

Lake Michigan College Board of Trustees
Minutes of the Regular Meeting
<https://lakemichigancollege.zoom.us/j/91450720837>
Meeting ID: 914 5072 0837
September 22, 2020
5:00 p.m.

CALL TO ORDER

Chair Debra Johnson called the Regular Meeting of the Lake Michigan College Board of Trustees to order at 5:00 p.m. Ms. Johnson opened the meeting with the Pledge of Allegiance.

ROLL CALL

Present: Paul Bergan, Jeff Curry, Debra Johnson, Dr. Michael Lindley, Joan Smith, Mary Jo Tomasini

Absent: John Grover

SETTING OF THE AGENDA

Ms. Johnson moved agenda item C, Authority to Bind College to External Agreements policy to a 2nd read for approval.

APPROVAL OF MINUTES

Minutes of the August 25, 2020 Board Meeting were approved as presented with a motion by Mr. Bergan supported by Mr. Curry

PETITIONS AND COMMUNICATIONS FROM THE FLOOR

None

PRESIDENT'S REPORT

Dr. Trevor Kubatzke, President introduced Mr. Nygil Likely, Vice President of Student Affairs who introduced Mr. Nicholas Hooper, Director of Residence Life and Student Conduct.

Mr. Hooper gave a brief update and introduced this year's Beckwith Hall Resident Assistants:

- Tozsha Smith – Graduate Assistant for Housing and Live-In Support
- Charlie Kern – Resident Assistant
- Jonah Anderson – Resident Assistant
- Gabrielle Lechlitner – Resident Assistant
- Harold Milliner – Resident Assistant
- Avontae Young – Resident Assistant
- Kiley DeBarge – Resident Assistant

Mr. Hooper also gave an update on safety protocols students are following across all campuses to help prevent the spread of COVID-19. Dr. Kubatzke thanked the students for attending the meeting.

Academic Affairs

Dr. Leslie Kellogg, Provost and Vice President, Academic Affairs reported on the progress of the College's committee structure and the progress of realigning the committees' charges with College goals. She also discussed how the College is addressing the challenges presented in terms of refining remote instructional delivery modes and the plan to survey faculty and students to help identify any needed improvements in instruction.

Dr. Kellogg also reported on the status of the interim report on Assessment of Student Learning and Discipline and Program Review for the Higher Learning Commission.

Comments:

Mr. Bergan expressed the Board's appreciation for the College's work that has been done with Guided Pathways and asked for a presentation in the near future.

OLD BUSINESS

None

NEW BUSINESS

RADIOLOGIC TECHNOLOGY EQUIPMENT REQUEST

To support effective instruction during the COVID-19 pandemic, College administration requests approval to purchase a large format multi-touch clinical imaging and anatomical visualization platform for online, collaborative learning in our Radiologic Technology program. A complete Picture Archiving and Communication System (PACS) workstation will offer advanced visualizations of large datasets and the ability to import end-user patient cases. Included software provides a complete, whole body, 3D and cross-sectional anatomical reference built on data from the Visible Human Project. Over 50 students annually will benefit from hands-on learning experiences using this new equipment.

ACTION:

College administration recommends that the Board of Trustees authorize the College to award a contract Touch of Life Technologies to provide the Radiologic Technology Program equipment described herein in the amount of \$109,425 plus \$2,500 for necessary infrastructure to support equipment installation.

MOTION by Dr. Lindley with support by Mr. Bergan to award a contract to Touch of Life Technologies to provide the Radiologic Technology Program equipment described herein in

the amount of \$109,425 plus \$2,500 for necessary infrastructure to support equipment installation.

ROLL CALL VOTE

Yeas: Paul Bergan, Debra Johnson, Michael Lindley, Joan Smith, Mary Jo Tomasini, Jeff Curry

Nays: None

Absent: John Grover

APPROVED

POLICY REVISIONS

As part of ongoing efforts to review college policies in support of continuous quality improvement efforts, the following policy revisions were presented to the Board of Trustees for review and/or approval.

AUTHORITY TO BIND COLLEGE TO EXTERNAL AGREEMENTS

Office of Origin:	Board of Trustees
Responsibility:	President
Original Date Adopted:	10-26-10
Dates Reviewed:	08-24-15; 08-11-17; 12-04-19, 08-26-20
Last Date Approved:	04-22-2020, 09-22-20

Delegation of authority represents the legal power to act in the name of Lake Michigan College (the College) to bind the College to an obligation. Signing an agreement is the most common way delegated authority is exercised.

This policy delineates who has the authority to obligate the College to an external organization. This policy does not apply to those approvals required for processes internal to the College (e.g., timesheets, journal entries, purchase requisitions.)

