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Dear Legislator:

As we head to the Capitol to meet with you for our May Committee of 100 lobbying day, our members continue to struggle with the consequences of the economic crisis. In March, unemployment rates rose in all of the nation's largest metropolitan areas and the economy continued to shrink at a significant rate. On a more positive note, however, under the American Recovery and Reinvestment Act (ARRA), New York received critical resources that have helped stabilize the state budget. As a result, Americans are beginning to feel more optimistic about the direction in which the country is heading.

Even with the stimulus funding, thousands of school district employees face lay-offs, and significant numbers of our higher education adjunct and untenured full time faculty simply will not have their contracts renewed. These employees along with tens of thousands of New Yorkers statewide are losing access to basic financial and health care resources and are becoming increasingly unable to provide for their families, let alone contribute to their communities.

In light of the current economic crisis, we must not undermine the effectiveness of stimulus spending just as it is starting to take effect in the economy. It is imperative that New York invest in programs and policies that will not only address short term budget deficits but will also help move our economy forward in order to ensure the long term viability of our state.

It is also essential that these policies protect the welfare of all New Yorkers by protecting the financial stability, health, safety and dignity of our citizens. Currently, New York's unemployment insurance program lags far behind where it should be to ensure a basic living standard for working New Yorkers.

Included in this packet is legislation that:

- Increases unemployment insurance benefits and expands the application of these benefits to other displaced workers so that these workers can make limited ends meet as they transition to other employment (S.2245 Sen. Onorato/A.4921 Asm. John).
- This legislation amends the Labor Law to provide that an offer of employment or assignment made to a part-time faculty employee by a higher education institution that is contingent on enrollment, funding, or programmatic changes shall not constitute reasonable assurance of continued employment under the Labor Law. (S.4123 Sen. Onorato/A.613-A Asm. John).
- Requires all New York state school buildings meet green building standards and health and high performance standards using techniques that reduce energy and maintenance costs while providing cleaner air, improved lighting, and reduced exposures to toxic materials and supplies.(S.4923 Sen.Thompson/A.1741-A/Asm.Englebright)
- Protects property taxpayers who need it most from a property tax "overload" by implementing a circuit breaker tax relief program.
- Requires school districts to develop and implement programs to prevent workplace violence and provides for staff training on self-protection strategies (S.2124 Sen. Golden/A.2136 Asm. John).

(OVER)

New York State United Teachers  
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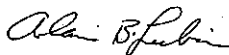
Prominent among our advocacy efforts is the fight to protect public employee pension benefits by opposing the Executive's proposed Tier V plan.

The Federal stimulus aid provided much of the resources needed to protect and create jobs in the short term as well as to invest in new and emerging industries and a green energy economy. In addition, employers in emerging green technology industries regularly complain about the lack of qualified and trained candidates. Therefore it is important to create programs that quickly and effectively train workers. Our public universities, community colleges, BOCES and career and tech high schools offer programs that are critical to providing the research, education and training necessary to grow good paying jobs for the new green economy right here in New York.

Under the ARRA hundreds of millions of dollars has been appropriated for these projects and training programs. New York state should aggressively pursue these set-asides from the US Department of Labor and US Department of Energy to ensure that we get our fair share of funding for training in emerging industries. Funding should be provided to educational institutions to fund a variety of green jobs/renewable energy training and skills development programs that have a direct impact on local communities.

Please take a moment to review the materials in this packet.

In Solidarity,



Alan B. Lubin  
Executive Vice President

28541  
ABL/KC

## **Healthy and High Performance School Buildings**

S-4923 (Thompson)  
*Education Committee*

A-1741-A (Englebright)  
*Education Committee*

This bill would require that all New York state school buildings meet green building standards and health and high performance standards using techniques that reduce energy and maintenance costs while providing cleaner air, improved lighting, reduced exposures to toxic materials and supplies. The State Education Department (SED), in cooperation with the NYS Energy Research and Development Authority (NYSERDA), would review and approve proposals for school facilities that meet the healthy and high performance schools' standards of both the NYS green buildings standards and healthy and high performance schools. Siting of schools must also be reviewed by the Departments of Environmental Conservation and Health with respect to proximity to known environmental and public health risks.

