

18A:66-168

LEGISLATIVE HISTORY CHECKLIST
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(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
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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:

06/10/93 (79-0)
12/13/93 (72-1)
01/10/94 (77-1)

Senate:

12/02/93 (36-0)
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:

P.L.1993, CHAPTER 385, *approved January 11, 1994*
1993 Assembly No. 2367 (*Third Reprint*)

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

3
4 **BE IT ENACTED** by the Senate and General Assembly of the
5 **State of New Jersey:**

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

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

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

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

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

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

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

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

40 3. As used in this act:

41 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.

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

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

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

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

27 e. "[College] University of Medicine and Dentistry" means the
28 [New Jersey College] University of Medicine and Dentistry of
29 New Jersey established pursuant to the terms of section
30 [18A:64C-2] 3 of [the New Jersey Statutes] P.L.1970, c.102
31 (C.18A:64G-3).

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

34 g. "Division of Pensions and Benefits" means the division
35 established in the Department of the Treasury pursuant to section
36 1 of [chapter 70 of the laws of 1955] P.L.1955, c.70 (C.52:18A-95)
37 and is the agency responsible for the administration of the
38 alternate benefit program of the Department of Higher
39 Education, the State and county Colleges and for the
40 administration of the group life and disability insurances of all
41 alternate benefit programs established in the State for public
42 employees.

43 h. "Full-time officers" and "full-time members of the
44 faculty" shall include the president, vice president, secretary and
45 treasurer of the respective school. Also included are employees
46 of the Department of Higher Education whose positions are so
47 designated by the Board of Higher Education. All other
48 employees of the Department of Higher Education shall, if
49 otherwise eligible, be enrolled in the Public Employees'
50 Retirement System or transferred from the Teachers' Pension
51 and Annuity Fund to said system. "Full-time" shall also include
52 eligible full-time officers and full-time members of the faculty
53 who are granted sabbaticals or leaves of absence with pay where
54 the compensation paid is 50% or more of the base salary at the

1 time the leave commences and the period of eligibility
2 terminates with the end of the school year following the year in
3 which the sabbatical began. "Part-time" shall be defined as an
4 appointment where the employee receives a salary or wages for a
5 period of less than 50% of the normal work week. These
6 definitions shall apply to teaching or administrative staff
7 members or to employees serving in a dual capacity where the
8 appointment includes teaching as well as administrative duties.

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

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

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

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

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

26 n. "State Colleges" means the colleges so described in chapter
27 64 of Title 18A of the New Jersey Statutes.

28 o. "Mutual fund company" means an investment company or
29 trust regulated by the federal "Investment Company Act of
30 1940," 15 U.S.C. §§80a-1 et seq.

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

32 3. (New Section) ¹There is established in but not of the
33 Division of Pensions and Benefits in the Department of the
34 Treasury the Pension Provider Selection Board, which shall
35 consist of the Director of the Division of Pensions and Benefits or
36 a representative of that director; the Director of the Division of
37 Investment or a representative of that director; ²the
38 Commissioner of the Department of Insurance or a representative
39 of that commissioner; the Director of the Division of Purchase
40 and Property or a representative of that director; ² the
41 Chancellor of Higher Education; and ³[three persons] a person³
42 appointed by the Chancellor of Higher Education who ³[are active
43 participants in or former participants] is an active participant or³
44 receiving a benefit from the alternate benefit program³[, one of
45 whom shall represent the several senior research institutions
46 among State institutions of higher education, one of whom shall
47 represent the several State colleges, and one of whom shall
48 represent the several county colleges. The Director of the
49 Division of Pensions and Benefits or the director's representative
50 shall serve as chairman of the board]^{3,1}

51 The ¹[Board of Higher Education] Pension Provider Selection
52 Board¹ shall select through a competitive bidding process at least
53 three ¹[and no more than five]¹ unrelated insurance or mutual
54 fund companies licensed or otherwise authorized to transact

1 business in New Jersey from which alternate benefit contracts
2 will be purchased. These new insurers or mutual fund companies
3 shall be selected by competitive bidding ²in accordance with all
4 applicable State laws and regulations² not later than the ¹[180th]
5 270th¹ day following the effective date of P.L. , c.
6 (C.) (now pending before the Legislature as this bill). The
7 selected carriers shall be authorized to receive contributions
8 within 60 days of their selection. ²Each contract shall be
9 awarded for a period not to exceed six years with a renewal
10 option for a period not to exceed three years.² All carriers shall
11 be subject to a performance review by the ¹[Board of Higher
12 Education] Pension Provider Selection Board¹ every seven years
13 and must meet such standards as the ¹[Board of Higher
14 Education] Pension Provider Selection Board¹ shall establish by
15 regulation in order to be renewed for another term of seven years
16 as carriers. Removal of a carrier for cause during a seven-year
17 term is not waived. In establishing by regulation the criteria for
18 the initial selection and any performance review of a carrier, the
19 ¹[board] Pension Provider Selection Board¹ shall consider, among
20 other things, the following:

