

STATE OF OKLAHOMA

2nd Session of the 50th Legislature (2006)

HOUSE BILL 2777

By: McPeak

AS INTRODUCED

An Act relating to education employees; amending 70 O.S. 2001, Sections 26-103 and 26-105, as last amended by Section 2, Chapter 119, O.S.L. 2004 (70 O.S. Supp. 2005, Section 26-105), which relate to the Larry Dickerson Education Flexible Benefits Allowance Act; adding definition; deleting obsolete language; providing flexible benefit allowance amount for dependents of school district employees; amending 74 O.S. 2001, Section 1316.3, as last amended by Section 3, Chapter 198, O.S.L. 2005 (74 O.S. Supp. 2005, Section 1316.3), which relates to health insurance benefits for persons retired pursuant to the Teachers' Retirement System of Oklahoma; changing maximum health insurance benefit payment amount; requiring the Legislature to appropriate adequate funding for the benefit payment; providing for calculation of funding amount; 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 26-103, 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. "Support personnel" means full-time employees of a school district 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 technology center 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 technology center school districts of this state;

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

8. "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; and

10. "Dependent" means the spouse of a school district employee or any unmarried child:

- a. under the age of nineteen (19) years, regardless of residence, provided that the school district employee is primarily responsible for their support, including:
  - (1) an adopted child, and
  - (2) a stepchild or child who lives with the school district employee in a regular parent-child relationship,
- b. under the age of twenty-five (25) years and who is dependent upon the school district employee for support, who is enrolled as a full-time student at an accredited secondary school, college, university, or institution of higher learning accredited by the State Department of Education, State Board of Career and Technology Education, Oklahoma State Regents for Higher Education, or the Oklahoma Board of Private Vocational Schools, or
- c. regardless of age who is incapable of self-support because of mental or physical incapacity that existed prior to reaching the age of nineteen (19) years.

SECTION 2. AMENDATORY 70 O.S. 2001, Section 26-105, as last amended by Section 2, Chapter 119, O.S.L. 2004 (70 O.S. Supp. 2005, 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 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 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.~~ 2. 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 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 plus one of the additional amounts as follows for each eligible school district employee who elects to include one or more dependents:

- a. for a spouse, seventy-five percent (75%) of the price of the HealthChoice (Hi) option benefit plan available for coverage of a spouse,
- b. for one child, seventy-five percent (75%) of the price of the HealthChoice (Hi) option benefit plan available for coverage of one child,
- c. for two or more children, seventy-five percent (75%) of the price of the HealthChoice (Hi) option benefit plan available for coverage of two or more children,
- d. for a spouse and one child, seventy-five percent (75%) of the price of the HealthChoice (Hi) option benefit plan available for coverage of a spouse and one child,  
or
- e. for a spouse and two or more children, seventy-five percent (75%) of the price of the HealthChoice (Hi) option benefit plan available for coverage of a spouse and two or more children.

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 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 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. AMENDATORY 74 O.S. 2001, Section 1316.3, as last amended by Section 3, Chapter 198, O.S.L. 2005 (74 O.S. Supp. 2005, Section 1316.3), is amended to read as follows:

Section 1316.3 A. Any person who retires pursuant to the provisions of the Teachers' Retirement System of Oklahoma with at

least ten (10) years of creditable service or who has a vested benefit with at least ten (10) years of creditable service, pursuant to the provisions of the Teachers' Retirement System of Oklahoma may continue in force the health and dental insurance benefits authorized by the provisions of the State and Education Employees Group Insurance Act if such election to continue in force or begin is made within thirty (30) days from the date of termination of service. Except as provided in subsection E of Sections 5-117.5 and 14-108.1 of Title 70 of the Oklahoma Statutes and Section 840-2.27I of this title and subsection K of this section, health and dental insurance coverage may not be reinstated at a later time if the election to continue in force or begin coverage is declined. Vested persons who have terminated service and are not receiving benefits and effective July 1, 1996, nonvested persons who have terminated service with more than ten (10) years of participating service with a qualifying employer, who within thirty (30) days from the date of termination of service, elect to continue such coverage, shall pay the full cost of said insurance premium at the rate and pursuant to the terms and conditions established by the Board.

