18A:66-168

LEGISLATIVE HISTORY CHECKLIST
Compiled by the NJ State Law Library

(Alternate benefit program)

NJSA: 18A:66-168

LAWS OF: 1993 **CHAPTER:** 385

BILL NO: A2367

SPONSOR(S): Derman and others

DATE INTRODUCED: March 4, 1993

COMMITTEE: **ASSEMBLY:** State Government

SENATE: State Government

AMENDED DURING PASSAGE: Yes Amendments denoted by asterisks
Third reprint

DATE OF PASSAGE: **ASSEMBLY:** June 10, 1993 Re-enacted 1-10-93

SENATE: December 2, 1993 Re-enacted 1-10-93

DATE OF APPROVAL: January 11, 1994

FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes

COMMITTEE STATEMENT: **ASSEMBLY:** Yes

SENATE: Yes

FISCAL NOTE: No

VETO MESSAGE: Yes

MESSAGE ON SIGNING: No

FOLLOWING WERE PRINTED:

REPORTS: No

HEARINGS: No

KBG:pp

Legislative History Checklist
(Compiled by the Office of Legislative Services Library)

Synopsis: Provides for designation through competitive bidding of vendors eligible to offer retirement plans under alternate benefit program; permits mutual funds to serve as plan vendors; broadens plan selection, loan, and payout options for ABP participants.

Bill No.: A2367 **P.L.** 1993, **c.** 385

Identical to: S1646 (1R)
Substituted for: S1646 (1R)
Combined with:
Last Session Bill No.:

See Above Bill(s) for Additional History

NJSA: 18A:66-172.1

Sponsor(s): Derman/Martin

Date Introduced: 03/04/93

Committee Reference:	**Statement:**	**Public Hearing:**
Assembly:		
State Government	Yes	No
Senate:		
State Government	Yes	No

Sponsor Statement: Yes

Fiscal Note: Yes

Dates of Passage:

Assembly:	*Senate:*
06/10/93 (79-0)	12/02/93 (36-0)
12/13/93 (72-1)	
01/10/94 (77-1)	01/10/94 (36-0)

Amended During Passage: Yes

Governor's Action:

Veto: Yes (Conditional) **Date of Veto:** 01/10/94

Date of Approval: 01/11/94 **Message on Signing:** No

Additional Information:

§3
C.18A:66-172.1

P.L.1993, CHAPTER 385, *approved January 11, 1994*

1993 Assembly No. 2367 *(Third Reprint)*

AN ACT concerning the alternate benefit program, amending and supplementing P.L.1969, c.242 and amending P.L.1986, c.188.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. Section 2 of P.L.1969, c.242 (C.18A:66-168) is amended to read as follows:

2. Repeal of the act and parts of acts, and all amendments and supplements thereto, pursuant to section 1 of this act, is subject to the following provisos:

a. The alternate benefit programs established by the Board of Trustees of the [New Jersey College] University of Medicine and Dentistry, the Board of Governors of Rutgers, The State University of New Jersey, the Board of Trustees of the [Newark College of Engineering] New Jersey Institute of Technology and the Board of Higher Education for certain employees of State and county colleges, are continued except as the benefit and contribution schedules are revised by this act.

b. The timely filing of applications for transfer from the Public Employees' Retirement System, the Teachers' Pension and Annuity Fund and the Group Annuity Plan as specified in such acts shall be deemed to have not been revised by this act.

c. The transfer of employee and employer contributions from the Public Employees' Retirement System, the Teachers' Pension and Annuity Fund and the Group Annuity Plan to the [insurer or] insurers or mutual fund companies of the alternate benefit programs shall be considered as having met the requirements of said acts and shall be continued as provided by this act.

d. Any contributions made by a member of the alternate benefit program for any additional death benefit coverage established under said acts shall not be returnable to the member or his beneficiary in any manner, or for any reason whatsoever, nor shall any contributions made for the additional death benefit coverage be included in any annuity payable to any such member or to his beneficiary.

(cf: P.L.1969, c.242, s.2)

2. Section 3 of P.L.1969, c.242 (C.18A:66-169) is amended to read as follows:

3. As used in this act:

a. "Accumulated deductions" means those contributions as

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.
Matter enclosed in superscript numerals has been adopted as follows:
1 Assembly ASG committee amendments adopted May 6, 1993.
2 Senate SSG committee amendments adopted June 24, 1993.
3 Assembly amendments adopted in accordance with Governor's recommendations January 10, 1994.

defined in [section] N.J.S.18A:66-2 [of the New Jersey Statutes] or in section 6 of [chapter 84 of the laws of 1954, as amended and supplemented] P.L.1954, c.84 (C.43:15A-6).

b. "Base salary" means a participant's regular base or contractual salary. It shall exclude bonus, overtime or other forms of extra compensation such as (1) longevity lump sum payments, (2) lump sum terminal sick leave or vacation pay, (3) the value of maintenance, (4) individual pay adjustments made within or at the conclusion of the participant's final year of service, (5) retroactive salary adjustments or other pay adjustments made in the participant's final year of service unless such adjustment was made as a result of a general pay adjustment for all personnel of the department or institution, (6) any unscheduled individual adjustment made in the final year to place the member at the maximum salary level within his salary range and (7) any pay for services rendered during the summer vacation period by a participant who is required to work only 10 months of the year.

c. "Base annual salary" means the base salary upon which contributions by the member and his employer to the alternate benefit program were based during the last year of creditable service.

d. "Board of Higher Education" means the board described in article 2 of chapter 3 of Title 18A of the New Jersey Statutes and the agency responsible for the establishment of the alternate benefits program of the State and County Colleges.

e. "[College] University of Medicine and Dentistry" means the [New Jersey College] University of Medicine and Dentistry of New Jersey established pursuant to the terms of section [18A:64C-2] 3 of [the New Jersey Statutes] P.L.1970, c.102 (C.18A:64G-3).

f. "County colleges" means the colleges so defined in [section] N.J.S.18A:64A-1 [of the New Jersey Statutes].

g. "Division of Pensions and Benefits" means the division established in the Department of the Treasury pursuant to section 1 of [chapter 70 of the laws of 1955] P.L.1955, c.70 (C.52:18A-95) and is the agency responsible for the administration of the alternate benefit program of the Department of Higher Education, the State and county Colleges and for the administration of the group life and disability insurances of all alternate benefit programs established in the State for public employees.

h. "Full-time officers" and "full-time members of the faculty" shall include the president, vice president, secretary and treasurer of the respective school. Also included are employees of the Department of Higher Education whose positions are so designated by the Board of Higher Education. All other employees of the Department of Higher Education shall, if otherwise eligible, be enrolled in the Public Employees' Retirement System or transferred from the Teachers' Pension and Annuity Fund to said system. "Full-time" shall also include eligible full-time officers and full-time members of the faculty who are granted sabbaticals or leaves of absence with pay where the compensation paid is 50% or more of the base salary at the time the leave commences and the period of eligibility terminates with the end of the school year following the year in which the sabbatical began. "Part-time" shall be defined as an appointment where the employee receives a salary or wages for a period of less than 50% of the normal work week. These definitions shall apply to teaching or administrative staff members or to employees serving in a dual capacity where the appointment includes teaching as well as administrative duties.

i. "Group Annuity Plan" refers to the Group Annuity Contract R-134 between the Board of Trustees of the [Newark College of Engineering] New Jersey Institute of Technology and the Prudential Insurance Company of America.

j. "Member" or "participant" means a full-time officer or a full-time member of the faculty participating in the alternate benefit program.

k. ["Newark College of Engineering"] "New Jersey Institute of Technology" means the [School for Industrial Education of Newark, New Jersey] Newark College of Engineering.

l. "Pension reserve" means those moneys as defined in [section] N.J.S.18A:66-2 [of the New Jersey Statutes] or in section 6 of [chapter 84 of the laws of 1954] P.L.1954, c.84 (C.43:15A-6)[, as amended and supplemented].

m. "Rutgers, The State University" means the institution of higher education described in chapter 65 of Title 18A of the New Jersey Statutes.

n. "State Colleges" means the colleges so described in chapter 64 of Title 18A of the New Jersey Statutes.

o. "Mutual fund company" means an investment company or trust regulated by the federal "Investment Company Act of 1940," 15 U.S.C. §§80a-1 et seq.

(cf: P.L.1969, c.242, s.3)

3. (New Section) [1]There is established in but not of the Division of Pensions and Benefits in the Department of the Treasury the Pension Provider Selection Board, which shall consist of the Director of the Division of Pensions and Benefits or a representative of that director; the Director of the Division of Investment or a representative of that director; [2]the Commissioner of the Department of Insurance or a representative of that commissioner; the Director of the Division of Purchase and Property or a representative of that director;[2] the Chancellor of Higher Education; and [3][three persons] a person[3] appointed by the Chancellor of Higher Education who [3][are active participants in or former participants] is an active participant or[3] receiving a benefit from the alternate benefit program[3][, one of whom shall represent the several senior research institutions among State institutions of higher education, one of whom shall represent the several State colleges, and one of whom shall represent the several county colleges. The Director of the Division of Pensions and Benefits or the director's representative shall serve as chairman of the board][3].[1]

The [1][Board of Higher Education] Pension Provider Selection Board[1] shall select through a competitive bidding process at least three [1][and no more than five][1] unrelated insurance or mutual fund companies licensed or otherwise authorized to transact business in New Jersey from which alternate benefit contracts will be purchased. These new insurers or mutual fund companies shall be selected by competitive bidding [2]in accordance with all applicable State laws and regulations[2] not later than the [1][180th] 270th[1] day following the effective date of P.L.   , c.   (C.   )(now pending before the Legislature as this bill). The selected carriers shall be authorized to receive contributions within 60 days of their selection. [2]Each contract shall be awarded for a period not to exceed six years with a renewal option for a period not to exceed three years.[2] All carriers shall be subject to a performance review by the [1][Board of Higher Education] Pension Provider Selection Board[1] every seven years and must meet such standards as the [1][Board of Higher Education] Pension Provider Selection Board[1] shall establish by regulation in order to be renewed for another term of seven years as carriers. Removal of a carrier for cause during a seven-year term is not waived. In establishing by regulation the criteria for the initial selection and any performance review of a carrier, the [1][board] Pension Provider Selection Board[1] shall consider, among other things, the following:

a. the portability of the contracts offered or to be offered by the company, based on the number of states in which the company provides contracts under similar plans;

b. the efficacy of the contracts in the recruitment and retention of employees for the various State public institutions of higher education;

c. the nature and extent of the rights and benefits to be provided by the contracts for participating employees and their beneficiaries;

d. the relation of the rights and benefits to the amount of contributions to be made pursuant to the provisions of this article;

e. the suitability of the rights and benefits to the needs and interests of participating employees and the various State public institutions of higher education;

f. the ability of the company to provide the rights and benefits under such contracts;

g. the financial soundness of the company, the extent of the company's financial commitment to the contracts, and whether the company meets the minimum financial criteria established by the Division of Pensions and Benefits and the Board of Higher Education; [2][and][2]

h. the company's overall quality of service, its investment performance considering return on investments and risk, [2]the administrative fee to be charged to participating employees,[2] and the offering of a balanced array of investment opportunities [2][.]; and

i. the nature of the informational or promotional materials to be provided to prospective participants.[2]

The [1][Board of Higher Education] Pension Provider Selection Board[1] may not designate a company which serves as a disbursement system for other providers or which charges third party administrative fees.

A company that has been designated as of January 1, 1993 by the Division of Pensions and Benefits as a designated provider shall continue to be so designated until its status as a designated provider is terminated for cause by the division or by the [1][Board of Higher Education] Pension Provider Selection Board[1].

4. Section 6 of P.L.1969, c.242 (C.18A:66-172) is amended to read as follows:

6. Participants in the alternate benefit program shall be allowed to allocate portions of their own contributions and the contributions of their employer, including amounts used by the employer to purchase an annuity pursuant to a salary reduction agreement under section 24 of P.L.1969, c.242 (C.18A:66-190), to accounts with two or more insurers or mutual fund companies designated pursuant to the provisions of section 3 of P.L. , c. (C.)(now pending before the Legislature as this bill) as companies from which alternate benefit contracts may be purchased, and shall, subject to such rules and regulations as the [3][Board of Higher Education] Division of Pensions and Benefits[3] may adopt, be permitted to direct the withdrawal of such contributions from their account with one such company for deposit in an account with another such company. Since the establishment of the alternate benefit programs for the several public institutions of higher education in New Jersey is designed to provide mobility of pension credit from within the academic community in and outside the State, and since it is imperative that eligibility for participation in this program be of uniform application in the several schools, it shall be the responsibility of the Board of Higher Education to establish regulations which shall provide for such uniformity [3][to the extent consistent with the foregoing provisions of this section][3].

(cf: P.L.1969, c.242, s.6)

5. Section 7 of P.L.1969, c.242 (C.18A:66-173) is amended to read as follows:

7. (a) When a member of the Teachers' Pension and Annuity Fund or the Public Employees' Retirement System or the Police and Firemen's Retirement System elects to transfer to an alternate benefit program by filing the proper application form declaring his election to participate in such alternate benefit program, the respective retirement system shall transfer the amount of his accumulated deductions as of the date of transfer to his individual account in the program.

(b) There shall also be transferred from the contingent reserve fund or the pension fund of the Teachers' Pension and Annuity Fund or the Public Employees' Retirement System or the Police and Firemen's Retirement System or from the Group Annuity Plan to the individual's account in the alternate benefit program, the pension reserve required as of the date of his transfer to provide a pension for each year of service credited to the account of the member as set forth in N.J.S.18A:66-36 or N.J.S.18A:66-44 or as set forth in section 38 or section 48 of P.L.1954, c. 84 as such sections have been amended and supplemented as of July 1, 1969 (C.43:15A-38, C. 43:15A-48) or as set forth in section 17 of P.L.1964, c.241 (C.43:16A-11.2) or section 5 of P.L.1944, c.255 (C.43:16A-5) or for each year of service credited under the Group Annuity Plan. Such transfer from the contingent reserve fund or the pension fund of the

Teachers' Pension and Annuity Fund or the Public Employees' Retirement System or the Police and Firemen's Retirement System or the Group Annuity Plan shall be made at the time of the member's transfer to the alternate benefit program in the case of any such member who has then met the eligibility requirements for a pension under the aforementioned N.J.S.18A:66-36, or N.J.S.18A:66-44, or section 38 or section 48 of P.L.1954, c.84 (C.43:15A-38, C.43:15A-48) or section 17 of P.L.1964, c.241 (C.43:16A-11.2) or section 5 of P.L.1944, c.255 (C.43:16A-5) or the Group Annuity Plan. In the case of any member who elects to participate in the alternate benefit program who has not then met the eligibility requirements for a pension under N.J.S.18A:66-36 or N.J.S.18A:66-44, or under section 38 or section 48 of P.L.1954, c.84 (C.43:15A-38, C.43:15A-48) or section 17 of P.L.1964, c.241 (C.43:16A-11.2) or section 5 of P.L.1944, c.255 (C.43:16A-5) or under the Group Annuity Plan, the transfer from the contingent reserve fund or the pension fund of the Teachers' Pension and Annuity Fund or the Public Employees' Retirement System or the Police and Firemen's Retirement System or the Group Annuity Plan shall be effected at the time such requirements have been met, taking into account for the purpose of such eligibility requirement his years of membership service at the time of his election and his subsequent years of service as a full-time member of the faculty of the [College] University of Medicine and Dentistry, Rutgers, The State University, the [Newark College of Engineering] New Jersey Institute of Technology or the State or county colleges or as an eligible employee of the Department of Higher Education, or at the time he shall have 10 years of credit for New Jersey service and becomes physically incapacitated for the performance of duty if he had been a member of the Teachers' Pension and Annuity Fund or the Public Employees' Retirement System or the Police and Firemen's Retirement System as of the date of transfer.

The annuity to be used in determining the amount of pension is the actuarial equivalent of the member's accumulated deductions transferred from the Teachers' Pension and Annuity Fund or the Public Employees' Retirement System or the Police and Firemen's Retirement System to the date the member attains 60 years of age, if subsequent to the date of election. The amount of pension is that established by formula within N.J.S.18A:66-44 or section 48 of P.L.1954, c.84 as such sections have been amended and supplemented as of July 1, 1969 (C.43:15A-48) or section 5 of P.L.1944, c.255 (C.43:16A-5) or under the Group Annuity Plan, and changes to N.J.S.18A:66-44 or section 48 of P.L.1954, c.84 (C.43:15A-48) or section 5 of P.L.1944, c.255 (C.43:16A-5) enacted subsequent to this act or the Group Annuity Plan shall have no application to the provisions of this act.

In the event that the eligibility requirement under [section] N.J.S.18A:66-36 [of the New Jersey Statutes] or under section 38 of P.L.1954, c.84 (C.43:15A-38) or section 17 of P.L.1964, c.241 (C.43:16A-11.2) or under the Group Annuity Plan is changed at some future date to permit members to become eligible for such benefit prior to the completion of 15 years of service, the transfer of the reserve from the contingent reserve fund or the pension fund of the Teachers' Pension and Annuity Fund or the Public Employees' Retirement System or the Police and Firemen's Retirement System or from the Group Annuity Plan shall be effective as of the date the member who had elected the alternate benefit program meets the amended eligibility requirement or the effective date of the amendment, whichever is later.