- 21 a. the portability of the contracts offered or to be offered by
22 the company, based on the number of states in which the
23 company provides contracts under similar plans;
- 24 b. the efficacy of the contracts in the recruitment and
25 retention of employees for the various State public institutions of
26 higher education;
- 27 c. the nature and extent of the rights and benefits to be
28 provided by the contracts for participating employees and their
29 beneficiaries;
- 30 d. the relation of the rights and benefits to the amount of
31 contributions to be made pursuant to the provisions of this article;
- 32 e. the suitability of the rights and benefits to the needs and
33 interests of participating employees and the various State public
34 institutions of higher education;
- 35 f. the ability of the company to provide the rights and benefits
36 under such contracts;
- 37 g. the financial soundness of the company, the extent of the
38 company's financial commitment to the contracts, and whether
39 the company meets the minimum financial criteria established by
40 the Divisic. of Pensions and Benefits and the Board of Higher
41 Education; ²[and]²
- 42 h. the company's overall quality of service, its investment
43 performance considering return on investments and risk, ²the
44 administrative fee to be charged to participating employees,² and
45 the offering of a balanced array of investment opportunities² [.];
46 and
- 47 i. the nature of the informational or promotional materials to
48 be provided to prospective participants.²

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

53 A company that has been designated as of January 1, 1993 by
54 the Division of Pensions and Benefits as a designated provider

1 shall continue to be so designated until its status as a designated
2 provider is terminated for cause by the division or by the ¹[Board
3 of Higher Education] Pension Provider Selection Board¹.

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

6 6. Participants in the alternate benefit program shall be
7 allowed to allocate portions of their own contributions and the
8 contributions of their employer, including amounts used by the
9 employer to purchase an annuity pursuant to a salary reduction
10 agreement under section 24 of P.L.1969, c.242 (C.18A:66-190), to
11 accounts with two or more insurers or mutual fund companies
12 designated pursuant to the provisions of section 3 of P.L. _____,
13 c. (C. _____)(now pending before the Legislature as this bill)
14 as companies from which alternate benefit contracts may be
15 purchased, and shall, subject to such rules and regulations as the
16 ³[Board of Higher Education] Division of Pensions and Benefits³
17 may adopt, be permitted to direct the withdrawal of such
18 contributions from their account with one such company for
19 deposit in an account with another such company. Since the
20 establishment of the alternate benefit programs for the several
21 public institutions of higher education in New Jersey is designed
22 to provide mobility of pension credit from within the academic
23 community in and outside the State, and since it is imperative
24 that eligibility for participation in this program be of uniform
25 application in the several schools, it shall be the responsibility of
26 the Board of Higher Education to establish regulations which shall
27 provide for such uniformity ³[to the extent consistent with the
28 foregoing provisions of this section]³.

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

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

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

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

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

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

49 In the event that the eligibility requirement under [section]
50 N.J.S.18A:66-36 [of the New Jersey Statutes] or under section 38
51 of P.L.1954, c.84 (C.43:15A-38) or section 17 of P.L.1964, c.241
52 (C.43:16A-11.2) or under the Group Annuity Plan is changed at
53 some future date to permit members to become eligible for such
54 benefit prior to the completion of 15 years of service, the

1 transfer of the reserve from the contingent reserve fund or the
2 pension fund of the Teachers' Pension and Annuity Fund or the
3 Public Employees' Retirement System or the Police and
4 Firemen's Retirement System or from the Group Annuity Plan
5 shall be effective as of the date the member who had elected the
6 alternate benefit program meets the amended eligibility
7 requirement or the effective date of the amendment, whichever
8 is later.

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

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

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

20 ¹[5.] 6.1 Section 8 of P.L.1969, c.242 (C.18A:66-174) is
21 amended to read as follows:

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

33 The Division of Pensions and Benefits shall [deduct from or,
34 with the consent of the participant,] provide for reductions from
35 the compensation of each participant in the alternate benefit
36 program employed by the Department of Higher Education, the
37 State and county colleges of an employee contribution equal to
38 5% of the participant's base salary and pay this amount to the
39 [insurer or] insurers or mutual fund companies for the individual's
40 retirement annuity contract or contracts. The intervals for
41 deductions or reductions and payments shall be determined by the
42 Division of Pensions and Benefits.

43 The Division of Pensions and Benefits may require that all
44 participant contributions be made in accordance with section
45 414(h) of the federal Internal Revenue Code (26 U.S.C. §414(h)).

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

1 benefit of each participant.

2 Based on a certification by the Division of Pensions and
3 Benefits of the number and base salary of participants employed
4 by the Department of Higher Education, the State and county
5 colleges, the State shall make payment of the employer
6 contributions to the alternate benefit program at a rate equal to
7 8% of the employee's base salary, which moneys shall be paid to
8 the designated [insurer or] insurers or mutual fund companies for
9 the benefit of each participant.

