

1 HOUSE BILL 251

2 **57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025**

3 INTRODUCED BY

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10 AN ACT

11 RELATING TO EDUCATIONAL RETIREMENT; PROVIDING ADDITIONAL  
12 OPTIONS TO CHANGE THE BENEFICIARY FOR RETIRED MEMBERS WHO HAVE  
13 DESIGNATED A SPOUSE AS A BENEFICIARY.  
14

15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

16 SECTION 1. Section 22-11-29 NMSA 1978 (being Laws 1967,  
17 Chapter 16, Section 152, as amended) is amended to read:

18 "22-11-29. RETIREMENT BENEFIT OPTIONS.--

19 A. Upon retirement pursuant to the Educational  
20 Retirement Act, a member may elect, and, except as provided in  
21 Subsection D, [~~or~~] E or F of this section, such election shall  
22 be irrevocable, to receive the actuarial equivalent of the  
23 member's retirement benefit, as provided in Section 22-11-30  
24 NMSA 1978, to be effective on the member's retirement in any  
25 one of the following optional forms:

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1 (1) OPTION A. An unreduced retirement benefit  
2 pursuant to Section 22-11-30 NMSA 1978;

3 (2) OPTION B. A reduced annuity payable  
4 during the member's life with provision that upon the member's  
5 death the same annuity shall be continued during the life of  
6 and paid to the beneficiary designated by the member in writing  
7 at the time of electing this option; or

8 (3) OPTION C. A reduced annuity payable  
9 during the member's life with provision that upon the member's  
10 death one-half of this same annuity shall be continued during  
11 the life of and paid to the beneficiary designated by the  
12 member in writing at the time of electing this option.

13 B. In the case of Options B and C of Subsection A  
14 of this section, the actuarial equivalent of the member's  
15 retirement benefit shall be computed on the basis of the lives  
16 of both the member and the beneficiary or in the event that a  
17 supplemental needs trust is the designated beneficiary, the  
18 life of the member and the beneficiary of that trust.

19 C. In the event that the named beneficiary of a  
20 retired member who elected Option B or C of Subsection A of  
21 this section at the time of retirement predeceases the retired  
22 member or the supplemental needs trust terminates while the  
23 retired member is living, the annuity of the retired member  
24 shall be adjusted by adding an amount equal to the amount by  
25 which the annuity of the retired member was reduced at

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1 retirement as a result of the election of Option B or C of  
2 Subsection A of this section. The adjustment authorized in  
3 this subsection shall be made as follows:

4 (1) beginning on the first month following the  
5 month in which the named beneficiary of a retiree dies or the  
6 beneficiary of a supplemental needs trust that is the named  
7 beneficiary dies or that trust otherwise terminates applicable  
8 to an annuity received by a retiree who retires after June 30,  
9 1987; or

10 (2) beginning on July 1, 1987 applicable to an  
11 annuity received by a retiree who retired prior to July 1, 1987  
12 and otherwise qualifies for the adjustment; provided, however,  
13 no adjustment shall be made retroactively.

14 D. A retired member who is being paid an adjusted  
15 annuity pursuant to Subsection C of this section because of the  
16 death of the named beneficiary or the death of the beneficiary  
17 of a supplemental needs trust or the termination of that trust  
18 may exercise a one-time irrevocable option to designate another  
19 beneficiary and may select either Option B or Option C of  
20 Subsection A of this section; provided that:

21 (1) the amount of the annuity under the option  
22 selected shall be recalculated and have the same actuarial  
23 present value, computed on the effective date of the  
24 designation, as the annuity being paid to the retired member  
25 prior to the designation;

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1 (2) the designation and the amount of the  
2 annuity shall be subject to a court order as provided for in  
3 Subsection B of Section 22-11-42 NMSA 1978; and

4 (3) the retired member shall pay one hundred  
5 dollars (\$100) to the board to defray the cost of determining  
6 the new annuity amount.

7 E. A retired member who is being paid an annuity  
8 under Option B or C of Subsection A of this section with a  
9 living or operating designated beneficiary other than the  
10 retired member's spouse or former spouse or the supplemental  
11 needs trust of the retired member's spouse or former spouse may  
12 exercise a one-time irrevocable option to deselect the  
13 designated beneficiary and elect to:

14 (1) designate another beneficiary; provided  
15 that:

16 (a) the retired member shall not have an  
17 option to change from the current form of payment;

18 (b) the amount of the annuity under the  
19 form of payment shall be recalculated and shall have the same  
20 actuarial present value, computed [~~as of~~] on the effective date  
21 of the designation, as the amount of annuity paid prior to the  
22 designation; and

23 (c) the retired member shall pay one  
24 hundred dollars (\$100) to the board to defray the cost of  
25 determining the new annuity amount; or

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1 (2) have future annuity payments made without  
2 a reduction as a result of Option B or C of Subsection A of  
3 this section.

