<u>Written Submission from DivestNY Coalition for the Legislative Hearing on the Fossil Fuel Divestment Act</u> <u>S.2126/A.1536</u>

The Divest New York Coalition supports Fossil Fuel Divestment Act, S.2126/A.1536, which would require the New York State Common Retirement Fund to divest its holdings in the top 200 fossil fuel producers ranked by the size of their carbon reserves.

I. Who We Are

Divest New York is a coalition of grassroots organizations that have been working to divest New York's pension funds since 2012. Through campaigning and lobbying, grassroots mobilization and lot of perseverance, the coalition was successful in securing a commitment from New York City to divest its $200 billion pension funds in January 2018. A full list of coalition members can be found at www.divestny.org.

II. The Fierce Urgency of Now

Martin Luther King, Jr., who would have been 90 this year, spoke eloquently about the "fierce urgency of now." That simple phrase embodies the climate challenge we grapple with today. The recent UN Intergovernmental Panel on Climate Change special report says humankind has about a decade left to avoid catastrophic harm and tipping points of no return, adding that nothing short of "rapid and far-reaching transitions in energy, land, urban infrastructure, and industrial systems" are needed. Investors, with their trillions in assets, have the power to catalyze these transitions by shifting capital out of the problems and into the solutions.

III. Why Divestment

The urgency of the climate crisis demands that we use all the tools at our disposal to fight climate change, including divestment. Divestment is a powerful tool to undercut the political and financial power of the fossil fuel industry. More than 1,000 institutional investors globally, with assets of roughly $8.5 trillion, have committed to divest to date, and many of these are reinvesting in climate solutions.

Divestment is also an opportunity for New York to fill some of the leadership vacuum in this country caused by irresponsible federal policies. New York State is a thought leader and just as New York City's move to divest will generated considerable media attention and discussion so too will a decision by the State to divest.

One of the strongest arguments in favor of divestment is financial. In a world that is increasingly committed to transitioning from fossil fuels to renewable energy sources, it is inevitable that the value of fossil fuel investments is going to decline. Staying in fossil fuels now would be like staying in typewriters once word processing was developed, or staying in Kodak once digital photography arrived on the scene, or holding onto Blockbuster once Netflix entered the market. The value of coal investments have already decreased; in the long term can oil and gas be far behind?

Momentum for divestment is surging: Ireland has become the first nation in the world to divest. C40 Cities, led by New York City and London, has launched a new Divest/Invest Cities Forum.[1] The World Bank is ending its lending to fossil fuel projects.[2] Norway's sovereign wealth fund, built on oil, is getting out of oil and gas, having already moved on coal. [3] Global insurers, such as Axa, Allianz and Storebrand, are taking steps not only to divest, but also to stop underwriting fossil fuel projects.[4] As *The New Yorker* put it recently, the divestment movement is "all grown up."[5]

IV. Divestment's Impact on Fossil Fuel Companies

Fossil fuel companies and global financial institutions alike have stated that divestment is a material risk, with the potential to impact profitability, access to capital and share price.

Shell has stated:

"*[S]ome groups are pressuring certain investors to divest their investments in fossil fuel companies. If this were to continue, it could have a material adverse effect on the price of our securities and our ability to access equity capital markets.**[6]***

Peabody Coal has stated:

*"[C]oncerns about the environmental impacts of coal combustion, including perceived impacts on global climate issues, are resulting in increased regulation of coal combustion in many jurisdictions, unfavorable lending policies by government-backed lending institutions and development banks toward the financing of new overseas coal-fueled power plants and **divestment efforts affecting the investment community, which could significantly affect demand for our products or our securities**."**[7]***

Goldman Sachs has stated*:*

The "divestment movement has been a key driver of the coal sector's 60% de-rating over the past five years."

If divestment was not a real material risk to their business model, coal, oil & gas companies would not lobby so strongly against it, establish "astroturf" campaigns, and publish "studies" like the IPAA has done attempting to debunk it.

V. Fossil Fuel Holdings of the NYCRF

The New York State Common Retirement Fund, valued at over $210 billion, is the third largest in the United States. The Fund has $13 billion invested in the fossil fuel industry broadly defined and more than $4.4 billion invested in the 200 largest fossil fuel companies. This current divestment bill, in an effort to be prudent and conservative, targets only the $4.4 billion figure. Of this, $2.2 billion is invested in Exxon, Chevron, BP, Shell and Conoco Phillips alone – companies currently being sued by New York City and many other cities for climate related damages and costs.