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

22 (d) For any nonacademic employee of a county college, as
23 defined in section 4 of P.L.1969, c.242 (C.18A:66-170), who is
24 eligible for the program according to the regulations of the Board
25 of Higher Education, the county college shall pay the employer
26 contribution to the retirement system on the employee's behalf
27 in the same manner as the State, pursuant to this section.
28 (cf: P.L.1985, c.71, s.1)

29 ¹[6.] 7.¹ Section 9 of P.L.1969, c.242 (C.18A:66-175) is
30 amended to read as follows:

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

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

38 ¹[7.] 8.¹ Section 21 of P.L.1969, c.242 (C.18A:66-187) is
39 amended to read as follows:

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

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

48 ¹[8.] 9.¹ Section 22 of P.L.1969, c.242 (C.18A:66-188) is
49 amended to read as follows:

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

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

17 The amendments to this section made by P.L. _____, c.
18 (C. _____)(now pending before the Legislature as this bill) shall
19 apply to all contributions made to a plan under the alternate
20 benefit program on or after the 90th day following the effective
21 date of that P.L. _____, c. _____. Any plan contributions invested in
22 the College Retirement Equities Fund prior to that date shall be
23 fully subject to distribution as cash ¹[upon a separation from
24 service occurring on or after] if those contributions shall not have
25 been annuitized prior to¹ that 90th day. Any plan contributions
26 invested in the Teachers Insurance and Annuity Association prior
27 to that 90th day shall become subject to distribution as cash to
28 the maximum extent permitted by the contract ¹[upon a
29 separation from service occurring on or after] if those
30 contributions shall not have been annuitized prior to¹ that 90th
31 day.

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

33 ¹[9.] 10.¹ Section 23 of P.L.1969, c.242 (C.18A66-189) is
34 amended to read as follows:

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

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

8 The Division of Pensions and Benefits may, in its sole
 9 discretion, qualify the alternate benefit program under section
 10 401(a) or 403(a) of the federal Internal Revenue Code (26 U.S.C.
 11 §401(a), §403(a)). In such a case, all contributions to the
 12 retirement annuity contracts shall be made as soon as the
 13 employee is eligible and has filed application forms required by
 14 the annuity carrier. No employer contributions under these
 15 contracts shall be vested in the employee until after the
 16 employee commences the second year of employment unless the
 17 employee, at the time of initial employment, either (a) owns a
 18 retirement annuity contract or contracts determined by the
 19 Division of Pensions and Benefits to be substantially similar to
 20 the contracts to be purchased under the alternate benefit
 21 program and issued by the designated insurers or mutual fund
 22 companies, or (b) is a member of another State-administered
 23 retirement system.

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

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

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

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

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

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

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

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

18 ¹[12.] 13.¹ This act shall take effect immediately.

19

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21

22

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

STATE OF NEW JERSEY

INTRODUCED MARCH 4, 1993

By Assemblywoman DERMAN and Assemblyman MARTIN

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

3
4 BE IT ENACTED by the Senate and General Assembly of the
5 State of New Jersey:

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

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

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

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

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

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

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

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

40 3. As used in this act:

41 a. "Accumulated deductions" means those contributions as
42 defined in [section] N.J.S. 18A:66-2 [of the New Jersey Statutes]
43 or in section 6 of [chapter 84 of the laws of 1954, as amended and
44 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.

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

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

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

24 e. "[College] University of Medicine and Dentistry" means the
25 [New Jersey College] University of Medicine and Dentistry of
26 New Jersey established pursuant to the terms of section
27 [18A:64C-2] 3 of [the New Jersey Statutes] P.L.1970, c.102
28 (C.18A:64G-3).

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

31 g. "Division of Pensions and Benefits" means the division
32 established in the Department of the Treasury pursuant to section
33 1 of [chapter 70 of the laws of 1955] P.L.1955, c.70 (C.52:18A-95)
34 and is the agency responsible for the administration of the
35 alternate benefit program of the Department of Higher
36 Education, the State and county Colleges and for the
37 administration of the group life and disability insurances of all
38 alternate benefit programs established in the State for public
39 employees.

40 h. "Full-time officers" and "full-time members of the
41 faculty" shall include the president, vice president, secretary and
42 treasurer of the respective school. Also included are employees
43 of the Department of Higher Education whose positions are so
44 designated by the Board of Higher Education. All other
45 employees of the Department of Higher Education shall, if
46 otherwise eligible, be enrolled in the Public Employees'
47 Retirement System or transferred from the Teachers' Pension
48 and Annuity Fund to said system. "Full-time" shall also include
49 eligible full-time officers and full-time members of the faculty
50 who are granted sabbaticals or leaves of absence with pay where
51 the compensation paid is 50% or more of the base salary at the
52 time the leave commences and the period of eligibility
53 terminates with the end of the school year following the year in
54 which the sabbatical began. "Part-time" shall be defined as an
55 appointment where the employee receives a salary or wages for a

1 period of less than 50% of the normal work week. These
2 definitions shall apply to teaching or administrative staff
3 members or to employees serving in a dual capacity where the
4 appointment includes teaching as well as administrative duties.

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

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

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

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

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

22 n. "State Colleges" means the colleges so described in chapter
23 64 of Title 18A of the New Jersey Statutes.

