

1 ENGROSSED HOUSE
2 BILL NO. 2157

By: Nollan and Bennett (John)
of the House

3 and

4 Smalley of the Senate
5
6

7 An Act relating to schools; amending 70 O.S. 2011,
8 Section 18-114.9, as amended by Section 1, Chapter
9 56, O.S.L. 2015 (70 O.S. Supp. 2016, Section 18-
10 114.9), which relates to reduction in teacher salary;
11 modifying type of retention pay that is not included
12 in total compensation of teachers; deleting provision
13 from previous school year; providing an effective
14 date; and declaring an emergency.

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

16 SECTION 1. AMENDATORY 70 O.S. 2011, Section 18-114.9, as
17 amended by Section 1, Chapter 56, O.S.L. 2015 (70 O.S. Supp. 2016,
18 Section 18-114.9), is amended to read as follows:

19 Section 18-114.9 A. If a teacher, as defined in Section 6-
20 101.3 of this title, is employed by the same school district for the
21 next school year as the preceding school year, the total
22 compensation, consisting of salary and fringe benefits, of the
23 teacher shall not be decreased the next school year unless the hours
24 or the duties of the teacher are reduced proportionately.
Compensation shall not include one-time incentive pay that is

1 provided by the school district to a teacher nor ~~one-time~~ retention
2 incentive pay for returning ~~a second~~ the next year.

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

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

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

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

1 C. In addition to the amount of State Aid forfeited as a
2 penalty pursuant to subsection B of this section, in order to ensure
3 that the teacher receives the full amount of unpaid compensation,
4 the State Department of Education shall withhold an amount which is
5 equal to the total amount that the teacher was underpaid from the
6 State Aid payment of the school district and pay the amount directly
7 to the teacher. The Board shall not withhold an amount for payment
8 to the teacher pursuant to the subsection if the teacher has
9 recovered the underpayment pursuant to judicial action.

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

- 13 1. On or after July 1, 2002; or
- 14 2. Before July 1, 2002, if the teacher filed an action to
15 recover the underpayment in a court of competent jurisdiction before
16 July 1, 2002.

17 E. Complaints filed with the State Board of Education alleging
18 underpayment during fiscal years that began on or after July 1,
19 2002, shall be filed within one (1) year of the end of the fiscal
20 year in which the underpayment is alleged to have occurred.

21 F. Filing a complaint with the State Board of Education
22 pursuant to this section shall not operate to prohibit a teacher
23 from filing an action for underpayment in a court of competent
24

1 jurisdiction or continuing to pursue an action for underpayment
2 pending in a court of competent jurisdiction on August 29, 2003.

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

8 SECTION 2. This act shall become effective July 1, 2017.

9 SECTION 3. It being immediately necessary for the preservation
10 of the public peace, health or safety, an emergency is hereby
11 declared to exist, by reason whereof this act shall take effect and
12 be in full force from and after its passage and approval.

13 Passed the House of Representatives the 8th day of March, 2017.

14

15

Presiding Officer of the House
of Representatives

16

17

18 Passed the Senate the ____ day of _____, 2017.

19

20

Presiding Officer of the Senate

21

22

23

24

25