

1 STATE OF OKLAHOMA

2 2nd Session of the 58th Legislature (2022)

3 HOUSE BILL 3670

By: Wolfley

4
5 AS INTRODUCED

6 An Act relating to schools; amending 70 O.S. 2021,
7 Sections 26-103, 26-104, and 26-105, which relate to
8 the Larry Dickerson Education Flexible Benefits
9 Allowance Act; clarifying definition; adding
10 definition for dependent; providing appropriation for
11 flexible benefit allowance to include school district
12 employee dependents; modifying calculation for
13 appropriation amount; providing for disbursement of
14 funds; modifying benefit election procedure;
15 prescribing additional monthly amount of flexible
16 benefit allowance for health care coverage for
17 dependents; and providing an effective date.

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

19 SECTION 1. AMENDATORY 70 O.S. 2021, Section 26-103, is
20 amended to read as follows:

21 Section 26-103. The following words and phrases as used in
22 Section 26-101 et seq. of this title, unless a different meaning is
23 clearly required by the context, shall have the following meanings:

24 1. "Benefit" means any of the benefits which may be purchased
or are required to be purchased under the cafeteria plan;

2. "Cafeteria plan" means a benefit plan established pursuant
to 26 U.S.C. Section 125;

1 3. "Flexible benefit allowance" means amounts credited by the
2 school district for each school district employee for the purchase
3 of benefits under the cafeteria plan;

4 4. "Support personnel" means full-time employees of a school
5 district as determined by the standard period of labor which is
6 customarily understood to constitute full-time employment for the
7 type of services performed by the employees who are employed a
8 minimum of six (6) hours per day for a minimum of one hundred
9 seventy-two (172) days or a minimum of six (6) hours per day for a
10 minimum of one thousand thirty-two (1,032) hours per year and who
11 provide services not performed by certified personnel, which is
12 necessary for the efficient and satisfactory functioning of a school
13 district, and shall include cooks, janitors, maintenance personnel,
14 bus drivers, noncertified or nonregistered nurses, noncertified
15 librarians, and clerical employees of a school district but shall
16 not include adult education instructors or adult coordinators
17 employed by technology center school districts;

18 5. "Plan year" means the twelve-month period established by the
19 school district for the cafeteria plan;

20 6. "School district" means the public school districts and
21 technology center school districts of this state;

22 7. "School district employee" means certified personnel or
23 support personnel as defined in ~~Section 26-101 et seq.~~ of this title
24 section. Employees of an educational service provider contracted

1 with a school district pursuant to subsection G of Section 5-117 of
2 this title who perform functions that would otherwise be performed
3 by a school district employee shall be considered employees of a
4 school district for purposes of the Larry Dickerson Education
5 Flexible Benefits Allowance Act unless otherwise provided for in the
6 contract between the educational service provider and the
7 contracting school district;

8 8. "Certified personnel" means a certified person employed on a
9 full-time basis to serve as a teacher, principal, supervisor,
10 administrator, counselor, librarian, or certified or registered
11 nurse, but shall not mean a superintendent of a school district; ~~and~~

12 9. "Self-insured" means a health care program in which the
13 school district funds the benefit plans from its own resources
14 without purchasing insurance and which may be administered by the
15 school district or by an outside administrator under contract with
16 the school district for administrative services. The State Board of
17 Education shall prepare by May 1st of each year a list of each
18 school district in the state that is self-insured and the number of
19 support personnel and the number of certified personnel that are
20 participating in each self-insured school district plan; and

21 10. "Dependent" means a spouse, an unmarried child under
22 eighteen (18) years of age, an unmarried child who is under twenty-
23 six (26) years of age and who is financially dependent upon the
24 parent, and an unmarried child of any age who is medically certified

1 as disabled and dependent upon the parent. A person shall only be
2 considered a dependent if he or she does not have subsidized
3 coverage available from another source.