24 o. "Mutual fund company" means an investment company or
25 trust regulated by the federal "Investment Company Act of
26 1940," 15 U.S.C. §§80a-1 et seq.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4 (b) There shall also be transferred from the contingent reserve
5 fund or the pension fund of the Teachers' Pension and Annuity
6 Fund or the Public Employees' Retirement System or the Police
7 and Firemen's Retirement System or from the Group Annuity
8 Plan to the individual's account in the alternate benefit program,
9 the pension reserve required as of the date of his transfer to
10 provide a pension for each year of service credited to the account
11 of the member as set forth in N.J.S.18A:66-36 or
12 N.J.S.18A:66-44 or as set forth in section 38 or section 48 of
13 P.L.1954, c. 84 as such sections have been amended and
14 supplemented as of July 1, 1969 (C.43:15A-38, C. 43:15A-48) or
15 as set forth in section 17 of P.L.1964, c.241 (C.43:16A-11.2) or
16 section 5 of P.L.1944, c.255 (C.43:16A-5) or for each year of
17 service credited under the Group Annuity Plan. Such transfer
18 from the contingent reserve fund or the pension fund of the
19 Teachers' Pension and Annuity Fund or the Public Employees'
20 Retirement System or the Police and Firemen's Retirement
21 System or the Group Annuity Plan shall be made at the time of
22 the member's transfer to the alternate benefit program in the
23 case of any such member who has then met the eligibility
24 requirements for a pension under the aforementioned
25 N.J.S.18A:66-36, or N.J.S.18A:66-44, or section 38 or section 48
26 of P.L.1954, c.84 (C.43:15A-38, C.43:15A-48) or section 17 of
27 P.L.1964, c.241 (C.43:16A-11.2) or section 5 of P.L.1944, c.255
28 (C.43:16A-5) or the Group Annuity Plan. In the case of any
29 member who elects to participate in the alternate benefit
30 program who has not then met the eligibility requirements for a
31 pension under N.J.S.18A:66-36 or N.J.S.18A:66-44, or under
32 section 38 or section 48 of P.L.1954, c.84 (C.43:15A-38,
33 C.43:15A-48) or section 17 of P.L.1964, c.241 (C.43:16A-11.2) or
34 section 5 of P.L.1944, c.255 (C.43:16A-5) or under the Group
35 Annuity Plan, the transfer from the contingent reserve fund or
36 the pension fund of the Teachers' Pension and Annuity Fund or
37 the Public Employees' Retirement System or the Police and
38 Firemen's Retirement System or the Group Annuity Plan shall be
39 effected at the time such requirements have been met, taking
40 into account for the purpose of such eligibility requirement his
41 years of membership service at the time of his election and his
42 subsequent years of service as a full-time member of the faculty
43 of the [College] University of Medicine and Dentistry, Rutgers,
44 The State University, the [Newark College of Engineering] New
45 Jersey Institute of Technology or the State or county colleges or
46 as an eligible employee of the Department of Higher Education,
47 or at the time he shall have 10 years of credit for New Jersey
48 service and becomes physically incapacitated for the
49 performance of duty if he had been a member of the Teachers'
50 Pension and Annuity Fund or the Public Employees' Retirement
51 System or the Police and Firemen's Retirement System as of the
52 date of transfer.

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

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

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

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

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

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

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

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

49 The Division of Pensions and Benefits shall [deduct from or,
50 with the consent of the participant,] provide for reductions from
51 the compensation of each participant in the alternate benefit
52 program employed by the Department of Higher Education, the
53 State and county colleges of an employee contribution equal to
54 5% of the participant's base salary and pay this amount to the
55 [insurer or] insurers or mutual fund companies for the individual's

1 retirement annuity contract or contracts. The intervals for
2 deductions or reductions and payments shall be determined by the
3 Division of Pensions and Benefits.

4 The Division of Pensions and Benefits may require that all
5 participant contributions be made in accordance with section
6 414(h) of the federal Internal Revenue Code (26 U.S.C. §414(h)).

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

17 Based on a certification by the Division of Pensions and
18 Benefits of the number and base salary of participants employed
19 by the Department of Higher Education, the State and county
20 colleges, the State shall make payment of the employer
21 contributions to the alternate benefit program at a rate equal to
22 8% of the employee's base salary, which moneys shall be paid to
23 the designated [insurer or] insurers or mutual fund companies for
24 the benefit of each participant.

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

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

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

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

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

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

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

55 21. While any participant in the alternate benefit program may

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

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

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

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

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

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

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

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

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

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

15 The Division of Pensions and Benefits may, in its sole
16 discretion, qualify the alternate benefit program under section
17 401(a) or 403(a) of the federal Internal Revenue Code (26 U.S.C.
18 §401(a), §403(a)). In such a case, all contributions to the
19 retirement annuity contracts shall be made as soon as the
20 employee is eligible and has filed application forms required by
21 the annuity carrier. No employer contributions under these
22 contracts shall be vested in the employee until after the
23 employee commences the second year of employment unless the
24 employee, at the time of initial employment, either (a) owns a
25 retirement annuity contract or contracts determined by the
26 Division of Pensions and Benefits to be substantially similar to
27 the contracts to be purchased under the alternate benefit
28 program and issued by the designated insurers or mutual fund
29 companies, or (b) is a member of another State-administered
30 retirement system.

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

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

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

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

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

46 1. The mandatory contributions by members to the Teachers'
47 Pension and Annuity Fund required by N.J.S. 18A:66-31, to
48 alternate benefit providers under the alternate benefit program
49 required by section 8 of P.L.1969, c.242 (C.18A:66-174), to the
50 Judicial Retirement System required by section 26 of P.L.1981,
51 c.470 (C.43:6A-34.1), to the Prison Officers' Pension Fund
52 required by section 7 of P.L.1941, c.220 (C.43:7-13), to the Public
53 Employees' Retirement System required by section 25 of
54 P.L.1964, c.84 (C.43:15A-25), to the Consolidated Police and
55 Firemen's Pension Fund required by R.S.43:16-5, to the Police

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

12 12. This act shall take effect immediately.

