

1 STATE OF OKLAHOMA

2 2nd Session of the 51st Legislature (2008)

3 COMMITTEE SUBSTITUTE

4 FOR

5 HOUSE BILL NO. 2632

By: Jordan

6
7 COMMITTEE SUBSTITUTE

8 (Schools - definition - election of dependent

9 coverage - forms and procedures - effective date -

10
11 emergency)

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

15 SECTION 1. AMENDATORY 70 O.S. 2001, Section 26-103, is
16 amended to read as follows:

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

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

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

1 3. "Flexible benefit allowance" means amounts credited by the
2 school district for each school district employee for the purchase
3 of benefits under the cafeteria plan;

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

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

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

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

23 8. "Certified personnel" means a certified person employed on a
24 full-time basis to serve as a teacher, principal, supervisor,

1 administrator, counselor, librarian, or certified or registered
2 nurse, but shall not mean a superintendent of a school district; 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; and

12 10. "Dependent" means the spouse or unmarried child of the
13 school district employee who is:

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

17 (1) an adopted child, or

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

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

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1 SECTION 2. AMENDATORY 70 O.S. 2001, Section 26-104, as
2 last amended by Section 1, Chapter 180, O.S.L. 2007 (70 O.S. Supp.
3 2007, Section 26-104), is amended to read as follows:

4 Section 26-104. A. The Legislature shall annually appropriate
5 adequate funding to the State Board of Education and the State Board
6 of Career and Technology Education for the purpose of providing a
7 flexible benefit allowance to school district employees pursuant to
8 this act. The funding shall be based on the number of eligible
9 school district employees employed by a school district which is
10 participating in the health insurance plan offered by the State and
11 Education Employees Group Insurance Board or is self-insured as
12 counted on May 1st of each year. Each Board shall disburse the
13 flexible benefit allowance funds in appropriate amounts to school
14 districts.

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

19 C. The flexible benefit allowance amount established pursuant
20 to Section 26-105 of this title shall be credited to each eligible
21 school district employee. School district employees shall elect
22 whether to use the flexible benefit allowance to pay for coverage in
23 the health insurance plan offered by the State and Education
24 Employees Group Insurance Board or the self-insured plan offered by

1 the school district and may receive the excess flexible benefit
2 allowance as taxable compensation as provided in Section 26-105 of
3 this title.

4 D. School district employees may elect to have a dependent or
5 dependents of the employee covered under the health insurance plan
6 offered by the State and Education Employees Group Insurance Board
7 or the self-insured plan offered by the school district. The
8 employee may elect to cover all dependent children and not elect to
9 cover the spouse of the employee. The election shall be made at the
10 time the employee becomes enrolled in the plan. If dependent
11 coverage is not elected or if the employee elects to cover all
12 dependent children and not the spouse of the employee at the time an
13 employee becomes enrolled in the plan, dependent coverage or
14 coverage for the spouse cannot be elected until the next enrollment
15 period or until a qualifying event has occurred. Any employee with
16 dependent coverage who has a change in the number of dependents may
17 at the time of the change increase or decrease the number of
18 dependents covered by the plan. Any employee who has no eligible
19 dependents at the time the employee becomes enrolled may elect
20 dependent coverage at the time the dependency status of the employee
21 changes. The school district shall prescribe the forms and
22 procedures for filing elections for or changing dependent coverage.

23 E. The administrator of the cafeteria plan shall maintain a
24 separate account for each participating school district employee.

1 School districts shall forward the school district employee flexible
2 benefit allowance amounts to the administrator for elected purchases
3 of cafeteria plan benefits.

4 ~~F.~~ F. Expenses included in an employee's salary adjustment
5 agreement pursuant to the cafeteria plan shall be limited to
6 expenses for:

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

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

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

21 SECTION 3. AMENDATORY 70 O.S. 2001, Section 26-105, as
22 last amended by Section 2, Chapter 180, O.S.L. 2007 (70 O.S. Supp.
23 2007, Section 26-105), is amended to read as follows:

