

8058

2013-2014 Regular Sessions

I N A S S E M B L Y

June 17, 2013

Introduced by M. of A. BRENNAN, PERRY -- read once and referred to the
Committee on Governmental Employees

AN ACT to amend the retirement and social security law, in relation to
providing a temporary retirement incentive and payment incentive for
certain public employees of the state university of New York health
science center at Brooklyn

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

1 Section 1. The retirement and social security law is amended by adding
2 a new article 19-B to read as follows:

3 ARTICLE 19-B

4 BENEFIT ENHANCEMENTS FOR CERTAIN EMPLOYEES OF THE
5 STATE UNIVERSITY OF NEW YORK HEALTH SCIENCE CENTER
6 AT BROOKLYN

7 SECTION 920. BENEFIT ENHANCEMENT.

8 921. FIFTY-FIVE/TWENTY-FIVE YEARS RETIREMENT INCENTIVE.

9 922. PAYMENT INCENTIVE.

10 S 920. BENEFIT ENHANCEMENT. A. DEFINITIONS. FOR PURPOSES OF THIS
11 SECTION:

12 1. "RETIREMENT SYSTEM" MEANS THE NEW YORK STATE AND LOCAL EMPLOYEES'
13 RETIREMENT SYSTEM AND THE NEW YORK STATE TEACHERS' RETIREMENT SYSTEM.

14 2. "TEACHERS' RETIREMENT SYSTEM" MEANS THE NEW YORK STATE TEACHERS'
15 RETIREMENT SYSTEM.

16 3. "OPTIONAL RETIREMENT PROGRAM" MEANS THE PROGRAMS ESTABLISHED PURSU-
17 ANT TO THE PROVISIONS OF SECTION ONE HUNDRED EIGHTY-ONE, THREE HUNDRED
18 NINETY-ONE OR SIXTY-TWO HUNDRED FIFTY-ONE OF THE EDUCATION LAW; OR
19 CONTINUED PURSUANT TO SECTION THREE OF CHAPTER NINE HUNDRED EIGHTY OF
20 THE LAWS OF NINETEEN HUNDRED SIXTY-TWO.

21 4. "PARTICIPATING EMPLOYER" OR "APPOINTING AUTHORITY" MEANS THE STATE
22 UNIVERSITY OF NEW YORK.

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

LBD10006-09-3

1 5. "ELIGIBLE EMPLOYEE" MEANS A PERSON WHO IS A MEMBER OF A RETIREMENT
2 SYSTEM OR A PARTICIPANT IN AN OPTIONAL RETIREMENT PROGRAM WHO IS AN
3 EMPLOYEE OF THE STATE UNIVERSITY OF NEW YORK HEALTH SCIENCE CENTER AT
4 BROOKLYN INCLUDING ANY ELIGIBLE EMPLOYEE WHO HAS BEEN OR WILL BE IDENTI-
5 FIED FOR LAYOFF, NON-RENEWAL OF AN EMPLOYMENT CONTRACT OR TERMINATION OF
6 EMPLOYMENT BECAUSE OF ECONOMY, CONSOLIDATION OR ABOLITION OF FUNCTIONS,
7 CURTAILMENT OR OTHERWISE.

8 6. "ACTIVE SERVICE" MEANS SERVICE WHILE BEING PAID ON THE PAYROLL,
9 PROVIDED THAT (A) A LEAVE OF ABSENCE WITH PAY SHALL BE DEEMED ACTIVE
10 SERVICE; AND (B) OTHER APPROVED LEAVE WITHOUT PAY NOT TO EXCEED TWELVE
11 WEEKS FROM JANUARY FIRST, TWO THOUSAND THIRTEEN AND THE COMMENCEMENT OF
12 THE DESIGNATED OPEN PERIOD.

13 7. "OPEN PERIOD" MEANS THE PERIOD BEGINNING WITH THE COMMENCEMENT DATE
14 AS DEFINED IN PARAGRAPH EIGHT OF THIS SUBDIVISION AND SHALL NOT BE MORE
15 THAN SIXTY DAYS OR LESS THAN THIRTY DAYS IN LENGTH, AS SPECIFIED BY THE
16 PARTICIPATING EMPLOYER PURSUANT TO SUBDIVISION C OF THIS SECTION.

17 8. "COMMENCEMENT DATE" MEANS THE FIRST DAY THE RETIREMENT INCENTIVE
18 AUTHORIZED BY THIS SECTION SHALL BE MADE AVAILABLE, WHICH SHALL MEAN A
19 DATE WHICH SHALL OCCUR NO LATER THAN AUGUST FIRST, TWO THOUSAND THIR-
20 TEEN. FOR THE PURPOSES OF RETIREMENT PURSUANT TO THIS SECTION, A
21 SERVICE RETIREMENT APPLICATION MUST BE FILED WITH THE APPROPRIATE
22 RETIREMENT SYSTEM NOT LESS THAN FOURTEEN DAYS PRIOR TO THE EFFECTIVE
23 DATE OF RETIREMENT TO BECOME EFFECTIVE, UNLESS A SHORTER PERIOD OF TIME
24 IS PERMITTED UNDER LAW.

25 B. NOTICE TO EMPLOYER. ALL ELIGIBLE EMPLOYEES DESIRING TO AVAIL THEM-
26 SELVES OF THE RETIREMENT INCENTIVE PROVIDED BY THIS SECTION SHALL
27 PROVIDE WRITTEN NOTICE TO HIS OR HER EMPLOYER ON OR BEFORE THE FOUR-
28 TEENTH DAY PRECEDING THE END OF THE OPEN PERIOD. FAILURE TO PROVIDE
29 SUCH WRITTEN NOTICE SHALL RENDER THE EMPLOYEE INELIGIBLE FOR THE RETIRE-
30 MENT INCENTIVE PROVIDED BY THIS SECTION.

31 C. ELECTION BY PARTICIPATING EMPLOYER. 1. ON OR BEFORE JULY THIRTY-
32 FIRST, TWO THOUSAND THIRTEEN, THE PARTICIPATING EMPLOYER MAY ELECT TO
33 PROVIDE ITS ELIGIBLE EMPLOYEES THE RETIREMENT INCENTIVES AUTHORIZED BY
34 THIS SECTION BY THE ADOPTION OF A RESOLUTION OF ITS GOVERNING BODY. THE
35 RESOLUTION SHALL SPECIFY THE COMMENCEMENT DATE OF THE PROGRAM AND THE
36 LENGTH OF THE OPEN PERIOD. A COPY OF SUCH RESOLUTION SHALL BE FILED WITH
37 THE APPROPRIATE RETIREMENT SYSTEM OR SYSTEMS, AND, IF APPLICABLE, ON
38 FORMS PROVIDED BY SUCH SYSTEM.

