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**MINUTES OF A MEETING OF THE MEMBERS OF  
THE HIGHER EDUCATION LOAN AUTHORITY  
OF THE STATE OF MISSOURI  
ON DECEMBER 16, 2008**

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The Members of the Higher Education Loan Authority of the State of Missouri, a public instrumentality and body politic and corporate under the laws of the State of Missouri (the "Authority"), held a meeting of the Authority on Tuesday, December 16, 2008 at 9:00 a.m. at the office of the Authority, located at 633 Spirit Drive in Chesterfield, Missouri. Proper notice of the meeting was forwarded to the State for publication, mailed and otherwise provided to the Members, posted at the office of the Authority and on the Authority's website in advance of and during the meeting and provided to certain other individuals. On a roll call of the meeting, the following Members of the Authority were found to be present in person unless otherwise stated:

**Present**

Dr. John F. Smith  
Mr. Gregory Upchurch (by telephone)  
Dr. Robert H. Spence (by telephone)  
Mr. W. Thomas Reeves  
Dr. Robert Stein (by telephone)  
Mr. Randy L. Etter (by telephone)  
Ms. Jennifer Kneib (by telephone)

**Absent**

None

A quorum of the Members was present for the purposes of conducting business and exercising the powers of the Authority. Present in person and representing the staff of the Authority were Mr. Raymond H. Bayer, Jr., Executive Director, Chief Executive Officer and Assistant Secretary; Mr. Scott D. Giles, Director of Finance/Chief Financial Officer; Ms. Mary J. Stewart, Director of Operations; Mr. William C. Shaffner, Director of Business Development and Governmental Relations; Ms. Susan B. Crump, Assistant Director of Administration; Mr. Harry W. Lohse, Assistant Director of Information Systems and Information Security Officer; Ms. Jennifer Farmer, Assistant Director of Loan Servicing; Mr. Chris Lee, Assistant Director of Loan Origination; Ms. Lisa Adams, Senior Manager of System Design and Support; Mr. Barry Usry, Senior Manager of Product Development; Ms. Carol A. Malon, Controller; Ms. Colleen Slattery, Compliance Officer; Ms. Janet Saulich, Internal Auditor; Dr. James L. Matchefts, General Counsel; Ms. Cheryl Stevens, Executive Assistant; and Ms. Joan Conway, Paralegal. Also present in person were Mr. Michael F. Lause of Thompson Coburn LLP, Special Counsel to the Authority; Dr. Lynn Walker of Boundary Management Consultants; Mr. Tom Reiss of the Missouri Governor's Office; Mr. Doug Coombs of Wachovia; and Ms. Marilyn Bush of Bank of America. Also present by telephone were Ms. Lisa K. Thorp and Ms. Sara E. Kotthoff of Thompson Coburn LLP, Special Counsel to the Authority; Ms. Zora Aubuchon of the Missouri Department of Higher Education; and Mr. Chris Cronk, Ms. Emily Soohoo and Mr. Lekith Lokesh of Banc of America Securities LLC. Dr. Smith acted as Chair of the

meeting and Mr. Bayer acted as Assistant Secretary. Ms. Stevens and Ms. Conway of the Authority staff assisted Mr. Bayer in taking minutes of the meeting.

### **Call to Order**

The Chair called the meeting to order and asked if there were any public comments. There being no public comments, the Chair stated that the next agenda item was the discussion, consideration and vote on approval of minutes of the Authority meeting of October 31, 2008. The Chair asked if there were any corrections or discussion. There being none, he called for a motion to approve the minutes. Mr. Upchurch moved and Dr. Stein seconded a motion to approve the October 31, 2008 minutes as drafted and presented. The Chair asked if there was any further discussion on the motion. There being none, he called for a voice vote on said motion and it was unanimously approved.

The Chair announced that the motion to approve the minutes of the October 31, 2008 meeting of the Authority as drafted and presented had been unanimously approved.

### **Loan Facility Restructuring Resolution**

The Chair stated that, due to the time constraints of bank personnel, the Members would move to the seventh item on the agenda, the discussion, consideration and possible vote on a Resolution approving an amendment to restructure an existing student loan facility with Bank of America and various other financial institutions with a current facility limit of \$375 million and certain actions relative thereto.

Mr. Bayer stated this agenda item concerns the commercial paper conduit facility and that in the current credit markets such facilities are expensive and difficult to maintain. He stated that the facility began with a \$1 billion limit, which was then reduced to \$500 million, and more recently was reduced to \$375 million. He stated that the Authority could not afford to use the conduit line primarily because the equity requirements were too high. Mr. Bayer stated that there was a margin call by the bank demanding more equity two weeks prior to the date of this meeting, and that for the first time the Authority could not meet such a call. He stated that Bank of America did not immediately declare a default, but instead entered into negotiations with the Authority to amend the conduit. He stated that Bank of America has agreed to amend the current conduit under terms that are financially viable for the Authority.