The College is not bound by and may not recognize as binding any obligation made by an unauthorized person.

Any employee who fails to comply with this policy may be subject to disciplinary action ranging from reprimand to discharge. The nature and severity of the disciplinary action will be consistent with established disciplinary procedures.

Authorized Signatures

The President, acting on behalf of and through the authority of the Board of Trustees (the Board), is vested with general authority to execute documents and contracts on behalf of the College.

The President has also delegated signature authority to members of the executive management team (Cabinet) to bind the College as outlined in *Appendix I – Delegation of Authority for Transactions with External Organizations*.

In addition, others employees have been given authority to bind the College in specific instances as outlined in *Appendix II – Limited Delegation of Signature Authority within Area of Responsibility with External Organizations*.

Delegations in the appendices following are tied to the position and not to a specific individual – i.e., a person acting on an interim basis assumes the same authority to bind as if he or she held the position on a regular basis.

Delegation of Signature Authority Modification

Requests to modify the delegation of signature authority are to be directed to the President. The President may also make non-substantive changes to this policy to reflect changes to or elimination of titles or positions.

Required Procedure

Normal consultations, administrative reviews, and approvals are expected to occur prior to binding signature including, where appropriate, review by the President, appropriate Cabinet member, and/or College legal counsel.

Internal Controls

Proper segregation of duties must be maintained at all times so that no single employee is authorized to both approve a commitment of funds and to authorize the payment process.

Therefore, a person with delegated signing authority may not authorize the commitment of funds beyond those budgeted or approved in writing by a Cabinet member.

Conflicts

A person with delegated signing authority may not obligate the College to an agreement in which he or she has or could have a personal interest that would prevent objective analysis, such as one where he or she would personally benefit. Agreements in this category must be authorized by the person with authority at the next highest level organizationally.

Appendix I: Delegation of Authority with External Organizations

Up to \$100,000 and \$100,000+ with Board Approval

- Chief Financial Officer
- President
- Provost and Vice President, Academic Affairs
- Vice President, Advancement & Community Impact
- Vice President, Student Affairs

Up to \$25,000

- Dean, Accreditation, Planning, & Quality
- Dean, Arts & Sciences Education
- Dean, Career & Workforce Education
- Dean, Health Sciences Education
- Executive Director, Facilities Management

Appendix II: Limited Delegation of Authority within Area of Responsibility with External Organizations

Budget Managers

- Contracts and purchases up to \$2,500 within area of responsibility

Director, Hanson Technology Center

- Workforce Training & Development (WTD) and Hanson Center Technology related contracts and purchases up to \$10,000

Director, IT Operations; Director, Enterprise Solutions

- IT, technology, and telecomm contracts and purchases up to \$10,000

Director, Mainstage

- Mainstage contracts and purchases up to \$10,000

Executive Director, Community Impact & Resource Development

- Foundation contracts and purchases up to \$10,000

Executive Director, Facilities Management

- Contracts up to \$100,000 if related to a capital project approved by the Board

Executive Director, Finance

- Finance contracts and purchases up to \$10,000

Executive Director, Human Resources

- Human Resources contracts and purchases up to \$10,000

Executive Director, Marketing & Communications

- Marketing contracts and purchases up to \$10,000

Executive Director, Mendel Center Operations

- Mendel Center contracts, sponsorship and trade agreements, and purchases up to \$10,000

Grant Managers

- Contracts and purchases up to \$2,500 within area of responsibility

Manager, Purchasing & Risk Management

- Purchasing contracts, purchase orders, and purchases up to \$10,000

Vice President, Advancement & Community Impact

- Mendel Center artist/speaker/performer contracts with the co-signature of the Executive Director, Mendel Center Operations. Written notice of signed artist/speaker/performer contracts over \$100,000 will be made to the Board Chair and the President within one business day of binding.

MOTION by Ms. Smith with support by Mr. Bergan to approve the policy revision as presented.

ROLL CALL VOTE

Yeas: Paul Bergan, Debra Johnson, Michael Lindley, Joan Smith, Mary Jo Tomasini, Jeff Curry

Nays: None

Absent: John Grover

APPROVED

First Read policies carried over to October for a 2nd Read:

1. Acceptable Use for Technology Resources
2. Bank Accounts
3. Email - Employees (delete)
4. Investment

ACCEPTABLE USE OF TECHNOLOGY

Office of Origin:	Information Technologies
Responsibility:	Director, IT Operations and Director, Enterprise Solutions
Original Date Adopted:	02-20-96
Dates Reviewed:	01-15-12, 06-28-18, 08-19-20
Last Date Approved:	01-15-12 10-27-20 [board meeting date]

All Lake Michigan College (LMC) employees, contractors, students, and guests (“users”) who have any form of access to technology resources that reside at any LMC facility or that attach to any LMC network or a cloud system that hosts LMC data (collectively, “technology”) are subject to this policy. Technology includes, but is not limited to, computer systems, email, internet, wireless/wired networks, network access, hardware, and software.