39 2. IN THE EVENT THAT THE PARTICIPATING EMPLOYER FAILS TO ESTABLISH A
40 COMMENCEMENT DATE FOR THE RETIREMENT BENEFIT ESTABLISHED UNDER THIS
41 SECTION, THE COMMENCEMENT DATE FOR THE ELIGIBLE EMPLOYEES SHALL BE
42 AUGUST FIRST, TWO THOUSAND THIRTEEN.

43 D. EMPLOYEE ELIGIBILITY. NOTWITHSTANDING ANY OTHER PROVISION OF LAW,
44 ANY ELIGIBLE EMPLOYEE WHO:

45 1. HAS BEEN CONTINUOUSLY IN THE ACTIVE SERVICE OF THE PARTICIPATING
46 EMPLOYER FROM JANUARY FIRST, TWO THOUSAND TWELVE TO THE DATE IMMEDIATELY
47 PRIOR TO THE COMMENCEMENT DATE OF THE APPLICABLE OPEN PERIOD;

48 2. FILES AN APPLICATION FOR SERVICE RETIREMENT WITH THE APPROPRIATE
49 RETIREMENT SYSTEM, OR FILES THE APPROPRIATE APPLICATION AND AUTHORI-
50 ZATION FORM WITH THE OPTIONAL RETIREMENT PROGRAM AND A DULY ACKNOWLEDGED
51 RETIREMENT INCENTIVE FORM FOR SUCH PROGRAM WITH THE APPROPRIATE PERSON-
52 NEL OFFICE, THAT IS EFFECTIVE DURING THE OPEN PERIOD; AND

53 3. IS OTHERWISE ELIGIBLE FOR A SERVICE RETIREMENT AS OF THE EFFECTIVE
54 DATE OF THE APPLICATION FOR RETIREMENT SHALL BE ENTITLED TO THE RETIRE-
55 MENT INCENTIVE PROVIDED IN THIS SECTION. IF NOT OTHERWISE ELIGIBLE FOR
56 A SERVICE RETIREMENT, THE FOLLOWING PERSON SHALL BE DEEMED TO SATISFY

1 THE ELIGIBILITY CONDITION OF THIS SECTION: A PERSON WHO IS AT LEAST AGE
2 FIFTY WITH TEN OR MORE YEARS SERVICE AS OF THE EFFECTIVE DATE OF RETIRE-
3 MENT (OTHER THAN A MEMBER OF A RETIREMENT PLAN WHICH PROVIDES FOR HALF-
4 PAY PENSION UPON COMPLETION OF TWENTY-FIVE YEARS OR LESS SERVICE WITHOUT
5 REGARD TO AGE); A MEMBER OF A RETIREMENT PLAN WHICH PROVIDES FOR
6 HALF-PAY PENSION UPON COMPLETION OF TWENTY-FIVE YEARS OF SERVICE WITHOUT
7 REGARD TO AGE WHO HAS NOT ACCRUED, EXCLUDING ADDITIONAL CREDIT GRANTED
8 PURSUANT TO THIS SECTION, THE MINIMUM NUMBER OF YEARS OF SERVICE
9 REQUIRED TO RETIRE WITH AN ALLOWANCE EQUAL TO FIFTY PERCENT OF FINAL
10 AVERAGE SALARY UNDER SUCH PLAN, BUT HAS, WITH THE INCLUSION OF THE ADDI-
11 TIONAL CREDIT PROVIDED UNDER THIS SECTION, ACCRUED SUCH NUMBER OF YEARS
12 OF CREDIT; OR A PARTICIPANT IN AN OPTIONAL RETIREMENT PLAN AT LEAST
13 FIFTY YEARS OF AGE WITH TEN YEARS OF SERVICE ON AN ANNUAL SALARY BASIS
14 WITH HIS OR HER EMPLOYER AS OF THE DATE OF THE RETIREMENT.

15 E. RETIREMENT INCENTIVE. NOTWITHSTANDING ANY OTHER PROVISION OF LAW,
16 AN ELIGIBLE EMPLOYEE WHO IS:

17 1. A MEMBER OF A RETIREMENT SYSTEM AND WHO IS ENTITLED TO A RETIREMENT
18 INCENTIVE PURSUANT TO THIS SECTION SHALL RECEIVE A RETIREMENT INCENTIVE
19 OF ONE-TWELFTH OF A YEAR OF ADDITIONAL RETIREMENT CREDIT FOR EACH YEAR
20 OF PENSION SERVICE CREDITED AS OF THE DATE OF RETIREMENT, UP TO A MAXI-
21 MUM OF THREE YEARS OF RETIREMENT SERVICE CREDIT AT THE TIME OF RETIRE-
22 MENT.

23 2. AN ELIGIBLE EMPLOYEE WHO IS COVERED BY THE PROVISIONS OF ARTICLE
24 FIFTEEN OF THIS CHAPTER SHALL RETIRE UNDER THE PROVISIONS OF ARTICLE
25 FIFTEEN OF THIS CHAPTER. THE AMOUNT OF SUCH BENEFIT FOR AN ELIGIBLE
26 EMPLOYEE WHO IS COVERED BY ARTICLE FIFTEEN OF THIS CHAPTER AND RETIRES
27 UNDER THE PROVISIONS OF THIS SECTION, OTHER THAN A MEMBER WITH THIRTY OR
28 MORE YEARS OF SERVICE IN THE NEW YORK STATE AND LOCAL EMPLOYEES' RETIRE-
29 MENT SYSTEM OR A TEACHERS' RETIREMENT SYSTEM, SHALL BE REDUCED BY SIX
30 PERCENT FOR EACH OF THE FIRST TWO YEARS BY WHICH RETIREMENT PRECEDES AGE
31 SIXTY-TWO, PLUS A FURTHER REDUCTION OF THREE PERCENT FOR EACH YEAR BY
32 WHICH RETIREMENT PRECEDES AGE SIXTY. SUCH REDUCTION SHALL BE PRORATED
33 FOR PARTIAL YEARS. THE AMOUNT OF SUCH BENEFIT FOR AN ELIGIBLE EMPLOYEE
34 WITH THIRTY OR MORE YEARS OF SERVICE WHO IS A MEMBER OF THE NEW YORK
35 STATE AND LOCAL EMPLOYEES' RETIREMENT SYSTEM OR A TEACHERS' RETIREMENT
36 SYSTEM SHALL BE REDUCED BY FIVE PERCENT FOR EACH YEAR BY WHICH RETIRE-
37 MENT PURSUANT TO THIS SECTION PRECEDES AGE FIFTY-FIVE.

