STATE OF OKLAHOMA

1st Session of the 47th Legislature (1999)

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 1771 By: Ervin

COMMITTEE SUBSTITUTE

An Act relating to workers' compensation; amending Section 4, Chapter 361, O.S.L. 1997, and 85 O.S. 1991, Sections 22, as last amended by Section 4, Chapter 374, O.S.L. 1998, 42, as last amended by Section 5, Chapter 374, O.S.L. 1998, and 92 (85 O.S. Supp. 1998, Sections 3.10, 22 and 42), which relate to workers' compensation; changing the name of the Special Indemnity Fund to the Multiple Injury Trust Fund; correcting date; amending 85 O.S. 1991, Sections 131, as last amended by Section 3, Chapter 326, O.S.L. 1995, 138, as last amended by Section 2, Chapter 26, O.S.L. 1995, and 141 (85 O.S. Supp. 1998, Sections 131 and 138), which relate to the State Insurance Fund; deleting certain reporting requirements; adding certain duties to the Board of Managers; authorizing certain fund transfers; providing for reimbursement; requiring payment of certain taxes; prohibiting certain costs from being borne by policyholders under certain circumstances; amending 85 O.S. 1991, Sections 172, as last amended by Section 42, Chapter 1, 2nd Extraordinary Session, O.S.L. 1994, 173, as last amended by Section 16, Chapter 349, O.S.L. 1993, 174, as amended by Section 13, Chapter 363, O.S.L. 1996, 175, Section 43, Chapter 1, 2nd Extraordinary Session, O.S.L. 1994, as amended by Section 7, Chapter 353, O.S.L. 1998, and Section 34, Chapter 349, O.S.L. 1993, as amended by Section 46, Chapter 1, 2nd Extraordinary Session, O.S.L. 1994 (85 O.S. Supp. 1998, Sections 172, 173, 174, 182 and 211), which relate to the Special Indemnity Fund; changing the name of the Special Indemnity Fund to the Multiple Injury Trust Fund; providing that certain awards shall accrue from certain date; prohibiting additional benefits under certain circumstances; deleting waiting period for certain benefits; requiring unclaimed awards be returned to the Multiple Injury Trust Fund; providing for payment of unclaimed awards under certain circumstances; requiring copies of certain awards be sent to the Insurance Commissioner; authorizing certain funding; amending 36 O.S. 1991, Section 631, as last amended by Section 1, Chapter 302, O.S.L. 1996 (36 O.S. Supp. 1998, Section 631), which relates to insurance; specifying distribution of certain monies; and providing an effective date.

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

SECTION 1. AMENDATORY Section 4, Chapter 361, O.S.L. 1997 (85 O.S. Supp. 1998, Section 3.10), is amended to read as follows:

Section 3.10 A. Mediation shall be available to any party to a claim arising pursuant to the provisions of the Workers' Compensation Act, subject to the limitation provisions of Section 14.3 of ~~Title 85 of the Oklahoma Statutes~~ this title and except for claims against the ~~Special Indemnity~~ Multiple Injury Trust Fund.

B. Mediation shall be voluntary, and shall not be conducted without the consent of both parties.

1. Mediation is not a prerequisite to the commencement of a claim for benefits, pursuant to the provisions of the Workers' Compensation Act.

2. A request for mediation or consent to mediate does not invoke the jurisdiction of the Workers' Compensation Court.

C. No sanction or penalty may be imposed by the Administrator of the Workers' Compensation Court or any judge of the Court if a party refuses to mediate.

D. 1. A request for mediation shall be made in writing to the Administrator.

2. The party requesting mediation shall inform the Administrator of the issues in dispute, and the name, address, and telephone number of the opposing party or insurance company, if known. If the claim involves a certified workplace medical plan, the requesting party shall provide the name and phone number of the contact person for the plan.

E. Once a request has been made, the Administrator shall contact the opposing party. If the opposing party does not wish to participate in mediation, the requesting party shall be notified of the refusal.

F. If both parties agree to mediation, they shall enter into a written consent to mediate on a form provided by the Administrator. The form shall contain a statement informing the parties of their rights and obligations and of the confidentiality of the proceedings. This written consent shall be signed by both parties to the claim and shall be submitted to the Administrator before the selection of a mediator is made.

G. Mediation is confidential and no part of the proceeding shall be considered a matter of public record. Recommendations of the mediator are not binding unless the parties enter into a settlement agreement. If an agreement is not reached, the results and statements made during the mediation are not admissible in any following proceeding.

H. Upon receipt of the consent form, the Administrator shall provide the parties with a list of certified mediators. Both parties shall agree to a mediator. If the parties are unable to agree, mediation shall not occur.

I. The Supreme Court of the State of Oklahoma shall be responsible for certifying those persons who are eligible and qualified to serve as mediators. An individual may be certified as a mediator if:

1. The applicant is certified pursuant to the Dispute Resolution Act, Section 1801 et seq. of Title 12 of the Oklahoma Statutes;

2. The applicant has such additional qualifications as required by the Court; and

3. The applicant has signed an agreement to be bound by the ethical standards set forth in Chapter 37, Appendix A of Title 12 of the Oklahoma Statutes, "Code of Professional Conduct for Mediators".

J. Each certified mediator shall remain on the list for five (5) years, unless removed. Mediators shall be required to complete at least six (6) hours of continuing education per two-year period

in the areas of mediation and workers' compensation. Proof of compliance with this requirement shall be submitted to the Administrator. This continuing education requirement shall be in addition to any other such general requirement which may be required by the Oklahoma State Bar Association. Cost of continuing education is to be borne by the applicant.

K. Notwithstanding the Rules and Procedures for the Dispute Resolution Act, mediators shall be compensated at the rate or fee as determined by the mediator; provided however, the rate or fee shall not exceed a maximum rate to be established by the Administrator by rule. The cost of mediation shall be paid by the respondent or its insurance carrier.

L. If the mediated claim is voluntarily agreed to by both parties and resolved, any final settlement of the action shall include a consent to mediation form and shall be completed upon the filing of a Joint Petition or an Agreement Between Employer and Employee as to Fact with Relation to an Injury and Payment of Compensation.

SECTION 2. AMENDATORY 85 O.S. 1991, Section 22, as last amended by Section 4, Chapter 374, O.S.L. 1998 (85 O.S. Supp. 1998, Section 22), is amended to read as follows:

Section 22. The following schedule of compensation is hereby established:

1. Permanent Total Disability. In case of total disability adjudged to be permanent, seventy percent (70%) of the employee's average weekly wages shall be paid to the employee during the continuance of such total disability.

2. Temporary Total Disability. (a) With respect to injuries occurring before November 4, 1994, in cases of temporary total disability, seventy percent (70%) of the employee's average weekly wages shall be paid to the employee during the continuance thereof, but not in excess of one hundred fifty (150) weeks, except as

otherwise provided in the Workers' Compensation Act. Provided, after compensation has been paid for a period of one hundred forty (140) weeks, the employee may request a review of the case by a judge of the Court for continued temporary total disability benefits provided by the Workers' Compensation Act. Upon a finding that benefits should be extended beyond the initial one-hundred-fifty-week period, compensation may be continued for an additional one hundred fifty (150) weeks.

