may be transacted;

57 (18) Assess or charge a fee for each application it receives for funding for
58 a project or a jobs now project and assess or charge other fees as the board
59 determines to be reasonable to carry out its purposes, including, but not limited
60 to, fees or premiums for loans made from the development and reserve fund and
61 the export finance fund and for loans, bonds or notes secured by the development
62 and reserve fund, the guarantee fund, the export finance fund or the
63 infrastructure development fund or the jobs now fund;

64 (19) Make all expenditures which are incident and necessary to carry out
65 its purposes and powers;

66 (20) Take such action, enter into such agreements and exercise all other
67 powers and functions necessary or appropriate to carry out the duties and
68 purposes set forth in sections 100.250 to 100.297;

69 (21) Insure, coinsure, guarantee loans and make loans relating to
70 qualified export transactions and adopt criteria, by means of rules and
71 regulations, establishing which exporters shall be eligible for the insurance,
72 coinsurance, loan guarantees and loans which may be extended by the board;

73 (22) Do all things necessary to ensure full participation by the state of
74 Missouri in any federal program which may relate to the construction, repair,
75 replacement or further development of the infrastructure of the state and its
76 political subdivisions;

77 (23) Receive funds from the federal government for deposit into the
78 infrastructure development fund or the jobs now fund and authorize
79 disbursements therefrom. The board may enter into agreements with agencies
80 of the federal government and may, on behalf of the state of Missouri, do all
81 things necessary to ensure full participation by the state of Missouri in any
82 federal program which may relate to the repair, replacement or further
83 development of the infrastructure of the state and its political subdivisions;

84 (24) Set guidelines and priorities for loans, loan guarantees or grants from
85 the infrastructure development fund. The board is the sole state agency
86 authorized to set such guidelines and priorities with respect to the infrastructure
87 development fund on behalf of the state or any of its political subdivisions, and
88 loans, loan guarantees, or grants shall only be made upon approval of the board;

89 (25) Make equity investments in or otherwise acquire ownership interests
90 in: for-profit and not-for-profit federal- or state-authorized community
91 development corporations; small business investment companies, including
92 minority or specialized small business investment companies; and microloan
93 corporations and similar lending institutions, when such investments are deemed
94 to enhance the benefit of the public;

95 (26) Make investments in Missouri certified capital companies, as defined
96 by subdivision (5) of subsection 2 of section 135.500, or other investment
97 companies for investment in qualified Missouri businesses, as defined by
98 subdivision (14) of subsection 2 of section 135.500. All investments made by the
99 board for the eventual investment in qualified Missouri businesses shall be
100 matched by an equivalent investment made by the certified capital company or
101 other investment firm for investment into qualified Missouri businesses. All
102 investments made into Missouri qualified businesses under the provisions of this
103 subdivision shall be in the form of equity or unsecured debt financing. No
104 investment shall be made by the board under the provisions of this subdivision
105 without the approval of the director of the department of economic development;
106 and

107 (27) Make loans and grants from the jobs now fund in accordance with the
108 provisions of section 100.293.

109 **2. The board shall not approve any loan request from any state**
110 **educational institution, as such term is defined in section 176.010.**

100.282. 1. The Missouri development finance board, the Missouri health
2 and educational facilities authority, the Missouri higher education loan authority,
3 the Missouri housing development commission, and the environmental
4 improvement and energy resources authority shall only approve loan requests
5 from the state, any agency or department of the state[, or any state educational
6 institution] if the borrower's means of repayment is readily ascertainable and
7 reliable. With the exception of annual appropriation debt for state-owned
8 property, the entities listed in this section shall not approve such requests if the
9 means of repayment is contingent upon state funding that has not been granted,
10 unless the project has been approved by concurrent resolution of the general
11 assembly, or similar legislative directive or approval.

