S T A T E O F N E W Y O R K

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 ASSEMBLY, DO ENACT AS FOLLOWS:

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

ARTICLE 19-B

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

SECTION 920. BENEFIT ENHANCEMENT.
921. FIFTY-FIVE/TWENTY-FIVE YEARS RETIREMENT INCENTIVE.
922. PAYMENT INCENTIVE.

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

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

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

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

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

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

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

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

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

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

B. NOTICE TO EMPLOYER. ALL ELIGIBLE EMPLOYEES DESIRING TO AVAIL THEMSELVES OF THE RETIREMENT INCENTIVE PROVIDED BY THIS SECTION SHALL PROVIDE WRITTEN NOTICE TO HIS OR HER EMPLOYER ON OR BEFORE THE FOURTEENTH DAY PRECEDING THE END OF THE OPEN PERIOD. FAILURE TO PROVIDE SUCH WRITTEN NOTICE SHALL RENDER THE EMPLOYEE INELIGIBLE FOR THE RETIREMENT INCENTIVE PROVIDED BY THIS SECTION.

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

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

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

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

2. FILES AN APPLICATION FOR SERVICE RETIREMENT WITH THE APPROPRIATE RETIREMENT SYSTEM, OR FILES THE APPROPRIATE APPLICATION AND AUTHORIZATION FORM WITH THE OPTIONAL RETIREMENT PROGRAM AND A DULY ACKNOWLEDGED RETIREMENT INCENTIVE FORM FOR SUCH PROGRAM WITH THE APPROPRIATE PERSONNEL OFFICE, THAT IS EFFECTIVE DURING THE OPEN PERIOD; AND

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

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

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

1. A MEMBER OF A RETIREMENT SYSTEM AND WHO IS ENTITLED TO A RETIREMENT INCENTIVE PURSUANT TO THIS SECTION SHALL RECEIVE A RETIREMENT INCENTIVE OF ONE-TWELFTH OF A YEAR OF ADDITIONAL RETIREMENT CREDIT FOR EACH YEAR OF PENSION SERVICE CREDITED AS OF THE DATE OF RETIREMENT, UP TO A MAXIMUM OF THREE YEARS OF RETIREMENT SERVICE CREDIT AT THE TIME OF RETIREMENT.

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

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

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

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

5. AN ELIGIBLE EMPLOYEE WHO PARTICIPATES IN A RETIREMENT PLAN WHICH PROVIDES FOR A RETIREMENT ALLOWANCE EQUAL TO FIFTY PERCENT OF FINAL AVERAGE SALARY UPON THE COMPLETION OF TWENTY-FIVE YEARS OF SERVICE WITHOUT REGARD TO AGE AND WHO IS OTHERWISE ELIGIBLE TO RETIRE SHALL RETIRE UNDER THE PROVISIONS OF SUCH PLAN. SUCH EMPLOYEE SHALL, AT THE TIME OF RETIREMENT, BE CREDITED WITH ONE-TWELFTH OF A YEAR OF ADDITIONAL RETIREMENT SERVICE CREDIT FOR EACH YEAR OF SERVICE CREDITED UNDER SUCH PLAN AS OF THE DATE OF RETIREMENT, UP TO A MAXIMUM OF THREE YEARS OF RETIREMENT SERVICE CREDIT. IF SUCH EMPLOYEE HAS NOT ACCRUED, EXCLUDING ADDITIONAL CREDIT GRANTED PURSUANT TO THIS SECTION, THE MINIMUM NUMBER OF YEARS OF SERVICE REQUIRED TO RETIRE WITH AN ALLOWANCE EQUAL TO FIFTY PERCENT OF FINAL AVERAGE SALARY UNDER SUCH PLAN, BUT HAS, WITH THE INCLUSION OF THE ADDITIONAL CREDIT PROVIDED UNDER THIS SECTION, ACCRUED SUCH NUMBER OF YEARS OF CREDIT, THE BENEFIT PAYABLE SHALL BE THE PERCENTAGE OF FINAL AVERAGE SALARY THAT WOULD ORDINARILY BE APPLICABLE TO SUCH INDIVIDUAL UPON RETIREMENT WITH SUCH AMOUNT OF CREDIT, INCLUDING INCENTIVE CREDIT, REDUCED BY FIVE PER CENTUM PER YEAR FOR EACH YEAR BY WHICH THE NUMBER OF YEARS OF SERVICE OTHERWISE REQUIRED TO RETIRE WITH AN ALLOWANCE EQUAL TO FIFTY PERCENT OF FINAL AVERAGE SALARY UNDER SUCH PLAN EXCEEDS THE AMOUNT OF SERVICE CREDITED TO SUCH EMPLOYEE UNDER SUCH PLAN AT RETIREMENT EXCLUDING THE ADDITIONAL RETIREMENT INCENTIVE SERVICE CREDIT PROVIDED PURSUANT TO THIS SECTION. SUCH REDUCTION SHALL BE PRORATED FOR PARTIAL YEARS.

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

G. INTERNAL REVENUE CODE LIMITS. NOTHING IN THIS SECTION SHALL BE USED TO PROVIDE BENEFITS THAT SHALL EXCEED THE LIMITS CONTAINED IN SECTION 415 OF THE INTERNAL REVENUE CODE. PROVIDED, HOWEVER, ANY SERVICE RETIREMENT BENEFIT WHICH HAS BEEN REDUCED BECAUSE OF SECTION 415 OF THE INTERNAL REVENUE CODE SHALL BE INCREASED WHEN AND CONSISTENT WITH THE DOLLAR LIMITS IN SECTION 415 OF THE INTERNAL REVENUE CODE ARE ADJUSTED BY THE INTERNAL REVENUE SERVICE FOR COST OF LIVING INCREASES. SUCH INCREASES SHALL NOT INCREASE THE BENEFIT IN EXCESS OF THE SERVICE RETIREMENT BENEFIT OTHERWISE PAYABLE.

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

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

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

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

S 921. FIFTY-FIVE/TWENTY-FIVE YEARS RETIREMENT INCENTIVE. A. DEFINITIONS. FOR PURPOSES OF THIS SECTION:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

2. "COMMENCEMENT DATE" SHALL MEAN: THE FIRST DAY THE PAYMENT INCENTIVE AUTHORIZED BY THIS SECTION SHALL BE MADE AVAILABLE, WHICH SHALL MEAN A DATE WHICH SHALL OCCUR NO LATER THAN AUGUST FIRST, TWO THOUSAND THIRTEEN.

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

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

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

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

C. NOTICE TO EMPLOYER. ALL ELIGIBLE EMPLOYEES DESIRING TO AVAIL THEMSELVES OF THE PAYMENT INCENTIVE PROVIDED IN SUBDIVISION E OF THIS SUBDIVISION SHALL PROVIDE WRITTEN NOTICE TO HIS OR HER EMPLOYER ON OR BEFORE

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

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

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

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

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

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 retirement 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 provider 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.