Use of LMC technology is a privilege, not a right, and must fall within the acceptable use in this policy. LMC has the right to monitor use of its technology, including internet use, sites visited, programs used, and electronic communications made. Monitoring may be conducted without notice. There should be no expectation of privacy when using LMC technology, including LMC email.

Users are responsible for all activities conducted with their LMC ID as well as any other individual credential.

Nothing in this policy precludes separate conditions of use from being implemented for individual technologies. Such conditions would be deemed to supplement, rather than replace, this policy.

In general, acceptable use is defined as use that is:

- legal
- ethical
- respects intellectual property rights

- maintains an individual's right to privacy
- free from intimidation and harassment
- reflects academic honesty, and
- shows restraint in consumption of network resources.

The following are specifically prohibited using LMC technology:

1. Use of security access privileges for anything other than fulfilling job duties
2. Violating federal, state, and local laws/statutes
3. Engaging in libelous or slanderous activities
4. Violating privacy by sharing personal, confidential, or private information without an individual's permission
5. Transmitting personal identifying information (e.g., social security or credit card numbers)
6. Altering, dismantling, or disfiguring messages to hide or disguise originator of the message
7. Use of a false identity, including representing someone else or completing work using the identity of another individual in an unauthorized manner
8. Using another person's ID or log-in information
9. Seeking to gain unauthorized access to technology or data
10. Sharing ID or account numbers, passwords ([Passwords](#) policy), or other protected information
11. Political campaigning
12. Advertising not related to LMC
13. Conducting personal business during paid working hours, other than during paid work breaks
14. Installing or using programs (software, freeware, shareware, games, etc.) unless approved by IT, including demo/evaluation
15. Installing LMC software on personal devices unless licensing agreement permits such use
16. Violating copyright laws, such as copying software if not the registered owner or illegally sharing or using copyrighted software or digital content.
17. Engaging in activities or using any equipment that may damage or disrupt technology or may transmit LMC network communication (e.g., creating or spreading viruses, malware, or ransomware; misuse of resources; overloading a network with excessive data requests)
18. Sending or making accessible actively aggressive, attacking, or harassing material
19. Sending unsolicited or mass messages (i.e., spam)
20. Using technology to obtain, view or disseminate pornography
21. Transmitting or making accessible any content that discriminates against any protected classification (see [Non-Discrimination](#) policy)

Email

All employees and contractors acting on behalf of the College must use a College email

account for conducting College business. All College email communications should be conducted solely using College email and not personal email accounts. In addition, College email is to be used for College business, and should not generally be used for personal matters.

Users should exercise extreme caution in using email to communicate confidential or sensitive matters, and should not expect that email is confidential. Confidential or sensitive information must not be shared outside of the College via email, without authorization, at any time.

All email correspondence conducted using College technology is part of the College email system and property of the College. In instances of alleged violation of College policies or procedures email messages may be retrieved and reviewed by administration.

Violation of Policy

LMC may revoke user access any time this policy appears to have been violated until the investigative process is completed and resolution reached. Violation of this policy is subject to disciplinary procedures, up to and including suspension, discharge, dismissal, termination, expulsion, and/or legal action.

References:

- [Accessing E-mail Without Prior User Authorization](#) procedure
- [IT Governance](#) policy
- [Non-Discrimination](#) policy
- [Passwords](#) policy

BANK ACCOUNTS –CORPORATE AUTHORIZATION RESOLUTION

Office of Origin: Finance
Responsibility: Chief Financial Officer
Original Date Adopted: 06-23-09
Dates Reviewed: 01-15-12, 12-11-17
Last Date Approved: ~~12-11-17~~, 10-27-20 [next board meeting]

The Lake Michigan College (College) Board of Trustees (Board) Chair and Secretary as well as the College President and Chief Financial Officer (CFO) are delegated by the Board with the authority to:

- Open an account in a ~~commercial~~ bank or any other financial organization and depositing College funds.
- ~~Open or~~ close ~~any depository~~ accounts ~~of the College's~~.
- Enter into written agreements on behalf and in the name of the College for merchant services agreements, remote check capture agreements, ~~or~~ electronic banking services,
- ~~Enter into written agreements for renting, maintaining, accessing, and/or terminating a~~ safe deposit boxes, ~~or~~ night drop depository boxes and the like.
- Signing a *Corporate Authorization Resolution* on behalf of the College and Board.
- Determining authority levels to endorse checks and ~~orders for other~~ payments ~~of~~ money, approve ~~business~~ credit/debit card access devices, or otherwise withdraw or transfer funds on deposit with a bank.