In the event an option is available with respect to the distribution of employee and employer contributions between fixed and variable annuities under the alternate benefit program, the employee shall have the right to determine the percentage distribution of these funds subject to any limitations imposed by the designated insurer or insurers.

(c) No transfer of pension reserves shall be made pursuant to this section where more than 2 consecutive years elapse in which no employer contributions to an alternate benefit program are required.

(cf: P.L.1981, c.342, s.2)

[1][5.] 6.[1] Section 8 of P.L.1969, c.242 (C.18A:66-174) is amended to read as follows:

8. (a) The University of Medicine and Dentistry of New Jersey, Rutgers, The State University and the [Newark College of Engineering] New Jersey Institute of Technology shall [deduct from or, with the consent of the participant,] reduce the compensation of each participant in the alternate benefit program and pay over to the [insurer or] insurers or mutual fund companies for the benefit of the participant an employee contribution for the retirement annuity contract or contracts equal to 5% of the participant's base salary. The intervals for deductions or reductions and payments shall be determined by the respective school governing bodies.

The Division of Pensions and Benefits shall [deduct from or, with the consent of the participant,] provide for reductions from the compensation of each participant in the alternate benefit program employed by the Department of Higher Education, the State and county colleges of an employee contribution equal to 5% of the participant's base salary and pay this amount to the [insurer or] insurers or mutual fund companies for the individual's retirement annuity contract or contracts. The intervals for deductions or reductions and payments shall be determined by the Division of Pensions and Benefits.

The Division of Pensions and Benefits may require that all participant contributions be made in accordance with section 414(h) of the federal Internal Revenue Code (26 U.S.C. §414(h)).

(b) Based on a certification to the Division of Pensions and Benefits by the University of Medicine and Dentistry of New Jersey, Rutgers, The State University and the [Newark College of Engineering] New Jersey Institute of Technology of the number and base salary of participants, the division shall authorize the State to make payment of the employer contributions to the alternate benefit program at a rate equal to 8% of the employee's base salary, which moneys shall be paid to the designated [insurer or] insurers or mutual fund companies for the benefit of each participant.

Based on a certification by the Division of Pensions and Benefits of the number and base salary of participants employed by the Department of Higher Education, the State and county colleges, the State shall make payment of the employer contributions to the alternate benefit program at a rate equal to 8% of the employee's base salary, which moneys shall be paid to the designated [insurer or] insurers or mutual fund companies for the benefit of each participant.

(c) For the member of the Public Employees' Retirement System employed by the county colleges, who is defined in the regulations of the Board of Higher Education as a full-time faculty member and who is permitted to transfer his membership and does so, the State shall pay the employer contribution to the alternate benefit program at a rate equal to 8% of the member's base salary. If the member continues membership in the Public Employees' Retirement System, the State shall pay the employer contribution to the retirement system on his behalf and such employer contribution shall be at a rate equal to the normal contribution made by the State on behalf of nonveteran members of the Public Employees' Retirement System.

(d) For any nonacademic employee of a county college, as defined in section 4 of P.L.1969, c.242 (C.18A:66-170), who is eligible for the program according to the regulations of the Board of Higher Education, the county college shall pay the employer contribution to the retirement system on the employee's behalf in the same manner as the State, pursuant to this section.

(cf: P.L.1985, c.71, s.1)

[1][6.] 7.[1] Section 9 of P.L.1969, c.242 (C.18A:66-175) is amended to read as follows:

9. Membership or participation in the alternate benefit program shall terminate and the individual shall be considered retired once he has elected to receive a cash distribution upon separation from service or an annuity option from the designated insurer or insurers or a designated mutual fund company or companies, as appropriate.

(cf: P.L.1969, c.242, s.9)

[1][7.] 8.[1] Section 21 of P.L.1969, c.242 (C.18A:66-187) is amended to read as follows:

21. While any participant in the alternate benefit program may make personal contributions at any time directly to the [insurer or] insurers or mutual fund companies of the individual retirement annuities, no employer obligations will be paid when the participant is on a leave of absence without pay or when the participant no longer meets the definition of a full-time officer or full-time member of the faculty.

(cf: P.L.1969, c.242, s.21)

[1][8.] 9.[1] Section 22 of P.L.1969, c.242 (C.18A:66-188) is amended to read as follows:

22. [Since the establishment of the alternate benefit programs is designed to guarantee immediate vesting for each participant of his and his employer's contributions, such] The alternate benefit programs shall [not] provide an option for [3][full][3] cash surrender [or loan value] upon separation from service. [3]The cash

surrender shall be applicable only to employee contributions and accumulations prior to the participant's 55th birthday, and thereafter to the full amount of all employee and employer contributions and accumulations.[3] Additionally, a participant may borrow from his employee account accumulations up to the amounts allowed under federal law while still employed. Employee and employer account accumulations shall be used to qualify for the amount of a policy loan. In the event a participant in the alternate benefit program terminates his employment for reasons other than retirement or disability and requests repurchase of his annuity or annuities, such repurchase shall be allowed provided it meets the conditions under which the insurer or mutual fund company will repurchase annuities automatically, and provided that the portion of the repurchase value attributable to employer contributions made pursuant to this act shall be refunded to the employer.

The amendments to this section made by P.L. , c. (C.)(now pending before the Legislature as this bill) shall apply to all contributions made to a plan under the alternate benefit program on or after the 90th day following the effective date of that P.L. , c. . Any plan contributions invested in the College Retirement Equities Fund prior to that date shall be fully subject to distribution as cash [1][upon a separation from service occurring on or after] if those contributions shall not have been annuitized prior to[1] that 90th day. Any plan contributions invested in the Teachers Insurance and Annuity Association prior to that 90th day shall become subject to distribution as cash to the maximum extent permitted by the contract [1][upon a separation from service occurring on or after] if those contributions shall not have been annuitized prior to[1] that 90th day.

(cf: P.L.1969, c.242, s.22)

[1][9.] 10.[1] Section 23 of P.L.1969, c.242 (C.18A66-189) is amended to read as follows:

23. [(a) Notwithstanding any other provisions of this act, no contributions to any retirement annuity contracts shall be authorized by the Division of Pensions for payment by the State until the completion of one year of employment and commencement of a second consecutive year of employment. Employee contributions required during this initial year of service shall be deducted and held by the College of Medicine and Dentistry, Rutgers, The State University and the Newark College of Engineering for their employees and by the Division of Pensions for employees of the Department of Higher Education, the State and county colleges. Upon the commencement of such second year the amount of the employee contributions, and such amount of the employer contribution as herein required which has not theretofore been paid for said employee, together with interest on both portions at the rate of 4% per annum, shall be paid by the employer to the designated insurer or insurers for and on behalf of such employee; if such an employee does not commence such second year, the amount of employee contributions deducted from his compensation shall be refunded to him.

(b) The provisions of subsection (a) of this section shall not apply to any employee who, at the time of initial employment (1) owns a retirement annuity contract or contracts determined by the Division of Pensions to be substantially similar to the contracts to be purchased under the alternate benefit programs and issued by the designated insurer or insurers, or (2) is a member of a New Jersey State-administered retirement program.]

The Division of Pensions and Benefits may, in its sole discretion, qualify the alternate benefit program under section 401(a) or 403(a) of the federal Internal Revenue Code (26 U.S.C. §401(a), §403(a)). In such a case, all contributions to the retirement annuity contracts shall be made as soon as the employee is eligible and has filed application forms required by the annuity carrier. No employer contributions under these contracts shall be vested in the employee until after the employee commences the second year of employment unless the employee, at the time of initial employment, either (a) owns a retirement annuity contract or contracts determined by the Division of Pensions and Benefits to be substantially similar to the contracts to be purchased under the alternate benefit program and issued by the designated insurers or mutual fund companies, or (b) is a member of another State-administered retirement system.

[2]To the extent that any contributions required by this section would exceed the limits established pursuant to section 415 of the Internal Revenue Code, the contributions shall not be made to a plan which has been qualified under sections 401(a) or 403(a) of the Internal Revenue Code. Instead, the excess contributions shall be made to a section 403(b) plan established by the State to the extent that those contributions would be permitted to the plan in compliance with any provisions of the Internal Revenue Code and, in the event that there are remaining contributions, they shall be made to a nonqualified annuity plan established and maintained for this purpose. The participant shall be liable for any federal income taxes on contributions made to this plan.[2]

(cf: P.L.1969, c.242, s.23)

[1][10.] 11.[1] Section 25 of P.L.1969, c.242 (C.18A:66-191) is amended to read as follows:

25. No retirement, death or other benefit shall be payable by the State, the [College] University of Medicine and Dentistry, Rutgers, The State University, the [Newark College of Engineering] New Jersey Institute of Technology, the Board or the Department of Higher Education or the Division of Pensions and Benefits under the alternate benefit program. Benefits shall be payable to participating employees and their beneficiaries only by the designated [insurer or] insurers or mutual fund companies under the terms of the contracts.

(cf: P.L.1969, c.242, s.25)

[1][11.] 12.[1] Section 1 of P.L.1986, c.188 (C.43:3C-9) is amended to read as follows:

1. The mandatory contributions by members to the Teachers' Pension and Annuity Fund required by N.J.S.18A:66-31, to alternate benefit providers under the alternate benefit program required by section 8 of P.L.1969, c.242 (C.18A:66-174), to

the Judicial Retirement System required by section 26 of P.L.1981, c.470 (C.43:6A-34.1), to the Prison Officers' Pension Fund required by section 7 of P.L.1941, c.220 (C.43:7-13), to the Public Employees' Retirement System required by section 25 of P.L.1954, c.84 (C.43:15A-25), to the Consolidated Police and Firemen's Pension Fund required by R.S.43:16-5, to the Police and Firemen's Retirement System required by section 15 of P.L.1944, c.255 (C.43:16A-15), and to the State Police Retirement System required by section 38 of P.L.1965, c.89 (C.53:5A-38), shall be picked up by their employers and shall be treated as employer contributions as provided by section 414(h) of the United States Internal Revenue Code. The amount of contributions on behalf of each member shall continue to be included as regular compensation for all other purposes, except that the amount shall not be included in the computation of federal income taxes withheld from the member's compensation.
(cf: P.L.1986, c.188, s.1)

[1][12.] 13.[1] This act shall take effect immediately.

Provides for designation through competitive bidding of vendors eligible to offer retirement plans under alternate benefit program; permits mutual funds to serve as plan vendors; broadens plan selection, loan, and payout options for ABP participants.

ASSEMBLY, No. 2367

STATE OF NEW JERSEY

INTRODUCED MARCH 4, 1993

By Assemblywoman DERMAN and Assemblyman MARTIN

AN ACT concerning the alternate benefit program, amending and supplementing P.L.1969, c.242 and amending P.L.1986, c.188.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. Section 2 of P.L.1969, c.242 (C.18A:66-168) is amended to read as follows:

2. Repeal of the act and parts of acts, and all amendments and supplements thereto, pursuant to section 1 of this act, is subject to the following provisos:

a. The alternate benefit programs established by the Board of Trustees of the [New Jersey College] University of Medicine and Dentistry, the Board of Governors of Rutgers, The State University of New Jersey, the Board of Trustees of the [Newark College of Engineering] New Jersey Institute of Technology and the Board of Higher Education for certain employees of State and county colleges, are continued except as the benefit and contribution schedules are revised by this act.

b. The timely filing of applications for transfer from the Public Employees' Retirement System, the Teachers' Pension and Annuity Fund and the Group Annuity Plan as specified in such acts shall be deemed to have not been revised by this act.

c. The transfer of employee and employer contributions from the Public Employees' Retirement System, the Teachers' Pension and Annuity Fund and the Group Annuity Plan to the [insurer or] insurers or mutual fund companies of the alternate benefit programs shall be considered as having met the requirements of said acts and shall be continued as provided by this act.

d. Any contributions made by a member of the alternate benefit program for any additional death benefit coverage established under said acts shall not be returnable to the member or his beneficiary in any manner, or for any reason whatsoever, nor shall any contributions made for the additional death benefit coverage be included in any annuity payable to any such member or to his beneficiary.

(cf: P.L.1969, c.242, s.2)

2. Section 3 of P.L.1969, c.242 (C.18A:66-169) is amended to read as follows:

3. As used in this act:

a. "Accumulated deductions" means those contributions as defined in [section] N.J.S. 18A:66-2 [of the New Jersey Statutes] or in section 6 of [chapter 84 of the laws of 1954, as amended and supplemented] P.L.1954, c.84 (C. 43:15A-6).

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

b. "Base salary" means a participant's regular base or contractual salary. It shall exclude bonus, overtime or other forms of extra compensation such as (1) longevity lump sum payments, (2) lump sum terminal sick leave or vacation pay, (3) the value of maintenance, (4) individual pay adjustments made within or at the conclusion of the participant's final year of service, (5) retroactive salary adjustments or other pay adjustments made in the participant's final year of service unless such adjustment was made as a result of a general pay adjustment for all personnel of the department or institution, (6) any unscheduled individual adjustment made in the final year to place the member at the maximum salary level within his salary range and (7) any pay for services rendered during the summer vacation period by a participant who is required to work only 10 months of the year.

c. "Base annual salary" means the base salary upon which contributions by the member and his employer to the alternate benefit program were based during the last year of creditable service.

d. "Board of Higher Education" means the board described in article 2 of chapter 3 of Title 18A of the New Jersey Statutes and the agency responsible for the establishment of the alternate benefits program of the State and County Colleges.

e. "[College] University of Medicine and Dentistry" means the [New Jersey College] University of Medicine and Dentistry of New Jersey established pursuant to the terms of section [18A:64C-2] 3 of [the New Jersey Statutes] P.L.1970, c.102 (C.18A:64G-3).

f. "County colleges" means the colleges so defined in [section] N.J.S. 18A:64A-1 [of the New Jersey Statutes].

g. "Division of Pensions and Benefits" means the division established in the Department of the Treasury pursuant to section 1 of [chapter 70 of the laws of 1955] P.L.1955, c.70 (C.52:18A-95) and is the agency responsible for the administration of the alternate benefit program of the Department of Higher Education, the State and county Colleges and for the administration of the group life and disability insurances of all alternate benefit programs established in the State for public employees.

h. "Full-time officers" and "full-time members of the faculty" shall include the president, vice president, secretary and treasurer of the respective school. Also included are employees of the Department of Higher Education whose positions are so designated by the Board of Higher Education. All other employees of the Department of Higher Education shall, if otherwise eligible, be enrolled in the Public Employees' Retirement System or transferred from the Teachers' Pension and Annuity Fund to said system. "Full-time" shall also include eligible full-time officers and full-time members of the faculty who are granted sabbaticals or leaves of absence with pay where the compensation paid is 50% or more of the base salary at the time the leave commences and the period of eligibility terminates with the end of the school year following the year in which the sabbatical began. "Part-time" shall be defined as an appointment where the employee receives a salary or wages for a period of less than 50% of the normal work week. These definitions shall apply to teaching or administrative staff members or to employees serving in a dual capacity where the appointment includes teaching as well as administrative duties.

i. "Group Annuity Plan" refers to the Group Annuity Contract R-134 between the Board of Trustees of the [Newark College of Engineering] New Jersey Institute of Technology and the Prudential Insurance Company of America.

j. "Member" or "participant" means a full-time officer or a full-time member of the faculty participating in the alternate benefit program.

k. ["Newark College of Engineering"] "New Jersey Institute of Technology" means the [School for Industrial Education of Newark, New Jersey] Newark College of Engineering.

l. "Pension reserve" means those moneys as defined in [section] N.J.S.18A:66-2 [of the New Jersey Statutes] or in section 6 of [chapter 84 of the laws of 1954] P.L.1954, c.84 (C.43:15A-6)[, as amended and supplemented].

m. "Rutgers, The State University" means the institution of higher education described in chapter 65 of Title 18A of the New Jersey Statutes.

n. "State Colleges" means the colleges so described in chapter 64 of Title 18A of the New Jersey Statutes.

o. "Mutual fund company" means an investment company or trust regulated by the federal "Investment Company Act of 1940," 15 U.S.C. §§80a-1 et seq.

