

# STATE OF NEW YORK

420

2021-2022 Regular Sessions

## IN SENATE

(Prefiled)

January 6, 2021

Introduced by Sens. HOYLMAN, 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-e to read as follows:

§ 355-e. Divestment from fossil fuels. 1. (a) On or after July first, two thousand twenty-two, 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-six, 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

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

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1 continue to invest in companies from which it has not yet divested upon  
2 clear and convincing evidence showing that as a direct result of such  
3 divestment, the total and aggregate value of all assets under management  
4 by, or on behalf of, the board of trustees becomes or shall become: (i)  
5 equal to or less than ninety-nine and one-half percent; or (ii) one  
6 hundred percent less fifty basis points of the hypothetical value of all  
7 assets under management by, or on behalf of, the board of trustees  
8 assuming no divestment from any company had occurred under said para-  
9 graph (a) of this subdivision. Cessation of divestment, reinvestment or  
10 any subsequent ongoing investment authorized by this section shall be  
11 strictly limited to the minimum steps necessary to avoid the contingency  
12 set forth in the preceding sentence. For any cessation of divestment,  
13 and in advance of such cessation, authorized by this subdivision, the  
14 board of trustees shall provide a written report to the attorney general  
15 and the senate and assembly standing committees on higher education,  
16 updated semi-annually thereafter as applicable, setting forth the  
17 reasons and justification, supported by clear and convincing evidence,  
18 for its decisions to cease divestment, to reinvest or to remain invested  
19 in fossil fuel companies.

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

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

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 dation 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-two, 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-six, the board of  
25 trustees shall divest from any stocks, debt or other securities of any  
26 corporation or company, or any subsidiary, affiliate or parent of any  
27 corporation or company, among the two hundred largest publicly traded  
28 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-two, 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-six, an affiliated  
7 nonprofit organization or foundation shall divest from any stocks, debt  
8 or other securities of any corporation or company, or any subsidiary,  
9 affiliate or parent of any corporation or company, among the two hundred  
10 largest publicly traded fossil fuel companies, as established by carbon  
11 content in the companies' proven oil, gas and coal reserves, except that  
12 divestment from stocks or other securities of companies engaged in the  
13 mining, extraction or production of coal shall be completed no later  
14 than one year after the effective date of this subdivision.

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, 2022.