

ENROLLED HOUSE
BILL NO. 1363

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

and

Hobson and Morgan of the
Senate

An Act relating to schools; amending Sections 5, 6, and 7, Chapter 380, O.S.L. 1998 (70 O.S. Supp. 1998, Sections 26-103, 26-104, and 26-105), which relate to the Education Flexible Benefit Allowance Act; modifying definitions; adding definition; providing for annual appropriations; stating basis for funding; modifying requirement for offering certain health care plan; providing for credit of flexible benefit allowance amount to employees; modifying election for use of flexible benefit allowance; deleting deadline for establishing a cafeteria plan; prohibiting flexible benefit allowance amount from being considered as salary for teachers and support employees; requiring flexible benefit allowance amount to be used to purchase certain benefits; modifying certain option; modifying credit of certain flexible benefit allowance amount; modifying amount of flexible benefit allowance; clarifying certain language; clarifying statutory cites; providing for 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:

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

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;

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

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

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

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

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

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

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

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

Section 26-104. A. ~~On or before July 1, 1998, the state~~ The Legislature shall annually appropriate adequate funding to the State Board of Education and the State Board of Vocational and Technical Education for the purpose of providing a flexible benefit allowance to school district employees, ~~excluding school district superintendents,~~ pursuant to this act. ~~Said Boards~~ The funding shall be based on the number of eligible school district employees employed by a school district which is participating in the health insurance plan offered by the State and Education Employees Group

Insurance Board or is self-insured as counted on May 1st of each year. Each Board shall disburse the flexible benefit allowance funds in appropriate amounts to school districts.

~~B. On or before July 1, 1998, Every school districts district shall establish, if not already in existence, or make available to school district employees a cafeteria plan pursuant to 26 U.S.C. Section 125 of the United States Code. The plan shall offer, as a benefit, a school district employee major medical insurance health care plan coverage, with the option of having amounts contributed by the.~~

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

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

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

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

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

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

~~E. F.~~ Whether or not the school district employee elects to receive the The flexible benefit allowance as taxable compensation, the flexible benefit allowance amount established in Section 26-105 of this title shall not be included as income in computation of state retirement contributions and benefits or as part of the minimum salary schedule Minimum Salary Schedule for teachers established in Section 18-114.7 of this title. School districts shall not consider the flexible benefit allowance amount as income for eligible support employees and thereby shall not reduce the salary of an eligible support employee.

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

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

B. Each eligible school district employee, ~~other than superintendents,~~ shall be credited annually with a specified amount as a flexible benefit allowance which shall be available for the purchase of benefits. The amount of the flexible benefit allowance credited to each ~~participant~~ eligible school district employee shall be communicated to ~~him or her~~ the employee prior to the enrollment period for each plan year. For the fiscal year ending June 30, ~~1999~~ 2000, the ~~amount of a classified personnel's~~ flexible benefit allowance amount for certified personnel shall be no less than ~~Fifty-seven Dollars (\$57.00)~~ Fifty-seven Dollars and eighty-three cents (\$57.83) per month. ~~For~~ Except as otherwise provided for in Section 4 of this act, for the fiscal year ending June 30, ~~1999~~ 2000, the ~~amount of the~~ flexible benefit allowance amount for ~~other support personnel, as defined in this act,~~ shall be no less than ~~Eighty-five Dollars (\$85.00)~~ Eighty-seven Dollars and sixty-two cents (\$87.62) per month.

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

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

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

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

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

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

If the provisions of Section 29 of House Bill No. 1759 of the 1st Session of the 47th Oklahoma Legislature and if all of the provisions in House Bill No. 1513 of the 1st Session of the 47th Oklahoma Legislature become law, the flexible benefit allowance amount for support personnel for the fiscal year ending June 30, 2000, set at Eighty-seven Dollars and sixty-two cents (\$87.62) per month in subsection B of Section 26-105 of Title 70 of the Oklahoma Statutes shall be increased, and the total amount for the flexible benefit allowance for support personnel shall be no less than One Hundred Fifty Dollars and forty-two cents (\$150.42) per month.

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

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

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

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

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

Passed the House of Representatives the 28th day of May, 1999.

Speaker of the House of
Representatives

Passed the Senate the 28th day of May, 1999.

President of the Senate