(cf: P.L.1969, c.242, s.3)

3. (New Section) The Board of Higher Education shall select through a competitive bidding process at least three and no more than five unrelated insurance or mutual fund companies licensed or otherwise authorized to transact business in New Jersey from which alternate benefit contracts will be purchased. These new insurers or mutual fund companies shall be selected by competitive bidding not later than the 180th day following the effective date of P.L. , c. (C.)(now pending before the Legislature as this bill). The selected carriers shall be authorized to receive contributions within 60 days of their selection. All carriers shall be subject to a performance review by the Board of Higher Education every seven years and must meet such standards as the Board of Higher Education shall establish by regulation in order to be renewed for another term of seven years as carriers. Removal of a carrier for cause during a seven-year term is not waived. In establishing by regulation the criteria for the initial selection and any performance review of a carrier, the board shall consider, among other things, the following:

a. the portability of the contracts offered or to be offered by the company, based on the number of states in which the company provides contracts under similar plans;

b. the efficacy of the contracts in the recruitment and retention of employees for the various State public institutions of higher education;

c. the nature and extent of the rights and benefits to be provided by the contracts for participating employees and their beneficiaries;

d. the relation of the rights and benefits to the amount of contributions to be made pursuant to the provisions of this article;

e. the suitability of the rights and benefits to the needs and interests of participating employees and the various State public institutions of higher education;

f. the ability of the company to provide the rights and benefits under such contracts;

g. the financial soundness of the company, the extent of the company's financial commitment to the contracts, and whether the company meets the minimum financial criteria established by the Division of Pensions and Benefits and the Board of Higher Education; and

h. the company's overall quality of service, its investment performance considering return on investments and risk, and the offering of a balanced array of investment opportunities.

The Board of Higher Education may not designate a company which serves as a disbursement system for other providers or which charges third party administrative fees.

A company that has been designated as of January 1, 1993 by the Division of Pensions and Benefits as a designated provider shall continue to be so designated until its status as a designated provider is terminated for cause by the division or by the Board of Higher Education.

4. Section 6 of P.L.1969, c.242 (C.18A:66-172) is amended to read as follows:

6. Participants in the alternate benefit program shall be allowed to allocate portions of their own contributions and the contributions of their employer, including amounts used by the employer to purchase an annuity pursuant to a salary reduction agreement under section 24 of P.L.1969, c.242 (C.18A:66-190), to accounts with two or more insurers or mutual fund companies designated pursuant to the provisions of section 3 of P.L. , c. (C.)(now pending before the Legislature as this bill) as companies from which alternate benefit contracts may be purchased, and shall, subject to such rules and regulations as the Board of Higher Education may adopt, be permitted to direct the withdrawal of such contributions from their account with one such company for deposit in an account with another such company. Since the establishment of the alternate benefit programs for the several public institutions of higher education in New Jersey is designed to provide mobility of pension credit from within the academic community in and outside the State, and since it is imperative that eligibility for participation in this program be of uniform application in the several schools, it shall be the responsibility of the Board of Higher Education to establish regulations which shall provide for such uniformity to the extent consistent with the foregoing provisions of this section.

(cf: P.L.1969, c.242, s.6)

5. Section 7 of P.L.1969, c.242 (C.18A:66-173) is amended to read as follows:

7. (a) When a member of the Teachers' Pension and Annuity Fund or the Public Employees' Retirement System or the Police and Firemen's Retirement System elects to transfer to an alternate benefit program by filing the proper application form declaring his election to participate in such alternate benefit

program, the respective retirement system shall transfer the amount of his accumulated deductions as of the date of transfer to his individual account in the program.

(b) There shall also be transferred from the contingent reserve fund or the pension fund of the Teachers' Pension and Annuity Fund or the Public Employees' Retirement System or the Police and Firemen's Retirement System or from the Group Annuity Plan to the individual's account in the alternate benefit program, the pension reserve required as of the date of his transfer to provide a pension for each year of service credited to the account of the member as set forth in N.J.S.18A:66-36 or N.J.S.18A:66-44 or as set forth in section 38 or section 48 of P.L.1954, c. 84 as such sections have been amended and supplemented as of July 1, 1969 (C.43:15A-38, C. 43:15A-48) or as set forth in section 17 of P.L.1964, c.241 (C.43:16A-11.2) or section 5 of P.L.1944, c.255 (C.43:16A-5) or for each year of service credited under the Group Annuity Plan. Such transfer from the contingent reserve fund or the pension fund of the Teachers' Pension and Annuity Fund or the Public Employees' Retirement System or the Police and Firemen's Retirement System or the Group Annuity Plan shall be made at the time of the member's transfer to the alternate benefit program in the case of any such member who has then met the eligibility requirements for a pension under the aforementioned N.J.S.18A:66-36, or N.J.S.18A:66-44, or section 38 or section 48 of P.L.1954, c.84 (C.43:15A-38, C.43:15A-48) or section 17 of P.L.1964, c.241 (C.43:16A-11.2) or section 5 of P.L.1944, c.255 (C.43:16A-5) or the Group Annuity Plan. In the case of any member who elects to participate in the alternate benefit program who has not then met the eligibility requirements for a pension under N.J.S.18A:66-36 or N.J.S.18A:66-44, or under section 38 or section 48 of P.L.1954, c.84 (C.43:15A-38, C.43:15A-48) or section 17 of P.L.1964, c.241 (C.43:16A-11.2) or section 5 of P.L.1944, c.255 (C.43:16A-5) or under the Group Annuity Plan, the transfer from the contingent reserve fund or the pension fund of the Teachers' Pension and Annuity Fund or the Public Employees' Retirement System or the Police and Firemen's Retirement System or the Group Annuity Plan shall be effected at the time such requirements have been met, taking into account for the purpose of such eligibility requirement his years of membership service at the time of his election and his subsequent years of service as a full-time member of the faculty of the [College] <u>University</u> of Medicine and Dentistry, Rutgers, The State University, the [Newark College of Engineering] <u>New Jersey Institute of Technology</u> or the State or county colleges or as an eligible employee of the Department of Higher Education, or at the time he shall have 10 years of credit for New Jersey service and becomes physically incapacitated for the performance of duty if he had been a member of the Teachers' Pension and Annuity Fund or the Public Employees' Retirement System or the Police and Firemen's Retirement System as of the date of transfer.

The annuity to be used in determining the amount of pension is the actuarial equivalent of the member's accumulated deductions transferred from the Teachers' Pension and Annuity Fund or the Public Employees' Retirement System or the Police and

Firemen's Retirement System to the date the member attains 60 years of age, if subsequent to the date of election. The amount of pension is that established by formula within N.J.S.18A:66-44 or section 48 of P.L.1954, c.84 as such sections have been amended and supplemented as of July 1, 1969 (C.43:15A-48) or section 5 of P.L.1944, c.255 (C.43:16A-5) or under the Group Annuity Plan, and changes to N.J.S.18A:66-44 or section 48 of P.L.1954, c.84 (C.43:15A-48) or section 5 of P.L.1944, c.255 (C.43:16A-5) enacted subsequent to this act or the Group Annuity Plan shall have no application to the provisions of this act.

In the event that the eligibility requirement under [section] N.J.S.18A:66-36 [of the New Jersey Statutes] or under section 38 of P.L.1954, c.84 (C.43:15A-38) or section 17 of P.L.1964, c.241 (C.43:16A-11.2) or under the Group Annuity Plan is changed at some future date to permit members to become eligible for such benefit prior to the completion of 15 years of service, the transfer of the reserve from the contingent reserve fund or the pension fund of the Teachers' Pension and Annuity Fund or the Public Employees' Retirement System or the Police and Firemen's Retirement System or from the Group Annuity Plan shall be effective as of the date the member who had elected the alternate benefit program meets the amended eligibility requirement or the effective date of the amendment, whichever is later.

In the event an option is available with respect to the distribution of employee and employer contributions between fixed and variable annuities under the alternate benefit program, the employee shall have the right to determine the percentage distribution of these funds subject to any limitations imposed by the designated insurer or insurers.

(c) No transfer of pension reserves shall be made pursuant to this section where more than 2 consecutive years elapse in which no employer contributions to an alternate benefit program are required.

(cf: P.L.1981, c.342, s.2)

5. Section 8 of P.L.1969, c.242 (C.18A:66-174) is amended to read as follows:

8. (a) The University of Medicine and Dentistry of New Jersey, Rutgers, The State University and the [Newark College of Engineering] New Jersey Institute of Technology shall [deduct from or, with the consent of the participant,] reduce the compensation of each participant in the alternate benefit program and pay over to the [insurer or] insurers or mutual fund companies for the benefit of the participant an employee contribution for the retirement annuity contract or contracts equal to 5% of the participant's base salary. The intervals for deductions or reductions and payments shall be determined by the respective school governing bodies.

The Division of Pensions and Benefits shall [deduct from or, with the consent of the participant,] provide for reductions from the compensation of each participant in the alternate benefit program employed by the Department of Higher Education, the State and county colleges of an employee contribution equal to 5% of the participant's base salary and pay this amount to the [insurer or] insurers or mutual fund companies for the individual's retirement annuity contract or contracts. The intervals for deductions or reductions and payments shall be determined by the Division of Pensions and Benefits.

The Division of Pensions and Benefits may require that all participant contributions be made in accordance with section 414(h) of the federal Internal Revenue Code (26 U.S.C. §414(h)).

(b) Based on a certification to the Division of Pensions and Benefits by the University of Medicine and Dentistry of New Jersey, Rutgers, The State University and the [Newark College of Engineering] New Jersey Institute of Technology of the number and base salary of participants, the division shall authorize the State to make payment of the employer contributions to the alternate benefit program at a rate equal to 8% of the employee's base salary, which moneys shall be paid to the designated [insurer or] insurers or mutual fund companies for the benefit of each participant.

Based on a certification by the Division of Pensions and Benefits of the number and base salary of participants employed by the Department of Higher Education, the State and county colleges, the State shall make payment of the employer contributions to the alternate benefit program at a rate equal to 8% of the employee's base salary, which moneys shall be paid to the designated [insurer or] insurers or mutual fund companies for the benefit of each participant.

(c) For the member of the Public Employees' Retirement System employed by the county colleges, who is defined in the regulations of the Board of Higher Education as a full-time faculty member and who is permitted to transfer his membership and does so, the State shall pay the employer contribution to the alternate benefit program at a rate equal to 8% of the member's base salary. If the member continues membership in the Public Employees' Retirement System, the State shall pay the employer contribution to the retirement system on his behalf and such employer contribution shall be at a rate equal to the normal contribution made by the State on behalf of nonveteran members of the Public Employees' Retirement System.

(d) For any nonacademic employee of a county college, as defined in section 4 of P.L.1969, c.242 (C.18A:66-170), who is eligible for the program according to the regulations of the Board of Higher Education, the county college shall pay the employer contribution to the retirement system on the employee's behalf in the same manner as the State, pursuant to this section.

(cf: P.L.1985, c.71, s.1)

6. Section 9 of P.L.1969, c.242 (C.18A:66-175) is amended to read as follows:

9. Membership or participation in the alternate benefit program shall terminate and the individual shall be considered retired once he has elected to receive a cash distribution upon separation from service or an annuity option from the designated insurer or insurers or a designated mutual fund company or companies, as appropriate.

(cf: P.L.1969, c.242, s.9)

7. Section 21 of P.L.1969, c.242 (C.18A:66-187) is amended to read as follows:

21. While any participant in the alternate benefit program may

make personal contributions at any time directly to the [insurer or] insurers or mutual fund companies of the individual retirement annuities, no employer obligations will be paid when the participant is on a leave of absence without pay or when the participant no longer meets the definition of a full-time officer or full-time member of the faculty.

(cf: P.L.1969, c.242, s.21)

8. Section 22 of P.L.1969, c.242 (C.18A:66-188) is amended to read as follows:

22. [Since the establishment of the alternate benefit programs is designed to guarantee immediate vesting for each participant of his and his employer's contributions, such] The alternate benefit programs shall [not] provide an option for full cash surrender [or loan value] upon separation from service. Additionally, a participant may borrow from his employee account accumulations up to the amounts allowed under federal law while still employed. Employee and employer account accumulations shall be used to qualify for the amount of a policy loan. In the event a participant in the alternate benefit program terminates his employment for reasons other than retirement or disability and requests repurchase of his annuity or annuities, such repurchase shall be allowed provided it meets the conditions under which the insurer or mutual fund company will repurchase annuities automatically, and provided that the portion of the repurchase value attributable to employer contributions made pursuant to this act shall be refunded to the employer.

The amendments to this section made by P.L. , c. (C.)(now pending before the Legislature as this bill) shall apply to all contributions made to a plan under the alternate benefit program on or after the 90th day following the effective date of that P.L. , c. . Any plan contributions invested in the College Retirement Equities Fund prior to that date shall be fully subject to distribution as cash upon a separation from service occurring on or after that 90th day. Any plan contributions invested in the Teachers Insurance and Annuity Association prior to that 90th day shall become subject to distribution as cash to the maximum extent permitted by the contract upon a separation from service occurring on or after that 90th day.

(cf: P.L..1969, c.242, s.22)

9. Section 23 of P.L.1969, c.242 (C.18A66-189) is amended to read as follows:

23. [(a) Notwithstanding any other provisions of this act, no contributions to any retirement annuity contracts shall be authorized by the Division of Pensions for payment by the State until the completion of one year of employment and commencement of a second consecutive year of employment. Employee contributions required during this initial year of service shall be deducted and held by the College of Medicine and Dentistry, Rutgers, The State University and the Newark College of Engineering for their employees and by the Division of Pensions for employees of the Department of Higher Education, the State and county colleges. Upon the commencement of such second year the amount of the employee contributions, and such amount of the employer contribution as herein required which has

not theretofore been paid for said employee, together with interest on both portions at the rate of 4% per annum, shall be paid by the employer to the designated insurer or insurers for and on behalf of such employee; if such an employee does not commence such second year, the amount of employee contributions deducted from his compensation shall be refunded to him.

(b) The provisions of subsection (a) of this section shall not apply to any employee who, at the time of initial employment (1) owns a retirement annuity contract or contracts determined by the Division of Pensions to be substantially similar to the contracts to be purchased under the alternate benefit programs and issued by the designated insurer or insurers, or (2) is a member of a New Jersey State-administered retirement program.]

The Division of Pensions and Benefits may, in its sole discretion, qualify the alternate benefit program under section 401(a) or 403(a) of the federal Internal Revenue Code (26 U.S.C. §401(a), §403(a)). In such a case, all contributions to the retirement annuity contracts shall be made as soon as the employee is eligible and has filed application forms required by the annuity carrier. No employer contributions under these contracts shall be vested in the employee until after the employee commences the second year of employment unless the employee, at the time of initial employment, either (a) owns a retirement annuity contract or contracts determined by the Division of Pensions and Benefits to be substantially similar to the contracts to be purchased under the alternate benefit program and issued by the designated insurers or mutual fund companies, or (b) is a member of another State-administered retirement system.

(cf: P.L.1969, c.242, s.23)

10. Section 25 of P.L.1969, c.242 (C.18A:66-191) is amended to read as follows:

25. No retirement, death or other benefit shall be payable by the State, the [College] University of Medicine and Dentistry, Rutgers, The State University, the [Newark College of Engineering] New Jersey Institute of Technology, the Board or the Department of Higher Education or the Division of Pensions and Benefits under the alternate benefit program. Benefits shall be payable to participating employees and their beneficiaries only by the designated [insurer or] insurers or mutual fund companies under the terms of the contracts.

(cf: P.L.1969, c.242, s.25)

11. Section 1 of P.L.1986, c.188 (C.43:3C-9) is amended to read as follows:

1. The mandatory contributions by members to the Teachers' Pension and Annuity Fund required by N.J.S. 18A:66-31, to alternate benefit providers under the alternate benefit program required by section 8 of P.L.1969, c.242 (C.18A:66-174), to the Judicial Retirement System required by section 26 of P.L.1981, c.470 (C.43:6A-34.1), to the Prison Officers' Pension Fund required by section 7 of P.L.1941, c.220 (C.43:7-13), to the Public Employees' Retirement System required by section 25 of P.L.1954, c.84 (C.43:15A-25), to the Consolidated Police and Firemen's Pension Fund required by R.S.43:16-5, to the Police

and Firemen's Retirement System required by section 15 of P.L.1944, c.255 (C.43:16A-15), and to the State Police Retirement System required by section 38 of P.L.1965, c.89 (C.53:5A-38), shall be picked up by their employers and shall be treated as employer contributions as provided by section 414(h) of the United States Internal Revenue Code. The amount of contributions on behalf of each member shall continue to be included as regular compensation for all other purposes, except that the amount shall not be included in the computation of federal income taxes withheld from the member's compensation.
(cf: P.L.1986, c.188, s.1)

12. This act shall take effect immediately.

STATEMENT

This bill revises the law governing the alternate benefit program, a defined contribution retirement plan for faculty at public institutions of higher education, to provide participants in the program with greater flexibility and choice with respect to their retirement benefits. Under the bill:

1. Participants could select, from a list of three to five providers of retirement plans which have been designated by the State Board of Higher Education, one or more plan providers with which to place their contributions and those of their employer;

2. Mutual fund companies would be eligible for designation as plan providers;

3. Participants would be permitted to direct the withdrawal of funds from their account with one provider and deposit them instead in an account with another;

4. Participants would be permitted to borrow against their own and their employer's contributions and account accumulations, up to the amounts allowed under federal law;

5. Participants would be permitted to take their benefits under the program in the form of cash upon separation from service; and

6. The program would be required to be qualified under section 414(h) of the federal Internal Revenue Code, thereby allowing participants' statutorily mandated contributions to be exempt from income taxation in the year in which those contributions were made.

