

1 STATE OF OKLAHOMA

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

3 COMMITTEE SUBSTITUTE  
4 FOR ENGROSSED  
5 HOUSE BILL 1928

By: Steele, Terrill and Kern of  
the House

6 and

7 Crain of the Senate

8  
9 COMMITTEE SUBSTITUTE

10 [ insurance - Health Savings Account Act - jail  
11 inspections - codification -  
12 emergency ]

13  
14 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

15 SECTION 1. AMENDATORY Section 2, Chapter 306, O.S.L.  
16 2005 (36 O.S. Supp. 2006, Section 6060.15), is amended to read as  
17 follows:

18 Section 6060.15 As used in this act:

19 1. "Deductible" means the total deductible for an eligible  
20 individual and all the dependents of that eligible individual for a  
21 calendar year;

22 2. "Dependent" means the spouse or child of the eligible  
23 individual as defined in Section 152 of the Internal Revenue Code;

1 3. "Eligible individual" means the individual taxpayer,  
2 including employees of an employer who contributes to health savings  
3 accounts on the employees' behalf, who:

4 a. must be covered by a "high deductible health plan"  
5 individually or with dependent,

6 b. may not be covered under any health plan that is not a  
7 high deductible health plan, except for:

8 (1) coverage for accidents,

9 (2) workers' compensation insurance,

10 (3) insurance for a specified disease or illness,

11 (4) insurance paying a fixed amount per day per  
12 hospitalization, and

13 (5) tort liabilities, and

14 c. establishes the health savings account, or on whose  
15 behalf the health savings account is established;

16 4. "Health savings account" or "account" means a trust or  
17 custodian established in this state pursuant to a health savings  
18 account program exclusively to pay the qualified medical expenses of  
19 an eligible individual or their dependents, but only if the written  
20 governing instrument creating the account meets the following  
21 requirements:

22 a. except in the case of a rollover contribution, no  
23 contribution will be accepted:

24 (1) unless it is in cash, or

1 (2) to the extent the contribution, when added to the  
2 previous contributions to the account for the  
3 calendar year, exceeds ~~one hundred percent (100%)~~  
4 ~~of the eligible individual's deductible or Two~~  
5 ~~Thousand Six Hundred Dollars (\$2,600.00) for an~~  
6 ~~individual or Five Thousand One Hundred Fifty~~  
7 ~~Dollars (\$5,150.00) per family, whichever is~~  
8 ~~lower~~ the maximum contribution amount pursuant to  
9 Section 223 of the Internal Revenue Code,

- 10 b. the trustee or custodian is a bank, a credit union, an  
11 insurance company, or another person approved by the  
12 United States Secretary of Health and Human Services,  
13 c. no part of the trust assets will be invested in life  
14 insurance contracts,  
15 d. the assets of the account will not be commingled with  
16 other property except as allowed for under Individual  
17 Retirement Accounts, and  
18 e. eligible individual's interest in the account is  
19 nonforfeitable;

20 5. "Health savings account program" or "program" means a  
21 program that includes all of the following:

- 22 a. the purchase by an eligible individual or by an  
23 employer of a high deductible health plan, and  
24

1           b.    the contribution into a health savings account by an  
2                    eligible individual or on behalf of an employee or by  
3                    their employer. The total annual contribution may not  
4                    exceed ~~the amount of the plan's higher deductible or~~  
5                    ~~the amounts listed in paragraph 8 of this section~~  
6                    maximum contribution amount pursuant to Section 223 of  
7                    the Internal Revenue Code;

8           6.    "High deductible health plan" means a health coverage  
9                    policy, certificate, or contract that provides for payments for  
10                    covered benefits that exceed the higher deductible;

11           7.    "Qualified medical expense" means an expense paid by the  
12                    taxpayer for medical care described in paragraph d of Section 213 of  
13                    the Internal Revenue Code, but only to the extent such amounts are  
14                    not compensated for by insurance or otherwise; and

15           8.    "High deductible" means:

- 16                    a.    in the case of self-only coverage, an annual  
17                            deductible which is not less than One Thousand Dollars  
18                            (\$1,000.00) and the sum of the annual deductible and  
19                            other annual out-of-pocket expenses required to be  
20                            paid under the plan for covered benefits does not  
21                            exceed Five Thousand Dollars (\$5,000.00), or
- 22                    b.    in the case of family coverage, an annual deductible  
23                            of not less than Two Thousand Dollars (\$2,000.00) and  
24                            the sum of the annual deductible and other annual out-

1 of-pocket expenses required to be paid under the plan  
2 for covered benefits does not exceed Ten Thousand  
3 Dollars (\$10,000.00).

