

STATE OF NEW YORK

1829

2019-2020 Regular Sessions

IN SENATE

January 16, 2019

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

35 (c) An affiliated nonprofit organization or foundation shall be
36 permitted to cease divesting from companies under paragraph (a) of this
37 subdivision, reinvest in companies from which it divested under para-
38 graph (a) of this subdivision, or continue to invest in companies from
39 which it has not yet divested upon clear and convincing evidence showing
40 that as a direct result of such divestment, the total and aggregate
41 value of all assets under management by, or on behalf of, an affiliated
42 nonprofit organization or foundation becomes or shall become: (i) equal
43 or less than ninety-nine and one-half percent; or (ii) one hundred
44 percent less fifty basis points of the hypothetical value of all assets
45 under management by, or on behalf of, an affiliated nonprofit organiza-
46 tion or foundation assuming no divestment from any company had occurred
47 under said paragraph (a) of this subdivision. Cessation of divestment,
48 reinvestment or any subsequent ongoing investment authorized by this
49 section shall be strictly limited to the minimum steps necessary to
50 avoid the contingency set forth in the preceding sentence. For any
51 cessation of divestment, and in the advance of such cessation, author-
52 ized by this subdivision, an affiliated nonprofit organization or foun-
53 dation shall provide a written report to the attorney general and the
54 senate and assembly standing committees on higher education, updated
55 semi-annually thereafter as applicable, setting forth the reasons and
56 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 twenty, 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-four, 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 twenty, 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-four, an affil-
6 iated nonprofit organization or foundation shall divest from any stocks,
7 debt or other securities of any corporation or company, or any subsid-
8 iary, affiliate or parent of any corporation or company, among the two
9 hundred largest publicly traded fossil fuel companies, as established by
10 carbon content in the companies' proven oil, gas and coal reserves,
11 except that divestment from stocks or other securities of companies
12 engaged in the mining, extraction or production of coal shall be
13 completed no later than one year after the effective date of this subdivi-
14 sion.

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

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

50 § 3. This act shall take effect on July 1, 2020.