Healthy and high performance schools do not cost more to build and maintain and in fact, improve student and faculty performance through a cleaner and healthier learning environment.

## **Workplace Violence Prevention for School District Employees**

S-2124 (Golden)  
*Labor Committee*

A-2136 (John)  
*Labor Committee*

Chapter 82 of the Laws of 2006 established a statutory requirement that public employers other than school districts develop and implement programs to prevent workplace violence.

Violence in school settings is an increasingly visible element in our state's education system and too many school facilities contain real and persistent hazards to the health and safety of teachers, school-related professionals and students alike. This legislation would assist school districts in identifying and mitigating potential safety problems in order to ensure a safe work and learning environment for all of their employees and the students that they serve.

This legislation will help to provide school districts with real violence and hazard reduction strategies by opening a collaborative dialogue between the administration, the teachers and other school-related professionals in an effort to identify potential security gaps or other workplace hazards in conjunction with techniques for mitigating those threats and hazards. Moreover, this legislation establishes a reporting system so that school districts can track incidences of violent or aggressive behavior in an effort to identify trends or incidences that require remediation.



(OVER)

*For more information on this subject, call John Green at (518) 213-6000 extension 6615*

## **New York State Fair Pay Act**

A-3911 (John)  
*Passed Assembly*

S-955 (C. Johnson)  
*Finance Committee*

The New York State Fair Pay Act amends the New York State Labor Law by prohibiting an employer from paying employees in job titles, where women and minorities predominate, lower wages than those in jobs of comparable value. The provisions of this legislation would require employers, both public and private, to use a Job Comparison Methodology. The Methodology would assess and compare the responsibilities and requirements of each job title, on the basis of skill, effort, responsibility and working conditions to determine a fair and consistent evaluation of pay.

## **Marriage Equality**

### **Governor's Program Bill #10**

S-4401 (Duane)  
*Judiciary Committee*

A-7732 (O'Donnell)  
*On Calendar-3rd reading*

This legislation formally recognizes otherwise-valid marriages without regard to whether the parties are of the same or different sex. All loving, committed couples and their children should not be prevented by the state from entering into a civil marriage and should; therefore, also be provided with the same protections, responsibilities, rights, obligations, and benefits of such a legally-recognized union.

## **Dignity For All Students**

S-1987-A (Duane)  
*Education Committee*

A-3661-B (O'Donnell)  
*Passed Assembly*

This bill amends the Education Law and would codify, in law, the state's intent to provide all students in public schools an environment free of discrimination and harassment based on race, color, national origin, ethnicity, sexual orientation, religious practice, disability or gender identity expression.

The enactment of this legislation establishes anti-harassment and discrimination policies; creates school training programs to erase discriminatory and harassing behavior within the school; elevates school sensitivity towards differences among each other and the student body; develops anti-discriminatory instruction and counseling methods; and provides civil liability protection to those who are acting in good faith by reporting such incidents.



*For more information on this subject, call John Green at (518) 213-6000 extension 6615*

**Farmworkers Fair Labor Practices Act**

S-2247 (Onorato)

*Labor Committee*

A-1867 (Nolan)

*Ways and Means Committee*

The agricultural industry in New York holds a national competitive edge in the production of several widely consumed items. This fact is due primarily to the farm industry. The farmworker is an integral part of that industry as they perform highly important, arduous labors which provide all New York state residents with some form of nutrition and sustenance. However, under present law, farmworkers are not afforded most of the rights, protections and benefits that are provided to other workers in New York state. The ability to enjoy a day of rest or to receive overtime pay are just two examples of labor benefits that are afforded to NYS laborers but not farmworkers. NYSUT does not subscribe to the current policy of treating farmworkers differently from other workers.

Farmworkers should no longer be denied the basic labor, safety and health protections they deserve. The enactment of this legislation would remedy such unequal treatment and therefore improve the working conditions for farm workers in New York state, as well as provide them with the equitable treatment that is provided to all New York State laborers.

