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I N S E N A T E

March 20, 2014

Introduced by Sens. FLANAGAN, LAVALLE -- read twice and ordered printed,
and when printed to be committed to the Committee on Higher Education

AN ACT authorizing the state university of New York at Stony Brook to
lease certain lands

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY,
DO ENACT AS FOLLOWS:

1 Section 1. Legislative findings. Chapter 629 of the Laws of 2008
2 provided the state university of New York at Stony Brook with the oppor-
3 tunity through the generosity of a private donor to create a facility
4 dedicated to advancing knowledge in the fields of geometry and physics.
5 In furtherance thereof, the legislature determined that the university
6 foundation of the state university of New York at Stony Brook was the
7 appropriate body to design and construct a Center for Geometry and Phys-
8 ics adjacent to existing campus facilities, which has enhanced the
9 academic mission of the university and provides a unique opportunity for
10 education, research and economic benefit to the region, nation and the
11 world.

12 The Simons Center for Geometry and Physics, which opened in 2010, is
13 poised for enhancement and expansion of programmatic use. The building
14 as well as the program is divided into two distinct areas: the lower
15 floors, which are public areas, including a dining facility; and the top
16 three floors, which are secure areas and house faculty and research
17 areas. The project addition envisioned will increase functionality of
18 the facility and expand programmatic use by adding a second elevator at
19 the north side of the building to serve the public areas as well as the
20 dining facility. The project also will add office space and provide a
21 modest increase to the dining area.

22 The legislature further finds that the state university of New York
23 and the state university of New York at Stony Brook will benefit if the
24 design and construction of the project addition is assumed by the
25 university foundation only until such time as the project addition is
26 completed. The legislature determines that the academic mission and the
27 goals of the state university of New York at Stony Brook in the full
28 utilization of the properties in furtherance of its mission, can be best

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets
[] is old law to be omitted.

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1 served by the university foundation and the private resources to which
2 it has access. The university foundation shall mean the Stony Brook
3 Foundation or its affiliate, the Stony Brook Foundation Realty, which
4 are 501(c)(3) not-for-profit corporations, the purposes of which are to
5 support the university's educational mission to acquire and manage
6 campus real and personal property, to enhance the region's academic
7 offerings, and to stimulate the economy both locally and throughout New
8 York state.

9 S 2. The state university trustees are hereby authorized to lease
10 without any public bidding a portion of the lands of the state universi-
11 ty of New York at Stony Brook generally described in this act to the
12 university foundation of such university at Stony Brook for the design
13 and construction only of an addition to the Simons Center upon such
14 terms and conditions as the trustees deem advisable not to exceed in the
15 aggregate two years. No such contract or lease for the design and
16 construction only of such addition shall provide for a fee simple
17 conveyance of the underlying land. If the real property shall cease to
18 be used for the purposes described in this act said lease shall imme-
19 diately terminate and the real property and any improvements thereon
20 shall revert to the state university of New York. Any contract or lease
21 entered into pursuant to this act for such design and construction only
22 shall provide that the real property which is the subject of such lease
23 or contract and any improvements thereon shall revert to the state
24 university of New York on the expiration of such contract or lease. The
25 description of the parcel to be leased pursuant to this section is not
26 meant to be a legal description but is intended only to identify the
27 parcel and improvements to be leased.

28 S 3. Any contract or lease entered into by the trustees of the state
29 university of New York for the design and construction only of this
30 addition pursuant to this act shall require the lessee or contracting
31 not-for-profit corporation to comply with the requirements of article
32 15-A of the executive law. Notwithstanding any other law to the contra-
33 ry, any contract or lease for construction, rehabilitation, or other
34 improvement authorized by section five of this act entered into by the
35 trustees shall require the lessee or contractor and/or subcontractor to
36 comply with the requirements of sections 220, 240 and 241 of the labor
37 law, where applicable. Section 135 of the state finance law shall not
38 apply to any lease, contract or subcontract entered into pursuant to
39 this act.

40 S 4. Nothing in this act shall be deemed to waive or impair any rights
41 or benefits of employees of the state university of New York that other-
42 wise would be available to them pursuant to the terms of agreements
43 between the certified representatives of such employees and the state of
44 New York pursuant to article 14 of the civil service law. Any entity
45 that enters into a contract pursuant to the provisions of this act shall
46 be considered a university foundation for the purposes of the applica-
47 tion of such agreements pursuant to article 14 of the civil service law.

48 S 5. By way of example and not limitation, the terms and conditions of
49 the trustees' lease or contract may provide for leasing construction,
50 reconstruction, rehabilitation, improvement and provisions of services
51 and assistance for the design and construction only of such addition and
52 the granting of licenses, easements and other arrangements with regard
53 to such grounds and facilities by the university foundation and parties
54 contracting with the university foundation for the design and
55 construction only of such addition, and, in connection with such activ-
56 ities, the obtaining of funding or financing, whether public or private,

1 unsecured or secured (including but not limited to secured by leasehold
2 mortgages and assignments of rents and leases), by the university foun-
3 dation and parties contracting with the university foundation, for the
4 purpose of completing the project described above.

5 S 6. The lease entered into pursuant to this act shall be subject to
6 approval of the attorney general as to form, the director of the budget
7 and the state comptroller.

8 S 7. The lease shall include an indemnity provision whereby the lessee
9 or sublessee promises to indemnify, hold harmless and defend the lessor
10 against all claims, suits, actions, liability and damages to all persons
11 on the leased premises, including the tenant, tenant's agents, employ-
12 ees, contractors, subcontractors, customers, guests, licensees, invitees
13 and members of the public for damage to any such person's property,
14 whether real or personal or for personal injuries arising out of
15 tenant's use or occupation of the demised premises.

16 S 8. Any contracts entered into pursuant to this act between an educa-
17 tion corporation, not-for-profit corporation, public benefit corporation
18 or any other person or corporation (other than the state government or
19 any agency thereof) and parties contracting with such education corpo-
20 ration, not-for-profit corporation, public benefit corporation or any
21 other person or corporation (other than the state government or any
22 agency thereof) for the design and construction only of this facility
23 shall be awarded by a competitive process.

24 S 9. The property authorized by this act to be leased to the universi-
25 ty foundation at Stony Brook is generally described as a portion of that
26 parcel of real property with improvements thereon situated on the west
27 campus of the state university of New York at Stony Brook consisting of
28 approximately 235,000 square feet of land bounded as follows: on the
29 north approximately 250 feet west from the corner of the Graduate Phys-
30 ics building to Toll Drive on the west, south along Toll Drive for
31 approximately 600 feet on the south 550 feet east along the southern
32 edge of the parking lot, on the east 250 feet due north then approxi-
33 mately 300 feet along the southern and eastern faces of the Math
34 Tower/Graduate Physics building back to its north edge.

35 S 10. Insofar as the provisions of this act are inconsistent with the
36 provisions of any law, general, special or local, the provisions of this
37 act shall be controlling.

38 S 11. This act shall take effect immediately.