

1 STATE OF OKLAHOMA

2 1st Session of the 47th Legislature (1999)

3 CONFERENCE COMMITTEE SUBSTITUTE
4 FOR ENGROSSED

5 HOUSE BILL NO. 1363

6 By: Begley, Wells, Seikel,
7 Roberts, Weaver, Tyler and
8 Paulk of the House

9 and

10 Hobson and Morgan of the
11 Senate

12 CONFERENCE COMMITTEE SUBSTITUTE

13 An Act relating to schools; amending Sections 5, 6,
14 and 7, Chapter 380, O.S.L. 1998 (70 O.S. Supp. 1998,
15 Sections 26-103, 26-104, and 26-105), which relate to
16 the Education Flexible Benefit Allowance Act;
17 modifying definitions; adding definition; providing
18 for annual appropriations; stating basis for funding;
19 modifying requirement for offering certain health
20 care plan; providing for credit of flexible benefit
21 allowance amount to employees; modifying election for
22 use of flexible benefit allowance; deleting deadline
23 for establishing a cafeteria plan; prohibiting
24 flexible benefit allowance amount from being
25 considered as salary for teachers and support
26 employees; requiring flexible benefit allowance
27 amount to be used to purchase certain benefits;
28 modifying certain option; modifying credit of certain
29 flexible benefit allowance amount; modifying amount
30 of flexible benefit allowance; clarifying certain
31 language; clarifying statutory cites; providing for
32 increasing support employees' flexible benefit
allowance contingent upon enactment of certain
legislation; stating increased amount; making
enactment of certain section contingent; repealing
Sections 8 and 9, Chapter 380, O.S.L. 1998 (70 O.S.
Supp. 1998, Sections 26-106 and 26-107), which relate
to the flexible benefit allowance for school
employees; providing for codification; providing for
noncodification; providing an effective date; and
declaring an emergency.

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

SECTION 1. AMENDATORY Section 5, Chapter 380, O.S.L.
1998 (70 O.S. Supp. 1998, Section 26-103), is amended to read as
follows:

1 Section 26-103. The following words and phrases as used in this
2 act, unless a different meaning is clearly required by the context,
3 shall have the following meanings:

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

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

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

11 4. "~~Other Support~~ personnel" means full-time employees of a
12 school district ~~that are not defined as classified~~ as determined by
13 the standard period of labor which is customarily understood to
14 constitute full-time employment for the type of services performed
15 by the employee who are employed a minimum of six (6) hours per day
16 for a minimum of one hundred seventy-two (172) days and who provide
17 services not performed by certified personnel, which is necessary
18 for the efficient and satisfactory functioning of a school district,
19 and shall include cooks, janitors, maintenance personnel, bus
20 drivers, noncertified or nonregistered nurses, noncertified
21 librarians, and clerical employees of a school district but shall
22 not include adult education instructors or adult coordinators
23 employed by area vocational-technical school districts;

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

26 6. "School district" means the public school districts and area
27 vocational-technical school districts of this state;

28 7. "School district employee" means ~~classified~~ certified or
29 ~~other support~~ personnel as defined in this act; ~~and~~

30 8. "~~Classified Certified~~ personnel" means a certified person
31 employed on a full-time basis to serve as a teacher, principal,
32 supervisor, administrator, counselor, librarian, or certified or

1 registered nurse, but shall not mean a superintendent of a school
2 district; and

3 9. "Self-insured" means a health care program in which the
4 school district funds the benefit plans from its own resources
5 without purchasing insurance and which may be administered by the
6 school district or by an outside administrator under contract with
7 the school district for administrative services. The State Board of
8 Education shall prepare by May 1st of each year a list of each
9 school district in the state that is self-insured and the number of
10 support personnel and the number of certified personnel that are
11 participating in each self-insured school district plan.

12 SECTION 2. AMENDATORY Section 6, Chapter 380, O.S.L.
13 1998 (70 O.S. Supp. 1998, Section 26-104), is amended to read as
14 follows:

15 Section 26-104. A. ~~On or before July 1, 1998, the state~~ The
16 Legislature shall annually appropriate adequate funding to the State
17 Board of Education and the State Board of Vocational and Technical
18 Education for the purpose of providing a flexible benefit allowance
19 to school district employees, ~~excluding school district~~
20 ~~superintendents,~~ pursuant to this act. ~~Said Boards~~ The funding
21 shall be based on the number of eligible school district employees
22 employed by a school district which is participating in the health
23 insurance plan offered by the State and Education Employees Group
24 Insurance Board or is self-insured as counted on May 1st of each
25 year. Each Board shall disburse the flexible benefit allowance
26 funds in appropriate amounts to school districts.