(b) With respect to injuries occurring on or after November 4, 1994, in cases of temporary total disability, seventy percent (70%) of the employee's average weekly wages shall be paid to the employee during the continuance thereof, but not in excess of fifty-two (52) weeks, except as otherwise provided in the Workers' Compensation Act. Provided, after compensation has been paid for a period of forty-two (42) weeks, the employee may request a review of the case by a judge of the Court for continued temporary total disability benefits provided by the Workers' Compensation Act. Upon a finding that benefits should be extended beyond the initial fifty-two-week period, compensation may be continued for additional successive fifty-two-week periods, provided the employee has requested review of the case at forty-two (42) weeks during each period involved, and upon a finding by the Court that benefits should be extended. Total payments of compensation for temporary total disability may not exceed a maximum of three hundred (300) weeks in the aggregate.

(c) With respect to injuries occurring on or after November 1, 1997, total payments of compensation for temporary total disability may not exceed a maximum of one hundred fifty-six (156) weeks in the aggregate except for good cause shown, as determined by the Court.

3. Permanent Partial Disability. (a) With respect to injuries occurring prior to November 4, 1994, in case of disability, partial in character but permanent in quality, the compensation shall be seventy percent (70%) of the employee's average weekly wages, and

shall be paid to the employee for the period named in the schedule, as follows:

Thumb: For the loss of thumb, sixty (60) weeks.

First Finger: For the loss of the first finger, commonly called the index finger, thirty-five (35) weeks.

Second Finger: For the loss of a second finger, thirty (30) weeks.

Third Finger: For the loss of a third finger, twenty (20) weeks.

Fourth Finger: For the loss of a fourth finger, commonly called the little finger, fifteen (15) weeks.

Phalange of Thumb or Finger: The loss of the first phalange of the thumb or finger shall be considered equal to the loss of one-half (1/2) of such thumb or finger, and compensation shall be one-half (1/2) of the amount above specified; the loss of more than one phalange shall be considered as the loss of the entire thumb or finger; provided, however, that in no case shall the amount received for more than one finger exceed the amount provided in this schedule for the loss of a hand.

Great Toe: For the loss of a great toe, thirty (30) weeks.

Other Toes: For the loss of one of the toes other than the great toe, ten (10) weeks.

Phalange of Toe: The loss of the first phalange of any toe shall be considered to be equal to the loss of one-half (1/2) of the amount specified. The loss of more than one phalange shall be considered as the loss of the entire toe.

Hand: For the loss of a hand, two hundred (200) weeks.

Arm: For the loss of an arm, two hundred fifty (250) weeks.

Foot: For the loss of a foot, two hundred (200) weeks.

Leg: For the loss of a leg, two hundred fifty (250) weeks.

Eye: For the loss of an eye, two hundred fifty (250) weeks.

Deafness: Deafness from industrial cause, including occupations which are hazardous to hearing, accident or sudden trauma, three hundred (300) weeks, and total deafness of one ear from industrial cause, including occupations which are hazardous to hearing, accident or sudden trauma, one hundred (100) weeks. Except as otherwise provided herein, any examining physician shall only evaluate deafness or hearing impairment in accordance with the latest publication of the American Medical Association's "Guides to the Evaluation of Permanent Impairment" in effect at the time of the injury. The Physician Advisory Committee may, pursuant to Section 201.1 of this title, recommend the adoption of a method or system to evaluate permanent impairment that shall be used in place of or in combination with the American Medical Association's "Guides to the Evaluation of Permanent Impairment". Such recommendation shall be made to the Administrator of the Workers' Compensation Court who may adopt the recommendation in part or in whole. The adopted method or system shall be submitted by the Administrator to the Governor, the Speaker of the House of Representatives and President Pro Tempore of the Senate within the first ten (10) legislative days of a regular session of the Legislature. Such method or system to evaluate permanent impairment that shall be used in place of or in combination with the American Medical Association's "Guides to the Evaluation of Permanent Impairment" shall be subject to disapproval in whole or in part by joint or concurrent resolution of the Legislature during the legislative session in which submitted. Such method or system shall be operative one hundred twenty (120) days after the last day of the month in which the Administrator submits the adopted method or system to the Legislature if the Legislature takes no action or one hundred twenty (120) days after the last day of the month in which the Legislature disapproves it in part. If adopted, permanent impairment shall be evaluated only in accordance with the latest version of the alternative method or system in

effect at the time of injury. All evaluations shall include an apportionment of injury causation. However, revisions to the guides made by the American Medical Association which are published after January 1, 1989, and before January 1, 1995, shall be operative one hundred twenty (120) days after the last day of the month of publication. Revisions to the guides made by the American Medical Association which are published after December 31, 1994, may be adopted in whole or in part by the Administrator following recommendation by the Physician Advisory Committee. Revisions adopted by the Administrator shall be submitted by the Administrator to the Governor, the Speaker of the House of Representatives and President Pro Tempore of the Senate within the first ten (10) legislative days of a regular session of the Legislature. Such revisions shall be subject to disapproval in whole or in part by joint or concurrent resolution of the Legislature during the legislative session in which submitted. Revisions shall be operative one hundred twenty (120) days after the last day of the month in which the Administrator submits the revisions to the Legislature if the Legislature takes no action or one hundred twenty (120) days after the last day of the month in which the Legislature disapproves them in part. The examining physician shall not follow the guides based on race or ethnic origin. The examining physician shall not deviate from said guides or any alternative thereof except as may be specifically provided for in the guides or modifications to the guides or except as may be specifically provided for in any alternative or modifications thereto adopted by the Administrator of the Workers' Compensation Court as provided for in Section 201.1 of this title. The guides or modifications thereto or alternative system or method of evaluating permanent impairment or modifications thereto shall be the exclusive basis for testimony and conclusions with regard to deafness or hearing impairment.

Loss of Use: Permanent loss of use of a thumb, finger, toe, arm, hand, foot, leg or eye shall be considered as the equivalent of the loss of such thumb, finger, toe, hand, arm, foot, leg or eye.

For the permanent partial loss of use of a member, loss of hearing or sight of an eye, seventy percent (70%) of the employee's average weekly wage during that portion of the number of weeks in the foregoing schedule provided for the loss of such member or sight of an eye which the partial loss of use thereof bears to the total loss of use of such member, loss of hearing or sight of an eye.

Amputations: Amputation between the elbow and the wrist shall be considered as the equivalent of the loss of a hand. Amputation between the knee and the ankle shall be considered as the loss of a foot. Amputation at or above the elbow shall be considered as the loss of an arm. Amputation at or above the knee shall be considered as the loss of a leg.

The compensation for the foregoing specific injuries shall be in lieu of all other compensation except the benefits provided in Section 14 of this title and Section 16 of this title.

In case of an injury resulting in serious and permanent disfigurement, compensation shall be payable in an amount to be determined by the Court, but not in excess of Twenty Thousand Dollars ($20,000.00); provided, that compensation for permanent disfigurement shall not be in addition to the other compensation provided for in this section, but shall be taken into consideration in fixing the compensation otherwise provided.