12 **2. Notwithstanding any provision of law to the contrary, the**
13 **entities listed in this section, except for the Missouri higher education**
14 **loan authority, shall not approve any loan request from any state**

15 **educational institution, as such term is defined in section 176.010.**

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

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

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

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

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

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

11 (6) To issue bonds or other forms of indebtedness to obtain funds to
12 purchase student loan notes or finance student loans, or both, including those
13 which are guaranteed under the provisions of sections 173.095 to 173.187, or
14 under the provisions of the federal Higher Education Act of 1965, as amended, or
15 secondary education loans, or scholarships which have been converted to loans
16 under the Missouri teacher education scholarship program provided for in
17 sections 160.276 to 160.283. Such bonds or other forms of indebtedness shall be
18 payable from and secured by a pledge of revenues derived from or by reason of
19 the ownership of student loan notes or financing of student loans, or both, and
20 investment income or shall be payable from and secured as may be designated in
21 a bond resolution authorized by the authority. Such bonds or other forms of
22 indebtedness shall not constitute a debt or liability of the state of Missouri or of
23 any political subdivision thereof;

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

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

36 the sale of such student loan notes;

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

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

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

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

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

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

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

64 (16) To take any necessary actions to be qualified to issue tax-exempt
65 bonds or other forms of tax-exempt indebtedness pursuant to the applicable
66 provisions of the Internal Revenue Code of 1986, as amended, including the
67 issuance of such bonds to fulfill the obligations of the authority under subsection
68 2 of this section;

69 (17) To take any necessary actions to be qualified to issue bonds or other
70 forms of indebtedness, the interest on which is not exempt from federal income
71 taxation, including the issuance of such bonds to fulfill the obligations of the

72 authority under subsection 2 of this section;

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

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

77 **(20) To issue bonds, notes, or other obligations to make loans to**
78 **the governing body of any participating state educational institution,**
79 **as such term is defined in section 176.010, for the cost of any facility or**
80 **facilities in accordance with an agreement between the authority and**
81 **the governing body of any such participating state educational**
82 **institution, except that no such loan shall exceed the total cost of such**
83 **facility or facilities as determined by the governing body of the**
84 **participating state educational institution, and approved by the**
85 **authority;**

86 **(21) To approve bond issuances by the governing body of a state**
87 **educational institution pursuant to sections 176.010 to 176.080;**

88 **(22) To approve the incurrence of debt by the governing body of**
89 **a state educational institution, as such term is defined in section**
90 **176.010, for the payment of revenue bonds.**

91 2. The authority shall distribute three hundred fifty million dollars of
92 assets of the authority to the Lewis and Clark discovery fund established in
93 section 173.392 as follows: two hundred thirty million dollars no later than
94 September 15, 2007; five million dollars by December 31, 2007; and five million
95 dollars each quarter thereafter ending September 30, 2013. Any investment
96 earnings on the moneys in the Lewis and Clark discovery fund shall be credited
97 against the next distribution by the authority and shall thereby reduce the
98 amount of any such distribution by the authority. The authority shall make any
99 distributions to the Lewis and Clark discovery fund pursuant to the dates
100 scheduled in this subsection, provided, however, that the date of any such
101 distribution may be delayed by the authority if the authority determines that any
102 such distribution may materially adversely effect the services and benefits
103 provided Missouri students or residents in the ordinary course of the authority's
104 business, the borrower benefit programs of the authority, or the economic viability
105 of the authority. Notwithstanding the ability of the authority to delay any
106 distribution required by this subsection, the distribution of the entire three
107 hundred fifty million dollars of assets by the authority to the Lewis and Clark

108 discovery fund shall be completed no later than September 30, 2013, unless
109 otherwise approved by the authority and the commissioner of the office of
110 administration.

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

117 4. Notwithstanding any provision of law to the contrary, in the event of
118 the initial distribution of two hundred thirty million dollars of assets by the
119 authority to the Lewis and Clark discovery fund created in section 173.392, the
120 director of the department of economic development shall allocate to and reserve
121 for the authority during the year of such first distribution and in at least each of
122 the next fourteen years thereafter a percentage of the state ceiling under sections
123 108.500 to 108.532, which percentage shall at a minimum be equal to one and
124 one-half percent less than the average percentage of the authority's allocation of
125 state ceiling for the two calendar years 2005 and 2006 calculated annually. The
126 dollar amount of state ceiling to be received by the authority as determined under
127 the provisions of this subsection for calendar year 2014 and later years, not to
128 exceed calendar year 2021, shall be reduced in any calendar year by the
129 percentage of the three hundred fifty million dollars not yet distributed by the
130 authority to the Lewis and Clark discovery fund by the preceding calendar year
131 end.

