

ENGROSSED HOUSE  
BILL NO. 1401

By: McCorkell and Kinnamon  
of the House

and

Henry of the Senate

( State Insurance Fund - amending 21 sections in Title 85 -  
Oklahoma Employers Mutual Insurance Company - effective  
date )

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

SECTION 1. AMENDATORY 85 O.S. 1991, Section 131, as amended by Section 39 of Enrolled House Bill No. 1002 of the 2nd Extraordinary Session of the 44th Oklahoma Legislature, is amended to read as follows:

Section 131. A. There is hereby created and established a ~~fund~~ nonprofit independent public corporation, organized as a domestic mutual insurance company, to be known as "~~The State Insurance Fund~~", ~~to be the~~ "Oklahoma Employers Mutual Insurance Company". Any reference in the Oklahoma Statutes to the State Insurance Fund shall be a reference to the Oklahoma Employers Mutual Insurance Company. The Company shall be administered by the State Insurance Fund Commissioner a President and chief executive officer, without liability on the part of the state ~~beyond the amount of said fund,~~ for the purpose of insuring employers against liability for compensation under Sections 131 through 151 of this title, and for

assuring for the persons entitled thereto compensation provided by the workers' compensation law, and for the further purpose of insuring persons, firms and corporations against loss, expense or liability by reason of bodily injury, death by accident, occupational disability, or occupational disease suffered by employees, for which the insured may be liable or have assumed liability. ~~Said Fund~~ The Company may further provide insurance for employers against liability incurred as the result of injuries sustained by employees engaged in employment subject to the Longshoremen's and Harbor Workers' Compensation Act, 33 U.S.C., Section 901 et seq., as enacted or as may be amended by the Congress of the United States.

~~(a)~~ B. ~~The State Insurance Fund~~ Oklahoma Employers Mutual Insurance Company shall be a ~~revolving fund~~ mutual insurance company and shall consist of all premiums received and paid into ~~said Fund~~ the Company for insurance issued, all property and securities acquired by and through the use of monies belonging to the ~~fund~~ Company and all interest earned upon monies belonging to the ~~Fund~~ Company and deposited or invested as ~~herein~~ provided in this title.

~~(b)~~ ~~Said Fund~~ C. The funds of the Company shall be applicable to the payment of losses sustained on account of insurance and to the payment of expenses in the manner provided in Sections 131 through 151 of this title.

~~(c)~~ ~~Said Fund~~ D. The Company shall be fairly competitive with other insurance carriers and it is the intent of the Legislature that ~~said Fund~~ the Company shall become neither more nor less than self-supporting.

~~(d)~~ ~~The State Insurance Fund shall report to the Insurance Commissioner no later than the last day of February of each year the amount of premium taxes and fees for which it would be liable if it were operating as a private carrier.~~

E. The Company may perform all functions and exercise all other powers of a domestic mutual insurance company and be subject to all applicable provisions of Title 36 of the Oklahoma Statutes.

F. The Company shall not be considered a state agency for any purpose.

G. The Company is subject to the same tax liability as a mutual insurance company in this state.

H. The Company is not a member insurer for the purposes of the Oklahoma Property and Casualty Insurance Guaranty Association.

SECTION 2. AMENDATORY 85 O.S. 1991, Section 131a, is amended to read as follows:

Section 131a. A. There is hereby created ~~a Board to be known as the "Board of Managers of the State Insurance Fund~~ Directors of the Oklahoma Employers Mutual Insurance Company", which Board shall have supervision over the administration and operation of the ~~State Insurance Fund~~ Oklahoma Employers Mutual Insurance Company, and shall be composed of ~~nine (9)~~ thirteen (13) members as follows:

~~1. The Director of State Finance or a designee;~~

~~2. The Lieutenant Governor or a designee;~~

~~3. The State Auditor and Inspector or a designee;~~

~~4. The Director of Central Purchasing of the Office of Public Affairs;~~

~~5. One member appointed by the Governor;~~

~~6. Two members appointed by the Speaker of the House of Representatives, one of whom shall be representative of employers;~~  
and

~~7. Two members appointed by the President Pro Tempore of the Senate, one of whom shall be representative of employees.~~

~~The appointed members of the Board shall serve at the pleasure of the appointing authority~~ One member appointed by the Governor;

2. One member appointed by the Speaker of the House of Representatives;

3. One member appointed by the President Pro Tempore of the Senate;

4. One member appointed by the State Auditor and Inspector; and

5. Nine members elected by the policyholders of the Company.

The appointed members shall be employed by public sector policyholders of the Company and shall serve at the pleasure of the appointing authority.