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STATEMENT

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

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

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

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

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

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

36 6. The program would be required to be qualified under section
37 414(h) of the federal Internal Revenue Code, thereby allowing
38 participants' statutorily mandated contributions to be exempt
39 from income taxation in the year in which those contributions
40 were made.

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

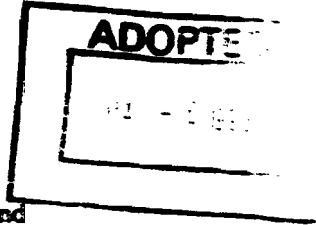
ASSEMBLY STATE GOVERNMENT COMMITTEE

AMENDMENTS

to

ASSEMBLY No. 2267

(Sponsored by Assemblywoman DERMAN and
Assemblyman MARTIN)



REPLACE SECTION 3 TO READ:

3. (New Section) 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 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

*and
Benefits*

The ¹[Board of Higher Education] Pension Provider Selection Board¹ 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] 270th¹ 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 Board¹ every seven years and must meet such standards as the ¹[Board of Higher Education] Pension Provider Selection Board¹ 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:

*Pension
Provider
Selection
Board*

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 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 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 to¹ 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 to¹ 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.

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) ¹There 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; ²the 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 Board¹ 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 ²in accordance with all applicable State laws and regulations² not later than the ¹[180th] 270th¹ 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. ²Each 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 Board¹ every seven years and must meet such standards as the ¹[Board of Higher Education] Pension Provider Selection Board¹ 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.

²To 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

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

3

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

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

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

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

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

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

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

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

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

40 3. As used in this act:

41 a. "Accumulated deductions" means those contributions as
42 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.

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

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

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

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

26 e. "[College] University of Medicine and Dentistry" means the
27 [New Jersey College] University of Medicine and Dentistry of
28 New Jersey established pursuant to the terms of section
29 [18A:64C-2] 3 of [the New Jersey Statutes] P.L.1970, c.102
30 (C.18A:64G-3).

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

33 g. "Division of Pensions and Benefits" means the division
34 established in the Department of the Treasury pursuant to section
35 1 of [chapter 70 of the laws of 1955] P.L.1955, c.70 (C.52:18A-95)
36 and is the agency responsible for the administration of the
37 alternate benefit program of the Department of Higher
38 Education, the State and county Colleges and for the
39 administration of the group life and disability insurances of all
40 alternate benefit programs established in the State for public
41 employees.

42 h. "Full-time officers" and "full-time members of the
43 faculty" shall include the president, vice president, secretary and
44 treasurer of the respective school. Also included are employees
45 of the Department of Higher Education whose positions are so
46 designated by the Board of Higher Education. All other
47 employees of the Department of Higher Education shall, if
48 otherwise eligible, be enrolled in the Public Employees'
49 Retirement System or transferred from the Teachers' Pension
50 and Annuity Fund to said system. "Full-time" shall also include
51 eligible full-time officers and full-time members of the faculty
52 who are granted sabbaticals or leaves of absence with pay where
53 the compensation paid is 50% or more of the base salary at the
54 time the leave commences and the period of eligibility

1 terminates with the end of the school year following the year in
2 which the sabbatical began. "Part-time" shall be defined as an
3 appointment where the employee receives a salary or wages for a
4 period of less than 50% of the normal work week. These
5 definitions shall apply to teaching or administrative staff
6 members or to employees serving in a dual capacity where the
7 appointment includes teaching as well as administrative duties.

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

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

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

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

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

25 n. "State Colleges" means the colleges so described in chapter
26 64 of Title 18A of the New Jersey Statutes.

27 o. "Mutual fund company" means an investment company or
28 trust regulated by the federal "Investment Company Act of
29 1940," 15 U.S.C. §§80a-1 et seq.

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

31 3. (New Section) ¹There is established in but not of the
32 Division of Pensions and Benefits in the Department of the
33 Treasury the Pension Provider Selection Board, which shall
34 consist of the Director of the Division of Pensions and Benefits or
35 a representative of that director; the Director of the Division of
36 Investment or a representative of that director; the
37 Commissioner of the Department of Insurance or a representative
38 of that commissioner; the Director of the Division of Purchase
39 and Property or a representative of that director; the Chancellor
40 of Higher Education; and three persons appointed by the
41 Chancellor of Higher Education who are active participants in or
42 former participants receiving a benefit from the alternate
43 benefit program, one of whom shall represent the several senior
44 research institutions among State institutions of higher
45 education, one of whom shall represent the several State
46 colleges, and one of whom shall represent the several county
47 colleges. The Director of the Division of Pensions and Benefits
48 or the director's representative shall serve as chairman of the
49 board.¹

50 The ¹[Board of Higher Education] Pension Provider Selection
51 Board¹ shall select through a competitive bidding process at least
52 three ¹[and no more than five]¹ unrelated insurance or mutual
53 fund companies licensed or otherwise authorized to transact
54 business in New Jersey from which alternate benefit contracts