Two signatures are required to transact each of the above authorized actions.

All account names must begin with "Lake Michigan College."

~~Copies of all signature cards will be maintained by the Director of Finance.~~

This should be in the debt policy:

~~The CFO does not have authority, without a written resolution approved by the Board, to:~~

- ~~Sign, execute, or deliver promissory or other evidences of indebtedness to borrow money on behalf of or in the name of the College.~~
- ~~Endorse, assign, transfer, mortgage or pledge accounts receivable, warehouse receipts, bills of lading, stocks, bonds, real estate or other property now owned or hereafter owned or acquired by the College as security for sums borrowed, or to discount the same, unconditionally guarantee payment of all bills received, negotiated or discounted and to waive demand, presentment, protest, notice of protest and notice of non-payment.~~

E-MAIL – EMPLOYEES Delete – Language incorporated into the Acceptable Use of Technology policy

Office of Origin: Information Technologies
Original Date Adopted: 04-24-01
Dates Reviewed: 01-15-12, 07-18-18
Last Date Modified & Approved: 08-28-18

All employees will receive and must use a Lake Michigan College (the College) email account. All College email communications should be conducted solely using College email and not personal email accounts. College email is to be used for College business, and should not generally be used for personal matters.

Users should exercise extreme caution in using email to communicate confidential or sensitive matters, and should not expect that email is restricted or confidential. Confidential or sensitive information must not be shared outside of the College via email, without authorization, at any time.

All email correspondence conducted using College resources is part of the College email system and property of the College. In instances of alleged violation of College policies or procedures e-mail messages may be retrieved and reviewed by College administration.

The following uses of College email are prohibited and are subject to disciplinary action, up to and including termination:

- to transmit personal identifying information such as social security numbers, credit card data or other sensitive data,
- to transmit or make accessible actively aggressive, attacking, pornographic or harassing content
- to transmit or make accessible any content that discriminates against any protected classification as defined in the College's *Non-Discrimination* policy,
- for private business, product advertisement or political lobbying,
- to alter, dismantle, or disfigure messages to hide or disguise originator of the message,
- for copyright infringement, and
- for sending unsolicited messages (SPAM) or mass emails.

Responsibility: Chief Financial Officer

References: Acceptable Use for Technology Resources policy; E-Mail – Students policy; Non-Discrimination policy

INVESTMENTS

Office of Origin: Finance
Responsibility: Chief Financial Officer
Original Date Adopted: 05-22-01
Dates Reviewed: 01-15-12, 11-20-17, 08-26-20
Last Date ~~Modified &~~ Approved: ~~11-20-17~~, 09-22-20 [board meeting]

~~It is the policy of~~ Lake Michigan College (the College) ~~Board of Trustees (the Board) to will~~ invest ~~College~~ funds in a manner that will comply with state ~~and federal~~ statutes governing the investment of public funds while providing the highest investment return ~~with~~ ~~maximum security~~ and meeting the ~~daily~~ cash flow needs of the College.

This policy applies to ~~all financial assets of the~~ College ~~investments~~ but excludes ~~assets~~ ~~those~~ of the Lake Michigan College Foundation.

~~The financial assets of the College are accounted for in various funds of the College, including the general fund, debt service fund, building and site fund, trust and agency fund, and any other funds established by the College. Investment income will be allocated to the various funds based on their respective participation and in accordance with Generally Accepted Accounting Principles.~~

~~The primary objectives of College banking and investment activities, in order of priority, are:~~

- ~~1. Safety – Investments will be undertaken in a manner that seeks to first and foremost ensure the safety of the principal and the preservation of capital in the overall portfolio.~~
- ~~2. Diversification – Investments will be diversified by security type, financial institution, and maturity in order to reduce portfolio and market risks.~~
- ~~3. Liquidity – The investment portfolio will remain sufficiently liquid to meet all operating requirements that may be reasonably anticipated.~~
- ~~4. Return on Investment – The investment portfolio will be designed with the objective of obtaining a rate of return throughout the budgetary and business cycles, taking into account risk constraints and cash flow characteristics of the portfolio.~~

~~Daily management responsibility for the investment program is delegated to the Chief Financial Officer and her/his designees.~~

Permissible Investments

The College will comply with section 389.142 of the Michigan Community College Act of 1966 No. 331, as amended. ~~The College will comply with~~ and the Divestment from Terror Act of 2008; ~~see Appendix B.~~

~~The College will not commingle money for the purpose of making an investment authorized by this section. All earnings on an investment will become a part of the fund for which the investment was made.~~

References: Michigan Community College Act No. 331, as amended
Divestment from Terror Act of 2008

Appendix A: COMMUNITY COLLEGE ACT OF 1966 (EXCERPT) - Act 331 of 1966

389.142 Investment of funds; restrictions; commingling prohibited; disposition of earnings; limitation on investment or deposit of funds; compliance with divestment from terror act; definitions.