The elected members shall be employed by private sector policyholders of the Company and shall serve staggered three-year terms. These terms shall be staggered so that no more than three members' terms expire each year on July 1. The initial term of three of the elected members shall be for one (1) year; the initial term of three of the elected members shall be for two (2) years; and the initial term of three of the elected members shall be for three (3) years. The initial nominees for election to the Board shall be determined by a nominating committee consisting of the appointed members of the Board. At the expiration of the term of any elected member of the Board, the policyholders of the Company shall elect a new member in accordance with provisions determined by the Board.

B. The members of the Board shall elect annually from their number a Chairman ~~and~~, a Secretary, and such other officers as the Board deems necessary. The Secretary shall keep true and complete records of all proceedings of the Board. ~~Said~~ The Board shall meet ~~monthly~~ quarterly, and at all other times when a meeting is called by the Chairman, and at such meetings the Board may consider the condition of the ~~State Insurance Fund Company~~ Company and quarterly shall make a detailed examination into the condition of its reserves and investments and at each meeting may examine all other matters relating to the administration of ~~such Fund~~ the Company. The time and place of the regular meetings and the manner in which special meetings may be called shall be set forth in the bylaws of the ~~said Fund~~ the Company. Except as otherwise provided in this act or in

the bylaws, all actions shall be taken by the affirmative vote of a majority of the Board members present at a meeting, except that no investment policy and no amendment of bylaws shall be valid unless authorized or ratified by the affirmative vote of at least ~~four~~ a majority of all Board members.

C. Appointed members of the Board shall be reimbursed for ~~expenses as provided in the State Travel Reimbursement Act~~ reasonable and necessary vouchered expenses incurred in their official capacity. The appointed members shall each receive Two Hundred Fifty Dollars (\$250.00) per meeting. Fees and reimbursement for expenses shall be paid from the Company as a normal expense item. Said reimbursement, not to exceed thirty (30) days in any calendar year, shall be paid only when the Board is transacting official business or when members are acting in their official capacity as Board members. Any reimbursement in excess of thirty (30) days shall be approved by a majority of the Board. The Board shall have access to all records and books of account and shall have power to require the presence or appearance of any officer or employee of the ~~State Insurance Fund Company~~. All information obtained by the members of the Board shall be confidential unless disclosed by order of the Board.

D. No person or organization in a position to influence official action of members of the Board ~~of Managers of the State Insurance Fund~~, the ~~Commissioner~~ President, and the employees of the ~~State Insurance Fund Company~~ shall furnish presents, gratuities, transportation, lodging, educational seminars, conferences, meetings, or similar functions to the Board ~~of Managers of the State Insurance Fund~~, the ~~Commissioner~~ President, and the employees of the ~~State Insurance Fund Company~~ other than as would be similarly provided by the Oklahoma Campaign Compliance and Ethical Standards Act.

E. The members of the Board and officers and employees of the Company are not liable personally, either jointly or severally, for any debt or obligation created or incurred by the Company.

SECTION 3. AMENDATORY 85 O.S. 1991, Section 131b, is amended to read as follows:

Section 131b. The Board of ~~Managers~~ Directors of the ~~State Insurance Fund~~ Oklahoma Employers Mutual Insurance Company shall appoint and set the salary for a State Insurance Fund Commissioner President, who shall be the chief executive manager officer of ~~said State Insurance Fund~~ the Company.

SECTION 4. AMENDATORY 85 O.S. 1991, Section 132, is amended to read as follows:

Section 132. The ~~State Insurance Fund Commissioner~~ President of the Oklahoma Employers Mutual Insurance Company is ~~hereby~~ vested with full power, authority and jurisdiction over the ~~State Insurance Fund~~ Company. ~~He~~ The President shall have proven successful experience as an executive at the general management level and shall have at least five (5) years of experience in the field of insurance. The President shall be appointed for a term of four (4) years and shall be removed only for cause. The President shall perform any duties which are necessary or convenient in the exercise of any power, authority, or jurisdiction over the ~~fund~~ Company in the administration thereof, or in connection with the insurance business to be carried on by ~~him~~ the President under the provisions of Sections 131 through 151 of this title as fully and completely as a governing body of a private insurance carrier might or could do including the acquisition, operation and maintenance of an electronic data processing facility and equipment, entering contracts and establishing a competitive bid procedure for all purchases, entering contracts and establishing a competitive bid procedure for purchase or lease of motor vehicles for the furtherance of Company business, and establishing and maintaining a

system for the reimbursement of travel for Company personnel when on official business.

The Board of ~~Managers~~ Directors of the ~~State Insurance Fund~~ Oklahoma Employers Mutual Insurance Company shall have full power and authority to fix and determine the rates to be charged by the ~~State Insurance Fund~~ Company for insurance.