Provides for designation through competitive bidding of vendors eligible to offer retirement plans under alternate benefit program; permits mutual funds to serve as plan vendors; broadens plan selection, loan, and payout options for ABP participants.

Document ID
SG 0944
SR XXXX
TR XXXX

ASSEMBLY STATE GOVERNMENT COMMITTEE

ADOPTED

AMENDMENTS

to

ASSEMBLY, No. 2367

(Sponsored by Assemblywoman DERMAN and Assemblyman MARTIN)

REPLACE SECTION 3 TO READ:

3. (New Section) [1]There is established in but not of the Division of Pensions and Benefits in the Department of the Treasury the Pension Provider Selection Board, which shall consist of the Director of the Division of Pensions and Benefits or a representative of that director; the Director of the Division of Investment or a representative of that director; the Chancellor of Higher Education; and three persons appointed by the Chancellor of Higher Education who are active participants in or former participants receiving a benefit from the alternate benefit program, one of whom shall represent the several senior research institutions among State institutions of higher education, one of whom shall represent the several State colleges, and one of whom shall represent the several county colleges. The Director of the Division of Pensions and Benefits or the director's representative shall serve as chairman of the board.[1]

The [1][Board of Higher Education] Pension Provider Selection Board[1] shall select through a competitive bidding process at least three [1][and no more than five][1] unrelated insurance or mutual fund companies licensed or otherwise authorized to transact business in New Jersey from which alternate benefit contracts will be purchased. These new insurers or mutual fund companies shall be selected by competitive bidding not later than the [1][180th] 270th[1] day following the effective date of P.L. , c. (C.)(now pending before the Legislature as this bill). The selected carriers shall be authorized to receive contributions within 60 days of their selection. All carriers shall be subject to a performance review by the [1][Board of Higher Education] Pension Provider Selection Board[1] every seven years and must meet such standards as the [1][Board of Higher Education] Pension Provider Selection Board[1] shall establish by regulation in order to be renewed for another term of seven years as carriers. Removal of a carrier for cause during a seven-year term is not waived. In establishing by regulation the criteria for the initial selection and any performance review of a carrier, the [board] Pension Provider Selection Board shall consider, among other things, the following:

a. the portability of the contracts offered or to be offered by the company, based on the number of states in which the company provides contracts under similar plans;

b. the efficacy of the contracts in the recruitment and retention of employees for the various State public institutions of higher education;

c. the nature and extent of the rights and benefits to be provided by the contracts for participating employees and their beneficiaries;

d. the relation of the rights and benefits to the amount of contributions to be made pursuant to the provisions of this article;

e. the suitability of the rights and benefits to the needs and interests of participating employees and the various State public institutions of higher education;

f. the ability of the company to provide the rights and benefits under such contracts;

g. the financial soundness of the company, the extent of the company's financial commitment to the contracts, and whether the company meets the minimum financial criteria established by the Division of Pensions and Benefits and the Board of Higher Education; and

h. the company's overall quality of service, its investment performance considering return on investments and risk, and the offering of a balanced array of investment opportunities.

The [1][Board of Higher Education] Pension Provider Selection Board[1] may not designate a company which serves as a disbursement system for other providers or which charges third party administrative fees.

A company that has been designated as of January 1, 1993 by the Division of Pensions and Benefits as a designated provider shall continue to be so designated until its status as a designated provider is terminated for cause by the division or by the [1][Board of Higher Education] Pension Provider Selection Board[1].

REPLACE SECTION 8 TO READ:

8. Section 22 of P.L.1969, c.242 (C.18A:66-188) is amended to read as follows:

22. [Since the establishment of the alternate benefit programs is designed to guarantee immediate vesting for each participant of his and his employer's contributions, such] The alternate benefit programs shall [not] provide an option for full cash surrender [or loan value] upon separation from service. Additionally, a participant may borrow from his employee account accumulations up to the amounts allowed under federal law while still employed. Employee and employer account accumulations shall be used to qualify for the amount of a policy loan. In the event a participant in the alternate benefit program terminates his employment for reasons other than retirement or disability and requests repurchase of his annuity or annuities, such repurchase shall be allowed provided it meets the conditions under which the insurer or mutual fund company will repurchase annuities automatically, and provided that the portion of the repurchase value attributable to employer contributions made pursuant to this act shall be refunded to the employer.

The amendments to this section made by P.L. , c. (C.)(now pending before the Legislature as this bill) shall apply to all contributions made to a plan under the alternate benefit program on or after the 90th day following the effective date of that P.L. , c. . Any plan contributions invested in the College Retirement Equities Fund prior to that date shall be fully subject to distribution as cash [1][upon a separation from service occurring on or after] if those contributions shall not have been annuitized prior to[1] that 90th day. Any plan contributions invested in the Teachers Insurance and Annuity Association prior to that 90th day shall become subject to distribution as cash to the maximum extent permitted by the contract [1][upon a separation from service occurring on or after] if those contributions shall not have been annuitized prior to[1] that 90th day.

(cf: P.L.1969, c.242, s.22)

ASSEMBLY STATE GOVERNMENT COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2367

with Assembly committee amendments

STATE OF NEW JERSEY

DATED: MAY 6, 1993

The Assembly State Government Committee reports favorably and with committee amendments Assembly, No. 2367.

This bill revises the law governing the alternate benefit program (ABP), a defined contribution retirement plan for faculty at public institutions of higher education. The bill would allow a participant in the program to choose the manager of his or her retirement plan from among State-qualified providers and allow participants greater flexibility with respect to their retirement benefits.

The bill proposes to revise the ABP as follows:

1. Plan selection. Participants in the ABP could select, from a list of at least three providers of retirement plans designated through a competitive bidding process by a Pension Provider Selection Board established under the legislation, one or more plan providers with which to place their contributions and those of their employer. (Under present law, a single provider is designated by the Division of Pensions and Benefits.) Designated plan providers are to be subject to performance review every seven years by the Pension Provider Selection Board. In selecting and reviewing plan providers, the board is to consider, among other things, the following:

a. the portability of the contracts offered by the provider;

b. the efficacy of the contracts in the recruitment and retention of employees;

c. the nature and extent of the rights and benefits provided;

d. the relation of those rights and benefits to the statutorily required contributions;

e. the suitability of the rights and benefits to the needs and interests of participating employees and their employers;

f. the provider's ability to provide the rights and benefits under the plans;

g. the financial soundness of the provider, the extent of its financial commitment to the contracts, and whether it meets minimum State-established financial criteria; and

h. the overall quality of the provider's service, its investment performance, and its provision of a balanced array of investment opportunities.

The bill allows the company designated as the ABP provider on January 1, 1993 to retain that designation until terminated for cause.

In conjunction with the provisions allowing participants greater choice among plans under the ABP, the bill authorizes the Division of Pensions and Benefits to qualify the program under either §401(a) (pertaining to qualified pension plans) or §403(a) (pertaining to regular annuity plans which can be provided by any employer) of the federal Internal Revenue Code. Currently, the ABP is qualified under the Code's §403(b) (pertaining to tax-sheltered annuity plans offered by educational and certain other nonprofit organizations).

2. Eligible providers. Mutual fund companies would be eligible for designation as plan providers. Under present law, only insurance companies are eligible for that designation.

3. Ability to transfer deposits among multiple accounts. Participants could allocate portions of contributions accrued to their credit among two or more designated plan providers and could withdraw funds from their account with one provider and deposit them instead with another.

4. Loan option. Participants could borrow against their own and their employer's contributions and account accumulations, up to the amounts allowed under federal law.

5. Optional nonannuitization at retirement. Participants could, on separation from service, take all or part of their ABP benefits in the form of a lump sum distribution of cash.

6. Employer "pick-up" of required employee contributions. The program would be required to be qualified under section 414(h) of the federal Internal Revenue Code, thereby allowing participants' statutorily mandated contributions to be exempt from income taxation in the year in which those contributions were made. The regular State-administered retirement systems are already qualified under section 414(h) pursuant to legislation enacted in 1986.

COMMITTEE AMENDMENTS

The committee adopted amendments to this bill assigning responsibility for the selection and review of ABP plan providers to the new Pension Provider Selection Board, rather than to the State Board of Higher Education as provided under the bill as referred to the committee. The amendments also (1) remove a provision of the bill as originally introduced which limited the maximum number of plan providers to five, (2) delay the deadline for the initial selection of alternate benefit program vendors from the 180th to the 270th day following the date on which the bill is enacted as law, and (3) provide that individuals who shall have retired prior to that effective date, but whose retirement benefit shall not yet have been annuitized, shall be eligible for the cash withdrawal option under the legislation.

06/22/93 lgr
002893

Document ID SGSEWC
SG 0009
SR XXXX
TR XXXX

SENATE SSG COMMITTEE

AMENDMENTS

to

ASSEMBLY No. 2367(1R)

(Sponsored by Assemblywoman DERMAN
and Assemblyman MARTIN)

ADOPTED
JUN 24 1993

REPLACE SECTION 3 TO READ:

3. (New Section) [1]There is established in but not of the Division of Pensions and Benefits in the Department of the Treasury the Pension Provider Selection Board, which shall consist of the Director of the Division of Pensions and Benefits or a representative of that director; the Director of the Division of Investment or a representative of that director; [2]the Commissioner of the Department of Insurance or a representative of that commissioner; the Director of the Division of Purchase and Property or a representative of that director;[2] the Chancellor of Higher Education; and three persons appointed by the Chancellor of Higher Education who are active participants in or former participants receiving a benefit from the alternate benefit program, one of whom shall represent the several senior research institutions among State institutions of higher education, one of whom shall represent the several State colleges, and one of whom shall represent the several county colleges. The Director of the Division of Pensions and Benefits or the director's representative shall serve as chairman of the board.[1]

The [1][Board of Higher Education] Pension Provider Selection Board[1] shall select through a competitive bidding process at least three [1][and no more than five][1] unrelated insurance or mutual fund companies licensed or otherwise authorized to transact business in New Jersey from which alternate benefit contracts will be purchased. These new insurers or mutual fund companies shall be selected by competitive bidding [2]in accordance with all applicable State laws and regulations[2] not later than the [1][180th] 270th[1] day following the effective date of P.L. , c. (C.)(now pending before the Legislature as this bill). The selected carriers shall be authorized to receive contributions within 60 days of their selection. [2]Each contract shall be awarded for a period not to exceed six years with a renewal option for a period not to exceed three years.[2] All carriers shall be subject to a performance review by the [1][Board of Higher Education] Pension Provider Selection Board[1] every seven years and must meet such standards as the [1][Board of Higher Education] Pension Provider Selection Board[1] shall establish by regulation in order to be renewed for another term of seven years as carriers. Removal of a carrier for cause during a seven-year term is not waived. In establishing by regulation the criteria for the initial selection and any performance review of a carrier, the 1[board] Pension Provider Selection Board1 shall consider, among other things, the following:

a. the portability of the contracts offered or to be offered by the company, based on the number of states in which the company provides contracts under similar plans;

b. the efficacy of the contracts in the recruitment and retention of employees for the various State public institutions of higher education;

c. the nature and extent of the rights and benefits to be provided by the contracts for participating employees and their beneficiaries;

d. the relation of the rights and benefits to the amount of contributions to be made pursuant to the provisions of this article;

e. the suitability of the rights and benefits to the needs and interests of participating employees and the various State public institutions of higher education;

f. the ability of the company to provide the rights and benefits under such contracts;

g. the financial soundness of the company, the extent of the company's financial commitment to the contracts, and whether the company meets the minimum financial criteria established by the Division of Pensions and Benefits and the Board of Higher Education; 2[and]2

h. the company's overall quality of service, its investment performance considering return on investments and risk, 2the administrative fee to be charged to participating employees,2 and the offering of a balanced array of investment opportunities 2[.]; and

i. the nature of the informational or promotional materials to be provided to prospective participants.2

The 1[Board of Higher Education] Pension Provider Selection Board1 may not designate a company which serves as a disbursement system for other providers or which charges third party administrative fees.

A company that has been designated as of January 1, 1993 by the Division of Pensions and Benefits as a designated provider shall continue to be so designated until its status as a designated provider is terminated for cause by the division or by the 1[Board of Higher Education] Pension Provider Selection Board1.

REPLACE SECTION 10 TO READ:

1[9.] 10.1 Section 23 of P.L.1969, c.242 (C.18A66-189) is amended to read as follows:

23. [(a) Notwithstanding any other provisions of this act, no contributions to any retirement annuity contracts shall be

authorized by the Division of Pensions for payment by the State until the completion of one year of employment and commencement of a second consecutive year of employment. Employee contributions required during this initial year of service shall be deducted and held by the College of Medicine and Dentistry, Rutgers, The State University and the Newark College of Engineering for their employees and by the Division of Pensions for employees of the Department of Higher Education, the State and county colleges. Upon the commencement of such second year the amount of the employee contributions, and such amount of the employer contribution as herein required which has not theretofore been paid for said employee, together with interest on both portions at the rate of 4% per annum, shall be paid by the employer to the designated insurer or insurers for and on behalf of such employee; if such an employee does not commence such second year, the amount of employee contributions deducted from his compensation shall be refunded to him.

(b) The provisions of subsection (a) of this section shall not apply to any employee who, at the time of initial employment (1) owns a retirement annuity contract or contracts determined by the Division of Pensions to be substantially similar to the contracts to be purchased under the alternate benefit programs and issued by the designated insurer or insurers, or (2) is a member of a New Jersey State-administered retirement program.]

The Division of Pensions and Benefits may, in its sole discretion, qualify the alternate benefit program under section 401(a) or 403(a) of the federal Internal Revenue Code (26 U.S.C. §401(a), §403(a)). In such a case, all contributions to the retirement annuity contracts shall be made as soon as the employee is eligible and has filed application forms required by the annuity carrier. No employer contributions under these contracts shall be vested in the employee until after the employee commences the second year of employment unless the employee, at the time of initial employment, either (a) owns a retirement annuity contract or contracts determined by the Division of Pensions and Benefits to be substantially similar to the contracts to be purchased under the alternate benefit program and issued by the designated insurers or mutual fund companies, or (b) is a member of another State-administered retirement system.

[2]To the extent that any contributions required by this section would exceed the limits established pursuant to section 415 of the Internal Revenue Code, the contributions shall not be made to a plan which has been qualified under sections 401(a) or 403(a) of the Internal Revenue Code. Instead, the excess contributions shall be made to a section 403(b) plan established by the State to the extent that those contributions would be permitted to the plan in compliance with any provisions of the Internal Revenue Code and, in the event that there are remaining contributions, they shall be made to a nonqualified annuity plan established and maintained for this purpose. The participant shall be liable for any federal income taxes on contributions made to this plan.[2]

(cf: P.L.1969, c.242, s.23)

SENATE STATE GOVERNMENT COMMITTEE

STATEMENT TO

[FIRST REPRINT]

ASSEMBLY, No. 2367

with Senate committee amendments

STATE OF NEW JERSEY

DATED: JUNE 24, 1993

The Senate State Government Committee reports with committee amendments and without recommendation Assembly, No. 2367(1R).

This bill revises the law governing the alternate benefit program (ABP), a defined contribution retirement plan for faculty at public institutions of higher education. The bill would allow a participant in the program to choose the manager of his or her retirement plan from among State-qualified providers and allow participants greater flexibility with respect to their retirement benefits.

The bill proposes to revise the ABP as follows:

1 Plan selection. Participants in the ABP could select, from a list of at least three providers of retirement plans designated through a competitive bidding process by a Pension Provider Selection Board established under the legislation, one or more plan providers with which to place their contributions and those of their employer. (Under present law, a single provider is designated by the Division of Pensions and Benefits.) Designated plan providers are to be subject to performance review every seven years by the Pension Provider Selection Board. Contracts shall be awarded for up to six years with a renewal option for up to three years. In selecting and reviewing plan providers, the board is to consider, among other things, the following:

a. the portability of the contracts offered by the provider;

b. the efficacy of the contracts in the recruitment and retention of employees;

c. the nature and extent of the rights and benefits provided;

d. the relation of those rights and benefits to the statutorily required contributions;

e. the suitability of the rights and benefits to the needs and interests of participating employees and their employers;

f. the provider's ability to provide the rights and benefits under the plans;

g. the financial soundness of the provider, the extent of its financial commitment to the contracts, and whether it meets minimum State-established financial criteria;

h. the overall quality of the provider's service, investment performance, administrative fees, and provision of a balanced array of investment opportunities; and

i. the nature of the informational or promotional materials to be provided to prospective participants.

The bill allows the company designated as the ABP provider on January 1, 1993 to retain that designation until terminated for cause.

In conjunction with the provisions allowing participants greater choice among plans under the ABP, the bill authorizes the Division of Pensions and Benefits to qualify the program under either §401(a) (pertaining to qualified pension plans) or §403(a) (pertaining to regular annuity plans which can be provided by any employer) of the federal Internal Revenue Code. If contributions exceed federal IRC limits, excess contributions would be made to a section 403(b) tax-sheltered annuity plan (offered by educational and certain other nonprofit organizations) established by the State or a nonqualified annuity plan.