Hernia: In case of an injury resulting in hernia, temporary total compensation for fourteen (14) weeks, and the cost of an operation shall be payable; provided, in any case where the injured employee has been twice previously operated for hernia in the same area and it is established by opinion of a competent surgeon that further surgery in the same area will not result in full relief of the condition, the Court may then award compensation for disability

resulting therefrom under paragraph 1 of this section, or, if not totally and permanently disabled, then under the "Other Cases" subdivision following, and, after a second surgical attempt to repair hernia, the injured may not be required to submit to further surgery in an effort to relieve the disability thereafter existing; provided, further, the use of any artificial reinforcement or device, with or without surgery, shall not be the basis of reducing extent of disability to be awarded.

Other Cases: In all other classes of disabilities, excluding only those heretofore referred to in paragraph 3 of this section, which disabilities result in loss of use of any portion of an employee's body, and which disabilities are permanent in quality but partial in character, disability shall mean the percentage of permanent impairment. The compensation ordered paid shall be seventy percent (70%) of the employee's average weekly wage for the number of weeks which the partial disability of the employee bears to five hundred (500) weeks.

(b) With respect to injuries occurring after November 4, 1994, in case of disability, partial in character but permanent in quality, the compensation shall be seventy percent (70%) of the employee's average weekly wages, and shall be paid to the employee for the period prescribed by the following schedule:

(1) For each percent of the first nine percent (9%) of disability, eighty percent (80%) of the number of weeks of compensation provided by law prior to November 4, 1994;

(2) For each percent of the next eleven percent (11%) of disability, the identical number of weeks of compensation provided by law prior to November 4, 1994;

(3) For each percent of the next thirty percent (30%) of disability, one hundred twenty percent (120%) of the number of weeks of compensation provided by law prior to November 4, 1994; and

(4) For each remaining percent of disability, the identical number of weeks of compensation provided by law prior to November 4, 1994.

4. Temporary Partial Disability. (a) With respect to injuries occurring before November 4, 1994, in case of temporary partial disability, except the particular cases mentioned in paragraph 3 of this section, an injured employee shall receive seventy percent (70%) of the difference between ~~his~~ the average weekly wages of the employee and ~~his~~ the wage-earning capacity of the employee thereafter in the same employment or otherwise, if less than before the injury, during continuance of such partial disability, but not to exceed one hundred fifty (150) weeks. Provided, after compensation has been paid for a period of one hundred forty (140) weeks, the employee may request a review of the case by a judge of the Court for continued temporary partial disability benefits provided by the Workers' Compensation Act. Upon a finding that benefits should be extended beyond the initial one-hundred-fifty-week period, compensation may be continued for an additional one hundred fifty (150) weeks.

(b) With respect to injuries occurring on or after November 4, 1994, in case of temporary partial disability, except the particular cases mentioned in paragraph 3 of this section, an injured employee shall receive seventy percent (70%) of the difference between ~~his~~ the average weekly wages of the employee and ~~his~~ the wage-earning capacity of the employee thereafter in the same employment or otherwise, if less than before the injury, during continuance of such partial disability, but not to exceed fifty-two (52) weeks. Provided, after compensation has been paid for a period of forty-two (42) weeks, the employee may request a review of the case by a judge of the Court for continued temporary partial disability benefits provided by the Workers' Compensation Act. Upon a finding that benefits should be extended beyond the initial fifty-two-week

period, compensation may be continued for additional successive fifty-two-week periods provided the employee has requested review of the case at forty-two (42) weeks during each period involved, and upon a finding by the Court that benefits should be extended. Total payments of compensation for temporary partial disability may not exceed a maximum of three hundred (300) weeks in the aggregate.

(c) With respect to injuries occurring on or after November 1, 1997, total payments of compensation for temporary partial disability may not exceed a maximum of one hundred fifty-six (156) weeks in the aggregate except for good cause shown, as determined by the Court.

5. Notwithstanding any other section of the Workers' Compensation Act, temporary disability shall be payable without an award by the Court. The first payment of temporary disability compensation shall become due on the tenth day after the employer has received notice of injury as specified in Section 24.2 of this title. All compensation owed on that date shall be paid and thereafter payments shall be made weekly except when otherwise ordered by the Court.

If any compensation payments owed without an award are not paid within ten (10) days after becoming due there shall be added to such owed payments an amount equal to ten percent (10%) of the amount due which shall be paid at the same time in addition to the owed payments unless such nonpayment is excused by the Court after a showing by the employer that conditions exist over which the employer had no control in that either payments were not made within the prescribed time or the employer denies coverage within the time specified for the employer to respond.

6. Limitation. The compensation payments under the provisions of the Workers' Compensation Act shall not exceed the sum of seventy-five percent (75%) of the state's average weekly wage as determined by the Oklahoma Employment Security Commission, the sum

of ninety percent (90%) of the state's average weekly wage beginning January 1, 1995, for injuries occurring after December 31, 1994, and the sum of one hundred percent (100%) of the state's average weekly wage beginning January 1, 1996, for injuries occurring after December 31, 1995, for temporary disability; Sixty Dollars ($60.00) per week beginning as of the effective date of the Workers' Compensation Act, and Seventy Dollars ($70.00) per week beginning January 1, 1979, and Eighty Dollars ($80.00) per week beginning January 1, 1980, and Ninety Dollars ($90.00) per week beginning January 1, 1981, and to fifty percent (50%) of the state's average weekly wage beginning January 1, 1982, for permanent partial disability; Seventy-five Dollars ($75.00) per week beginning as of the effective date of the Workers' Compensation Act, and Ninety Dollars ($90.00) per week beginning January 1, 1979, and One Hundred Ten Dollars ($110.00) per week beginning January 1, 1980, to sixty-six and two-thirds percent (66 2/3%) of the state's average weekly wage beginning January 1, 1981, to seventy-five percent (75%) of the state's average weekly wage beginning September 1, 1992, to ninety percent (90%) of the state's average weekly wage beginning January 1, 1995, for injuries occurring after December 31, 1994, and to one hundred percent (100%) of the state's average weekly wage beginning January 1, 1996, for injuries occurring after December 31, 1995, for permanent total disability, or at any time be less than Thirty Dollars ($30.00) per week; provided, however, that if the employee's wages at the time of the injury are less than Thirty Dollars ($30.00) per week, ~~he~~ the employee shall receive ~~his~~ the full weekly wages of the employee; provided further, that the compensation received, as provided for temporary partial disability, shall not, when added to the wages received by such employee after such injury, amount to a greater sum than eighty percent (80%) of ~~his~~ the average weekly wages of the employee received prior to said injury.

The average weekly wage in this state shall be determined by the Oklahoma Employment Security Commission every three (3) years beginning July 1, 1984, and shall be used to establish maximum benefits under the Workers' Compensation Act for injuries occurring during a three-year period, which period shall begin on the first day of November after publication by the Oklahoma Employment Security Commission. For the purpose of computing benefits payable under the Workers' Compensation Act, the state's average weekly wage shall be rounded to the nearest dollar amount.

The benefit level for members of the National Guard and any authorized voluntary or uncompensated worker rendering services as a fire fighter, peace officer or civil defense worker shall be determined by using the earnings of the individual in his regular occupation.