SECTION 5. AMENDATORY 85 O.S. 1991, Section 133, is amended to read as follows:

Section 133. A. The ~~Commissioner~~ President of the Oklahoma Employers Mutual Insurance Company shall have full power and authority to manage and conduct all business and affairs relating to the ~~State Insurance Fund Company~~, all of which business and affairs shall be conducted under the name of the ~~State Insurance Fund Company~~, and in that name and without any other name or title, the ~~Commissioner~~ President may:

~~(1)~~ 1. Sue and be sued in all the courts of the state, in all actions arising out of any act, deed, matter or things made, omitted, entered into, done or suffered in connection with the ~~State Insurance Fund Company~~, and administer, manage, or conduct all the business and affairs relating thereto-; i

~~(2)~~ 2. Make and enter into contracts of insurance as herein provided, and such other contracts or obligations relating to the ~~State Insurance Fund Company~~, as are authorized or permitted under the provisions of this act-; i

~~(3)~~ 3. Invest and reinvest the monies belonging to the ~~State Insurance Fund Company~~ as hereinafter provided- in this act;

~~(4)~~ 4. Conduct all business and affairs, relating to the ~~said State Insurance Fund Company~~, whether herein specifically designated or in addition thereto-; and

~~(5)~~ 5. The ~~Commissioner~~ may delegate Delegate to any officer of the ~~State Insurance Fund Company~~, under such rules ~~and regulations~~, and subject to such conditions as ~~he~~ the President may from time to

time prescribe, any of the powers, functions or duties conferred or imposed on the ~~Commissioner~~ President under the provisions of this act in connection with the ~~State Insurance Fund Company~~, the administration, management and conduct of the business or affairs relating thereto, and the officer or officers to whom such delegation is made may exercise the power and functions and perform the duties delegated with the same force and effect as the ~~Commissioner~~ President, but subject to ~~his~~ the approval of the President.

~~(6)~~ B. The Board of ~~Managers~~ Directors of the ~~State Insurance Fund~~ Oklahoma Employers Mutual Insurance Company shall not, nor shall the ~~Commissioner~~ President or any officer or employee of the ~~State Insurance Fund Company~~ be personally liable in ~~his~~ a private capacity for or on account of any act performed or contract or other obligation entered into or undertaken in an official capacity in good faith and without intent to defraud, in connection with the administration, management or conduct of the ~~State Insurance Fund Company~~, its business or other affairs relating thereto.

SECTION 6. AMENDATORY 85 O.S. 1991, Section 134, as amended by Section 40 of Enrolled House Bill No. 1002 of the 2nd Extraordinary Session of the 44th Oklahoma Legislature, is amended to read as follows:

Section 134. A. In conducting the business and affairs of the ~~State Insurance Fund~~ Oklahoma Employers Mutual Insurance Company, the ~~Commissioner~~ President of the ~~said Fund Company~~, or other officer to whom such power and authority may be delegated by the ~~Commissioner~~ President, as provided by Section 133 of this title, shall have full power and authority:

1. To enter into contracts of insurance, insuring employers against liability for compensation, and insuring to employees and other persons entitled thereto compensation as provided by the Workers' Compensation Act, Section 1 et seq. of this title;

2. To decline to insure any risk in which the minimum requirements of the law with regard to construction, equipment and operation are not observed, or which is beyond the safe carrying of the ~~State Insurance Fund~~ Company, but shall not have power or authority, except as otherwise provided in this act to refuse to insure any compensation risk tendered with the premium therefor;

3. To enter into contracts of insurance insuring persons, firms and corporations against loss, expense or liability by reason of bodily injury, death by accident, occupational disability, or occupational disease suffered by employees for which the insured may be liable or have assumed liability;

4. To reinsure any risk or any part thereof;

5. To inspect and audit, or cause to be inspected and audited the payrolls of employers applying for insurance against liability for compensation;

6. To contract with physicians, surgeons and hospitals for medical and surgical treatment and the care and nursing of injured persons entitled to benefits from ~~said fund~~ the Company;

7. To meet the reasonable expenses of conducting the business of the ~~State Insurance Fund~~ Company;

8. To produce a reasonable surplus to cover catastrophe hazard; and

9. To administer a program in compliance with Section 924.3 of Title 36 of the Oklahoma Statutes, whereby employers may appeal rating classification decisions which are disputed. The ~~State Insurance Fund~~ Company shall notify employers of the availability of the program.

B. The ~~State Insurance Fund~~ Company must be funded through actuarially sound rates and premiums charged to its policyholders.

C. The ~~State Insurance Fund~~ Company shall establish and use rates and rating plans to assure that it is self-funding while those rates are in effect.

D. No later than September 1 of each year, the ~~State Insurance Fund Company~~ shall obtain an independent actuarial certification of the results of its operations for prior years.