*For more information on this subject, call John Green at (518) 213-6000 extension 6615*

# Higher Education

## **Unemployment Insurance Benefits for Part-time Professional Higher Education Employees**

S-4123 (Onorato)

A-613-A (John)

*Finance Committee*

*Labor Committee*

This legislation amends the Labor Law to provide that an offer of employment or assignment made to a part-time faculty employee for services performed in a principal, administrative, research or instructional capacity, by a higher education institution (includes private colleges) that is contingent on enrollment, funding, or programmatic changes shall not constitute reasonable assurance of continued employment under the Labor Law.

Unemployment insurance is a benefit that is supposed to cover workers during times of unemployment when they have no income. Under current law however, many part-time faculty working in colleges and universities in New York state are unable to receive unemployment insurance when they become unemployed between semesters because the college or university holds that they have a "reasonable assurance" of continuous employment under the provisions of subdivision 10 of section 590 of the Labor Law. Yet, in reality, these employees have no "reasonable assurance" that they will have a job when the next semester starts as that decision rests entirely with the employer and is often based on contingent factors such as enrollment, funding and programmatic changes. In many cases, these employees are not notified by the college or university that there is no position for them until very close to the start of the next semester. In fact, current law provides an incentive to colleges and universities to wait as long as possible to officially disclose to part-time faculty that they will not be employed for the upcoming semester to avoid paying unemployment insurance costs for those employees between semesters.

The exclusion for educational employees from unemployment insurance for "reasonable assurance" reasons was included in reforms to the Social Security Act in 1970 that extended unemployment benefits to public sector workers generally. The "reasonable assurance" language was added to prevent full-time employees at educational institutions who received their annual salary in ten months, instead of 12 months, from "double dipping" by collecting unemployment insurance benefits in the summer. Since the law changed in 1970, the higher education workforce has been radically transformed from one where the majority was full-time faculty with tenure to one where the majority is part-time and non-tenure track faculty.

Adjunct faculty who work only as adjuncts typically earn \$25,000 to \$30,000 per year from teaching, and frequently must patch together courses at multiple colleges and universities in order to make ends meet. They are like workers in the construction, theater arts or seasonal resort industries that have periodic and irregular work. The unemployment insurance system was designed to serve these workers. It is only fair that adjunct faculty have similar access to unemployment benefits when they have no reasonable assurance of continued employment, are not working and are otherwise eligible.

This legislation levels the playing field for employees by changing the current practice of allowing letters of "intent to hire" that are conditioned on enrollment, funding, or program changes to be offered as evidence of the federal "reasonable assurance" standard. The employer would have the



*For more information on this subject, call Christopher Black at (518) 213-6000 extension 6630.*

burden of proof and would have to provide sufficient documentation, on a case-by-case basis, to overcome the presumption of contingency established in these letters of "intent to hire."

It is important to note that the enactment of this legislation will not guarantee unemployment insurance benefits for part-time higher education employees. That determination will still be made on a case-by-case basis as are all unemployment insurance claims. In fact, only a small fraction of adjuncts will be eligible for unemployment insurance. The vast majority of adjunct faculty are either employed full-time elsewhere or work year-round as adjuncts or part-time at other jobs and therefore are ineligible for benefits.

Opponents of this legislation claim that if the state changes the definition of "reasonable assurance" for adjunct faculty, the cost would be prohibitive. We respectfully disagree and believe that opponent cost arguments are based on the inflated assumption that all or a majority of part-time employees would be eligible for unemployment insurance benefits at the maximum rate which is simply not the case. The reality is that most adjuncts teach just one course, have other primary employment or teach at several colleges (in which case, if there are costs, they would be shared among the colleges). Many adjuncts teach courses during the summer or during intercessions and their eligibility will be extremely limited. All of these conditions either make individuals ineligible or reduce their benefits and thus, lower the employers' costs.

