

NEW YORK
STATE
SENATE

ALBANY, NEW YORK 12247



November 28, 2011

Honorable Andrew M. Cuomo
Office of the Governor
State Capitol
Albany, New York 12224

Re: S.5701/A.8119 – Veto # 81
S.3716/A.5818 – Veto # 74
S.4723-B/A.7592-A – Veto # 64
S.4935-B/A.7995-B – Veto # 77

Dear Governor Cuomo:

This letter is written in reference to the bills above that were recently vetoed. While we are disappointed with this executive action, we are encouraged by your veto message which states that these issues would be more appropriately addressed within the context of the State Budget. Therefore, we respectfully request that you include the necessary budget language and appropriation within your 2012-13 Recommended Executive Budget to correct the inadvertent errors made by these school districts and to fully restore the building aid they are entitled to under Education Law.

As you know, all school districts undergo regular capital construction improvements to their buildings and facilities to ensure that a safe and healthy learning environment exists for their students. This was indeed the case for those projects undertaken by Smithtown, Rocky Point, Central Islip and Babylon School Districts which all have good, longstanding reputations for meeting the needs of their residents and managing their expenses. Due to unintended human errors, final cost reports on certain capital projects in each of these districts were not filed in a timely manner rendering such projects ineligible for state aid.

These kinds of clerical mistakes are not uncommon, and in fact, have occurred in many school districts throughout the State. In the past, the Legislature routinely enacted special legislation to correct these mistakes and provide for the repayment of related building aid claims pursuant to Education Law. These bills have usually received unanimous support from the Legislature, and until recently, the approval of the Governor.

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We are well aware of the fiscal challenges facing the State at this time. However, approving these bills would not impose additional costs or burdens on the current state budget. The method for paying prior year claims, including those for capital projects, is governed by Section 3604(5)(c) of the Education Law. That section is tied to an annual budget appropriation of approximately \$15 million which is specifically used for the purpose of paying these types of claims.

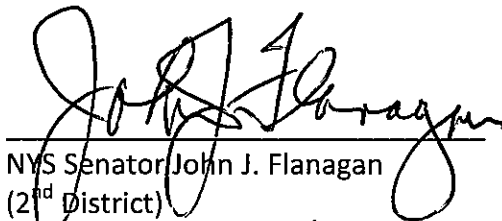
As set forth in Section 3604(5)(c), districts are paid in the order in which they are approved and based upon the availability of funds in the annual budget appropriation. When funds are exhausted in any given year, approved school districts retain their position and eligibility for repayment until additional budget appropriations are reauthorized by the Legislature and Governor in subsequent budget cycles. Due to a high number of approved districts involved with this process, it can often take years for a district to receive its full reimbursement.

It is critically important to note that all capital projects referenced in our bills received the initial approval of the State Education Department. If not for the clerical errors related to the final cost reports, all claims for building aid reimbursement on these projects would have been eligible for payment. This loss of aid will have catastrophic financial consequences for some of these districts. The legislation is necessary to correct these errors and, most importantly, to protect taxpayers from being unfairly penalized by assuming the costs and responsibility of these mistakes through reduced state aid, higher taxes and/or cuts in services.

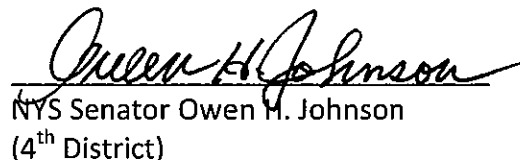
Therefore, we ask you to honor the language of your veto message by including the appropriate budget language in your 2012-2013 Recommended Proposal.

Thank you in advance for your consideration and attention to this extremely important school financing matter affecting our mutual school districts.

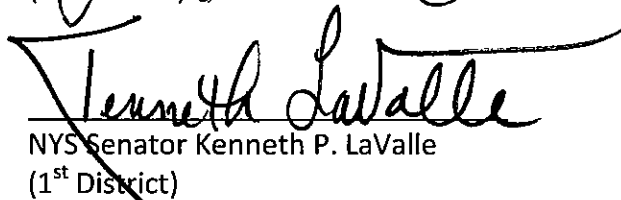
Sincerely,



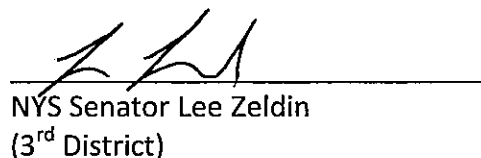
NYS Senator John J. Flanagan
(2nd District)



NYS Senator Owen M. Johnson
(4th District)



NYS Senator Kenneth P. LaValle
(1st District)



NYS Senator Lee Zeldin
(3rd District)