ENROLLED SENATE
BILL NO. 1106

By: Corn, Gumm and Rabon of the Senate

and

Adair, Harrison, Ferguson, Ingmire, Askins, Blackburn, Covey, Deutschendorf, McCarter, Paulk, Roan, Staggs, Sweeden, Wells, Adkins, Boren, Braddock, Brannon, Carey, Dorman, Hamilton, Lamons, Morgan (Danny), Smithson and Trebilcock of the House

An Act relating to schools; amending 70 O.S. 2001, Section 18-114.7, as amended by Section 1 of Enrolled House Bill No. 2662 of the 2nd Session of the 49th Oklahoma Legislature, which relates to the teachers' minimum salary schedule; directing certain amounts paid in fringe benefits be paid in salary; amending Section 18, Chapter 434, O.S.L. 2003 (70 O.S. Supp. 2003, Section 18-114.9), as amended by Section 3 of Enrolled House Bill No. 2662 of the 2nd Session of the 49th Oklahoma Legislature, which relates to teacher salary and fringe benefit level; prohibiting inclusion of certain payments in calculation of total compensation; amending Section 4 of Enrolled House Bill No. 2662 of the 2nd Session of the 49th Oklahoma Legislature, which relates to computation of amounts to be used for certain purposes; clarifying use of certain funds for certain purposes; requiring payment of certain funds as increased total compensation to certain employees; making certain dollar amounts not subject to certain requirements; providing an effective date; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 70 O.S. 2001, Section 18-114.7, as amended by Section 1 of Enrolled House Bill No. 2662 of the 2nd Session of the 49th Oklahoma Legislature, is amended to read as follows:

Section 18-114.7 A. Beginning with the 2000-01 school year, teachers in the public schools of Oklahoma shall receive in salary and/or fringe benefits not less than the amounts specified in the following schedule:

MINIMUM SALARY SCHEDULE

Years of Experience	Bachelor's Degree	Master's Degree	Doctor's Degree
0	$27,060	$28,166	$29,272
1	$28,221	$29,327	$30,433
2	$28,553	$29,659	$30,765
3	$28,885	$29,991	$31,097
4	$29,217	$30,323	$31,429
5	$29,549	$30,655	$31,761
6	$29,881	$30,987	$32,093
7	$30,213	$31,319	$32,425
8	$30,545	$31,651	$32,757
9	$30,877	$31,983	$33,089
10	$31,209	$32,315	$33,421
11	$31,541	$32,647	$33,753
12	$31,873	$32,979	$34,085
13	$32,205	$33,311	$34,417
14	$32,537	$33,643	$34,749
15	$32,869	$33,975	$35,081
16	$33,201	$34,307	$35,413
17	$33,533	$34,639	$35,745
18	$33,865	$34,971	$36,077
19	$34,197	$35,303	$36,409
20	$34,529	$35,635	$36,741
21	$34,861	$35,967	$37,073
22	$35,193	$36,299	$37,405
23	$35,525	$36,631	$37,737

24	$35,857	$36,963	$38,069
25	$36,189	$37,295	$38,401

For the 2000-01 school year, any amounts received pursuant to Section 1, Chapter 1, O.S.L. 2000, shall count towards the minimum salary schedule established in this section for those teachers who qualified for the salary increase under Section 1, Chapter 1, O.S.L. 2000.

When determining the Minimum Salary Schedule, "fringe benefits" shall mean all or part of retirement benefits, excluding the contributions made pursuant to subsection A of Section 17-108.1 of this title and the flexible benefit allowance pursuant to Section 26-105 of this title from the flexible benefit allowance funds disbursed by the State Board of Education and the State Board of Career and Technology Education pursuant to Section 26-104 of this title. Amounts paid by a district for fringe benefits that were utilized to meet the requirements of this subsection for the 2003-04 school year shall be paid to teachers in salary beginning in the 2004-05 school year to meet the requirements of this subsection. Any of the degrees referred to in this section shall be from a college recognized by the State Board of Education. The State Board of Education shall accept teaching experience from out-of-state school districts that are accredited by the State Board of Education or appropriate state accrediting agency for said districts. For the purpose of state salary increments and retirement, no teacher shall be granted credit for more than five (5) years' active duty in the military service, or out-of-state teaching experience as a certified teacher or its equivalent. Nothing in this section shall prohibit boards of education from crediting more years of experience on local salary schedules than those allowed for state purposes. The State Board of Education shall recognize, for purposes of certification and salary increments, the years of experience of a certified teacher who teaches in the Department of Corrections' educational program beginning with fiscal year 1981. The State Board of Education shall recognize for purposes of certification and salary increments the years of experience of a Vocational Rehabilitation Counselor under the Department of Human Services if such counselor was employed as a certified teacher by the State Department of Education when the Division of Vocational Rehabilitation was transferred from the State Board of Career and Technology Education or the State Board of Education to the Oklahoma Public Welfare Commission on July 1, 1968.

B. The State Board of Education shall recognize for purposes of certification and salary increments all of the years of experience a:

1. Vocational Rehabilitation Counselor completed while employed by the Department of Human Services if such counselor was certified as a teacher or was eligible for certification as a teacher in Oklahoma;

2. Certified teacher completed while employed by the Department of Human Services Child Study Center at University Hospital, if the teacher was certified as a teacher in Oklahoma; and

3. Certified school psychologist or psychometrist completed while employed as a doctoral intern, psychological assistant, or psychologist with any agency of the State of Oklahoma if such experience primarily involved work with persons of school or pre-school age and if such person was, at the time the experience was acquired, certified as, or eligible for certification as, a school psychologist or psychometrist.

C. The provisions of this section shall not apply to teachers who have entered into postretirement employment with a public school in Oklahoma and are still receiving a monthly retirement benefit.