2. Eligible providers. Mutual fund companies would be eligible for designation as plan providers. Under present law, only insurance companies are eligible for that designation.

3. Ability to transfer deposits among multiple accounts. Participants could allocate portions of contributions accrued to their credit among two or more designated plan providers and could withdraw funds from their account with one provider and deposit them instead with another.

4. Loan option. Participants could borrow against their own and their employer's contributions and account accumulations, up to the amounts allowed under federal law.

5. Optional nonannuitization. Participants could, on separation from service, take all or part of their ABP benefits in the form of a lump sum distribution of cash.

6. Employer "pick-up" of required employee contributions. The program would be required to be qualified under section 414(h) of the federal Internal Revenue Code, thereby allowing participants' statutorily mandated contributions to be exempt from income taxation in the year in which those contributions were made. The regular State-administered retirement systems are already qualified under section 414(h) pursuant to legislation enacted in 1986.

COMMITTEE AMENDMENTS

The committee amended the bill to:

(1) provide that each contract shall be awarded for up to six years with a renewal option for up to three years;

(2) add the Commissioner of the Department of Insurance and the Director of the Division of Purchase and Property to the Pension Provider Selection Board;

(3) include administrative fees and the nature of informational materials in the criteria for selecting providers; and

(4) stipulate that if contributions to 401(a) or 403(a) plans exceed federal IRC limits, excess contributions shall be made to a 403(b) plan established by the State or a nonqualified annuity plan.

FISCAL NOTE TO

[FIRST REPRINT]

ASSEMBLY, No. 2367

STATE OF NEW JERSEY

DATED: July 1, 1993

Assembly Bill No. 2367 (1R) of 1993 revises the law governing the Alternate Benefit Program (ABP), a defined contribution retirement plan for faculty at public institutions of higher education. The bill would allow a participant in the program to choose the manager of his or her retirement plan from among State-qualified providers and allow participants greater flexibility with respect to their retirement benefits.

The bill proposes to revise the ABP as follows:

1. Plan selection. Participants in the ABP could select, from a list of at least three providers of retirement plans designated by a Pension Provider Selection Board established under the legislation, one or more plan providers with which to place all or a portion of their contributions and those of their employer. (Under present law, a single provider is designated by the Division of Pensions and Benefits.) Designated plan providers are to be subject to performance review every seven years by the Pension Provider Selection Board. In selecting and reviewing plan providers, the board is to consider, among other things, the following:

a. the portability of the contracts offered by the provider;

b. the efficacy of the contracts in the recruitment and retention of employees;

c. the nature and extent of the rights and benefits provided;

d. the relation of those rights and benefits to the statutorily required contributions;

e. the suitability of the rights and benefits to the needs and interests of participating employees and their employers;

f. the provider's ability to provide the rights and benefits under the plan;

g. the financial soundness of the provider, the extent of its financial commitment to the contracts, and whether it meets minimum State-established financial criteria; and

h. the overall quality of the provider's service, its investment performance, and its provision of a balanced array of investment opportunities.

The bill allows the company designated as the ABP provider on January 1, 1993 to retain that designation until terminated for cause.

In conjunction with the provisions allowing participants greater choice among plans under the ABP, the bill authorizes the Division of Pensions and Benefits to qualify the program under either §401(a) (pertaining to qualified pension plans) or §403(a) (pertaining to regular annuity plans which can be provided by any employer) of the federal Internal Revenue Code. Currently, the ABP is qualified under the Code's §403(b) (pertaining to tax-sheltered annuity plans offered by educational and certain other nonprofit organizations).

2. Eligible providers. Mutual fund companies would be eligible for designation as plan providers. Under present law, only insurance companies are eligible for that designation.

3. Ability to transfer deposits among multiple accounts. Participants could allocate portions of contributions accrued to their credit among two or more designated plan providers and could withdraw funds from their account with one provider and deposit them instead with another.

4. Loan option. Participants could borrow against their own and their employer's contributions and account accumulations, up to the amounts allowed under federal law.

5. Optional nonannuitization at retirement. Participants could, on separation from service, take all or part of their ABP benefits in the form of a lump sum distribution of cash.

6. Employer "pick-up" of required employee contributions. The program would be required to be qualified under section 414(h) of the federal Internal Revenue Code, thereby allowing participants' statutorily mandated contributions to be exempt from income taxation in the year in which those contributions were made. The regular State-administered retirement systems are already qualified under section 414(h) pursuant to legislation enacted in 1986.

The Division of Pensions and Benefits states that although there would be no recurring cost to the State of enacting the bill, unless the division requires additional personnel to act as third party administrators, there would be an initial $500,000 for computer equipment upgrades and programming costs required to automate the administration of the ABP within the division.

The Office of Legislative Services (OLS) disagrees with the division's estimate. The OLS notes that the Alternate Benefit Program is a defined contribution pension plan for full-time faculty members of public institutions and certain administrative and professional titles approved by the Department of Higher Education. Participants currently have the option of providing for their retirement through the purchase of fixed annuities underwritten by the Teachers' Insurance and Annuity Association (TIAA) or variable annuities purchased through the College Retirement Equities Fund (CREF). As an employer, the State transmits the employee and the employer contributions and a report to TIAA/CREF. TIAA/CREF invests the funds and administers the program. Under this bill, although ABP participants could select a different plan provider than TIAA/CREF, it is not clear that the division's enrollment or record keeping responsibilities would increase. The plan provider would accept the employee and employer contributions from the division and would administer the participants' (members) accounts.

This fiscal note has been prepared pursuant to P.L.1980, c.67.

[FIRST REPRINT]

SENATE, No. 1646

STATE OF NEW JERSEY

INTRODUCED MARCH 18, 1993

By Senator SINAGRA

AN ACT concerning the alternate benefit program, amending and supplementing P.L.1969, c.242 and amending P.L.1986, c.188.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. Section 2 of P.L.1969, c.242 (C.18A:66-168) is amended to read as follows:

2. Repeal of the act and parts of acts, and all amendments and supplements thereto, pursuant to section 1 of this act, is subject to the following provisos:

a. The alternate benefit programs established by the Board of Trustees of the [New Jersey College] University of Medicine and Dentistry, the Board of Governors of Rutgers, The State University of New Jersey, the Board of Trustees of the [Newark College of Engineering] New Jersey Institute of Technology and the Board of Higher Education for certain employees of State and county colleges, are continued except as the benefit and contribution schedules are revised by this act.

b. The timely filing of applications for transfer from the Public Employees' Retirement System, the Teachers' Pension and Annuity Fund and the Group Annuity Plan as specified in such acts shall be deemed to have not been revised by this act.

c. The transfer of employee and employer contributions from the Public Employees' Retirement System, the Teachers' Pension and Annuity Fund and the Group Annuity Plan to the [insurer or] insurers or mutual fund companies of the alternate benefit programs shall be considered as having met the requirements of said acts and shall be continued as provided by this act.

d. Any contributions made by a member of the alternate benefit program for any additional death benefit coverage established under said acts shall not be returnable to the member or his beneficiary in any manner, or for any reason whatsoever, nor shall any contributions made for the additional death benefit coverage be included in any annuity payable to any such member or to his beneficiary.

(cf: P.L.1969, c.242, s.2)

2. Section 3 of P.L.1969, c.242 (C.18A:66-169) is amended to read as follows:

3. As used in this act:

a. "Accumulated deductions" means those contributions as defined in [section] N.J.S. 18A:66-2 [of the New Jersey Statutes]

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.
Matter enclosed in superscript numerals has been adopted as follows:
[1] Senate SSG committee amendments adopted June 24, 1993.

or in section 6 of [chapter 84 of the laws of 1954, as amended and supplemented] P.L.1954, c.84 (C. 43:15A-6).

b. "Base salary" means a participant's regular base or contractual salary. It shall exclude bonus, overtime or other forms of extra compensation such as (1) longevity lump sum payments, (2) lump sum terminal sick leave or vacation pay, (3) the value of maintenance, (4) individual pay adjustments made within or at the conclusion of the participant's final year of service, (5) retroactive salary adjustments or other pay adjustments made in the participant's final year of service unless such adjustment was made as a result of a general pay adjustment for all personnel of the department or institution, (6) any unscheduled individual adjustment made in the final year to place the member at the maximum salary level within his salary range and (7) any pay for services rendered during the summer vacation period by a participant who is required to work only 10 months of the year.

c. "Base annual salary" means the base salary upon which contributions by the member and his employer to the alternate benefit program were based during the last year of creditable service.

d. "Board of Higher Education" means the board described in article 2 of chapter 3 of Title 18A of the New Jersey Statutes and the agency responsible for the establishment of the alternate benefits program of the State and County Colleges.

e. "[College] University of Medicine and Dentistry" means the [New Jersey College] University of Medicine and Dentistry of New Jersey established pursuant to the terms of section [18A:64C-2] 3 of [the New Jersey Statutes] P.L.1970, c.102 (C.18A:64G-3).

f. "County colleges" means the colleges so defined in [section] N.J.S. 18A:64A-1 [of the New Jersey Statutes].

g. "Division of Pensions and Benefits" means the division established in the Department of the Treasury pursuant to section 1 of [chapter 70 of the laws of 1955] P.L.1955, c.70 (C.52:18A-95) and is the agency responsible for the administration of the alternate benefit program of the Department of Higher Education, the State and county Colleges and for the administration of the group life and disability insurances of all alternate benefit programs established in the State for public employees.

h. "Full-time officers" and "full-time members of the faculty" shall include the president, vice president, secretary and treasurer of the respective school. Also included are employees of the Department of Higher Education whose positions are so designated by the Board of Higher Education. All other employees of the Department of Higher Education shall, if otherwise eligible, be enrolled in the Public Employees' Retirement System or transferred from the Teachers' Pension and Annuity Fund to said system. "Full-time" shall also include eligible full-time officers and full-time members of the faculty who are granted sabbaticals or leaves of absence with pay where the compensation paid is 50% or more of the base salary at the time the leave commences and the period of eligibility terminates with the end of the school year following the year in which the sabbatical began. "Part-time" shall be defined as an appointment where the employee receives a salary or wages for a period of less than 50% of the normal work week. These definitions shall apply to teaching or administrative staff members or to employees serving in a dual capacity where the appointment includes teaching as well as administrative duties.

i. "Group Annuity Plan" refers to the Group Annuity Contract R-134 between the Board of Trustees of the [Newark College of Engineering] New Jersey Institute of Technology and the Prudential Insurance Company of America.

j. "Member" or "participant" means a full-time officer or a full-time member of the faculty participating in the alternate benefit program.

k. ["Newark College of Engineering"] "New Jersey Institute of Technology" means the [School for Industrial Education of Newark, New Jersey] Newark College of Engineering.

l. "Pension reserve" means those moneys as defined in [section] N.J.S.18A:66-2 [of the New Jersey Statutes] or in section 6 of [chapter 84 of the laws of 1954] P.L.1954, c.84 (C.43:15A-6)[, as amended and supplemented].

m. "Rutgers, The State University" means the institution of higher education described in chapter 65 of Title 18A of the New Jersey Statutes.

n. "State Colleges" means the colleges so described in chapter 64 of Title 18A of the New Jersey Statutes.

o. "Mutual fund company" means an investment company or trust regulated by the federal "Investment Company Act of 1940," 15 U.S.C.§§80a-1 et seq.

(cf: P.L.1969, c.242, s.3)

3. (New Section) [1]There is established in but not of the Division of Pensions and Benefits in the Department of the Treasury the Pension Provider Selection Board, which shall consist of the Director of the Division of Pensions and Benefits or a representative of that director; the Director of the Division of Investment or a representative of that director; the Commissioner of the Department of Insurance or a representative of that commissioner; the Director of the Division of Purchase and Property or a representative of that director; the Chancellor of Higher Education; and three persons appointed by the Chancellor of Higher Education who are active participants in or former participants receiving a benefit from the alternate benefit program, one of whom shall represent the several senior research institutions among State institutions of higher education, one of whom shall represent the several State colleges, and one of whom shall represent the several county colleges. The Director of the Division of Pensions and Benefits or the director's representative shall serve as chairman of the board.[1]

The [1][Board of Higher Education] Pension Provider Selection Board[1] shall select through a competitive bidding process at least three [1][and no more than five][1] unrelated insurance or mutual fund companies licensed or otherwise authorized to transact business in New Jersey from which alternate benefit contracts will be purchased. These new insurers or mutual fund companies shall be selected by competitive bidding [1]in accordance with all applicable State laws and regulations[1] not later than the [1][180th] 270th[1] day following the effective date of P.L. , c. (C.)(now pending before the Legislature as this bill). The selected carriers shall be authorized to receive contributions within 60 days of their selection. [1]Each contract shall be awarded for a period not to exceed six years with a renewal option for a period not to exceed three years.[1] All carriers shall be subject to a performance review by the [1][Board of Higher Education] Pension Provider Selection Board[1] every seven years and must meet such standards as the [1][Board of Higher Education] Pension Provider Selection Board[1] shall establish by regulation in order to be renewed for another term of seven years as carriers. Removal of a carrier for cause during a seven-year term is not waived. In establishing by regulation the criteria for the initial selection and any performance review of a carrier, the [1][board] Pension Provider Selection Board[1] shall consider, among other things, the following:

a. the portability of the contracts offered or to be offered by the company, based on the number of states in which the company provides contracts under similar plans;

b. the efficacy of the contracts in the recruitment and retention of employees for the various State public institutions of higher education;

c. the nature and extent of the rights and benefits to be provided by the contracts for participating employees and their beneficiaries;

d. the relation of the rights and benefits to the amount of contributions to be made pursuant to the provisions of this article;

e. the suitability of the rights and benefits to the needs and interests of participating employees and the various State public institutions of higher education;

f. the ability of the company to provide the rights and benefits under such contracts;

g. the financial soundness of the company, the extent of the company's financial commitment to the contracts, and whether the company meets the minimum financial criteria established by the Division of Pensions and Benefits and the Board of Higher Education; [1][and][1]

h. the company's overall quality of service, its investment performance considering return on investments and risk, [1]the administrative fee to be charged to participating employees,[1] and the offering of a balanced array of investment opportunities [1][.]; and

i. the nature of the informational or promotional materials to be provided to prospective participants.[1]

The [1][Board of Higher Education] Pension Provider Selection Board[1] may not designate a company which serves as a disbursement system for other providers or which charges third party administrative fees.

A company that has been designated as of January 1, 1993 by the Division of Pensions and Benefits as a designated provider shall continue to be so designated until its status as a designated provider is terminated for cause by the division or by the [1][Board of Higher Education] Pension Provider Selection Board[1].

4. Section 6 of P.L.1969, c.242 (C.18A:66-172) is amended to read as follows:

6. Participants in the alternate benefit program shall be allowed to allocate portions of their own contributions and the contributions of their employer, including amounts used by the employer to purchase an annuity pursuant to a salary reduction agreement under section 24 of P.L.1969, c.242 (C.18A:66-190), to accounts with two or more insurers or mutual fund companies designated pursuant to the provisions of section 3 of P.L. , c. (C.)(now pending before the Legislature as this bill) as companies from which alternate benefit contracts may be purchased, and shall, subject to such rules and regulations as the Board of Higher Education may adopt, be permitted to direct the withdrawal of such contributions from their account with one such company for deposit in an account with another such company. Since the establishment of the alternate benefit programs for the several public institutions of higher education in New Jersey is designed to provide mobility of pension credit from within the academic community in and outside the State, and since it is imperative that eligibility for participation in this program be of uniform application in the several schools, it shall be the responsibility of the Board of Higher Education to establish regulations which shall provide for such uniformity to the extent consistent with the foregoing provisions of this section.

(cf: P.L.1969, c.242, s.6)

5. Section 7 of P.L.1969, c.242 (C.18A:66-173) is amended to read as follows:

7. (a) When a member of the Teachers' Pension and Annuity Fund or the Public Employees' Retirement System or the Police and Firemen's Retirement System elects to transfer to an alternate benefit program by filing the proper application form declaring his election to participate in such alternate benefit program, the respective retirement system shall transfer the amount of his accumulated deductions as of the date of transfer to his individual account in the program.