E. Any premium or assessments collected by the ~~State Insurance Fund Company~~ in excess of the amount necessary to fund its projected ultimate incurred losses and expenses and not paid to policyholders insured under the ~~State Insurance Fund Company~~ in conjunction with dividend programs shall be retained by the ~~State Insurance Fund Company~~.

F. ~~State Insurance Fund Company~~ losses are the sole and exclusive responsibility of the ~~State Insurance Fund Company~~, and payment for such losses must be funded in accordance with this section and must not come, directly or indirectly, from insurers or any guaranty association for such insurers, except for reinsurance purchased by the ~~State Insurance Fund Company~~.

SECTION 7. AMENDATORY 85 O.S. 1991, Section 135, as amended by Section 41 of Enrolled House Bill No. 1002 of the 2nd Extraordinary Session of the 44th Oklahoma Legislature, is amended to read as follows:

Section 135. A. All receipts of money, ~~with the exception of investment income,~~ by the Oklahoma Employers Mutual Insurance Company shall be deposited ~~in the State Insurance Fund fund in the State Treasury. The Commissioner with a financial institution designated by the President,~~ subject to the direction of the Board of Managers, ~~shall have the responsibility for the management of the State Insurance Fund fund, and may transfer monies used for investment purposes from the State Insurance Fund fund in the State Treasury to the custodian bank or trust company of the State Insurance Fund.~~

B. 1. All benefits payable pursuant to the provisions of the bylaws of the ~~State Insurance Fund~~ Oklahoma Employers Mutual Insurance Company, and refunds of premiums and overpayments, shall

be paid from the ~~State Insurance Fund Company~~ upon warrants or vouchers signed by two persons designated by the ~~Commissioner~~ President.

2. Every check, draft, warrant, or other instrument drawn for the payment of temporary total disability benefits by the ~~State Insurance Fund Company~~ shall contain on its face in a contrasting color of ink the following:

WARNING: It is a felony to knowingly receive money under false pretenses by accepting temporary total disability benefits while working at the same or a similar job. If you are employed or receiving wages, you should consult the State Insurance Fund or if you are represented by an attorney you should consult your attorney BEFORE presenting this instrument to any other person for payment.

~~3. The Commissioner may transfer monies from the custodian bank or trust company of the State Insurance Fund to the State Insurance Fund fund in the State Treasury for the purposes specified in this subsection.~~

C. All premiums and other money paid to the Company, all property and securities acquired through the use of money belonging to the Company, and all interest and dividends earned upon money belonging to the Company and deposited and invested by the Company, are the sole property of the Company and shall be used exclusively for the operation and obligations of the Company. The money of the Company is not state money. The property of the Company is not state property.

D. The Company shall not receive any state appropriation, nor shall the state be liable for any losses of the Company.

SECTION 8. AMENDATORY 85 O.S. 1991, Section 135.1, is amended to read as follows:

Section 135.1 There is hereby created a petty cash fund within the ~~State Insurance Fund~~ Oklahoma Employers Mutual Insurance

Company. Said petty cash fund shall be in such amounts as are determined to be necessary by the ~~Director of State Finance and the Commissioner of the State Insurance Fund~~ President. Petty cash funds may be expended for the payment of emergency purchases and bills. ~~The said funds may be reimbursed by the Director of State Finance upon the filing of a claim with the proper receipts showing the disbursements therefrom, reimbursement to be made from the revolving fund. The Director of State Finance shall prescribe all forms, systems and procedures for administering the petty cash fund.~~

SECTION 9. AMENDATORY 85 O.S. 1991, Section 136, is amended to read as follows:

Section 136. A. ~~The Commissioner~~ President shall ~~appoint, with the approval of the Board of Managers of the State Insurance Fund, such assistants, accountants, claim adjusters, and other employees~~ hire personnel and establish salaries and compensation as may be necessary to conduct the business and carry out the provisions of Section 131 et seq. of this title, or to perform the duties imposed upon ~~him~~ the President by this act; ~~provided, that in.~~ In no event shall the salaries of such employees, together with all other expenses of ~~said Fund~~ the Company, exceed twenty ~~(20)~~ percent (20%) of the earned premiums.

B. ~~The chief attorney for the Board shall receive a salary equal to that paid to a judge of the Workers' Compensation Court~~ Effective January 1, 1996, the employees of the State Insurance Fund shall become employees of the Oklahoma Employers Mutual Insurance Company and shall be exempt from any state personnel system.

C. The Oklahoma Employers Mutual Insurance Company may either contract with the State and Education Employees Group Insurance Plan and the Oklahoma Public Employees Retirement Plan or provide plans of at least comparable value to Company employees.