1 will be purchased. These new insurers or mutual fund companies
2 shall be selected by competitive bidding ¹in accordance with all
3 applicable State laws and regulations¹ not later than the ¹[180th]
4 270th¹ day following the effective date of P.L. , c.
5 (C.) (now pending before the Legislature as this bill). The
6 selected carriers shall be authorized to receive contributions
7 within 60 days of their selection. ¹Each contract shall be
8 awarded for a period not to exceed six years with a renewal
9 option for a period not to exceed three years.¹ All carriers shall
10 be subject to a performance review by the ¹[Board of Higher
11 Education] Pension Provider Selection Board¹ every seven years
12 and must meet such standards as the ¹[Board of Higher
13 Education] Pension Provider Selection Board¹ shall establish by
14 regulation in order to be renewed for another term of seven years
15 as carriers. Removal of a carrier for cause during a seven-year
16 term is not waived. In establishing by regulation the criteria for
17 the initial selection and any performance review of a carrier, the
18 ¹[board] Pension Provider Selection Board¹ shall consider, among
19 other things, the following:

- 20 a. the portability of the contracts offered or to be offered by
21 the company, based on the number of states in which the
22 company provides contracts under similar plans;
- 23 b. the efficacy of the contracts in the recruitment and
24 retention of employees for the various State public institutions of
25 higher education;
- 26 c. the nature and extent of the rights and benefits to be
27 provided by the contracts for participating employees and their
28 beneficiaries;
- 29 d. the relation of the rights and benefits to the amount of
30 contributions to be made pursuant to the provisions of this article;
- 31 e. the suitability of the rights and benefits to the needs and
32 interests of participating employees and the various State public
33 institutions of higher education;
- 34 f. the ability of the company to provide the rights and benefits
35 under such contracts;
- 36 g. the financial soundness of the company, the extent of the
37 company's financial commitment to the contracts, and whether
38 the company meets the minimum financial criteria established by
39 the Division of Pensions and Benefits and the Board of Higher
40 Education; ¹[and]¹
- 41 h. the company's overall quality of service, its investment
42 performance considering return on investments and risk, ¹the
43 administrative fee to be charged to participating employees,¹ and
44 the offering of a balanced array of investment opportunities ¹[.];
45 and
- 46 i. the nature of the informational or promotional materials to
47 be provided to prospective participants.¹

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

52 A company that has been designated as of January 1, 1993 by
53 the Division of Pensions and Benefits as a designated provider
54 shall continue to be so designated until its status as a designated

1 provider is terminated for cause by the division or by the ¹[Board
2 of Higher Education] Pension Provider Selection Board¹.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

31 The Division of Pensions and Benefits shall [deduct from or,
32 with the consent of the participant,] provide for reductions from
33 the compensation of each participant in the alternate benefit
34 program employed by the Department of Higher Education, the
35 State and county colleges of an employee contribution equal to
36 5% of the participant's base salary and pay this amount to the
37 [insurer or] insurers or mutual fund companies for the individual's
38 retirement annuity contract or contracts. The intervals for
39 deductions or reductions and payments shall be determined by the
40 Division of Pensions and Benefits.

41 The Division of Pensions and Benefits may require that all
42 participant contributions be made in accordance with section
43 414(h) of the federal Internal Revenue Code (26 U.S.C. §414(h)).

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

54 Based on a certification by the Division of Pensions and

1 Benefits of the number and base salary of participants employed
2 by the Department of Higher Education, the State and county
3 colleges, the State shall make payment of the employer
4 contributions to the alternate benefit program at a rate equal to
5 8% of the employee's base salary, which moneys shall be paid to
6 the designated [insurer or] insurers or mutual fund companies for
7 the benefit of each participant.

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

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

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

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

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

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

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

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

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

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

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

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

11 The amendments to this section made by P.L. , c. (C.)
12 (now pending before the Legislature as this bill) shall apply to all
13 contributions made to a plan under the alternate benefit program
14 on or after the 90th day following the effective date of that
15 P.L. , c. . Any plan contributions invested in the College
16 Retirement Equities Fund prior to that date shall be fully subject
17 to distribution as cash ¹[upon a separation from service occurring
18 on or after] if those contributions shall not have been annuitized
19 prior to¹ that 90th day. Any plan contributions invested in the
20 Teachers Insurance and Annuity Association prior to that 90th
21 day shall become subject to distribution as cash to the maximum
22 extent permitted by the contract ¹[upon a separation from
23 service occurring on or after] if those contributions shall not have
24 been annuitized prior to¹ that 90th day.

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

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

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

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

1 The Division of Pensions and Benefits may, in its sole
2 discretion, qualify the alternate benefit program under section
3 401(a) or 403(a) of the federal Internal Revenue Code (26
4 U.S.C. §401(a), §403(a)). In such a case, all contributions to the
5 retirement annuity contracts shall be made as soon as the
6 employee is eligible and has filed application forms required by
7 the annuity carrier. No employer contributions under these
8 contracts shall be vested in the employee until after the
9 employee commences the second year of employment unless the
10 employee, at the time of initial employment, either (a) owns a
11 retirement annuity contract or contracts determined by the
12 Division of Pensions and Benefits to be substantially similar to
13 the contracts to be purchased under the alternate benefit
14 program and issued by the designated insurers or mutual fund
15 companies, or (b) is a member of another State-administered
16 retirement system.

