# An Act

ENROLLED HOUSE
BILL NO. 1521

By: Henke, Faught, Sherrer and Hoskin of the House

and

Smalley of the Senate

An Act relating to schools; amending 70 O.S. 2011, Section 18-114.9, which relates to total compensation of teachers; excluding certain incentive pay from definition of total compensation of teachers; amending 70 O.S. 2011, Section 509.6, which relates to good faith negotiations between board of education and certain organization; excluding certain pay from negotiated agreement; and providing an effective date.

SUBJECT: Compensation of teachers

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

SECTION 1. AMENDATORY 70 O.S. 2011, Section 18-114.9, is amended to read as follows:

Section 18-114.9 A. If a teacher, as defined in Section 6-101.3 of 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. <u>Compensation shall not include one-time incentive pay that is provided by the school district to a teacher nor one-time retention incentive pay for returning a second year.</u>

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 2. AMENDATORY 70 O.S. 2011, Section 509.6, is amended to read as follows:

Section 509.6 Once an organization has been recognized, the board of education or its duly designated representative must meet with the duly designated representative of the organization and within sixty (60) days shall complete an agreement outlining negotiation procedures. The board of education and the representatives of the organization must negotiate in good faith on wages, hours, fringe benefits and other terms and conditions of employment. <u>One-time incentive pay and one-time retention incentive pay for returning a second year shall not be subject to a negotiated agreement.</u> To negotiate in good faith shall mean both parties must be willing to consider proposals in an effort to find a mutually satisfactory basis for agreement and must be willing to discuss their respective contract proposals. If either party objects to the other's contract proposals, the objecting party must support its objections with rationale. Any allegation by either party that there has been a failure to comply with the provisions of this section shall be resolved through the dispute resolution procedure for resolving a unit determination dispute as set forth in subsection A of Section 509.2 of this title.

SECTION 3. This act shall become effective November 1, 2015.

Passed the House of Representatives the 4th day of March, 2015.

Presiding Officer of the House
of Representatives

Passed the Senate the 8th day of April, 2015.

Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this 9th

day of April, 20 15, at 1:09 o'clock P M.

By: Audrey Rockwell

Approved by the Governor of the State of Oklahoma this 13

day of April, 20 15, at 3:18 o'clock P M.

Mary Fallin

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this 13th

day of April, 20 15, at 4:07 o'clock P. M.

By: C. Benge