27 B. ~~On or before July 1, 1998, Every school districts~~ district
28 shall establish, ~~if not already in existence,~~ or make available to
29 school district employees a cafeteria plan pursuant to 26 U.S.C.
30 Section 125 of the United States Code. The plan shall offer, as a
31 benefit, ~~a school district employee major medical insurance~~ health
32

1 care plan coverage, ~~with the option of having amounts contributed by~~
2 ~~the.~~

3 C. The flexible benefit allowance amount established pursuant
4 to Section 26-105 of this act being applied to payment of such
5 coverage title shall be credited to each eligible school district
6 employee. School district employees shall elect whether to use the
7 flexible benefit allowance to ~~purchase benefits~~ pay for coverage in
8 the ~~cafeteria~~ health insurance plan offered by the State and
9 Education Employees Group Insurance Board or the self-insured plan
10 offered by the school district, or to receive the flexible benefit
11 allowance as taxable compensation.

12 D. The administrator of the cafeteria plan shall ~~have~~ maintain
13 a separate account for each participating school district employee.
14 School districts shall ~~transfer applicable~~ forward the school
15 district employee flexible benefit allowance amounts to the
16 administrator for elected purchases of cafeteria plan benefits.

17 ~~C. If the school districts are unable to establish the~~
18 ~~cafeteria plan for purposes of subsection B of this section by July~~
19 ~~1, 1998, then they shall provide monthly beginning July 1, 1998, to~~
20 ~~the school district employees, until such cafeteria plan is~~
21 ~~established, the flexible benefit allowance as taxable compensation.~~

22 ~~D.~~ E. Expenses included in an employee's salary adjustment
23 agreement pursuant to the cafeteria plan shall ~~include~~ be limited to
24 expenses for:

25 1. Premiums for any health insurance, health maintenance
26 organization, life insurance, long term disability insurance, dental
27 insurance or high deductible health benefit plan offered to
28 employees and their dependents; and

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

31 ~~E. F. Whether or not the school district employee elects to~~
32 ~~receive the~~ The flexible benefit allowance as taxable compensation,

1 ~~the flexible benefit allowance~~ amount established in Section 26-105
2 of this title shall not be included as income in computation of
3 state retirement contributions and benefits or as part of the
4 ~~minimum salary schedule~~ Minimum Salary Schedule for teachers
5 established in Section 18-114.7 of this title. School districts
6 shall not consider the flexible benefit allowance amount as income
7 for eligible support employees and thereby shall not reduce the
8 salary of an eligible support employee.

9 SECTION 3. AMENDATORY Section 7, Chapter 380, O.S.L.
10 1998 (70 O.S. Supp. 1998, Section 26-105), is amended to read as
11 follows:

12 Section 26-105. A. ~~The~~ At a minimum, the flexible benefit
13 allowance ~~may~~ shall be used by a school district employee that is
14 participating in the cafeteria plan to purchase major medical health
15 care plan coverage offered by the school district through a
16 cafeteria plan, and any excess flexible benefit allowance may be
17 used to purchase any of the additional benefits offered by the
18 school district ~~and if such allowance is used to purchase benefits,~~
19 ~~then such amounts shall not be included as taxable income of the~~
20 ~~school district employee.~~ A school district employee, ~~regardless if~~
21 ~~he or she~~ that is not participating in the school district sponsored
22 ~~major medical insurance health care~~ cafeteria plan, may elect to
23 receive the flexible benefit allowance as taxable compensation.

