



The Legislature  
of the  
State of New Mexico

49th Legislature, First Session

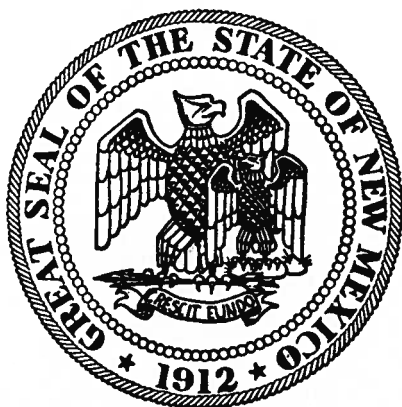
LAWS 2009

CHAPTER 209

SENATE BILL 399, as amended

Introduced by

SENATOR HOWIE C. MORALES



# Chapter 209

1 AN ACT

2 RELATING TO EDUCATIONAL RETIREMENT; AMENDING THE EDUCATIONAL  
3 RETIREMENT ACT TO PROVIDE FOR AUDITS OF LOCAL ADMINISTRATIVE  
4 UNITS.

5  
6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

7 Section 1. Section 22-11-22 NMSA 1978 (being Laws 1967,  
8 Chapter 16, Section 145, as amended) is amended to read:

9 "22-11-22. PAYMENT--RECORDS--AUDITS.--

10 A. Contributions shall be deducted from the  
11 salaries of members by the local administrative units as the  
12 salaries are paid. These contributions shall be forwarded  
13 monthly to the director for deposit in the fund.

14 B. Contributions of local administrative units  
15 shall be derived from revenue available to the local  
16 administrative unit and shall be forwarded monthly to the  
17 director for deposit in the fund. The board may assess an  
18 interest charge and a penalty charge on any remittance not  
19 made by its due date.

20 C. Each local administrative unit shall record and  
21 certify quarterly to the director an itemized account of the  
22 contributions paid by each member and the local  
23 administrative unit. The director shall keep a record of  
24 these itemized accounts.

25 D. The director or the director's authorized

1 representative may audit the financial affairs, books and  
2 records, and may interview employees, of any local  
3 administrative unit at any time to ensure compliance with the  
4 Educational Retirement Act and rules adopted by the board.

5 The local administrative unit shall cooperate with the  
6 director or the authorized representative and shall provide  
7 access to records, information and employees during regular  
8 business hours. If, during the course of the audit, the  
9 director or the director's designee finds discrepancies or  
10 violations of the Educational Retirement Act or rules adopted  
11 by the board, or if the director or the director's designee  
12 finds that a local administrative unit does not have adequate  
13 financial controls or procedures in place to allow the local  
14 administrative unit to properly account for and pay required  
15 contributions to the board:

16 (1) the director shall order the local  
17 administrative unit to implement measures to remedy those  
18 matters, including payment to the fund of any contributions  
19 not properly calculated or paid, together with interest  
20 thereon at a rate to be established by the board. The local  
21 administrative unit shall promptly comply with that order;  
22 and

23 (2) the director shall submit a report  
24 describing the discrepancy, violation or failure to maintain  
25 adequate financial controls or procedures to the board, the

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state auditor and the public education department or the  
higher education department as may be appropriate.

E. If the director or the director's designee  
finds or has reason to suspect criminal activity with respect  
to contributions, payments or the management of the funds of a  
local administrative unit, the director shall notify the  
attorney general, the state auditor and the appropriate law  
enforcement agency."

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Diane D. Denish

Diane D. Denish, President  
Senate

Lenore M. Naranjo  
Lenore M. Naranjo, Chief Clerk  
Senate

Ben Lujan

Ben Lujan, Speaker  
House of Representatives

Stephen R. Arias  
Stephen R. Arias, Chief Clerk  
House of Representatives

Approved by me this 7<sup>th</sup> day of April, 2009

Bill Richardson

Governor Bill Richardson  
State of New Mexico

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