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1 Section 26-105. A. The flexible benefit allowance shall be
2 used by a school district employee who is participating in the
3 cafeteria plan to purchase major medical health care plan coverage
4 offered by the school district through a cafeteria plan. Any excess
5 flexible benefit allowance over the cost of the major medical
6 coverage purchased by the employee who is participating in the
7 cafeteria plan may be used to purchase any of the additional
8 benefits offered by the school district or may be taken as taxable
9 compensation as provided in subsection C of this section. Certified
10 personnel who choose not to participate in the school-district-
11 sponsored cafeteria plan shall receive Sixty-nine Dollars and
12 seventy-one cents (\$69.71) per month as taxable compensation in lieu
13 of the flexible benefit allowance amount provided in subsection B of
14 this section. Support personnel who choose not to participate in
15 the school-district-sponsored cafeteria plan shall receive One
16 Hundred Eighty-nine Dollars and sixty-nine cents (\$189.69) per month
17 as taxable compensation in lieu of the flexible benefit allowance
18 amount provided in subsection B of this section.

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

1 1. ~~For the fiscal year ending June 30, 2002, the flexible~~
2 ~~benefit allowance amount for certified personnel shall be no less~~
3 ~~than Sixty nine Dollars and seventy one cents (\$69.71) per month.~~
4 ~~For the fiscal year ending June 30, 2002, the flexible benefit~~
5 ~~allowance amount for support personnel shall be no less than One~~
6 ~~Hundred Eighty nine Dollars and sixty nine cents (\$189.69) per~~
7 ~~month.~~

8 2. ~~For the fiscal year ending June 30, 2004, the flexible~~
9 ~~benefit allowance amount for certified personnel shall be no less~~
10 ~~than fifty eight percent (58%) of the premium amount for the~~
11 ~~HealthChoice (Hi) option plan for an individual offered by the State~~
12 ~~and Education Employees Group Insurance Board For the fiscal year~~
13 ~~ending June 30, 2003, and each fiscal year thereafter, the flexible~~
14 ~~benefit allowance amount for support personnel shall be no less than~~
15 ~~one hundred percent (100%) of the premium amount for the~~
16 ~~HealthChoice (Hi) option plan for an individual offered by the State~~
17 ~~and Education Employees Group Insurance Board. For the fiscal year~~
18 ~~ending June 30, 2009, the flexible benefit allowance amount for~~
19 ~~support personnel who elect to cover dependents shall be not less~~
20 ~~than one hundred percent (100%) of the premium amount for the~~
21 ~~HealthChoice (Hi) option plan for an individual plus twenty-five~~
22 ~~percent (25%) of the premium amount for the HealthChoice (Hi) option~~
23 ~~plan for covered spouses and dependents offered by the State and~~
24 ~~Education Employees Group Insurance Board. For the fiscal year~~

1 ending June 30, 2010, the flexible benefit allowance amount for
2 support personnel who elect to cover dependents shall be not less
3 than one hundred percent (100%) of the premium amount for the
4 HealthChoice (Hi) option plan for an individual plus fifty percent
5 (50%) of the premium amount for the HealthChoice (Hi) option plan
6 for covered spouses and dependents offered by the State and
7 Education Employees Group Insurance Board. For the fiscal year
8 ending June 30, 2011, and each fiscal year thereafter, the flexible
9 benefit allowance amount for support personnel who elect to cover
10 dependents shall be not less than one hundred percent (100%) of the
11 premium amount for the HealthChoice (Hi) option plan for an
12 individual plus seventy-five percent (75%) of the premium amount for
13 the HealthChoice (Hi) option plan for covered spouses and dependents
14 offered by the State and Education Employees Group Insurance Board.

15 ~~3.~~ 2. For the fiscal year ending June 30, 2005, and each fiscal
16 year thereafter, the flexible benefit allowance amount for certified
17 personnel shall be no less than one hundred percent (100%) of the
18 premium amount for the HealthChoice (Hi) option plan for an
19 individual offered by the State and Education Employees Group
20 Insurance Board. For the fiscal year ending June 30, 2009, the
21 flexible benefit allowance amount for certified personnel who elect
22 to cover dependents shall be not less than one hundred percent
23 (100%) of the premium amount for the HealthChoice (Hi) option plan
24 for an individual plus twenty-five percent (25%) of the premium