Based on membership surveys and a thorough review of our membership records, we estimate that no more than 10% to 20% of all adjunct faculty would be in the pool of adjuncts who might make an unemployment insurance claim. For CUNY, Only 25%, or approximately 2,042 part-time adjunct faculty, rely on CUNY as their primary source of income and teach two or more courses at CUNY in both the fall and spring semesters. These adjunct faculty earn between \$21,000 and \$25,000 annually from their CUNY employment. Based on a pool of 2,042 eligible adjunct faculty the maximum number of CUNY adjunct faculty filing for unemployment insurance will fall in the range of 408 at the low end and 1,021 at the high end. Even if you assume the payment of a full benefit (which would not be the case), this would put CUNY's maximum liability at \$1,621,800 to \$4,058,475.

For SUNY, the maximum total cost to is estimated at the low end of \$572,024 to the extreme high end of \$7,219,600. A more accurate measurement of SUNY's liability is \$572,024. This number excludes all individuals who worked over the summer at SUNY and are therefore categorically ineligible for unemployment insurance benefits.

Realistically, both SUNY's and CUNY's financial liability would be much less than the maximum. Their liability would be **ZERO** if the university would guarantee continuing employment, and thereby provide part-time adjunct faculty a measure of job stability where now they have none.

The enactment of this measure will help to ensure that part-time faculty members are treated equitably under the law as other workers who have no reasonable assurance of future employment. It is certainly reasonable and just to afford these benefits to part-time faculty who have no control over their continued employment and therefore have "no reasonable assurance" of employment. States, such as California and Washington, have begun to update the federal law by clarifying what consti-

**Property Tax Relief - Circuit Breaker**

S-4239 (Krueger)

No Same as

*Investigations & Gov't. Operations Committee*

The middle class property tax circuit breaker program is a concept that has successfully been used in several states to provide relief from a residential homeowner's property tax when it exceeds a certain portion of their household income. This new program would target middle-class New Yorkers who have suffered financially as municipalities have had to rely more heavily on real property taxes for local government revenue. Many homeowners are facing sky-rocking real property tax bills as a result they are often faced with the serious threat of defaulting on their property taxes and/or seriously consider selling their homes.

**Contingency Budget**

A-7984 (Sweeney)

No Same as

*Education Committee*

Spending increases under a contingency budget are currently capped at the lesser of four percent or the average increase in the CPI for the preceding calendar year multiplied by 120%. This bill would allow school districts on contingency budgets to increase total spending over the district's prior year budget by the greater of four percent or the average change in the CPI multiplied by 120 percent. Current projections for the 2010-11 contingency budget cap show that the CPI this year may actually be a negative number, which would leave the contingency cap at zero. This legislative remedy attempts to ward off catastrophe next year.

**Contingency Budget – Excluding BOCES Capital Costs**

S-4400 (Aubertine)

A-7765 (Destito)

*Education Committee**Education Committee*

This bill would permit school districts that will be operating on a contingency budget for the 2009-10 school year and thereafter to exclude the amount of increased expenditures for BOCES capital projects from the statutory cap on contingency budgets. Such increases will be treated similar to other capital expenses which are currently excluded from the cap pursuant to current law.

**853 and Special Acts – Four Percent Fund Balance**

S-5446 (Oppenheimer)

A- (Nolan)

This bill would allow the affected schools to maintain a fund balance of not more than four percent of that year's allowable and reimbursable costs, should the school's tuition revenues exceed the allowable and reimbursable costs in a particular year. Being able to maintain a surplus fund balance would allow Special Act and 853 schools to pay for unexpected expenses or delays in state reimbursement.

**School Paperwork and Elimination Act of 2009**

S-3874 (Oppenheimer)  
*Advanced to Third Reading*

A-7568 (Nolan)  
*Education Committee*

This bill streamlines planning and reporting requirements placed on public school districts and Boards of Cooperative Educational Services (BOCES) while providing cost savings by reducing duplicative, excessive, obsolete, unnecessary and burdensome reporting systems and focusing planning and reporting on student results. It focuses on collecting only the data necessary to comply with federal requirements, where possible, and to ensure that there is fiscal and programmatic accountability while maintaining school improvement, closing the achievement gap and ensuring a safe environment.