(1) Subject to subsections (3) and (4), the treasurer of a community college district, if authorized by resolution of the board of trustees, may invest debt retirement funds, building and site funds, building and site sinking funds, or general funds of the district, but investment is restricted to the following:

(a) Bonds, bills, or notes of the United States, or of an agency or instrumentality of the United States.

(b) Negotiable certificates of deposit, saving accounts, or other interest-earning deposit accounts of a financial institution.

(c) Bankers' acceptances that are issued by a bank that is a member of the federal deposit insurance corporation.

(d) Commercial paper that is supported by an irrevocable letter of credit issued by a bank that is a member of the federal deposit insurance corporation.

(e) Commercial paper of corporations rated prime by at least 1 of the standard rating services.

(f) Mutual funds, trusts, or investment pools composed entirely of instruments that are eligible collateral.

(g) Repurchase agreements against eligible collateral, the market value of which must be maintained during the life of the agreements at levels equal to or greater than the amounts advanced. An undivided interest in the instruments pledged for these agreements must be granted to the community college.

(h) Investment pools, as authorized by the surplus funds investment pool act, 1982 PA 367, MCL 129.111 to 129.118, composed entirely of instruments that are legal for direct investment by a community college.

(i) Certificates of deposit issued in accordance with the following conditions:

(i) The funds are initially invested through a financial institution that is not ineligible to be a depository of surplus funds belonging to this state under section 6 of 1855 PA 105, MCL 21.146.

(ii) The financial institution arranges for the investment of the funds in certificates of deposit in 1 or more insured depository institutions, as defined in 12 USC 1813, or 1 or more insured credit unions, as defined in 12 USC 1752, for the account of the community college district.

(iii) The full amount of the principal and any accrued interest of each certificate of deposit is insured by an agency of the United States.

(iv) The financial institution acts as custodian for the community college district with respect to each certificate of deposit.

(v) At the same time that the funds of the community college district are deposited and the certificate or certificates of deposit are issued, the financial institution receives an amount of deposits from customers of other insured depository institutions or insured credit unions equal to or greater than the amount of the funds initially invested by the community college district through the financial institution.

(j) Deposit accounts that meet all of the following conditions:

(i) The funds are initially deposited in a financial institution that is not ineligible to be a depository of surplus funds belonging to this state under section 6 of 1855 PA 105, MCL 21.146.

(ii) The financial institution arranges for the deposit of the funds in deposit accounts in 1 or more insured depository institutions, as defined in 12 USC 1813, or 1 or more insured credit unions, as defined in 12 USC 1752, for the account of the community college district.

(iii) The full amount of the principal and any accrued interest of each deposit account is insured by an agency of the United States.

(iv) The financial institution acts as custodian for the community college district with respect to each deposit account.

(v) On the same date that the funds of the community college district are deposited under subparagraph (ii), the financial institution receives an amount of deposits from customers of other insured depository institutions or insured credit unions equal to or greater than the amount of the funds initially deposited by the community college district in the financial institution.

(k) Obligations of this state or any of its political subdivisions that at the time of purchase are rated as investment grade by at least 1 standard rating service.

(2) The board of trustees, chief executive officer, or treasurer of a community college district shall not commingle money in the funds of the community college district for the purpose of making an investment authorized by this section, and all earnings on an investment shall become a part of the fund for which the investment was made.

(3) The board of trustees, chief executive officer, or treasurer of a community college district shall not invest or deposit any funds of the community college district in any financial institution that is not eligible to be a depository of surplus funds belonging to this state under section 6 of 1855 PA 105, MCL 21.146.

(4) The board of trustees, chief executive officer, or treasurer of a community college district shall comply with the divestment from terror act in making investments or depositing funds under this act.

(5) As used in this section:

(a) "Eligible collateral" means any securities that otherwise would qualify for outright purchase under this act.

(b) "Financial institution" means a state or nationally chartered bank or a state or federally chartered savings and loan association, savings bank, or credit union whose deposits are insured by an agency of the United States government and that maintains a principal office or branch office located in this state under the laws of this state or the United States.