**173.389. 1. No governing body of a state educational institution,
2 as such term is defined in section 176.010, shall issue revenue bonds or
3 incur debt from any source whatsoever for the payment of revenue
4 bonds, irrespective of the issuer of such bonds, unless approved by the
5 authority, as provided in this section.**

**6 2. The authority shall only approve the issuance of revenue
7 bonds or make a loan to the governing body of a state educational
8 institution, as such term is defined in section 176.010, when the
9 following conditions are satisfied:**

10 **(1) The state educational institution receives an "A" or better
11 bond credit rating by an independent credit rating service;**

12 **(2) The authority has evaluated the ability of the institution to**

13 **increase tuition and fees, as provided in section 173.1003, and finds that**
14 **no impediment exists for the payment of bonds or repayment of the**
15 **loan;**

16 **(3) The governing body has put in place any necessary increase**
17 **in tuition or fees, or has otherwise already established a new revenue**
18 **stream, to provide funds sufficient to pay the bonds or repay the loan**
19 **prior to the actual issuance of bonds or incurrence of debt; and**

20 **(4) The ability of the governing body to pay the bonds or repay**
21 **the debt is not contingent on state funding that has not been granted.**

22 **3. As an alternative to the condition in subdivision 3 of**
23 **subsection 2 of this section, the authority may approve the issuance of**
24 **bonds or make a loan to the governing body of a state educational**
25 **institution that has not increased tuition or fees or established a new**
26 **revenue stream, if an independent credit rating service determines that**
27 **the state educational institution has existing tuition, fees, and revenues**
28 **at a level sufficient to pay the bonds or repay the loan.**

176.080. Bonds may be issued under the provisions of sections 176.010 to
2 176.080 pursuant to a resolution adopted by the affirmative vote of two-thirds of
3 the members of the governing body of any state educational institution as herein
4 defined, and [no other proceedings shall be required therefor] **upon approval**
5 **from the Missouri higher education loan authority, as provided in**
6 **section 173.389.**

215.030. 1. The commission is hereby granted, has and may exercise all
2 powers necessary or appropriate to carry out and effectuate its purpose, including
3 but not limited to the following:

4 (1) To make, purchase or participate in the purchase of uninsured,
5 partially insured or fully insured loans, including mortgages insured or otherwise
6 guaranteed by the federal government, or mortgages insured or otherwise
7 guaranteed by other insurers of mortgages to approved mortgagors to finance the
8 building, rehabilitation or purchase of residential housing designed and planned
9 to be available for rental or sale to low-income or moderate-income persons or
10 families, as well as to finance the building, rehabilitation or purchase of
11 residential housing in distressed communities as defined in section 135.530
12 planned to be available for rental or sale to persons or families of any income
13 level, or which will be occupied and owned by low-income or moderate-income
14 persons, persons of any income level in distressed communities or families upon

15 such terms as designated in sections 215.010, 215.030, 215.060, 215.070, 215.090
16 and 215.160; or to purchase or participate in the purchase of any other securities
17 which are secured, directly or indirectly, by any such loan;

18 (2) Insure any loan, the funds of which are to be used for the purposes of
19 sections 215.010 to 215.250 and the borrower of which agrees to the restrictions
20 placed on such projects by the commission;

21 (3) To make or participate in the making of uninsured or federally insured
22 construction loans to approve mortgagors of residential housing for occupancy by
23 persons and families of low to moderate income or occupancy by persons and
24 families of any income level in distressed communities as defined in section
25 135.530. Such loans shall be made only upon determination by the commission
26 that construction loans are not otherwise available, wholly or in part, from
27 private lenders upon reasonably equivalent terms and conditions. No
28 commitment for a loan, except a "commitment in principle", shall be made unless
29 all plans for development have been completed and submitted to the commission;

30 (4) To make temporary loans, with or without interest, but with such
31 security for repayment as the commission deems reasonably necessary and
32 practicable, to defray development costs to approved mortgagors of residential
33 housing for occupancy by persons and families of low and moderate income;

34 (5) Adopt bylaws for the regulation of its affairs and the conduct of its
35 business and define, from time to time, the terms "low-income" and
36 "moderate-income" so as to best carry out the purposes of sections 215.010 to
37 215.250 for the people intended hereby to be assisted. The definition may vary
38 from one part of the state to another depending on economic factors in each
39 section;

40 (6) To accept appropriations, gifts, grants, bequests, and devises and to
41 utilize or dispose of the same to carry out its purpose;

