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AN ACT

RELATING TO THE PUBLIC PEACE, HEALTH, SAFETY AND WELFARE;
PROVIDING FOR A SURVIVING SPOUSE OR DOMESTIC PARTNER TO BE
CONSIDERED A BENEFICIARY IF A DECEASED MEMBER OF THE
EDUCATIONAL RETIREMENT PLAN HAS NOT OTHERWISE DESIGNATED 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 or E 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

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

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

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

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

23 (2) beginning on July 1, 1987 applicable to
24 an annuity received by a retiree who retired prior to July 1,
25 1987 and otherwise qualifies for the adjustment; provided,

1 however, no adjustment shall be made retroactively.

2 D. A retired member who is being paid an adjusted
3 annuity pursuant to Subsection C of this section because of
4 the death of the named beneficiary may exercise a one-time
5 irrevocable option to designate another individual as the
6 beneficiary and may select either Option B or Option C of
7 Subsection A of this section; provided that:

8 (1) the amount of the annuity under the
9 option selected shall be recalculated and have the same
10 actuarial present value, computed on the effective date of
11 the designation, as the annuity being paid to the retired
12 member prior to the designation;

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

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

19 E. A retired member who is being paid an annuity
20 under Option B or C of Subsection A of this section with a
21 living designated beneficiary other than the retired member's
22 spouse or former spouse may exercise a one-time irrevocable
23 option to deselect the designated beneficiary and elect to:

24 (1) designate another beneficiary; provided
25 that:

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

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

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

11 (2) have future annuity payments made
12 without a reduction as a result of Option B or C.

13 F. In the event of the death of the member who has
14 not retired and who has completed at least five years' earned
15 service credit, the member shall be considered as retiring on
16 the first day of the month following the date of death, and
17 the benefits due the surviving beneficiary, computed as of
18 that date, shall, except as provided in Subsection J of this
19 section, be commenced effective on the first day of such
20 month in accordance with the terms of Option B of Subsection
21 A of this section. In lieu of the provisions of Option B,
22 the surviving beneficiary may elect to receive payment of all
23 the contributions made by the member, plus interest at the
24 rate set by the board reduced by the sum of any disability
25 benefits previously received by the member, or the surviving

1 beneficiary may choose to defer receipt of the survivor's
2 benefit to whatever age the beneficiary chooses up to the
3 time the member would have attained age sixty. If the
4 benefit is thus deferred, it shall be calculated as though
5 the member had retired on the first day of the month in which
6 the beneficiary elects to receive the benefit. In the event
7 of the death of the beneficiary after the death of the member
8 and prior to the date on which the beneficiary has elected to
9 receive the beneficiary's benefit, the estate of the
10 beneficiary shall be entitled to a refund of the member's
11 contributions plus interest at the rate earned by the fund
12 during the preceding fiscal year, reduced by the sum of any
13 disability benefits previously received by the member.

14 G. In the event of the death of a member who has
15 not retired and who has completed at least five years' earned
16 service credit, but who has not designated a beneficiary in
17 writing pursuant to the Educational Retirement Act, the
18 eligible surviving spouse or surviving domestic partner shall
19 be the surviving beneficiary eligible for benefits in
20 accordance with the provisions of Subsection F of this
21 section.

22 H. In the case of death of a retired member who
23 did not elect either Option B or C of Subsection A of this
24 section and before the benefits paid to the member have
25 equaled the sum of the member's accumulated contributions to

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

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

11 J. In the case of death of a member with less than
12 five years' earned service credit or death of a member who has
13 filed with the director a notice rejecting the provisions of
14 Subsection F of this section, which notice shall be revocable
15 by the member at any time prior to retirement, the member's
16 contributions to the fund plus interest at the rate set by the
17 board shall be paid to the beneficiary designated in writing
18 to the director by the member or, if no beneficiary was
19 designated, to the eligible surviving spouse or surviving
20 domestic partner of the member or, if there is no eligible
21 surviving spouse or domestic partner of the member, to the
22 estate of the member."

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