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

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

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

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

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

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

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

1 P.L.1944, c.255 (C.43:16A-15), and to the State Police
2 Retirement System required by section 38 of P.L.1985, c.89
3 (C.53:5A-38), shall be picked up by their employers and shall be
4 treated as employer contributions as provided by section 414(h) of
5 the United States Internal Revenue Code. The amount of
6 contributions on behalf of each member shall continue to be
7 included as regular compensation for all other purposes, except
8 that the amount shall not be included in the computation of
9 federal income taxes withheld from the member's compensation.
10 (cf: P.L.1986, c.188, s.1)

11 13. This act shall take effect immediately.

12

13

14

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

SENATE, No. 1646

STATE OF NEW JERSEY

INTRODUCED MARCH 18, 1993

By Senator SINAGRA

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

3
4 BE IT ENACTED by the Senate and General Assembly of the
5 State of New Jersey:

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

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

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

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

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

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

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

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

40 3. As used in this act:

41 a. "Accumulated deductions" means those contributions as
42 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.

1 or in section 8 of [chapter 84 of the laws of 1954, as amended and
2 supplemented] P.L.1954, c.84 (C. 43:15A-6).

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

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

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

26 e. "[College] University of Medicine and Dentistry" means the
27 [New Jersey College] University of Medicine and Dentistry of
28 New Jersey established pursuant to the terms of section
29 [18A:64C-2] 3 of [the New Jersey Statutes] P.L.1970, c.102
30 (C.18A:64C-3).

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

33 g. "Division of Pensions and Benefits" means the division
34 established in the Department of the Treasury pursuant to section
35 1 of [chapter 70 of the laws of 1955] P.L.1955, c.70 (C.52:18A-95)
36 and is the agency responsible for the administration of the
37 alternate benefit program of the Department of Higher
38 Education, the State and county Colleges and for the
39 administration of the group life and disability insurances of all
40 alternate benefit programs established in the State for public
41 employees.

42 h. "Full-time officers" and "full-time members of the
43 faculty" shall include the president, vice president, secretary and
44 treasurer of the respective school. Also included are employees
45 of the Department of Higher Education whose positions are so
46 designated by the Board of Higher Education. All other
47 employees of the Department of Higher Education shall, if
48 otherwise eligible, be enrolled in the Public Employees'
49 Retirement System or transferred from the Teachers' Pension
50 and Annuity Fund to said system. "Full-time" shall also include
51 eligible full-time officers and full-time members of the faculty
52 who are granted sabbaticals or leaves of absence with pay where
53 the compensation paid is 50% or more of the base salary at the
54 time the leave commences and the period of eligibility

1 terminates with the end of the school year following the year in
2 which the sabbatical began. "Part-time" shall be defined as an
3 appointment where the employee receives a salary or wages for a
4 period of less than 50% of the normal work week. These
5 definitions shall apply to teaching or administrative staff
6 members or to employees serving in a dual capacity where the
7 appointment includes teaching as well as administrative duties.

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

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

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

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

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

25 n. "State Colleges" means the colleges so described in chapter
26 64 of Title 18A of the New Jersey Statutes.

27 o. "Mutual fund company" means an investment company or
28 trust regulated by the federal "Investment Company Act of
29 1940," 15 U.S.C. §§80a-1 et seq.

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

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

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

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

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

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

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

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

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

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

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

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

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

29 6. Participants in the alternate benefit program shall be
30 allowed to allocate portions of their own contributions and the
31 contributions of their employer, including amounts used by the
32 employer to purchase an annuity pursuant to a salary reduction
33 agreement under section 24 of P.L.1969, c.242 (C.18A:66-190), to
34 accounts with two or more insurers or mutual fund companies
35 designated pursuant to the provisions of section 3 of P.L. _____,

36 c. (C. _____) (now pending before the Legislature as this bill)
37 as companies from which alternate benefit contracts may be
38 purchased, and shall, subject to such rules and regulations as the
39 Board of Higher Education may adopt, be permitted to direct the
40 withdrawal of such contributions from their account with one
41 such company for deposit in an account with another such
42 company. Since the establishment of the alternate benefit
43 programs for the several public institutions of higher education in
44 New Jersey is designed to provide mobility of pension credit from
45 within the academic community in and outside the State, and
46 since it is imperative that eligibility for participation in this
47 program be of uniform application in the several schools, it shall
48 be the responsibility of the Board of Higher Education to
49 establish regulations which shall provide for such uniformity to
50 the extent consistent with the foregoing provisions of this section.
51 (cf: P.L.1969, c.242, s.6)