D. The Company shall provide a promotion policy which shall not discriminate among Company employees.

E. The Board shall adopt comprehensive procedures for the hiring of personnel.

SECTION 10. AMENDATORY 85 O.S. 1991, Section 137, is amended to read as follows:

Section 137. ~~Ten percent (10%) of the premiums collected from all persons, firms or corporations insured in the State Insurance Fund, shall be set aside by the Commissioner for the creation of surplus, until the surplus shall amount to the sum of Two Hundred Fifty Thousand Dollars (\$250,000.00), and thereafter five percent (5%) of such premiums~~ The President shall be set aside and maintain a surplus as regards policyholders as required in Section 612.2 of Title 36 of the Oklahoma Statutes and may maintain any additional surplus until such time as in the judgment of the ~~State Insurance Board~~ such surplus shall be sufficiently large to cover the catastrophe hazard, and all other unanticipated losses. The Board ~~of Managers~~ is hereby vested with authority, in its discretion, to transfer funds from such surplus to other funds of the ~~State Insurance Fund Company~~ when deemed necessary or advisable; ~~provided, that in.~~ In no event shall such surplus be reduced to a sum less than ~~One Hundred Fifty Thousand Dollars (\$150,000.00)~~ the sum required by the Insurance Code. Reserves shall be set up and maintained adequate to meet anticipated losses and to carry all claims and policies to maturity, which reserves shall be computed in accordance with such rules as approved by the ~~State Insurance Board~~. The rules shall be as strict as rules that are applicable to all other domestic mutual insurance companies.

SECTION 11. AMENDATORY 85 O.S. 1991, Section 138, as last amended by Section 36, Chapter 349, O.S.L. 1993 (85 O.S. Supp. 1994, Section 138), is amended to read as follows:

Section 138. A. The Board ~~of Managers~~ shall discharge their duties with respect to the ~~State Insurance Fund~~ Oklahoma Employers

Mutual Insurance Company solely in the interest of the ~~Fund~~ Company and:

1. For the exclusive purpose of:

- a. providing benefit to the ~~Fund~~ Company, and
- b. defraying reasonable expenses of administering the ~~State Insurance Fund~~ Company;

2. With the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims;

3. By diversifying the investments of the ~~State Insurance Fund~~ Company so as to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so; and

4. In accordance with the laws, documents and instruments governing the ~~State Insurance Fund~~ Company.

B. The monies of the ~~State Insurance Fund~~ Company shall be invested only in assets eligible for the investment of funds of a domestic property and casualty insurance company as provided for in the Oklahoma Insurance Code, Title 36 of the Oklahoma Statutes. ~~The term admitted assets shall mean the amount of the monies of the State Insurance Fund and the provisions relating to limitation of investments as a percentage of surplus as regards policyholders shall be inapplicable with respect to investment of the monies of the State Insurance Fund. The monies of the State Insurance Fund may be invested in certificates of indebtedness or such other enforceable evidences of obligation as may be utilized in the rights-of-way acquisitions by the Oklahoma Department of Transportation. The monies of the State Insurance Fund may also be invested in bonds secured by first mortgages, pass-through securities and insured participation certificates representing interests in first mortgages or insured mortgage pass-through~~

~~certificates on one- to four-family residences located within this state.~~

~~C. 1. The Commissioner, with the approval of the Board of Managers, is authorized to acquire any real estate deemed necessary for the immediate and reasonably anticipated future administrative office space needs of the State Insurance Fund. The Commissioner, with the approval of the Board of Managers, may sell, lease, rent or sublet any real estate holdings of the State Insurance Fund. Any revenues of such transactions shall accrue to the surplus or reserve fund of the State Insurance Fund.~~

~~2. C.~~ In any lease, rental, sublease or other agreement for the use or occupation of real estate holdings of the ~~State Insurance Fund Company~~, no state agency may enter into an agreement which has a gross effective rental rate which is greater than the gross effective rental rate for which they can continue to occupy the premises which is currently rented at the time the agency proposes to move. For a period of two (2) years after the first use or occupation by the state agency, subsequent agreements, whether new agreements or continuations of a prior agreement, shall not contain a gross effective rental rate which is greater than that of the original agreement.

D. The Board ~~of Managers~~ may procure insurance indemnifying the members of the ~~State Insurance Fund Board~~ from personal loss or accountability from liability resulting from a member's action or inaction as a member of the Board ~~of Managers~~.

E. The Board ~~of Managers~~ may establish an investment committee. The investment committee shall be composed of not more than three (3) members of the Board ~~of Managers~~ appointed by the chairman of the Board ~~of Managers~~. The committee shall make recommendations to the full Board on all matters related to the choice of custodians and managers of

the assets of the ~~State Insurance Fund Company~~, on the establishment of investment and fund management guidelines, and in planning future investment policy. The committee shall have no authority to act on behalf of the Board ~~of Managers~~ or the ~~Fund Company~~ in any circumstances whatsoever. No recommendation of the committee shall have effect as an action of the Board ~~of Managers~~ nor take effect without the approval of the Board ~~of Managers~~ as provided by law.

