

THE HOUSE OF REPRESENTATIVES  
Wednesday, March 5, 2008

Committee Substitute for  
House Bill No. 2632

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 2632 - By: JORDAN of the House.

( schools – definition – election of dependent coverage – forms and procedures  
– effective date –  
emergency )

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

1 SECTION 1. AMENDATORY 70 O.S. 2001, Section 26-103, is amended to read

2 as follows:

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

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

7 2. "Cafeteria plan" means a benefit plan established pursuant to 26 U.S.C. Section  
8 125;

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

11 4. "Support personnel" means full-time employees of a school district as determined  
12 by the standard period of labor which is customarily understood to constitute full-time

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

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

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

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

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

18 9. "Self-insured" means a health care program in which the school district funds  
19 the benefit plans from its own resources without purchasing insurance and which may be  
20 administered by the school district or by an outside administrator under contract with  
21 the school district for administrative services. The State Board of Education shall  
22 prepare by May 1st of each year a list of each school district in the state that is self-

1 insured and the number of support personnel and the number of certified personnel that  
2 are participating in each self-insured school district plan; and

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

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

8 (1) an adopted child, or

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

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

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

17 Section 26-104. A. The Legislature shall annually appropriate adequate funding to  
18 the State Board of Education and the State Board of Career and Technology Education  
19 for the purpose of providing a flexible benefit allowance to school district employees  
20 pursuant to this act. The funding shall be based on the number of eligible school district  
21 employees employed by a school district which is participating in the health insurance  
22 plan offered by the State and Education Employees Group Insurance Board or is self-

1 insured as counted on May 1st of each year. Each Board shall disburse the flexible  
2 benefit allowance funds in appropriate amounts to school districts.

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

6 C. The flexible benefit allowance amount established pursuant to Section 26-105 of  
7 this title shall be credited to each eligible school district employee. School district  
8 employees shall elect whether to use the flexible benefit allowance to pay for coverage in  
9 the health insurance plan offered by the State and Education Employees Group  
10 Insurance Board or the self-insured plan offered by the school district and may receive  
11 the excess flexible benefit allowance as taxable compensation as provided in Section 26-  
12 105 of this title.

13 D. School district employees may elect to have a dependent or dependents of the  
14 employee covered under the health insurance plan offered by the State and Education  
15 Employees Group Insurance Board or the self-insured plan offered by the school district.  
16 The employee may elect to cover all dependent children and not elect to cover the spouse  
17 of the employee. The election shall be made at the time the employee becomes enrolled  
18 in the plan. If dependent coverage is not elected or if the employee elects to cover all  
19 dependent children and not the spouse of the employee at the time an employee becomes  
20 enrolled in the plan, dependent coverage or coverage for the spouse cannot be elected  
21 until the next enrollment period or until a qualifying event has occurred. Any employee  
22 with dependent coverage who has a change in the number of dependents may at the time

1 of the change increase or decrease the number of dependents covered by the plan. Any  
2 employee who has no eligible dependents at the time the employee becomes enrolled may  
3 elect dependent coverage at the time the dependency status of the employee changes.  
4 The school district shall prescribe the forms and procedures for filing elections for or  
5 changing dependent coverage.

6 E. The administrator of the cafeteria plan shall maintain a separate account for  
7 each participating school district employee. School districts shall forward the school  
8 district employee flexible benefit allowance amounts to the administrator for elected  
9 purchases of cafeteria plan benefits.

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

12 1. Premiums for any health insurance, health maintenance organization, life  
13 insurance, long term disability insurance, dental insurance or high deductible health  
14 benefit plan offered to employees and their dependents; and

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

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

UNDERLINED language denotes Amendments to present Statutes.  
**BOLD FACE CAPITALIZED** language denotes Committee Amendments.  
~~Strike thru~~ language denotes deletion from present Statutes.

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

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

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

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

6           2. ~~For the fiscal year ending June 30, 2004, the flexible benefit allowance amount~~  
7 ~~for certified personnel shall be no less than fifty-eight percent (58%) of the premium~~  
8 ~~amount for the HealthChoice (Hi) option plan for an individual offered by the State and~~  
9 ~~Education Employees Group Insurance Board. For the fiscal year ending June 30, 2003,~~  
10 ~~and each fiscal year thereafter, the flexible benefit allowance amount for support~~  
11 ~~personnel shall be no less than one hundred percent (100%) of the premium amount for~~  
12 ~~the HealthChoice (Hi) option plan for an individual offered by the State and Education~~  
13 ~~Employees Group Insurance Board. For the fiscal year ending June 30, 2009, the flexible~~  
14 ~~benefit allowance amount for support personnel who elect to cover dependents shall be~~  
15 ~~not less than one hundred percent (100%) of the premium amount for the HealthChoice~~  
16 ~~(Hi) option plan for an individual plus twenty-five percent (25%) of the premium amount~~  
17 ~~for the HealthChoice (Hi) option plan for covered spouses and dependents offered by the~~  
18 ~~State and Education Employees Group Insurance Board. For the fiscal year ending June~~  
19 ~~30, 2010, the flexible benefit allowance amount for support personnel who elect to cover~~  
20 ~~dependents shall be not less than one hundred percent (100%) of the premium amount~~  
21 ~~for the HealthChoice (Hi) option plan for an individual plus fifty percent (50%) of the~~  
22 ~~premium amount for the HealthChoice (Hi) option plan for covered spouses and~~

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

8 ~~3. 2.~~ For the fiscal year ending June 30, 2005, and each fiscal year thereafter, the  
9 flexible benefit allowance amount for certified personnel shall be no less than one  
10 hundred percent (100%) of the premium amount for the HealthChoice (Hi) option plan for  
11 an individual offered by the State and Education Employees Group Insurance Board.

