

STATE OF NEW YORK

1953

2023-2024 Regular Sessions

IN SENATE

January 17, 2023

Introduced by Sens. HOYLMAN-SIGAL, KRUEGER, SERRANO -- read twice and ordered printed, and when printed to be committed to the Committee on Higher Education

AN ACT to amend the education law, in relation to requiring SUNY and CUNY trustees refrain from investing in and subsequently divest from stocks, debt or other securities of certain publicly traded fossil fuel companies

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The education law is amended by adding a new section 355-f to read as follows:

§ 355-f. Divestment from fossil fuels. 1. (a) On or after July first, two thousand twenty-four, the board of trustees shall not invest any monies in any stocks, debt or other securities of any corporation or company, or any subsidiary, affiliate or parent of any corporation or company, among the two hundred largest publicly traded fossil fuel companies, as established by carbon content in the companies' proven oil, gas and coal reserves.

(b) On or before January first, two thousand twenty-eight, the board of trustees shall divest from any stocks, debt or other securities of any corporation or company, or any subsidiary, affiliate or parent of any corporation or company, among the two hundred largest publicly traded fossil fuel companies, as established by carbon content in the companies' proven oil, gas and coal reserves, except that divestment from stocks or other securities of companies engaged in the mining, extraction or production of coal shall be completed no later than one year after the effective date of this subdivision.

(c) The board of trustees shall be permitted to cease divesting from companies under paragraph (a) of this subdivision, reinvest in companies from which it divested under paragraph (a) of this subdivision, or continue to invest in companies from which it has not yet divested upon

EXPLANATION--Matter in italics (underscored) is new; matter in brackets [-] is old law to be omitted.

LBD06153-01-3

1 clear and convincing evidence showing that as a direct result of such
2 divestment, the total and aggregate value of all assets under management
3 by, or on behalf of, the board of trustees becomes or shall become: (i)
4 equal to or less than ninety-nine and one-half percent; or (ii) one
5 hundred percent less fifty basis points of the hypothetical value of all
6 assets under management by, or on behalf of, the board of trustees
7 assuming no divestment from any company had occurred under said para-
8 graph (a) of this subdivision. Cessation of divestment, reinvestment or
9 any subsequent ongoing investment authorized by this section shall be
10 strictly limited to the minimum steps necessary to avoid the contingency
11 set forth in the preceding sentence. For any cessation of divestment,
12 and in advance of such cessation, authorized by this subdivision, the
13 board of trustees shall provide a written report to the attorney general
14 and the senate and assembly standing committees on higher education,
15 updated semi-annually thereafter as applicable, setting forth the
16 reasons and justification, supported by clear and convincing evidence,
17 for its decisions to cease divestment, to reinvest or to remain invested
18 in fossil fuel companies.

19 2. (a) On or after July first, two thousand twenty-four, an affiliated
20 nonprofit organization or foundation shall not invest any monies in any
21 stocks, debt or other securities of any corporation or company, or any
22 subsidiary, affiliate or parent of any corporation or company, among the
23 two hundred largest publicly traded fossil fuel companies, as estab-
24 lished by carbon content in the companies' proven oil, gas and coal
25 reserves.

26 (b) On or before January first, two thousand twenty-eight, an affil-
27 iated nonprofit organization or foundation shall divest from any stocks,
28 debt or other securities of any corporation or company, or any subsid-
29 iary, affiliate or parent of any corporation or company, among the two
30 hundred largest publicly traded fossil fuel companies, as established by
31 carbon content in the companies' proven oil, gas and coal reserves,
32 except that divestment from stocks or other securities of companies
33 engaged in the mining, extraction or production of coal shall be
34 completed no later than one year after the effective date of this subdivi-
35 vision.

36 (c) An affiliated nonprofit organization or foundation shall be
37 permitted to cease divesting from companies under paragraph (a) of this
38 subdivision, reinvest in companies from which it divested under para-
39 graph (a) of this subdivision, or continue to invest in companies from
40 which it has not yet divested upon clear and convincing evidence showing
41 that as a direct result of such divestment, the total and aggregate
42 value of all assets under management by, or on behalf of, an affiliated
43 nonprofit organization or foundation becomes or shall become: (i) equal
44 or less than ninety-nine and one-half percent; or (ii) one hundred
45 percent less fifty basis points of the hypothetical value of all assets
46 under management by, or on behalf of, an affiliated nonprofit organiza-
47 tion or foundation assuming no divestment from any company had occurred
48 under said paragraph (a) of this subdivision. Cessation of divestment,
49 reinvestment or any subsequent ongoing investment authorized by this
50 section shall be strictly limited to the minimum steps necessary to
51 avoid the contingency set forth in the preceding sentence. For any
52 cessation of divestment, and in the advance of such cessation, author-
53 ized by this subdivision, an affiliated nonprofit organization or foun-
54 dition shall provide a written report to the attorney general and the
55 senate and assembly standing committees on higher education, updated
56 semi-annually thereafter as applicable, setting forth the reasons and

1 justification, supported by clear and convincing evidence, for its deci-
2 sions to cease divestment, to reinvest or to remain invested in fossil
3 fuel companies.

4 3. As used within this section, "an affiliated nonprofit organization
5 or foundation" means an organization or foundation formed under the
6 not-for-profit corporation law or any other entity formed for the bene-
7 fit of or controlled by the state university of New York or its respec-
8 tive universities, colleges, community colleges, campuses or subdivi-
9 sions, including the research foundation of the state university of New
10 York, to assist in meeting the specific needs of, or providing a direct
11 benefit to, the respective university, college, community college,
12 campus or subdivision or the university as a whole, that has control of,
13 manages or receives fifty thousand dollars or more annually, including
14 alumni associations.