SECTION 2. AMENDATORY Section 18, Chapter 434, O.S.L. 2003 (70 O.S. Supp. 2003, Section 18-114.9), as amended by Section 3 of Enrolled House Bill No. 2662 of the 2nd Session of the 49th Oklahoma Legislature, is amended to read as follows:

Section 18-114.9 A. If a teacher, as defined in Section 6-101.3 of ~~Title 70 of the Oklahoma Statutes~~ this title, is employed by the same school district for the next school year as the preceding school year, the total compensation, consisting of salary and fringe benefits, of the teacher shall not be decreased the next school year unless the hours or the duties of the teacher are reduced proportionately.

For school year 2004-05, total compensation shall not include any amount paid by a district during school year 2003-04 over and above the flexible benefit allowance for certified personnel pursuant to Section 26-105 of this title toward employee health insurance if:

1. The district provided the health insurance benefit mandated in Section 1310.1 of Title 74 of the Oklahoma Statutes as a fringe benefit that required the employee to accept the health insurance option in order to receive the benefit; and

2. The district did not apply the payment toward meeting the requirements of subsection A of Section 18-114.7 of this title.

B. Subject to the provisions of this section, any school district that willfully reduces or has in years previous to enactment of this section willfully reduced the compensation of a teacher in violation of subsection A of this section shall forfeit as a penalty a portion of its State Aid equal to the total amount that the teacher was underpaid. If the teacher was underpaid for more than one (1) school year, the amount forfeited shall equal the cumulative amount that the teacher was underpaid. The amount to be forfeited shall be deducted from the State Aid payment following confirmation of the underpayment by the State Department of Education.

C. In addition to the amount of State Aid forfeited as a penalty pursuant to subsection B of this section, in order to ensure

that the teacher receives the full amount of unpaid compensation, the State Department of Education shall withhold an amount which is equal to the total amount that the teacher was underpaid from the State Aid payment of the school district and pay the amount directly to the teacher. The Board shall not withhold an amount for payment to the teacher pursuant to the subsection if the teacher has recovered the underpayment pursuant to judicial action.

D. Complaints filed with the State Board of Education pursuant to this section may be based on alleged underpayments during fiscal years that began:

1. On or after July 1, 2002; or

2. Before July 1, 2002, if the teacher filed an action to recover the underpayment in a court of competent jurisdiction before July 1, 2002.

E. Complaints filed with the State Board of Education alleging underpayment during fiscal years that began on or after July 1, 2002, shall be filed within one (1) year of the end of the fiscal year in which the underpayment is alleged to have occurred.

F. Filing a complaint with the State Board of Education pursuant to this section shall not operate to prohibit a teacher from filing an action for underpayment in a court of competent jurisdiction or continuing to pursue an action for underpayment pending in a court of competent jurisdiction on August 29, 2003.

G. The State Board of Education shall promulgate rules necessary to implement the provisions of this section. The rules shall include, but not be limited to, procedures for a teacher to file a complaint for violation of this section and the Department to investigate the complaint.

SECTION 3. AMENDATORY Section 4 of Enrolled House Bill No. 2662 of the 2nd Session of the 49th Oklahoma Legislature, is amended to read as follows:

Section 4. ~~For~~ A. Except as provided in subsection B of this section, for school year 2004-05 ~~and subsequent school years~~, the following provisions shall apply:

1. The total dollar amount a district was required to pay for all certified personnel, as defined in Section 26-103 of Title 70 of the Oklahoma Statutes, during school year 2003-04 over and above the flexible benefit allowance for certified personnel pursuant to Section 26-105 of Title 70 of the Oklahoma Statutes, in order to meet the payment mandated in Section 1310.1 of Title 74 of the Oklahoma Statutes, but not to meet the requirements of subsection A of Section 18-114.7 of Title 70 of the Oklahoma Statutes, shall be used by the district for instruction costs as defined in the Oklahoma Cost Accounting System, or for certified counselors, librarians, psychologists, psychometrists, speech-language pathologists, and certified or registered nurses, including but not limited to new or existing personnel; and

2. The total dollar amount a district paid for all certified personnel, as defined in Section 26-103 of Title 70 of the Oklahoma Statutes, who participated in the health insurance plan offered by the State and Education Employees Group Insurance Board or the self-insured plan offered by the district, during school year 2003-04 as additional contributions toward employee health insurance, not including the flexible benefit allowance and not including the amount described in paragraph 1 of this section, shall be paid by the district ~~each year~~ as increased total compensation to certified personnel, as defined in Section 26-103 of Title 70 of the Oklahoma Statutes, ~~who were employed by the district for school year 2003-2004,~~ in taxable compensation or fringe benefits as determined by the district board of education or paid pursuant to the terms of a collective bargaining agreement~~, in addition to any other taxable compensation and fringe benefits mandated by law or collective bargaining agreement~~.

B. 1. Of the total dollar amount a district was required to pay as described in paragraph 1 of subsection A of this section, any amount that is used to meet the requirements of subsection A of Section 18-114.7 of Title 70 of the Oklahoma Statutes shall not be subject to the requirements of paragraph 1 of subsection A of this section.

2. Of the total dollar amount a district paid as described in paragraph 2 of subsection A of this section, any amount that is used to meet the requirements of subsection A of Section 18-114.7 of Title 70 of the Oklahoma Statutes shall not be subject to the requirements of paragraph 2 of subsection A of this section.

SECTION 4. This act shall become effective July 1, 2004.

SECTION 5. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the Senate the 28th day of April, 2004.

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Presiding Officer of the Senate

Passed the House of Representatives the 22nd day of April, 2004.

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Presiding Officer of the House
of Representatives