7. Previous Disability. The fact that an employee has suffered previous disability or impairment or received compensation therefor shall not preclude ~~him~~ the employee from compensation for a later accidental personal injury or occupational disease; but in determining compensation for the later accidental personal injury or occupational disease ~~his~~ the average weekly wages of the employee shall be such sum as will reasonably represent ~~his~~ the earning capacity of the employee at the time of the later accidental personal injury or occupational disease. In the event there exists a previous impairment which produced permanent disability and the same is aggravated or accelerated by an accidental personal injury or occupational disease, compensation for permanent disability shall be only for such amount as was caused by such accidental personal injury or occupational disease and no additional compensation shall be allowed for the pre-existing disability or impairment. The sum of all permanent partial disability awards, including awards against the ~~Special Indemnity~~ Multiple Injury Trust Fund, shall not exceed one hundred percent (100%) permanent partial disability for any

individual. An individual may not receive more than five hundred twenty (520) weeks' compensation for permanent partial disability, but may receive other benefits under the Workers' Compensation Act if otherwise eligible as provided in the Workers' Compensation Act.

8. Income benefits for death. If the injury or occupational disease causes death, income benefits shall be payable in the amount and for the benefit of the persons following, subject to the maximum limits specified hereafter:

(a) Benefit amounts for particular classes of dependents.

(1) If there is a surviving spouse, to such surviving spouse seventy percent (70%) of the average weekly wages the deceased was earning. In no event shall this spousal income benefit be diminished.

(2) If there is a child or children, to such child or children fifteen percent (15%) of the average weekly wages the deceased was earning for each child. Where there are more than two such children, the income benefits payable for the benefit of all children shall be divided among all children, to share and share alike, subject to the provisions of subparagraphs (c) and (d) of this paragraph.

(3) In addition to the benefits theretofore paid or due, two (2) years' indemnity benefit in one lump sum shall be payable to a surviving spouse upon remarriage.

(4) To the children, if there is no surviving spouse, fifty percent (50%) of the average weekly wages the deceased was earning for one child, and twenty percent (20%) of such wage for each additional child, divided among all children, to share and share alike, subject to the provisions of subparagraphs (c) and (d) of this paragraph.

(5) The income benefits payable for the benefit of any child under this section shall cease:

a. when the child dies, marries, or reaches the age of eighteen (18),

b. when the child over eighteen (18) years of age ceases to be physically or mentally incapable of self-support,

c. when the actually dependent child ceases to be actually dependent, or

d. when the child has been enrolled as a full-time student in any accredited educational institution or has been receiving education by other means, including education at home pursuant to Section 4 of Article XIII of the Oklahoma Constitution, and the child ceases to be so enrolled or educated or reaches twenty-three (23) years of age. A child who originally qualified as a dependent by virtue of being less than eighteen (18) years of age may, upon reaching age eighteen (18), continue to qualify if the child satisfies the tests of being physically or mentally incapable of self-support, actually dependent, or enrolled in an accredited educational institution or being educated by other means, including education at home pursuant to Section 4 of Article XIII of the Oklahoma Constitution.

(6) To each parent, if actually dependent, twenty-five percent (25%) of the average weekly wages the deceased was earning subject to the provisions of subparagraphs (c) and (d) of this paragraph.

(7) To the brothers, sisters, grandparents and grandchildren, if actually dependent, twenty-five percent (25%) of the average weekly wages the deceased was earning to each such dependent. If there should be more than one of such dependents, the total income benefits payable for the benefit of such dependents shall be divided

to share and share alike subject to the provisions of subparagraphs (c) and (d) of this paragraph.

(8) The income benefits of each beneficiary under divisions (6) and (7) above shall be paid until the beneficiary, if a parent or grandparent, dies, marries or ceases to be actually dependent, or, if a brother, sister or grandchild, dies, marries or reaches the age of eighteen (18), is over the age of eighteen (18) and ceases to be physically or mentally incapable of self-support or ceases to be actually dependent.

(9) A person ceases to be actually dependent when ~~his~~ the person's income from all sources exclusive of workers' compensation income benefits is such that, if it had existed at the time the original determination of actual dependency was made, it would not have supported a finding of dependency. If the present annual income of an actually dependent person including workers' compensation income benefits at any time exceeds the total annual support received by the person from the deceased employee, the workers' compensation benefits shall be reduced so that the total annual income is no greater than such amount of annual support received from the deceased employee. In all cases, a person found to be actually dependent shall be presumed to be no longer actually dependent three (3) years after the time as of which the person was found to be actually dependent. This presumption may be overcome by proof of continued actual dependency as defined in this paragraph and paragraph (1) of Section 3.1 of this title.

(b) Change in dependents. Upon the cessation of income benefits under this section to or for the benefit of any person, the income benefits payable to the remaining persons who continue to be entitled to income benefits for the unexpired part of the period during which their income benefits are payable shall be that which such persons would have received if they had been the only persons entitled to income benefits at the time of the decedent's death.

(c) Maximum income benefits for death. For the purposes of this section, the average weekly wage of the employee shall be taken as not more than the average weekly wage of the state. In no case shall the aggregate weekly income benefits payable to all beneficiaries under this section exceed the maximum income benefits that were or would have been payable for total permanent disability to the deceased.

(d) Maximum total payment. The maximum weekly income benefits payable for all beneficiaries in case of death shall not exceed one hundred percent (100%) of the average weekly wages the deceased was earning, subject to the maximum limits in subparagraph (c) of this paragraph. The maximum aggregate limitation shall not apply in case of payment of two (2) years' income benefits to the surviving spouse upon remarriage, as provided under division (3) of subparagraph (a) of this paragraph, to prevent the immediate recalculation and payments of benefits to the remaining beneficiaries as provided under subparagraph (b) of this paragraph. The weekly income benefits as recalculated to the remaining beneficiaries shall not exceed the weekly benefit that was or would have been payable for total permanent disability to the deceased. The classes of beneficiaries specified in divisions (1), (2) and (4) of subparagraph (a) of this paragraph shall have priority over all other beneficiaries in the apportionment of income benefits. If the provisions of this subparagraph should prevent payments to other beneficiaries of the income benefits to the full extent otherwise provided for by this section, the gross remaining amount of income benefits payable to such other beneficiaries shall be apportioned by class, proportionate to the interest of each class in the remaining amount. Parents shall be considered to be in one class and those specified in division (7) of subparagraph (a) of this paragraph in a separate class.

9. Where some pecuniary loss may be shown by heirs-at-law of the deceased, as defined by the descent and distribution statutes of Oklahoma, who are otherwise not entitled to receive benefits under other provisions of this section, such heirs-at-law shall receive compensation for their pecuniary loss not to exceed an aggregate of Five Thousand Dollars ($5,000.00).

10. In the event that no benefits under other provisions of this section are paid to the dependents or the heirs-at-law of the deceased, an amount not to exceed Five Thousand Dollars ($5,000.00) shall be paid for funeral expenses.