(b) There shall also be transferred from the contingent reserve fund or the pension fund of the Teachers' Pension and Annuity Fund or the Public Employees' Retirement System or the Police and Firemen's Retirement System or from the Group Annuity Plan to the individual's account in the alternate benefit program, the pension reserve required as of the date of his transfer to provide a pension for each year of service credited to the account of the member as set forth in N.J.S.18A:66-36 or N.J.S.18A:66-44 or as set forth in section 38 or section 48 of P.L.1954, c.84 as such sections have been amended and supplemented as of July 1, 1969 (C.43:15A-38, C.43:15A-48) or as set forth in section 17 of P.L.1964, c.241 (C.43:16A-11.2) or section 5 of P.L.1944, c.255 (C.43:16A-5) or for each year of service credited under the Group Annuity Plan. Such transfer from the contingent reserve fund or the pension fund of the Teachers' Pension and Annuity Fund or the Public Employees' Retirement System or the Police and Firemen's Retirement

System or the Group Annuity Plan shall be made at the time of the member's transfer to the alternate benefit program in the case of any such member who has then met the eligibility requirements for a pension under the aforementioned N.J.S.18A:66-36, or N.J.S.18A:66-44, or section 38 or section 48 of P.L.1954, c.84 (C.43:15A-38, C.43:15A-48) or section 17 of P.L.1964, c.241 (C.43:16A-11.2) or section 5 of P.L.1944, c.255 (C.43:16A-5) or the Group Annuity Plan. In the case of any member who elects to participate in the alternate benefit program who has not then met the eligibility requirements for a pension under N.J.S.18A:66-36 or N.J.S.18A:66-44, or under section 38 or section 48 of P.L.1954, c.84 (C.43:15A-38, C.43:15A-48) or section 17 of P.L.1964, c.241 (C.43:16A-11.2) or section 5 of P.L.1944, c.255 (C.43:16A-5) or under the Group Annuity Plan, the transfer from the contingent reserve fund or the pension fund of the Teachers' Pension and Annuity Fund or the Public Employees' Retirement System or the Police and Firemen's Retirement System or the Group Annuity Plan shall be effected at the time such requirements have been met, taking into account for the purpose of such eligibility requirement his years of membership service at the time of his election and his subsequent years of service as a full-time member of the faculty of the [College] University of Medicine and Dentistry, Rutgers, The State University, the [Newark College of Engineering] New Jersey Institute of Technology or the State or county colleges or as an eligible employee of the Department of Higher Education, or at the time he shall have 10 years of credit for New Jersey service and becomes physically incapacitated for the performance of duty if he had been a member of the Teachers' Pension and Annuity Fund or the Public Employees' Retirement System or the Police and Firemen's Retirement System as of the date of transfer.

The annuity to be used in determining the amount of pension is the actuarial equivalent of the member's accumulated deductions transferred from the Teachers' Pension and Annuity Fund or the Public Employees' Retirement System or the Police and Firemen's Retirement System to the date the member attains 60 years of age, if subsequent to the date of election. The amount of pension is that established by formula within N.J.S.18A:66-44 or section 48 of P.L.1954, c.84 as such sections have been amended and supplemented as of July 1, 1969 (C.43:15A-48) or section 5 of P.L.1944, c.255 (C.43:16A-5) or under the Group Annuity Plan, and changes to N.J.S.18A:66-44 or section 48 of P.L.1954, c.84 (C.43:15A-48) or section 5 of P.L.1944, c.255 (C.43:16A-5) enacted subsequent to this act or the Group Annuity Plan shall have no application to the provisions of this act.

In the event that the eligibility requirement under [section] N.J.S.18A:66-36 [of the New Jersey Statutes] or under section 38 of P.L.1954, c.84 (C.43:15A-38) or section 17 of P.L.1964, c.241 (C.43:16A-11.2) or under the Group Annuity Plan is changed at some future date to permit members to become eligible for such benefit prior to the completion of 15 years of service, the transfer of the reserve from the contingent reserve fund or the pension fund of the Teachers' Pension and Annuity Fund or the

Public Employees' Retirement System or the Police and Firemen's Retirement System or from the Group Annuity Plan shall be effective as of the date the member who had elected the alternate benefit program meets the amended eligibility requirement or the effective date of the amendment, whichever is later.

In the event an option is available with respect to the distribution of employee and employer contributions between fixed and variable annuities under the alternate benefit program, the employee shall have the right to determine the percentage distribution of these funds subject to any limitations imposed by the designated insurer or insurers.

(c) No transfer of pension reserves shall be made pursuant to this section where more than 2 consecutive years elapse in which no employer contributions to an alternate benefit program are required.

(cf: P.L.1981, c.342, s.2)

6. Section 8 of P.L.1969, c.242 (C.18A:66-174) is amended to read as follows:

8. (a) The University of Medicine and Dentistry of New Jersey, Rutgers, The State University and the [Newark College of Engineering] New Jersey Institute of Technology shall [deduct from or, with the consent of the participant,] reduce the compensation of each participant in the alternate benefit program and pay over to the [insurer or] insurers or mutual fund companies for the benefit of the participant an employee contribution for the retirement annuity contract or contracts equal to 5% of the participant's base salary. The intervals for deductions or reductions and payments shall be determined by the respective school governing bodies.

The Division of Pensions and Benefits shall [deduct from or, with the consent of the participant,] provide for reductions from the compensation of each participant in the alternate benefit program employed by the Department of Higher Education, the State and county colleges of an employee contribution equal to 5% of the participant's base salary and pay this amount to the [insurer or] insurers or mutual fund companies for the individual's retirement annuity contract or contracts. The intervals for deductions or reductions and payments shall be determined by the Division of Pensions and Benefits.

The Division of Pensions and Benefits may require that all participant contributions be made in accordance with section 414(h) of the federal Internal Revenue Code (26 U.S.C. §414(h)).

(b) Based on a certification to the Division of Pensions and Benefits by the University of Medicine and Dentistry of New Jersey, Rutgers, The State University and the [Newark College of Engineering] New Jersey Institute of Technology of the number and base salary of participants, the division shall authorize the State to make payment of the employer contributions to the alternate benefit program at a rate equal to 8% of the employee's base salary, which moneys shall be paid to the designated [insurer or] insurers or mutual fund companies for the benefit of each participant.

Based on a certification by the Division of Pensions and

Benefits of the number and base salary of participants employed by the Department of Higher Education, the State and county colleges, the State shall make payment of the employer contributions to the alternate benefit program at a rate equal to 8% of the employee's base salary, which moneys shall be paid to the designated [insurer or] insurers or mutual fund companies for the benefit of each participant.

(c) For the member of the Public Employees' Retirement System employed by the county colleges, who is defined in the regulations of the Board of Higher Education as a full-time faculty member and who is permitted to transfer his membership and does so, the State shall pay the employer contribution to the alternate benefit program at a rate equal to 8% of the member's base salary. If the member continues membership in the Public Employees' Retirement System, the State shall pay the employer contribution to the retirement system on his behalf and such employer contribution shall be at a rate equal to the normal contribution made by the State on behalf of nonveteran members of the Public Employees' Retirement System.

(d) For any nonacademic employee of a county college, as defined in section 4 of P.L.1969, c.242 (C.18A:66-170), who is eligible for the program according to the regulations of the Board of Higher Education, the county college shall pay the employer contribution to the retirement system on the employee's behalf in the same manner as the State, pursuant to this section.

(cf: P.L.1985, c.71, s.1)

7. Section 9 of P.L.1969, c.242 (C.18A:66-175) is amended to read as follows:

9. Membership or participation in the alternate benefit program shall terminate and the individual shall be considered retired once he has elected to receive a cash distribution upon separation from service or an annuity option from the designated insurer or insurers or a designated mutual fund company or companies, as appropriate.

(cf: P.L.1969, c.242, s.9)

8. Section 21 of P.L.1969, c.242 (C.18A:66-187) is amended to read as follows:

21. While any participant in the alternate benefit program may make personal contributions at any time directly to the [insurer or] insurers or mutual fund companies of the individual retirement annuities, no employer obligations will be paid when the participant is on a leave of absence without pay or when the participant no longer meets the definition of a full-time officer or full-time member of the faculty.

(cf: P.L.1969, c.242, s.21)

9. Section 22 of P.L.1969, c.242 (C.18A:66-188) is amended to read as follows:

22. [Since the establishment of the alternate benefit programs is designed to guarantee immediate vesting for each participant of his and his employer's contributions, such] The alternate benefit programs shall [not] provide an option for full cash surrender [or loan value] upon separation from service. Additionally, a participant may borrow from his employee account accumulations up to the amounts allowed under federal

law while still employed. Employee and employer account accumulations shall be used to qualify for the amount of a policy loan. In the event a participant in the alternate benefit program terminates his employment for reasons other than retirement or disability and requests repurchase of his annuity or annuities, such repurchase shall be allowed provided it meets the conditions under which the insurer or mutual fund company will repurchase annuities automatically, and provided that the portion of the repurchase value attributable to employer contributions made pursuant to this act shall be refunded to the employer.

The amendments to this section made by P.L. , c. (C.) (now pending before the Legislature as this bill) shall apply to all contributions made to a plan under the alternate benefit program on or after the 90th day following the effective date of that P.L. , c. . Any plan contributions invested in the College Retirement Equities Fund prior to that date shall be fully subject to distribution as cash [1][upon a separation from service occurring on or after] if those contributions shall not have been annuitized prior to[1] that 90th day. Any plan contributions invested in the Teachers Insurance and Annuity Association prior to that 90th day shall become subject to distribution as cash to the maximum extent permitted by the contract [1][upon a separation from service occurring on or after] if those contributions shall not have been annuitized prior to[1] that 90th day.

(cf: P.L.1969, c.242, s.22)

10. Section 23 of P.L.1969, c.242 (C.18A:66-189) is amended to read as follows:

23. [(a) Notwithstanding any other provisions of this act, no contributions to any retirement annuity contracts shall be authorized by the Division of Pensions for payment by the State until the completion of one year of employment and commencement of a second consecutive year of employment. Employee contributions required during this initial year of service shall be deducted and held by the College of Medicine and Dentistry, Rutgers, The State University and the Newark College of Engineering for their employees and by the Division of Pensions for employees of the Department of Higher Education, the State and county colleges. Upon the commencement of such second year the amount of the employee contributions, and such amount of the employer contribution as herein required which has not theretofore been paid for said employee, together with interest on both portions at the rate of 4% per annum, shall be paid by the employer to the designated insurer or insurers for and on behalf of such employee; if such an employee does not commence such second year, the amount of employee contributions deducted from his compensation shall be refunded to him.

(b) The provisions of subsection (a) of this section shall not apply to any employee who, at the time of initial employment (1) owns a retirement annuity contract or contracts determined by the Division of Pensions to be substantially similar to the contracts to be purchased under the alternate benefit programs and issued by the designated insurer or insurers, or (2) is a member of a New Jersey State-administered retirement program.]

The Division of Pensions and Benefits may, in its sole discretion, qualify the alternate benefit program under section 401(a) or 403(a) of the federal Internal Revenue Code (26 U.S.C.§401(a), §403(a)). In such a case, all contributions to the retirement annuity contracts shall be made as soon as the employee is eligible and has filed application forms required by the annuity carrier. No employer contributions under these contracts shall be vested in the employee until after the employee commences the second year of employment unless the employee, at the time of initial employment, either (a) owns a retirement annuity contract or contracts determined by the Division of Pensions and Benefits to be substantially similar to the contracts to be purchased under the alternate benefit program and issued by the designated insurers or mutual fund companies, or (b) is a member of another State-administered retirement system.

[1]To the extent that any contributions required by this section would exceed the limits established pursuant to section 415 of the Internal Revenue Code, the contributions shall not be made to a plan which has been qualified under section 401(a) or 403(a) of the Internal Revenue Code. Instead, the excess contributions shall be made to a section 403(b) plan established by the State to the extent that those contributions would be permitted to the plan in compliance with any provisions of the Internal Revenue Code and, in the event that there are remaining contributions, they shall be made to a nonqualified annuity plan established and maintained for this purpose. The participant shall be liable for any federal income taxes on contributions made to this plan.[1]

(cf: P.L.1969, c.242, s.23)

11. Section 25 of P.L.1969, c.242 (C.18A:66-191) is amended to read as follows:

25. No retirement, death or other benefit shall be payable by the State, the [College] University of Medicine and Dentistry, Rutgers, The State University, the [Newark College of Engineering] New Jersey Institute of Technology, the Board or the Department of Higher Education or the Division of Pensions and Benefits under the alternate benefit program. Benefits shall be payable to participating employees and their beneficiaries only by the designated [insurer or] insurers or mutual fund companies under the terms of the contracts.

(cf: P.L.1969, c.242, s.25)

12. Section 1 of P.L.1986, c.188 (C.43:3C-9) is amended to read as follows:

1. The mandatory contributions by members to the Teachers' Pension and Annuity Fund required by N.J.S.18A:66-31, to alternate benefit providers under the alternate benefit program required by section 8 of P.L.1969, c.242 (C.18A:66-174), to the Judicial Retirement System required by section 26 of P.L.1981, c.470 (C.43:6A-34.1), to the Prison Officers' Pension Fund required by section 7 of P.L.1941, c.220 (C.43:7-13), to the Public Employees' Retirement System required by section 25 of P.L.1954, c.84 (C.43:15A-25), to the Consolidated Police and Firemen's Pension Fund required by R.S.43:16-5, to the Police and Firemen's Retirement System required by section 15 of

P.L.1944, c.255 (C.43:16A-15), and to the State Police Retirement System required by section 38 of P.L.1965, c.89 (C.53:5A-38), shall be picked up by their employers and shall be treated as employer contributions as provided by section 414(h) of the United States Internal Revenue Code. The amount of contributions on behalf of each member shall continue to be included as regular compensation for all other purposes, except that the amount shall not be included in the computation of federal income taxes withheld from the member's compensation.
(cf: P.L.1986, c.188, s.1)

13. This act shall take effect immediately.

Provides for designation through competitive bidding of vendors eligible to offer retirement plans under alternate benefit program; permits mutual funds to serve as plan vendors; broadens plan selection, loan, and payout options for ABP participants.

SENATE, No. 1646

STATE OF NEW JERSEY

INTRODUCED MARCH 18, 1993

By Senator SINAGRA

AN ACT concerning the alternate benefit program, amending and supplementing P.L.1969, c.242 and amending P.L.1986, c.188.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. Section 2 of P.L.1969, c.242 (C.18A:66-168) is amended to read as follows:

2. Repeal of the act and parts of acts, and all amendments and supplements thereto, pursuant to section 1 of this act, is subject to the following provisos:

a. The alternate benefit programs established by the Board of Trustees of the [New Jersey College] University of Medicine and Dentistry, the Board of Governors of Rutgers, The State University of New Jersey, the Board of Trustees of the [Newark College of Engineering] New Jersey Institute of Technology and the Board of Higher Education for certain employees of State and county colleges, are continued except as the benefit and contribution schedules are revised by this act.

b. The timely filing of applications for transfer from the Public Employees' Retirement System, the Teachers' Pension and Annuity Fund and the Group Annuity Plan as specified in such acts shall be deemed to have not been revised by this act.

c. The transfer of employee and employer contributions from the Public Employees' Retirement System, the Teachers' Pension and Annuity Fund and the Group Annuity Plan to the [insurer or] insurers or mutual fund companies of the alternate benefit programs shall be considered as having met the requirements of said acts and shall be continued as provided by this act.

d. Any contributions made by a member of the alternate benefit program for any additional death benefit coverage established under said acts shall not be returnable to the member or his beneficiary in any manner, or for any reason whatsoever, nor shall any contributions made for the additional death benefit coverage be included in any annuity payable to any such member or to his beneficiary.

(cf: P.L.1969, c.242, s.2)

2. Section 3 of P.L.1969, c.242 (C.18A:66-169) is amended to read as follows:

3. As used in this act:

a. "Accumulated deductions" means those contributions as defined in [section] N.J.S. 18A:66-2 [of the New Jersey Statutes]

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

or in section 6 of [chapter 84 of the laws of 1954, as amended and supplemented] P.L.1954, c.84 (C. 43:15A-6).

b. "Base salary" means a participant's regular base or contractual salary. It shall exclude bonus, overtime or other forms of extra compensation such as (1) longevity lump sum payments, (2) lump sum terminal sick leave or vacation pay, (3) the value of maintenance, (4) individual pay adjustments made within or at the conclusion of the participant's final year of service, (5) retroactive salary adjustments or other pay adjustments made in the participant's final year of service unless such adjustment was made as a result of a general pay adjustment for all personnel of the department or institution, (6) any unscheduled individual adjustment made in the final year to place the member at the maximum salary level within his salary range and (7) any pay for services rendered during the summer vacation period by a participant who is required to work only 10 months of the year.

c. "Base annual salary" means the base salary upon which contributions by the member and his employer to the alternate benefit program were based during the last year of creditable service.

d. "Board of Higher Education" means the board described in article 2 of chapter 3 of Title 18A of the New Jersey Statutes and the agency responsible for the establishment of the alternate benefits program of the State and County Colleges.

e. "[College] University of Medicine and Dentistry" means the [New Jersey College] University of Medicine and Dentistry of New Jersey established pursuant to the terms of section [18A:64C-2] 3 of [the New Jersey Statutes] P.L.1970, c.102 (C.18A:64G-3).

f. "County colleges" means the colleges so defined in [section] N.J.S. 18A:64A-1 [of the New Jersey Statutes].

g. "Division of Pensions and Benefits" means the division established in the Department of the Treasury pursuant to section 1 of [chapter 70 of the laws of 1955] P.L.1955, c.70 (C.52:18A-95) and is the agency responsible for the administration of the alternate benefit program of the Department of Higher Education, the State and county Colleges and for the administration of the group life and disability insurances of all alternate benefit programs established in the State for public employees.

h. "Full-time officers" and "full-time members of the faculty" shall include the president, vice president, secretary and treasurer of the respective school. Also included are employees of the Department of Higher Education whose positions are so designated by the Board of Higher Education. All other employees of the Department of Higher Education shall, if otherwise eligible, be enrolled in the Public Employees' Retirement System or transferred from the Teachers' Pension and Annuity Fund to said system. "Full-time" shall also include eligible full-time officers and full-time members of the faculty who are granted sabbaticals or leaves of absence with pay where the compensation paid is 50% or more of the base salary at the time the leave commences and the period of eligibility terminates with the end of the school year following the year in which the sabbatical began. "Part-time" shall be defined as an appointment where the employee receives a salary or wages for a period of less than 50% of the normal work week. These definitions shall apply to teaching or administrative staff members or to employees serving in a dual capacity where the appointment includes teaching as well as administrative duties.

i. "Group Annuity Plan" refers to the Group Annuity Contract R-134 between the Board of Trustees of the [Newark College of Engineering] New Jersey Institute of Technology and the Prudential Insurance Company of America.

j. "Member" or "participant" means a full-time officer or a full-time member of the faculty participating in the alternate benefit program.

k. ["Newark College of Engineering"] "New Jersey Institute of Technology" means the [School for Industrial Education of Newark, New Jersey] Newark College of Engineering.

l. "Pension reserve" means those moneys as defined in [section] N.J.S.18A:66-2 [of the New Jersey Statutes] or in section 6 of [chapter 84 of the laws of 1954] P.L.1954, c.84 (C.43:15A-6)[, as amended and supplemented].

m. "Rutgers, The State University" means the institution of higher education described in chapter 65 of Title 18A of the New Jersey Statutes.

n. "State Colleges" means the colleges so described in chapter 64 of Title 18A of the New Jersey Statutes.

o. "Mutual fund company" means an investment company or trust regulated by the federal "Investment Company Act of 1940," 15 U.S.C. §§80a-1 et seq.