VI. NYCRF Losses from Fossil Fuels

Fossil fuel stocks are underperforming and volatile. They are no longer a suitable investment for pension funds with medium to long-term time horizons. They have been among the worst performers in the S&P 500 for a decade now and in 2018 finished dead last.[8] Further, fossil free indexes routinely outperform their benchmarks. For example, since its inception on November 30, 2010 to January 31, 2019, the MSCI ACWI Ex Fossil Fuels Index generated an 11.63% annualized gross return, versus a 10.91% return generated by the MSCI ACWI benchmark. Similarly, the S&P Global 1200 Fossil Fuels Free index generated an 8.2% return over the last five years, compared to 7.5% for its S&P Global 1200 benchmark.[9] These numbers make it clear that portfolios are better off today financially without fossil fuel holdings.

According to a recent analysis by Corporate Knights, the state pension fund would be $22 billion richer had the Comptroller divested from fossil fuel stocks ten years ago.[10] That's nearly $20,000 per member of the state pension fund. This is real money for real people. We believe fund members would appreciate their fund to be $22 billion healthier than under the present scenario that includes investing in major fossil fuel companies.

Further, noted investment manager Jeremy Grantham recently studied the impact of removing an entire sector from one's portfolio and concluded that it can be done without any appreciable harm to a fund. Grantham stated:

"What does this mean for divestment? It means that if investors take out fossil fuel companies from their portfolios, their starting assumption should not be that you have destroyed the value. Their starting assumption should be until proven otherwise that it will have very little effect and is just as likely to be positive by 17 basis points as negative."

The bottom line is that the NYSCRF should divest now to protect the hard-won pensions of New York state employees.

VII. The Failure of Shareholder Engagement

The NYSCRF is one of the world's premier shareholder engagement funds, sponsoring multiple resolutions each year at Exxon and other fossil majors for years without results. Comptroller DiNapoli's continued engagement with the fossil fuel industry is a distraction and gives green cover to oil companies to persist in their patterns of deceit and delay. <u>Years of engagement have not prevented one barrel of oil from being extracted or led to any measurable change in the company's greenhouse gas emissions or spending on oil and gas exploration</u>.

Comptroller DiNapoli himself has admitted that years of shareholder engagement with Exxon, have resulted in an underwhelming climate risk report from the company. His efforts to engage the company just suffered another major blow when the Securities and Exchange Commission (SEC) sided with Exxon to block yet another climate related resolution by NYSCRF and the Church of England.[11] It is time to take a different approach. Let us recall that New York State's own Attorney General is pursuing a lawsuit against Exxon for defrauding investors including the New York State Common Retirement Fund, which owns a $1 billion of the company.

A recent report by the shareholder advocacy organization As You Sow concluded that shareholder engagement has failed with fossil fuel companies:

*"The fact that global greenhouse gas emissions, and oil & gas company capital expenditures on exploration and production, keep rising signals a **fundamental limitation of the current shareholder engagement strategy**. Shareholder engagement with oil & gas companies, when compared with all other sectors, stands out in two ways. First, oil & gas companies have received more engagement and resolution filings than any other sector. Second, although modest climate gains have been made, **these companies have been the least responsive on the key climate change issue of reducing their lifecycle greenhouse gas emissions** … [C]ompanies continue to invest major capital on exploration for risky and potentially stranded reserves. The underperformance of the energy sector over the past decade has created portfolio underperformance & continued risk for fiduciaries of pension funds, university endowments, foundations, and mutual funds."**[12]***

VIII. Conclusion

We agree that decisions around divestment should be done in a financially prudent manner informed by sound economic analyses. The Fossil Fuel Divestment Act provides a five-year time frame for concluding divestment and further includes a "safety valve" that would allow divestment to be discontinued should it be shown to harm the performance of the pension fund. The declining fortunes of the fossil fuel industry and the simultaneous rise of clean energy mean that divestment is the right choice to protect pensions and the planet.

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[1] https://www.theguardian.com/commentisfree/2018/sep/10/london-new-york-cities-divest-fossil-fuels-bill-de-blasio-sadiq-khan
[2] https://www.worldbank.org/en/news/press-release/2017/12/12/world-bank-group-announcements-at-one-planet-summit
[3] https://www.bbc.com/news/business-47494239
[4] https://www.insurancejournal.com/news/national/2019/03/14/520717.htm
[5] https://www.newyorker.com/news/dispatch/the-divestment-movement-to-combat-climate-change-is-all-grown-up
[6] https://reports.shell.com/annual-report/2017/strategic-report/strategy-business-and-market-overview/risk-factors.php
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[11] https://www.cnn.com/2019/04/03/investing/exxon-sec-climate-change-shareholder-vote/index.html
[12] https://www.asyousow.org/reports/2020-a-clear-vision-for-paris-compliant-shareholder-engagement