38 3. AN ELIGIBLE EMPLOYEE SERVING IN AN ELIGIBLE TITLE WHO IS COVERED BY
39 ARTICLE ELEVEN OF THIS CHAPTER SHALL RETIRE UNDER THE PROVISIONS OF SUCH
40 ARTICLE. THE AMOUNT OF SUCH BENEFIT FOR AN ELIGIBLE EMPLOYEE COVERED BY
41 ARTICLE ELEVEN OF THIS CHAPTER OTHER THAN A MEMBER OF A TEACHERS'
42 RETIREMENT SYSTEM OR A MEMBER OF THE NEW YORK STATE AND LOCAL EMPLOYEES'
43 RETIREMENT SYSTEM WITH THIRTY OR MORE YEARS OF SERVICE SHALL BE REDUCED
44 BY SIX PERCENT FOR EACH OF THE FIRST TWO YEARS BY WHICH RETIREMENT
45 PURSUANT TO THIS SECTION PRECEDES AGE SIXTY-TWO, PLUS A FURTHER
46 REDUCTION OF THREE PERCENT FOR EACH YEAR BY WHICH RETIREMENT PURSUANT TO
47 THIS SECTION PRECEDES AGE SIXTY, PROVIDED, HOWEVER, THE FOREGOING
48 REDUCTIONS SHALL NOT APPLY: (A) IN ANY CASE WHERE AN ELIGIBLE EMPLOYEE
49 CAN RETIRE PURSUANT TO A PLAN WHICH PERMITS RETIREMENT FOR SERVICE WITH
50 IMMEDIATE PAYABILITY, EXCLUSIVE OF THIS ACT, PRIOR TO THE AGE OF FIFTY-
51 FIVE OR (B) TO ANY TIME PERIOD SUBSEQUENT TO THE POINT AT WHICH AN
52 ELIGIBLE EMPLOYEE CAN RETIRE FOR SERVICE WITHOUT REDUCTION OF HIS OR HER
53 SERVICE RETIREMENT ALLOWANCE PURSUANT TO ARTICLE SIXTEEN OF THIS CHAP-
54 TER. SUCH REDUCTION SHALL BE PRORATED FOR PARTIAL YEARS. THE AMOUNT OF
55 SUCH BENEFIT FOR AN ELIGIBLE EMPLOYEE WHO IS A MEMBER OF A TEACHERS'
56 RETIREMENT SYSTEM OR A MEMBER OF THE NEW YORK STATE AND LOCAL EMPLOYEES'

1 RETIREMENT SYSTEM WITH THIRTY OR MORE YEARS OF SERVICE SHALL BE REDUCED
2 BY FIVE PERCENT FOR EACH YEAR BY WHICH RETIREMENT PURSUANT TO THIS
3 SECTION PRECEDES AGE FIFTY-FIVE. SUCH REDUCTION SHALL BE PRORATED FOR
4 PARTIAL YEARS.

5 4. AN ELIGIBLE EMPLOYEE WHO IS NOT COVERED BY ARTICLE ELEVEN OR
6 FIFTEEN OF THIS CHAPTER SHALL RETIRE UNDER THE PROVISIONS OF THE PLAN BY
7 WHICH HE OR SHE IS COVERED. THE AMOUNT OF SUCH BENEFIT SHALL BE REDUCED
8 BY FIVE PERCENT FOR EACH YEAR BY WHICH RETIREMENT PURSUANT TO THIS
9 SECTION PRECEDES AGE FIFTY-FIVE, PROVIDED, HOWEVER, THE FOREGOING
10 REDUCTIONS SHALL NOT APPLY IN ANY CASE WHERE AN ELIGIBLE EMPLOYEE CAN
11 RETIRE PURSUANT TO A PLAN WHICH PERMITS RETIREMENT FOR SERVICE WITH
12 IMMEDIATE PAYABILITY, EXCLUSIVE OF THIS SECTION, PRIOR TO THE AGE OF
13 FIFTY-FIVE. SUCH REDUCTION SHALL BE PRORATED FOR PARTIAL YEARS.

14 5. AN ELIGIBLE EMPLOYEE WHO PARTICIPATES IN A RETIREMENT PLAN WHICH
15 PROVIDES FOR A RETIREMENT ALLOWANCE EQUAL TO FIFTY PERCENT OF FINAL
16 AVERAGE SALARY UPON THE COMPLETION OF TWENTY-FIVE YEARS OF SERVICE WITH-
17 OUT REGARD TO AGE AND WHO IS OTHERWISE ELIGIBLE TO RETIRE SHALL RETIRE
18 UNDER THE PROVISIONS OF SUCH PLAN. SUCH EMPLOYEE SHALL, AT THE TIME OF
19 RETIREMENT, BE CREDITED WITH ONE-TWELFTH OF A YEAR OF ADDITIONAL RETIRE-
20 MENT SERVICE CREDIT FOR EACH YEAR OF SERVICE CREDITED UNDER SUCH PLAN AS
21 OF THE DATE OF RETIREMENT, UP TO A MAXIMUM OF THREE YEARS OF RETIREMENT
22 SERVICE CREDIT. IF SUCH EMPLOYEE HAS NOT ACCRUED, EXCLUDING ADDITIONAL
23 CREDIT GRANTED PURSUANT TO THIS SECTION, THE MINIMUM NUMBER OF YEARS OF
24 SERVICE REQUIRED TO RETIRE WITH AN ALLOWANCE EQUAL TO FIFTY PERCENT OF
25 FINAL AVERAGE SALARY UNDER SUCH PLAN, BUT HAS, WITH THE INCLUSION OF THE
26 ADDITIONAL CREDIT PROVIDED UNDER THIS SECTION, ACCRUED SUCH NUMBER OF
27 YEARS OF CREDIT, THE BENEFIT PAYABLE SHALL BE THE PERCENTAGE OF FINAL
28 AVERAGE SALARY THAT WOULD ORDINARILY BE APPLICABLE TO SUCH INDIVIDUAL
29 UPON RETIREMENT WITH SUCH AMOUNT OF CREDIT, INCLUDING INCENTIVE CREDIT,
30 REDUCED BY FIVE PER CENTUM PER YEAR FOR EACH YEAR BY WHICH THE NUMBER OF
31 YEARS OF SERVICE OTHERWISE REQUIRED TO RETIRE WITH AN ALLOWANCE EQUAL TO
32 FIFTY PERCENT OF FINAL AVERAGE SALARY UNDER SUCH PLAN EXCEEDS THE AMOUNT
33 OF SERVICE CREDITED TO SUCH EMPLOYEE UNDER SUCH PLAN AT RETIREMENT
34 EXCLUDING THE ADDITIONAL RETIREMENT INCENTIVE SERVICE CREDIT PROVIDED
35 PURSUANT TO THIS SECTION. SUCH REDUCTION SHALL BE PRORATED FOR PARTIAL
36 YEARS.