11. (a) For deaths occurring before January 1, 1995, if there is a surviving spouse and surviving children entitled to receive death benefits herein, such survivors shall be entitled to an immediate lump-sum payment of Ten Thousand Dollars ($10,000.00) to the spouse and Two Thousand Five Hundred Dollars ($2,500.00) to each surviving child not to exceed two children. For deaths occurring after December 31, 1994, if there is a surviving spouse and surviving children entitled to receive death benefits herein, such survivors shall be entitled to an immediate lump-sum payment of Twenty Thousand Dollars ($20,000.00) to the spouse and Five Thousand Dollars ($5,000.00) to each surviving child not to exceed two children.

(b) If there is no surviving spouse but there are surviving children entitled to receive death benefits herein, such surviving children shall be entitled to a lump-sum payment of Ten Thousand Dollars ($10,000.00) to be divided among all the children to share and share alike.

(c) Any claim under this paragraph shall be substantiated by the filing of a properly executed and authenticated proof of loss, which form shall be prescribed by the Administrator, and payment of such sum shall be made within fifteen (15) days after adjudication of entitlement by the Court. Such sum shall not be subject to any

award of attorney fees in uncontested cases, except the Court shall appoint a guardian ad litem to represent known and unknown minor children and said guardian ad litem shall be paid a reasonable fee for ~~his~~ the services.

Provided, that all judgments rendered awarding lump-sum death benefits, except lump-sum attorney fee awards, may, at the discretion of the Court, provide that said benefits be paid in trust to an interest-bearing account in a federally insured banking institution in the county wherein the judgment was rendered. The banking institution may make appropriate charges to the beneficiary for costs of trust management. These charges shall be fixed by agreement of such institution and the judge rendering the judgment. The judgment awarding lump-sum death benefits shall contain instructions for regularly scheduled disbursements to be fixed by the Court which may be modified by the Court upon a proper showing of change of circumstance. The banking institution shall issue a numbered receipt to the person paying the benefits into trust and deliver a copy of the receipt to the Administrator. Each banking institution receiving trust funds for deposit shall receive a schedule of disbursements and shall monthly pay said disbursements to the beneficiary as ordered by the Court. An annual accounting of all such trust funds received and deposited shall be rendered by each banking institution to the Court granting the judgment.

12. No payments on any permanent impairment order shall start until payments on any pre-existing permanent impairment orders have been completed.

13. a. Any employee convicted of a misdemeanor or felony and sentenced to a term of incarceration of at least ninety (90) days in this state or in any other jurisdiction shall have all benefits for temporary total disability awarded by the Workers' Compensation Court forfeited by order of the Court on motion of the

employer or the employer's insurer after confirmation of the employee's incarceration. The Court also may order the forfeiture of such benefits on its own motion upon receipt of notice from the Director of the Oklahoma Department of Corrections that the person awarded the benefits is incarcerated as an inmate in a facility operated by or under contract with the Department. The provisions of this subparagraph shall not apply to any benefits awarded to an inmate for compensable injuries sustained by the inmate while in the employ of a private for-profit employer or while employed in private prison industries, involving a for-profit employer, which deal in interstate commerce or which sell products or services to the federal government.

b. Any employee convicted of a misdemeanor or felony and sentenced to a term of incarceration of at least ninety (90) days in this state shall have all benefits for permanent total disability or temporary partial disability awarded by the Workers' Compensation Court and paid during the period of incarceration deposited to the credit of an account established pursuant to Section 549 of Title 57 of the Oklahoma Statutes for distribution in full to the Department of Corrections for costs of incarceration. The State Board of Corrections shall have the power to collect workers' compensation benefits on behalf of the prisoner as provided in this subparagraph and to distribute the benefits as provided by law.

SECTION 3. AMENDATORY 85 O.S. 1991, Section 42, as last amended by Section 5, Chapter 374, O.S.L. 1998 (85 O.S. Supp. 1998, Section 42), is amended to read as follows:

Section 42. A. If payment of compensation or an installment payment of compensation due under the terms of an award, except in the case of an appeal of an award or an award from the ~~Special Indemnity~~ Multiple Injury Trust Fund, is not made within ten (10) days after the same is due by the employer or insurance carrier liable therefor, the Court may order a certified copy of the award to be filed in the office of the court clerk of any county, which award whether accumulative or lump sum shall have the same force and be subject to the same law as judgments of the district court. Any compensation awarded and all payments thereof directed to be made by order of the Court, except in the case of an appeal of an award or an award of compensation from the ~~Special Indemnity~~ Multiple Injury Trust Fund, shall bear interest at the rate of eighteen percent (18%) per year from the date ordered paid by the Court until the date of satisfaction. Compensation ordered to be paid from the ~~Special Indemnity~~ Multiple Injury Trust Fund shall bear interest at the rate of interest applicable to judgments in civil cases pursuant to Section 727 of Title 12 of the Oklahoma Statutes from the date of the award. Any award from the ~~Special Indemnity~~ Multiple Injury Trust Fund prior to ~~the effective date of this act~~ November 4, 1994, shall bear interest at the rate of interest applicable to judgments in civil cases pursuant to Section 727 of Title 12 of the Oklahoma Statutes ~~from the effective date of this act~~. Upon the filing of the certified copy of the Court's award a writ of execution shall issue and process shall be executed and the cost thereof taxed, as in the case of writs of execution, on judgments of courts of record, as provided by Title 12 of the Oklahoma Statutes; provided, however, the provisions of this section relating to execution and process for the enforcement of awards shall be and are cumulative to other provisions now existing or which may hereafter be adopted relating to liens or enforcement of awards or claims for compensation.

B. If any insurance carrier intentionally, knowingly, or willfully violates any of the provisions of the Workers' Compensation Act or any published rules or regulations promulgated thereunder, the Insurance Commissioner, on the request of a Judge of the Court or the Administrator, shall suspend or revoke the license or authority of such insurance carrier to do a compensation business in this state.

SECTION 4. AMENDATORY 85 O.S. 1991, Section 92, is amended to read as follows:

Section 92. It shall be unlawful and a misdemeanor for any person acting as an attorney, adjustor, or representative in any capacity for a respondent or insurance carrier in any workers' compensation case before the Court to thereafter represent the claimant in any such case in any action or proceeding for compensation of such claimant against or from the ~~Special Indemnity~~ Multiple Injury Trust Fund.

SECTION 5. AMENDATORY 85 O.S. 1991, Section 131, as last amended by Section 3, Chapter 326, O.S.L. 1995 (85 O.S. Supp. 1998, Section 131), is amended to read as follows:

Section 131. There is hereby created and established a fund to be known as "The State Insurance Fund", to be administered by the State Insurance Fund Commissioner, 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 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., or employees engaged in employment subject to Title IV of the Federal Coal Mine Health and Safety Act of 1969 as amended by the Black Lung Benefits Act of 1972, as enacted or as may be amended by the Congress of the United States.

~~(a)~~ 1. The State Insurance Fund shall be a revolving fund and shall consist of all premiums received and paid into said fund for insurance issued, all property and securities acquired by and through the use of monies belonging to the fund and all interest earned upon monies belonging to the fund and deposited or invested as herein provided.