1 amount for the HealthChoice (Hi) option plan for covered spouses and
2 dependents offered by the State and Education Employees Group
3 Insurance Board. For the fiscal year ending June 30, 2010, the
4 flexible benefit allowance amount for certified personnel who elect
5 to cover dependents shall be not less than one hundred percent
6 (100%) of the premium amount for the HealthChoice (Hi) option plan
7 for an individual plus fifty percent (50%) of the premium amount for
8 the HealthChoice (Hi) option plan for covered spouses and dependents
9 offered by the State and Education Employees Group Insurance Board.
10 For the fiscal year ending June 30, 2011, and each fiscal year
11 thereafter, the flexible benefit allowance amount for certified
12 personnel who elect to cover dependents shall be not less than one
13 hundred percent (100%) of the premium amount for the HealthChoice
14 (Hi) option plan for an individual plus seventy-five percent (75%)
15 of the premium amount for the HealthChoice (Hi) option plan for
16 covered spouses and dependents offered by the State and Education
17 Employees Group Insurance Board.

18 C. If a school district employee who is participating in the
19 cafeteria plan elects benefits whose sum total is less than the
20 flexible benefit allowance, the employee shall receive any excess
21 flexible benefit allowance as taxable compensation. Such taxable
22 compensation shall be paid in substantially equal amounts each pay
23 period over the plan year. Except as otherwise provided for in
24 subsection D of this section, on termination during a plan year, a

1 participating school district employee shall have no right to
2 receive any taxable cash compensation allocated to the portion of
3 the plan year after the termination of the employee.

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

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

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

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

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

11 SECTION 4. AMENDATORY 74 O.S. 2001, Section 1310.1, as
12 last amended by Section 1, Chapter 373, O.S.L. 2004 (74 O.S. Supp.
13 2007, Section 1310.1), is amended to read as follows:

14 Section 1310.1 A. If a certified employee elects individual
15 health care coverage under a plan offered by a school district,
16 including a plan offered by the State and Education Employees Group
17 Insurance Board or a self-insured plan offered by the school
18 district, then a school district shall pay for the fiscal year
19 ending June 30, 2005, and each fiscal year thereafter, no less than
20 one hundred percent (100%) of the premium amount for the
21 HealthChoice ~~(HI)~~ (Hi) option plan for an individual offered by the
22 State and Education Employees Group Insurance Board. For the fiscal
23 year ending June 30, 2009, if a certified employee elects individual
24 and dependent health care coverage under a plan offered by a school

1 district, including a plan offered by the State and Education
2 Employees Group Insurance Board or a self-insured plan, then a
3 school district shall pay no less than one hundred percent (100%) of
4 the premium amount for the HealthChoice (Hi) option plan for an
5 individual plus twenty-five percent (25%) of the premium amount for
6 the HealthChoice (Hi) option plan for covered spouses and dependents
7 offered by the State and Education Employees Group Insurance Board.
8 For the fiscal year ending June 30, 2010, if a certified employee
9 elects individual and dependent health care coverage under a plan
10 offered by a school district, including a plan offered by the State
11 and Education Employees Group Insurance Board or a self-insured
12 plan, then a school district shall pay no less than one hundred
13 percent (100%) of the premium amount for the HealthChoice (Hi)
14 option plan for an individual plus fifty percent (50%) of the
15 premium amount for the HealthChoice (Hi) option plan for covered
16 spouses and dependents offered by the State and Education Employees
17 Group Insurance Board. For the fiscal year ending June 30, 2011,
18 and each fiscal year thereafter, if a certified employee elects
19 individual and dependent health care coverage under a plan offered
20 by a school district, including a plan offered by the State and
21 Education Employees Group Insurance Board or a self-insured plan,
22 then a school district shall pay no less than one hundred percent
23 (100%) of the premium amount for the HealthChoice (Hi) option plan
24 for an individual plus seventy-five percent (75%) of the premium

1 amount for the HealthChoice (Hi) option plan for covered spouses and
2 dependents offered by the State and Education Employees Group
3 Insurance Board.

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

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

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

16 SECTION 5. This act shall become effective July 1, 2008.

17 SECTION 6. It being immediately necessary for the preservation
18 of the public peace, health and safety, an emergency is hereby
19 declared to exist, by reason whereof this act shall take effect and
20 be in full force from and after its passage and approval.

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22 51-2-10477 MMP 03/03/08

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