37 F. OPTIONAL RETIREMENT PROGRAM RETIREMENT INCENTIVE. A PARTICIPANT IN
38 AN OPTIONAL RETIREMENT PROGRAM WHO IS ENTITLED TO A RETIREMENT INCENTIVE
39 PURSUANT TO THIS SECTION SHALL RECEIVE AN ADDITIONAL EMPLOYER CONTRIB-
40 UTION EQUAL TO AN AMOUNT, WHICH SHALL BE CALCULATED AS FOLLOWS:
41 ONE-TWELFTH FOR EACH YEAR OF SERVICE MULTIPLIED BY FIFTEEN PERCENT
42 MULTIPLIED BY THE EMPLOYEE'S EARNABLE ANNUAL SALARY RATE IN EFFECT ON
43 JULY FIRST, TWO THOUSAND THIRTEEN OR THE EFFECTIVE DATE OF THIS SECTION
44 IF THE EMPLOYEE RETIRES PRIOR TO JULY FIRST, TWO THOUSAND THIRTEEN, SUCH
45 AMOUNT NOT TO EXCEED FORTY-FIVE PERCENT OF SUCH SALARY RATE. SUCH
46 CONTRIBUTION SHALL BE MADE TO THE EMPLOYEE'S RETIREMENT ANNUITY UNDER
47 THE OPTIONAL RETIREMENT PROGRAM UP TO THE MAXIMUM CONTRIBUTION ALLOWABLE
48 UNDER SECTION 415 OF THE INTERNAL REVENUE CODE. ANY CONTRIBUTION IN
49 EXCESS OF THAT LIMIT SHALL BE CONTRIBUTED BY THE EMPLOYER TO AN INTERNAL
50 REVENUE CODE SECTION 403(B) CONTRACT ON BEHALF OF THE EMPLOYEE TO THE
51 EXTENT IT CAN BE CONTRIBUTED ON A BEFORE-TAX BASIS UNDER THE MAXIMUM
52 LIMITS ALLOWED UNDER THE INTERNAL REVENUE CODE. CONTRIBUTIONS IN EXCESS
53 OF THAT AMOUNT SHALL BE PAID IN CASH TO THE PARTICIPANT IN THREE EQUAL
54 INSTALLMENTS DURING A TWENTY-FOUR MONTH PERIOD COMMENCING ON SUCH ELIGI-
55 BLE EMPLOYEE'S EFFECTIVE DATE OF RETIREMENT.

1 G. INTERNAL REVENUE CODE LIMITS. NOTHING IN THIS SECTION SHALL BE USED
2 TO PROVIDE BENEFITS THAT SHALL EXCEED THE LIMITS CONTAINED IN SECTION
3 415 OF THE INTERNAL REVENUE CODE. PROVIDED, HOWEVER, ANY SERVICE RETIRE-
4 MENT BENEFIT WHICH HAS BEEN REDUCED BECAUSE OF SECTION 415 OF THE INTER-
5 NAL REVENUE CODE SHALL BE INCREASED WHEN AND CONSISTENT WITH THE DOLLAR
6 LIMITS IN SECTION 415 OF THE INTERNAL REVENUE CODE ARE ADJUSTED BY THE
7 INTERNAL REVENUE SERVICE FOR COST OF LIVING INCREASES. SUCH INCREASES
8 SHALL NOT INCREASE THE BENEFIT IN EXCESS OF THE SERVICE RETIREMENT BENE-
9 FIT OTHERWISE PAYABLE.

10 H. FORFEITURE. ANY ELIGIBLE EMPLOYEE WHO RETIRES PURSUANT TO THE
11 PROVISIONS OF THIS SECTION AND ENTERS OR REENTERS PUBLIC SERVICE AS
12 DEFINED IN SUBDIVISION E OF SECTION TWO HUNDRED TEN OF THIS CHAPTER AND
13 JOINS OR REJOINS ANY PUBLIC RETIREMENT SYSTEM OF THE STATE AS DEFINED IN
14 SUBDIVISION SIX OF SECTION ONE HUNDRED FIFTY-TWO OF THIS CHAPTER OR
15 ELECTS TO PARTICIPATE IN AN OPTIONAL RETIREMENT PROGRAM SHALL IF THE
16 ADDITIONAL BENEFIT WAS PROVIDED PURSUANT TO: (1) PARAGRAPH ONE OF SUBDI-
17 VISION E OF THIS SECTION, FORFEIT THE ADDITIONAL BENEFIT AUTHORIZED BY
18 THIS SECTION AT THE TIME OF HIS OR HER SUBSEQUENT RETIREMENT; OR (2)
19 SUBDIVISION F OF THIS SECTION, REPAY TO THE PARTICIPATING EMPLOYER SUCH
20 ADDITIONAL CONTRIBUTION TOGETHER WITH THE APPROPRIATE INTEREST AS DETER-
21 MINED BY THE APPROPRIATE RETIREMENT SYSTEM.