~~(b) Said fund~~ 2. The State Insurance Fund 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~~ 3. The State Insurance Fund shall be fairly competitive with other insurance carriers and it is the intent of the Legislature that ~~said~~ the fund 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.~~

SECTION 6. AMENDATORY 85 O.S. 1991, Section 138, as last amended by Section 2, Chapter 26, O.S.L. 1995 (85 O.S. Supp. 1998, 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 solely in the interest of the Fund and:

1. For the exclusive purpose of:

a. providing benefit to the Fund, and

b. defraying reasonable expenses of administering the State Insurance Fund;

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 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; and

5. Shall administer and protect the Multiple Injury Trust Fund.

B. The monies of the State Insurance Fund 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. In any lease, rental, sublease or other agreement for the use or occupation of real estate holdings of the State Insurance Fund, 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 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, 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 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. 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 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 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 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 as to the investment of the monies of the State Insurance Fund 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.

I. The State Insurance Fund Commissioner shall compile a quarterly financial report of all the funds of the State Insurance Fund. 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 contain a list of all investments made by the State Insurance Fund and a list of any commissions, fees or payments made for services regarding such investments for that reporting period. The report shall be distributed to the Governor, the Legislative Service Bureau and the Cash Management and Investment Oversight Commission.

J. The Board of Managers may transfer funds to the Multiple Injury Trust Fund for the purpose of eliminating delinquent awards and any interest owing on delinquent awards. The Multiple Injury Trust Fund shall reimburse, with interest, the State Insurance Fund for any and all funds received from the State Insurance Fund pursuant to such a transfer.

SECTION 7. AMENDATORY 85 O.S. 1991, Section 141, is amended to read as follows:

Section 141. A. The Commissioner shall keep an account of the money paid in premiums by each classification of persons, firms, or corporations insured by ~~said~~ the State Insurance Fund, and the expense of administering the State Insurance Fund 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 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", 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.

B. The State Insurance Fund shall be liable for premium taxes as if it were operating as a private carrier. The State Insurance Fund shall report premiums and pay premium taxes pursuant to Section 624 et seq. of Title 36 of the Oklahoma Statutes. Premium taxes shall be paid out of the excess reserves of the State Insurance Fund, and the cost shall not be passed on to policyholders so long as the State Insurance Fund is operating within the accepted industry standard of three-to-one premium-to-surplus ratio.

SECTION 8. AMENDATORY 85 O.S. 1991, Section 172, as last amended by Section 42, Chapter 1, 2nd Extraordinary Session, O.S.L. 1994 (85 O.S. Supp. 1998, Section 172), is amended to read as follows:

Section 172. A. If an employee who is a "physically impaired person" receives an accidental personal injury compensable under the Workers' Compensation Act which results in additional permanent disability so that the degree of disability caused by the

combination of both disabilities is materially greater than that which would have resulted from the subsequent injury alone, the employee shall receive compensation on the basis of such combined disabilities. Only disability due to an injury to the body as a whole shall be combinable with a prior body disability, except that disability to a major member may be combined with disability to the body as a whole. If such combined disabilities constitute partial permanent disability as now defined by the Workers' Compensation Act of this state, then such employee shall receive full compensation as now provided by law for the disability resulting directly and specifically from such subsequent injury, and in addition thereto such employee shall receive full compensation for ~~his~~ the combined disability as above defined, after deducting therefrom the percent of that disability that constituted the employee a "physically impaired person", as defined herein, all of which shall be computed upon the schedule and provision of the Workers' Compensation Act of this state. Provided the employer shall be liable only for the degree of percent of disability which would have resulted from the latter injury if there had been no preexisting impairment. After payments by the employer or ~~his~~ the insurance carrier of the employer, if any, have ceased, the remainder of such compensation shall be paid out of the ~~Special Indemnity~~ Multiple Injury Trust Fund provided for in Section 173 of this title, in periodic installments.

B. If such combined disabilities constitute permanent total disability, as now defined ~~by the Workers' Compensation Act~~ in Section 3 of this title, then the employee shall receive full compensation as now provided by law for the disability resulting directly and specifically from such subsequent injury. In addition, the employee shall receive full compensation for ~~his~~ the combined disability, as above defined, all of which shall be computed upon the schedule and provisions of the Workers' Compensation Act. The

employer shall be liable only for the degree of percent of disability which would have resulted from the latter injury if there had been no preexisting impairment. After all permanent partial payments by the employer or ~~his~~ the insurance carrier of the employer have ceased, the remainder of such compensation shall be paid out of the ~~Special Indemnity~~ Multiple Injury Trust Fund provided for in Section 173 of this title, in periodic installments. In permanent total disability cases the same shall be paid in periodic payments, as set forth in Section 22 of this title, and shall not be commuted to a lump-sum payment. The compensation rate for permanent total awards from the ~~Special Indemnity~~ Multiple Injury Trust Fund shall be the compensation rate for permanent partial disability paid by the employer in the last combinable compensable injury. Permanent total awards from the ~~Special Indemnity~~ Multiple Injury Trust Fund shall be payable for a period of five (5) years or until the employee reaches sixty-five (65) years of age, whichever period is the longer. Multiple Injury Trust Fund awards shall accrue from the file date of the court order finding the claimant to be permanently and totally disabled.

C. Before a physically impaired person can proceed against the ~~Special Indemnity~~ Multiple Injury Trust Fund, the preexisting permanent partial disability and the permanent partial disability from the last injury must exceed a total amount equal to forty percent (40%) to the body.

D. Awards from the ~~Special Indemnity~~ Multiple Injury Trust Fund shall abate upon the death, from any cause, of the employee.

E. Reopening any prior injury claim other than the last employer injury claim shall not give a claimant the right to additional Multiple Injury Trust Fund benefits. All weekly payments by the last employer or the insurance carrier of the employer for permanent partial disability shall be paid before any claim for benefits against the ~~Special Indemnity~~ Multiple Injury Trust Fund

may be paid. ~~In the case of a lump-sum permanent partial disability award or settlement, such award or settlement shall be divided by seventy percent (70%) of the employee's weekly wage up to a maximum of fifty percent (50%) of the state's average weekly wage, to determine the number of weeks which must elapse before a claim against the Special Indemnity Fund may be paid.~~

F. Awards that are not claimed within two (2) years of the date on which the award first becomes available shall be returned to the Multiple Injury Trust Fund. If the claimant is subsequently found and claims the award, such award and interest as required by Section 42 of this title shall be paid to the claimant by the Multiple Injury Trust Fund within sixty (60) days of the claim.

SECTION 9. AMENDATORY 85 O.S. 1991, Section 173, as last amended by Section 16, Chapter 349, O.S.L. 1993 (85 O.S. Supp. 1998, Section 173), is amended to read as follows:

Section 173. There is hereby created, for the purposes herein declared, a Multiple Injury Trust Fund, formerly known as the Special Indemnity Fund, to be derived from the following sources:

A. Each mutual or interinsurance association, stock company, the State Insurance Fund, or other insurance carrier writing workers' compensation insurance in this state, and each self-insurer, shall pay to the Oklahoma Tax Commission a sum equal to five percent (5%) of the total compensation for permanent total disability or permanent partial disability paid out or payable during each quarter-year period of the calendar year. Such payments to the Tax Commission shall be made not later than the fifteenth day of the month following the close of the quarter-year in which compensation is paid or becomes payable. Contributions made by insurance carriers and the State Insurance Fund, under the provisions of the Workers' Compensation Act, to the ~~Special Indemnity~~ Multiple Injury Trust Fund shall be considered losses for the purpose of computing workers' compensation rates.