(cf: P.L.1969, c.242, s.3)

3. (New section) The Board of Higher Education shall select through a competitive bidding process at least three and no more than five unrelated insurance or mutual fund companies licensed or otherwise authorized to transact business in New Jersey from which alternate benefit contracts will be purchased. These new insurers or mutual fund companies shall be selected by competitive bidding not later than the 180th day following the effective date of P.L. , c. (C.)(now pending before the Legislature as this bill). The selected carriers shall be authorized to receive contributions within 60 days of their selection. All carriers shall be subject to a performance review by the Board of Higher Education every seven years and must meet such standards as the Board of Higher Education shall establish by regulation in order to be renewed for another term of seven years as carriers. Removal of a carrier for cause during a seven-year term is not waived. In establishing by regulation the criteria for the initial selection and any performance review of a carrier, the board shall consider, among other things, the following:

a. the portability of the contracts offered or to be offered by the company, based on the number of states in which the company provides contracts under similar plans;

b. the efficacy of the contracts in the recruitment and retention of employees for the various State public institutions of higher education;

c. the nature and extent of the rights and benefits to be provided by the contracts for participating employees and their beneficiaries;

d. the relation of the rights and benefits to the amount of contributions to be made pursuant to the provisions of this article;

e. the suitability of the rights and benefits to the needs and interests of participating employees and the various State public institutions of higher education;

f. the ability of the company to provide the rights and benefits under such contracts;

g. the financial soundness of the company, the extent of the company's financial commitment to the contracts, and whether the company meets the minimum financial criteria established by the Division of Pensions and Benefits and the Board of Higher Education; and

h. the company's overall quality of service, its investment performance considering return on investments and risk, and the offering of a balanced array of investment opportunities.

The Board of Higher Education may not designate a company which serves as a disbursement system for other providers or which charges third party administrative fees.

A company that has been designated as of January 1, 1993 by the Division of Pensions and Benefits as a designated provider shall continue to be so designated until its status as a designated provider is terminated for cause by the division or by the Board of Higher Education.

4. Section 6 of P.L.1969, c.242 (C.18A:66-172) is amended to read as follows:

6. Participants in the alternate benefit program shall be allowed to allocate portions of their own contributions and the contributions of their employer, including amounts used by the employer to purchase an annuity pursuant to a salary reduction agreement under section 24 of P.L.1969, c.242 (C.18A:66-190), to accounts with two or more insurers or mutual fund companies designated pursuant to the provisions of section 3 of P.L. , c. (C.)(now pending before the Legislature as this bill) as companies from which alternate benefit contracts may be purchased, and shall, subject to such rules and regulations as the Board of Higher Education may adopt, be permitted to direct the withdrawal of such contributions from their account with one such company for deposit in an account with another such company. Since the establishment of the alternate benefit programs for the several public institutions of higher education in New Jersey is designed to provide mobility of pension credit from within the academic community in and outside the State, and since it is imperative that eligibility for participation in this program be of uniform application in the several schools, it shall be the responsibility of the Board of Higher Education to establish regulations which shall provide for such uniformity to the extent consistent with the foregoing provisions of this section.

(cf: P.L.1969, c.242, s.6)

5. Section 7 of P.L.1969, c.242 (C.18A:66-173) is amended to read as follows:

7. (a) When a member of the Teachers' Pension and Annuity

Fund or the Public Employees' Retirement System or the Police and Firemen's Retirement System elects to transfer to an alternate benefit program by filing the proper application form declaring his election to participate in such alternate benefit program, the respective retirement system shall transfer the amount of his accumulated deductions as of the date of transfer to his individual account in the program.

(b) There shall also be transferred from the contingent reserve fund or the pension fund of the Teachers' Pension and Annuity Fund or the Public Employees' Retirement System or the Police and Firemen's Retirement System or from the Group Annuity Plan to the individual's account in the alternate benefit program, the pension reserve required as of the date of his transfer to provide a pension for each year of service credited to the account of the member as set forth in N.J.S.18A:66-36 or N.J.S.18A:66-44 or as set forth in section 38 or section 48 of P.L.1954, c.84 as such sections have been amended and supplemented as of July 1, 1969 (C.43:15A-38, C.43:15A-48) or as set forth in section 17 of P.L.1964, c.241 (C.43:16A-11.2) or section 5 of P.L.1944, c.255 (C.43:16A-5) or for each year of service credited under the Group Annuity Plan. Such transfer from the contingent reserve fund or the pension fund of the Teachers' Pension and Annuity Fund or the Public Employees' Retirement System or the Police and Firemen's Retirement System or the Group Annuity Plan shall be made at the time of the member's transfer to the alternate benefit program in the case of any such member who has then met the eligibility requirements for a pension under the aforementioned N.J.S.18A:66-36, or N.J.S.18A:66-44, or section 38 or section 48 of P.L.1954, c.84 (C.43:15A-38, C.43:15A-48) or section 17 of P.L.1964, c.241 (C.43:16A-11.2) or section 5 of P.L.1944, c.255 (C.43:16A-5) or the Group Annuity Plan. In the case of any member who elects to participate in the alternate benefit program who has not then met the eligibility requirements for a pension under N.J.S.18A:66-36 or N.J.S.18A:66-44, or under section 38 or section 48 of P.L.1954, c.84 (C.43:15A-38, C.43:15A-48) or section 17 of P.L.1964, c.241 (C.43:16A-11.2) or section 5 of P.L.1944, c.255 (C.43:16A-5) or under the Group Annuity Plan, the transfer from the contingent reserve fund or the pension fund of the Teachers' Pension and Annuity Fund or the Public Employees' Retirement System or the Police and Firemen's Retirement System or the Group Annuity Plan shall be effected at the time such requirements have been met, taking into account for the purpose of such eligibility requirement his years of membership service at the time of his election and his subsequent years of service as a full-time member of the faculty of the [College] <u>University</u> of Medicine and Dentistry, Rutgers, The State University, the [Newark College of Engineering] <u>New Jersey Institute of Technology</u> or the State or county colleges or as an eligible employee of the Department of Higher Education, or at the time he shall have 10 years of credit for New Jersey service and becomes physically incapacitated for the performance of duty if he had been a member of the Teachers' Pension and Annuity Fund or the Public Employees' Retirement

System or the Police and Firemen's Retirement System as of the date of transfer.

The annuity to be used in determining the amount of pension is the actuarial equivalent of the member's accumulated deductions transferred from the Teachers' Pension and Annuity Fund or the Public Employees' Retirement System or the Police and Firemen's Retirement System to the date the member attains 60 years of age, if subsequent to the date of election. The amount of pension is that established by formula within N.J.S.18A:66-44 or section 48 of P.L.1954, c.84 as such sections have been amended and supplemented as of July 1, 1969 (C.43:15A-48) or section 5 of P.L.1944, c.255 (C.43:16A-5) or under the Group Annuity Plan, and changes to N.J.S.18A:66-44 or section 48 of P.L.1954, c.84 (C.43:15A-48) or section 5 of P.L.1944, c.255 (C.43:16A-5) enacted subsequent to this act or the Group Annuity Plan shall have no application to the provisions of this act.

In the event that the eligibility requirement under [section] N.J.S.18A:66-36 [of the New Jersey Statutes] or under section 38 of P.L.1954, c.84 (C.43:15A-38) or section 17 of P.L.1964, c.241 (C.43:16A-11.2) or under the Group Annuity Plan is changed at some future date to permit members to become eligible for such benefit prior to the completion of 15 years of service, the transfer of the reserve from the contingent reserve fund or the pension fund of the Teachers' Pension and Annuity Fund or the Public Employees' Retirement System or the Police and Firemen's Retirement System or from the Group Annuity Plan shall be effective as of the date the member who had elected the alternate benefit program meets the amended eligibility requirement or the effective date of the amendment, whichever is later.

In the event an option is available with respect to the distribution of employee and employer contributions between fixed and variable annuities under the alternate benefit program, the employee shall have the right to determine the percentage distribution of these funds subject to any limitations imposed by the designated insurer or insurers.

(c) No transfer of pension reserves shall be made pursuant to this section where more than 2 consecutive years elapse in which no employer contributions to an alternate benefit program are required.

(cf: P.L.1981, c.342, s.2)

6. Section 8 of P.L.1969, c.242 (C.18A:66-174) is amended to read as follows:

8. (a) The University of Medicine and Dentistry of New Jersey, Rutgers, The State University and the [Newark College of Engineering] New Jersey Institute of Technology shall [deduct from or, with the consent of the participant,] reduce the compensation of each participant in the alternate benefit program and pay over to the [insurer or] insurers or mutual fund companies for the benefit of the participant an employee contribution for the retirement annuity contract or contracts equal to 5% of the participant's base salary. The intervals for deductions or reductions and payments shall be determined by the respective school governing bodies.

The Division of Pensions and Benefits shall [deduct from or, with the consent of the participant,] provide for reductions from the compensation of each participant in the alternate benefit program employed by the Department of Higher Education, the State and county colleges of an employee contribution equal to 5% of the participant's base salary and pay this amount to the [insurer or] insurers or mutual fund companies for the individual's retirement annuity contract or contracts. The intervals for deductions or reductions and payments shall be determined by the Division of Pensions and Benefits.

The Division of Pensions and Benefits may require that all participant contributions be made in accordance with section 414(h) of the federal Internal Revenue Code (26 U.S.C. §414(h)).

(b) Based on a certification to the Division of Pensions and Benefits by the University of Medicine and Dentistry of New Jersey, Rutgers, The State University and the [Newark College of Engineering] New Jersey Institute of Technology of the number and base salary of participants, the division shall authorize the State to make payment of the employer contributions to the alternate benefit program at a rate equal to 8% of the employee's base salary, which moneys shall be paid to the designated [insurer or] insurers or mutual fund companies for the benefit of each participant.

Based on a certification by the Division of Pensions and Benefits of the number and base salary of participants employed by the Department of Higher Education, the State and county colleges, the State shall make payment of the employer contributions to the alternate benefit program at a rate equal to 8% of the employee's base salary, which moneys shall be paid to the designated [insurer or] insurers or mutual fund companies for the benefit of each participant.

(c) For the member of the Public Employees' Retirement System employed by the county colleges, who is defined in the regulations of the Board of Higher Education as a full-time faculty member and who is permitted to transfer his membership and does so, the State shall pay the employer contribution to the alternate benefit program at a rate equal to 8% of the member's base salary. If the member continues membership in the Public Employees' Retirement System, the State shall pay the employer contribution to the retirement system on his behalf and such employer contribution shall be at a rate equal to the normal contribution made by the State on behalf of nonveteran members of the Public Employees' Retirement System.

(d) For any nonacademic employee of a county college, as defined in section 4 of P.L.1969, c.242 (C.18A:66-170), who is eligible for the program according to the regulations of the Board of Higher Education, the county college shall pay the employer contribution to the retirement system on the employee's behalf in the same manner as the State, pursuant to this section.

(cf: P.L.1985, c.71, s.1)

7. Section 9 of P.L.1969, c.242 (C.18A:66-175) is amended to read as follows:

9. Membership or participation in the alternate benefit program shall terminate and the individual shall be considered

retired once he has elected to receive a cash distribution upon separation from service or an annuity option from the designated insurer or insurers or a designated mutual fund company or companies, as appropriate.

(cf: P.L.1969, c.242, s.9)

8. Section 21 of P.L.1969, c.242 (C.18A:66-187) is amended to read as follows:

21. While any participant in the alternate benefit program may make personal contributions at any time directly to the [insurer or] insurers or mutual fund companies of the individual retirement annuities, no employer obligations will be paid when the participant is on a leave of absence without pay or when the participant no longer meets the definition of a full-time officer or full-time member of the faculty.

(cf: P.L.1969, c.242, s.21)

9. Section 22 of P.L.1969, c.242 (C.18A:66-188) is amended to read as follows:

22. [Since the establishment of the alternate benefit programs is designed to guarantee immediate vesting for each participant of his and his employer's contributions, such] The alternate benefit programs shall [not] provide an option for full cash surrender [or loan value] upon separation from service. Additionally, a participant may borrow from his employee account accumulations up to the amounts allowed under federal law while still employed. Employee and employer account accumulations shall be used to qualify for the amount of a policy loan. In the event a participant in the alternate benefit program terminates his employment for reasons other than retirement or disability and requests repurchase of his annuity or annuities, such repurchase shall be allowed provided it meets the conditions under which the insurer or mutual fund company will repurchase annuities automatically, and provided that the portion of the repurchase value attributable to employer contributions made pursuant to this act shall be refunded to the employer.

The amendments to this section made by P.L. , c. (C.)(now pending before the Legislature as this bill) shall apply to all contributions made to a plan under the alternate benefit program on or after the 90th day following the effective date of that P.L. , c. . Any plan contributions invested in the College Retirement Equities Fund prior to that date shall be fully subject to distribution as cash upon a separation from service occurring on or after that 90th day. Any plan contributions invested in the Teachers Insurance and Annuity Association prior to that 90th day shall become subject to distribution as cash to the maximum extent permitted by the contract upon a separation from service occurring on or after that 90th day.

(cf: P.L.1969, c.242, s.22)

10. Section 23 of P.L.1969, c.242 (C.18A66-189) is amended to read as follows:

23. [(a) Notwithstanding any other provisions of this act, no contributions to any retirement annuity contracts shall be authorized by the Division of Pensions for payment by the State until the completion of one year of employment and

commencement of a second consecutive year of employment. Employee contributions required during this initial year of service shall be deducted and held by the College of Medicine and Dentistry, Rutgers, The State University and the Newark College of Engineering for their employees and by the Division of Pensions for employees of the Department of Higher Education, the State and county colleges. Upon the commencement of such second year the amount of the employee contributions, and such amount of the employer contribution as herein required which has not theretofore been paid for said employee, together with interest on both portions at the rate of 4% per annum, shall be paid by the employer to the designated insurer or insurers for and on behalf of such employee; if such an employee does not commence such second year, the amount of employee contributions deducted from his compensation shall be refunded to him.

(b) The provisions of subsection (a) of this section shall not apply to any employee who, at the time of initial employment (1) owns a retirement annuity contract or contracts determined by the Division of Pensions to be substantially similar to the contracts to be purchased under the alternate benefit programs and issued by the designated insurer or insurers, or (2) is a member of a New Jersey State-administered retirement program.] The Division of Pensions and Benefits may, in its sole discretion, qualify the alternate benefit program under section 401(a) or 403(a) of the federal Internal Revenue Code (26 U.S.C. §401(a), §403(a)). In such a case, all contributions to the retirement annuity contracts shall be made as soon as the employee is eligible and has filed application forms required by the annuity carrier. No employer contributions under these contracts shall be vested in the employee until after the employee commences the second year of employment unless the employee, at the time of initial employment, either (a) owns a retirement annuity contract or contracts determined by the Division of Pensions and Benefits to be substantially similar to the contracts to be purchased under the alternate benefit program and issued by the designated insurers or mutual fund companies, or (b) is a member of another State-administered retirement system.