22 I. MAXIMUM RETIREMENT BENEFIT. NOTWITHSTANDING ANY OTHER PROVISION OF
23 LAW, IF THE SERVICE RETIREMENT BENEFIT OF A MEMBER OF A RETIREMENT
24 SYSTEM IS SUBJECT TO A MAXIMUM RETIREMENT BENEFIT, THE ADDITIONAL BENE-
25 FIT AUTHORIZED BY THIS SECTION WILL BE COMPUTED BY MULTIPLYING THE FINAL
26 AVERAGE SALARY TIMES THE NUMBER OF YEARS OF SERVICE CREDIT GRANTED BY
27 SUBDIVISION E OF THIS SECTION TIMES THE BENEFIT FRACTION OF THE PLAN
28 UNDER WHICH SUCH MEMBER RETIRES.

29 J. PAYMENT OF COSTS. THE PENSION BENEFIT COSTS OF THIS SECTION SHALL
30 BE PAID BY THE PARTICIPATING EMPLOYER AS PROVIDED BY APPLICABLE LAW FOR
31 EACH RETIREMENT SYSTEM COVERED BY THIS SECTION OVER A PERIOD NOT TO
32 EXCEED FIVE YEARS COMMENCING IN THE STATE FISCAL YEAR ENDING MARCH THIR-
33 TY-FIRST, TWO THOUSAND FOURTEEN.

34 K. INELIGIBILITY. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE
35 BENEFITS PROVIDED BY THIS SECTION SHALL NOT BE MADE AVAILABLE TO ANY
36 PERSON WHO (1) HAS RECEIVED ANY RETIREMENT INCENTIVE AUTHORIZED BY ANY
37 PROVISION OF STATE LAW, OR (2) WHO RECEIVES, HAS RECEIVED OR IS ELIGIBLE
38 TO RECEIVE A PAYMENT IN A LUMP SUM OR IN ANOTHER FORM FROM A RETIREMENT
39 INCENTIVE PURSUANT TO THE PROVISIONS OF A COLLECTIVE BARGAINING AGREE-
40 MENT OR BY OTHER ARRANGEMENT WITH HIS OR HER EMPLOYER, UNLESS SUCH
41 PERSON FILES A WRITTEN STATEMENT WITH HIS OR HER EMPLOYER, A COPY OF
42 WHICH SHALL BE FORWARDED TO THE APPROPRIATE RETIREMENT SYSTEM, THAT HE
43 OR SHE AGREES TO WAIVE ANY RIGHT TO SUCH PAYMENT. THE PARTICIPATING
44 EMPLOYER WHO MAKES AN ELECTION PURSUANT TO THIS SECTION AND WHO OFFERS
45 OR HAS OFFERED A RETIREMENT INCENTIVE PURSUANT TO THE PROVISIONS OF A
46 COLLECTIVE BARGAINING AGREEMENT OR BY OTHER ARRANGEMENT SHALL PREPARE,
47 AND FILE WITH EACH RETIREMENT SYSTEM, A LIST CONTAINING THE NAMES AND
48 SOCIAL SECURITY NUMBERS OF ALL PERSONS DESCRIBED IN THIS SUBDIVISION.

49 S 921. FIFTY-FIVE/TWENTY-FIVE YEARS RETIREMENT INCENTIVE. A. DEFI-
50 NITIONS. FOR PURPOSES OF THIS SECTION:

51 1. "RETIREMENT SYSTEM" MEANS THE NEW YORK STATE AND LOCAL EMPLOYEES'
52 RETIREMENT SYSTEM AND THE NEW YORK STATE TEACHERS' RETIREMENT SYSTEM.

53 2. "TEACHERS' RETIREMENT SYSTEM" MEANS THE NEW YORK STATE TEACHERS'
54 RETIREMENT SYSTEM.

55 3. "PARTICIPATING EMPLOYER" MEANS THE STATE UNIVERSITY OF NEW YORK.

1 4. "ELIGIBLE EMPLOYEE" MEANS A PERSON WHO IS A MEMBER OF A RETIREMENT
2 SYSTEM WHO IS AN EMPLOYEE OF THE STATE UNIVERSITY OF NEW YORK HEALTH
3 SCIENCE CENTER AT BROOKLYN WHO HAS ATTAINED AGE FIFTY-FIVE AND HAS AT
4 LEAST TWENTY-FIVE YEARS OF CREDITABLE SERVICE IN A RETIREMENT SYSTEM.

5 5. "ACTIVE SERVICE" MEANS SERVICE WHILE BEING PAID ON THE PAYROLL,
6 PROVIDED THAT (A) A LEAVE OF ABSENCE WITH PAY SHALL BE DEEMED ACTIVE
7 SERVICE; (B) OTHER APPROVED LEAVE WITHOUT PAY NOT TO EXCEED TWELVE WEEKS
8 FROM JANUARY FIRST, TWO THOUSAND THIRTEEN AND THE COMMENCEMENT OF THE
9 DESIGNATED OPEN PERIOD.

10 6. "OPEN PERIOD" MEANS THE PERIOD BEGINNING WITH THE COMMENCEMENT DATE
11 AS DEFINED IN PARAGRAPH SEVEN OF THIS SUBDIVISION AND SHALL NOT BE MORE
12 THAN SIXTY DAYS OR LESS THAN THIRTY DAYS IN LENGTH. FOR THE PURPOSES OF
13 RETIREMENT PURSUANT TO THIS SECTION, A SERVICE RETIREMENT APPLICATION
14 MUST BE FILED WITH THE APPROPRIATE RETIREMENT SYSTEM NOT LESS THAN FOUR-
15 TEEN DAYS PRIOR TO THE EFFECTIVE DATE OF RETIREMENT TO BECOME EFFECTIVE,
16 UNLESS A SHORTER PERIOD OF TIME IS PERMITTED UNDER LAW.

17 7. "COMMENCEMENT DATE" MEANS THE FIRST DAY THE RETIREMENT BENEFIT
18 MANDATED BY THIS SECTION SHALL BE MADE AVAILABLE, WHICH SHALL MEAN A
19 DATE WHICH SHALL BE NO LATER THAN AUGUST FIRST, TWO THOUSAND THIRTEEN.