B. The ~~Special Indemnity~~ Multiple Injury Trust Fund is hereby authorized to receive and expend monies appropriated by the Legislature.

C. Where an award has been made by the Court, or any payments in lieu thereof, for compensable injury for a permanent total disability or a permanent partial disability, the employer or insurance carrier shall pay to such employee ninety-five percent (95%) of the same and the remaining five percent (5%) thereof shall be paid by such employer to the Oklahoma Tax Commission. Such payments to the Tax Commission shall be made not later than the fifteenth day of the month following the close of each quarter of the calendar year in which compensation is paid or became payable.

D. The payments provided for in the foregoing subsections A and C, which aggregate ten percent (10%) of the awards for permanent disability, shall, in the event the award becomes final, accrue and be payable regardless of whether or not the award made to a claimant is paid.

E. In making and entering awards for compensation for permanent total disability or permanent partial disability, the Court shall determine and fix the amounts that shall be paid to the Tax Commission under subsections A and C of this section. A copy of all such permanent disability awards shall be sent to the Insurance Commissioner. The total amount of the deduction so determined and fixed shall have the same force and effect as an award of the Court for compensation and all provisions relating to the collection of awards of the Court shall apply to such judgments.

F. It shall be the duty of the Oklahoma Tax Commission to collect the payments provided for herein. The Oklahoma Tax Commission is hereby authorized to bring an action for the recovery of any delinquent or unpaid payments required in this section. The Oklahoma Tax Commission may also enforce payments by proceeding in accordance with the provisions of Section 42 of this title.

G. The Oklahoma Tax Commission shall on or before the first day of April of each year find and determine the amount of money held as of March 1 of that year by the State Treasurer for the benefit of the ~~Special Indemnity~~ Multiple Injury Trust Fund and shall on or before the first day of October of each year find and determine the amount of money held as of September 1 of that year by the State Treasurer for the benefit of the ~~Special Indemnity~~ Multiple Injury Trust Fund. Promptly after making each such determination, the Oklahoma Tax Commission shall advise the State Insurance Fund and the Administrator in writing of its findings and determination in the foregoing particulars.

H. Eighty percent (80%) of all sums held by the State Treasurer to the credit of the ~~Special Indemnity~~ Multiple Injury Trust Fund may by order of the Commissioner of the State Insurance Fund, with the approval of the Board of Managers of the State Insurance Fund, be invested in or loaned on the pledge of any of the securities in which a state bank may invest the monies deposited therein by the State Treasurer; or may be deposited in state or national banks or trust companies upon insured time deposit bearing interest at a rate no less than currently being paid upon insured savings accounts in said institutions. "Insured" as used in this section shall mean insurance as provided by an agency of the federal government. All such securities or evidence of indebtedness shall be placed in the hands of the State Treasurer, who shall be the custodian thereof, who shall collect the principal and interest when due, and pay the same into the ~~Special Indemnity~~ Multiple Injury Trust Fund. The State Treasurer shall pay by vouchers drawn on the ~~Special Indemnity~~ Multiple Injury Trust Fund for the making of such investments, when signed by the Commissioner and approved by the Board of Managers of the State Insurance Fund, upon delivery of such securities or evidence of indebtedness to ~~him~~ the State Treasurer. The Commissioner may, upon like approval of the Board of Managers of the

State Insurance Fund, sell any of such securities, the proceeds thereof to be paid over to the State Treasurer for the ~~Special Indemnity~~ Multiple Injury Trust Fund.

I. The refund provisions of Sections 227 through 229 of Title 68 of the Oklahoma Statutes shall be applicable to any payments made to the ~~Special Indemnity~~ Multiple Injury Trust Fund. Refunds shall be paid from and out of the ~~Special Indemnity~~ Multiple Injury Trust Fund.

J. ~~Until January 1, 1994, the Oklahoma Tax Commission shall pay, monthly, to the State Treasurer to the credit of the Special Indemnity Fund all monies collected under the provisions of this section. Beginning January 1, 1994, the~~ The Oklahoma Tax Commission shall pay, monthly, to the State Treasurer all monies collected under the provisions of this section to be credited as follows: ninety percent (90%) to the ~~Special Indemnity~~ Multiple Injury Trust Fund, five percent (5%) to the Oklahoma Department of Labor, two and one-half percent (2.5%) to the Office of the Attorney General and two and one-half percent (2.5%) to the State Department of Vocational and Technical Education. Monies received by the Department of Labor under this section shall be used for safety consultation and the regulation of the safety of public employees through the Occupational Safety and Health Act of 1970. Monies received by the Office of the Attorney General shall be deposited to the credit of the Attorney General's Workers' Compensation Fraud Unit Revolving Fund created pursuant to Section 19.2 of Title 74 of the Oklahoma Statutes. Monies received by the State Department of Vocational and Technical Education shall supplement other funding to the Department for purposes of implementing the provisions of subsection B of Section 414 of Title 40 of the Oklahoma Statutes. The State Treasurer shall pay out of the ~~Special Indemnity~~ Multiple Injury Trust Fund only upon the order and direction of the Court of this state acting under the provisions hereof.

K. The Multiple Injury Trust Fund is hereby authorized to receive and expend premium tax monies collected from the State Insurance Fund.

SECTION 10. AMENDATORY 85 O.S. 1991, Section 174, as amended by Section 13, Chapter 363, O.S.L. 1996 (85 O.S. Supp. 1998, Section 174), is amended to read as follows:

Section 174. Every political or municipal subdivision of the state, covered by the provisions of the Workers' Compensation Act, including counties, cities, and towns, each shall provide sufficient funds in its annual estimate of the needs based on the total compensation paid out or benefits or payments in lieu thereof by such political or municipal subdivision during the prior fiscal year, to pay the amount due under the Workers' Compensation Act for the use and purpose of such ~~Special Indemnity~~ Multiple Injury Trust Fund, an amount equal to five percent (5%) of the amount of compensation awards for permanent total disability or permanent partial disability made by the Court for all employees employed by them. It shall be the duty of the excise board of each county to approve an appropriation in such amount as may be necessary to pay such sum.

SECTION 11. AMENDATORY 85 O.S. 1991, Section 175, is amended to read as follows:

Section 175. A. The State Insurance Fund of the State of Oklahoma shall be charged with the administration and protection of said ~~Special Indemnity~~ Multiple Injury Trust Fund and shall be notified by the Administrator of all proceedings which may affect such fund.

B. Any party interested shall have a right to bring a proceeding in the Supreme Court of the State of Oklahoma to review an award of the Court affecting such ~~Special Indemnity~~ Multiple Injury Trust Fund, in the same manner as is now provided by law with reference to other awards by the Court.