4 A plan shall not fail to be treated as a high deductible plan by  
5 reason of failing to have a deductible for preventive care or, in  
6 the case of network plans, for having out-of-pocket expenses which  
7 exceed these limits on an annual deductible for services provided  
8 outside the network.

9 SECTION 2. AMENDATORY Section 3, Chapter 306, O.S.L.  
10 2005 (36 O.S. Supp. 2006, Section 6060.16), is amended to read as  
11 follows:

12 Section 6060.16 A. The provisions of this act shall also apply  
13 to taxpayers who are not receiving preferred federal tax treatment  
14 for a health savings account pursuant to Section 223 of the Internal  
15 Revenue Code.

16 B. For taxable years beginning after 2005, a resident of  
17 Oklahoma or an employer shall be allowed to deposit contributions to  
18 a health savings account. The amount of deposit for each year shall  
19 not exceed ~~one of the following:~~

20 ~~1. The amount of the plan's high deductible; or~~

21 ~~2. Two Thousand Six Hundred Dollars (\$2,600.00) for an~~  
22 ~~individual policy; or~~

1        ~~3. Five Thousand One Hundred Fifty Dollars (\$5,150.00) for a~~  
2 ~~family policy~~ the maximum contribution amount pursuant to Section  
3 223 of the Internal Revenue Code.

4        C. Except as provided in Section ~~5~~ 6060.18 of this ~~act~~ title,  
5 the following are exempt from taxation under the Oklahoma Income Tax  
6 Act:

7        1. Principal contributed to and interest earned on a health  
8 savings account ~~up to the amount of the high deductible~~; and

9        2. Money reimbursed to an eligible individual or an employee  
10 for qualified medical expenses.

11        SECTION 3.        AMENDATORY        Section 4, Chapter 306, O.S.L.  
12 2005 (36 O.S. Supp. 2006, Section 6060.17), is amended to read as  
13 follows:

14        Section 6060.17 ~~A.~~ The trustee or custodian shall utilize the  
15 funds held in a health savings account solely for the following  
16 purposes:

17        1. To pay the qualified medical expenses of the eligible  
18 individual or their dependents; or

19        2. To purchase a health coverage policy certificate, or  
20 contract, if the eligible individual:

21            a. is receiving unemployment compensation,

22            b. is exercising continuation privileges under federal  
23 law, or

24            c. is purchasing a long-term care insurance contract; or

1 3. To pay for health insurance other than a Medicare  
2 supplemental policy for those who are Medicare eligible.

3 ~~B. Funds held in a health savings account shall not be used to~~  
4 ~~cover expenses of the eligible individual or their dependents that~~  
5 ~~are otherwise covered, including, but not limited to, medical~~  
6 ~~expenses covered by the following:~~

7 1. ~~An automobile insurance policy;~~

8 2. ~~Workers' compensation insurance policy or self insured plan;~~  
9 ~~or~~

10 3. ~~Another employer funded health coverage policy, certificate~~  
11 ~~or contract.~~

12 SECTION 4. AMENDATORY Section 5, Chapter 306, O.S.L.  
13 2005 (36 O.S. Supp. 2006, Section 6060.18), is amended to read as  
14 follows:

15 Section 6060.18 A. Notwithstanding paragraphs C, D, E, and F  
16 of this section, an eligible individual may withdraw money from  
17 their health savings account for any purpose other than a purpose  
18 described in ~~subsection A of Section 4~~ 6060.17 of this ~~act~~ title.

19 B. If the eligible individual withdraws money for any purpose  
20 other than a purpose described in ~~subsection A of Section 4~~ 6060.17  
21 of this ~~act~~ title, at any other time, all of the following shall  
22 apply:

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1           1. The amount of the withdrawal is income for the purposes ~~in~~  
2 of the Oklahoma Income Tax Act in the tax year of the withdrawal;  
3 and

4           2. ~~Interest earned on the account during the tax year in which~~  
5 ~~a withdrawal under this subsection is made is income for the~~  
6 ~~purposes of the Oklahoma Income Tax Act~~ The tax imposed on the  
7 withdrawal which is includable in income shall be increased by ten  
8 percent (10%) of the amount which is so includable.

9           C. The amount of disbursement of any assets of a health savings  
10 account pursuant to a filing for protection under Section 101 of  
11 Title 11 of the United States Code by an eligible individual or  
12 person for whose benefit the account was established is not  
13 considered a withdrawal for purposes of this section. The amount of  
14 a disbursement is not subject to taxation under the Oklahoma Income  
15 Tax Act and subsection B of this section does not apply.