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

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

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

8 (b) There shall also be transferred from the contingent reserve
9 fund or the pension fund of the Teachers' Pension and Annuity
10 Fund or the Public Employees' Retirement System or the Police
11 and Firemen's Retirement System or from the Group Annuity
12 Plan to the individual's account in the alternate benefit program,
13 the pension reserve required as of the date of his transfer to
14 provide a pension for each year of service credited to the account
15 of the member as set forth in N.J.S.18A:66-36 or
16 N.J.S.18A:66-44 or as set forth in section 38 or section 48 of
17 P.L.1954, c.84 as such sections have been amended and
18 supplemented as of July 1, 1969 (C.43:15A-38, C.43:15A-48) or as
19 set forth in section 17 of P.L.1964, c.241 (C.43:16A-11.2) or
20 section 5 of P.L.1944, c.255 (C.43:16A-5) or for each year of
21 service credited under the Group Annuity Plan. Such transfer
22 from the contingent reserve fund or the pension fund of the
23 Teachers' Pension and Annuity Fund or the Public Employees'
24 Retirement System or the Police and Firemen's Retirement
25 System or the Group Annuity Plan shall be made at the time of
26 the member's transfer to the alternate benefit program in the
27 case of any such member who has then met the eligibility
28 requirements for a pension under the aforementioned
29 N.J.S.18A:66-36, or N.J.S.18A:66-44, or section 38 or section 48
30 of P.L.1954, c.84 (C.43:15A-38, C.43:15A-48) or section 17 of
31 P.L.1964, c.241 (C.43:16A-11.2) or section 5 of P.L.1944, c.255
32 (C.43:16A-5) or the Group Annuity Plan. In the case of any
33 member who elects to participate in the alternate benefit
34 program who has not then met the eligibility requirements for a
35 pension under N.J.S.18A:66-36 or N.J.S.18A:66-44, or under
36 section 38 or section 48 of P.L.1954, c.84 (C.43:15A-38,
37 C.43:15A-48) or section 17 of P.L.1964, c.241 (C.43:16A-11.2) or
38 section 5 of P.L.1944, c.255 (C.43:16A-5) or under the Group
39 Annuity Plan, the transfer from the contingent reserve fund or
40 the pension fund of the Teachers' Pension and Annuity Fund or
41 the Public Employees' Retirement System or the Police and
42 Firemen's Retirement System or the Group Annuity Plan shall be
43 effected at the time such requirements have been met, taking
44 into account for the purpose of such eligibility requirement his
45 years of membership service at the time of his election and his
46 subsequent years of service as a full-time member of the faculty
47 of the [College] University of Medicine and Dentistry, Rutgers,
48 The State University, the [Newark College of Engineering] New
49 Jersey Institute of Technology or the State or county colleges or
50 as an eligible employee of the Department of Higher Education,
51 or at the time he shall have 10 years of credit for New Jersey
52 service and becomes physically incapacitated for the
53 performance of duty if he had been a member of the Teachers'
54 Pension and Annuity Fund or the Public Employees' Retirement

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

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

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

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

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

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

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

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

1 The Division of Pensions and Benefits shall [deduct from or,
2 with the consent of the participant,] provide for reductions from
3 the compensation of each participant in the alternate benefit
4 program employed by the Department of Higher Education, the
5 State and county colleges of an employee contribution equal to
6 5% of the participant's base salary and pay this amount to the
7 [insurer or] insurers or mutual fund companies for the individual's
8 retirement annuity contract or contracts. The intervals for
9 deductions or reductions and payments shall be determined by the
10 Division of Pensions and Benefits.

11 The Division of Pensions and Benefits may require that all
12 participant contributions be made in accordance with section
13 414(h) of the federal Internal Revenue Code (26 U.S.C. §414(h)).

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

24 Based on a certification by the Division of Pensions and
25 Benefits of the number and base salary of participants employed
26 by the Department of Higher Education, the State and county
27 colleges, the State shall make payment of the employer
28 contributions to the alternate benefit program at a rate equal to
29 8% of the employee's base salary, which moneys shall be paid to
30 the designated [insurer or] insurers or mutual fund companies for
31 the benefit of each participant.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24 The Division of Pensions and Benefits may, in its sole
25 discretion, qualify the alternate benefit program under section
26 401(a) or 403(a) of the federal Internal Revenue Code (26 U.S.C.
27 §401(a), §403(a)). In such a case, all contributions to the
28 retirement annuity contracts shall be made as soon as the
29 employee is eligible and has filed application forms required by
30 the annuity carrier. No employer contributions under these
31 contracts shall be vested in the employee until after the
32 employee commences the second year of employment unless the
33 employee, at the time of initial employment, either (a) owns a
34 retirement annuity contract or contracts determined by the
35 Division of Pensions and Benefits to be substantially similar to
36 the contracts to be purchased under the alternate benefit
37 program and issued by the designated insurers or mutual fund
38 companies, or (b) is a member of another State-administered
39 retirement system.

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

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

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

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

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

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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 SSG COMMITTEE

AMENDMENTS

to

SENATE No.1646
(Sponsored by Senator SINAGRA)

ADOPTED
JUN 24 1993

REPLACE SECTION 3 TO READ:

3. (New Section) 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 Board¹ 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 ¹in accordance with all applicable State laws and regulations¹ not later than the ¹[180th] ¹270th¹ 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. ¹Each 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 Board¹ every seven years and must meet such standards as the ¹[Board of Higher Education] Pension Provider Selection Board¹ 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; ¹[and]¹
- h. the company's overall quality of service, its investment performance considering return on investments and risk, ¹the 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 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 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 to¹ 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 to¹ 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.

¹To 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.

January 11, 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
 PUBLIC 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 3, 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]

In test:

/s/ Scott A. Weiner

Chief Counsel to the Governor