42 (7) To make and execute contracts, releases, compromises, and other
43 instruments necessary or convenient for the exercise of its powers, or to carry out
44 its purpose;

45 (8) To collect reasonable fees and charges in connection with making and
46 servicing its loans, notes, bonds, obligations, commitments, and other evidences
47 of indebtedness, and in connection with providing technical, consultative and
48 project assistant services. Such fees and charges shall be limited to the amounts
49 required to pay the costs of the commission, including operating and
50 administrative expenses, and reasonable allowances for losses which may be

51 incurred;

52 (9) To invest any funds not required for immediate disbursement in
53 obligations of the state of Missouri or of the United States government or any
54 instrumentality thereof, the principal and interest of which are guaranteed by the
55 state of Missouri, or the United States government or any instrumentality
56 thereof, or bank certificates of deposit, or, in the case of funds pledged to note or
57 bond issues of the commission, in such investments as the commission may
58 determine; provided that on the date of issuance such note or bond issues are
59 rated by Standard & Poor's Corporation not lower than "AA" in the case of
60 long-term obligations or "SP-1+" in the case of short-term obligations or rated by
61 Moody's Investors Service, Inc., not lower than "Aa" in the case of long-term
62 obligations or Moody's Investment Grade I in the case of short-term obligations,
63 or the equivalent ratings by such rating agencies in the event the ratings
64 described in this section are changed;

65 (10) To sue and be sued;

66 (11) To have a seal and alter the same at will;

67 (12) To make, and from time to time, amend and repeal bylaws, rules and
68 regulations not inconsistent with the provisions of sections 215.010 to 215.250;

69 (13) To acquire, hold and dispose of personal property for its purposes;

70 (14) To enter into agreements or other transactions with any federal or
71 state agency, any person and any domestic or foreign partnership, corporation,
72 association or organization;

73 (15) To acquire real property, or an interest therein, in its own name, to
74 sell, transfer and convey any such property to a buyer, to lease such property to
75 a tenant to manage and operate such property, to enter into management
76 contracts with respect to such property and to mortgage such property;

77 (16) To sell, at public or private sale, any mortgage, negotiable instrument
78 or obligation securing a construction, land development, mortgage or temporary
79 loan;

80 (17) To procure insurance against any loss in connection with its property
81 in such amounts, and from such insurers, as may be necessary or desirable;

82 (18) To consent, whenever it deems it necessary or desirable in the
83 fulfillment of its purpose, to the modification of the rate of interest, time of
84 payment or any installment of principal or interest, or any other terms, of any
85 mortgage loan, mortgage loan commitment, construction loan, temporary loan,
86 contract or agreement of any kind to which the commission is a party;

87 (19) To make and publish rules and regulations respecting its lending,
88 insurance of loans, federally insured construction lending and temporary lending
89 to defray development costs and any such other rules and regulations as are
90 necessary to effectuate its purpose;

91 (20) To borrow money to carry out and effectuate its purpose and to issue
92 its negotiable bonds or notes as evidence of any such borrowing in such principal
93 amounts and upon such terms as shall be necessary to provide sufficient funds
94 for achieving its purpose, and to secure such bonds or notes by the pledge of
95 revenues, mortgages or notes of others;

96 (21) To issue renewal notes, to issue bonds to pay notes, and whenever it
97 deems refunding expedient, to refund any bonds by the issuance of new bonds,
98 whether the bonds to be refunded have or have not matured;

99 (22) To apply the proceeds from the sale of renewal notes or refunding
100 bonds to the purchase, redemption, or payment of the notes or bonds to be
101 refunded;

102 (23) To provide technical services to assist in the planning, processing,
103 design, construction or rehabilitation of residential housing for occupancy by
104 persons and families of low and moderate income, persons and families in
105 distressed communities as defined in section 135.530 of any income level or land
106 development for residential housing for occupancy by persons and families of low
107 and moderate income or persons and families in distressed communities of any
108 income level;

109 (24) To provide consultative project assistance services for residential
110 housing for occupancy by persons and families of low and moderate income or
111 persons and families of any income level in distressed communities as defined in
112 section 135.530 and for land development for residential housing for occupancy
113 by persons and families of low and moderate income, or for persons and families
114 of any income level in distressed communities and for the residents thereof with
115 respect to management, training and social services;

116 (25) To promote research and development in scientific methods of
117 constructing low cost residential housing of high durability; and

118 (26) To make, purchase or participate in the purchase of uninsured,
119 partially insured or fully insured loans and home improvement loans to sponsors
120 to finance the weatherization of single and multifamily dwellings, and shall issue
121 its negotiable bonds or notes for such purpose.