20 B. ELECTION BY PARTICIPATING EMPLOYER. ON OR BEFORE JULY THIRTY-FIRST,
21 TWO THOUSAND THIRTEEN, THE PARTICIPATING EMPLOYER MAY ELECT TO PROVIDE
22 ITS EMPLOYEES THE RETIREMENT INCENTIVE AUTHORIZED BY THIS SECTION BY THE
23 ADOPTION OF A RESOLUTION OF ITS GOVERNING BODY. THE RESOLUTION SHALL
24 SPECIFY THE COMMENCEMENT DATE OF THE INCENTIVE AND THE LENGTH OF THE
25 OPEN PERIOD.

26 C. COMMENCEMENT DATE. 1. THE PARTICIPATING EMPLOYER, IF IT ELECTS TO
27 PARTICIPATE PURSUANT TO SUBDIVISION B OF THIS SECTION, SHALL ESTABLISH A
28 COMMENCEMENT DATE FOR THE RETIREMENT BENEFIT ESTABLISHED UNDER THIS
29 SECTION BY ITS GOVERNING BODY ADOPTING A RESOLUTION ESTABLISHING A
30 COMMENCEMENT DATE.

31 2. IN THE EVENT THAT THE PARTICIPATING EMPLOYER FAILS TO ESTABLISH A
32 COMMENCEMENT DATE FOR THE RETIREMENT BENEFIT ESTABLISHED UNDER THIS
33 SECTION, THE COMMENCEMENT DATE FOR THE ELIGIBLE EMPLOYEES SHALL BE
34 AUGUST FIRST, TWO THOUSAND THIRTEEN.

35 D. EMPLOYEE ELIGIBILITY. NOTWITHSTANDING ANY OTHER PROVISION OF LAW,
36 ANY ELIGIBLE EMPLOYEE WHO (1) HAS BEEN CONTINUOUSLY IN THE ACTIVE
37 SERVICE OF THE PARTICIPATING EMPLOYER FROM JANUARY FIRST, TWO THOUSAND
38 TWELVE TO THE DATE IMMEDIATELY PRIOR TO THE COMMENCEMENT DATE OF THE
39 APPLICABLE OPEN PERIOD, (2) FILES AN APPLICATION FOR SERVICE RETIREMENT
40 THAT IS EFFECTIVE DURING THE OPEN PERIOD, AND (3) IS OTHERWISE ELIGIBLE
41 FOR A SERVICE RETIREMENT AS OF THE EFFECTIVE DATE OF THE APPLICATION FOR
42 RETIREMENT SHALL BE ENTITLED TO THE RETIREMENT BENEFIT PROVIDED IN THIS
43 SECTION.

44 E. TWENTY-FIVE YEAR AGE FIFTY-FIVE INCENTIVE. 1. NOTWITHSTANDING ANY
45 OTHER PROVISION OF LAW, AN ELIGIBLE EMPLOYEE WHO IS A MEMBER OF A
46 RETIREMENT SYSTEM AND WHO IS ENTITLED TO A RETIREMENT BENEFIT PURSUANT
47 TO THIS SECTION MAY RETIRE DURING THE OPEN PERIOD WITHOUT THE REDUCTION
48 OF HIS OR HER RETIREMENT BENEFIT THAT WOULD OTHERWISE BE IMPOSED BY
49 ARTICLES ELEVEN AND FIFTEEN OF THIS CHAPTER IF HE OR SHE HAS ATTAINED
50 THE AGE OF FIFTY-FIVE AND HAS COMPLETED AT LEAST TWENTY-FIVE OR MORE
51 YEARS OF CREDITABLE SERVICE. AN ELIGIBLE EMPLOYEE WHO IS COVERED BY THE
52 PROVISIONS OF ARTICLES ELEVEN AND FIFTEEN OF THIS CHAPTER SHALL RETIRE
53 UNDER THE PROVISIONS OF ARTICLES ELEVEN AND FIFTEEN OF THIS CHAPTER.

54 2. THE PARTICIPATING EMPLOYER MAY DENY PARTICIPATION IN THE RETIREMENT
55 BENEFIT PROVIDED BY THIS SECTION IF THE GOVERNING BOARD OF THE PARTIC-
56 IPATING EMPLOYER MAKES A DETERMINATION THAT THE EMPLOYEE HOLDS A POSI-

1 TION THAT IS DEEMED CRITICAL TO THE MAINTENANCE OF PUBLIC HEALTH AND
2 SAFETY.

3 3. THE ACTION OF THE PARTICIPATING EMPLOYER IN DENYING THE RETIREMENT
4 BENEFIT PROVIDED FOR IN THIS SECTION TO ANY INDIVIDUAL SHALL BE SUBJECT
5 TO REVIEW IN THE MANNER PROVIDED FOR IN ARTICLE SEVENTY-EIGHT OF THE
6 CIVIL PRACTICE LAW AND RULES. SUCH ACTION FOR REVIEW PURSUANT TO ARTICLE
7 SEVENTY-EIGHT OF THE CIVIL PRACTICE LAW AND RULES SHALL ONLY BE
8 COMMENCED BY THE INDIVIDUAL THAT WAS DENIED THE RETIREMENT BENEFIT
9 PROVIDED BY THIS SECTION.

10 4. AFTER MAKING ANY SUCH DETERMINATION UNDER PARAGRAPH TWO OF THIS
11 SUBDIVISION, THE CHIEF EXECUTIVE OFFICER OR GOVERNING BOARD, AS APPRO-
12 PRIATE, OF THE PARTICIPATING EMPLOYER SHALL NOTIFY THE APPROPRIATE
13 RETIREMENT SYSTEM OR TEACHERS' RETIREMENT SYSTEM OF ITS DETERMINATION.

14 F. REPAYMENT OF COSTS. THE PENSION BENEFIT COSTS OF THIS SECTION SHALL
15 BE PAID BY THE PARTICIPATING EMPLOYER AS PROVIDED BY APPLICABLE LAW FOR
16 EACH RETIREMENT SYSTEM COVERED BY THIS SECTION OVER A PERIOD NOT TO
17 EXCEED FIVE YEARS COMMENCING IN THE STATE FISCAL YEAR ENDING MARCH THIR-
18 TY-FIRST, TWO THOUSAND FOURTEEN.