Mr. Bayer advised that, under the terms of the conduit amendment, the Authority would put an additional approximately \$7 million into the conduit, which would reduce the conduit to approximately \$250 million with a payout schedule through July 2009. He informed the Members that the conduit matures July 23, 2009, and that the Authority will likely need to renew the line of credit at market rates at that time. He expressed his hope that by that time market rates will be lower or that the Authority will have other available options. He noted that the conduit will no longer be available for future draws, and that

management is recommending the Members approve the resolution authorizing the Authority to execute the conduit amendment and related actions.

The Chair asked for a motion to adopt Resolution No. 121608.03, authorizing execution of the conduit amendment and related actions. Mr. Reeves moved to adopt Resolution No. 121608.03 as presented and Mr. Etter seconded the motion. The Chair asked if there was any further discussion on the motion. There being none, he called for a vote on said motion. The following vote was recorded:

<u>Yeas</u>	<u>Nays</u>
Mr. W. Thomas Reeves	None
Mr. Randy L. Etter	
Dr. Robert Stein	
Dr. Robert H. Spence	
Ms. Jennifer Kneib	
Mr. Gregory Upchurch	
Dr. John F. Smith	

The Chair announced that the motion to adopt Resolution No. 121608.03 as presented was unanimously approved.

### **2009 Session of the Missouri General Assembly Update**

The Chair announced that the Members would next consider the fourth agenda item, the update, discussion and possible vote on matters relative to the 2009 session of the Missouri General Assembly.

Mr. Bayer stated that the Members had asked that a decision regarding representation in Jefferson City for the 2009 calendar year not be made until after the November elections. He stated that the Authority currently retains David Klarich and Trent Watson to advise and represent the Authority in legislative matters. He stated that if the Authority does not intend to pursue any legislative agenda and is not aware of any items with respect to which it would need to “play defense,” it would likely not require the services of Messrs. Klarich and Watson beginning January 1, 2009.

The Chair asked if a vote was needed for this item and the consensus of the Members was that a vote was not needed. All Members agreed that there is no need to retain paid lobbyists at this time.

Dr. Stein recommended that for the Members who have individuals at the Capitol regularly that those individuals keep extra ears and eyes open and keep the Authority informed of anything directly or indirectly related to business of the Authority. Mr. Upchurch stated that the political situation has changed on the executive side, and that if the Authority realizes the need to retain lobbyists in the future, then it should not

necessarily rehire the ones we already had, but check around to make certain that it retains the best candidates.

**Twenty-Seventh Supplemental Resolution – Commerce Bank Loan/Bond Swap**

The Chair announced that the next agenda item was the discussion, consideration and possible vote on a Twenty-Seventh Supplemental Resolution (the “Twenty-Seventh Supplemental Resolution,” presented as Resolution No. 121608.01) to the Eleventh General Student Loan Program Bond Resolution (as amended, the “General Resolution”) approving actions and documentation to effectuate the sale from the General Resolution’s Trust Estate of a significant amount of Higher Education Act Eligible Loans financed with the proceeds of bonds issued under the General Resolution to Commerce Bank, N.A. and the use of the proceeds of the sale of the Loans to purchase certain auction rate bonds issued pursuant to the General Resolution and owned by Commerce Bank for cancellation in order that the collateral parity level of the General Resolution’s Trust Estate would be enhanced.

Mr. Bayer stated that the General Resolution’s Trust Estate has \$3.5 billion in failed auction rate bonds that are stuck in the hands of investors. He stated that, given the interest rates on the bonds, the failed bonds are not hurting the Authority in the short-term, but in the long-term the failed bonds are not in the Authority’s best interest. He stated it would take too much money to refinance the bonds so that this swap of loans for bonds presents the only realistic alternative to enhance the Trust Estate at the present time.

Mr. Bayer advised that, under the terms of the Twenty-Seventh Supplemental Resolution, the Authority would sell approximately \$369 million in student loans to Commerce Bank at par, and would buy \$369 million in failed auction rate bonds from Commerce Bank at 97% of their par value. He stated that the bonds would be immediately canceled upon purchase, meaning that the General Resolution would become \$369 million smaller. Mr. Bayer stated that the Authority would retain servicing rights on the loans sold to Commerce Bank, the same borrower benefits would be retained, and the Authority would have a right of first refusal to buy the loans back. He stated that it is anticipated the Authority will close on the transaction on December 18, 2008.

Mr. Giles reviewed certain information with the Members that explained the transaction and he stated that there would be approximately \$10 million of profit generated pursuant to the sale of loans and purchase of bonds. Dr. Stein asked to be directed to the section within the supporting documentation that outlines the projection of the borrower benefits. He asked where it is stated that the borrower benefit will remain. Dr. Matchefts referred the Members to the provisions of the Loan Sale Agreement and the Servicing Agreement relative to borrower benefits. Dr. Stein stated that he was satisfied with the level of detail.