122 2. Any rule or portion of a rule, as that term is defined in section 536.010,

123 that is promulgated under the authority of this chapter, shall become effective
124 only if the agency has fully complied with all of the requirements of chapter 536
125 including but not limited to, section 536.028 if applicable, after January 1, 1999.
126 All rulemaking authority delegated prior to January 1, 1999, is of no force and
127 effect and repealed as of January 1, 1999, however nothing in this act shall be
128 interpreted to repeal or affect the validity of any rule adopted and promulgated
129 prior to January 1, 1999. If the provisions of section 536.028 apply, the
130 provisions of this section are nonseverable and if any of the powers vested with
131 the general assembly pursuant to section 536.028 to review, to delay the effective
132 date, or to disapprove and annul a rule or portion of a rule are held
133 unconstitutional or invalid, the purported grant of rulemaking authority and any
134 rule so proposed and contained in the order of rulemaking shall be invalid and
135 void, except that nothing in this act shall affect the validity of any rule adopted
136 and promulgated prior to January 1, 1999.

137 **3. The commission shall not approve any loan request from any**
138 **state educational institution, as such term is defined in section 176.010.**

260.035. 1. The authority is hereby granted and may exercise all powers
2 necessary or appropriate to carry out and effectuate its purposes pursuant to the
3 provisions of sections 260.005 to 260.125, including, but not limited to, the
4 following:

5 (1) To adopt bylaws and rules after having held public hearings thereon
6 for the regulation of its affairs and the conduct of its business;

7 (2) To adopt an official seal;

8 (3) To maintain a principal office and such other offices within the state
9 as it may designate;

10 (4) To sue and be sued;

11 (5) To make and execute leases, contracts, releases, compromises and
12 other instruments necessary or convenient for the exercise of its powers or to
13 carry out its purposes;

14 (6) To acquire, construct, reconstruct, enlarge, improve, furnish, equip,
15 maintain, repair, operate, lease, finance and sell equipment, structures, systems
16 and projects and to lease the same to any private person, firm, or corporation, or
17 to any public body, political subdivision or municipal corporation. Any such lease
18 may provide for the construction of the project by the lessee;

19 (7) To issue bonds and notes as hereinafter provided and to make,
20 purchase, or participate in the purchase of loans or municipal obligations and to

21 guarantee loans to finance the acquisition, construction, reconstruction,
22 enlargement, improvement, furnishing, equipping, maintaining, repairing,
23 operating or leasing of a project;

24 (8) To invest any funds not required for immediate disbursement in
25 obligations of the state of Missouri or of the United States or any agency or
26 instrumentality thereof, or in bank certificates of deposit; provided, however, the
27 foregoing limitations on investments shall not apply to proceeds acquired from
28 the sale of bonds or notes which are held by a corporate trustee pursuant to
29 section 260.060;

30 (9) To acquire by gift or purchase, hold and dispose of real and personal
31 property in the exercise of its powers and the performance of its duties hereunder;

32 (10) To employ managers and other employees and retain or contract with
33 architects, engineers, accountants, financial consultants, attorneys and such other
34 persons, firms or corporations who are necessary in its judgment to carry out its
35 duties, and to fix the compensation thereof;

36 (11) To receive and accept appropriations, bequests, gifts and grants and
37 to utilize or dispose of the same to carry out its purposes pursuant to the
38 provisions of sections 260.005 to 260.125;

39 (12) To engage in research and development with respect to pollution
40 control facilities and solid waste or sewage disposal facilities, and water facilities,
41 resource recovery facilities and the development of energy resources;

42 (13) To collect rentals, fees and other charges in connection with its
43 services or for the use of any project hereunder;

44 (14) To sell at private sale any of its property or projects to any private
45 person, firm or corporation, or to any public body, political subdivision or
46 municipal corporation on such terms as it deems advisable, including the right
47 to receive for such sale the note or notes of any such person to whom the sale is
48 made. Any such sale shall provide for payments adequate to pay the principal
49 of and interest and premiums, if any, on the bonds or notes issued to finance such
50 project or portion thereof. Any such sale may provide for the construction of the
51 project by the purchaser of the project;

