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Honorable Liz Krueger
New York State Senate
State Capitol Room 416
Albany, NY 12247

Dear Senator Krueger:

I write to you regarding one of the greatest challenges of our time: climate change. Scientists from around the world have concluded that climate change is real, current warming trends are caused by human actions, and swift action is needed to mitigate the worst effects of climate change. I am grateful that New York State is showing leadership by advancing proposals that can actually serve to mitigate climate change impacts, such as the New York State Climate and Community Protection Act currently introduced in both houses of the Legislature, and the Climate Leadership Act, which the Governor has included in the State Fiscal Year 2019-20 Executive Budget. These are the types of actions that will make New York a global leader in advancing climate solutions.

I want to share with you the actions I have been taking with respect to addressing climate change, specifically the *investment* risks and opportunities posed by climate change. You are no doubt aware that as Trustee of the New York State Common Retirement Fund (Fund), I am legally bound to invest the Fund's assets for the exclusive benefit of more than one million members, retirees, and beneficiaries. Consistent with this fiduciary duty, I am mindful of the urgent investment risks—and opportunities—posed by climate change. I believe that addressing those climate risks and seizing investment opportunities require a multifaceted strategy based on sound financial analysis. In support of the Fund's Sustainable Investment Program, we have recently:

- Committed $10 billion to sustainable investments, including our Low Emissions Index, which shifts investments away from high greenhouse gas emitters;
- Filed over 140 shareholder resolutions, resulting in 55 agreements, with companies to encourage them to analyze climate risks and decarbonize their business operations by setting goals for greenhouse gas emissions reductions, renewable energy use, and energy efficiency;

- Participated in several United Nations Climate Change Conferences, and advocated for climate issues at the global, federal, and state levels, including the Paris Agreement, the Clean Power Plan, fuel efficiency standards, and carbon pricing; and
- Convened, along with Governor Cuomo, a Decarbonization Advisory Panel, which will soon be providing me with recommendations on how the Fund might further identify, assess, and manage the investment risks and opportunities of climate change.

In recognition of this work, the Fund has been recognized by the Asset Owners Disclosure Project as the best U.S. public pension fund, and third globally, for managing climate risk and seizing low carbon investment opportunities.

As you know, the Fund's sole purpose is to ensure the availability of funds to pay public employee pensions. Because of our balanced investment strategy and focus on long-term, sustainable returns, the Fund's investment returns are able to provide the vast majority of money used to pay those pensions, which today amount to more than $1 billion in payments per month. While these and future obligations of the Retirement System are well-funded, we can never lose sight of the primary reasons for this — a continuous commitment by State and local government employers to fund the benefits and the prudent management by the Trustee of the Fund's investments. As such, any changes to the System's investment strategy must be done with the highest degree of care, precision, and nuance.

As the Legislature collectively works to mitigate the risks and advance the opportunities posed by climate change, I want to express my deep concern about pending legislation (S.2126/A.1536) that attempts to mandate the Fund's divestment from the two hundred largest owners of fossil fuel reserves without regard to any other aspects of the underlying investments. While I believe the fossil fuel divestment movement has played an important role in highlighting the urgency of the climate crisis, there is no evidence that divesting the Fund from owners of fossil fuel reserves would do anything to actually mitigate climate change and would not address the complex challenge of addressing the Fund's climate-change related risks.

While much about pension funds is complicated, one thing is not: they must be managed for the exclusive benefit of the beneficiaries. This requires all investments to be made in accordance with sound investment decision-making principles, subject to rigorous review, and thorough vetting. That is why an investment decision such as divestment requires a financial and economic analysis demonstrating that divesting would not have a negative economic impact on the Fund. Further, divestment must be only for financial reasons, not for symbolic purposes; it must be a last resort when all possible mitigation efforts are unsuccessful; and it should be reserved for investments that pose an articulable, serious, and sustained financial risk.

Finally, I would like to address recent misinformation regarding the impact of divestment on the Fund by organizations such as 350.org, Corporate Knights, and the Independent Petroleum Association of America (IPAA). We have reviewed their "studies" that attempt to predict how the Fund would have fared if it had divested in the past from fossil fuel companies. These reports use a much broader definition of "fossil fuel companies" than the definition in the pending legislation and, by and large, we have found that the studies are ideologically driven and skewed toward the preconceived notions of their authors. Unsurprisingly, the IPAA study finds that the Fund would have *lost* tens of billions of dollars by divesting from fossil fuels, while the Corporate Knights' reports have concluded that the Fund would have *saved* billions of dollars by divesting. These hypothetical studies suffer from significant weaknesses, including failing to accurately account for critical information like the Fund's actual holdings and the costs associated with selling and buying the targeted stocks.

It is important to note that the divestment advocates' claim that the Fund currently holds $13 billion in fossil fuel stocks is inaccurate because it is based on an unrealistically broad definition of "fossil fuel" companies — one that includes not only Exxon and Chevron, but also diversified companies such as General Electric and companies such as Enel, which has made significant investments in renewable energy generation. The fact is that the Fund holds less than half of that figure in what could reasonably be considered fossil fuel stocks, and has actually earned over $4 billion over the last 10 years from the same "fossil fuel companies" identified in the 2018 Corporate Knights Study. These figures are not hypothetical or ideologically-driven, but based on the Fund's actual holdings data.

As the Legislature considers proposals seeking to address climate change, I trust you will keep in mind that the New York State Constitution guarantees to public employees the right to have an independent trustee exercising his or her independent judgment in managing the Fund for their exclusive benefit, and prohibits any infringement of that independence by legislation. While I am always open to discussing how to continue the work of protecting the Fund from climate risk, I must preserve the independent judgment required of my fiduciary duty. Consistent with this duty, I reiterate that addressing climate risks and seizing investment opportunities require a multifaceted strategy based on sound financial analysis. I hope you will support my efforts.

Thank you for your consideration of this important matter. If you would like to discuss it further, please feel free to contact me or Liz Gordon, Executive Director of Corporate Governance, at 518-486-3107 or egordon@osc.ny.gov.

Sincerely,

Thomas P. DiNapoli
State Comptroller