



## NEW YORK STATE LEGISLATURE

April 21, 2023

Governor Kathy Hochul  
2nd Floor  
State Capitol Building  
Albany NY, 12224

Dear Governor Hochul:

We write to you regarding your budget proposal to ban fossil fuel equipment in residential and commercial buildings. We urge you to drop this proposal and instead focus on the issues that are at the forefront of the minds of New Yorkers, such as public safety and affordability.

As we are sure you are aware, a recent ruling from the United States Court of Appeals for the Ninth Circuit held that a locality or state cannot ban natural gas hookups as it is preempted by federal law. The case, *California Restaurant Association v. City of Berkeley*, involved a City of Berkeley ordinance that sought to “eliminate obsolete natural gas infrastructure and associated greenhouse gas emissions in new buildings where all-electric infrastructure can be most practicably integrated.”

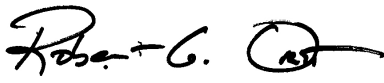
The Appeals Court held that the Berkeley ordinance was preempted by the Federal Energy Policy and Conservation Act (EPCA), which expressly preempts state and local regulations related to energy use of many natural gas appliances. The court wrote, “in sum, Berkeley can’t bypass preemption by banning natural gas piping within buildings rather than banning natural gas products themselves.” The Court further wrote “by completely prohibiting the installation of natural gas piping within newly constructed buildings, the City of Berkeley has waded into a domain preempted by Congress.”

We urge you to stop pushing this ban as it has been clearly deemed unconstitutional. Instead of trying to push a one size fits all fossil fuel ban in our state’s budget, which will undoubtedly be a fruitless effort as determined by the courts, we request that you instead advocate for affordable solutions in pursuing a cleaner energy future, such as independent cost studies and full

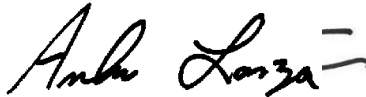
transparency; support diverse energy sources; keep needed power supply online to ensure reliability of our grid; and oppose unaffordable mandates on consumers.

Thank you for your consideration in this matter. Please do not hesitate to contact us if you wish to discuss this further.

Sincerely,



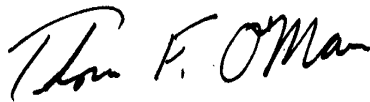
Robert G. Ort  
Senate Minority Leader  
62<sup>nd</sup> District



Senator Andrew Lanza  
24<sup>th</sup> District



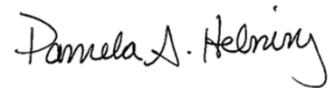
Senator Peter Oberacker  
51<sup>st</sup> District



Senator Tom O'Mara  
58<sup>th</sup> District



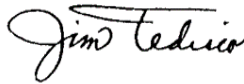
Senator Anthony Palumbo  
1<sup>st</sup> District



Senator Pam Helming  
54<sup>th</sup> District



Senator George Borrello  
57<sup>th</sup> District



Senator Jim Tedisco  
49<sup>th</sup> District



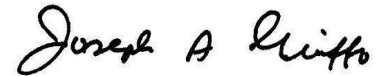
Senator Daniel G. Stec  
45<sup>th</sup> District



Senator Patrick Gallivan  
61<sup>st</sup> District



Senator Alexis Weik  
8<sup>th</sup> District



Senator Joseph Griffio  
47<sup>th</sup> District



Senator Mario Mattera  
2<sup>nd</sup> District



Senator Mark Walczyk  
49<sup>th</sup> District



Senator Jake Ashby  
43<sup>rd</sup> District



Senator William Weber  
38<sup>th</sup> District



Senator Dean Murray  
3<sup>rd</sup> District



Senator Steve Rhoads  
5th District



Senator Jack M. Martins  
7<sup>th</sup> District



Senator Patricia Canzoneri-Fitzpatrick  
9th District



Senator Rob Rolison  
39th District