24 B. Each eligible school district employee, ~~other than~~
25 ~~superintendents,~~ shall be credited annually with a specified amount
26 as a flexible benefit allowance which shall be available for the
27 purchase of benefits. The amount of the flexible benefit allowance
28 credited to each ~~participant~~ eligible school district employee shall
29 be communicated to ~~him or her~~ the employee prior to the enrollment
30 period for each plan year. For the fiscal year ending June 30, ~~1999~~
31 2000, the ~~amount of a classified personnel's~~ flexible benefit
32 allowance amount for certified personnel shall be no less than

1 ~~Fifty-seven Dollars (\$57.00)~~ Fifty-seven Dollars and eighty-three
2 cents (\$57.83) per month. ~~For~~ Except as otherwise provided for in
3 Section 4 of this act, for the fiscal year ending June 30, ~~1999~~
4 2000, the ~~amount of the~~ flexible benefit allowance amount for ~~other~~
5 support personnel, as defined in this act, shall be no less than
6 ~~Eighty-five Dollars (\$85.00)~~ Eighty-seven Dollars and sixty-two
7 cents (\$87.62) per month.

8 C. If a ~~participant~~ school district employee who is
9 participating in the cafeteria plan elects benefits whose sum total
10 ~~of benefit prices~~ is less than ~~his or her~~ the flexible benefit
11 allowance, ~~he or she~~ the employee shall receive any excess flexible
12 benefit allowance as taxable compensation. Such taxable
13 compensation ~~will~~ shall be paid in substantially equal amounts each
14 pay period over the plan year. On termination during a plan year, a
15 ~~participant~~ participating school district employee shall have no
16 right to receive any such taxable cash compensation allocated to the
17 portion of the plan year after the ~~participant's~~ termination of the
18 employee.

19 D. Each school district employee shall make an annual election
20 of benefits under the plan during an enrollment period to be held
21 prior to the beginning of each plan year. The enrollment period
22 dates will be determined annually and will be announced by the
23 school district, providing the enrollment period shall end no later
24 than thirty (30) days before the beginning of the plan year. Each
25 such school district employee shall make an irrevocable advance
26 election for the plan year or the remainder thereof pursuant to such
27 procedures as the school district shall prescribe.

28 E. The school district shall prescribe the forms that
29 ~~participants will~~ school district employees shall be required to use
30 in making their elections, and may prescribe deadlines and other
31 procedures for filing the elections.

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1 F. School district employees hired after the closing of the
2 enrollment period shall be allowed to make an election as provided
3 in this act.

4 G. ~~The~~ A school district shall have the option of providing a
5 flexible benefit allowance to the superintendent of that school
6 ~~district superintendent up to the total~~ in an amount not more than
7 the amount of the flexible benefit allowance given to classified
8 established for certified personnel in subsection B of this section.
9 Funding for the ~~superintendent's~~ flexible benefit allowance for a
10 superintendent shall be ~~funded by~~ provided through local revenue.

11 SECTION 4. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 26-108 of Title 70, unless there
13 is created a duplication in numbering, reads as follows:

14 If the provisions of Section 29 of House Bill No. 1759 of the
15 1st Session of the 47th Oklahoma Legislature and if all of the
16 provisions in House Bill No. 1513 of the 1st Session of the 47th
17 Oklahoma Legislature become law, the flexible benefit allowance
18 amount for support personnel for the fiscal year ending June 30,
19 2000, set at Eighty-seven Dollars and sixty-two cents (\$87.62) per
20 month in subsection B of Section 26-105 of Title 70 of the Oklahoma
21 Statutes shall be increased, and the total amount for the flexible
22 benefit allowance for support personnel shall be no less than One
23 Hundred Fifty Dollars and sixty-six cents (\$150.66) per month.

24 SECTION 5. NEW LAW A new section of law not to be
25 codified in the Oklahoma Statutes reads as follows:

26 The provisions of Section 4 of this act shall become effective
27 only if the provisions of Section 29 of House Bill No. 1759 of the
28 1st Session of the 47th Oklahoma Legislature and if all of the
29 provisions in House Bill No. 1513 of the 1st Session of the 47th
30 Oklahoma Legislature become law. If the provisions of Section 4 of
31 this act become effective pursuant to this section, said section
32 shall become operative July 1, 1999.

1 SECTION 6. REPEALER Sections 8 and 9, Chapter 380,
2 O.S.L. 1998 (70 O.S. Supp. 1998, Sections 26-106 and 26-107), are
3 hereby repealed.

4 SECTION 7. This act shall become effective July 1, 1999.

5 SECTION 8. It being immediately necessary for the preservation
6 of the public peace, health and safety, an emergency is hereby
7 declared to exist, by reason whereof this act shall take effect and
8 be in full force from and after its passage and approval.

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