

AN ACT

RELATING TO EDUCATIONAL RETIREMENT; PROVIDING PAYMENTS ON BEHALF OF CERTAIN RETIRED MEMBERS AND CERTAIN REEMPLOYED MEMBERS WHO DIE BEFORE RECOUPING THE AMOUNT OF THEIR CONTRIBUTIONS PLUS INTEREST.

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

Section 1. Section 22-11-26 NMSA 1978 (being Laws 1967, Chapter 16, Section 149, as amended) is amended to read:

"22-11-26. DEATH DURING REEMPLOYMENT.--If a member dies during a period of reemployment following retirement pursuant to the Educational Retirement Act, the benefits to be paid shall be determined according to the following:

A. if the member did not elect to exercise Option B or C pursuant to Section 22-11-29 NMSA 1978 at the time of first retirement, the member's beneficiary or estate shall receive an amount equal to the sum of the member's contributions, including contributions made by the member during the period of last reemployment, plus accumulated interest at the average rate earned by the fund during the preceding five fiscal years, less the total benefits received prior to the last reemployment; or

B. if a retirement benefit has been paid to the member pursuant to either Option B or Option C of Section

22-11-29 NMSA 1978 prior to reemployment, the reemployed member shall be considered as retiring on the day preceding the date of death, and the benefits due the surviving beneficiary, computed as of that date, shall be commenced effective on the date of death in accordance with the terms of the option elected."

Section 2. 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 such election shall be irrevocable, to receive the actuarial equivalent of his retirement benefit, as provided in Section 22-11-30 NMSA 1978, to be effective on his retirement in any one of the following optional forms:

(1) 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

(2) OPTION C. A reduced annuity payable during the member's life with provision that upon the member's death one-half of this 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.

B. In the case of Options B and C of Subsection A of this section, the actuarial equivalent of the member's retirement benefit shall be computed on the basis of the lives of both the member and the beneficiary.

C. In the event that the named beneficiary of a retired member who elected Option B or C at the time of retirement predeceases the retired member, the annuity of the retired member shall be adjusted by adding an amount equal to the amount by which the annuity of the retired member was reduced at retirement as a result of the election of Option B or C. The adjustment authorized in this subsection shall be made as follows:

(1) beginning on the first month following the month in which the named beneficiary of a retiree dies applicable to an annuity received by a retiree who retires after June 30, 1987; or

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

D. In the event of the death of the member who has not retired and who has completed at least five years' earned service credit, the member shall be considered as

retiring on the first day of the month following the date of death, and the benefits due the surviving beneficiary, computed as of that date, shall, except as provided in Subsection G of this section, be commenced effective on the first day of such month in accordance with the terms of Option B. In lieu of the provisions of Option B, the surviving beneficiary may elect to receive payment of all the contributions made by the member, plus interest at the rate earned by the fund during the preceding fiscal year reduced by the sum of any disability benefits previously received by the member, or the surviving beneficiary may choose to defer receipt of the survivor's benefit to whatever age the beneficiary chooses up to the time the member would have attained age sixty. If the benefit is thus deferred, it shall be calculated as though the member had retired on the first day of the month in which the beneficiary elects to receive the benefit. In the event of the death of the beneficiary after the death of the member and prior to the date on which the beneficiary has elected to receive the beneficiary's benefit, the estate of the beneficiary shall be entitled to a refund of the member's contributions plus interest at the rate earned by the fund during the preceding fiscal year, reduced by the sum of any disability benefits previously received by the member.

E. In the case of death of a retired member who

did not elect either Option B or C and before the benefits paid to him have equaled the sum of his accumulated contributions to the fund plus accumulated interest at the average rate earned by the fund during the preceding five fiscal years, the balance shall be paid to the beneficiary designated in writing to the director by the member or, if no beneficiary was designated, to the estate of the member.

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

G. 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 C 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 earned by the fund during the preceding fiscal year shall be paid to the beneficiary designated in writing to the director by the member or, if no beneficiary was designated, to the estate of the member.

H. Any elections of either Option B or C of Subsection A of this section on file with the director by members who have not retired prior to June 30, 1984 are void." \_\_\_\_\_

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