B. 1. Health insurance benefit plans offered pursuant to this section shall include:

- a. indemnity plans offered through the State and Education Employees Group Insurance Board,
- b. managed care plans offered as alternatives to the indemnity plans,
- c. Medicare supplements offered through the State and Education Employees Group Insurance Board,
- d. Medicare risk-sharing contracts offered as alternatives to the Medicare supplements offered through the State and Education Employees Group Insurance Board, and

- e. any other employer-provided health insurance benefit plans if the employer does not participate in the plans offered pursuant to the State and Education Employees Group Insurance Act.

2. Health insurance benefit plans offered pursuant to this section shall provide prescription drug benefits, except for plans designed pursuant to the Medicare Prescription Drug Improvement and Modernization Act of 2003, which may or may not contain prescription drug benefits, for which provision of prescription drug benefits is optional, and except for plans offered pursuant to subparagraph e of paragraph 1 of this subsection.

C. A retired person who:

1. Is receiving benefits from the Teachers' Retirement System of Oklahoma after September 30, 1988, is under sixty-five (65) years of age and is not otherwise eligible for Medicare and pursuant to subsection A of this section elects to begin or to continue the health insurance plan;

2. Is receiving benefits from the Teachers' Retirement System of Oklahoma after June 30, 1993, is under sixty-five (65) years of age and is not otherwise eligible for Medicare and participates in a health insurance plan provided by a participating education employer of the Teachers' Retirement System of Oklahoma other than a health insurance plan offered pursuant to the State and Education Employees Group Insurance Act or an alternative health plan offered pursuant to the Oklahoma State Employees Benefits Act;

3. Is receiving benefits from the Teachers' Retirement System of Oklahoma after September 30, 1988, made contributions to the system and is sixty-five (65) years of age or older, or who is under sixty-five (65) years of age and is eligible for Medicare and is a participant in the State and Education Employees Group Insurance Act and elects coverage under the Medicare supplement offered by the State and Education Employees Group Insurance Board; or



4. Is receiving benefits from the Teachers' Retirement System of Oklahoma after June 30, 1993, made contributions to the system and is sixty-five (65) years of age or older, or who is under sixty-five (65) years of age and is eligible for Medicare and participates in a health insurance plan provided by a participating education employer of the Teachers' Retirement System of Oklahoma other than a health insurance plan offered pursuant to the State and Education Employees Group Insurance Act or an alternative health plan offered pursuant to the Oklahoma State Employees Benefits Act and elects coverage under the Medicare supplement offered by the State and Education Employees Group Insurance Board, shall have the amount determined pursuant to subsection E of this section, ~~or the premium rate of the health insurance benefit plan, whichever is less,~~ paid by the Teachers' Retirement System of Oklahoma from funds appropriated pursuant to subsection L of this section. ~~If the amount paid by the Teachers' Retirement System of Oklahoma does not cover the full cost of the health insurance premium, the retired person shall pay the remaining amount if the retired person wants to continue the coverage.~~

D. The Teachers' Retirement System shall pay from funds appropriated pursuant to subsection L of this section the amount due pursuant to the provisions of subsection C of this section as follows:

1. For those individuals participating in plans provided through the State and Education Employees Group Insurance Act, payment shall be made to the Board pursuant to the provisions of subsection I of this section; or

2. For those individuals participating in plans provided through a participating education employer of the Teachers' Retirement System of Oklahoma other than a health insurance plan offered pursuant to the State and Education Employees Group Insurance Act, payment shall be made to the education employer.

E. Beginning July 1, ~~2000~~ 2006, the maximum benefit payable by the Teachers' Retirement System of Oklahoma from funds appropriated pursuant to subsection L of this section on behalf of a retired person toward said person's monthly premium for health insurance shall be ~~determined in accordance with the following schedule:~~