4 SECTION 2. AMENDATORY 70 O.S. 2021, Section 26-104, is
5 amended to read as follows:

6 Section 26-104. A. Each fiscal year, the Legislature shall
7 appropriate adequate funding to the State Board of Education and the
8 State Board of Career and Technology Education for the purpose of
9 providing a flexible benefit allowance to school district employees
10 and their dependents pursuant to this act. Unless the Legislature
11 appropriates adequate funding specifically for the purpose of
12 providing a flexible benefit allowance to school district employees
13 and their dependents, the Oklahoma State Board of Education shall
14 allocate from the funds appropriated to the Oklahoma State Board of
15 Education for the support of public school activities an amount to
16 fully fund the flexible benefit allowance, which shall occur first
17 prior to allocating the funds for any other purpose. The amount
18 appropriated for funding and disbursed to school districts shall be
19 calculated by multiplying the number of eligible school district
20 employees employed by school districts which are participating in
21 the health insurance plan offered by the State and Education
22 Employees Group Insurance Board or are self-insured as counted in
23 February of each year and their dependents by the amount of the
24 flexible benefit allowance credited to the eligible school employees

1 as established in Section 26-105 of this title. Each Board shall
2 disburse the total amount appropriated for funding the flexible
3 benefit allowance to school districts during the fiscal year. From
4 the total amount appropriated, each Board shall disburse the
5 appropriate amounts, based on the number of eligible school district
6 employees employed by that school district and their dependents, to
7 each school district.

8 B. Every school district shall establish or make available to
9 school district employees a cafeteria plan pursuant to 26 U.S.C.
10 Section 125 of the United States Code. The plan shall offer, as a
11 benefit, major medical health care plan coverage.

12 C. The flexible benefit allowance amount established pursuant
13 to Section 26-105 of this title shall be credited to each eligible
14 school district employee. School district employees shall elect
15 whether to use the flexible benefit allowance to pay for coverage
16 for themselves and their dependents in the health insurance plan
17 offered by the State and Education Employees Group Insurance Board
18 or the self-insured plan offered by the school district and may
19 receive the excess flexible benefit allowance as taxable
20 compensation as provided in Section 26-105 of this title.

21 D. The administrator of the cafeteria plan shall maintain a
22 separate account for each participating school district employee.
23 School districts shall forward the school district employee flexible
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1 benefit allowance amounts to the administrator for elected purchases
2 of cafeteria plan benefits.

3 E. Expenses included in an employee's salary adjustment
4 agreement pursuant to the cafeteria plan shall be limited to
5 expenses for:

6 1. Premiums for any health insurance, health maintenance
7 organization, life insurance, long term disability insurance, dental
8 insurance or high deductible health benefit plan offered to
9 employees and their dependents; and

10 2. All other eligible benefit programs offered under 26 U.S.C.
11 Section 125 of the United States Code.

12 F. The flexible benefit allowance amount established in Section
13 26-105 of this title shall not be included as income in computation
14 of state retirement contributions and benefits or as part of the
15 Minimum Salary Schedule for teachers established in Section ~~18-~~
16 ~~114.12~~ 18-114.14 of this title. School districts shall not consider
17 the flexible benefit allowance amount as income for eligible support
18 employees and thereby shall not reduce the salary of an eligible
19 support employee.

20 SECTION 3. AMENDATORY 70 O.S. 2021, Section 26-105, is
21 amended to read as follows:

22 Section 26-105. A. The flexible benefit allowance shall be
23 used by a school district employee who is participating in the
24 cafeteria plan to purchase major medical health care plan coverage

1 offered by the school district through a cafeteria plan. Any excess
2 flexible benefit allowance over the cost of the major medical
3 coverage purchased by the employee who is participating in the
4 cafeteria plan may be used to purchase any of the additional
5 benefits offered by the school district or may be taken as taxable
6 compensation as provided in subsection C of this section. Certified
7 personnel who choose not to participate in the school-district-
8 sponsored cafeteria plan shall receive Sixty-nine Dollars and
9 seventy-one cents (\$69.71) per month as taxable compensation in lieu
10 of the flexible benefit allowance amount provided in subsection B of
11 this section. Support personnel who choose not to participate in
12 the school-district-sponsored cafeteria plan shall receive One
13 Hundred Eighty-nine Dollars and sixty-nine cents (\$189.69) per month
14 as taxable compensation in lieu of the flexible benefit allowance
15 amount provided in subsection B of this section.

