

THE STATE SENATE  
Monday, April 2, 2007

Committee Substitute for  
ENGROSSED

House Bill No. 1928

COMMITTEE SUBSTITUTE FOR ENGROSSED HOUSE BILL NO. 1928 - By: STEELE,  
TERRILL and KERN of the House and CRAIN of the Senate.

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

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

SECTION 1. AMENDATORY Section 2, Chapter 306, O.S.L.

2005 (36 O.S. Supp. 2006, Section 6060.15), is amended to read as  
follows:

Section 6060.15 As used in this act:

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

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

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

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

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

- 3                    (1) coverage for accidents,  
4                    (2) workers' compensation insurance,  
5                    (3) insurance for a specified disease or illness,  
6                    (4) insurance paying a fixed amount per day per  
7                                hospitalization, and  
8                    (5) tort liabilities, and

9            c.    establishes the health savings account, or on whose  
10                    behalf the health savings account is established;

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

- 17                    a.    except in the case of a rollover contribution, no  
18                                contribution will be accepted:  
19                                (1) unless it is in cash, or  
20                                (2) to the extent the contribution, when added to the  
21                                        previous contributions to the account for the  
22                                        calendar year, exceeds ~~one hundred percent (100%)~~  
23                                        ~~of the eligible individual's deductible or Two~~

1                   ~~Thousand Six Hundred Dollars (\$2,600.00) for an~~  
2                   ~~individual or Five Thousand One Hundred Fifty~~  
3                   ~~Dollars (\$5,150.00) per family, whichever is~~  
4                   ~~lower~~ the maximum contribution amount pursuant to  
5                   Section 223 of the Internal Revenue Code,

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

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

- 18           a.   the purchase by an eligible individual or by an
- 19                   employer of a high deductible health plan, and
- 20           b.   the contribution into a health savings account by an
- 21                   eligible individual or on behalf of an employee or by
- 22                   their employer. The total annual contribution may not
- 23                   ~~exceed the amount of the plan's higher deductible or~~

1           ~~the amounts listed in paragraph 8 of this section~~  
2           maximum contribution amount pursuant to Section 223 of  
3           the Internal Revenue Code;

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

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

11           8. "High deductible" means:

12           a. in the case of self-only coverage, an annual  
13 deductible which is not less than One Thousand Dollars  
14 (\$1,000.00) and the sum of the annual deductible and  
15 other annual out-of-pocket expenses required to be  
16 paid under the plan for covered benefits does not  
17 exceed Five Thousand Dollars (\$5,000.00), or

18           b. in the case of family coverage, an annual deductible  
19 of not less than Two Thousand Dollars (\$2,000.00) and  
20 the sum of the annual deductible and other annual out-  
21 of-pocket expenses required to be paid under the plan  
22 for covered benefits does not exceed Ten Thousand  
23 Dollars (\$10,000.00).

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

6 SECTION 2. AMENDATORY Section 3, Chapter 306, O.S.L.  
7 2005 (36 O.S. Supp. 2006, Section 6060.16), is amended to read as  
8 follows:

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

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

- 17 ~~1. The amount of the plan's high deductible; or~~
- 18 ~~2. Two Thousand Six Hundred Dollars (\$2,600.00) for an~~  
19 ~~individual policy; or~~
- 20 ~~3. Five Thousand One Hundred Fifty Dollars (\$5,150.00) for a~~  
21 ~~family policy~~ the maximum contribution amount pursuant to Section  
22 223 of the Internal Revenue Code.

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

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

6 2. Money reimbursed to an eligible individual or an employee  
7 for qualified medical expenses.

8 SECTION 3. AMENDATORY Section 4, Chapter 306, O.S.L.  
9 2005 (36 O.S. Supp. 2006, Section 6060.17), is amended to read as  
10 follows:

11 Section 6060.17 ~~A-~~ The trustee or custodian shall utilize the  
12 funds held in a health savings account solely for the following  
13 purposes:

14 1. To pay the qualified medical expenses of the eligible  
15 individual or their dependents; or

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

18 a. is receiving unemployment compensation,

19 b. is exercising continuation privileges under federal  
20 law, or

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

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

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

- 5        ~~1. An automobile insurance policy;~~  
6        ~~2. Workers' compensation insurance policy or self insured plan;~~  
7 ~~or~~  
8        ~~3. Another employer funded health coverage policy, certificate~~  
9 ~~or contract.~~

10        SECTION 4.        AMENDATORY        Section 5, Chapter 306, O.S.L.  
11        2005 (36 O.S. Supp. 2006, Section 6060.18), is amended to read as  
12 follows:

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

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

- 21        1. The amount of the withdrawal is income for the purposes ~~in~~  
22 of the Oklahoma Income Tax Act in the tax year of the withdrawal;  
23 and

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

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

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

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

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

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

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

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

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

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

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

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

20 7. Staff members to receive training in order to assist them to  
21 better perform their assigned tasks, such training to be provided by  
22 the Jail Inspection Division of the State Department of Health. All  
23 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

1 district attorney, and to cooperate in the prosecution of the  
2 alleged offender in the event an information is filed pursuant to  
3 such complaint.

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

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

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

19 2. Provides an intercommunication system that terminates in a  
20 location that is staffed twenty-four (24) hours a day and is capable  
21 of providing an emergency response,

1 shall not be required to have more than one jailer or dispatcher on-  
2 site to provide for the security, custody, and supervision of  
3 prisoners.

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

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

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

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

1 be in compliance with the rules so promulgated on or before January  
2 1, 1995.

3 E. The State Department of Health shall employ inspectors and  
4 other personnel as necessary and specifically authorized by the  
5 Legislature in order to carry out the provisions of this section and  
6 may rent or purchase premises or equipment in order to assist  
7 inspectors in the performance of their functions.

8 F. The State Department of Health shall be the only state  
9 agency authorized to conduct the inspections of city and county  
10 jails.

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

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

17 B. The results of these inspections shall be presented in the  
18 form of a written report to the Commissioner of Health and to the  
19 person immediately responsible for the administration of the  
20 facility inspected. The report shall contain:

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

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

4           SECTION 8. It being immediately necessary for the preservation  
5 of the public peace, health and safety, an emergency is hereby  
6 declared to exist, by reason whereof this act shall take effect and  
7 be in full force from and after its passage and approval.

8 COMMITTEE REPORT BY: COMMITTEE ON RETIREMENT & INSURANCE, dated  
9 3-29-07 - DO PASS, As Amended.