STATE OF OKLAHOMA

2nd Session of the 52nd Legislature (2010)

HOUSE BILL 2832 By: Peters

AS INTRODUCED

An Act relating to schools; amending 70 O.S. 2001, Sections 26-103, 26-104, as last amended by Section 1, Chapter 180, O.S.L. 2007 and 26-105, as last amended by Section 2, Chapter 180, O.S.L. 2007 (70 O.S. Supp. 2009, Sections 26-104 and 26-105), which relate to the Larry Dickerson Education Flexible Benefits Allowance Act; adding definition of dependent; providing for election of dependent coverage by school district employees; allowing school district employees to change dependent coverage under certain conditions; directing school districts to establish forms and procedures for electing dependent coverage; setting the flexible benefit allowance amount for school district employees electing dependent coverage; amending 74 O.S. 2001, Section 1310.1, as last amended by Section 1, Chapter 373, O.S.L. 2004 (74 O.S. Supp. 2009, Section 1310.1), which relates to payment of health insurance premiums by school districts; requiring school districts to pay certain amount of dependent health insurance premiums for certified employees that elect dependent coverage; 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 or unmarried child of the school district employee who is:

a. under the age of twenty-three (23) years, regardless of residence, provided that the employee is primarily responsible for their support including:

(1) an adopted child, or

(2) a stepchild or child who lives with the employee in a regular parent-child relationship, or

b. regardless of age, incapable of self-support because of mental or physical incapacity that existed prior to reaching the age of twenty-three (23) years.

SECTION 2. AMENDATORY 70 O.S. 2001, Section 26-104, as last amended by Section 1, Chapter 180, O.S.L. 2007 (70 O.S. Supp. 2009, 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 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 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. 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 excess flexible benefit allowance as taxable compensation as provided in Section 26-105 of this title.

D. School district employees may elect to have a dependent or dependents of the employee covered under the health insurance plan offered by the State and Education Employees Group Insurance Board or the self-insured plan offered by the school district. The employee may elect to cover all dependent children and not elect to cover the spouse of the employee. The election shall be made at the time the employee becomes enrolled in the plan. If dependent coverage is not elected or if the employee elects to cover all dependent children and not the spouse of the employee at the time an employee becomes enrolled in the plan, dependent coverage or coverage for the spouse cannot be elected until the next enrollment period or until a qualifying event has occurred. Any employee with dependent coverage who has a change in the number of dependents may at the time of the change increase or decrease the number of dependents covered by the plan. Any employee who has no eligible

dependents at the time the employee becomes enrolled may elect dependent coverage at the time the dependency status of the employee changes. The school district shall prescribe the forms and procedures for filing elections for or changing dependent coverage.

E. 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.~~ F. 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.~~ G. 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 18-114.12 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 70 O.S. 2001, Section 26-105, as last amended by Section 2, Chapter 180, O.S.L. 2007 (70 O.S. Supp. 2009, 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. <u>For the fiscal year ending June 30, 2011, the flexible benefit allowance amount for</u>

