

CS for SB 268

THE STATE SENATE
Monday, February 28, 2005

Committee Substitute for
Senate Bill No. 268

COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 268 - By: CRUTCHFIELD of
the Senate and BRANNON of the House.

[education employee benefits - flexible benefits -
effective date -
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

1 type of services performed by the employees who are employed a
2 minimum of six (6) hours per day for a minimum of one hundred
3 seventy-two (172) days and who provide services not performed by
4 certified personnel, which is necessary for the efficient and
5 satisfactory functioning of a school district, and shall include
6 cooks, janitors, maintenance personnel, bus drivers, noncertified or
7 nonregistered nurses, noncertified librarians, and clerical
8 employees of a school district but shall not include adult education
9 instructors or adult coordinators employed by technology center
10 school districts;

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

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

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

17 8. "Certified personnel" means a certified person employed on a
18 full-time basis to serve as a teacher, principal, supervisor,
19 administrator, counselor, librarian, or certified or registered
20 nurse, ~~but~~ and shall not mean include a superintendent of a school
21 district if additional state funding above what is needed to fund
22 the flexible benefit allowance for other certified personnel is

1 provided to cover the cost of the superintendent's flexible benefit
2 allowance determined as of July 1 of each year; and

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

12 SECTION 2. AMENDATORY 70 O.S. 2001, Section 26-105, as
13 last amended by Section 2, Chapter 119, O.S.L. 2004 (70 O.S. Supp.
14 2004, Section 26-105), is amended to read as follows:

15 Section 26-105. A. The flexible benefit allowance shall be
16 used by a school district employee who is participating in the
17 cafeteria plan to purchase major medical health care plan coverage
18 offered by the school district through a cafeteria plan. Any excess
19 flexible benefit allowance over the cost of the major medical
20 coverage purchased by the employee who is participating in the
21 cafeteria plan may be used to purchase any of the additional
22 benefits offered by the school district or may be taken as taxable
23 compensation as provided in subsection C of this section. Certified

1 personnel who choose not to participate in the school-district-
2 sponsored cafeteria plan shall receive Sixty-nine Dollars and
3 seventy-one cents (\$69.71) per month as taxable compensation in lieu
4 of the flexible benefit allowance amount provided in subsection B of
5 this section. Support personnel who choose not to participate in
6 the school-district-sponsored cafeteria plan shall receive One
7 Hundred Eighty-nine Dollars and sixty-nine cents (\$189.69) per month
8 as taxable compensation in lieu of the flexible benefit allowance
9 amount provided in subsection B of this section.

10 B. Each eligible school district employee shall be credited
11 annually with a specified amount as a flexible benefit allowance
12 which shall be available for the purchase of benefits. The amount
13 of the flexible benefit allowance credited to each eligible school
14 district employee shall be communicated to the employee prior to the
15 enrollment period for each plan year.

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

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

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

17 C. If a school district employee who is participating in the
18 cafeteria plan elects benefits whose sum total is less than the
19 flexible benefit allowance, the employee shall receive any excess
20 flexible benefit allowance as taxable compensation. Such taxable
21 compensation shall be paid in substantially equal amounts each pay
22 period over the plan year. On termination during a plan year, a
23 participating school district employee shall have no right to

1 receive any such taxable cash compensation allocated to the portion
2 of the plan year after the termination of the employee.

3 D. Each school district employee shall make an annual election
4 of benefits under the plan during an enrollment period to be held
5 prior to the beginning of each plan year. The enrollment period
6 dates will be determined annually and will be announced by the
7 school district, providing the enrollment period shall end no later
8 than thirty (30) days before the beginning of the plan year. Each
9 such school district employee shall make an irrevocable advance
10 election for the plan year or the remainder thereof pursuant to such
11 procedures as the school district shall prescribe.

12 E. The school district shall prescribe the forms that school
13 district employees shall be required to use in making their
14 elections, and may prescribe deadlines and other procedures for
15 filing the elections.

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

19 G. A district board of education shall have the option of
20 providing a flexible benefit allowance to the superintendent of the
21 school district in an amount not more than the amount of the
22 flexible benefit allowance established for certified personnel in
23 subsection B of this section. Funding for the flexible benefit

1 allowance for a superintendent shall be provided through local
2 revenue. However, if additional state funding above what is needed
3 to fund the flexible benefit allowance for other certified personnel
4 is provided to cover the cost of the superintendent's flexible
5 benefit allowance determined as of July 1 of each year, a district
6 board of education shall provide a flexible benefit allowance to the
7 superintendent of the school district in the same amount as the
8 flexible benefit allowance for other certified personnel.

9 SECTION 3. This act shall become effective July 1, 2005.

10 SECTION 4. It being immediately necessary for the preservation
11 of the public peace, health and safety, an emergency is hereby
12 declared to exist, by reason whereof this act shall take effect and
13 be in full force from and after its passage and approval.

14 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS, dated 2-16-05 - DO
15 PASS, As Amended and Coauthored.