C. Provided further that the State Treasurer shall allocate to the State Insurance Fund out of the ~~Special Indemnity~~ Multiple Injury Trust Fund, sufficient funds for administration expenses thereof in amounts to be fixed and approved by the Governor, Attorney General, and Secretary of the State Board for Property and Casualty Rates.

SECTION 12. AMENDATORY Section 43, Chapter 1, 2nd Extraordinary Session, O.S.L. 1994, as amended by Section 7, Chapter 353, O.S.L. 1998 (85 O.S. Supp. 1998, Section 182), is amended to read as follows:

Section 182. A. There is hereby created the "Joint Committee on the ~~Special Indemnity~~ Multiple Injury Trust Fund". The Committee shall conduct a study of the ~~Special Indemnity~~ Multiple Injury Trust Fund which shall include, but not be limited to:

1. A determination of the impact that dissolution of the ~~Special Indemnity~~ Multiple Injury Trust Fund would have on businesses located in this state;

2. A determination of the unfunded liability of the ~~Special Indemnity~~ Multiple Injury Trust Fund;

3. A determination of the impact of a vocational rehabilitation program for ~~Special Indemnity~~ Multiple Injury Trust Fund claimants;

4. A determination of the impact of the federal Americans with Disabilities Act upon the ~~Special Indemnity~~ Multiple Injury Trust Fund; and

5. An analysis of factors and conditions associated with the growth of the workers' compensation system and its impact on the ~~Special Indemnity~~ Multiple Injury Trust Fund.

The Committee shall file a report of its findings by January 1, 1999, with the Speaker of the House of Representatives and the President Pro Tempore of the Senate.

B. The Committee shall consist of ten (10) members, five of whom shall be members of the House of Representatives appointed by

the Speaker of the House of Representatives and five of whom shall be members of the Senate appointed by the President Pro Tempore of the Senate. The Speaker of the House of Representatives shall designate a co-chair of the Committee from among the House members appointed to the Committee. The President Pro Tempore shall designate a co-chair of the Committee from among the Senate members appointed to the Committee. All members shall serve at the pleasure of their respective appointing authority.

C. Members of the Committee shall receive no compensation for serving on the Committee, but shall be reimbursed for their necessary travel expenses incurred in the performance of their duties in accordance with Section 456 of Title 74 of the Oklahoma Statutes.

D. Staff for the Committee shall be provided by the House of Representatives and Senate from their existing staff.

SECTION 13. AMENDATORY Section 34, Chapter 349, O.S.L. 1993, as amended by Section 46, Chapter 1, 2nd Extraordinary Session, O.S.L. 1994 (85 O.S. Supp. 1998, Section 211), is amended to read as follows:

Section 211. A. Every employer and every employee subject to the provisions of the Workers' Compensation Act, Section 1 et seq. of this title, upon filing a notice of injury, accidental injury, death, occupational disease, or claim for benefits from the ~~Special Indemnity~~ Multiple Injury Trust Fund, shall give written permission for the Administrator of the Workers' Compensation Court or a designee, the Insurance Commissioner or a designee, the Attorney General or a designee or a district attorney or a designee to examine all records relating to the notice, any matter contained in the notice, and any matter relating to the notice.

B. Written permission given pursuant to this section shall constitute authorization for access to medical records pursuant to Section 19 of Title 76 of the Oklahoma Statutes.

C. In carrying out the responsibilities given to the Workers' Compensation Fraud Unit, the Attorney General or designee may use subpoenas or other process in aid of investigations and prosecutions and may take possession of records subject to examination pursuant to this section by subpoena. The Attorney General shall supply copies of the records obtained which are necessary to the continuation of normal business operations by the person maintaining the records or may require the person maintaining the records to provide copies as they are kept in the usual course of business.

D. Subpoenas ad testificandum or duces tecum requested by the Attorney General or designee pursuant to subsection C of this section shall be issued by the district court in the county of the residence of the person to whom the subpoena is directed, in the county where the records are located or in the county where a person is to produce records or appear and be sworn. Subpoenas issued pursuant to this section may be served by the Attorney General, any peace officer or any competent person over eighteen (18) years of age, and may require attendance or production at any place in this state. Service may be made by mail and may be accomplished by mailing a copy thereof by certified mail with return receipt requested and delivery restricted to the person named in the subpoena. Proof of service shall be made upon affidavit, and if made by mail, a copy of the return receipt shall be attached. A refusal to obey such subpoena, or willful failure to appear, be sworn, testify or produce records at the place and time specified shall constitute contempt and shall be enforced by the district court of the county where issued.

E. Nothing in this section shall be construed to waive, limit or impair any evidentiary privilege recognized by law.

F. The Workers' Compensation Court shall include a statement on forms for notices and instructions to employers and employees that

the permission required by this section must be given at the time of filing a notice specified in subsection A of this section.

G. As used in this section, "records" include, but are not limited to, anything for which a request to produce may be served pursuant to Section 3234 of Title 12 of the Oklahoma Statutes.

SECTION 14. AMENDATORY 36 O.S. 1991, Section 631, as last amended by Section 1, Chapter 302, O.S.L. 1996 (36 O.S. Supp. 1998, Section 631), is amended to read as follows:

Section 631. A. Said premium tax as collected shall be deposited by the thirtieth day of the month of receipt to the credit of the General Revenue Fund subject only to the allocations thereof as otherwise provided by law.

B. That portion of premium tax assessed on the premiums of Medicaid recipients collected from the University of Oklahoma Managed Care Plan sponsored by the University of Oklahoma Health Sciences Center and from qualified health plans that contract with the Oklahoma Health Care Authority to provide managed care to participants in the State Medicaid program, as provided in Section 624 of this title, shall be paid by the thirtieth day of the month of receipt to the credit of the Medicaid Contingency Revolving Fund, created in Section 1010.8 of Title 56 of the Oklahoma Statutes.

C. That portion of premium tax assessed on the premiums collected by the State Insurance Fund shall be paid by the thirtieth day of the month of receipt to the State Treasurer to be credited as follows:

1. To the Office of the Attorney General, an amount equal to one-quarter of one percent (.25%) of the total compensation for permanent total disability or permanent partial disability awards paid out or payable for the month pursuant to Title 85 of the Oklahoma Statutes. Monies received by the Attorney General shall be deposited to the credit of the Attorney General's Workers'

Compensation Fraud Unit Revolving Fund created pursuant to Section 19.2 of Title 74 of the Oklahoma Statutes;

2. To the State Department of Vocational and Technical Education, an amount equal to one-quarter of one percent (.25%) of the total compensation for permanent total disability or permanent partial disability awards paid out or payable for the month pursuant to Title 85 of the Oklahoma Statutes. Monies received by the State Department of Vocational and Technical Education shall supplement other funding to the Department for purposes of implementing the provisions of subsection B of Section 414 of Title 40 of the Oklahoma Statutes; and

3. All other monies to the Multiple Injury Trust Fund so long as the Multiple Injury Trust Fund has reserves less than or equal to Five Million Dollars ($5,000,000.00). If the Multiple Injury Trust Fund has reserves of more than Five Million Dollars ($5,000,000.00), all remaining premium tax monies shall be deposited to the credit of the General Revenue Fund.

SECTION 15. This act shall become effective November 1, 1999.

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