(cf: P.L.1969, c.242, s.23)

11. Section 25 of P.L.1969, c.242 (C.18A:66-191) is amended to read as follows:

25. No retirement, death or other benefit shall be payable by the State, the [College] University of Medicine and Dentistry, Rutgers, The State University, the [Newark College of Engineering] New Jersey Institute of Technology, the Board or the Department of Higher Education or the Division of Pensions and Benefits under the alternate benefit program. Benefits shall be payable to participating employees and their beneficiaries only by the designated [insurer or] insurers or mutual fund companies under the terms of the contracts.

(cf: P.L.1969, c.242, s.25)

12. Section 1 of P.L.1986, c.188 (C.43:3C-9) is amended to read as follows:

1. The mandatory contributions by members to the Teachers' Pension and Annuity Fund required by N.J.S.18A:66-31, to alternate benefit providers under the alternate benefit program required by section 8 of P.L.1969, c.242 (C.18A:66-174), to the Judicial Retirement System required by section 26 of P.L.1981, c.470 (C.43:6A-34.1), to the Prison Officers' Pension Fund required by section 7 of P.L.1941, c.220 (C.43:7-13), to the Public Employees' Retirement System required by section 25 of P.L.1954, c.84 (C.43:15A-25), to the Consolidated Police and Firemen's Pension Fund required by R.S.43:16-5, to the Police and Firemen's Retirement System required by section 15 of P.L.1944, c.255 (C.43:16A-15), and to the State Police Retirement System required by section 38 of P.L.1965, c.89 (C.53:5A-38), shall be picked up by their employers and shall be treated as employer contributions as provided by section 414(h) of the United States Internal Revenue Code. The amount of contributions on behalf of each member shall continue to be included as regular compensation for all other purposes, except that the amount shall not be included in the computation of federal income taxes withheld from the member's compensation.
(cf: P.L.1986, c.188, s.1)

13. This act shall take effect immediately.

STATEMENT

This bill revises the law governing the alternate benefit program, a defined contribution retirement plan for faculty at public institutions of higher education, to provide participants in the program with greater flexibility and choice with respect to their retirement benefits. Under the bill:

1. Participants could select, from a list of three to five providers of retirement plans which have been designated by the State Board of Higher Education, one or more plan providers with which to place their contributions and those of their employer;
2. Mutual fund companies would be eligible for designation as plan providers;
3. Participants would be permitted to direct the withdrawal of funds from their account with one provider and deposit them instead in an account with another;
4. Participants would be permitted to borrow against their own and their employer's contributions and account accumulations, up to the amounts allowed under federal law;
5. Participants would be permitted to take their benefits under the program in the form of cash upon separation from service; and
6. The program would be required to be qualified under section 414(h) of the federal Internal Revenue Code, thereby allowing participants' statutorily mandated contributions to be exempt from income taxation in the year in which those contributions were made.

Provides for designation through competitive bidding of vendors eligible to offer retirement plans under alternate benefit program; permits mutual funds to serve as plan vendors; broadens plan selection, loan, and payout options for ABP participants.

06/21/93 lgr
002887

Document ID SG SEN
SG 09
SR XX. X
TR XXXX

SENATE SSG COMMITTEE

AMENDMENTS

to

SENATE No.1646

(Sponsored by Senator SINAGRA)

ADOPTED
JUN 24 1993

REPLACE SECTION 3 TO READ:

3. (New Section) [1]There is established in but not of the Division of Pensions and Benefits in the Department of the Treasury the Pension Provider Selection Board, which shall consist of the Director of the Division of Pensions and Benefits or a representative of that director; the Director of the Division of Investment or a representative of that director; the Commissioner of the Department of Insurance or a representative of that commissioner; the Director of the Division of Purchase and Property or a representative of that director; the Chancellor of Higher Education; and three persons appointed by the Chancellor of Higher Education who are active participants in or former participants receiving a benefit from the alternate benefit program, one of whom shall represent the several senior research institutions among State institutions of higher education, one of whom shall represent the several State colleges, and one of whom shall represent the several county colleges. The Director of the Division of Pensions and Benefits or the director's representative shall serve as chairman of the board.[1]

The [1][Board of Higher Education] Pension Provider Selection Board[1] shall select through a competitive bidding process at least three [1][and no more than five][1] unrelated insurance or mutual fund companies licensed or otherwise authorized to transact business in New Jersey from which alternate benefit contracts will be purchased. These new insurers or mutual fund companies shall be selected by competitive bidding [1]in accordance with all applicable State laws and regulations[1] not later than the [1][180th] 270th[1] day following the effective date of P.L. , c. (C.)(now pending before the Legislature as this bill). The selected carriers shall be authorized to receive contributions within 60 days of their selection. [1]Each contract shall be awarded for a period not to exceed six years with a renewal option for a period not to exceed three years.[1] All carriers shall be subject to a performance review by the [1][Board of Higher Education] Pension Provider Selection Board[1] every seven years and must meet such standards as the [1][Board of Higher Education] Pension Provider Selection Board[1] shall establish by regulation in order to be renewed for another term of seven years as carriers. Removal of a carrier for cause during a seven-year term is not waived. In establishing by regulation the criteria for the initial selection and any performance review of a carrier, the [1][board] Pension Provider Selection Board[1] shall consider, among other things, the following:

a. the portability of the contracts offered or to be offered by the company, based on the number of states in which the company provides contracts under similar plans;

b. the efficacy of the contracts in the recruitment and retention of employees for the various State public institutions of higher education;

c. the nature and extent of the rights and benefits to be provided by the contracts for participating employees and their beneficiaries;

d. the relation of the rights and benefits to the amount of contributions to be made pursuant to the provisions of this article;

e. the suitability of the rights and benefits to the needs and interests of participating employees and the various State public institutions of higher education;

f. the ability of the company to provide the rights and benefits under such contracts;

g. the financial soundness of the company, the extent of the company's financial commitment to the contracts, and whether the company meets the minimum financial criteria established by the Division of Pensions and Benefits and the Board of Higher Education; [1][and][1]

h. the company's overall quality of service, its investment performance considering return on investments and risk, [1]the administrative fee to be charged to participating employees,[1] and the offering of a balanced array of investment opportunities [1][.]; and

i. the nature of the informational or promotional materials to be provided to prospective participants.[1]

The [1][Board of Higher Education] Pension Provider Selection Board[1] may not designate a company which serves as a disbursement system for other providers or which charges third party administrative fees.

A company that has been designated as of January 1, 1993 by the Division of Pensions and Benefits as a designated provider shall continue to be so designated until its status as a designated provider is terminated for cause by the division or by the [1][Board of Higher Education] Pension Provider Selection Board[1].

REPLACE SECTION 9 TO READ:

9. Section 22 of P.L.1969, c.242 (C.18A:66-188) is amended to read as follows:

22. [Since the establishment of the alternate benefit programs is designed to guarantee immediate vesting for each participant of his and his employer's contributions, such] The alternate benefit programs shall [not] provide an option for full cash surrender [or loan value] upon separation from service. Additionally, a participant may borrow from his employee account accumulations up to the amounts allowed under federal law while still employed. Employee and employer account accumulations shall be used to qualify for the amount of a policy

loan. In the event a participant in the alternate benefit program terminates his employment for reasons other than retirement or disability and requests repurchase of his annuity or annuities, such repurchase shall be allowed provided it meets the conditions under which the insurer or mutual fund company will repurchase annuities automatically, and provided that the portion of the repurchase value attributable to employer contributions made pursuant to this act shall be refunded to the employer.

The amendments to this section made by P.L. , c. (C.)(now pending before the Legislature as this bill) shall apply to all contributions made to a plan under the alternate benefit program on or after the 90th day following the effective date of that P.L. , c. . Any plan contributions invested in the College Retirement Equities Fund prior to that date shall be fully subject to distribution as cash [1][upon a separation from service occurring on or after] if those contributions shall not have been annuitized prior to[1] that 90th day. Any plan contributions invested in the Teachers Insurance and Annuity Association prior to that 90th day shall become subject to distribution as cash to the maximum extent permitted by the contract [1][upon a separation from service occurring on or after] if those contributions shall not have been annuitized prior to[1] that 90th day.

(cf: P.L.1969, c.242, s.22)

REPLACE SECTION 10 TO READ:

10. Section 23 of P.L.1969, c.242 (C.18A66-189) is amended to read as follows:

23. [(a) Notwithstanding any other provisions of this act, no contributions to any retirement annuity contracts shall be authorized by the Division of Pensions for payment by the State until the completion of one year of employment and commencement of a second consecutive year of employment. Employee contributions required during this initial year of service shall be deducted and held by the College of Medicine and Dentistry, Rutgers, The State University and the Newark College of Engineering for their employees and by the Division of Pensions for employees of the Department of Higher Education, the State and county colleges. Upon the commencement of such second year the amount of the employee contributions, and such amount of the employer contribution as herein required which has not theretofore been paid for said employee, together with interest on both portions at the rate of 4% per annum, shall be paid by the employer to the designated insurer or insurers for and on behalf of such employee; if such an employee does not commence such second year, the amount of employee contributions deducted from his compensation shall be refunded to him.

(b) The provisions of subsection (a) of this section shall not apply to any employee who, at the time of initial employment (1) owns a retirement annuity contract or contracts determined by the Division of Pensions to be substantially similar to the contracts to be purchased under the alternate benefit programs and issued by the designated insurer or insurers, or (2) is a member of a New Jersey State-administered retirement program.]

The Division of Pensions and Benefits may, in its sole discretion, qualify the alternate benefit program under section

401(a) or 403(a) of the federal Internal Revenue Code (26 U.S.C. §401(a), §403(a)). In such a case, all contributions to the retirement annuity contracts shall be made as soon as the employee is eligible and has filed application forms required by the annuity carrier. No employer contributions under these contracts shall be vested in the employee until after the employee commences the second year of employment unless the employee, at the time of initial employment, either (a) owns a retirement annuity contract or contracts determined by the Division of Pensions and Benefits to be substantially similar to the contracts to be purchased under the alternate benefit program and issued by the designated insurers or mutual fund companies, or (b) is a member of another State-administered retirement system.

[1]To the extent that any contributions required by this section would exceed the limits established pursuant to section 415 of the Internal Revenue Code, the contributions shall not be made to a plan which has been qualified under section 401(a) or 403(a) of the Internal Revenue Code. Instead, the excess contributions shall be made to a section 403(b) plan established by the State to the extent that those contributions would be permitted to the plan in compliance with any provisions of the Internal Revenue Code and, in the event that there are remaining contributions, they shall be made to a nonqualified annuity plan established and maintained for this purpose. The participant shall be liable for any federal income taxes on contributions made to this plan.[1]

(cf: P.L.1969, c.242, s.23)

SENATE STATE GOVERNMENT COMMITTEE

STATEMENT TO

SENATE, No. 1646

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 24, 1993

The Senate State Government Committee reports with committee amendments and without recommendation Senate Bill No. 1646.

This bill revises the law governing the alternate benefit program (ABP), a defined contribution retirement plan for faculty at public institutions of higher education. The bill would allow a participant in the program to choose the manager of his or her retirement plan from among State-qualified providers and allow participants greater flexibility with respect to their retirement benefits.

The bill proposes to revise the ABP as follows:

1. Plan selection. Participants in the ABP could select, from a list of at least three providers of retirement plans designated through a competitive bidding process by a Pension Provider Selection Board established under the legislation, one or more plan providers with which to place their contributions and those of their employer. (Under present law, a single provider is designated by the Division of Pensions and Benefits.) Designated plan providers are to be subject to performance review every seven years by the Pension Provider Selection Board. Contracts shall be awarded for up to six years with a renewal option for up to three years. In selecting and reviewing plan providers, the board is to consider, among other things, the following:

a. the portability of the contracts offered by the provider;

b. the efficacy of the contracts in the recruitment and retention of employees;

c. the nature and extent of the rights and benefits provided;

d. the relation of those rights and benefits to the statutorily required contributions;

e. the suitability of the rights and benefits to the needs and interests of participating employees and their employers;

f. the provider's ability to provide the rights and benefits under the plans;

g. the financial soundness of the provider, the extent of its financial commitment to the contracts, and whether it meets minimum State-established financial criteria;

h. the overall quality of the provider's service, investment performance, administrative fees, and provision of a balanced array of investment opportunities; and

i. the nature of the informational or promotional materials to be provided to prospective participants.

The bill allows the company designated as the ABP provider on January 1, 1993 to retain that designation until terminated for cause.

In conjunction with the provisions allowing participants greater choice among plans under the ABP, the bill authorizes the Division of Pensions and Benefits to qualify the program under either §401(a) (pertaining to qualified pension plans) or §403(a) (pertaining to regular annuity plans which can be provided by any employer) of the federal Internal Revenue Code. If contributions exceed federal IRC limits, excess contributions would be made to a section 403(b) tax-sheltered annuity plan (offered by educational and certain other nonprofit organizations) established by the State or a nonqualified annuity plan.

2. Eligible providers. Mutual fund companies would be eligible for designation as plan providers. Under present law, only insurance companies are eligible for that designation.

3. Ability to transfer deposits among multiple accounts. Participants could allocate portions of contributions accrued to their credit among two or more designated plan providers and could withdraw funds from their account with one provider and deposit them instead with another.

4. Loan option. Participants could borrow against their own and their employer's contributions and account accumulations, up to the amounts allowed under federal law.

5. Optional nonannuitization. Participants could, on separation from service, take all or part of their ABP benefits in the form of a lump sum distribution of cash.

6. Employer "pick-up" of required employee contributions. The program would be required to be qualified under section 414(h) of the federal Internal Revenue Code, thereby allowing participants' statutorily mandated contributions to be exempt from income taxation in the year in which those contributions were made. The regular State-administered retirement systems are already qualified under section 414(h) pursuant to legislation enacted in 1986.

COMMITTEE AMENDMENTS

The committee amended the bill to:

(1) assign responsibility for the selection and review of ABP plan providers to the new Pension Provider Selection Board rather than to the State Board of Higher Education;

(2) remove a provision of the bill which limited the maximum number of plan providers to five;

(3) delay the deadline for the initial selection of alternate benefit program vendors from the 180th to the 270th day following the date on which the bill is enacted as law;

(4) provide that individuals who have retired prior to that effective date, but whose retirement benefit shall not yet have been annuitized, shall be eligible for the cash withdrawal option;

(5) provide that each contract shall be awarded for up to six years with a renewal option for up to three years;

(6) add the Commissioner of the Department of Insurance and the Director of the Division of Purchase and Property to the Pension Provider Selection Board;

(7) include administrative fees and the nature of informational materials in the criteria for selecting providers; and

(8) stipulate that if contributions to 401(a) or 403(a) plans exceed federal IRC limits, excess contributions shall be made to a 403(b) plan established by the State or a nonqualified annuity plan.

STATE OF NEW JERSEY

January 1_, 1994

ASSEMBLY BILL NO. 2367
(Second Reprint)

To the General Assembly:

Pursuant to Article V, Section I, Paragraph 14 of the New Jersey Constitution, I am returning Assembly Bill No. 2367 (Second Reprint) with my recommendations for reconsideration.

This bill substantially revises the law governing the Alternate Benefit Program (ABP), the defined-benefit program available to faculty members of our State colleges and universities. This bill strengthens the ABP in a variety of ways -- by allowing members to select retirement plans from among a list of providers chosen through a competitive process, allowing mutual funds and insurance companies to serve as plan providers, and permitting members to borrow against their contributions in the system. The Legislature should be commended for presenting me with a bill that would improve the ABP system for the dedicated faculty members who serve our colleges and universities so well.

I am returning the bill to the Legislature, however, because I cannot agree with the proposal to allow a full withdrawal of employee and employer contributions, regardless of the number of years a member has served. Under this proposal, a member would be entitled at the time he or she separates from service to withdraw not only his own contributions into the system, but the substantial contributions made by the State as well. I do not believe that this provision, as written, is consistent with the essential purposes of a pension system, or advances the interests of the taxpayers of this State. I certainly have no objection to a member withdrawing his own contributions at any time. But I believe that full withdrawal should not be available until the employee reaches an age that is more consistent with the purposes of a retirement system. I am therefore returning this bill to the Legislature with the recommendation that it adopt amendments to allow full cashability only after the age of 55.

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

For these reasons, I herewith return Assembly Bill No. 2367 (Second Reprint) and recommend that it be amended as follows:

Page 3, Section 3, line 41:	Delete "three persons" insert "a person"
Page 3, Section 3, line 42-43:	Delete "are active participants in or former participants" insert "is an active participant or"
Page 4, Section 3, line 44-50:	After "program" delete in entirety.
Page 5, Section 6, line 16:	Delete "Board of Higher Education" insert "Division of Pensions and Benefits"
Page 5, Section 6, lines 26-27:	Delete "to the extent consistent with the foregoing provisions of this section"
Page 8, Section 9, line 52:	Delete "full"
Page 8, Section 9, line 53:	After "service." insert "The cash surrender shall be applicable only to employee contributions and accumulations prior to the participant's 55th birthday, and thereafter to the full amount of all employee and employer contributions and accumulations."

Respectfully

/s/ Jim Florio

GOVERNOR

[seal]

Attest:

/s/ Scott A. Weiner

Chief Counsel to the Governor