This bill would require the Commissioner of Education to collaborate with selected public school districts and BOCES to promote better use of required planning and reporting, identifying best practices, providing for the sharing of effective planning practices and providing technical assistance on the use of data in planning to school board members, teachers and superintendents.

**Educators' Rights**

A-1812 (Nolan)  
*Passed Assembly*

No Same as

This legislation amends sections 3014-a and 3014-b of the Education Law by clarifying that the Legislature did not intend to exclude other education professionals from transfer and recall rights protections of the Education Law. It includes "other specified personnel" under provisions of law that protect the rights of certain specified school district personnel when a school district takes over a program formerly operated by a Board of Cooperative Educational Services (BOCES) and vice versa. "Other specified personnel" is defined in this bill as any person certified to the state Civil Service Commission by the Commissioner pursuant to section 35 (g) of the Civil Service Law providing instructional, ancillary or supportive educational services and any licensed health professional who is principally engaged in providing health services.

**Keeping Students and Educators Safe in Special Acts School Districts**

Pending Senate Introduction

A- (Pretlow)

This bill amends education law section 4402 (2)(d) so variance of class size notification for the middle and secondary grades no longer be permitted for Special Act School Districts without approval from the New York State Education Department (NYSED) prior to implementation. This legislation eliminates "variance solely by notification" to NYSED and ensures safe class sizes. It would extend the programmatic authority to ensure appropriate groupings of students with disabilities to NYSED.

# Labor and Retirement

## Oppose "Tier V" Retirement Plan

As part of the state budget process, the Executive proposed a new retirement plan that will require greater contributions from certain middle class families over a longer period of time in exchange for diminished retirement eligibility and inferior retirement benefits. These changes would not have saved taxpayers a single dime this year or next and would likely only provide marginal savings over the next many years.

More specifically, the Executive's proposal would:

- (1) Increase Employee Contributions: Requires employees to contribute 3% of salary over the duration of their careers as opposed to the 10 year cap on employee contributions in place for current public employees; and
- (2) Increase Vesting from 5 to 10 Years: Increases the threshold for eligibility for deferred vested benefits from the retirement plan from 5 years to 10 years of service; and
- (3) Increase Minimum Age for Retirement to Age 62: Increases the minimum age for retirement from age 55 with 30 or more years of service OR age 62 with five or more years of service to age 62 with 10 years of service; and
- (4) Reduce Pension Factor from 2% to 1.66%: Reduces the pension factor for members with less than 25 years of service to 1.66% per year of service versus the current 2% calculation provided to members with 20 or more years of service.

If this plan is enacted, it will severely hamper the ability of public schools, colleges and universities to attract and retain quality educators and school-related professionals and these changes will directly impair the ability of these public institutions to deliver quality educational services to our students and our communities in the future.

Recommendation: Reject current attempts to diminish the retirement benefits of future public employees.

## Mitigate Economic Harm Caused by Layoffs of Teachers and Other School-Related Professionals

Due in large part to the federal stimulus program, the Executive and the Legislature were able to forge a state budget that largely holds education funding harmless from the devastating cuts that would have gutted educational programs and placed tens of thousands of educators and school-related professionals in unemployment lines.

While our schools have been held harmless from any cuts, no additional monies were provided to help meet inflationary increases or the promise made under the foundation aid formula agreed to during the 2008-09 state budget. This funding shortfall will result in staff layoffs and program cuts in many school districts across the state.

These layoffs will result in increased unemployment claims, increased mortgage, automobile and other debt-related defaults, and increased pressure on the budgets of working families.

Recommendation: Enact legislation to increase unemployment insurance benefits and to expand the application of these benefits to other displaced workers so that these workers can make limited ends meet as they transition to other employment (S-2245 by Sen. Onorato/A-4921 by Asm. John).

Recommendation: Enact legislation to allow older, higher salaried public employees to retire without penalty so that the state, municipalities and school districts can retain younger, lower salaried employees and keep these younger, more financially vulnerable workers, out of our state's social welfare safety net.