15 § 2. The education law is amended by adding a new section 6234-a to
16 read as follows:

17 § 6234-a. Divestment from fossil fuels. 1. (a) On or after July first,
18 two thousand twenty-four, the board of trustees shall not invest any
19 monies in any stocks, debt or other securities of any corporation or
20 company, or any subsidiary, affiliate or parent of any corporation or
21 company, among the two hundred largest publicly traded fossil fuel
22 companies, as established by carbon content in the companies' proven
23 oil, gas and coal reserves.

24 (b) On or before January first, two thousand twenty-eight, the board
25 of trustees shall divest from any stocks, debt or other securities of
26 any corporation or company, or any subsidiary, affiliate or parent of
27 any corporation or company, among the two hundred largest publicly trad-
28 ed fossil fuel companies, as established by carbon content in the compa-
29 nies' proven oil, gas and coal reserves, except that divestment from
30 stocks or other securities of companies engaged in the mining,
31 extraction or production of coal shall be completed no later than one
32 year after the effective date of this subdivision.

33 (c) The board of trustees shall be permitted to cease divesting from
34 companies under paragraph (a) of this subdivision, reinvest in companies
35 from which it divested under paragraph (a) of this subdivision, or
36 continue to invest in companies from which it has not yet divested upon
37 clear and convincing evidence showing that as a direct result of such
38 divestment, the total and aggregate value of all assets under management
39 by, or on behalf of, the board of trustees becomes or shall become: (i)
40 equal to or less than ninety-nine and one-half percent; or (ii) one
41 hundred percent less fifty basis points of the hypothetical value of all
42 assets under management by, or on behalf of, the board of trustees
43 assuming no divestment from any company had occurred under said para-
44 graph (a) of this subdivision. Cessation of divestment, reinvestment or
45 any subsequent ongoing investment authorized by this section shall be
46 strictly limited to the minimum steps necessary to avoid the contingency
47 set forth in the preceding sentence. For any cessation of divestment,
48 and in advance of such cessation, authorized by this subdivision, the
49 board of trustees shall provide a written report to the attorney general
50 and the senate and assembly standing committees on higher education,
51 updated semi-annually thereafter as applicable, setting forth the
52 reasons and justification, supported by clear and convincing evidence,
53 for its decisions to cease divestment, to reinvest or to remain invested
54 in fossil fuel companies.

55 2. (a) On or after July first, two thousand twenty-four, an affiliated
56 nonprofit organization or foundation shall not invest any monies in any

1 stocks, debt or other securities of any corporation or company, or any
2 subsidiary, affiliate or parent of any corporation or company, among the
3 two hundred largest publicly traded fossil fuel companies, as estab-
4 lished by carbon content in the companies' proven oil, gas and coal
5 reserves.

6 (b) On or before January first, two thousand twenty-eight, an affil-
7 iated nonprofit organization or foundation shall divest from any stocks,
8 debt or other securities of any corporation or company, or any subsid-
9 iary, affiliate or parent of any corporation or company, among the two
10 hundred largest publicly traded fossil fuel companies, as established by
11 carbon content in the companies' proven oil, gas and coal reserves,
12 except that divestment from stocks or other securities of companies
13 engaged in the mining, extraction or production of coal shall be
14 completed no later than one year after the effective date of this subdivi-
15 sion.

16 (c) An affiliated nonprofit organization or foundation shall be
17 permitted to cease divesting from companies under paragraph (a) of this
18 subdivision, reinvest in companies from which it divested under para-
19 graph (a) of this subdivision, or continue to invest in companies from
20 which it has not yet divested upon clear and convincing evidence showing
21 that as a direct result of such divestment, the total and aggregate
22 value of all assets under management by, or on behalf of, an affiliated
23 nonprofit organization or foundation becomes or shall become: (i) equal
24 to or less than ninety-nine and one-half percent; or (ii) one hundred
25 percent less fifty basis points of the hypothetical value of all assets
26 under management by, or on behalf of, an affiliated nonprofit organiza-
27 tion or foundation assuming no divestment from any company had occurred
28 under said paragraph (a) of this subdivision. Cessation of divestment,
29 reinvestment or any subsequent ongoing investment authorized by this
30 section shall be strictly limited to the minimum steps necessary to
31 avoid the contingency set forth in the preceding sentence. For any
32 cessation of divestment, and in advance of such cessation, authorized by
33 this subdivision, an affiliated nonprofit organization or foundation
34 shall provide a written report to the attorney general and the senate
35 and assembly standing committees on higher education, updated semi-annu-
36 ally thereafter as applicable, setting forth the reasons and justifica-
37 tion, supported by clear and convincing evidence, for its decisions to
38 cease divestment, to reinvest or to remain invested in fossil fuel
39 companies.

40 3. As used within this section, "an affiliated nonprofit organization
41 or foundation" means an organization or foundation formed under the
42 not-for-profit corporation law or any other entity formed for the bene-
43 fit of or controlled by the city university of New York or its respec-
44 tive universities, colleges, community colleges, campuses or subdivi-
45 sions, including the research foundation of the city university of New
46 York, to assist in meeting the specific needs of, or providing a direct
47 benefit to, the respective university, college, community college,
48 campus or subdivision or the university as a whole, that has control of,
49 manages or receives fifty thousand dollars or more annually, including
50 alumni associations.

51 § 3. This act shall take effect on July 1, 2024.