16 B. Each eligible school district employee shall be credited
17 annually with a specified amount as a flexible benefit allowance
18 which shall be available for the purchase of benefits. Each
19 eligible school district employee, who has dependents and elects to
20 enroll them in the cafeteria plan offered by the school district,
21 shall be credited One Hundred Fifty-four Dollars and ninety cents
22 (\$154.90) monthly as an additional flexible benefit allowance for
23 the purchase of major medical health care coverage through the
24 cafeteria plan for his or her dependents. The amount of the

1 flexible benefit allowance credited to each eligible school district
2 employee shall be communicated to the employee prior to the
3 enrollment period for each plan year.

4 1. For the fiscal year ending June 30, 2002, the flexible
5 benefit allowance amount for certified personnel shall be no less
6 than Sixty-nine Dollars and seventy-one cents (\$69.71) per month.
7 For the fiscal year ending June 30, 2002, the flexible benefit
8 allowance amount for support personnel shall be no less than One
9 Hundred Eighty-nine Dollars and sixty-nine cents (\$189.69) per
10 month.

11 2. For the fiscal year ending June 30, 2004, the flexible
12 benefit allowance amount for certified personnel shall be no less
13 than fifty-eight percent (58%) of the premium amount for the
14 HealthChoice (Hi) option plan for an individual offered by the State
15 and Education Employees Group Insurance Board. For the fiscal year
16 ending June 30, 2003, and each fiscal year thereafter, the flexible
17 benefit allowance amount for support personnel shall be no less than
18 one hundred percent (100%) of the premium amount for the
19 HealthChoice (Hi) option plan for an individual offered by the State
20 and Education Employees Group Insurance Board.

21 3. For the fiscal year ending June 30, 2005, and each fiscal
22 year thereafter, the flexible benefit allowance amount for certified
23 personnel shall be no less than one hundred percent (100%) of the
24 premium amount for the HealthChoice (Hi) option plan for an

1 individual offered by the State and Education Employees Group
2 Insurance Board.

3 C. If a school district employee who is participating in the
4 cafeteria plan elects benefits whose sum total is less than the
5 flexible benefit allowance, the employee shall receive any excess
6 flexible benefit allowance as taxable compensation. Such taxable
7 compensation shall be paid in substantially equal amounts each pay
8 period over the plan year. Except as otherwise provided for in
9 subsection D of this section, on termination during a plan year, a
10 participating school district employee shall have no right to
11 receive any taxable cash compensation allocated to the portion of
12 the plan year after the termination of the employee.

13 D. In cases where the employee of a school district fulfills
14 the terms of their contract and terminates employment for the
15 subsequent year, the employee shall be entitled to the flexible
16 benefit allowance for the remainder of the current benefit term.
17 For purposes of this subsection, "benefit term" shall mean the
18 twelve-month period after the initiation of benefits for the
19 position held by the employee.

20 E. Each school district employee shall make an annual election
21 of benefits under the plan during an enrollment period to be held
22 prior to the beginning of each plan year. The enrollment period
23 dates will be determined annually and will be announced by the
24 school district, providing the enrollment period shall end no later

1 than thirty (30) days before the beginning of the plan year. Each
2 school district employee shall make an irrevocable advance election
3 for the plan year or the remainder of the plan year pursuant to
4 procedures the school district shall prescribe.

5 F. The school district shall prescribe the forms that school
6 district employees shall be required to use in making their
7 elections, and may prescribe deadlines and other procedures for
8 filing the elections.

9 G. School district employees hired after the closing of the
10 enrollment period shall be allowed to make an election as provided
11 in this act.

12 H. A district board of education shall have the option of
13 providing a flexible benefit allowance to the superintendent of the
14 school district in an amount not more than the amount of the
15 flexible benefit allowance established for certified personnel in
16 subsection B of this section. Funding for the flexible benefit
17 allowance for a superintendent shall be provided through local
18 revenue.

19 SECTION 4. This act shall become effective November 1, 2022.
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