19 S 922. PAYMENT INCENTIVE. A. DEFINITIONS. FOR THE PURPOSES OF THIS
20 SECTION:

21 1. "ACTIVE SERVICE" SHALL MEAN: SERVICE WHILE BEING PAID ON THE
22 PAYROLL, PROVIDED THAT (I) A LEAVE OF ABSENCE WITH PAY SHALL BE DEEMED
23 ACTIVE SERVICE, AND (II) OTHER APPROVED LEAVE WITHOUT PAY NOT TO EXCEED
24 TWELVE WEEKS FROM JANUARY FIRST, TWO THOUSAND THIRTEEN AND THE COMMENCE-
25 MENT OF THE DESIGNATED OPEN PERIOD.

26 2. "COMMENCEMENT DATE" SHALL MEAN: THE FIRST DAY THE PAYMENT INCENTIVE
27 AUTHORIZED BY THIS SECTION SHALL BE MADE AVAILABLE, WHICH SHALL MEAN A
28 DATE WHICH SHALL OCCUR NO LATER THAN AUGUST FIRST, TWO THOUSAND THIR-
29 TEEN.

30 3. "ELIGIBLE EMPLOYEE" SHALL MEAN: ANY INDIVIDUAL WHO IS PAID A SALARY
31 OR OTHER FORM OF COMPENSATION BY THE PARTICIPATING EMPLOYER FOR WORKING
32 ON A FULL-TIME BASIS FOR AT LEAST FIVE YEARS AT THE UNIVERSITY HOSPITAL
33 OF BROOKLYN, AND WHO IS EITHER (I) NOT A MEMBER OF A RETIREMENT SYSTEM
34 OR A PARTICIPANT OF AN OPTIONAL RETIREMENT PROGRAM, OR (II) A MEMBER OF
35 A RETIREMENT SYSTEM OR A PARTICIPANT OF AN OPTIONAL RETIREMENT PROGRAM
36 WHO IS NOT OTHERWISE ELIGIBLE FOR A SERVICE RETIREMENT ON THE EFFECTIVE
37 DATE OF THIS ARTICLE, PROVIDED, HOWEVER, THAT "ELIGIBLE EMPLOYEE" SHALL
38 NOT MEAN AN INDIVIDUAL WHO RECEIVES A BENEFIT ENHANCEMENT OR OPTIONAL
39 RETIREMENT BENEFIT PURSUANT TO ANOTHER PROVISION OF LAW, INCLUDING BUT
40 NOT LIMITED TO, SECTIONS NINE HUNDRED TWENTY AND NINE HUNDRED TWENTY-ONE
41 OF THIS CHAPTER.

42 4. "OPEN PERIOD" SHALL MEAN: THE PERIOD BEGINNING WITH THE COMMENCE-
43 MENT DATE AS DEFINED IN PARAGRAPH TWO OF THIS SUBDIVISION AND SHALL NOT
44 BE MORE THAN SIXTY DAYS OR LESS THAN THIRTY DAYS IN LENGTH, AS SPECIFIED
45 BY THE PARTICIPATING EMPLOYER.

46 5. "PARTICIPATING EMPLOYER" SHALL MEAN: THE STATE UNIVERSITY OF NEW
47 YORK.

48 B. ELECTION BY PARTICIPATING EMPLOYER. ON OR BEFORE JULY THIRTY-FIRST,
49 TWO THOUSAND THIRTEEN, THE PARTICIPATING EMPLOYER MAY ELECT TO PROVIDE
50 ITS ELIGIBLE EMPLOYEES THE PAYMENT INCENTIVE AUTHORIZED BY THIS SECTION
51 BY THE ADOPTION OF A RESOLUTION BY ITS GOVERNING BODY. THE RESOLUTION
52 SHALL SPECIFY THE COMMENCEMENT DATE OF THE INCENTIVE AND THE LENGTH OF
53 THE OPEN PERIOD.

54 C. NOTICE TO EMPLOYER. ALL ELIGIBLE EMPLOYEES DESIRING TO AVAIL THEM-
55 SELVES OF THE PAYMENT INCENTIVE PROVIDED IN SUBDIVISION E OF THIS SUBDI-
56 VISION SHALL PROVIDE WRITTEN NOTICE TO HIS OR HER EMPLOYER ON OR BEFORE

1 THE FOURTEENTH DAY PRECEDING THE END OF THE OPEN PERIOD. FAILURE TO
2 PROVIDE SUCH WRITTEN NOTICE SHALL RENDER THE EMPLOYEE INELIGIBLE FOR THE
3 PAYMENT INCENTIVE PROVIDED BY THIS SECTION.

4 D. EMPLOYEE ELIGIBILITY. NOTWITHSTANDING ANY PROVISIONS OF LAW TO THE
5 CONTRARY, ANY ELIGIBLE EMPLOYEE WHO (1) HAS BEEN IN THE ACTIVE SERVICE
6 OF THE PARTICIPATING EMPLOYER FROM JANUARY FIRST, TWO THOUSAND TWELVE TO
7 THE DAY IMMEDIATELY PRIOR TO THE COMMENCEMENT DATE OF THE APPLICABLE
8 PERIOD, AND (2) FILES AN APPLICATION FOR A PAYMENT INCENTIVE THAT IS
9 EFFECTIVE DURING THE OPEN PERIOD SHALL BE ENTITLED TO THE PAYMENT INCEN-
10 TIVE PROVIDED IN THIS SECTION.

11 E. PAYMENT INCENTIVE. NOTWITHSTANDING ANY PROVISIONS OF LAW TO THE
12 CONTRARY, AN ELIGIBLE EMPLOYEE SHALL RECEIVE A PAYMENT INCENTIVE OF ONE
13 WEEK'S SALARY FOR EACH YEAR OF FULL-TIME EMPLOYMENT UP TO A MAXIMUM OF
14 THIRTEEN WEEKS OF PAYMENT INCENTIVE, PROVIDED THAT THE EMPLOYEE MUST
15 LEAVE ACTIVE SERVICE WITHIN SIXTY DAYS AFTER THE PARTICIPATING EMPLOYER
16 HAS SENT OR DELIVERED A WRITTEN OFFER OF THE INCENTIVE TO THE EMPLOYEE,
17 AND PROVIDED FURTHER THAT THE PAYMENT INCENTIVE OFFERED TO ANY EMPLOYEE
18 WHOSE ANNUAL SALARY EXCEEDS ONE HUNDRED THOUSAND DOLLARS, INCLUDING
19 OVERTIME, SHALL BE LIMITED TO A MAXIMUM OF EIGHT WEEKS.