52 (15) To make, purchase or participate in the purchase of loans to finance
53 the development and marketing of:

54 (a) Means of energy production utilizing energy sources other than fossil
55 or nuclear fuel, including, but not limited to, wind, water, solar, biomass, solid
56 waste, and other renewable energy resource technologies;

57 (b) Fossil fuels and recycled fossil fuels which are indigenous energy
58 resources produced in the state of Missouri, including coal, heavy oil, and tar
59 sands; and

60 (c) Synthetic fuels produced in the state of Missouri;

61 (16) To insure any loan, the funds of which are to be used for the
62 development and marketing of energy resources as authorized by sections 260.005
63 to 260.125;

64 (17) To make temporary loans, with or without interest, but with such
65 security for repayment as the authority deems reasonably necessary and
66 practicable, to defray development costs of energy resource development projects;

67 (18) To collect reasonable fees and charges in connection with making and
68 servicing its loans, notes, bonds and obligations, commitments, and other
69 evidences of indebtedness made, issued or entered into to develop energy
70 resources, and in connection with providing technical, consultative and project
71 assistance services in the area of energy development. Such fees and charges
72 shall be limited to the amounts required to pay the costs of the authority,
73 including operating and administrative expenses, and reasonable allowance for
74 losses which may be incurred;

75 (19) To enter into agreements or other transactions with any federal or
76 state agency, any person and any domestic or foreign partnership, corporation,
77 association, or organization to carry out the provisions of sections 260.005 to
78 260.125;

79 (20) To sell, at public or private sale, any mortgage and any real or
80 personal property subject to that mortgage, negotiable instrument, or obligation
81 securing any loan;

82 (21) To procure insurance against any loss in connection with its property
83 in such amounts, and from such insurers, as may be necessary or desirable;

84 (22) To consent to the modification of the rate of interest, time of payment
85 for any installment of principal or interest, or any other terms, of any loan, loan
86 commitment, temporary loan, contract, or agreement made directly by the
87 authority;

88 (23) To make and publish rules and regulations concerning its lending,
89 insurance of loans, and temporary lending to defray development costs, along
90 with such other rules and regulations as are necessary to effectuate its purposes.
91 No rule or portion of a rule promulgated under the authority of sections 260.005
92 to 260.125 shall become effective unless it has been promulgated pursuant to the

93 provisions of section 536.024;

94 (24) To borrow money to carry out and effectuate its purpose in the area
95 of energy resource development and to issue its negotiable bonds or notes as
96 evidence of any such borrowing in such principal amounts and upon such terms
97 as shall be determined by the authority, and to secure such bonds or notes by the
98 pledge of revenues, mortgages, or notes of others as authorized by sections
99 260.005 to 260.125.

100 2. The authority shall develop a hazardous waste facility if the study
101 required in section 260.037 demonstrates that a facility is economically
102 feasible. The facility, which shall not include a hazardous waste landfill, may be
103 operated by any eligible party as specified in this section. The authority shall
104 begin development of the facility by July 1, 1985.

105 **3. The authority shall not approve any loan request from any**
106 **state educational institution, as such term is defined in section 176.010.**

360.045. The authority shall have the following powers together with all
2 powers incidental thereto or necessary for the performance thereof:

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

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

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

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

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

11 (6) To determine the location and construction of any facility to be
12 financed under the provisions of sections 360.010 to 360.140, and to construct,
13 reconstruct, repair, alter, improve, extend, maintain, lease, and regulate the
14 same; and to designate a participating health institution or a participating
15 educational institution, as the case may be, as its agent to determine the location
16 and construction of a facility undertaken by such participating health institution
17 or participating educational institution, as the case may be, under the provisions
18 of sections 360.010 to 360.140, to construct, reconstruct, repair, alter, improve,
19 extend, maintain, and regulate the same, and to enter into contracts for any and
20 all of such purposes including contracts for the management and operation of the
21 facility;