F. The Board ~~of Managers~~ shall retain qualified investment managers to provide for the investment of the monies of the ~~State Insurance Fund Company~~. The investment managers shall be chosen by a solicitation of proposals on a competitive bid basis pursuant to standards set by the Board ~~of Managers~~. Subject to the overall investment guidelines set by the Board ~~of Managers~~, the investment managers shall have full discretion in the management of those monies of the ~~State Insurance Fund Company~~ allocated to the investment managers. The Board ~~of Managers~~ shall manage those monies not specifically allocated to the investment managers. The monies of the ~~State Insurance Fund Company~~ allocated to the investment managers shall be actively managed by the investment managers, which may include selling investments and realizing losses if such action is considered advantageous to longer term return maximization. Because of the total return objective, no distinction shall be made for management and performance evaluation

purposes between realized and unrealized capital gains and losses.

G. Funds and revenues for investment by the investment managers or the Board ~~of Managers~~ shall be placed with a custodian selected by the Board ~~of Managers~~. The custodian shall be a bank or trust company offering master custodial services. The custodian shall be chosen by a solicitation of proposals on a competitive bid basis pursuant to standards set by the Board ~~of Managers~~. In compliance with the investment policy guidelines of the Board ~~of Managers~~, the custodian bank or trust company shall be contractually responsible for ensuring that all monies of the ~~State Insurance Fund Company~~ are invested in income-producing investment vehicles at all times. If a custodian bank or trust company has not received direction from the investment managers of the ~~State Insurance Fund Company~~ as to the investment of the monies of the ~~State Insurance Fund Company~~ in specific investment vehicles, the custodian bank or trust company shall be contractually responsible to the Board ~~of Managers~~ for investing the monies in appropriately collateralized short-term interest-bearing investment vehicles.

H. Prior to August 1 of each year, the Board ~~of Managers~~ shall develop and approve a written investment plan for the ~~State Insurance Fund Company~~.

I. The ~~State Insurance Fund Commissioner~~ President shall compile a quarterly financial report of all the funds of the ~~State Insurance Fund Company~~. The report shall be compiled and filed pursuant to uniform reporting standards prescribed by the State Insurance Commissioner for domestic property and casualty insurance companies. The report shall include several relevant measures of investment value, including acquisition cost and current fair market value with appropriate summaries of total holdings and returns. The report shall contain combined and individual rate of returns of the investment managers by category of investment, over periods of time.

The report shall be distributed to the Governor, the ~~Legislative Service Bureau and the Joint Committee on Fiscal Operations~~ Speaker of the House of Representatives and the President Pro Tempore of the Senate.

SECTION 12. AMENDATORY 85 O.S. 1991, Section 138.2, is amended to read as follows:

Section 138.2 A. A fiduciary with respect to the ~~State Insurance Fund~~ Oklahoma Employers Mutual Insurance Company shall not cause the ~~State Insurance Fund Company~~ to engage in a transaction if the fiduciary knows or should know that such transaction constitutes a direct or indirect:

1. Sale or exchange, or leasing of any property from the ~~State Insurance Fund Company~~ to a party in interest for less than adequate consideration or from a party in interest to the ~~State Insurance Fund Company~~ for more than adequate consideration;

2. Lending of money or other extension of credit from the ~~State Insurance Fund Company~~ to a party in interest without the receipt of adequate security and a reasonable rate of interest, or from a party in interest to the ~~State Insurance Fund Company~~ with provision of excessive security or an unreasonably high rate of interest;

3. Furnishing of goods, services or facilities from the ~~State Insurance Fund Company~~ to a party in interest for less than adequate consideration, or from a party in interest to the ~~State Insurance Fund Company~~ for more than adequate consideration; or

4. Transfer to, or use by or for the benefit of, a party in interest of any assets of the ~~State Insurance Fund Company~~ for less than adequate consideration.

B. A fiduciary with respect to the ~~State Insurance Fund~~ Oklahoma Employers Mutual Insurance Company shall not:

1. Deal with the assets of the ~~State Insurance Fund Company~~ in the fiduciary's own interest or for the fiduciary's own account;

2. In the fiduciary's individual or any other capacity act in any transaction involving the ~~State Insurance Fund~~ Company on behalf of a party whose interests are adverse to the interests of the ~~State Insurance Fund~~ Company or the interests of its participants or beneficiaries; or

3. Receive any consideration for the fiduciary's own personal account from any party dealing with the ~~State Insurance Fund~~ Company in connection with a transaction involving the assets of the ~~State Insurance Fund~~ Company.