16           D. The transfer of an eligible individual's interest in a  
17 health savings account to an eligible individual's spouse or former  
18 spouse under a divorce or separation instrument shall not be  
19 considered a taxable transfer made by such eligible individual,  
20 notwithstanding any other provision of this title, and the interest  
21 shall, after the transfer, be treated as a health savings account  
22 with respect to which the spouse is the eligible individual.

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1 E. Upon the death of the eligible individual, the trustee or  
2 custodian shall distribute the principal and accumulated interest of  
3 the health savings account to the estate of the deceased.

4 F. If an employee becomes employed with a different employer  
5 that participates in a health savings account program, the employee  
6 may transfer their health savings account to that new employer's  
7 trustee or custodian, or to an individually purchased account  
8 program.

9 SECTION 5. NEW LAW A new section of law to be codified  
10 in the Oklahoma Statutes as Section 1375 of Title 74, unless there  
11 is created a duplication in numbering, reads as follows:

12 The State and Education Employees Group Insurance Board shall  
13 make the health savings account authorized by the provisions of the  
14 Health Savings Account Act established in Section 6060.14 of Title  
15 36 of the Oklahoma Statutes available by offering a high deductible  
16 health plan to all persons who are eligible employees for purposes  
17 of any health care insurance offered through or under the  
18 supervision of the Board. The high deductible health plan shall be  
19 offered no later than January 1, 2009. Any employee who elects to  
20 participate in a high deductible health plan offered through the  
21 Oklahoma State and Education Employees Group Insurance Board shall  
22 establish a Health Savings Account (HAS) as defined in Section 223  
23 of the Internal Revenue Code. The employee shall provide  
24 confirmation of such account to the Oklahoma State and Education

1 Employees Group Insurance Board prior to the effective date of  
2 coverage.

3 SECTION 6. AMENDATORY 74 O.S. 2001, Section 192, as last  
4 amended by Section 1, Chapter 180, O.S.L. 2005 (74 O.S. Supp. 2006,  
5 Section 192), is amended to read as follows:

6 Section 192. A. The State Department of Health shall inspect  
7 at least once each year all city and county jails to ensure  
8 compliance with the standards promulgated pursuant to the provisions  
9 of this section. The standards shall provide provision for:

- 10 1. Uniform admission and release procedures;
- 11 2. Uniform, safe, and sensible security measures;
- 12 3. Proper, fit, and sanitary conditions;
- 13 4. Inmates to be fed a wholesome and adequate diet;
- 14 5. Inmates to have adequate clothing and a living area of no  
15 less than forty (40) square feet of floor space per inmate plus  
16 twenty (20) square feet of floor space in such living area per each  
17 additional inmate in existing facilities, and no less than sixty  
18 (60) square feet of floor space per cell for two prisoners in  
19 facilities constructed after November 1, 1985. Nothing in this  
20 section shall be construed to prohibit double-celling of prisoners,  
21 provided there exists no less than forty (40) square feet per  
22 initial inmate plus twenty (20) square feet for each additional  
23 prisoner. In every barrack-style housing area the square footage  
24 shall meet the minimum requirements provided in Section 192 of this

1 title. Such facility shall have showers with hot and cold running  
2 water, toilets, and water basins provided in the ratio of not less  
3 than one to every twenty prisoners. Counties may build barracks-  
4 style jails, single or double cell, to meet the security needs of  
5 the county for minimum security prisoners. These jails shall meet  
6 all the minimum requirements set forth in this section or any other  
7 provision of law. Except as otherwise provided in this section, all  
8 facilities under this section shall have showers with hot and cold  
9 running water, toilets and water basins provided in the ratio of not  
10 less than one to every twenty prisoners. Counties may also build  
11 tent jails, which shall be temporary in nature, to meet the security  
12 needs of the county for minimum security prisoners. The temporary  
13 tent jails shall not be required to meet the minimum requirements  
14 set forth in this section or any other provision of law. The State  
15 Board of Health shall promulgate minimum standards for temporary  
16 tent jails which standards shall be designed to specifically address  
17 and take into consideration the temporary status of the inmate  
18 housing needs of the county;

19 6. Inmates to be properly advised of rules of the facility in  
20 which they are detained;

21 7. Staff members to receive training in order to assist them to  
22 better perform their assigned tasks, such training to be provided by  
23 the Jail Inspection Division of the State Department of Health. All  
24 employees who work in direct contact with inmates after the first

1 year of employment shall receive, at a minimum, four (4) hours'  
2 review of material as required by the Jail Inspection Division and  
3 at a maximum, eight (8) hours of jailer training per year after the  
4 first year of employment;