22 (7) To lease to a participating health institution or a participating

23 educational institution, as the case may be, the particular health or educational
24 facility or facilities, as the case may be, upon such terms and conditions as the
25 authority shall deem proper; to charge and collect rent therefor; to terminate any
26 such lease upon the failure of the lessee to comply with any of the obligations
27 thereof; to include in any such lease, if desired, provisions that the lessee thereof
28 shall have options to renew the term of the lease for such period or periods at
29 such rent as shall be determined by the authority or to purchase any or all of the
30 particular leased facility or facilities; and, upon payment of all of the
31 indebtedness incurred by the authority for the financing of the facility or
32 facilities, to convey any or all of such facility or facilities to the lessee or lessees
33 thereof. Every lease agreement between the authority and an institution must
34 contain a clause obligating the institution not to use the leased land, nor any
35 facility located thereon, for sectarian instruction or study or as a place of religious
36 worship, or in connection with any part of the program of a school or department
37 of divinity of any religious denomination; to insure that this covenant is honored,
38 each lease agreement shall allow the authority to conduct inspections, and every
39 conveyance of title to an institution shall contain a restriction against use for any
40 sectarian purpose;

41 (8) To issue its bonds, notes, or other obligations for any of its corporate
42 purposes and to refund the same, all as provided in sections 360.010 to 360.140;

43 (9) To fix and revise from time to time and make and collect rates, rents,
44 fees, and charges for the use of and services furnished or to be furnished by any
45 facility or facilities or any portion thereof and to contract with any person, firm,
46 or corporation or other body, public or private, in respect thereof; except that the
47 authority shall have no jurisdiction over rates, rents, fees, and charges
48 established by a participating educational institution for its students or
49 established by a participating health institution for its patients other than to
50 require that such rates, rents, fees, and charges by such an institution be
51 sufficient to discharge the institution's obligations to the authority;

52 (10) To establish rules and regulations for review by or on behalf of the
53 authority of the retention or employment by a participating health institution or
54 by a participating educational institution, as the case may be, of consulting
55 engineers, architects, attorneys, accountants, construction and finance experts,
56 superintendents, managers, and such other employees and agents as shall be
57 determined to be necessary in connection with any such facility or facilities and
58 for review by or on behalf of the authority of all reports, studies, or other material

59 prepared in connection with any bond issue of the authority for any such facility
60 or facilities. The costs incurred or to be incurred by a participating health
61 institution or by a participating educational institution in connection with the
62 review shall be deemed, where appropriate, an expense of constructing the facility
63 or facilities or, where appropriate, shall be deemed an annual expense of
64 operation and maintenance of the facility or facilities;

65 (11) To receive and accept from any public agency loans or grants for or
66 in aid of the construction of a facility or facilities, or any portion thereof, or for
67 equipping the same and to receive and accept grants, gifts, or other contributions
68 from any source;

69 (12) To mortgage or pledge all or any portion of any facility or facilities,
70 including any other health or educational facility or facilities conveyed to the
71 authority for such purpose and the site or sites thereof, whether then owned or
72 thereafter acquired, for the benefit of the holders of the bonds of the authority
73 issued to finance such facility or facilities or any portion thereof or issued to
74 refund or refinance outstanding indebtedness of a private health institution or a
75 private institution of higher education as permitted by sections 360.010 to
76 360.140;

77 (13) To make loans to any participating health institution or participating
78 **private** educational institution, as the case may be, for the cost of any facility
79 or facilities in accordance with an agreement between the authority and such
80 participating health institution or participating **private** educational institution,
81 as the case may be; except that no such loan shall exceed the total cost of such
82 facility or facilities as determined by the participating health institution or
83 participating **private** educational institution, as the case may be, and approved
84 by the authority;

85 (14) To make loans to a participating health institution or participating
86 **private** educational institution, as the case may be, to refund outstanding
87 obligations, mortgages, or advances issued, made, or given by the institution for
88 the cost of its facility or facilities, including the power to issue bonds and make
89 loans to a participating health institution or participating **private** educational
90 institution, as the case may be, to refinance indebtedness incurred for facilities
91 undertaken and completed prior to or after September 28, 1975, whenever the
92 authority finds that the financing is in the public interest, alleviates a financial
93 hardship upon the participating health institution or participating **private**
94 educational institution, as the case may be, and results in a lesser cost of patient

95 care or cost of education and a saving to third parties, including state or federal
96 governments, and to others who must pay for the care or education;

97 (15) To inspect any and all facilities assisted by the authority in any way
98 to enforce the prohibition against sectarian or religious use at any time; and

99 (16) To do all things necessary and convenient to carry out the purposes
100 of sections 360.010 to 360.140.

✓

Unofficial

Bill

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