C. A fiduciary with respect to the ~~State Insurance Fund~~ Oklahoma Employers Mutual Insurance Company may:

1. Invest all or part of the assets of the ~~State Insurance Fund~~ Company in deposits which bear a reasonable interest rate in a bank or similar financial institution supervised by the United States or a state, if such bank or other institution is a fiduciary of such plan; or

2. Provide any ancillary service by a bank or similar financial institution supervised by the United States or a state, if such bank or other institution is a fiduciary of such plan.

D. A person or a financial institution is a fiduciary with respect to the ~~State Insurance Fund~~ Oklahoma Employers Mutual Insurance Company to the extent that the person or the financial institution:

1. Exercises any discretionary authority or discretionary control respecting management of the ~~State Insurance Fund~~ Company or exercises any authority or control respecting management or disposition of the assets of the ~~State Insurance Fund~~ Company;

2. Renders investment advice for a fee or other compensation, direct or indirect, with respect to any monies or other property of the ~~State Insurance Fund~~ Company, or has any authority or responsibility to do so; or

3. Has any discretionary authority or discretionary responsibility in the administration of the ~~State Insurance Fund Company~~.

SECTION 13. AMENDATORY 85 O.S. 1991, Section 139, as amended by Section 2, Chapter 60, O.S.L. 1992 (85 O.S. Supp. 1994, Section 139), is amended to read as follows:

Section 139. A. The entire expenses of administering "~~The State Insurance Fund~~" the Oklahoma Employers Mutual Insurance Company shall be paid out of ~~such fund~~ the Company upon warrants issued by the ~~State Treasurer~~ Company against claims filed ~~as prescribed by law with the Director of State Finance for approval and payment.~~ On or before the first day of June of each year, or as soon thereafter as possible, there shall be submitted to the Board ~~of Managers of the State Insurance Fund~~, for approval, an estimated budget of expenses for the succeeding fiscal year. The ~~State Insurance Fund Commissioner may~~ President shall not expend from the funds belonging to the ~~State Insurance Fund~~ Company for purposes of administering any sum in excess of the amount specified in ~~such~~ the budget for any item of expense ~~therein~~ set forth in the budget unless ~~such~~ the expenditure is authorized by the Board ~~of Managers of the State Insurance Fund~~. In no event shall the entire expenses of administration of the ~~State Insurance Fund~~ Company, as authorized for the entire year, exceed twenty percent (20%) of the earned premiums of said year. The Board ~~of Managers~~ shall cause to be made and completed within ninety (90) days after the end of each calendar year, an audit of the books of account and financial records of the fund for such calendar year, ~~such~~ the audit to be made by an independent certified public accountant, a licensed public accountant, a firm of certified public accountants, or an accounting firm or individual holding a permit to practice accounting in this state.

B. The ~~Fund~~ Company shall submit to the State Insurance Commissioner an annual financial statement in the same manner as a domestic mutual insurance carrier. The State Insurance Commissioner may audit the ~~State Insurance Fund~~ Company in the same manner as a domestic mutual insurance company. The ~~State Insurance Fund~~ Commissioner President shall provide a copy of the annual financial statement to the Board and the Governor ~~and State Insurance Fund Board of Managers~~.

SECTION 14. AMENDATORY 85 O.S. 1991, Section 141, is amended to read as follows:

Section 141. The ~~Commissioner~~ President shall keep an account of the money paid in premiums by each classification of persons, firms, or corporations insured by ~~said State Insurance Fund~~ the Oklahoma Employers Mutual Insurance Company, and the expense of administering the ~~State Insurance Fund~~ Company and the disbursements on account of loss, expense or liability by reason of bodily injury, death by accident, occupational disability, or occupational disease suffered by employees, for which persons injured, the ~~State Insurance Fund~~ Company were liable or had assumed liability, including the setting up of reserves adequate to meet unanticipated and unexpected losses and to carry the claims to maturity; and, also, an account of the money received from such individual insured; and of the amount disbursed from ~~"The State Insurance Fund"~~ the Company, for expenses, and on account of injuries, death by accident, sickness or disease, and disability of persons to whom such insured was liable or had assumed liability, including the reserves set up.

SECTION 15. AMENDATORY 85 O.S. 1991, Section 142, is amended to read as follows:

Section 142. Premiums for any policy period shall be paid into the ~~State Insurance Fund~~ Oklahoma Employers Mutual Insurance Company at the beginning of the period according to the estimated

expenditure of wages for the period. At the end of the period an adjustment of the premium shall be made according to the actual expenditure of wages. If such adjusted premium is more than the premium paid at the beginning of the period, the employer shall pay the difference immediately upon notification of the amount of the true premium paid in advance, the employer shall at ~~his~~ the option of the employer receive either refund of the difference or a credit of the amount thereof on ~~his~~ the employer's account with ~~"The State Insurance Fund."~~ the Company.

