

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 56th Legislature (2017)

4 HOUSE BILL 2157

 By: Nollan of the House

5 and

6 Smalley of the Senate

7
8
9 AS INTRODUCED

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

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

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

22 Section 18-114.9 A. If a teacher, as defined in Section 6-
23 101.3 of this title, is employed by the same school district for the
24 next school year as the preceding school year, the total
 compensation, consisting of salary and fringe benefits, of the

1 teacher shall not be decreased the next school year unless the hours
2 or the duties of the teacher are reduced proportionately.

3 Compensation shall not include one-time incentive pay that is
4 provided by the school district to a teacher nor ~~one-time~~ retention
5 incentive pay for returning ~~a second~~ the next year.

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

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

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

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

1 forfeited shall be deducted from the State Aid payment following
2 confirmation of the underpayment by the State Department of
3 Education.

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

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

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

20 E. Complaints filed with the State Board of Education alleging
21 underpayment during fiscal years that began on or after July 1,
22 2002, shall be filed within one (1) year of the end of the fiscal
23 year in which the underpayment is alleged to have occurred.

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

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

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

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

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17 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS AND BUDGET, dated
18 03/02/2017 - DO PASS, As Coauthored.
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