support personnel who elect to cover dependents shall be not less than one hundred percent (100%) of the premium amount for the HealthChoice (Hi) option plan for an individual plus twenty-five percent (25%) of the premium amount for the HealthChoice (Hi) option plan for covered spouses and dependents offered by the State and Education Employees Group Insurance Board. For the fiscal year ending June 30, 2012, the flexible benefit allowance amount for support personnel who elect to cover dependents shall be not less than one hundred percent (100%) of the premium amount for the HealthChoice (Hi) option plan for an individual plus fifty percent (50%) of the premium amount for the HealthChoice (Hi) option plan for covered spouses and dependents offered by the State and Education Employees Group Insurance Board. For the fiscal year ending June 30, 2013, and each fiscal year thereafter, the flexible benefit allowance amount for support personnel who elect to cover dependents shall be not less than one hundred percent (100%) of the premium amount for the HealthChoice (Hi) option plan for an individual plus seventy-five percent (75%) of the premium amount for the HealthChoice (Hi) option plan for covered spouses and dependents 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. For the fiscal year ending June 30, 2011, the flexible benefit allowance amount for certified personnel who elect to cover dependents shall be not less than one hundred percent (100%) of the premium amount for the HealthChoice (Hi) option plan for an individual plus twenty-five percent (25%) of the premium amount for the HealthChoice (Hi) option plan for covered spouses and dependents offered by the State and Education Employees Group Insurance Board. For the fiscal year ending June 30, 2012, the flexible benefit allowance amount for certified personnel who elect to cover dependents shall be not less than one hundred percent (100%) of the premium amount for the HealthChoice (Hi) option plan for an individual plus fifty percent (50%) of the premium amount for the HealthChoice (Hi) option plan for covered spouses and dependents offered by the State and Education Employees Group Insurance Board. For the fiscal year ending June 30, 2013, and each fiscal year thereafter, the flexible benefit allowance amount for certified personnel who elect to cover dependents shall be not less than one hundred percent (100%) of the premium amount for the HealthChoice (Hi) option plan for an individual plus seventy-five percent (75%) of the premium amount for the HealthChoice (Hi) option plan for covered spouses and dependents 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. Except as otherwise provided for in subsection D of this section, on termination during a plan year, a participating school district employee shall have no right to receive any taxable cash compensation allocated to the portion of the plan year after the termination of the employee.

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

E. 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 school district employee shall make an irrevocable advance election

for the plan year or the remainder of the plan year pursuant to procedures the school district shall prescribe.

F. 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.

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

H. 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 4. AMENDATORY 74 O.S. 2001, Section 1310.1, as last amended by Section 1, Chapter 373, O.S.L. 2004 (74 O.S. Supp. 2009, Section 1310.1), is amended to read as follows:

Section 1310.1 A. If a certified employee elects individual health care coverage under a plan offered by a school district, including a plan offered by the State and Education Employees Group Insurance Board or a self-insured plan offered by the school district, then a school district shall pay for the fiscal year

ending June 30, 2005, and each fiscal year thereafter, no less than one hundred percent (100%) of the premium amount for the HealthChoice ~~(HI)~~ (Hi) option plan for an individual offered by the State and Education Employees Group Insurance Board. For the fiscal year ending June 30, 2011, if a certified employee elects individual and dependent health care coverage under a plan offered by a school district, including a plan offered by the State and Education Employees Group Insurance Board or a self-insured plan, then a school district shall pay no less than one hundred percent (100%) of the premium amount for the HealthChoice (Hi) option plan for an individual plus twenty-five percent (25%) of the premium amount for the HealthChoice (Hi) option plan for covered spouses and dependents offered by the State and Education Employees Group Insurance Board. For the fiscal year ending June 30, 2012, if a certified employee elects individual and dependent health care coverage under a plan offered by a school district, including a plan offered by the State and Education Employees Group Insurance Board or a self-insured plan, then a school district shall pay no less than one hundred percent (100%) of the premium amount for the HealthChoice (Hi) option plan for an individual plus fifty percent (50%) of the premium amount for the HealthChoice (Hi) option plan for covered spouses and dependents offered by the State and Education Employees Group Insurance Board. For the fiscal year ending June 30, 2013, and each fiscal year thereafter, if a certified employee elects

individual and dependent health care coverage under a plan offered by a school district, including a plan offered by the State and Education Employees Group Insurance Board or a self-insured plan, then a school district shall pay no less than one hundred percent (100%) of the premium amount for the HealthChoice (Hi) option plan for an individual plus seventy-five percent (75%) of the premium amount for the HealthChoice (Hi) option plan for covered spouses and dependents offered by the State and Education Employees Group Insurance Board.

The amount a school district is required to pay pursuant to this subsection shall be reduced by the flexible benefit allowance provided for in Section 26-105 of Title 70 of the Oklahoma Statutes.

B. The premium for education entities that participate in the health and dental insurance plans offered through the State and Education Employees Group Insurance Act shall be the same as paid by state agencies for said plans.

C. All education entities that participate in the insurance plans offered through the State and Education Employees Group Insurance Act shall forward the appropriate premiums for each employee to the Board no later than the tenth day of each month following the month for which payment is due.

SECTION 5. This act shall become effective July 1, 2010.

SECTION 6. 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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