SECTION 16. AMENDATORY 86 O.S. 1991, Section 142A, is amended to read as follows:

Section 142A. ~~The State Insurance Fund~~ Oklahoma Employers Mutual Insurance Company, in cooperation with the Department of Labor, shall develop and implement an insurance premium credit program for the insureds of the ~~State Insurance Fund~~ Company which is consistent with the provisions of Section ~~±~~ 924.2 of ~~this act~~ Title 36 of the Oklahoma Statutes.

SECTION 17. AMENDATORY 85 O.S. 1991, Section 144, is amended to read as follows:

Section 144. If any persons, firm or corporation insured by ~~said State Insurance Fund~~ the Oklahoma Employers Mutual Insurance Company shall default in the payment required to be made by ~~him~~ the insured to the ~~State Insurance Fund~~ Company, after due notice ~~his~~ the insurance in "The State Insurance Fund" with the Company may be canceled and the amount due from ~~him~~ the insured shall be collected by a civil action against ~~him~~ the insured in the name of ~~"The State Insurance Fund"~~ the Oklahoma Employers Mutual Insurance Company, and the same when collected shall be paid into ~~"The State Insurance Fund"~~ the Company, and such insured's compliance with the provisions of this article requiring payments to be made to the ~~"State Insurance Fund"~~ Company shall date from the time of the payment of

such money so collected ~~as aforesaid to "The State Treasurer" for credit of "The State Insurance Fund".~~

SECTION 18. AMENDATORY 85 O.S. 1991, Section 145, is amended to read as follows:

Section 145. Every person, firm or corporation who has insured ~~in "The State Insurance Fund"~~ with the Oklahoma Employers Mutual Insurance Company shall keep, a true and accurate record of the number of employees and the wages paid by ~~him~~ the insured, and shall furnish upon demand a sworn statement of the same. Such record shall be open to inspection at any time, and as often as may be necessary to verify the number of employees and the amount of the pay roll. Any person, firm or corporation who shall fail to keep such record or who shall willfully falsify any such record, shall be guilty of a misdemeanor.

SECTION 19. AMENDATORY 85 O.S. 1991, Section 146, is amended to read as follows:

Section 146. Any person who willfully misrepresents any fact in order to obtain insurance ~~in "The State Insurance Fund"~~ with the Oklahoma Employers Mutual Insurance Company at less than the proper rate for such insurance, or in order to obtain payment out of such fund shall be guilty of a misdemeanor.

SECTION 20. AMENDATORY 85 O.S. 1991, Section 147, is amended to read as follows:

Section 147. A. Information acquired by the ~~Commissioner~~ President or the officers or employees of the ~~State Insurance Fund~~ Oklahoma Employers Mutual Insurance Company, from persons, firms or corporations insured ~~in said State Insurance Fund by the Company~~, or from employees of such persons, firms or corporations pursuant to this article shall not be open to public inspection, and any officer or employee of the ~~State of Oklahoma~~ Company, who without authority of the ~~Commissioner~~ President, or pursuant to the rules prescribed by the ~~State Insurance Fund Commissioner~~ President, or as otherwise

required by law, shall disclose the same, shall be guilty of a misdemeanor.

B. For the purpose of implementing Section ~~2~~ 142A of this ~~act~~ title, the ~~State Insurance Fund Commissioner~~ President shall provide to the Commissioner of Labor annually, upon request, a listing of the insureds of the ~~State Insurance Fund~~ Company with the name, address and nature of business or occupation of the insured.

SECTION 21. AMENDATORY 85 O.S. 1991, Section 148, is amended to read as follows:

Section 148. Every person, firm or corporation insuring ~~in "The State Insurance Fund"~~ with the Oklahoma Employers Mutual Insurance Company shall receive from the ~~State Insurance Fund~~ Company a contract or policy of insurance to be approved by the State Insurance Board.

Except as otherwise provided in this act, all premiums shall be paid by every person, firm, or corporation who elects to insure with ~~"The State Insurance Fund"~~ the Company to the ~~Commissioner~~ President semiannually, or at such times as may be prescribed by general rule ~~or regulation~~ applicable to all insurers alike by the ~~Commissioner~~ President. Receipts shall be given for such payment and the money shall be paid over to the credit of the ~~State Insurance Fund~~ Company.

SECTION 22. This act shall become effective January 1, 1996.

Passed the House of Representatives the 13th day of March, 1995.

Speaker of the House of Representatives

Passed the Senate the \_\_\_\_ day of \_\_\_\_\_, 1995.

President of the Senate