

1 STATE OF OKLAHOMA

2 1st Session of the 51st Legislature (2007)

3 COMMITTEE SUBSTITUTE
4 FOR

5 HOUSE BILL NO. 1674

6 By: Thomsen

7 COMMITTEE SUBSTITUTE

8 An Act relating to schools; amending 70 O.S. 2001,
9 Sections 26-104, as amended by Section 1, Chapter
10 418, O.S.L. 2002 and 26-105, as last amended by
11 Section 2, Chapter 119, O.S.L. 2004 (70 O.S. Supp.
12 2006, Sections 26-104 and 26-105), which relate to
13 the Larry Dickerson Education Flexible Benefits
14 Allowance Act; updating statutory citation; updating
15 statutory language; providing for payment of flexible
16 benefit allowance to certain employees for certain
17 period; defining term; and declaring an emergency.

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

19 SECTION 1. AMENDATORY 70 O.S. 2001, Section 26-104, as
20 amended by Section 1, Chapter 418, O.S.L. 2002 (70 O.S. Supp. 2006,
21 Section 26-104), is amended to read as follows:

22 Section 26-104. A. The Legislature shall annually appropriate
23 adequate funding to the State Board of Education and the State Board
24 of Career and Technology Education for the purpose of providing a
flexible benefit allowance to school district employees pursuant to
this act. The funding shall be based on the number of eligible
school district employees employed by a school district which is

1 participating in the health insurance plan offered by the State and
2 Education Employees Group Insurance Board or is self-insured as
3 counted on May 1st of each year. Each Board shall disburse the
4 flexible benefit allowance funds in appropriate amounts to school
5 districts.

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

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

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

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

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

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

10 F. The flexible benefit allowance amount established in Section
11 26-105 of this title shall not be included as income in computation
12 of state retirement contributions and benefits or as part of the
13 Minimum Salary Schedule for teachers established in Section ~~18-114.7~~
14 18-114.12 of this title. School districts shall not consider the
15 flexible benefit allowance amount as income for eligible support
16 employees and thereby shall not reduce the salary of an eligible
17 support employee.

18 SECTION 2. AMENDATORY 70 O.S. 2001, Section 26-105, as
19 last amended by Section 2, Chapter 119, O.S.L. 2004 (70 O.S. Supp.
20 2006, Section 26-105), is amended to read as follows:

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

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

15 B. Each eligible school district employee shall be credited
16 annually with a specified amount as a flexible benefit allowance
17 which shall be available for the purchase of benefits. The amount
18 of the flexible benefit allowance credited to each eligible school
19 district employee shall be communicated to the employee prior to the
20 enrollment period for each plan year.

21 1. For the fiscal year ending June 30, 2002, the flexible
22 benefit allowance amount for certified personnel shall be no less
23 than Sixty-nine Dollars and seventy-one cents (\$69.71) per month.
24 For the fiscal year ending June 30, 2002, the flexible benefit

1 allowance amount for support personnel shall be no less than One
2 Hundred Eighty-nine Dollars and sixty-nine cents (\$189.69) per
3 month.

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

14 3. For the fiscal year ending June 30, 2005, and each fiscal
15 year thereafter, the flexible benefit allowance amount for certified
16 personnel shall be no less than one hundred percent (100%) of the
17 premium amount for the HealthChoice (Hi) option plan for an
18 individual offered by the State and Education Employees Group
19 Insurance Board.

20 C. If a school district employee who is participating in the
21 cafeteria plan elects benefits whose sum total is less than the
22 flexible benefit allowance, the employee shall receive any excess
23 flexible benefit allowance as taxable compensation. Such taxable
24 compensation shall be paid in substantially equal amounts each pay

1 period over the plan year. ~~On~~ Except as otherwise provided for in
2 subsection D of this section, on termination during a plan year, a
3 participating school district employee shall have no right to
4 receive any ~~such~~ taxable cash compensation allocated to the portion
5 of the plan year after the termination of the employee.

6 D. In cases where the employee of a school district fulfills
7 the terms of their contract and terminates employment for the
8 subsequent year the employee shall be entitled to the flexible
9 benefit allowance for the remainder of the current benefit term.
10 For purposes of this subsection, "benefit term" shall mean the
11 twelve-month period after the initiation of benefits for the
12 position held by the employee.

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

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

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

6 ~~G.~~ H. A district board of education shall have the option of
7 providing a flexible benefit allowance to the superintendent of the
8 school district in an amount not more than the amount of the
9 flexible benefit allowance established for certified personnel in
10 subsection B of this section. Funding for the flexible benefit
11 allowance for a superintendent shall be provided through local
12 revenue.

13 SECTION 3. It being immediately necessary for the preservation
14 of the public peace, health and safety, an emergency is hereby
15 declared to exist, by reason whereof this act shall take effect and
16 be in full force from and after its passage and approval.

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