Appendix B: DIVESTMENT FROM TERROR ACT Act 234 of 2008

AN ACT to prohibit the investment of certain state money or other assets in companies with certain types of business operations in countries designated as state sponsors of terror; to require divestment of any current investments in those companies; and to provide for the powers and duties of certain state and local governmental officers and entities.

129.292 Definitions.

Sec. 2. As used in this act:

(a) "Active business operations" means all business operations that are not inactive business operations. Active business operations do not include the activities of any business, legal, or governmental entity or institution that provides humanitarian aid to the people of any state sponsors of terror.

(b) "Business operations" means engaging in commerce in any form with a state sponsor of terror, including by acquiring, developing, maintaining, owning, selling, possessing, leasing, or operating equipment, facilities, personnel, products, services, personal property, real property, or any other apparatus of business or commerce.

(c) "Company" means any sole proprietorship, organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, limited liability company, or other entity or business association, including all wholly owned subsidiaries, majority-owned subsidiaries, parent companies, or affiliates of those entities or business associations, that exists for profit-making purposes.

- (d) "Direct holdings" in a company means all securities of that company held directly by the fiduciary or in an account or fund in which the fiduciary owns all shares or interests.
- (e) "Fiduciary" means any of the following:
 - (i) The Michigan legislative retirement system board of trustees for the Tier 1 retirement plan available under the Michigan legislative retirement system act, 1957 PA 261, MCL 38.1001 to 38.1080.
 - (ii) The state treasurer for all of the following:
 - (A) The state police retirement system created under the state police retirement act of 1986, 1986 PA 182, MCL 38.1601 to 38.1648.
 - (B) The Tier 1 retirement plan available under the judges retirement act of 1992, 1992 PA 234, MCL 38.2101 to 38.2670.
 - (C) The Tier 1 retirement plan available under the state employees retirement act, 1943 PA 240, MCL 38.1 to 38.69.
 - (D) The public school employees retirement system created under the public school employees retirement act of 1979, 1980 PA 300, MCL 38.1301 to 38.1408.
 - (iii) The state treasurer in connection with his or her duties under any of the following:
 - (A) 1946 (1st Ex Sess) PA 9, MCL 35.602 to 35.610.
 - (B) 1855 PA 105, MCL 21.141 to 21.147.
 - (C) Section 7 of the Michigan trust fund act, 2000 PA 489, MCL 12.257.
 - (D) Children's trust fund under 1982 PA 249, MCL 21.171 to 21.172.
 - (E) The McCauley-Traxler-Law-Bowman-McNeely lottery act, 1972 PA 239, MCL 432.1 to 432.47.
 - (F) Section 503b of the natural resources and environmental protection act, 1994 PA 451, MCL 324.503b.
 - (iv) The board of trustees of a community college subject to the community college act of 1966, 1966 PA 331, MCL 389.1 to 389.195.
 - (v) The board of directors of the Michigan education trust described in section 10 of the Michigan education trust act, 1986 PA 316, MCL 390.1430.
 - (vi) The board of the Michigan strategic fund under the Michigan strategic fund act, 1984 PA 270, MCL 125.2001 to 125.2094.

- (f) "Inactive business operations" means the mere continued holding or renewal of rights to property previously operated for the purpose of generating revenues but not presently deployed for that purpose.
- (g) "Indirect holdings" in a company means all securities of that company held in an account or fund, including a mutual fund or other commingled fund, managed by 1 or more persons not employed by the fiduciary, in which the fiduciary owns shares or interests together with other investors not subject to the provisions of this act.
- (h) "Scrutinized company" means, except for a company described in subdivision (i), and for a social development company or a company that only meets the criteria of this subdivision because an independently owned franchisee of that company is a scrutinized company, any company that has business operations that involve contracts with or provision of supplies or services to a state sponsor of terror; companies in which a state sponsor of terror has any direct or indirect equity share, consortiums, or projects commissioned by a state sponsor of terror; or companies involved in consortiums and projects commissioned by a state sponsor of terror and 1 or more of the following:
 - (i) More than 10% of the company's total revenues or assets are directly invested in or earned from or significantly contributed to a state sponsor of terror and the company has failed to take substantial action.
 - (ii) The company has, with actual knowledge, made an investment of \$20,000,000 or more, or any combination of investments of at least \$10,000,000 each, which in the aggregate equals or exceeds \$20,000,000 in any 12-month period, and which directly or significantly contributes to a state sponsor of terror, and the company has failed to take substantial action.
- (i) A scrutinized company does not mean a company which the United States government has excluded from any present federal sanctions regime relating to a state sponsor of terror, or which has obtained from the United States government an applicable license or approval to conduct a transaction with a state sponsor of terror.
- (j) "Social development company" means a company licensed by the United States department of treasury pursuant to the federal trade sanction reform and export enhancement act of 2000, P.L. 106-387, or a company lawfully operating under the laws of another country, whose primary purpose in a state sponsor of terror is to provide humanitarian goods or services including, food, other agricultural products, supplies or infrastructure, clothing, shelter, medicines or medical equipment, educational opportunities, journalism-related activities, information or information materials, spiritual-related activities, general consumer goods, or services of a purely clerical or reporting nature, to aid the inhabitants of a state sponsor of terror.