12 For the fiscal year ending June 30, 2009, the flexible benefit allowance amount for  
13 certified personnel who elect to cover dependents shall be not less than one hundred  
14 percent (100%) of the premium amount for the HealthChoice (Hi) option plan for an  
15 individual plus twenty-five percent (25%) of the premium amount for the HealthChoice  
16 (Hi) option plan for covered spouses and dependents offered by the State and Education  
17 Employees Group Insurance Board. For the fiscal year ending June 30, 2010, the flexible  
18 benefit allowance amount for certified personnel who elect to cover dependents shall be  
19 not less than one hundred percent (100%) of the premium amount for the HealthChoice  
20 (Hi) option plan for an individual plus fifty percent (50%) of the premium amount for the  
21 HealthChoice (Hi) option plan for covered spouses and dependents offered by the State  
22 and Education Employees Group Insurance Board. For the fiscal year ending June 30,



1 2011, and each fiscal year thereafter, the flexible benefit allowance amount for certified  
2 personnel who elect to cover dependents shall be not less than one hundred percent  
3 (100%) of the premium amount for the HealthChoice (Hi) option plan for an individual  
4 plus seventy-five percent (75%) of the premium amount for the HealthChoice (Hi) option  
5 plan for covered spouses and dependents offered by the State and Education Employees  
6 Group Insurance Board.

7 C. If a school district employee who is participating in the cafeteria plan elects  
8 benefits whose sum total is less than the flexible benefit allowance, the employee shall  
9 receive any excess flexible benefit allowance as taxable compensation. Such taxable  
10 compensation shall be paid in substantially equal amounts each pay period over the plan  
11 year. Except as otherwise provided for in subsection D of this section, on termination  
12 during a plan year, a participating school district employee shall have no right to receive  
13 any taxable cash compensation allocated to the portion of the plan year after the  
14 termination of the employee.

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

20 E. Each school district employee shall make an annual election of benefits under  
21 the plan during an enrollment period to be held prior to the beginning of each plan year.  
22 The enrollment period dates will be determined annually and will be announced by the

1 school district, providing the enrollment period shall end no later than thirty (30) days  
2 before the beginning of the plan year. Each school district employee shall make an  
3 irrevocable advance election for the plan year or the remainder of the plan year pursuant  
4 to procedures the school district shall prescribe.

5 F. The school district shall prescribe the forms that school district employees shall  
6 be required to use in making their elections, and may prescribe deadlines and other  
7 procedures for filing the elections.

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

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

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

18 Section 1310.1 A. If a certified employee elects individual health care coverage  
19 under a plan offered by a school district, including a plan offered by the State and  
20 Education Employees Group Insurance Board or a self-insured plan offered by the school  
21 district, then a school district shall pay for the fiscal year ending June 30, 2005, and each  
22 fiscal year thereafter, no less than one hundred percent (100%) of the premium amount

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1 for the HealthChoice ~~(HI)~~ (Hi) option plan for an individual offered by the State and  
2 Education Employees Group Insurance Board. For the fiscal year ending June 30, 2009,  
3 if a certified employee elects individual and dependent health care coverage under a plan  
4 offered by a school district, including a plan offered by the State and Education  
5 Employees Group Insurance Board or a self-insured plan, then a school district shall pay  
6 no less than one hundred percent (100%) of the premium amount for the HealthChoice  
7 (Hi) option plan for an individual plus twenty-five percent (25%) of the premium amount  
8 for the HealthChoice (Hi) option plan for covered spouses and dependents offered by the  
9 State and Education Employees Group Insurance Board. For the fiscal year ending June  
10 30, 2010, if a certified employee elects individual and dependent health care coverage  
11 under a plan offered by a school district, including a plan offered by the State and  
12 Education Employees Group Insurance Board or a self-insured plan, then a school  
13 district shall pay no less than one hundred percent (100%) of the premium amount for  
14 the HealthChoice (Hi) option plan for an individual plus fifty percent (50%) of the  
15 premium amount for the HealthChoice (Hi) option plan for covered spouses and  
16 dependents offered by the State and Education Employees Group Insurance Board. For  
17 the fiscal year ending June 30, 2011, and each fiscal year thereafter, if a certified  
18 employee elects individual and dependent health care coverage under a plan offered by a  
19 school district, including a plan offered by the State and Education Employees Group  
20 Insurance Board or a self-insured plan, then a school district shall pay no less than one  
21 hundred percent (100%) of the premium amount for the HealthChoice (Hi) option plan for  
22 an individual plus seventy-five percent (75%) of the premium amount for the

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

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

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

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

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

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

18 COMMITTEE REPORT BY: COMMITTEE ON ECONOMIC DEVELOPMENT AND  
19 FINANCIAL SERVICES, dated 03-04-08 - DO PASS, As Amended.