

1 STATE OF OKLAHOMA

2 2nd Session of the 56th Legislature (2018)

3 HOUSE BILL 3690

By: Calvey

6 AS INTRODUCED

7 An Act relating to school health insurance; amending
8 70 O.S. 2011, Sections 26-103, as amended by Section
9 1, Chapter 320, O.S.L. 2012 and 26-104, as amended by
10 Section 1, Chapter 321, O.S.L. 2012 (70 O.S. Supp.
11 2017, Sections 26-103 and 26-104), which relate to
12 the Larry Dickerson Education Flexible Benefits
13 Allowance Act; modifying definition; directing
14 flexible benefit allowance funds to be appropriated
15 and disbursed to the State Department of Education;
16 requiring Department to pay funds directly to certain
17 insurance plans; replacing school district duty with
18 Department duty; and providing an effective date.

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

16 SECTION 1. AMENDATORY 70 O.S. 2011, Section 26-103, as
17 amended by Section 1, Chapter 320, O.S.L. 2012 (70 O.S. Supp. 2017,
18 Section 26-103), is amended to read as follows:

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

22 1. "Benefit" means any of the benefits which may be purchased
23 or are required to be purchased under the cafeteria plan;

1 2. "Cafeteria plan" means a benefit plan established pursuant
2 to 26 U.S.C. Section 125;

3 3. "Flexible benefit allowance" means amounts credited by the
4 ~~school district~~ State Department of Education for each school
5 district employee for the purchase of benefits under the cafeteria
6 plan;

7 4. "Support personnel" means full-time employees of a school
8 district as determined by the standard period of labor which is
9 customarily understood to constitute full-time employment for the
10 type of services performed by the employees who are employed a
11 minimum of six (6) hours per day for a minimum of one hundred
12 seventy-two (172) days or a minimum of six (6) hours per day for a
13 minimum of one thousand thirty-two (1,032) hours per year and who
14 provide services not performed by certified personnel, which is
15 necessary for the efficient and satisfactory functioning of a school
16 district, and shall include cooks, janitors, maintenance personnel,
17 bus drivers, noncertified or nonregistered nurses, noncertified
18 librarians, and clerical employees of a school district but shall
19 not include adult education instructors or adult coordinators
20 employed by technology center school districts;

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

23 6. "School district" means the public school districts and
24 technology center school districts of this state;

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

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

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

16 SECTION 2. AMENDATORY 70 O.S. 2011, Section 26-104, as
17 amended by Section 1, Chapter 321, O.S.L. 2012 (70 O.S. Supp. 2017,
18 Section 26-104), is amended to read as follows:

19 Section 26-104. A. Each fiscal year, the Legislature shall
20 appropriate adequate funding to the State Board of Education and the
21 State Board of Career and Technology Education for the purpose of
22 providing a flexible benefit allowance to school district employees
23 pursuant to this act. Unless the Legislature appropriates adequate
24 funding specifically for the purpose of providing a flexible benefit

1 allowance to school district employees, the Oklahoma State Board of
2 Education shall allocate from the funds appropriated to the Oklahoma
3 State Board of Education for the support of public school activities
4 an amount to fully fund the flexible benefit allowance, which shall
5 occur first prior to allocating the funds for any other purpose.
6 The amount appropriated for funding and disbursed to ~~school~~
7 ~~districts~~ the State Department of Education shall be calculated by
8 multiplying the number of eligible school district employees
9 employed by school districts which are participating in the health
10 insurance plan offered by the State and Education Employees Group
11 Insurance Board or are self-insured as counted in February of each
12 year by the amount of the flexible benefit allowance credited to the
13 eligible school employees as established in Section 26-105 of this
14 title. Each Board shall disburse the total amount appropriated for
15 funding the flexible benefit allowance to ~~school districts~~ the State
16 Department of Education during the fiscal year. From the total
17 amount appropriated, each Board shall disburse the appropriate
18 amounts, based on the number of eligible school district employees
19 employed by that school district, to ~~each~~ the State Department of
20 Education to be paid directly to the health insurance plan offered
21 by the State and Education Employees Group Insurance Board or the
22 self-insured plan offered by the school district.

23 B. Every school district shall establish or make available to
24 school district employees a cafeteria plan pursuant to 26 U.S.C.

1 Section 125 of the United States Code. The plan shall offer, as a
2 benefit, major medical health care plan coverage.

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

12 D. The administrator of the cafeteria plan shall maintain a
13 separate account for each participating school district employee.
14 ~~School districts~~ The State Department of Education shall forward the
15 school district employee flexible benefit allowance amounts to the
16 administrator for elected purchases of cafeteria plan benefits.

17 E. Expenses included in an employee's salary adjustment
18 agreement pursuant to the cafeteria plan shall be limited to
19 expenses for:

20 1. Premiums for any health insurance, health maintenance
21 organization, life insurance, long term disability insurance, dental
22 insurance or high deductible health benefit plan offered to
23 employees and their dependents; and
24

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

3 F. The flexible benefit allowance amount established in Section
4 26-105 of this title shall not be included as income in computation
5 of state retirement contributions and benefits or as part of the
6 Minimum Salary Schedule for teachers established in Section 18-
7 114.12 of this title. School districts shall not consider the
8 flexible benefit allowance amount as income for eligible support
9 employees and thereby shall not reduce the salary of an eligible
10 support employee.

11 SECTION 3. This act shall become effective November 1, 2018.

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