

STATE OF OKLAHOMA

2nd Session of the 49th Legislature (2004)

HOUSE BILL HB2519:

Harrison

AS INTRODUCED

An Act relating to schools; amending 70 O.S. 2001, Sections 26-104, as amended by Section 1, Chapter 418, O.S.L. 2002 and 26-105, as last amended by Section 32, Chapter 415, O.S.L. 2003 (70 O.S. Supp. 2003, Sections 26-104 and 26-105), which relate to the Larry Dickerson Education Flexible Benefits Allowance Act; modifying funding responsibilities; requiring certain adjustments in the flexible benefit allowance amount; requiring credit of the full flexible benefit allowance amount for school employees who make certain elections; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY 70 O.S. 2001, Section 26-104, as amended by Section 1, Chapter 418, O.S.L. 2002 (70 O.S. Supp. 2003, Section 26-104), is amended to read as follows:

Section 26-104. A. ~~The Legislature shall annually appropriate adequate funding to the State Board of Education and the State Board of Career and Technology Education~~ Funding for the purpose of providing a flexible benefit allowance to school district employees pursuant to this act shall be made to the State Board of Education and the State Board of Career and Technology Education. 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. Every school district shall establish 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, major medical health care plan coverage.

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

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

E. Expenses included in an employee's salary adjustment agreement pursuant to the cafeteria plan shall 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.

F. 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 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 2. AMENDATORY 70 O.S. 2001, Section 26-105, as last amended by Section 32, Chapter 415, O.S.L. 2003 (70 O.S. Supp. 2003, Section 26-105), is amended to read as follows:

Section 26-105. A. The flexible benefit allowance shall be used by a school district employee who is participating in the cafeteria plan to purchase major medical health care plan coverage offered by the school district through a cafeteria plan. Any excess flexible benefit allowance over the cost of the major medical coverage purchased by the employee who is participating in the cafeteria plan may be used to purchase any of the additional benefits offered by the school district or may be taken as taxable compensation as provided in subsection C of this section. Certified personnel who choose not to participate in the school-district-sponsored cafeteria plan shall receive Sixty-nine Dollars and seventy-one cents (\$69.71) per month as taxable compensation in lieu of the flexible benefit allowance amount provided in subsection B of this section. Support personnel who choose not to participate in the school-district-sponsored cafeteria plan shall receive One Hundred Eighty-nine Dollars and sixty-nine cents (\$189.69) per month as taxable compensation in lieu of the flexible benefit allowance amount provided in subsection B of this section.

B. Each eligible school district employee shall be credited ~~annually~~ monthly 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 eligible school district employee shall be adjusted when the flexible benefit allowance amount is changed pursuant to this section at the end of a fiscal year or after the premium amount for the HealthChoice (Hi) option plan is changed and implemented. The amount of the flexible benefit allowance credited to each eligible

school district employee shall be communicated to the employee prior to the enrollment period for each plan year.

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

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

3. For the fiscal year ending June 30, 2005, and each fiscal year thereafter, the flexible benefit allowance amount for certified personnel shall be no less than eighty-three percent (83%) of the premium amount for the HealthChoice (Hi) option plan for an individual offered by the State and Education Employees Group Insurance Board.

C. If a school district employee who is participating in the cafeteria plan elects benefits whose sum total is less than the flexible benefit allowance, the employee shall receive any excess flexible benefit allowance as taxable compensation. Such taxable compensation shall be paid in substantially equal amounts each pay period over the plan year. On termination during a plan year, a 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 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~~ provided 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. A school district employee who is the spouse of another school district employee that elects to be covered under the plan as a dependent of the spouse shall be credited with the full amount of the flexible benefit allowance as set forth in subsection B of this section for the purchase of dependent benefits.

E. The school district shall prescribe the forms that 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. A district board of education shall have the option of providing a flexible benefit allowance to the superintendent of the school district in an amount not more than the amount of the flexible benefit allowance established for certified personnel in subsection B of this section. Funding for the flexible benefit allowance for a superintendent shall be provided through local revenue.

SECTION 3. This act shall become effective July 1, 2004.

SECTION 4. 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.

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