

# STATE OF NEW YORK

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5647

2017-2018 Regular Sessions

## IN SENATE

April 24, 2017

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Introduced by Sens. HOYLMAN, KRUEGER -- 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 Assem-  
bly, do enact as follows:

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

3 § 355-d. Divestment from fossil fuels. 1. (a) On or after July first,  
4 two thousand eighteen, the board of trustees shall not invest any monies  
5 in any stocks, debt or other securities of any corporation or company,  
6 or any subsidiary, affiliate or parent of any corporation or company,  
7 among the two hundred largest publicly traded fossil fuel companies, as  
8 established by carbon content in the companies' proven oil, gas and coal  
9 reserves.

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

19 (c) The board of trustees shall be permitted to cease divesting from  
20 companies under paragraph (a) of this subdivision, reinvest in companies  
21 from which it divested under paragraph (a) of this subdivision, or  
22 continue to invest in companies from which it has not yet divested upon  
23 clear and convincing evidence showing that as a direct result of such

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

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

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

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

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

1 sions to cease divestment, to reinvest or to remain invested in fossil  
2 fuel companies.

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

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

16 § 6234-a. Divestment from fossil fuels. 1. (a) On or after July first,  
17 two thousand eighteen, the board of trustees shall not invest any monies  
18 in any stocks, debt or other securities of any corporation or company,  
19 or any subsidiary, affiliate or parent of any corporation or company,  
20 among the two hundred largest publicly traded fossil fuel companies, as  
21 established by carbon content in the companies' proven oil, gas and coal  
22 reserves.

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

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

54 2. (a) On or after July first, two thousand eighteen, an affiliated  
55 nonprofit organization or foundation shall not invest any monies in any  
56 stocks, debt or other securities of any corporation or company, or any

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

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

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

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

49 § 3. This act shall take effect on July 1, 2018.