- (k) "State sponsor of terror" means, subject to section 10 as to applicability, any country determined by the United States secretary of state to have repeatedly provided support for acts of international terrorism.
- (l) "Substantial action" means adopting, publicizing, and implementing a formal plan to cease scrutinized business operations within 1 year and to refrain from any new business operations.

129.293 Scrutinized companies; identification by fiduciary.

Sec. 3. Within 90 days after the effective date of this act, the fiduciary shall make its best efforts to identify all scrutinized companies in which the fiduciary has direct or indirect holdings or has a current option to have such holdings in the future. The efforts may include 1 or more of the following:

- (a) Reviewing and relying, as appropriate in the fiduciary's judgment, on publicly available information regarding companies with business operations in a state sponsor of terror, including information provided by nonprofit organizations, research firms, international organizations, and government entities.
- (b) Contacting asset managers contracted by the fiduciary that invest in companies with business operations in a state sponsor of terror.
- (c) Contacting other institutional investors that have divested from or engaged with companies that have business operations in a state sponsor of terror.
- (d) Reviewing the laws of the United States regarding the levels of business activity that would cause application of sanctions against companies conducting business or investing in countries that are designated state sponsors of terror.

129.294 Scrutinized companies; assembly into list; modification; procedure to be adhered to by fiduciary.

Sec. 4.

(1) At the end of the 90-day period or by the first meeting of the fiduciary following the 90-day period described in section 3, the fiduciary shall assemble all scrutinized companies identified into a scrutinized companies list.

(2) The fiduciary shall update the scrutinized companies list described in subsection (1) on a quarterly basis based on evolving information from, among other sources, those sources listed in section 3. However, if a fiduciary receives credible information that shows that a

scrutinized company was wrongfully identified as a scrutinized company, the fiduciary shall immediately modify the scrutinized company list to remove the name of the scrutinized company.

(3) The fiduciary shall adhere to the following procedure for companies on the scrutinized companies list described in subsection (1):

(a) The fiduciary shall immediately determine the companies on the scrutinized companies list in which the fiduciary oversees pursuant to its responsibilities as described in section 2(e).

(b) For each company identified in subdivision (a) with only inactive business operations, the fiduciary shall send a written notice informing the company of this section and encourage the company to continue to refrain from initiating active business operations in a state sponsor of terror until it is able to avoid scrutinized business operations and further encourage the company to engage in substantial humanitarian operations in the country. The fiduciary shall continue the correspondence on a semiannual basis.

(c) For each company newly identified in subdivision (a) with active business operations, the fiduciary shall send a written notice informing the company of its scrutinized company status and that it may become subject to divestment by the fiduciary. The notice shall offer the company the opportunity to clarify its state sponsor of terror-related activities and shall encourage the company, within 90 days, to either cease its scrutinized business operations or convert such operations to inactive business operations in order to avoid qualifying for divestment by the fiduciary.

(d) If, within 90 days following the fiduciary's first engagement with a company, that company ceases scrutinized business operations, the company shall be removed from the scrutinized companies list and this act shall cease to apply to it unless it resumes scrutinized business operations. If, within 9 months following the fiduciary's first engagement, the company converts its scrutinized active business operations to inactive business operations, the company shall not be subject to this act.

(e) If, after 90 days following the fiduciary's first engagement with a company, if the company has not developed and announced a plan to convert its active business operations to inactive business operations, and only while the company continues to have scrutinized active business operations, the fiduciary shall sell, redeem, divest, or withdraw all publicly traded securities of the company, according to the following schedule:

(i) At least 50% of the assets shall be removed from the fiduciary's assets under management within 9 months after the company's most recent appearance on the scrutinized companies list.

(ii) 100% of the assets shall be removed from the fiduciary's assets under management within 15 months after the company's most recent appearance on the scrutinized companies list.

(f) Except as provided in subdivision (g), at no time shall the fiduciary acquire securities of companies on the scrutinized companies list that have active business operations.