	<del>LESS THAN</del>	<del>25 YEARS BUT</del>	<del>GREATER THAN 24.99</del>
<del>AVERAGE SALARY</del>	<del>15 YEARS OF</del>	<del>14.99 YEARS OF</del>	<del>YEARS OF</del>
<del>USED FOR DETERMINING</del>	<del>CREDITABLE</del>	<del>CREDITABLE</del>	<del>CREDITABLE</del>
<del>RETIREMENT ALLOWANCE</del>	<del>SERVICE</del>	<del>SERVICE</del>	<del>SERVICE</del>
<del>Less than \$20,000.00</del>	<del>\$103.00</del>	\$104.00	\$105.00
<del>Less than \$30,000.00 but greater than \$19,999.99</del>	\$102.00	\$103.00	\$104.00
<del>Less than \$40,000.00 but greater than \$29,999.99</del>	\$101.00	\$102.00	\$103.00
<del>\$40,000.00 or greater</del>	\$100.00	\$101.00	\$102.00

one hundred percent (100%) of the premium amount of any of the health insurance benefit plans offered pursuant to subparagraphs a through e of paragraph 1 of subsection B of this section for which the retired person is enrolled.

For plans offered by the State and Education Employees Group Insurance Board, the amount paid pursuant to this subsection shall first be applied to the prescription drug coverage premium, if any. Any remaining amounts shall be applied towards the medical coverage premium.

F. If a person retires and begins to receive benefits from the Teachers' Retirement System of Oklahoma or terminates service and has a vested benefit with the Teachers' Retirement System of Oklahoma, the person may elect, in the manner provided in subsection A of this section, to participate in the dental insurance plan

offered through the State and Education Employees Group Insurance Act. The person shall pay the full cost of the dental insurance.

G. Those persons who are receiving benefits from the Teachers' Retirement System of Oklahoma and have health insurance coverage which on the operative date of this section is being paid by the education entity from which the person retired shall make the election required in subsection A of this section within thirty (30) days of the termination of said health insurance coverage. The person making the election shall give the Board certified documentation satisfactory to the Board of the termination date of the other health insurance coverage.

H. Dependents of a deceased education employee who was on active work status or on a disability leave at the time of death or of a participating retirant or of any person who has elected to receive a vested benefit under the Teachers' Retirement System of Oklahoma may continue the health and dental insurance benefits in force provided said dependents pay the full cost of such insurance and they were covered as eligible dependents at the time of such death and such election is made within thirty (30) days of date of death. The eligibility for said benefits shall terminate for the surviving children when said children cease to qualify as dependents.

I. The amounts required to be paid by the Teachers' Retirement System of Oklahoma pursuant to this section from funds appropriated pursuant to subsection L of this section shall be forwarded no later than the tenth day of each month following the month for which payment is due by the Board of Trustees of the Teachers' Retirement System of Oklahoma to the State and Education Employees Group Insurance Board for deposit in the Education Employees Group Insurance Reserve Fund.

J. The Teachers' Retirement System of Oklahoma shall provide the State and Education Employees Group Insurance Board information

concerning the employers of retired and vested members necessary to allow the State and Education Employees Group Insurance Board to track eligibility for continued coverage.

K. Upon retirement from employment with the Board of Regents of the University of Oklahoma, any person who is or was employed at the George Nigh Rehabilitation Institute and who transferred employment pursuant to Section 3427 of Title 70 of the Oklahoma Statutes, any person who was employed at the Medical Technology and Research Authority and who transferred employment pursuant to Section 7068 of this title, and any person who is a member of the Oklahoma Law Enforcement Retirement System pursuant to the authority of Section 2-314 of Title 47 of the Oklahoma Statutes may participate in the benefits authorized by the provisions of the State and Education Employees Group Insurance Act for retired participants, including health, dental and life insurance benefits, if such election to participate is made within thirty (30) days from the date of termination of employment. Life insurance benefits for any such person who transferred employment shall not exceed the coverage the person had at the time of such transfer. Retirees who are persons transferred employment and who participate pursuant to this paragraph shall pay the premium for elected benefits less any amounts paid by the retirement system pursuant to this section.

L. The Legislature shall annually appropriate adequate funding to the Teachers' Retirement System of Oklahoma for the purpose of making health insurance benefit payments on behalf of retired persons as provided for in subsection C of this section. The funding shall be based on the number of eligible retired persons as determined pursuant to this section and the benefit amount determined pursuant to subsection E of this section.

SECTION 4. This act shall become effective July 1, 2006.

SECTION 5. 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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