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SENATE BILL 399

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

INTRODUCED BY
Howie Morales

AN ACT

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

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

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

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

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

B. Contributions of local administrative units
shall be derived from revenue available to the local
administrative unit and shall be forwarded monthly to the

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1 director for deposit in the fund. The board may assess an
2 interest charge and a penalty charge on any remittance not made
3 by its due date.

4 C. Each local administrative unit shall record and
5 certify quarterly to the director an itemized account of the
6 contributions paid by each member and the local administrative
7 unit. The director shall keep a record of these itemized
8 accounts.

9 D. The director or the director's authorized
10 representative may audit the financial affairs, books and
11 records, and may interview employees, of any local
12 administrative unit at any time to ensure compliance with the
13 Educational Retirement Act and rules adopted by the board. The
14 local administrative unit shall cooperate with the director or
15 the authorized representative and shall provide access to
16 records, information and employees during regular business
17 hours. If, during the course of the audit, the director or the
18 director's designee finds discrepancies or violations of the
19 Educational Retirement Act or rules adopted by the board, or if
20 the director or the director's designee finds or has reason to
21 believe that a local administrative unit does not have adequate
22 financial controls or procedures in place to allow the local
23 administrative unit to properly account for and pay required
24 contributions to the board:

25 (1) the director shall order the local

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1 administrative unit to implement measures to remedy those
2 matters, including payment to the fund of any contributions not
3 properly calculated or paid, together with interest thereon at
4 a rate to be established by the board. The local
5 administrative unit shall promptly comply with that order; and

6 (2) the director shall submit a report
7 describing the discrepancy, violation or failure to maintain
8 adequate financial controls or procedures to the board, the
9 state auditor and the public education department or the higher
10 education department as may be appropriate.

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