(g) Subdivisions (e) and (f) shall not apply to indirect holdings in actively managed investment funds. For purposes of this section, actively managed investment funds include private equity funds and publicly traded funds. Before the fiduciary invests in a new private equity fund that is not in the fiduciary's portfolio as of the effective date of this act, the fiduciary shall perform due diligence to prevent investment in any private equity fund in violation of this act. The fiduciary is not required to identify holdings in private equity funds or submit engagement letters to those funds. If the manager of a publicly traded, actively managed fund that is in the fiduciary's portfolio on the effective date of this act creates a similar publicly traded, actively managed fund with indirect holdings devoid of identified scrutinized companies with scrutinized active business operations as defined in this act, the fiduciary is not required to, but is strongly encouraged to, replace all applicable investments with investments in the similar fund in an expedited time frame consistent with prudent investment standards.

129.295 Internet website; collection and publication of information.

Sec. 5. The department of treasury shall collect and publish the following information on the department's internet website no later than 1 year after the effective date of this act and shall periodically update the information at reasonable intervals:

(a) All investments sold, redeemed, divested, or withdrawn in compliance with this section.

(b) All prohibited investments made under this section.

(c) Any progress made under section 4(3)(g).

129.296 Exemption from conflicting statutory or common law obligations.

Sec. 6. (1) With respect to actions taken in compliance with this act, including all good faith determinations regarding companies as required by this act, the fiduciary shall be exempt from any conflicting statutory or common law obligations, including any obligations in respect to choice of asset managers, investment funds, or investments for the fiduciary's securities portfolios.

(2) The fiduciary, members of an investment advisory committee, and any person with decision-making authority with regard to investments of the fiduciary shall not be held

liable for any action undertaken for the purpose of complying with or executing the mandates required under this act.

129.297 Severability.

Sec. 7. If any provision, section, subsection, sentence, clause, phrase, or word of this act or its application to any person or circumstance is found to be invalid, illegal, unenforceable, or unconstitutional, the same is hereby declared to be severable and the balance of this legislation shall remain effective and functional notwithstanding such invalidity, illegality, unenforceability, or unconstitutionality.

129.298 Business with Sudan; fiduciary subject to provisions of public employee retirement system investment act.

Sec. 8. If a scrutinized company does business with the government of Sudan and the fiduciary is subject to the divestment provisions of section 13c of the public employee retirement system investment act, 1965 PA 314, MCL 38.1133c, for that period of time the fiduciary shall follow the divestment criteria contained in section 13c of the public employee retirement system investment act, 1965 PA 314, MCL 38.1133c, and not the divestment provisions of this act.

129.299 Business with Iran; fiduciary subject to provisions of public employee retirement system investment act.

Sec. 9. If a scrutinized company does business with the government of Iran and the fiduciary is subject to the divestment provisions of section 13d of the public employee retirement system investment act, 1965 PA 314, MCL 38.1133d, for that period of time the fiduciary shall follow the divestment criteria contained in section 13d of the public employee retirement system investment act, 1965 PA 314, MCL 38.1133d, and not the divestment provisions of this act.

129.300 Applicability of act; dates; extension.

Sec. 10.

(1) If a state sponsor of terror is any of the following countries, then, except as provided in subsection (2), the provisions of this act begin to apply on the following dates:

(a) Syria, January 1, 2010.

(b) Cuba, January 1, 2011.

(c) Any other country, 12 months following the determination by the United States secretary of state.

(2) The state treasurer may extend, not more than 2 times, 1 or more of the dates in which the provisions of this act apply that are described in subsection (1) for 1 year if the state treasurer determines 1 or more of the following:

(a) The constitutionality of the divestment provisions of this act are in conflict with federal law.

(b) The department of treasury is not able to gather sufficient information to prepare an accurate scrutinized companies list.

129.301 Divestment of funds; recommendations of department of treasury.

Sec. 11. Not later than October 1, 2010 and October 1, 2011, and not later than 9 months immediately following the determination of another country as a state sponsor of terror, the department of treasury shall make recommendations to each house of the legislature and to the standing committees of the senate and house of representatives having jurisdiction over issues pertaining to divestment of state funds on what statutory changes are needed to improve the effectiveness of this act and whether the department of treasury has extended or will extend 1 or more of the dates provided in section 10(1) and the reason for that extension as described in section 10(2).

ADJOURNMENT

MOTION by Mr. Bergan with support by Mr. Curry to adjourn the Regular Meeting of the Lake Michigan College Board of Trustees at 5:20 p.m.



Debra Johnson, Board Chair
Lake Michigan College Board of Trustees



Joan Smith, Board Secretary
Lake Michigan College Board of Trustees