5 8. Proper steps to be taken to ensure the safety and  
6 segregation of women, the infirm, and minors;

7 9. Adequate medical care, provided such medical care shall be  
8 limited to illnesses or injuries incurred during the time beginning  
9 with the arrest and throughout the time of incarceration. This  
10 shall not prevent an inmate from applying for assistance and  
11 receiving assistance provided the inmate meets or exceeds  
12 established requirements;

13 10. No person to be confined without twenty-four-hour  
14 supervision; and

15 11. At least one designated exit in the facility that will  
16 permit prompt evacuation of inmates and staff in an emergency. A  
17 facility in existence on November 1, 1985, shall not be required to  
18 construct additional exits if it has one exit which is deemed  
19 adequate by the State Fire Marshal.

20 In the event such inspection shall reveal to the State  
21 Department of Health the commission of a crime or crimes incidental  
22 to the operations of a city or county jail facility, it shall be the  
23 duty of the Department to initiate a complaint with the appropriate  
24 district attorney, and to cooperate in the prosecution of the

1 alleged offender in the event an information is filed pursuant to  
2 such complaint.

3 B. Any county, city, or town may operate a holding facility for  
4 the incarceration of persons under arrest who are to be charged with  
5 a crime, which holding facility shall not be required to meet the  
6 standards established in this section for jails, as long as no  
7 person is held therein for a period longer than twelve (12) hours  
8 and as long as an employee of the county, city, or town is available  
9 to render aid to or to release any person so confined in the event  
10 aid or release is required because of a health or life endangering  
11 emergency.

12 C. Notwithstanding any other provision of law or rule, any  
13 county or municipality that operates a jail facility which houses  
14 twenty or fewer prisoners at all times which:

15 1. Provides twenty-four-hour supervision of prisoner activity  
16 that is conducted either by direct observation or electronically by  
17 closed circuit television; and

18 2. Provides an intercommunication system that terminates in a  
19 location that is staffed twenty-four (24) hours a day and is capable  
20 of providing an emergency response,  
21 shall not be required to have more than one jailer or dispatcher on-  
22 site to provide for the security, custody, and supervision of  
23 prisoners.

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1 D. Any county or municipality that operates a jail facility  
2 which houses more than twenty and less than seventy-five prisoners  
3 at all times which:

4 1. Provides twenty-four-hour supervision of prisoner activity  
5 that is conducted either by direct observation or electronically by  
6 closed circuit television; and

7 2. Provides an intercommunication system that terminates in a  
8 location that is staffed twenty-four (24) hours a day and is capable  
9 of providing an emergency response,  
10 shall be required to have more than one jailer or one jailer and at  
11 least one other basic CLEET-certified person on the same premises as  
12 the jail facility to provide for the security, custody, and  
13 supervision of prisoners.

14 Within ninety (90) days after June 9, 1994, the State Board of  
15 Health shall promulgate new rules governing square footage  
16 requirements, double-celling of prisoners and the ratio of showers,  
17 toilets, and water basins to prisoners. The rules so promulgated  
18 shall be governed by the guidelines enumerated in this section, and  
19 shall be designed to carry out the intent and purpose of the  
20 guidelines. Each city or county jail facility in this state shall  
21 be in compliance with the rules so promulgated on or before January  
22 1, 1995.

23 E. The State Department of Health shall employ inspectors and  
24 other personnel as necessary and specifically authorized by the

1 Legislature in order to carry out the provisions of this section and  
2 may rent or purchase premises or equipment in order to assist  
3 inspectors in the performance of their functions.

4 F. The State Department of Health shall be the only state  
5 agency authorized to conduct the inspections of city and county  
6 jails.

7 SECTION 7. AMENDATORY 74 O.S. 2001, Section 193, is  
8 amended to read as follows:

9 Section 193. A. ~~Inspectors~~ As specified in Section 192 of this  
10 title, only inspectors employed by the State Department of Health  
11 shall be permitted to enter all jail premises and administrative  
12 offices for the purpose of performing their assigned duties.

13 B. The results of these inspections shall be presented in the  
14 form of a written report to the Commissioner of Health and to the  
15 person immediately responsible for the administration of the  
16 facility inspected. The report shall contain:

17 1. A list of deficiencies in the condition or operation of the  
18 facility and specific proposals for their solution; and

19 2. A statement as to whether or not the facility inspected is  
20 in substantial compliance with the jail standards established  
21 pursuant to Section 192 of this title.

22 SECTION 8. It being immediately necessary for the preservation  
23 of the public peace, health and safety, an emergency is hereby

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1 declared to exist, by reason whereof this act shall take effect and  
2 be in full force from and after its passage and approval.

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