4 F. A retired member who is being paid an annuity  
5 under Option B or C of Subsection A of this section with the  
6 member's spouse as the designated beneficiary may exercise a  
7 one-time irrevocable option to deselect the designated  
8 beneficiary and elect to:

9 (1) designate another beneficiary; provided  
10 that:

11 (a) the retired member shall not have an  
12 option to change from the current form of payment;

13 (b) the amount of the annuity under the  
14 form of payment shall be recalculated and shall have the same  
15 actuarial present value, computed as of the effective date of  
16 the designation, as the amount of annuity paid prior to the  
17 designation;

18 (c) the retired member's spouse provides  
19 a notarized, written statement expressing the spouse's consent  
20 to relinquish the designation as a beneficiary; and

21 (d) the retired member shall pay one  
22 hundred dollars (\$100) to the board to defray the cost of  
23 determining the new annuity amount;

24 (2) have the future annuity payments made  
25 without a reduction as a result of Option B or C of Subsection

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1 A of this section;

2 (3) upon becoming divorced from the named  
3 spouse and subject to an order of a court as provided for in  
4 Subsection B of Section 22-11-42 NMSA 1978, elect to have  
5 future annuity payments made under retirement benefit Option A  
6 of Subsection A of this section;

7 (4) upon becoming divorced from the named  
8 spouse, exercise a one-time irrevocable option to designate  
9 another beneficiary; provided that:

10 (a) the retired member shall not have an  
11 option to change from the current form of payment;

12 (b) the amount of the annuity under the  
13 form of payment selected shall be recalculated and shall have  
14 the same actuarial present value, computed as of the effective  
15 date of the designation, as the amount of annuity paid prior to  
16 the designation;

17 (c) the designation and the amount of  
18 the annuity shall be subject to a court order as provided for  
19 in Subsection B of Section 22-11-42 NMSA 1978; and

20 (d) the retired member shall pay one  
21 hundred dollars (\$100) to the board to defray the cost of  
22 determining the new annuity amount; or

23 (5) have the future annuity payments made  
24 without a reduction as a result of Option B or C of Subsection  
25 A of this section.

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1           ~~[F.]~~ G. In the event of the death of the member who  
2 has not retired and who has completed at least five years'  
3 earned service credit, the member shall be considered as  
4 retiring on the first day of the month following the date of  
5 death, and the benefits due the surviving beneficiary, computed  
6 ~~[as of]~~ on that date, shall, except as provided in Subsection  
7 ~~[J]~~ K of this section, be commenced effective on the first day  
8 of such month in accordance with the terms of Option B of  
9 Subsection A of this section. In lieu of the provisions of  
10 Option B, the surviving beneficiary may elect to receive  
11 payment of all the contributions made by the member, plus  
12 interest at the rate set by the board reduced by the sum of any  
13 disability benefits previously received by the member, or the  
14 surviving beneficiary may choose to defer receipt of the  
15 survivor's benefit to whatever age the beneficiary chooses up  
16 to the time the member would have attained age sixty. If the  
17 benefit is thus deferred, it shall be calculated as though the  
18 member had retired on the first day of the month in which the  
19 beneficiary elects to receive the benefit. In the event of the  
20 death of the beneficiary or in the event that a supplemental  
21 needs trust is the designated survivor beneficiary, the  
22 termination of that trust or the death of the beneficiary of  
23 that trust after the death of the member and prior to the date  
24 on which the beneficiary has elected to receive the  
25 beneficiary's benefit, the estate of the beneficiary shall be

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1 entitled to a refund of the member's contributions plus  
2 interest at the rate earned by the fund during the preceding  
3 fiscal year, reduced by the sum of any disability benefits  
4 previously received by the member.

5 ~~[G.]~~ H. In the event of the death of a member who  
6 has not retired and who has completed at least five years'  
7 earned service credit, but who has not designated a beneficiary  
8 in writing pursuant to the Educational Retirement Act, the  
9 eligible surviving spouse or surviving domestic partner shall  
10 be the surviving beneficiary eligible for benefits in  
11 accordance with the provisions of Subsection ~~[F]~~ G of this  
12 section.

13 ~~[H.]~~ I. In the case of death of a retired member  
14 who did not elect either Option B or C of Subsection A of this  
15 section and before the benefits paid to the member have equaled  
16 the sum of the member's accumulated contributions to the fund  
17 plus accumulated interest at the rate set by the board, the  
18 balance shall be paid to the beneficiary designated in writing  
19 to the director by the member or, if no beneficiary was  
20 designated, to the eligible surviving spouse or surviving  
21 domestic partner of the member or, if there is no eligible  
22 surviving spouse or domestic partner of the member, to the  
23 estate of the member.

24 ~~[I.]~~ J. No benefit shall be paid pursuant to this  
25 section if the member's contributions have been refunded

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pursuant to Section 22-11-15 NMSA 1978.

[J-] K. In the case of death of a member with less than five years' earned service credit or death of a member who has filed with the director a notice rejecting the provisions of Subsection [F] G of this section, which notice shall be revocable by the member at any time prior to retirement, the member's contributions to the fund plus interest at the rate set by the board shall be paid to the beneficiary designated in writing to the director by the member or, if no beneficiary was designated, to the eligible surviving spouse or surviving domestic partner of the member or, if there is no eligible surviving spouse or domestic partner of the member, to the estate of the member."