20 F. PAYMENT OF COSTS. THE PAYMENT INCENTIVE COSTS OF THIS SECTION SHALL
21 BE PAID BY THE PARTICIPATING EMPLOYER FROM ITS GENERAL REVENUE FUND.

22 S 2. Severability clause. If any clause, sentence, paragraph, subdivi-
23 sion, section or part of this act shall be adjudged by any court of
24 competent jurisdiction to be invalid, such judgment shall not affect,
25 impair, or invalidate the remainder thereof, but shall be confined in
26 its operation to the clause, sentence, paragraph, subdivision, section
27 or part thereof directly involved in the controversy in which such judg-
28 ment shall have been rendered. It is hereby declared to be the intent of
29 the legislature that this act would have been enacted even if such
30 invalid provisions had not been included herein.

31 S 3. This act shall take effect immediately.

FISCAL NOTE.--This fiscal note was requested by Member of Assembly
James Brennan. Pursuant to Section 50 of the Legislative Law, the fiscal
note that must be appended in its entirety to this bill is:

This bill would provide a temporary retirement incentive for eligible
employees of the State University of New York Health Science Center at
Brooklyn during the fiscal year 2013-2014. The first provision of this
retirement incentive provides certain eligible employees with a retire-
ment incentive of one-twelfth of a year of additional service credit per
year of accrued service credit up to a maximum of three additional
years. To be eligible, a member must be otherwise eligible for a service
retirement or have attained age 50 or greater, with at least ten years
of service. Members not subject to an early retirement reduction and
less than age 55 at retirement will have their benefit reduced by five
percent for each year their age precedes 55. The second provision of
this retirement incentive would permit members eligible for retirement
under Article 11 or Article 15 of the Retirement and Social Security Law
to retire without early retirement reductions upon attainment of at
least age 55 with 25 years of service. Currently 30 years of service are
required. An eligible employee retiring under one of the provisions must
retire during that provision's designated open period. Such open period
shall commence no later than August 1, 2013 and shall be at least 30
days, but not more than 60 days in length. Members may not receive a
benefit under both provisions of the retirement incentive.

This bill would also provide an incentive payment during the fiscal
year 2013-2014 to certain eligible employees of the State University of

New York Health Science Center at Brooklyn who terminate employment. An eligible employee would receive an incentive payment of one week's salary for each year of full-time employment up to a maximum of thirteen weeks provided the employee is not eligible for a service retirement and leaves active service within 60 days of receiving the payment offer from the State University of New York Health Science Center at Brooklyn. Eligible employees with a salary in excess of \$100,000, including overtime, would be limited to a maximum of eight weeks under this payment incentive. An eligible employee must file an application for the payment incentive during the designated open period. Such open period shall commence no later than August 1, 2013 and shall be at least 30 days, but not more than 60 days in length. Employees would not be permitted to receive both the retirement incentive and payment incentive provided under this bill.

The cost of the retirement incentive provided under this bill to eligible employees of the State University of New York Health Science Center at Brooklyn is estimated to be approximately \$1.4 million assuming all employees who are eligible elect to retire under the incentive. The actual final cost will depend on the number of employees who actually elect to retire, and their final service and salary at retirement. The cost of this retirement incentive shall be paid by the State University of New York Health Science Center at Brooklyn over a period not to exceed five years commencing the state fiscal year ending March 31, 2014. The cost of the termination payment incentive would be paid by the State University of New York Health Science Center at Brooklyn out of its general revenue fund, and therefore does not have any impact on the Retirement System.

The source of this estimate is Fiscal Note 2013-40 dated June 3, 2013 prepared by the Actuary of the New York State Teachers' Retirement System and is intended for use only during the 2013 Legislative Session. I, Richard A. Young, am the Actuary for the New York State Teachers' Retirement System. I am a member of the American Academy of Actuaries and I meet the Qualification Standards of the American Academy of Actuaries to render the actuarial opinion contained herein.

FISCAL NOTE.--This bill would allow the State University of New York Health Science Center at Brooklyn (the employer) to elect to provide their employees who are members of the New York State and Local Employees' Retirement System (ERS), the New York State Teachers Retirement System (TRS) or the Optional Retirement Program with two temporary retirement incentive programs and one employment termination incentive. Electing employees may elect to receive only one of the incentives. Using traditional labels from previous incentive programs:

Part A: ERS and TRS members would receive additional service credit (one-twelfth of a year for each year of service credited as of the date of retirement, up to a maximum of three years). Further, for certain members who are not otherwise eligible for a service retirement benefit, this bill would provide the ability to retire with reductions.

Part B: In addition, this bill would eliminate the early retirement reductions at 25 years of service for retirement during the election period for Tier 2, 3, 4, 5 and 6 members of ERS and TRS. The election period must be for at least 30, but not more than 60 days. The employer can declare health and safety positions to be ineligible.

Part C: Further, this bill would provide that any employee with at least 5 years of service with the employer may receive an incentive payment equal to 1 week of salary for each year of service with the employer. Electing employees must leave the payroll within 60 days

after receiving a written offer of the incentive from the employer. The payment may not exceed 13 weeks of salary, except that for employees who earn in excess of \$100,000, the payment may not exceed 8 weeks of salary.

If this bill is enacted, insofar as it affects the New York State and Local Employees Retirement System (ERS), the additional cost for each member who receives the benefit of Part A or Part B will vary depending on the member's age, years of service, plans and final average salary.

Part A: We anticipate that the per-member cost (at retirement) of the additional service credit benefit will average approximately 70% of a member's final average salary. This cost will be borne by the employer electing the incentive over a five-year period commencing with a payment in the State fiscal year 2013-2014.

Part B: We anticipate that the per-member cost (at retirement) of the elimination of the early retirement reductions at 25 years of service will average approximately 120% of a member's final average salary. This cost will be borne by the employer over a five-year period commencing with a payment in the State fiscal year 2013-2014.

Part C: The cost for the incentive payments made to employees who are not eligible for either of Parts A or B will be paid directly by the employer to the employees. There will not be cost to the System.

This estimate, dated May 17, 2013, and intended for use only during the 2013 Legislative Session, is Fiscal Note No. 2013-128 prepared by the Actuary for the New York State and Local Employees' Retirement System.