The Chair asked for a motion to adopt the Twenty-Seventh Supplemental Resolution. Mr. Lause noted that there were minor changes proposed for page 6, Section

2.07 of the Twenty-Seventh Supplemental Resolution. He recommended that the words, “the purchase price for the purchase of bonds” be inserted into the Twenty-Seventh Supplemental Resolution rather than using blanks within the referenced section of the document. Dr. Stein moved to adopt the Twenty-Seventh Supplemental Resolution with the understanding that the words as presented by Mr. Lause are accepted and Ms. Kneib seconded the motion. The Chair asked if there was any further discussion on the motion. There being none, he called for a vote on said motion. The following vote was recorded:

<u>Yeas</u>	<u>Nays</u>
Mr. W. Thomas Reeves	None
Mr. Randy L. Etter	
Dr. Robert Stein	
Dr. Robert H. Spence	
Ms. Jennifer Kneib	
Mr. Gregory Upchurch	
Dr. John F. Smith	

The Chair announced that the motion to adopt the Twenty-Seventh Supplemental Resolution with the understanding that the words as presented by Mr. Lause are accepted was unanimously approved.

#### **Lewis & Clark Distribution Resolution**

The Chair stated that the next item on the agenda was the discussion, consideration, and possible vote on a resolution authorizing and directing the distribution by the Authority of up to \$12.5 million of its assets to the Lewis and Clark Discovery Fund in the State Treasury by December 31, 2008, or the basis for delaying such distribution, in compliance with Section 173.385.2 of the Missouri Revised Statutes and related Authority actions and matters.

Mr. Bayer stated that the Authority is losing money, and has, through November 30, 2008, lost \$4.5 million in this fiscal year. He stated that the 2005 Trust Estate is in poor shape and has already lost approximately \$5.5 million this year. He advised that the worldwide credit crisis cannot be overstated as the credit markets are worse today than any point in the past.

The Chair asked if there was any light at the end of the tunnel. Mr. Reeves stated that the Authority is experiencing the realization of the interdependence of all financial markets, nationally and internationally. He stated that he does not see the economy hitting bottom at this point, and that 2009 will be a year when the markets continue to shake out.

Mr. Bayer agreed that 2009 will be a difficult year but he expressed his confidence in the Authority’s ability to weather the storm. He stated when you have a margin call that cannot be met, such as was discussed with respect to the conduit, that is a humbling experience. He stated that the Authority is in a vulnerable position and needs to be

extremely cautious. He advised that the Authority has to be cautious for the upcoming lending period that starts in July, and that because the loans that the Authority owns pay interest at a rate that is tied to financial commercial paper rates, which are currently at historically low levels, they are earning a lot less today. He observed that management is required to come back to the Members every quarter to determine the feasibility of making an LCDI payment and that management does not think the Authority will have the means to make an LCDI payment for some time to come. Ms. Kneib stated that it would be prudent on the part of the Authority to make certain that this point is communicated.

Dr. Stein stated that he has a different take. He stated the Authority needs to keep being responsible by acknowledging that there are so many unknowns, and that it is looking at the LCDI payments on a regular basis. He stated there are approximately \$110 million in projects that have not started, and what is going to happen to them is an open question. He stated that there may be some independent communication or message about projections in the future, however the Authority needs to be careful about sending mixed messages.

Mr. Reeves stated that he agrees with everyone. He stated that this should be a quarterly decision, and that the Authority is providing and will continue to provide good data and information about its ability to make LCDI payments. Mr. Upchurch asked if there is a statutory obligation to decide quarterly. Mr. Lause stated that quarterly decisions were required.

The Chair asked for a motion on the LCDI payment. Mr. Etter moved to adopt Resolution No. 121608.06 as presented, delaying the December 2008 payment and further delaying previously scheduled payments, except for investment earnings. Mr. Reeves seconded the motion. The Chair asked if there was any further discussion on the motion. Mr. Upchurch asked if there is any accumulated interest built up. Mr. Giles stated that there is \$326,600 in actual earned interest for November and estimated interest of \$350,000 for December. There being no further discussion, the Chair called for a vote on said motion. The following vote was recorded:


<u>Yeas</u>	<u>Nays</u>
Mr. W. Thomas Reeves	None
Mr. Randy L. Etter	
Dr. Robert Stein	
Dr. Robert H. Spence	
Ms. Jennifer Kneib	
Mr. Gregory Upchurch	
Dr. John F. Smith	

The Chair announced that the motion to adopt Resolution No. 121608.06 as presented was unanimously approved.

**Informational Items and Adjournment**

The Chair asked if there were any informational items or any additional items and, hearing none, he called for a motion to adjourn. Dr. Spence moved and Mr. Etter seconded a motion to adjourn the meeting which was unanimously approved by voice-vote. The meeting adjourned at approximately 9:55 a.m.

Approved:

  
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Raymond H. Bayer, Jr.  
Assistant Secretary