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AN ACT

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

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

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

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

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

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

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

(3) OPTION C. A reduced annuity payable
during the member's life with provision that upon the

1 member's death one-half of this same annuity shall be
2 continued during the life of and paid to the beneficiary
3 designated by the member in writing at the time of electing
4 this option.

5 B. In the case of Options B and C of Subsection A
6 of this section, the actuarial equivalent of the member's
7 retirement benefit shall be computed on the basis of the
8 lives of both the member and the beneficiary or in the event
9 that a supplemental needs trust is the designated
10 beneficiary, the life of the member and the beneficiary of
11 that trust.

12 C. In the event that the named beneficiary of a
13 retired member who elected Option B or C of Subsection A of
14 this section at the time of retirement predeceases the
15 retired member or the supplemental needs trust terminates
16 while the retired member is living, the annuity of the
17 retired member shall be adjusted by adding an amount equal to
18 the amount by which the annuity of the retired member was
19 reduced at retirement as a result of the election of Option B
20 or C of Subsection A of this section. The adjustment
21 authorized in this subsection shall be made as follows:

22 (1) beginning on the first month following
23 the month in which the named beneficiary of a retiree dies or
24 the beneficiary of a supplemental needs trust that is the
25 named beneficiary dies or that trust otherwise terminates

1 applicable to an annuity received by a retiree who retires
2 after June 30, 1987; or

3 (2) beginning on July 1, 1987 applicable to
4 an annuity received by a retiree who retired prior to July 1,
5 1987 and otherwise qualifies for the adjustment; provided,
6 however, no adjustment shall be made retroactively.

7 D. A retired member who is being paid an adjusted
8 annuity pursuant to Subsection C of this section because of
9 the death of the named beneficiary or the death of the
10 beneficiary of a supplemental needs trust or the termination
11 of that trust may exercise a one-time irrevocable option to
12 designate another beneficiary and may select either Option B
13 or Option C of Subsection A of this section; provided that:

14 (1) the amount of the annuity under the
15 option selected shall be recalculated and have the same
16 actuarial present value, computed on the effective date of
17 the designation, as the annuity being paid to the retired
18 member prior to the designation;

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

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

25 E. A retired member who is being paid an annuity

1 under Option B or C of Subsection A of this section with a
2 living or operating designated beneficiary other than the
3 retired member's spouse or former spouse or the supplemental
4 needs trust of the retired member's spouse or former spouse
5 may exercise a one-time irrevocable option to deselect the
6 designated beneficiary and elect to:

7 (1) designate another beneficiary; provided
8 that:

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

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

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

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

22 F. A retired member who is being paid an annuity
23 under Option B or C of Subsection A of this section with the
24 member's spouse as the designated beneficiary may exercise a
25 one-time irrevocable option to deselect the designated

1 beneficiary and elect to:

2 (1) designate another beneficiary; provided
3 that:

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

6 (b) the amount of the annuity under the
7 form of payment shall be recalculated and shall have the same
8 actuarial present value, computed as of the effective date of
9 the designation, as the amount of annuity paid prior to the
10 designation;

11 (c) the retired member's spouse
12 provides a notarized, written statement expressing the
13 spouse's consent to relinquish the designation as a
14 beneficiary; and

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

18 (2) have the future annuity payments made
19 without a reduction as a result of Option B or C of
20 Subsection A of this section;

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

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

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

6 (b) the amount of the annuity under the
7 form of payment selected shall be recalculated and shall have
8 the same actuarial present value, computed as of the
9 effective date of the designation, as the amount of annuity
10 paid prior to the designation;

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

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

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

20 G. In the event of the death of the member who has
21 not retired and who has completed at least five years' earned
22 service credit, the member shall be considered as retiring on
23 the first day of the month following the date of death, and
24 the benefits due the surviving beneficiary, computed on that
25 date, shall, except as provided in Subsection K of this

1 section, be commenced effective on the first day of such
2 month in accordance with the terms of Option B of Subsection
3 A of this section. In lieu of the provisions of Option B,
4 the surviving beneficiary may elect to receive payment of all
5 the contributions made by the member, plus interest at the
6 rate set by the board reduced by the sum of any disability
7 benefits previously received by the member, or the surviving
8 beneficiary may choose to defer receipt of the survivor's
9 benefit to whatever age the beneficiary chooses up to the
10 time the member would have attained age sixty. If the
11 benefit is thus deferred, it shall be calculated as though
12 the member had retired on the first day of the month in which
13 the beneficiary elects to receive the benefit. In the event
14 of the death of the beneficiary or in the event that a
15 supplemental needs trust is the designated survivor
16 beneficiary, the termination of that trust or the death of
17 the beneficiary of that trust after the death of the member
18 and prior to the date on which the beneficiary has elected to
19 receive the beneficiary's benefit, the estate of the
20 beneficiary shall be entitled to a refund of the member's
21 contributions plus interest at the rate earned by the fund
22 during the preceding fiscal year, reduced by the sum of any
23 disability benefits previously received by the member.

24 H. In the event of the death of a member who has
25 not retired and who has completed at least five years' earned

1 service credit, but who has not designated a beneficiary in
2 writing pursuant to the Educational Retirement Act, the
3 eligible surviving spouse or surviving domestic partner shall
4 be the surviving beneficiary eligible for benefits in
5 accordance with the provisions of Subsection G of this
6 section.

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

18 J. No benefit shall be paid pursuant to this
19 section if the member's contributions have been refunded
20 pursuant to Section 22-11-15 NMSA 1978.

21 K. In the case of death of a member with less than
22 five years' earned service credit or death of a member who has
23 filed with the director a notice rejecting the provisions of
24 Subsection G of this section, which notice shall be revocable
25 by the member at any time prior to retirement, the member's

1 contributions to the fund plus interest at the rate set by the
2 board shall be paid to the beneficiary designated in writing
3 to the director by the member or, if no beneficiary was
4 designated, to the eligible surviving spouse or surviving
5 domestic partner of the member or, if there is no eligible
6 surviving spouse or domestic partner of the member, to the
7 estate of the member." _____

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